

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. G306906

JAQUANNA LAMBERT, EMPLOYEE	CLAIMANT
ROGERS SCHOOL DISTRICT, EMPLOYER	RESPONDENT
ARKANSAS SCHOOL BOARDS ASSOCIATION, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED NOVEMBER 3, 2016

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

Claimant represented by the HONORABLE JASON M. HATFIELD, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE CURTIS L. NEBBEN, Attorney at Law, Fayetteville, 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 April 18, 2016. The administrative law judge found that "a spinal or dorsal column stimulator" was reasonably necessary. The administrative law judge found that the claimant was entitled to continuing temporary total disability benefits. After reviewing the entire record *de novo*, the Full Commission finds that the claimant proved a spinal cord stimulator was reasonably necessary in

connection with the claimant's compensable injury. The Full Commission finds that the claimant did not prove she was entitled to temporary total disability benefits after August 20, 2015.

I. HISTORY

Jaquanna Lambert, now age 31, testified that she became employed with the respondents in 2003. An MR of the claimant's lumbar spine in November 2006 showed findings including a disc extrusion at L5-S1. Dr. James R. Adametz reported in December 2006, "This is a 21 year old white female who on September 19, 2006 was working at a school where a child jerked on her arm and pulled her back....She has already had good attempts at conservative treatment and is in a lot of pain, and so I think her best chance of improving at this point would be surgical intervention."

Dr. Adametz performed surgery on December 19, 2006: "Left L5-S1 hemilaminotomy and discectomy and fluoroscopy interpretation of x-rays." The pre- and post-operative diagnosis was "Left L5-S1 herniated nucleus pulposus." Dr. Adametz noted in January 2007, "She has healed up nicely. Her leg pain is practically gone....I am going to give her about another week before

I let her go back to work." Dr. Adametz released the claimant with a 15-pound lifting restriction on February 28, 2007. Dr. Adametz assigned an 8% permanent impairment rating on March 28, 2007.

The parties stipulated that the claimant sustained a compensable injury to her low back on May 20, 2013. The claimant testified, "I had picked up my student and was taking him to the special education classroom to drop off his backpack and stuff, and he's a runner with a GPS system so I always have to make sure that he's within an arm's length....I was holding his hand as we were walking to the regular classroom and he just dropped suddenly."

According to the record, Dr. Konstantin V. Berestnev saw the claimant on May 22, 2013: "Ms. Lambert presents today for the injury from 05-20-13. The patient states that she was holding a child's hand and he unexpectedly dropped pulling her arm down. She instantly felt a sharp pain in her lower back and it is now getting worse....The patient has what appears to be low back pain, overexertion from sudden strenuous movement and underlying history of low back surgery in 2007." Dr. Berestnev treated the claimant

conservatively and assigned a 20-pound lifting restriction.

An MRI of the claimant's lumbar spine on June 10, 2013 showed degenerative changes and a disc protrusion. The claimant followed up with Dr. Berestnev on June 14, 2013, "The patient states that she is still in constant pain. She has completed four physical therapy sessions, but failed to improve, to respond to the physical therapy. The MRI shows mild degenerative changes with a 6 mm area of decreased signal contiguous with the L5-S1 intravertebral disc which may represent granulation tissue, asymmetric disc bulge or recurrent protrusion."

Dr. Berestnev referred the claimant to Dr. D. Luke Knox, Northwest Arkansas Neurosurgery Clinic. Michael Valentine, PA-C saw the claimant at Northwest Arkansas Neurosurgery Clinic on June 20, 2013 and assessed muscle spasm, lumbar radiculopathy, and lumbago. Dr. Knox referred the claimant to Dr. Jason Holt, who performed epidural steroid injections on July 15, 2013, August 13, 2013, and September 6, 2013.

Dr. Knox performed surgery on December 12, 2013: "Anterior lumbar discectomy at L5-S1 with open reduction, use of PEEK spacer implant with plant

construct, LDR instrumentation with 24 mm plate, 27 x 30 x 12 with 12-degree lordosis, "ROI-A PEEK implant." The pre- and post-operative diagnosis was "Herniated intervertebral disk with lumbosacral instability associated with a persistent and non-remitting back and leg pain due to lumbar diskopathy, diagnosed with Marcaine disk space injection." The claimant was discharged on December 13, 2013 with the diagnosis, "Lumbar stenosis with radiculopathy."

Dr. Knox arranged a course of physical therapy for the claimant. Dr. Holt performed injections on February 26, 2014 and April 8, 2014. Dr. Knox performed a laminectomy, diskectomy, and fusion on June 24, 2014. The pre- and post-operative diagnosis was "1. Status post anterior lumbar interbody fusion with massive central disc herniation. 2. Progressive neurologic deficit. 3. Severe and incapacitating pain. 4. Reticent and extensive conservative trial."

The claimant testified regarding the June 2014 operation, "It took away the sharp pain in my back completely. Like that was 100% better with that. I just still had my pain down my leg."

Dr. Knox stated on December 12, 2014, "Ms. Lambert

is under my care and may return to work with the following restrictions: No lifting over 25 lbs. No excessive bending/stooping/pushing/pulling. And will need frequent breaks/change of positions for her comfort." However, Dr. Knox noted on December 23, 2014, "Off work - No lt duty available."

The claimant followed up with Dr. Knox on March 31, 2015: "Dr. Ennis has recommended a [Spinal Cord Stimulator]....No PT @ present. LESI x 2 last one 2/26/15 with no relief in pain with either shot....consider [Dorsal Column Stimulator]."

Dr. Holt noted on March 31, 2015, "Has seen Dr. Knox, who is suggesting spinal cord stim as a long term treatment option. Agree that is the appropriate next step to control her pain. Will plan for her to return once approval obtained through workman's comp for Pearson Eval and trial."

Dr. Richard D. Back performed a psychological evaluation on April 29, 2015 and diagnosed "Axis I: Somatic Symptom Disorder, with predominant pain." Dr. Back recommended, "1. In view of patient's elevated Paindex Score (15), she is a poor surgical candidate for pain relief. Only 15% of patients with this score

respond favorably to surgery. There are too many psychological factors."

Dr. James Blankenship reported on June 18, 2015:

Patient is in today for an independent medical evaluation. She had her lumbar fusion with Dr. Knox. States she did get any relief with her surgery. She continues to have low back pain but this is much improved since surgery. Her greatest pain is posterior left leg pain. She sees Dr. Ennis/Holt for pain management. They recommended a dorsal column stimulator. Dr. Knox agrees that this may be of benefit. She is in today for evaluation of placement for the DCS....

The patient had excellent resolution of her mechanical lower back pain with surgery. Since she has only leg pain this is a much more amenable treatment with the dorsal column stimulator electrode trial. We will also have a trial period, which is much more beneficial in patient's dealing with leg pain, to see if she gets any benefit....

In summary, although the patient does not have a good clearance from her neuropsychological evaluation, I think in this very isolated event that I would agree with Dr. Knox at proceeding on with a dorsal column stimulator as a reasonable thing to do based on the data I have been provided.

Dr. Knox stated on June 19, 2015, "Ms. Jaquanna Lambert is under my care and should remain off work until she can receive a spinal cord stimulator."

Dr. Knox corresponded with Heather Hudgens on August 18, 2015: "I am in receipt of your correspondence

dated 06/22/15 in reference to Ms. Jaquanna Lambert concerning her maximum medical improvement. At this time, she is one year status post surgery. I recommend that she be considered at her maximum medical improvement. Obviously, I had recommended that she consider a dorsal column stimulator in the past as I believe she is an excellent candidate. Otherwise, I plan to follow her up in six months and reassess her condition at that time."

Dr. Knox reported on August 20, 2015, "She has reached that point of maximum medical improvement. According to the *Guides to the Evaluation of Permanent Impairment*, Fourth Edition, Page 113, Table 75-IV, she would qualify for a 12% permanent partial disability to the body as a whole. Added to this for the extra level would be 1% per level, as well as 2% for a second operation, for a total of 15% permanent partial disability to the body as a whole."

The claimant's attorney corresponded with Dr. Knox on September 2, 2015 and asked, "Do you believe the recommended dorsal column stimulator is reasonable and necessary medical treatment that is reasonably likely within a reasonable degree of medical certainty to

improve Ms. Lambert's work related injury?" Dr. Knox answered "Yes."

The claimant's attorney corresponded with Dr. Holt on October 23, 2015 and asked, "Do you believe the recommended dorsal column stimulator is reasonable and necessary medical treatment that is reasonably likely within a reasonable degree of medical certainty to improve Ms. Lambert's work related injury?" Dr. Holt answered "Yes."

A pre-hearing order was filed on November 18, 2015. The claimant contended that she "sustained a compensable injury while working for the respondents on May 20, 2013. At that time, the claimant was in the course and scope of her employment when she incurred a low back injury. Dr. Luke Knox and Dr. James Blankenship have recommended a dorsal column stimulator implant for the claimant, which has been controverted by the respondents. Since the respondents refused the recommended medical treatment, Dr. Knox placed the claimant at MMI, issuing a 15% whole-body impairment." The respondents contended that "treatment by way of spinal cord stimulator is unreasonable and unnecessary."

The parties agreed to litigate the following

issues:

1. Whether the claimant is entitled to medical treatment in the form of a dorsal column stimulator implant as recommended by Dr. Knox, Dr. Blankenship, Dr. Ennis, and Dr. Holt.
2. Whether the claimant is entitled to temporary total disability benefits from August 20, 2015 to a date yet to be determined.
3. Whether the claimant's healing period ended on August 20, 2015.
4. Fees for legal services.

The parties deposed Dr. Back on January 12, 2016. Dr. Back testified that his diagnostic impression of the claimant was "Somatic symptom disorder with prominent pain." Dr. Back reiterated his determination that the claimant's "Paindex" score was 15 and "Based on her score of 15, she's a poor surgical candidate....Only 15% of people with this score respond favorably to surgery."

A hearing was held on January 19, 2016. The claimant on cross-examination described her pain: "It goes from the side of my leg down to the bottom of my foot to kind of the middle upper part of my foot which is like achy, throbbing pain and then I get a little bit up here on my lower back." The claimant testified, "I want to get relief from my nerve pain and be able to do more than I can now." The claimant testified that she

hoped a spinal cord stimulator would enable her to reduce the amount of pain medication she was taking.

An administrative law judge filed an opinion on April 18, 2016. The administrative law judge found that the claimant proved "a spinal or dorsal column stimulator" was reasonably necessary. The administrative law judge found that the claimant's healing period did not end on August 20, 2015, and that the claimant was entitled to temporary total disability benefits "from August 20, 2015 until the claimant receives a spinal or dorsal column stimulator."

The respondents appeal to the Full Commission.

II. ADJUDICATION

A. Temporary Disability

Temporary total disability is that period within the healing period in which the employee suffers a total incapacity to earn wages. *Ark. State Hwy. Dept. v. Breshears*, 272 Ark. 244, 613 S.W.2d 392 (1981).

"Healing period" means "that period for healing of an injury resulting from an accident." Ark. Code Ann. §11-9-102(12) (Repl. 2012). The healing period is that period for healing of the injury which continues until the employee is as far restored as the permanent

character of the injury will permit. *Roberson v. Waste Management*, 58 Ark. App. 11, 944 S.W.2d 858 (1997). If the underlying condition causing the disability has become more stable and nothing further will improve that condition, the healing period has ended. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). The determination of when the healing period ends is a question of fact for the Commission. *Thurman v. Clarke Indus, Inc.*, 45 Ark. App. 87, 872 S.W.2d 418 (1994).

An administrative law judge found in the present matter, "3. The claimant is entitled to temporary total disability benefits from August 20, 2015 until the claimant receives a dorsal column stimulator." The Full Commission does not affirm this finding. We find that the claimant reached the end of her healing period for the compensable injury no later than August 20, 2015, and that the claimant did not prove she was entitled to temporary total disability benefits after that date.

The parties stipulated that the claimant sustained a compensable injury to her low back on May 20, 2013. Dr. Knox performed surgery in December 2013 and June 2014. Dr. Knox informed a case manager on August 18, 2015 that the claimant had reached maximum medical

improvement. Dr. Knox assigned a 15% permanent anatomical impairment rating on August 20, 2015. Permanent impairment is any permanent functional or anatomical loss remaining after the healing period has been reached. *Johnson v. General Dynamics*, 46 Ark. App. 188, 878 S.W.2d 411 (1994). The Full Commission therefore finds that the claimant reached the end of her healing period no later than August 20, 2015. Temporary total disability benefits cannot be awarded after a claimant's healing period has ended. *Milligan v. West Tree Serv.*, 57 Ark. App. 14, 946 S.W.2d 697 (1997). The claimant did not prove she was entitled to temporary total disability benefits after August 20, 2015. The Full Commission finds that the claimant attained maximum medical improvement and reached the end of her healing period no later than August 20, 2015. We recognize that the claimant continues to complain of chronic pain in her left leg. Nevertheless, persistent pain may not of itself prevent a finding that the healing period has ended, provided that the underlying condition has stabilized. *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982). The Full Commission finds that the claimant's underlying condition resulting from

her compensable injury stabilized no later than August 20, 2015, the date Dr. Knox assigned a permanent anatomical impairment rating.

B. 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. 2012). The employee has the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. *Stone v. Dollar General Stores*, 91 Ark. App. 260, 209 S.W.3d 445 (2005). Preponderance of the evidence means the evidence having greater weight or convincing force. *Metropolitan Nat'l Bank v. La Sher Oil Co.*, 81 Ark. App. 269, 101 S.W.3d 252 (2003). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *Wright Contracting Co. v. Randall*, 12 Ark. App. 358, 676 S.W.2d 750 (1984).

An administrative law judge found in the present matter, "2. The claimant has proven by a preponderance of the evidence that a spinal or dorsal column stimulator is reasonable and necessary medical treatment for her compensable injury." The Full Commission

affirms this finding. As we have discussed, the claimant sustained a compensable injury to her low back on May 20, 2013. The claimant underwent surgery in December 2013 and June 2014. The claimant testified that the June 2014 surgery was successful: "It took away the sharp pain in my back completely. Like that was 100% better with that." However, the claimant continued to complain of chronic left leg pain. Dr. Knox and Dr. Holt subsequently recommended placement of a "spinal cord stimulator" or "dorsal column stimulator."

Dr. Back, a psychologist, evaluated the claimant in April 2015 and opined that the claimant was "a poor surgical candidate for pain relief. Only 15% of patients with this score respond favorably to surgery. There are too many psychological factors." Dr. Back reiterated his opinion in a subsequent deposition. The Commission has the authority to accept or reject a medical opinion and the authority to determine its probative value. *Poulan Weed Eater v. Marshall*, 79 Ark. App. 129, 84 S.W.3d 878 (2002). In the present matter, the Full Commission finds that Dr. Back's opinion is entitled to minimal evidentiary weight. Dr. Back stated that the claimant was "a poor surgical candidate for

pain relief," but the record demonstrates that the claimant was a good surgical candidate for pain relief. The claimant testified that her back pain was greatly reduced following surgery provided by Dr. Knox. Dr. Blankenship corroborated the claimant's testimony, stating "The patient had excellent resolution of her mechanical lower back pain with surgery."

It is within the Commission's province to weigh all of the evidence and to determine what is most credible. *Minnesota Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). The Full Commission finds in the present matter that the opinions of Dr. Knox, Dr. Holt, and Dr. Blankenship are entitled to greater evidentiary weight than the opinion of Dr. Back. Dr. Knox, Dr. Holt, and Dr. Blankenship have all opined that the claimant would benefit from a spinal or dorsal column stimulator. We therefore affirm the administrative law judge's opinion that such a procedure is reasonably necessary in connection with the claimant's compensable injury.

The Full Commission's award of a spinal or dorsal column stimulator does not conflict with our finding that the claimant reached the end of her healing period

no later than August 20, 2015. It is well-settled that 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. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004). In the present matter, placement of a spinal or dorsal column stimulator is geared toward management of the claimant's injury and does not work to extend the claimant's healing period.

Based on our *de novo* review of the entire record, the Full Commission finds that the claimant proved a spinal cord stimulator was reasonably necessary in connection with the claimant's compensable injury. We find that the claimant did not prove she was entitled to temporary total disability benefits after August 20, 2015. 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. 2012).

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

Commissioner McKinney concurs in part and dissents in part.

CONCURRING DISSENTING OPINION

I respectfully concur, in part, and dissent, in part, from the majority's finding. Specifically, I concur with the finding that the claimant has failed to prove by a preponderance of the evidence that she is entitled to temporary total disability benefits after August 20, 2015. However, I must specifically dissent from the finding that the requested spinal cord stimulator is reasonable and necessary medical treatment.

A thorough review of the extensive medical records in this claim shows that the claimant has undergone just about every kind of treatment available for her back injury of May 20, 2013, except a spinal cord stimulator, and that she still reportedly suffers from dull, aching, radiating pain down her left leg into her foot. Moreover, against the opinion of Dr. Back, Drs. Holt, Ennis, Blankenship, and Knox have recommended the claimant be provided with a spinal cord stimulator in order to alleviate this pain. I note, however, that the claimant's most recent diagnostic studies, to include x-rays and an MRI, fail to reveal any objective basis for the claimant's subjective reports of pain.

Rather, these studies have consistently shown stable post-operative changes with well-positioned screw-rod construct, and no evidence of disruption, recurrent herniation(s), or instability. Therefore, Drs. Ennis, Holt, Blankenship, and Knox have based their recommendation for a spinal cord stimulator on the claimant's subjective complaints with no objective evidence to support the claimant's symptoms, or more importantly, no objective proof of the true level of the claimant's subjective complaints of pain. Dr. Back, on-the-other-hand, based his opinion purely on the findings of a well-established test (the MMPI-2) to which the claimant supplied each and every answer without any outside influence or input. Therefore, based strictly on the outcome of this test, which showed that the claimant suffered from Somatic Symptom Disorder with predominant pain, Dr. Back offered the unbiased opinion that the claimant would not benefit from a spinal cord stimulator due to the psychological component influencing her condition. In response to this opinion, Dr. Blankenship, who expressed his high regard for Dr. Back, opined that because the claimant gave full effort on her recent functional capacity evaluation, he saw no evidence that the claimant was "overly depressed" or

seeking secondary gain, and she had "excellent resolution" of her mechanical lower back pain with surgery, a spinal cord stimulator was a "much more amenable treatment" for her residual left leg pain. I note, however, Dr. Blankenship's statement that had there been "any evidence of any inappropriate illness or behavior" in her functional capacity evaluation, he "probably would be on the other side of the fence" in his opinion that a spinal cord stimulator was an appropriate and necessary mode of treatment for the claimant's residual symptoms.

First, a close review of the claimant's functional capacity evaluation shows that while she may have given a consistent effort on those portions of the test she took, the claimant did not complete the Climbing Stairs task due to complaints of lumbar back pain and she did not reach with a five (5) pound weight using her left upper extremity. Because Dr. Blankenship failed to state or indicate in any way whatsoever that he took these factors into consideration, I find that this invalidates Dr. Blankenship's opinion regarding a spinal cord stimulator. Furthermore, on June 6, 2013, less than three (3) weeks following the claimant's injury, Dr. Berestnev expressly stated that he suspected

that there may be an "a nonorganic component" to the claimant's back pain, which I find further discredits Dr. Blankenship's opinion and supports Dr. Back's conclusion that the claimant engages in somatization.

When Dr. Knox insisted on a second neuropsychological evaluation, the claimant underwent BBHI2 testing through an independent organization. As Dr. Back so amply stated in his correspondence of July 20, 2015, this testing only tended to support his opinion in that the claimant scored within the 85th percentile on the "Functional Complaints" portion of this test, thus indicating that she "has a very high level of psychosomatic symptoms." "Functional," explained Dr. Back, "is a synonym for psychosomatic. Consequently, based on the level of her psychosomatic symptoms, it's likely a matter of time before she's not satisfied with a SCS." Moreover, Dr. Back stated the statistical fact that only 40% of patients reported a favorable outcome from the use of a spinal cord stimulator, and given that the claimant's Painindex score exceeded the cut-off score that has been proven efficient in eliminating pain patients that are not likely to benefit from surgical intervention, the claimant's likelihood of benefitting from a spinal cord

stimulator was very low at only fifteen percent (15%).

The record clearly demonstrates that Dr. Back provided an unbiased, totally objective basis for his opinion. Moreover, given that the results of the claimant's most recent diagnostic studies validate the fact that the claimant's objective findings are not consistent with her subjective complaints, I find that Dr. Back's opinion is supported by subsequent independent testing, namely the BBHI2 test. Therefore, I assign more weight to Dr. Back's opinion than to the opinions of Drs. Ennis, Holt, Knox, and Blankenship, whose opinion I do not credit in this matter. Furthermore, because the claimant has failed to provide objective proof to support her subjective complaints of residual pain, which we are unable to objectively measure, combined with the fact that Dr. Back's objective psychological testing is supported by the results of the claimant's independent BBHI2 testing, I find that the claimant has failed to prove that a spinal cord stimulator is reasonably necessary for the treatment of her compensable back injury in that the likelihood of it benefitting the claimant is statistically very low. Therefore, I find that the claimant has failed to prove that she is entitled to a

spinal cord stimulator, and I must dissent from the majority opinion awarding such treatment.

With regard to temporary total disability benefits, I find that the claimant reached the end of her healing period on August 20, 2015, when Dr. Knox found the claimant to be at maximum medical improvement for her compensable back injury, and he assessed her with fifteen percent (15%) permanent physical impairment to the body as a whole.

Because the preponderance of the evidence demonstrates that the claimant reached the end of her healing period on August 20, 2015, when she was found to be at maximum medical improvement and assigned a permanent physical impairment rating, combined with the fact that, although the claimant has been taken off of work she has been working towards earning a college degree since that time, I find that the claimant has failed to prove that she is entitled to temporary total disability. Therefore, I concur in the finding that the claimant has failed to prove entitlement to temporary total disability benefits once she reached the end of her healing period on August 20, 2015.

KAREN H. MCKINNEY, Commissioner

Commissioner Hood concurs and dissents.

CONCURRING AND DISSENTING OPINION

After my *de novo* review of the entire record, I concur in part with but must respectfully dissent in part from the majority opinion. I concur with the majority opinion that the claimant proved a spinal cord stimulator was reasonably necessary in connection with her compensable injury. However, I dissent from the majority's finding that the claimant failed to establish that she was entitled to temporary total disability benefits after August 20, 2015.

For the claimant to establish entitlement to temporary total disability benefits she must show by a preponderance of the evidence that she remains within her healing period and that she suffers a total incapacity to earn wages. *Arkansas State Highway & Transportation Dept. v. Breshears*, 272 Ark. 244, 613 S.W.2d 392 (1981). Temporary total disability is appropriate during the healing period in which an employee suffers a total incapacity to earn wages. *Crawford v. Superior Indus.*, 2009 Ark. App. 738, 361 S.W.3d 290 (2009). The healing period is that period for healing of an accidental injury and will continue until the employee is as far restored as the permanent

character of her injury will permit, and ends when the underlying condition causing the disability has become stable and no treatment will improve the condition. *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982).

Dr. Knox removed the claimant from work on June 19, 2015 until she received her spinal or dorsal column stimulator. Based on Dr. Knox's decision to remove the claimant from work until the spinal cord stimulator is placed, the claimant meets the requirement of suffering a total incapacity to earn wages.

The claimant also satisfies the second requirement for receiving her total temporary disability, i.e., she remains within her healing period. Arkansas Code Annotated Section 11-9-508 states that employers must provide all medical treatment that is reasonably necessary for the treatment of a compensable injury. What constitutes reasonable and necessary treatment under this statute is a question of fact for the Commission. *Gansky v. Hi-Tech Eng'g*, 325 Ark. 163, 924 S.W.2d 790 (1996); *Geo Specialty Chem., Inc. v. Clingan*, 69 Ark. App. 369, 13 S.W.3d 218 (2000); *Air Compressor Equip. v. Sword*, 69 Ark. App. 162, 11 S.W.3d 1 (2000). The interpretation of medical opinion is for the Commission, and its interpretation has the weight

and force of a jury verdict. *Oak Grove Lumber Co. v. Highfill*, 62 Ark. App. 42, 968 S.W.2d 637 (1998); *Stafford v. Arkmo Lumber Co.*, 54 Ark. App. 286, 925 S.W.2d 170 (1996). If the evidence is conflicting, its resolution is a question of fact for the Commission. *Jeter v. B.R. McGinty Mechanical*, 62 Ark. App. 53, 968 S.W.2d 645 (1998). The Commission is not required to believe the testimony of the claimant or any other witness, but may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. *Whaley v. Hardee's*, 51 Ark. App. 166, 912 S.W.2d 14 (1995).

Subsequent to removing the claimant from work, on August 20, 2015, Dr. Knox, in error, made a determination that the claimant had reached maximum medical improvement. However, after this maximum medical improvement determination, both Dr. Knox and Dr. Holt indicated that they believed the recommended dorsal column stimulator is reasonable and necessary medical treatment that is reasonably likely within a reasonable degree of medical certainty to improve the claimant's work-related injury. I find these opinions to be more persuasive than the maximum medical improvement determination made by Dr. Knox on August 20, 2015. Thus, I find that the claimant has not reached maximum

medical improvement and that her healing period has not ended.

Therefore, the claimant is entitled to receive total temporary disability benefits beginning on August 20, 2015 until a date yet to be determined and I would grant those benefits.

For the foregoing reasons, I concur in part and dissent in part from the majority opinion.

PHILIP A. HOOD, Commissioner