

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. F903005

RENE CIENFUEGOS-MENDOZA, EMPLOYEE CLAIMANT
DOBBS COATING SYSTEM, UNINSURED EMPLOYER RESPONDENT

OPINION FILED NOVEMBER 7, 2011

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

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

Respondent represented by the HONORABLE NEAL HART, Attorney
at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

This claim is presently before the Commission on Remand from the Arkansas Court of Appeals. In its opinion delivered March 16, 2011, the Arkansas Court of Appeals reversed and remanded the decision of the Full Commission for the consideration of objective findings. Pursuant to the remand, the Full Commission hereby affirms and adopts the February 24, 2010 opinion and order of the Administrative Law Judge in its entirety.

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 of this claim.
2. On January 20, 2009, the relationship of employee-uninsured employer existed between the parties.
3. The claimant has failed to prove that he sustained a compensable injury to his thoracic spine, on January 20, 2009. Specifically, he has failed to establish by medical evidence, which is supported by "objective findings", the actual existence of any physical injury to his thoracic spine.
4. On January 20, 2009, the claimant sustained compensable injuries to his face/head and lower back. Specifically, he has established the actual existence of these injuries by medical evidence, which is supported by "objective findings". He has further proven by the greater weight of the credible evidence that these injuries arose out of and occurred in the course of his employment with the respondent, were caused by a specific incident, resulted in external and internal physical harm to his body, required medical services, and resulted in disability (at least temporarily).
5. The medical services rendered to the claimant by and at the direction of Carolyn Nutter, Daniel Briley, and personnel at the emergency room of Washington Regional Medical Center for the claimant's face/head, and lower back difficulties constitute reasonably necessary medical services for the claimant's compensable injuries to these portions of his body. The medical services recommended by Ms. Nutter, in the form of an evaluation by Dr. Luke Knox of the claimant's lower back and radicular difficulties, constitutes reasonably necessary medical services for the

claimant's compensable low back injury. Specifically, the claimant has proven by the greater weight of the credible evidence that such medical services were necessitated by or connected with his compensable injuries and were reasonable in light of the potential benefit that these services offer in returning the claimant to as near his pre-injury state as the permanent character of the injury may allow.

6. The claimant has been rendered temporarily totally disabled by the effects of his compensable injuries from January 20, 2009 through, at least, the date of his evaluation by Dr. Luke Knox. Specifically, the claimant has proven by the greater weight of the credible evidence that she [sic] has continued within his healing period from the effects of at least his compensable back injury and has been rendered totally disabled from performing regular gainful employment as a result of this injury for the foregoing period.
7. The claimant was paid his regular salary by the respondent from January 20, 2009 through February 28, 2009. Therefore, he would not be entitled to receive any temporary total disability benefits for his temporary total disability during this period by the provisions of Ark. Code Ann. §11-9-807(b).
8. The claimant also received some weekly payments from the respondent in lieu of compensation for some period of time after February 28, 2009. Pursuant to the provisions of Ark. Code Ann. §11-9-807 (a), the respondent is entitled to a credit for such payments against the temporary total disability benefits herein awarded.
9. The respondent has denied the occurrence of any compensable injuries to the claimant's face/head, thoracic spine, and lumbar spine and has controverted this claim in its entirety.

10. A reasonable fee for the claimant's attorney is the maximum statutory attorney's fee on all controverted benefits herein awarded to the claimant or that may be awarded to the claimant in the future.

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

Thus, we affirm the February 24, 2010 decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on remand from the Arkansas Court of Appeals.

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 (Repl. 2002). For prevailing on this appeal before the Full Commission, the claimant's attorney is hereby awarded an additional attorney's fee in amount in the amount of \$500 in accordance with Ark. Code Ann. § 11-9-715(b) (Repl.2002).

IT IS SO ORDERED.

A. WATSON BELL, Chairman

KAREN H. MCKINNEY, Commissioner

PHILIP A. HOOD, Commissioner