

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F903416

COURTRINA BROOMFIELD,
EMPLOYEE

CLAIMANT

ARKANSAS HEALTH CENTER,
EMPLOYER

RESPONDENT

PUBLIC EMPLOYEE CLAIMS DIVISION,
INSURANCE CARRIER

RESPONDENT

OPINION FILED JUNE 1, 2011

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

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

Respondents represented by the HONORABLE RICHARD S.
SMITH, Attorney at Law, 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 February 2, 2011. 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 agreed to by the parties are hereby accepted as fact.
3. The claimant's healing period ended on or about November 3, 2009.

4. The claimant has failed to prove, by a preponderance of the evidence, that she is entitled to additional temporary total disability benefits.
5. All additional issues have been reserved.

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 February 2, 2011 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 would award the claimant additional temporary total disability benefits from November 6, 2009 until May 10, 2010.

The basis for Dr. Torrence Walker's maximum medical recovery opinion, which terminated the claimant's temporary total disability benefits, is the claimant's alleged "inconsistent effort" from her functional capacity evaluation. I do not believe that the results of an FCE are a proper basis for a maximum medical recovery determination.

In fact, the claimant remained under active medical treatment following her November 3, 2009 visit with Dr. Walker. She was seen by Dr. Brian Suddereth the very next day. Dr. Suddereth immediately adjusted her medication prescriptions and ordered a referral to a physiatrist. Before the referral was accomplished, claimant saw Dr. Suddereth again on March 18, 2010. Dr. Suddereth expressed concern for possible reflex sympathetic dystrophy and stated: "She will not be able to return to work until the issue is resolved."

The claimant was seen by Dr. Thomas Ward on March 22, 2010. He recommended EMG/NCV testing.

Subsequently, the only remaining medical report we have available is Dr. Suddereth's "Physician Statement" of July 26, 2010, reflecting a maximum medical recovery date of May 10, 2010. Based on the medical record presented, I find that the claimant did not reach maximum medical improvement on November 6, 2009, as found by Dr. Walker. I find that she reached maximum medical improvement on May 10, 2010, as found by Dr. Suddereth, and is entitled to additional temporary total disability benefits.

For the aforementioned reasons, I must respectfully dissent from the majority opinion.

PHILIP A. HOOD, Commissioner