

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F111086

FRANK WAYLAND,
EMPLOYEE

CLAIMANT

CITY OF MOUNTAIN HOME,
EMPLOYER

RESPONDENT

MUNICIPAL LEAGUE, WCT,
INSURANCE CARRIER

RESPONDENT

OPINION FILED JULY 7, 2009

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

Claimant represented by the HONORABLE FREDERICK S.
SPENCER, Attorney at Law, Mountain Home, Arkansas.

Respondents represented by the HONORABLE J. CHRIS
BRADLEY, Attorney at Law, North Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

Claimant appeals an opinion and order of the
Administrative Law Judge filed October 31, 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 over this claim.
2. The stipulations set forth above are reasonable and are hereby accepted.
3. Claimant reached the end of his healing period on March 25, 2008, foreclosing his entitlement to temporary total disability benefits after that date.

4. Claimant has not proven by a preponderance of the evidence that he is entitled to additional medical treatment in the form of reimbursement of travel expenses related to his treatment, because he testified that he actually received the reimbursement in April 2008, or in the form of an injection from DR. Jeff Woodward, because the nature of the injection is unknown.

5. As for the portion of the medical treatment issue concerning Respondents' alleged failure to pay for the drug Lexapro, I find that because Claimant has thus far only been given samples of the drug and that Respondents have not yet been asked to pay for the drug, this is not yet ripe and will not be addressed. It will be treated as a reserved issue.

6. Because I have found that Claimant has not proven his entitlement to additional temporary total disability benefits, he is not entitled to a controverted attorney's fee under Ark. Code Ann. § 11-9-715 (Repl. 2002).

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.

Therefore we affirm and adopt the October 31, 2008 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

KAREN H. MCKINNEY, Commissioner

Commissioner Hood dissents.

DISSENTING OPINION

After a de novo review of the record, I must respectfully dissent from the majority opinion denying temporary total disability benefits and additional medical benefits. Furthermore, I note that Ark. Code Ann. Sec. 11-9-505(a) applies squarely to the facts presented, because the respondent employer without reasonable cause refused to return the claimant to work, where suitable employment was available within the employee's physical and mental limitations. With the simple accommodation of allowing the claimant to delegate those tasks outside his restrictions, the claimant could have returned to work as early as February 18, 2008. This accommodation has been demonstrated to be imminently reasonable by the

respondent employer, as it is the accommodation currently in place.

PHILIP A. HOOD, Commissioner