

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F901600

GUILLERMINA PADILLA-BRISENO, EMPLOYEE	CLAIMANT
GEORGE'S, INC., EMPLOYER	RESPONDENT
CROCKETT ADJUSTMENT, INSURANCE CARRIER	RESPONDENT

OPINION FILED OCTOBER 4, 2010

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

Claimant represented by the HONORABLE EVELYN E. BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE TOD C. BASSETT, Attorney at Law, Fayetteville, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Claimant appeals an opinion and order of the Administrative Law Judge filed December 16, 2009. In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on September 23, 2009, and contained in a pre-hearing order filed that same date, are hereby accepted as fact.
2. Claimant has failed to prove by a preponderance of the evidence that she is entitled to additional medical treatment for her compensable injury.

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 December 16, 2009 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

I must respectfully dissent from the majority opinion. After a de novo review of the record, I find that the claimant is entitled to additional reasonably

necessary medical treatment for her compensable right shoulder injury.

The Workers' Compensation Act requires employers to provide such medical services as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a) (Repl. 2002). Injured employees must prove that medical services are reasonably necessary by a preponderance of the evidence; however, those services may include that necessary to accurately diagnose the nature and extent of the compensable injury; to reduce or alleviate symptoms resulting from the compensable injury; to maintain the level of healing achieved; or to prevent further deterioration of the damage produced by the compensable injury. Ark. Code Ann. § 11-9-705(a) (3) (Repl. 2002); Jordan v. Tyson Foods, Inc., 51 Ark. App. 100, 911 S.W.2d 593 (1995); See Artex Hydroponics, Inc. v. Pippin, 8 Ark. App. 200, 649 S.W.2d 845 (1983). The Court of Appeals has noted that even if the healing period has ended, a claimant may be entitled to ongoing medical treatment if the treatment is geared toward management of the claimant's compensable injury. See Patchell v. Wal-Mart Stores, Inc., 86 Ark. App. 230; 184 S.W. 3d 31, (2004), citing Artex Hydroponics, Inc. v.

Pippin, 8 Ark. App. 200, 649 S.W.2d 845 (1983).

Furthermore, this Commission has found that treatment intended to help a claimant cope with chronic pain attributable to a compensable injury may be reasonable and necessary. See Maynard v. Belden Wire & Cable Company, Full Workers' Compensation Commission Opinion filed April 28, 1998 (E502002); See also Billy Chronister v. Lavaca Vault, Full Workers' Compensation Commission Opinion filed June 20, 1991 (Claim No. 704562). Additionally, a claimant does not have to provide objective medical evidence of his continued need for treatment. Castleberry v. Elite Lamp Co., 69 Ark. App. 359, 13 S.W. 3d 211 (2000), citing Chamber Door Indus., Inc. v. Graham, 59 Ark. App. 224, 956 S.W. 2d 196 (1997).

Here, the claimant has credibly testified that she still has pain in her right shoulder. In fact, she has consistently testified that she has pain in her right shoulder ever since she fell at work on October 14, 2008. She testified that she has pain every time she moves her shoulder while she performs her job and the everyday activities of life. Her testimony regarding her pain does not waiver. As stated above, treatment intended to help a claimant cope with chronic

pain attributable to a compensable injury is a recognized basis for the award of additional reasonably necessary medical treatment. I would award such treatment.

For the aforementioned reasons I must respectfully dissent.

PHILIP A. HOOD, Commissioner