

NOT DESIGNATED FOR PUBLICATION

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. F411831

KRISTI K. FISHER,
EMPLOYEE

CLAIMANT

STAFFMARK,
EMPLOYER

RESPONDENT

AMERICAN HOME ASSURANCE COMPANY,
INSURANCE CARRIER

RESPONDENT

OPINION FILED JANUARY 4, 2011

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

Claimant represented by the HONORABLE EDDIE WALKER, JR.,
Attorney at Law, Fort Smith, Arkansas.

Respondents represented by the HONORABLE MELISSA WOOD,
Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and
Adopted.

OPINION AND ORDER

Respondents appeal an opinion and order of the
Administrative Law Judge filed September 29, 2010. 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 September 27, 2004, the relationship of employee employer-carrier existed between the parties.
3. On September 27, 2004, the claimant earned wages sufficient to entitle her to weekly compensation benefits of \$187.00 for total

disability and \$154.00 for permanent partial disability.

4. On September 27, 2004, the claimant sustained a compensable injury to her left shoulder.
5. There is no dispute over medical services provided to the claimant for her compensable left shoulder injury through August 18, 2008.
6. The medical services provided to the claimant for her left shoulder difficulties by and at the direction of Dr. Steven Smith and Dr. Joseph Bylak, after August 18, 2008, represent reasonably necessary medical services for the claimant's compensable injury, under Ark. Code Ann. §11-9-508. Specifically, the greater weight of the evidence proves that such medical services were necessitated by or connected with the claimant's compensable injury and were reasonable in light of the potential benefit they offered in returning the claimant to as near her preinjury state as the permanent character of her injury will allow.
7. The medical services provided to the claimant by and at the direction of Dr. John Weddle of the Urgent Care Clinic do not represent reasonably necessary medical expenses for the claimant's compensable left shoulder injury, under Ark. Code Ann. §11-9-508. Specifically, the claimant has failed to prove that these medical services were necessitated by or connected with the claimant's compensable left shoulder injury.
8. The medical services provided to the claimant by and at the direction of Dr. Joseph Bylak for any condition or difficulties involving her cervical spine do not represent reasonably necessary medical services for any compensable injury, under Ark. Code Ann. §11-9-508. Specifically, the greater weight of the evidence fails to prove that these services were necessitated by or connected with any compensable injury.

9. The medical services provided the claimant by and at the direction of Dr. Joseph Bylak after August 18, 2008, do not represent "unauthorized" medical services within the remaining of Ark. Code Ann. §11-9-514. Specifically, the respondents had refused to provide the claimant with an authorized treating physician, prior to her receipt of these medical services by Dr. Bylak.
10. The respondents have controverted the claimant's entitlement to any additional medical services for her left shoulder difficulties, after August 18, 2008.
11. As no controverted indemnity benefits have been herein awarded to the claimant, no controverted attorney's fee can be awarded to the claimant's attorney.

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.

We therefore affirm the September 29, 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 appeal.

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 as amended by Act 1281 of 2001. Compare Ark. Code Ann. § 11-9-715 (Repl. 1996) with Ark. Code Ann. § 11-9-715 (Repl. 2002). For prevailing on this appeal before the Full Commission, claimant's attorney is hereby awarded an additional attorney's fee in the amount of \$500.00 in accordance with Ark. Code Ann. § 11-9-715(b) (Repl. 2002).

IT IS SO ORDERED.

A. WATSON BELL, Chairman

PHILIP A. HOOD, Commissioner

Commissioner McKinney dissents.