

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F413300

CATHY EVANS, EMPLOYEE	CLAIMANT
BEMIS COMPANY, INC., EMPLOYER	RESPONDENT NO. 1
FIDELITY & GUARANTY INS. CO., SEDGWICK CLAIMS MANAGEMENT SERVICES, INSURANCE CARRIER/TPA	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION FILED APRIL 29, 2009

Upon review before the FULL COMMISSION in Little Rock,
Pulaski County, Arkansas.

Claimant represented by the HONORABLE MARVIN "CHIP"
LEIBOVICH, Attorney at Law, Benton, Arkansas.

Respondent No. 1 represented by the HONORABLE GUY ALTON
WADE, Attorney at Law, Little Rock, Arkansas.

Respondent No. 2 represented by the HONORABLE JUDY RUDD,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

Claimant appeals and respondents cross-appeal
an opinion and order of the Administrative Law Judge
filed July 23, 2008. In said order, the Administrative
Law Judge made the following findings of fact and
conclusions of law:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The employer/employee/carrier relationship existed at all relevant times, including December 14, 2004, when claimant sustained a compensable wrist injury.
3. The claimant's wages were sufficient to entitle her to a compensation rate of \$453.00 for temporary total disability and \$340.00 for permanent partial disability benefits.
4. The claimant reached maximum medical improvement and the end of her healing period on August 10, 2006.
5. Respondents No. 1 have accepted and made payments towards a 30% impairment rating to claimant's right hand.
6. Respondents controvert claimant's claim for permanent total disability benefits.
7. Claimant has proven by a preponderance of the evidence that she is entitled to continued medical benefits.
8. Claimant has failed to prove by a preponderance of the evidence that she is entitled to permanent and total disability benefits in that she has failed to prove that she is unable to earn any meaningful wages in any capacity.
9. Claimant has failed to prove by a preponderance of the evidence that she is entitled to attorney's fees.

We have carefully conducted a de novo review of the entire record herein and it is our opinion that the Administrative Law Judge's decision is supported by

a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the July 23, 2008 decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. § 11-9-809 (Repl. 2002).

Since the claimant's injury occurred after July 1, 2001, the claimant's attorney's fee is governed by the provisions of Ark. Code Ann. § 11-9-715 as amended by Act 1281 of 2001. Compare Ark. Code Ann. § 11-9-715 (Repl. 1996) with Ark. Code Ann. § 11-9-715 (Repl. 2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in

accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

A. WATSON BELL, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney concurs.

CONCURRING OPINION

I concur with the majority opinion affirming and adopting the decision of the Administrative Law Judge. I write separately to specifically address the finding of additional medical treatment. The claimant is clearly entitled to additional medical maintenance even after she has reached medical maximum improvement. Accordingly, finding No. 7 finds: "Claimant has proven by a preponderance of the evidence that she is entitled to continued medical benefits." Claimant's change of physician doctor, Dr. Rheinhart, has taken over the management of claimant's medication. This is reasonable and necessary medical treatment. He referred her to Dr. Kahleel, a neurologist, and Dr. Boghton a psychologist.

In accordance with our finding No. 7, these referrals were reasonable and necessary. However, neither Dr. Kahleel nor Dr. Boghton have recommended any additional medical treatment. Accordingly, it is premature to find that any treatment recommended in the future by Dr. Kahleel or Dr. Boghton is reasonable and necessary at this time.

KAREN H. MCKINNEY, Commissioner