

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F607116

REBECCA FUQUA-BALES, EMPLOYEE	CLAIMANT
ITT TECHNICAL INSTITUTE, EMPLOYER	RESPONDENT
LIBERTY MUTUAL FIRE INS. CO., CARRIER	RESPONDENT

OPINION FILED JUNE 29, 2009

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

Claimant represented by HONORABLE GARY DAVIS, Attorney at Law, Little Rock, Arkansas.

Respondent represented by HONORABLE MICHAEL E. RYBURN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

The respondent appeals from a decision of the Administrative Law Judge filed March 4, 2009.

The Administrative Law Judge entered the following findings of fact and conclusions of law:

1. The Workers' Compensation Commission has jurisdiction of this claim in which the relationship of employer-employee-carrier existed among the parties on April 20, 2004 at which time the claimant sustained a compensable left knee injury at a compensation rate of

- \$450.00/\$337.00. Medical expenses, temporary total disability benefits (until December 12, 2005) and a 2% impairment rating have been accepted.
2. The claimant has proven a causal connection between the recommended treatment by Dr. Bowen and her compensable knee injury by a preponderance of the credible evidence of record. The compensable meniscal tear combined with preexisting arthritis to necessitate medical treatment.
 3. The respondents are directed to medical treatment recommended by Dr. Bowen within thirty days of receipt pursuant to Rule 30. This includes a total knee replacement.
 4. If they have not already done so, the respondents are directed to pay the court reporter, Buddy Gibson's fees and expenses within thirty days of receipt of the bill.
 5. This claim has been controverted pursuant to Tyson v. Fatheree, 16 Ark. App. 41, 696 S.W.2d 782 (1985) and the claimant's counsel is entitled to the maximum attorney's fees to be paid in accordance with A.C.A. § 11-9-715, § 11-9-801, and WCC Rule 10.

Pursuant to the Full Commission decisions of Coleman v. Holiday Inn, (November 21, 1990) (D708577, and Chamness v. Superior Industries, (March 5, 1992) (E019760), the claimant's portion of the controverted attorney's fee is to be withheld from, and paid out of, indemnity benefits, and remitted

by the respondent, directly to the claimant's attorney.

As a reminder, Ark. Code Ann. § 11-9-715 was amended by Act 1281, limiting attorney's fees on medical benefits and services for injuries after July 1, 2001.

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 of fact made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

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).

Thus, we affirm and adopt the decision of the Administrative Law Judge, including all findings and conclusions therein, as the decision of the Full Commission on appeal.

IT IS SO ORDERED.

A. WATSON BELL, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.