

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F214433

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| CAROLYN B. WILSON-BRANCH, EMPLOYEE | CLAIMANT |
| CITY OF NORTH LITTLE ROCK, EMPLOYER | RESPONDENT |
| ARKANSAS MUNICIPAL LEAGUE - WCT, INSURANCE CARRIER | RESPONDENT |

OPINION FILED JULY 8, 2009

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

Claimant represented by the HONORABLE PHILIP M. WILSON,
Attorney at Law, Little Rock, Arkansas.

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

Decision of Administrative Law Judge: Affirmed in part;
reversed in part.

OPINION AND ORDER

The respondents appeal an administrative law judge's
opinion filed December 23, 2008. The administrative law
judge found that the claimant proved she was entitled to
continued reasonably necessary medical treatment. The
administrative law judge found that the claimant was
entitled to a 5% whole-body impairment. After reviewing the
entire record *de novo*, the Full Commission affirms the

administrative law judge's award of additional medical treatment. We reverse the administrative law judge's finding that the claimant sustained an anatomical impairment as a result of the claimant's compensable injury.

I. HISTORY

The parties stipulated that the claimant, age 49, sustained a compensable low back injury on December 6, 2002. The claimant testified that she felt pain after pulling open a file cabinet door. A Medical Examiner's Report dated December 9, 2002 indicated that the claimant was diagnosed with Lumbar Strain. The claimant was provided physical therapy beginning December 27, 2002.

A Physical/Occupational Therapy Progress Note on January 23, 2003 indicated a normal pelvis, normal SI movement, tenderness to palpation in the right hip, and decreased pain in the lumbosacral region. The record contains a physical therapy Discharge Summary dated January 27, 2003:

This patient began treatment on 12-27-02 and completed her 13th visit today. She indicated to me on this date that her condition certainly has improved, but she is concerned about her ability to perform her job in the police department. Recommendations were made for the patient on a 01-23-03 progress report.

We; however, at this point have not received further approval, other than the one visit today to perform and instruct patient in a home exercise program.

OBJECTIVE: Further assessment today indicated findings as indicated on 01-23-03 with normal iliac crest and PSIS heights. There was also normal SI joint movement, which is improved from initial findings on evaluation date. She did present with some tenderness with palpation over the right lateral hip at the greater trochanter. There was also medial hip and lumbosacral pain, which has been decreased from perceived pain level of 6 to 7, currently to minimal pain at 2 to 4.

ASSESSMENT: Our goal today was to instruct in a home exercise program and review, which has been achieved. Again, we did not receive any orders for further visits, thus we will discharge this date with a home exercise program.

PLAN: Discharge patient this date with goals for the most part being met, other than patient's concern regarding possible injury. I do; however, believe that if she maintains a consistent home exercise program her condition will continue to improve.

An MRI of the claimant's lumbar spine was taken on January 28, 2005, with the following findings:

The vertebral bodies demonstrate normal height, marrow signal and alignment. The discs demonstrate normal height at all levels. Partial disc desiccation is seen at L5-S1. Mild diffuse disc bulge/osteophyte complex is seen from L2-3 through L5-S1 producing mild bilateral anteroinferior foraminal narrowing. There is no central canal stenosis. No focal disc herniation is seen at any level. The visualized facet joints are also normal.

The conus is visualized at L1 level and is normal in size and signal.

IMPRESSION:

1. EARLY DEGENERATIVE DISC DISEASE AT L5-S1.
2. MILD DIFFUSE DISC BULGE FROM L2-3 THROUGH L5-S1 WITH ASSOCIATED MILD BILATERAL ANTEROINFERIOR FORAMINAL NARROWING.

The record indicates that Dr. Vye Watson referred the claimant to Dr. Christopher K. Mocek, who evaluated the claimant on May 12, 2005:

MRI: Lumbar spine 1-28-05 is significant for a bulging disc with degenerative disc disease L2-3, L3-4, L4-5 and L5, S1. Bulging disc osteophyte complexes at all four lumbar levels causing mild bilateral neuroforaminal narrowing. No disc herniations were seen....The patient is having pain consistent with nerve root irritation of the L5 nerve root on the right side. Patient states that she did not have pain in her back or right leg until she was moved to a new area where there was uneven flooring and she had to do a lot of bending and twisting movements. She does not have to do any heavy lifting at work. Since this area flared up her pain in the back, I would recommend that she avoid this area if at all possible. Apparently she has been moved to a new area but at times she states that she still has to go back and work on this uneven flooring. She has had relief with PT in the past in 2003. We will just restart the PT and if she still has the L5 radicular pain after the therapy would recommend a right L5 selective nerve root block to relieve the radicular pain component that is causing irritation to the right L5 nerve root.

Dr. Mocek assessed 1) Radiculopathy of the lower limb;
2) Low back pain; 3) Lumbar spondylosis; and 4) Degenerative

disc disease of the lumbar spine. Dr. Mocek's treatment plan included a physical therapy evaluation and treatment of the low back.

The record contains an undated note from an OV Manager with WLRPT/Cornerstone Chiropractic: "Ms. Branch came into our office with a prescription for physical therapy per the orders of Dr. Mocek from 5-12-2005. At that time, I called Municipal League and spoke with Ms. Glenda Robinson regarding authorization for treatment. However, authorization was denied for Workman's Compensation payment. I have tried several times to get approval for treatment of the above patient but have been denied."

An attorney corresponded with Dr. Mocek on August 1, 2005 and asked Dr. Mocek several questions, including "Please advise 1. If you consider the muscle spasm and bulging discs in her lumbar spine to be objective findings of injury." Dr. Mocek wrote on January 18, 2006, "Muscle spasms - yes. Bulging disc - may be, may not be."

The record indicates that Dr. Robin Perry, primary care physician, referred the claimant to Dr. Mocek. The claimant followed up with Dr. Mocek on April 13, 2006:

This is a pleasant patient with a history of back pain with radiation to the right leg in the

lateral distribution to the knee. She was prescribed a PT program and given medications. She was scheduled for followup but missed her last four appointments because her workers compensation carrier refused to pay for the visits. In fact, her workers compensation carrier refused to pay for the physical therapy we ordered as well. She continues to report persistent pain in the back and right leg. She consistently reports that when she works in the "traffic window" area at work on un-level ground it hurts her back and right leg. She does well in other areas at work with level ground. Her employer keeps placing her back in this un-level ground region that aggravates her back....

Exam: focused examination the back tenderness to palpation right paraspinal musculature no tenderness on the left, 5/5 muscular strength lower extremities bilaterally all major muscle groups, sensory is intact to touch all major muscle (sic) groups lower extremities bilaterally. Positive straight leg raising test right L5 dermatome in the knee, negative on left.

MRI imaging shows bulging disc L2 to S1.

DISCUSSION: MRI imaging is currently performed with the patient supine. New standing MRI imaging shows that gravity has an effect on these bulging disc (sic) and can sometimes be read out as a disc protrusion when standing due to the effects of gravity. There's no question that this un-level ground that the patient is working on is aggravating her back. She should avoid this area at all costs. It is my firm medical opinion she should be approved for the physical therapy that we ordered in May of 2005 to stop delaying her care and rehabilitation from this injury. She also needs a Lumbar epidural steroid injection possibly a series of three.

Dr. Mocek assessed "Degenerative Disc disease Lumbar," "Radiculitis Lower Limb," "Low Back Pain," "Spondylosis,

Lumbar," and "Muscle Spasms Lumbar." Dr. Mocek's treatment plan included physical therapy for the low back, a lumbar epidural steroid injection, and a prescription of Skelaxin "for muscle spasms."

An office manager for the respondent-employer corresponded with the respondent-carrier on April 19, 2006 and stated in part, "Ms. Branch is assigned to the Traffic section of the Support Services Division. She is mainly responsible for processing vehicle accident reports and the duties that relate to that. However, under the Traffic section the duties also involve processing traffic tickets, assisting the public at the Traffic Window and balancing a cash drawer....There is no unlevel working area at the Traffic Window now, nor has there been for at least three years....I do not know exactly how many times Ms. Branch has been required to work the window so far this year, but I can say it has been very few, probably no more than five...."

A consultant with Medical Case Management of Arkansas, Inc. corresponded with Dr. Mocek on April 21, 2006 and asked, "1. In light of the information being supplied to you by Ms. Branch's employer, in your medical opinion does the employer remain responsible for your current treatment

recommendations related to the injury of 12/6/02?" Dr. Mocek indicated, "No."

Dr. Kevin J. Collins examined the claimant on May 10, 2006:

Patient gives a long history of pain which started back in 2002. She relates her pain to her job where she works for the North Little Rock Police Department at the traffic window....she went to pick up a file, pulled out a drawer and had significant onset of pain. Patient has been seen for this as a worker's compensation injury. She was initially seen by Dr. Robin Perry, her primary care physician, who later sent her on to Dr. Christopher Mocek, a Little Rock board certified pain specialist. They have been treating her for her symptomatology.... [S]he comes here today for further assessment from a rehab perspective to basically evaluate her for worker's compensation related impairment rating....

ASSESSMENT & PLAN:

1) Patient with work related injury who has been treated by Dr. Christopher Mocek and Dr. Robin Perry. Patient is on anti-spasticity medicines and pain medications and anti-inflammatories. She has evidence of thoracolumbar paraspinal muscle spasms with diffuse tenderness over her buttocks and S-I joint, greater trochanteric bursitis pain with some radicular component. She does not have a confirmatory EMG, however. She is sent here at the request of Dr. Christopher Mocek for an impairment rating by me. I am not asked to provide any treatment at this point.

2) Her impairment rating is based on DRE lumbar category 2. This is based on the Guide For Evaluation of Permanent Impairment, IV Edition, AMA, page 384, table 15-3. Given the patient's clinical history and examination, findings are

compatible with specific injury; the findings in this case include significant muscle guarding and spasm observed at the time of examination. She has non-verifiable radicular complaints. She has not had an EMG, hence no way to objectify the findings. Her impairment rating is 6% due to her lumbar spine injury. MMI will be determined by Dr. Christopher Mocek and whether or not he continues to treat her.

The parties stipulated that the claimant's healing period ended on or before May 10, 2006.

Dr. Brent Sprinkle, D.O., evaluated the claimant on June 8, 2006:

This patient was initially injured on December 6, 2002 while pulling some files from a filing cabinet and while asking her the location of the filing cabinet, whether it was knee high, waist high, or chest high, she could not recall....

On April 21, 2006, there is a note to Dr. Mocek asking whether or not the complaints of this patient were still reasonable and related to the current treatment recommendations, and he indicated no....

There is a diffuse paraspinal tenderness in all areas palpated, even lightly. This would be a Waddell's sign known as over-reaction....

Imaging: The x-rays show some slight disc space narrowing at L5-S1. The MRI, by report, describes early degenerative disc disease at L5-S1. This I would agree with, in my independent review of the films. There is some very mild early disc desiccation at this level. This early disc desiccation is fairly consistent with someone in her age range. The report also describes mild diffuse disc bulges from L2-3 through L5-S1. I have a difficult time appreciating this. They are

in the very minimal category and of a severity that would not, in my opinion, be clinically significant and was most likely preexisting.

IMPRESSION:

1. Lumbar strain.
2. Preexisting lumbar degenerative disc disease.

PLAN:

1. I see nothing to indicate she would benefit from surgery.
2. The MRI disc changes are so minimal that it is unlikely that epidural steroid injections would help her. It is possible that they could have been of some benefit much earlier on, around the time of her initial injury complaints in December 2002, but any acute inflammatory phase from the initial injury would have since resolved.
3. I do not think she would benefit from further physical therapy, as she has been instructed in a home exercise program already....
4. Thus far I find several Waddell's signs indicating a lot of inconsistency.
5. I failed to find any objective evidence that relates to, or justifies, her numerous subjective complaints. An additional test to look for an objective explanation of her leg symptoms would be an EMG nerve conduction study. On explanation of this, the patient has declined to have that performed....
9. I think that she has had within reason, certainly adequate conservative care, and she is at maximum medical improvement.
10. I would disagree with the 6% permanent impairment rating given by Dr. Collins. With the very minimal degenerative disc findings and very minimal bulging described, it is more consistent with aging than consistent with a specific work injury. I think those were more likely preexisting and therefore would not justify a permanent impairment rating based on her work injury.

Dr. Collins noted in part on August 1, 2007, "She had an EMG and nerve conduction studies done by someone who actually didn't do it so the insurance company sent her to Dr. Julia McCoy who performed an EMG and nerve conduction study of the right lower extremity on 3/13/07. According to Dr. McCoy's assessment, this was a normal EMG and nerve conduction study of the right lower extremity."

The claimant followed up with Dr. Mocek on August 14, 2008. Dr. Mocek noted in part, "In order for her to get better, she needs to accept what has happened and accept the fact that treatments that have been offered may help her. After further discussion with the patient, I do not feel comfortable to treat this patient mainly due to her persistent emotional state." Dr. Mocek assessed Degenerative Disc disease Lumbar, Radiculitis Lower Limb, Low Back Pain, and Spondylosis, Lumbar. Dr. Mocek set forth the following treatment plan:

1. Recommend that she see a psychiatrist for depressive symptoms ASAP. She refused an appointment today.
2. It is recommended that she return to Dr. Collins for further evaluation and referral to another pain specialist.
3. My recommendations for her treatment is that she undergo evaluation by a psychiatrist for treatment of the depression with Cymbalta being a

first choice medication, schedule lumbar epidural injections series of 3 and medication management.
4. It is with regret I must have (sic) resign from her care in light of the situation.

A pre-hearing order was filed on September 17, 2008.

The claimant contended that she was entitled to additional temporary total disability benefits. The claimant contended that she was entitled to a 6% whole-body impairment assigned by Dr. Collins. The claimant contended that the respondents "should be held responsible for all outstanding medical expenses for emergency room treatment, as well as treatment by Dr. Chris Mocek, as well as by Dr. Kevin Collins, by referral from Dr. Mocek."

The respondents contended that they had paid all benefits to which the claimant was entitled, and that the claimant could not prove "that her continuing physical problems, need for medical treatment and disability are in any way causally related to the December 6, 2002, injury."

The parties agreed to litigate the following issues:

1. Claimant's entitlement to additional temporary total disability, if any.
2. Claimant's entitlement to continued medical treatment.
3. Claimant's entitlement to a six percent (6%) whole-body impairment assigned by Dr. Kevin Collins on May 10, 2006.

A hearing was held on November 10, 2008. The claimant testified that she had been working in the respondent-employer's switchboard area for four to six months, and that this position did not require her to stand on uneven surfaces. The claimant testified on cross-examination that her back hurt, and "Now that my back is injured, it doesn't matter what I stand on."

The parties deposed Dr. Mocek on November 10, 2008. Dr. Mocek testified that the respondents had not authorized the majority of his treatment recommendations. Dr. Mocek testified that his recommendations were reasonably necessary for the claimant's work-related physical condition.

An administrative law judge filed an opinion on December 23, 2008. The administrative law judge found that the claimant did not prove she was entitled to additional temporary total disability benefits; the claimant does not appeal that finding. The administrative law judge found that the claimant proved she was entitled to continued reasonably necessary medical treatment, and that the claimant was entitled to a five percent (5%) whole-body impairment rating. The respondents appeal to the Full Commission.

II. ADJUDICATION

A. Medical Treatment

The employer shall promptly provide for an injured employee such medical treatment as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a) (Repl. 2002). The claimant must prove by a preponderance of the evidence that she is entitled to requested medical treatment. *Wal-Mart Stores, Inc. v. Brown*, 82 Ark. App. 600, 120 S.W.3d 153 (2003). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *Dalton v. Allen Eng'g Co.*, 66 Ark. App. 201, 989 S.W.2d 543 (1999).

In the present matter, the parties stipulated that the claimant sustained a compensable low back injury on December 6, 2002. The claimant was diagnosed with a lumbar strain and was provided physical therapy beginning December 27, 2002. The record indicates that the claimant at first reported decreased lumbosacral pain after treating with a physical therapist. The claimant began treating with Dr. Mocek on May 12, 2005. Dr. Mocek recommended physical therapy and injection treatment. The record indicates that the respondents did not approve or authorize Dr. Mocek's

treatment recommendations. The claimant reported that her low back condition was aggravated as a result of an uneven walking surface at work. After being supplied with information from the employer which disputed the claimant's suggestion that she worked on an uneven floor surface, Dr. Mocek replied to a written query in April 2006 and indicated that his current treatment recommendations were not related to the claimant's compensable injury.

However, the claimant followed up with Dr. Mocek on August 14, 2008. Dr. Mocek declined to treat the claimant further but recommended that the claimant return to Dr. Collins for further evaluation and referral to another pain specialist. We recognize the parties' stipulation that the claimant's healing period ended on or before May 10, 2006. Nevertheless, a claimant may be entitled to ongoing medical treatment after the healing period has ended, if the medical treatment is geared toward management of the claimant's injury. *Hydrophonics, Inc. v. Pippin*, 8 Ark. App. 200, 649 S.W.2d 845 (1983). The Full Commission finds that the instant claimant proved she was entitled to an additional evaluation from Dr. Collins, as spelled out in Dr. Mocek's August 14, 2008 recommendation. We therefore affirm the

administrative law judge's finding that the claimant proved she was entitled to continued reasonably necessary medical treatment.

B. Permanent Impairment

"Permanent impairment" has been defined as any permanent functional or anatomical loss remaining after the healing period has ended. *Excelsior Hotel v. Squires*, 83 Ark. App. 26, 115 S.W.2d 823 (2003), citing *Johnson v. General Dynamics*, 46 Ark. App. 188, 878 S.W.2d 411 (1994). Any determination of the existence or extent of physical impairment shall be supported by objective and measurable physical or mental findings. Ark. Code Ann. §11-9-704(c) (1) (B) (Repl. 2002). Ark. Code Ann. §11-9-102(16) provides:

(A) (i) "Objective findings" are those findings which cannot come under the voluntary control of the patient.

(ii) When determining physical or anatomical impairment, neither a physician, any other medical provider, an administrative law judge, the Workers' Compensation Commission, nor the courts may consider complaints of pain; for the purpose of making physical or anatomical impairment ratings to the spine, straight-leg-raising or range-of-motion tests shall not be considered objective findings.

(B) Medical opinions addressing compensability and permanent impairment must be stated within a reasonable degree of medical certainty[.]

Ark. Code Ann. §11-9-522(g) (1) provides:

(A) The commission, after a public hearing, shall adopt an impairment rating guide to be used in the assessment of anatomical impairment.

(B) The guide shall not include pain as a basis for impairment.

The Commission has therefore adopted the Guides to the Evaluation of Permanent Impairment (4th ed. 1993) published by the American Medical Association. See, *Workers' Compensation Laws And Rules, Rule 099.34*. The Commission is authorized to decide which portions of the medical evidence to credit and to translate this medical evidence into a finding of permanent impairment using the AMA Guides. See, *Avaya v. Bryant*, 82 Ark. App. 273, 105 S.W.3d 811 (2003), citing *Polk County v. Jones*, 74 Ark. App. 159, 47 S.W.3d 904 (2001). The Commission may assess its own impairment rather than rely solely on our determination of the validity of ratings assigned by physicians. *Id.*

Permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of the disability or impairment. Ark. Code Ann. §11-9-102(4) (F) (ii) (a). "Major cause" means "more than fifty percent (50%) of the cause," and a finding of major cause

shall be established according to the preponderance of the evidence. Ark. Code Ann. §11-9-102(14).

In the present matter, the Full Commission finds that the claimant did not prove she sustained any degree of physical or anatomical impairment as the result of her compensable injury. The parties stipulated that the claimant sustained a compensable low back injury on December 6, 2002. The claimant was diagnosed with a lumbar strain. An MRI of the claimant's lumbar spine was taken on January 28, 2005. The impression from the MRI was early degenerative disc disease at L5-S1 and mild diffuse disc bulging from L2-3 through L5-S1. The evidence does not demonstrate that these MRI findings were the result of the claimant's 2002 compensable lumbar strain. Dr. Mocek noted in May 2005 that there were "bulging osteophyte complexes" in the claimant's lumbar spine but "no disc herniations were seen." Dr. Mocek's impression included "Degenerative disc disease of the lumbar spine." Dr. Mocek opined in August 2005 that the claimant's bulging discs "may not be" objective findings of injury.

Dr. Collins examined the claimant in May 2006 and assigned the claimant a 6% impairment rating. Dr. Sprinkle

examined the claimant in June 2006 and stated, "10. I would disagree with the 6% permanent impairment rating given by Dr. Collins. With the very minimal degenerative disc findings and very minimal bulging described, it is more consistent with aging than consistent with a specific work injury. I think those were more likely preexisting and therefore would not justify a permanent impairment rating based on her work injury." The Commission has the duty of weighing medical evidence and, if the evidence is conflicting, its resolution is a question of fact for the Commission. *Green Bay Packaging v. Bartlett*, 67 Ark. App. 332, 949 S.W.2d 695 (1999). In the present matter, the Full Commission finds that Dr. Sprinkle's opinion is entitled to more evidentiary weight than Dr. Collins' opinion regarding anatomical impairment. The evidence in the record does not show that the claimant sustained any permanent anatomical impairment to her low back or lumbar spine as a result of the compensable injury. Dr. Mocek, an implicitly authorized treating physician, agreed at deposition that he found "nothing erroneous" in Dr. Sprinkle's report.

The Full Commission finds that the instant claimant did not sustain any permanent anatomical impairment to her low

back or lumbar spine as a result of the December 6, 2002 compensable injury. The claimant did not prove that walking on an uneven floor at the workplace caused any permanent anatomical impairment. The claimant did not prove that her reported spasms were the cause of any permanent anatomical impairment. The claimant did not prove that she was entitled to any percentage of permanent impairment found in the Guides, Fourth Edition, including Table 75, page 3/113. The claimant did not prove that her compensable injury was the major cause of any degree or percentage of permanent anatomical impairment. The Full Commission therefore reverses the administrative law judge's finding that the claimant was entitled to a five percent (5%) whole body impairment related to her December 6, 2002 compensable injury.

Based on our *de novo* review of the entire record, the Full Commission finds that the claimant proved she was entitled to an additional treatment evaluation from Dr. Collins as recommended by Dr. Mocek. We find that the claimant did not prove she sustained any percentage or degree of permanent physical impairment to her low back or lumbar spine. The Full Commission therefore affirms the

administrative law judge's award of continued reasonably necessary medical treatment but we reverse the administrative law judge's assessment of a five percent (5%) whole-body impairment rating. For prevailing in part on appeal, the claimant's attorney is entitled to a fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

A. WATSON BELL, Chairman

KAREN H. MCKINNEY, Commissioner

Commissioner Hood dissents.

DISSENTING OPINION

I must respectfully dissent from the majority opinion. After a de novo review of the record I find that the claimant is entitled to the five percent (5%) permanent impairment rating assigned by the Administrative Law Judge. The majority has chosen to credit Dr. Sprinkle's opinion over that of Dr. Collins. I find the May 10, 2006, report from Dr. Collins to be more persuasive than the June 8, 2006, evaluation by Dr. Sprinkle. Dr. Sprinkle failed to

consider the presence of muscle spasms. The presence of muscle spasms is an objective medical finding necessary to establish permanent disability. While the Commission has the authority to resolve conflicting evidence, including medical testimony, Foxx v. American Transp., 54 Ark. App. 115, 924 S.W.2d 814 (1996), the Commission may not arbitrarily disregard medical evidence or the testimony of any witness. Coleman v. Pro-transportation, 97 Ark. App. 338, 249 S.W.3d 149 (2007). Although the majority states "The claimant did not prove that her reported spasms were the cause of any permanent anatomical impairment", Dr. Sprinkle, whose opinion on which the majority decision is ostensibly based, did not address the claimant's muscle spasms.

Table 75 of the AMA Guides to the Evaluation of Permanent Impairment, Fourth Edition, provides for a five percent (5%) impairment rating for an unoperated on, stable, medically documented injury, with pain and rigidity associated with none to minimal changes on structural tests, such as those involving roentgenography or magnetic resonance imaging. The findings on the claimant's MRI, as well as the claimant's persistent muscle spasms, justify a

five percent (5%) permanent anatomical impairment rating as awarded by the Administrative Law Judge.

For the aforementioned reasons I must respectfully dissent.

PHILIP A. HOOD, Commissioner