

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO.:H100398

TISHA ALEXANDER, EMPLOYEE

CLAIMANT

**CAMDEN FAIRVIEW SCHOOL DISTRICT,
EMPLOYER**

RESPONDENT

**ARKANSAS SCHOOL BOARDS ASSOC. WCT,
INSURANCE CARRIER/THIRD PARTY ADMINISTRATOR
(TPA)**

RESPONDENT

OPINION FILED SEPTEMBER 23, 2022

Hearing held before Administrative Law Judge Chandra L. Black, in El Dorado, Union County, Arkansas.

Claimant appearing pro se.

The Respondents represented by Mr. Jarrod S. Parrish, Attorney at Law, Little Rock, Arkansas.

Statement of the Case

On July 6, 2022, the above-captioned claim came on for a hearing in El Dorado, Arkansas. Beforehand, on May 24, 2022 a pre-hearing telephone conference was conducted in this matter. A Pre-hearing Order was entered on that same day. I have marked the order and the respective prehearing filings of the parties as Commission's Exhibit 1, without objection from the parties.

Stipulations

During the pre-hearing telephone conference, and/or hearing, the parties jointly proposed the following stipulations. I hereby accept as fact, the following stipulations:

1. The employee-employer-insurance carrier relationship existed at all relevant times, including on October 6, 2020 when the Claimant sustained a compensable right knee injury, a meniscus tear/torn meniscus.
2. Dr. Dewayne Daniels assigned the Claimant a 10% impairment rating for her knee injury on February 8, 2021. The Respondents have paid this rating in full.
3. The Claimant's average weekly wage at the time of her admittedly compensable work injury was \$456.82. Her weekly compensation rates are \$305.00 and \$229.00 for temporary total disability and permanent partial disability compensation, respectively.
4. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.

Issues

The parties agreed to litigate the following issues at the time of the pre-hearing telephone conference. However, at the beginning of hearing, the parties agreed to add

Issue No. 3:

1. Whether the Claimant is entitled to additional medical treatment for her knee injury in the form of a total knee replacement, which was performed by Dr. Daniels on March 22, 2022.
2. Whether the Claimant is entitled to temporary total disability compensation from March 22, 2022 until May 2022 due to her knee surgery.
3. Whether the Respondents are entitled to an offset/credit for wages the Claimant received from her employer from March 22, 2022 until May 2022.

Contentions

The respective contentions of the parties are as follows:

Claimant:

The Claimant contends that she is entitled to additional medical treatment for her knee injury in the form of a total knee replacement, which was performed by Dr. Daniels on March 22, 2022. She further contends that she is entitled to associated benefits of

temporary total disability compensation beginning on March 22, 2022 and continuing until May 22, 2022.

Respondents:

Respondents contend that Claimant's need for a total right knee replacement pre-existed her twisting incident of October 6, 2020 and is not associated with her acute injury. It is Respondents' position that the surgical recommendation is not reasonable and necessary treatment associated with the acute injury.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole, including the medical reports, the documentary evidence, and all other matters properly before the Commission, and after having had an opportunity to hear the testimony of the Claimant, and observe her demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. I hereby accept the above-mentioned proposed stipulations as fact.
3. The evidence preponderates that the surgical intervention performed by Dr. Dewayne Daniels, in the form of a total right knee replacement is not reasonably necessary in the connection with the Claimant's compensable right knee injury of October 6, 2020.
4. The remaining issues of temporary total disability compensation and an offset have been rendered moot and will not be addressed in this Opinion.

Summary of Evidence

Ms. Tisha Alexander, the Claimant, was the sole witness to testify during the hearing.

The record consists of the hearing transcript of July 6, 2022, and the exhibits contained therein. Specifically, in addition to Commission's Exhibit 1, the following exhibits are also a part of the evidentiary record: Respondents' Medical Exhibit consisting of thirty-two numbered pages was marked Respondents' Exhibit 1; and Respondents' Exhibit 2, Respondents' Non-medical Exhibit comprising of twenty-one numbered pages.

During the hearing, the Claimant tried to introduce into evidence Claimant's Exhibit No. 1, consisting of twenty-five numbered pages was marked accordingly. The Respondents' counsel objected to the admission of this exhibit because he was not furnished with a copy of it before the hearing per the seven-day rule, which is set forth in Ark. Code Ann. §11-9-705 (c) (2) (A) (Repl. 2012) and the Pre-hearing Order. The Claimant acknowledged she did not provide the Respondents with a copy of her exhibit prior to the hearing. Hence, this established that the Claimant did not disclose this evidence to the Respondents in compliance with Ark. Code Ann. §11-9-705 (c) (2) (A) (Repl. 2012) and the Pre-hearing Order. Under these circumstances, I was compelled to sustain Respondents' objection. Therefore, Claimant's Exhibit No. 1 was not admitted into evidence, and will not be considered. However, the Claimant was allowed to proffer this exhibit.

Hearing Testimony

Tisha Alexander

The Claimant works for Camden Fairview School District as a paraprofessional. She was previously assigned to work at Camden Fairview Elementary on October 6, 2020. On October 6, 2020, the assistant principal asked the Claimant to help with a

special needs kindergarten student. The Claimant's employment duties included helping the student to the restroom, during recess, and other school activities.

At around 9:00 a.m., on October 6 the Claimant oversaw the student outside on the playground during recess. At that time, the students were assigned certain areas they were allowed to play in because it was the year after COVID-19. The student opted to play on the swings. When the bell rang, signaling the end of recess, the student took off running across the playground to the slides. The Claimant chased after the student and twisted her right knee.

According to the Claimant, she told the teacher/her supervisor what had happened, and the next day she completed a report about the incident. She also reported her injury to the school nurse and the elementary principal, Teressa Thrower.

The Claimant first sought treatment from Ouachita Valley Clinic, under the care of the company physician, Dr. Dedman. She testified her knee was swollen and would give-out on her. The Claimant testified that she saw the company doctor every week because her knee continued to give her problems. Per the Claimant, she saw Dr. Dedman approximately six or seven times. Each time the Claimant saw Dr. Dedman, he placed her on regular work duty. He prescribed Meloxicam for her symptoms and did an x-ray of her knee. Her symptoms continued; therefore, the Claimant requested an MRI of her right knee. On November 17, 2020, the Claimant underwent an MRI of her right knee at Ouachita County Medical Center. Following the MRI, the Claimant was referred to an orthopedic specialist, in El Dorado for further evaluation.

She came under the care of Dr. Dwayne Daniels, an orthopedic specialist. The Claimant confirmed that she has had two surgeries on her right knee since her injury. Her

first knee surgery was performed on December 28, 2020, by Dr. Daniels. Following the Claimant's first surgery, she underwent physical therapy treatment at Precision One, in Camden. The Claimant verified that as of February 8, 2021, Dr. Daniels released her from care and gave her a 10% impairment rating. She returned to work at the elementary school following this release by Dr. Daniels. The Claimant testified that at first, her knee was "okay," but when she started walking on the concrete and having to engage in recess and other activities with the students, her knee started to hurt again.

According to the Claimant, she requested additional medical treatment in August 2021 when she went back to see Dr. Daniels. At that time, the Claimant testified that Dr. Daniels gave her a cortisone shot in her knee. She testified she was experiencing symptoms of achiness in her knee.

However, the Claimant admitted that she did not let her employer know she was having any problems with her knee. Specifically, the Claimant explained:

A No, ma'am. We had got out for the summer, and when we got our letters and everything for us to know what school we was going to be at for the following school year, because before we left out for the summer, I had already talked to my supervisor, Ms. Pam Turner, to let him know that I didn't want to be at the elementary, because she moved me to a new building and she did. I have phone issues that she said she sent me a along text message, but I never received it, because I have a new number and she didn't have that number, so when I did call her to see where I was going to be placed at, she told me I was going to be placed at the high school under the teacher, and she called her name, Ms. Gulley, and the paraprofessional, and we called and that year, I started at the high school, and when I went back to the doctor to get my steroid shot in my knee, it made me sick and then I couldn't walk and put pressure on my feet to walk, so I had to end up calling the principal the day before we had PD day to start school for the following school year.

The Claimant confirmed she underwent a second surgery in the form of a total knee replacement on March 22, 2022, which was also performed by Dr. Daniels. She

admitted that prior to her October 2020 work injury, she had problems with her right knee. However, next the Claimant denied any prior problems with her knee. Upon being reminded of her testimony, she admitted she had prior problems with her knee. The Claimant testified that the only problem she had with her right knee was “swelling.” She admitted that she previously sought medical treatment for her right knee. The Claimant essentially testified she sought prior treatment for her knee from Dr. Jonathan Lewis at Ouachita Valley Clinic. According to the Claimant, Dr. Lewis gave her a cortisone shot in her right knee.

Although the Claimant admitted that she had prior problems with her right knee, she maintained that she was unable to recall when these problems started. She denied that prior to her October 2020 injury, she underwent any diagnostic tests, such as an MRI of her right knee. The Claimant also denied that prior to her injury any doctor recommended a total knee replacement. She denied having to miss work due to any difficulties with her right knee prior to her compensable injury.

The Claimant confirmed that after her second surgery she received her full pay from the school while she was off work.

On cross-examination, counsel for the Respondents questioned the Claimant about the mechanics of her accidental injury of October 6, 2020 on the playground. She confirmed she did not fall to the ground, or hit her right knee on the ground, a rock, stick or anything. The Claimant agreed her injury occurred in making a movement to chase the student, and in doing so she felt something at that point in time.

Following the Claimant’s first surgery in December 2020, she confirmed that Dr. Daniels released her to return to full duty work on February 1, 2021. However, the

Claimant testified she went back to work on February 8. At that time, the Claimant resumed her duties as a paraprofessional for the school district. She essentially admitted that the doctor gave her a rating for knee and indicated she was at maximum medical improvement, which meant “She was as good as she was going to get.” The Claimant admitted that when she returned to work as a paraprofessional she returned to full duty, working her regular hours, performing her regular job duties, and doing everything that was needed for her to take care of the students. She admitted she completed the spring semester of school in 2021. The Claimant confirmed she returned to work for the school district during the fall semester of the 2021-2022 school year. She continued working all the way up until her surgery of March 2022.

The Claimant admitted that the problem she went to see Dr. Daniels for that led to her surgery of March 2022, did not start until December 2021. She further admitted that between February 21 and December 2021, she did not receive any treatment, or evaluations from a doctor for her knee. According to the Claimant, after Dr. Daniels released her from care, she first saw a doctor for her knee in January 2022. The Claimant maintained that she tried to get in to see a doctor around Christmas break, but they did not let her get in to see him.

She admitted that during her deposition testimony, she stated that before school started in August 2020, she went to see Dr. (Jonathan) Lewis and told him about her knee problems, and he suggested another injection. The Claimant specifically confirmed that during her deposition testimony, they talked about her seeing doctors for her knee prior to October 6, 2020.

Under further questioning, the Claimant admitted the way she scheduled her surgeries, she was able to do them while she was out of school. She agreed she had her first surgery done over the Christmas break and she went back to work on February 8. The Claimant confirmed that the month she was out when school had already started, she received pay from the workers' compensation carrier. She confirmed that the carrier paid her until she went back to work on February 8, 2021.

With respect to her second surgery, the Claimant agreed she scheduled her surgery over spring break. She admitted she drew her regular paycheck from the school district in March, April, May, and June.

The Claimant confirmed she has a second job, working with a special needs adult. Her second job is a part-time position, doing respite care. According to the Claimant, she continued working her second job all the way up through and until the time for her total knee replacement. She confirmed that she returned to her part-time job following her surgery. As of the date of the hearing, the Claimant continued to work performing household chores and personal care tasks for this client, such as assisting with showers and changing her undergarments.

Under further questioning, the Claimant admitted she was able to work from February 2021 all the way up through March 2022. The Claimant confirmed her current weight. (TR 31) However, she declined to acknowledge that her weight and BMI issues were discussed with her by Dr. Eric Gordon. The Claimant maintained that she did not recall Dr. Gordon conversing with her about the possibility of her weight resulting in the wear and tear on her right knee.

The Claimant recognized her deposition was taken about a month and half ago. She confirmed that she testified during her deposition that she never had any pain or discomfort in her right knee before October 6, 2020. Her deposition testimony shows that the only time her knee was looked at prior to October 6, 2020 was when she went in for a swollen left ankle and the visit somehow morphed into a right knee examination. The Claimant confirmed this occurred in 2018. She admitted that during her deposition she testified she had an injection in her right knee by Dr. Lewis before October 2020.

The following exchange took place:

Q And you had gone back to him as recently as August 2020, and he suggested another injection that you did not get, right?

A No, sir. I have asked him for Your Honor, I didn't go back to him for no sickness. That was just because when he did the first one, I kept getting nauseated from those shots, and each time I took those, each doctor knew how they made me feel.

Q Maybe I misstated. I'm not saying that you went to an appointment for an injection, but the testimony you gave me under oath at your deposition was that you had gone back to him with complaints, and he said let's try another injection, and you didn't get that injection, is that correct?

A Uh, uh.

Q Okay.

THE COURT: Is that a no, Ms. Alexander?

A No, ma'am. Because he gave me one the first time, and then when I injured my knee the second time, Dr. Dedman gave me one, and then when I went back we got ready to start for school, because I was having problems out of my knee, that's when Dr. Daniels gave me one, so I only had three of those.

Under further questioning the Claimant confirmed that during her deposition, she testified that Dr. Lewis gave her the injection before her accident happened. She went on to explain that before she started school in August 2020, she went back to the

orthopedic, and was telling him about her problem with her knee; and he told her they needed to see about doing another injection.

Under further questioning, the Claimant verified that her testimony on both direct and cross-examination was that she had no prior knee pain or any other symptoms of the knee, apart from swelling. She confirmed that my review of the medical records should not show that she was complaining of knee pain and seeking treatment.

In follow-up to the Claimant's response to the above question, counsel for the Respondents furnished an analysis of her prior medical visits relating to her right knee:

Q It's going to be pretty much me acknowledging the symptoms in the records. Page one of my medical packet, September 12, 2014, right knee pain radiating down to the foot. Page two, January 29, 2018, right knee pain. Page four, April 1, 2019, chronic right knee pain and swelling. Page eight, March 28, 2019, right knee pain, underwent arthrocentesis procedure. Page twelve, April 19, 2019, knee pain, aching, throbbing and burning. So, Ms. Anderson, based on these records, your testimony here today cannot be truthful, can it?

A Yes, it's truthful. I mean, you asked me have I been back since August 6th when you.....

Q No. We're not talking about that right now. We're talking about testimony on direct and cross that you had no symptoms in the knee and that the doctor, basically, hijacked the doctor's visit and went from an ankle to a knee to treat it, and you told me you'd never had any pain or symptoms that you had reported to a doctor involving your right knee. You're not changing that testimony right now, are you?

A No.

Q Okay. So if we look at the medical records where these multiple injuries(sic) of you going and seeking medical treatment for knee pain, knee discomfort, what they termed chronic knee pain at times, then your testimony earlier would not have been true, would it?

A Yes, it would have been true, Your Honor, because when I went for those knee pain, that don't have nothing to do with that torn cartilage that I had chasing that student at school. I hurt my knee at school.

The Claimant continued to maintain that she complained to the doctor of just swelling in her knee because she did not have any pain. She refused to answer the question of whether these five to six doctors were mistaken. Her response was “They’re not mistaken, but they was different years.” The Claimant continued to refuse to admit that she had prior problems of pain and discomfort in her right knee. She specifically continued to maintain that she had “just swelling of the right knee,” and no other symptoms.

Medical Evidence

A review of the medical records shows that on September 12, 2014, the Claimant sought medical treatment from Ouachita County Medical Center at Camden, Arkansas due to a chief complaint of right knee pain. Brent Blackburn, AG-ACNP, evaluated the Claimant. At that time, Blackburn assessed the Claimant with “bursitis of the right knee,” performed an injection, and prescribed a Medrol Dosepak and Tramadol.

On January 29, 2018, the Claimant sought treatment again from Ouachita County Medical Center. At that time, Kirstin Williams, F.N.P., evaluated the Claimant due to a chief complaint of right knee pain. In addition to right knee pain, the Claimant complained of discomfort, and swelling. Williams continued the Claimant on a medication regimen of the Medrol Dosepak and naproxen.

The Claimant sought medical treatment on March 21, 2019 from Dr. Jonathan Lewis due to a chief complaint of right knee pain. Per this note, the Claimant reported that she was seen last year at the Stephens Clinic and was sent for x-rays, which revealed arthritis. At that time, the Claimant complained of a gradual onset of worsening right knee pain. She described the quality of her pain as being “dull and aching.” The severity of

her pain was moderate and chronic in duration. Her pain was worsened by weight bearing and activity. The Claimant complained of other associated symptoms including stiffness and swelling. Dr. Lewis diagnosed the Claimant with “Acute pain of right knee,” and prescribed ibuprofen to be used as needed. He also instructed the Claimant to wear a knee brace whenever she was up moving, working, etc., and to return for follow-up care in about one month.

The Claimant return for a follow-up visit with Dr. Lewis on March 28, 2019, due to continual complaints of right knee pain. She complained of recurring right knee symptoms, which included aching and sharp pain. Per this clinic note, the Claimant reported that her right knee symptoms were progressively worsening. At that time, the Claimant was diagnosed with “tendonitis of the right knee.” Dr. Lewis performed a Large Joint Arthrocentesis of the Claimant’s right knee due to indications of pain and joint swelling.

On April 19, 2019 the Claimant returned to Dr. Lewis for follow-up of her chronic right knee pain. She reported symptoms of aching, throbbing, and burning pain. Her other symptoms included stiffness, swelling and tingling. The Claimant told Dr. Lewis her pain was relieved by acetaminophen, muscle relaxant, and arthritis medications. She reported that after the injection in her right knee, it felt much better. Dr. Lewis opined that this was a chronic condition, which was currently controlled. Therefore, Dr. Lewis directed the Claimant to return for a follow-up visit in three months, or sooner if needed.

The Claimant sought initial treatment for her right knee injury of October 6, 2020 on October 9. X-rays were performed with an impression of “No displaced fracture or dislocation. Degenerative changes.”

An MRI of the Claimant's right knee was performed on November 17, 2020, with an impression of:

Complex tear of the medial meniscus as described with borderline medial meniscal extrusion (sic).

Mild-to-moderate chondromalacia of the medial compartment most prominently affecting the periphery of the medial tibial plateau.

Very mild chondromalacia patella. Prominent tibial tuberosity-trochlear groove distance 19 mm.

It appears that on January 8, 2021, the Claimant returned to Dr. C. Dwayne Daniels for a follow-up visit of his surgery on her right knee in December 2020:

Subjective

There has been improvement in the symptoms since the last visit. Pain is mild with a rating of 2/10. The patient is 80% better since the last visit. PATIENT IS IMPROVED. SUTURES REMOVED.

Date of Surgery: 12/30/2020.

Surgical Procedure: RIGHT KNEE SCOPE, LMT, MMT, REMOVAL OF LOOSE, MAJOR SYNOVECTOMY 12/30/20.

Right Knee Examination

Examination to reveals definite improvement with no new problems or positive findings. Her incisions are healed without infection. No swelling, no erythema. Full range of motion.

Diagnosis:

Other tear of medial meniscus, current injury, right knee, subsequent encounter Right.

Other tear of lateral meniscus, current injury, right knee, subsequent encounter Right.

Synovial hypertrophy, not elsewhere classified, right lower leg Right.

Loose body in knee, right knee Right.

Impression:

Doing well after right knee arthroscopy.

Treatment Plan:

Her sutures were removed, and Steri-Strips were applied. We will re-

evaluate her for return to work when she returns. The patient will continue with therapy. Patient to return in 3 weeks for follow-up.

On January 12, 2021, Dr. Daniels released the Claimant to full activity effective February 1, 2021. The Claimant's next follow-up appointment with Dr. Daniels was for January 29, 2021.

Dr. Daniels authored a Physician's Report on March 8, 2021 regarding the Claimant's October 2020 right knee injury. At that time, Dr. Daniels returned the Claimant to work effective February 8, 2021, with no restrictions. Dr. Daniels pronounced the Claimant to be at maximum medical improvement/at the end of her healing period as of February 8, 2021. Based on objective and measurable findings, Dr. Daniels found that the Claimant suffered a permanent impairment rating of 10% to the right knee (AMA 4th ed., Table 64 at p85).

The Claimant underwent evaluation by Dr. Eric Gordon on February 18, 2022. At that time, Dr. Gordon physically examined the Claimant; reviewed diagnostic studies of her right knee which included x-rays taken on October 9, 2020 and the MRI of November 17, 2020; and he also reviewed medical reports from Dr. Jonathan Lewis of clinic visits in April 2019, and Dr. Daniels' operative report of December 30, 2020. Gordon addressed questions posed to him by the claims adjuster. Dr. Gordon opined that the Claimant's current symptoms were related to her pre-existing degenerative arthritis and not related to her work injury of October 6, 2020. He specifically opined that the Claimant's proposed right knee arthroplasty was indicated and reasonable, but he would recommend weight loss prior to considering surgical intervention. Within a reasonable degree of medical certainty, Dr. Gordon stated that the major cause greater, than 50% for the proposed total knee arthroplasty was due to pre-existing osteoarthritis and not from her work injury. Dr.

Gordon was of the belief that the Claimant had achieved maximal medical improvement for her October 2020 work-related injury.

Adjudication

A. Additional Medical Treatment

In the case at bar, the central issue for determination is whether the Claimant's total right knee replacement surgery performed by Dr. Dewayne Daniels on March 22, 2022 is reasonably necessary in connection with the compensable knee injury received by the Claimant on October 6, 2020.

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 Claimant has the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary in connection with the injury received by the employee. *Stone v. Dollar General Stores*, 91 Ark. App. 260, 209 S.W.3d 445 (2002). Our courts have quantified the preponderance of the evidence to mean 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).

In the claim at bar, the Claimant sustained an admittedly compensable injury to her right knee, on October 6, 2020, while working as a paraprofessional for the Camden Fairview School District. In October 2020, the Claimant was assigned to work at the elementary school. According to the Claimant, on the morning of the incident, the principal assigned her to watch a special needs student during recess. However, when

the bell rang, signaling the end of recess, the student took off running across the playground in the direction of the slides. The Claimant chased after the student. However, she twisted her knee while chasing after the student on the playground. Specifically, the parties stipulated that on October 6, 2020 the Claimant sustained a compensable right knee injury, a torn meniscus/meniscus tear.

The Claimant promptly reported the incident to school officials. The claim was accepted, and the Respondents sent the Claimant for medical treatment. Initially, the Claimant she received conservative treatment for her knee under the care of Dr. Dedman, the company doctor. X-rays taken on October 9, 2020 showed “No displaced fracture or dislocation. Degenerative changes.”

Despite conservative treatment the Claimant continued with symptomatology of the right knee. An MRI of the Claimant’s right knee was performed on November 17, 2020. This MRI revealed in relevant part, “a complex tear of the meniscus, along with significant degenerative changes.” The Claimant came under the care of Dr. Dewayne Daniels. On December 28, 2020, Dr. Daniels performed a right knee arthroscopy. Her testimony demonstrates that she underwent physical therapy following surgery.

On March 8, 2021 Dr. Daniels opined that the Claimant had reached maximum medical improvement/ the end of her healing period effective February 8, 2021. As a result, Dr. Daniels returned the Claimant to work on that same date, with no physical limitations or restrictions. At that time, Dr. Daniels also pronounced that the Claimant sustained a permanent impairment rating of 10% to her right knee. The parties stipulated that the Respondents accepted and paid this 10% rating in full.

The Claimant returned to work for the school district. Also, her testimony demonstrates that she also returned to work at her part-time job, which involves personal care services for a respite client. The Claimant testified that at first, her knee did “okay.” However, she testified that over time, she began having problems with her knee due her activities with the students and having to walk on the concrete. The Claimant testified she began having these problems in December 2021. However, she admitted that from February 2021 until December 2021, she did not seek any medical treatment for her knee. Although the Claimant testified that she sought treatment for her knee in January 2022, there is no medical record demonstrating the nature of her visit or the condition of her right knee. Hence, there is no probative evidence to contradict this assertion. Therefore, I am convinced that she sought treatment at that time.

Now, the Claimant maintains that she is entitled to additional treatment for her right knee in the form of a total knee replacement, which was performed by Dr. Daniels on March 22, 2022. However, the Claimant failed to introduce into evidence any medical records relating to this surgery. As noted above, Claimant was allowed to proffer evidence, but it has not been considered in this decision.

Nevertheless, due to the inconsistencies in the Claimant’s testimony regarding prior treatment of her right knee, I found this aspect of her testimony to be incredulous. Despite multiple medical entries of the Claimant having sought treatment for her right knee due to a myriad of symptoms, she maintained on direct and cross-examination that she only experienced prior problems with her right knee “swelling.” She specifically denied any prior problems of pain or discomfort. However, counsel for the Respondents

presented the Claimant with the medical records outlined above showing that she experienced significant prior problems with pain, aching, throbbing, and burning of the right knee. She also testified during her deposition that she treated previously for her right knee only once, and that occurred in 2018. However, this testimony does not comport with all the medical evidence to the contrary of her seeking medical treatment for her knee on several occasions prior to her compensable injury.

In fact, the medical records demonstrate that prior to the Claimant's October 6, 2020 injury, she sought treatment for her right knee as recently as August 2020. The Claimant denied she was previously counseled by Dr. Gordon about his concern that her weight contributed to the wear and tear on her right knee. However, I am persuaded this is a factor for consideration, and Dr. Gordon's medical report of February 18, 2022 shows that he counseled the Claimant about this topic and made certain recommendations.

Additionally, the MRI of November 2020 showed significant pre-existing degenerative changes. X-rays performed on October 9, 2020 of Claimant's right knee revealed longstanding pre-existing degenerative arthritis. The prior medical records clearly prove that the Claimant's right knee condition has been chronic and progressively deteriorating since at least September 7, 2014, primarily due to her pre-existing degenerative disease/arthritis, coupled with her continued weight challenges. More importantly, the evidence shows that the Claimant suffered a torn meniscus injury, for which she underwent surgical intervention. The Claimant's right knee injury resolved on February 8, 2020, per her treating surgeon, Dr. Daniels. This is evidence by the fact Dr. Daniels opined the Claimant to be maximum medical improvement effective as of

that date. The Claimant went without any medical treatment for her right knee until January 2022, some eleven months after being released from care by Dr. Daniels. There is absolutely no probative evidence whatsoever demonstrating the Claimant's total right knee replacement resulted from her compensable injury. In fact, on February 18, 2022, Dr. Gordon opined that the major cause for the Claimant's need for a total knee replacement to her pre-existing osteoarthritis and not her compensable injury of October 2020. Because Dr. Gordon's expert opinion comports with the medical evidence of record and there being no expert opinions or probative evidence to the contrary, I have assigned significant weight to his expert opinion.

In that regard, I realize that it is well-established in workers' compensation law that where an injured worker seeks surgery related to a medical condition that was aggravated by a work-related injury, the injured worker is not obligated to establish that the work-related injury is the major cause of the need for treatment in order to be entitled to benefits for surgery. The injured worker instead needs only establish that the work-related injury was a factor in the need for subsequent treatment. *Williams v. L & M Janitorial, Inc.*, 85 Ark. App.1, 145 S.W. 3d 383 (2004). However, I do not find this to be the case in the claim at bar.

To summarize, based on the expert opinion of Dr. Gordon; numerous medical records showing that the Claimant experienced significant ongoing chronic knee pain and other related symptoms dating back several years(2014) prior to her work injury; the fact that the Claimant's pre-existing degenerative disease of the knee was symptomatic just two months (August 2020) prior to her work-related knee injury of October 2020; that her weight was a contributing factor in the wear and tear on her

knee; that she sustained only a meniscus tear injury of the knee, which was successfully surgically repaired, from which she fully recovered; that the Claimant failed to introduce any medical records of her total knee replacement surgery and its findings; considering that the Claimant did not seek medical treatment following her release from care by Dr. Daniels until almost a year later; that the Claimant was less than forthcoming about the nature and intensity of her prior knee symptomology; and because the Claimant's prior knee symptoms are almost identical to her most recent symptoms that led to her need for the total knee replacement, I find that the Claimant's compensable right knee injury of October 6, 2020, was not a contributing factor in her need for the total knee replacement surgery performed by Dr. Daniels on March 22, 2022. Accordingly, I am persuaded that the preponderance of the evidence clearly shows that the Claimant's need for a total knee replacement was triggered primarily by her extensive pre-existing degenerative osteoarthritis and not her work injury of October 6, 2020.

Under these circumstances, I am compelled to find that the Claimant's need for additional medical treatment (in the form of a total right knee replacement) is not reasonably necessary in connection with her compensable knee injury of October 6, 2020 and is not causally related to her work incident.

B. Remaining Issues

Because of the foregoing, the remaining issues—whether Claimant is entitled to temporary total disability compensation for her total knee replacement and whether the Respondents are entitled to an offset/credit—have been rendered moot and will not be addressed.

ORDER

In accordance with the findings of fact and conclusions of law set forth above, this claim for additional benefits is hereby respectfully denied and dismissed.

IT IS SO ORDERED.

Hon. Chandra L. Black
Administrative Law Judge