

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC FILE No G708582

LINDA K. BRADLEY, EMPLOYEE

CLAIMANT

PINE BLUFF SCHOOL DISTRICT, EMPLOYER

RESPONDENT No 1

AR SCHOOL BOARDS ASSOC.-WCT, CARRIER/TPA

RESPONDENT No 1

**DEATH & PERMANENT TOTAL DISABILITY
TRUST FUND**

RESPONDENT No 2

OPINION FILED 17 NOVEMBER 2023

Heard before Arkansas Workers' Compensation Commission (AWCC) Administrative Law Judge JayO. Howe on 10 August 2023 in Pine Bluff, Jefferson County, Arkansas.

Ms. Laura Beth York, Attorney-at-Law in Little Rock, Arkansas, appeared for the claimant.

Ms. Melissa Wood, Attorney-at-Law in Little Rock, Arkansas, appeared for Respondent No 1.

Mr. David L. Pake, Attorney-at-Law in Little Rock, Arkansas, waived appearing on behalf of Respondent No 2.

I. STATEMENT OF THE CASE

The above-captioned case was heard on 10 August 2023 in Pine Bluff, Arkansas, after the parties participated in a prehearing telephone conference on 18 April 2023. A Prehearing Order, admitted to the record without objection as Commission's Exhibit No 1, was entered on the same day. The Order stated that the ISSUES TO BE LITIGATED were the claimant's entitlement to permanent total disability or wage-loss disability benefits. All other ISSUES were reserved.

The Prehearing Order set forth the following STIPULATIONS:

1. The AWCC has jurisdiction over this claim.

2. An employee/employer/carrier relationship existed between the parties on 4 December 2017, when the claimant sustained compensable injuries to her neck and right shoulder.

3. Claimant's average weekly wage (AWW) was \$416.37, which entitled her to temporary total disability and permanent partial disability benefits at a rate of \$278/\$209 per week, respectively.

The claimant was the sole WITNESS providing testimony at the hearing.

The parties' CONTENTIONS, as set forth in their prehearing questionnaire responses, were incorporated by reference into the Prehearing Order and were as follows:

The claimant CONTENTDS that she is permanently and totally disabled or, in the alternative, that she has wage-loss as a result of the 4 December 2017 work injury and that her attorney is entitled to an attorney's fee.

Respondent No 1 CONTENTS that all appropriate benefits have been paid with regard to the claimant's compensable injuries sustained on 4 December 2017. Further, the four percent (4%) impairment rating assigned by Dr. Pearce was accepted and paid. No additional treatment has been recommended for the claimant's neck injury. Dr. Pearce released the claimant to full duty. Lastly, the claimant is not entitled to permanent disability benefits in excess of the four percent (4%) rating.

Respondent No 2 CONTENTS that it defers to litigation on the issue of the extent of disability. It intends to waive its attendance if it is in agreement with Respondent No 1's contentions.¹

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the record as a whole and having heard testimony from the witness, observing her demeanor, I make the following findings of fact and conclusions of law under ACA § 11-9-704:

1. The AWCC has jurisdiction over this claim.

¹ As noted above, Respondent No 2 waived its appearance, as reflected in its statement on Contentions.

2. The stipulations offered by the parties are accepted as fact.
3. The claimant failed to establish, by a preponderance of the evidence, that she is entitled to the additional benefits sought in connection with her compensable injuries.
4. Accordingly, this claim is dismissed.

III. HEARING TESTIMONY and MEDICAL EVIDENCE

A. Claimant on Direct-Examination

Claimant, Linda Bradley, is a sixty-two-year-old female with a bachelor's degree in psychology. She worked briefly under a cosmetology license while earning her degree. Ms. Bradley also earned a certificate in secretarial word processing around 1990. [TR at 9-11.] Her past employment includes stints with the Census Bureau as a form editing clerk and working as a program operations assistant at the Pine Bluff Convention Center. [TR at 12.]

She worked for a period of time as a para-professional with the local school district before taking a break from employment to help with family matters. She then began working as a correctional officer for the Arkansas Department of Corrections in the mid- to late-90s. That work consisted of a broad array of duties, from booking new detainees to supervising inmate's daily routines. [TR at 13-14.] At some point in that job, she injured her ankle during the course of her employment. Ms. Bradley made a workers' compensation claim related to that injury and received some benefits, including medical treatment. She explained that her ankle injury left her with some permanent restrictions in the correctional officer's role and that she ultimately left that job. [TR at 16.]

The claimant then began working as an administrative assistant at Kids First in Pine Bluff. Ms. Bradley continued in that role for some time before beginning work around 2016 for the respondent-employer, Pine Bluff School District, where she was a para-professional assisting disabled students. [TR at 17-18.] She was primarily assigned to a one-on-one role with a student whom she assisted throughout the day. The claimant also assisted with

another student in the same classroom at different times during the day. [TR at 19.] She was assisting the second student when she was injured.

On 4 December 2017, the claimant was outside with the second child, waiting on her primary student to arrive, when he suddenly ran into the building unaccompanied. Ms. Bradley went after him and tripped as she was entering the building. [TR at 19.] She fell on or toward her right side, injuring her right arm and neck. [TR at 20.] The respondents accepted her claim as compensable, and she sought treatment. After an MRI revealed a tear or tears in her right shoulder, Dr. Gordon performed surgery on 19 April 2018. [TR at 21.] According to the claimant, the surgery did not improve her pain.

Ms. Bradley said that Dr. Gordon discussed another potential surgical procedure with her and suspected adhesive capsulitis, but she did not want another operation. [TR at 22.] She then sought another opinion from Dr. Reynolds, who ordered an MRI of her cervical spine. That scan revealed some remarkable findings, and she was referred to Dr. McCarthy, a spine specialist, for further evaluation. [TR at 23.] Dr. McCarthy did not feel surgical intervention was appropriate, so she returned to Dr. Gordon, who performed a right-shoulder aspiration in April of 2019. According to the claimant, that procedure did not provide relief for her shoulder pain. [TR at 24.]

The claimant did not recall Dr. Gordon then referring her for pain management, but remembered seeing Dr. Ahmadi at UAMS after obtaining a Change of Physician order. Ms. Bradley confirmed that the medical records reflected Dr. Ahmadi recommending an arthroscopic debridement procedure at the end of September of 2020 and that she was hesitant to agree to another surgery. *Id.* When asked why, she responded, “The first surgery didn’t help at all. It hurt, so I was cautious and I just was iffy about it. I don’t know. It wasn’t going to help me, that’s what my mind was telling me if, you know, you [are] dealing with this pain, what if that pain is worse [after surgery].” [TR at 24-25.]

After Dr. Ahmadi left UAMS, the claimant followed up with Dr. Pearce, who ordered another MRI in July of 2021. She stated that she didn't recall Dr. Pearce discussing the MRI findings or surgery with her, but that he released her from care. Dr. Pearce assessed a four percent (4%) impairment rating to the body as a whole. When he released her in 2022, she did not feel that any of the treatment she received improved her condition. [TR at 25-26.]

Following Dr. Pearce's release, Ms. Bradley sought care from her PCP, Dr. Firmatura, who "wrote a letter that [she was] permanently disabled as a result of that rotator cuff tear." Dr. Firmatura ordered nerve block treatment and referred her to Pain Treatment Centers of America. [TR at 26.] She received some temporary pain relief, "but it went back to hurting." [TR at 27.] The claimant testified that because of the injury, she was prescribed Hydrocodone, Tizanidine, and Gabapentin. She takes Hydrocodone and Tizanidine on a daily basis, but does not take the Gabapentin "cause it doesn't help." *Id.* According to the claimant, she takes the medication about three (3) times a day and it can make her feel "drowsy, sleepy, disoriented." [TR at 28.]

Ms. Bradley said that she returned to the respondent's employment in a different job. They "had me to do secretarial things, which hurt. Is – I was, like, updating schedules or updating process of special needs children coming tin to that program and every day it was, like, typing; so it was a bunch of typing; so." [TR at 29.] She indicated that being in a seated position to type hurt her shoulder, and said that she could not perform her duties for eight (8) hours per day. [TR at 30.] The claimant testified that she was put back into a classroom where she graded papers, moved boxes, filed papers, and helped students; but she also had to intervene if children began fighting. *Id.*

Continuing her testimony, the claimant stated that after helping to stop one fight amongst students, her pain became worse. She was then asked, "what happened with your employment?" and answered, "[m]y doctor took me off from work, because I was still hurting

and they fired me.” [TR at 34.] Ms. Bradley appealed her termination via a letter to the school district. *Id.* As for her plans for returning to work, she said:

For me to heal, to get well, and to be able to, maybe, return, because I didn't know – I didn't know that the – you know, I would still be hurting. So to me, that was unfair, because I had plans to go back to work, if I could, if the healing process was feasible that I could, actually do what I needed to do at my job. I don't want to be there and couldn't do what I needed to do. [TR at 35.]

The claimant testified that at some point after her termination, she applied for and was approved for Social Security Disability. [TR at 36.] She did not believe that any of the conditions listed in her application previously prevented her from working. She was “almost sure” that she listed the rotator cuff injury, but told them that was the reason for her application. The claimant previously applied for and was denied for Social Security Disability when she injured her ankle working for the Department of Correction. [TR at 39.] She stated that her ankle still gives her trouble, but that she did not list that on her most recent application. When asked, “[d]o you think there's any type of employment that you could do?” she answered, “I don't know. I don't think so. Something that doesn't require my right arm or ankle.” *Id.*

Reviewing again with counsel the jobs she'd worked in the past, the claimant stated that she could not perform again in any of those jobs. [TR at 40-41.] Ms. Bradley said that her daily life activities have also been impacted by her pain. [TR at 42.] Her adult son and daughter help her around the house. The claimant stated that she loves to read but cannot read like she used to, “[b]ecause I like cuddling with a book on my right side, but it's so painful, I can't.” [TR at 45.] She described her pain on the day of the hearing at eight (8) to nine (9) on a scale of one (1) to ten (10). [TR at 46.]

B. Claimant on Cross-Examination and Redirect

Ms. Bradley began her cross-examination by disagreeing to some extent with her deposition testimony about the physicality of her job with the Department of Corrections,

which she had earlier described as “kind of” physical. She agreed that she described the job as “very physical” at the hearing. [TR at 47.] As for the difference in her descriptions, she offered “I don’t know why I said that [referring to the deposition testimony]. Maybe I was scared.” [TR at 48.]

The claimant went on to agree that her treatment, except for with her family doctor and Pain Treatment Centers, was paid for through workers’ compensation. [TR at 50.] She stated that she began receiving Social Security Disability around April of 2021. Ms. Bradley testified that she was working as a classroom para-professional at the end of the 2018 to 2019 school year when she says her family doctor took her off work. [TR at 51-52.] She agreed that she was terminated because her employer needed to fill the position that she could not work in.

The claimant recalled being asked at her deposition whether she had any physician-ordered restrictions. Her response was, “[n]o, I don’t know. I haven’t asked. I just know I am restricting myself, because it hurts to do it.” [TR at 52.] Ms. Bradley answered some questions about past providers and agreed with a medical note showing that Dr. Pearce offered and she declined physical therapy. [TR at 54.] She explained that past physical therapy had hurt and agreed that was the same time that she was released to regular work duties without restrictions.

Ms. Bradley concluded her testimony on cross examination saying that she tries to go to the gym once or twice a week, but that she cannot do anything with her arm when she’s there. [TR at 56.]

During a brief redirect, the claimant stated that she began seeing Dr. Firmatura in 2021, that he saw her for a number of conditions, and that he wrote a letter referring her to pain management. [TR at 57-58.] She explained that a liver condition kept her from taking pain medication for some time, but that the condition resolved, which allowed her to begin

taking pain medication again. Ms. Bradley went on to state that even lifting a can of soup with her right arm hurts and that such a physical restriction is a result of the workplace accident. [TR at 60.]

C. Medical Evidence

Ms. Bradley sought some treatment for her shoulder injury before presenting on 19 April 2018 for arthroscopic repair of her right rotator cuff tear with Dr. Gordon.² *See*, [Cl. Ex. № 1 at 31-41.] Use of her right arm was restricted and a return to work date of 2 May 2018 was authorized. [*Id.* at 42.] She followed up in clinic on 1 May 2018, when she was ordered to start physical therapy and continued off work until her pain was better controlled. [*Id.* at 43.] The claimant was next seen by Dr. Gordon on 29 May 2018, when his clinic note ordered continued physical therapy and work restrictions of no lifting, pushing, or pulling over 5 pounds and no overhead use. He also provided a work letter limiting use of her right arm until re-evaluating on 27 June 2018. [*Id.* at 47-49.]

At her visit in the end of June, Dr. Gordon noted slow improvement and that the claimant was not working over the summer. He delayed continuing physical therapy for two-and-a-half weeks due to her complaints of pain. [*Id.* at 50.] Ms. Bradley next saw Dr. Gordon on 1 August 2018, and he ordered an MRI because of her continued pain, stiffness, and weakness. [*Id.* at 55.] They reviewed the imaging on 7 August 2018, which revealed the repair to be structurally intact. Dr. Gordon suspected her pain could be associated with adhesive capsulitis. He encouraged continued therapy and stretching and a follow-up in another month. [*Id.* at 57-58.]

The claimant saw Dr. Gordon again on 5 September 2018, when she continued to report pain and limited motion. She was reluctant to consider additional intervention, so Dr.

² The OrthoArkansas website shows that Dr. Eric Gordon is an orthopaedic surgeon specializing in sports medicine, knees, and shoulders.

Gordon referred her to Dr. Reynolds for another opinion. [*Id.* at 62.] Dr. Reynolds assessed possible postoperative adhesive capsulitis and cervical radiculopathy and recommended an MRI of the cervical spine to evaluate for radiculopathy. [*Id.* at 67.] His review of the cervical MRI noted some degenerative changes and recommended further evaluation of the cervical spine, but did not recommend any further surgery for her right shoulder. [*Id.* at 73-74.]

Dr. Kathryn McCarthy next saw the claimant on 23 October 2018 and assessed no intervention for the cervical MRI findings and did not correlate the claimant's shoulder pain to the MRI findings. She noted that the "rotator cuff repair in her right shoulder has healed based on MRI findings" and deferred to Dr. Gordon for further management. [*Id.* at 78.]

Ms. Bradley saw Dr. Gordon again on 23 January 2019. At nine (9) months out from surgery, he noted her progress had been slow. He believed she would benefit from additional physical therapy and suggested placing her at MMI if she did not make progress in the next six weeks. [*Id.* at 80.] He saw her again on 6 March 2019. They discussed that additional interventions beyond symptom management included diagnostic arthroscopy and aspiration to further evaluate for an infection, although the MRI did not show signs of an infection. She did not wish to proceed surgically, but would consider the aspiration procedure. Regular work duties were to continue. [*Id.* at 84-85.] The aspiration was performed on 12 April 2019. [*Id.* at 88.] Dr. Gordon saw her again on 21 May 2019. She reported little change in her pain. The lab results from the aspiration showed no signs of infection. Dr. Gordon recommended additional physical therapy to improve her limited shoulder motion, but stated that he was not sure what else to offer her at the time. [*Id.* at 92-93.] He returned her to regular work duty.

The claimant presented to Dr. Gordon's office again on 2 July 2019 with complaints of ongoing pain and limited motion. He noted:

I discussed with her that I am not certain what else can be done to help her symptoms. She has had adequate time to recover from her prior surgery. Postoperative MRI showed her repair healing appropriately. We saw additional opinion with Dr. Reynolds and even worked up her cervical spine with DR. McCarthy, that did not really give a cause for her persistent pain symptoms. She is frustrated by this but I believe we have done about all I can do for her. Discussed possible referral for evaluation by Dr. Paulus or Cayme as Physical Medicine and Rehabilitation specialists since things seemed to be structurally intact. Unfortunately there is no further surgical intervention I could confidently offer to provide pain relief. Follow up with me as needed. [*Id.* at 99.]

He provided a note returning her to regular duty work and for follow up with PMR. She then saw Dr. Paulus on 18 July 2019. After reviewing her history and examining her, Dr. Paulus could not offer any additional treatment options. [*Id.* at 104.] He returned her to work without any restrictions. [*Id.* at 106.]

Ms. Bradley saw Dr. Ahmadi at UAMS on 3 September 2019. His review of the imaging revealed no bony injury or malalignment and a healed, intact rotator cuff area. She received a lidocaine injection to help manage her pain and they discussed non-operative management versus possible arthroscopic debridement in the future. He noted that her activity was not limited and released her without any restrictions. [*Id.* at 111-112, 114.]

The claimant presented to Dr. Ahmadi's clinic again on 26 May 2020 complaining of pain. She was advised to "continue to use the right shoulder as much as possible," and additional physical therapy was recommended. [*Id.* at 119.] Ms. Bradley returned to the clinic on 30 September 2020 when it was noted that she stopped physical therapy because of pain. [*Id.* at 120.] The note states that she would think about possible surgical options to address the pain and return accordingly. [*Id.* at 124.]

On 22 June 2021, Ms. Bradley returned to UAMS where, because Dr. Ahmadi had moved to another practice, she saw Dr. Pearce. He limited her to left arm duty pending an MRI. She returned after the MRI scan, and Dr. Pearce placed her at MMI on 27 July 2021. He noted that she declined further physical therapy and returned her to regular duty without

restrictions. [*Id.* at 131.] Dr. Pearce then provided a letter dated 31 August 2021 to the claimant's attorneys affirming that she reached MMI with no impairment rating, that she had no restrictions, and that his opinion was within a reasonable degree of medical certainty. [*Id.* at 134.]

The claimant's medical records next include a letter from her PCP Dr. Firmatura,³ dated 21 October 2021, which states in full:

We are seeing this patient for all of her medical conditions. She is on permanent disability for right rotator cuff pathology. She had a right rotator cuff repair done April 2018 with minimal relief. We are no [sic] referring her to pain management to manage her pain. If you have any questions please contact out [sic] office. [*Id.* at 135.]

The record from the office visit apparently associated with that letter notes her employment status as "Disabled, Disability started fell and hurt shoulder." [*Id.* at 137.]

Following Dr. Firmatura's referral, she began treating at Pain Treatment Centers of America on 18 November 2021. [*Id.* at 142-167, 169-186.]

On 9 June 2022, Dr. Pearce dictated an addendum to his 27 June 2021 record, noting a six percent (6%) PPI to the upper extremity, which translated to a four percent (4%) rating of the person as a whole according to the AMA 4th Edition guide. [*Id.* at 168.]

The respondents provided some additional medical records not included in the claimant's exhibits. *See*, [Resp. Ex. No 1.] Those records include a 26 January 2021 note from a visit with Dr. Dill.⁴ Right shoulder pain was among her complaints for that visit, and her employment status at the time was listed as "Disabled." [*Id.* at 18.] A note from another visit with Dr. Dill states that she fell five months earlier onto her outstretched hands. [*Id.* at 22.]

³ It appears from the note that Dr. Firmatura is a provider at Family Health Associates of Southeast Arkansas.

⁴ It appears from the note that Dr. Dill is a provider at Family Health Associates of Southeast Arkansas.

It appears that her first visit with Dr. Firmatura was on 14 September 2021, when the chief complaint is listed as establishing care. [*Id.* at 33.] Similar to the note from her visit with Dr. Firmatura the next month, her employment status was listed as “Disabled, Disability started fell and hurt shoulder.” [*Id.* at 34.]

IV. ADJUDICATION

The stipulations are outlined above and accepted as facts. It is settled that the Commission, with the benefit of being in the presence of a witness and observing his or her demeanor, determines a witness’ credibility and the appropriate weight to accord their statements. See, *Wal-Mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 448, 990 S.W.2d 522 (1999). The Commission must sort through conflicting evidence and determine the true facts. In so doing, the Commission is not required to believe the testimony of the claimant or any witness, but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *White v. Gregg Agricultural Ent.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001). It is further settled that a party’s testimony is never considered uncontroverted. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994).

A. The Claimant Failed to Prove by a Preponderance of the Evidence that she is Entitled to Permanent Total Disability.

Arkansas law defines “Permanent Total Disability” as the inability, because of a compensable injury, to earn any meaningful wages. And the employee has the burden of proving that inability to earn wages. ACA. §§ 11-9-519(e)(1-2). A permanent impairment rating is not required to consider the effects of a compensable injury in a claim for permanent total disability. *Rutherford v. Mid-Delta Community Services, Inc.*, 102 Ark. App. 317, 285 S.W.3d 248 (2008).

Here, the claimant suffered a compensable injury to her right shoulder in December of 2017. She underwent surgical repair in April of 2018 and began physical therapy. Her

recovery was slow with ongoing reports of pain and stiffness. Ms. Bradley later underwent an aspiration to rule out a possible infection in the shoulder joint as a source of her otherwise unexplained pain. She reported that physical therapy caused her more pain and eventually stopped therapy altogether. Dr. Pearce placed Ms. Bradley at MMI and returned her to full duty without restrictions. He later assigned her a four percent (4%) impairment rating to the body as a whole, which the respondents accepted and paid.

The record shows that Ms. Bradley was advised of her termination from the Pine Bluff School District by way of a 6 September 2019 letter indicating her dismissal for failure to report to work for the 2019-2020 school year (noting eighteen consecutive days of absence on the date of the letter). Her refusal to return to work as in spite of the many return to work authorizations in the records. Explaining why she was not working or her possible plan for returning to work, she said that she had plans to go back if “the healing process was feasible,” but that she didn’t want to work if she couldn’t do what she needed to do. *See*, [TR at 35.]

The claimant states that she began receiving Social Security Disability around April of 2021, which would be consistent with her PCP’s letter from October 2021 referring her for pain management and stating that she was “on permanent disability.” Findings of permanent disability for the purposes of Social Security are different, however, from permanent and total disability under Arkansas’s Workers’ Compensation laws. *See Martin v. Jensen Construction Co.*, 2010 Ark. App. 294, 374 S.W.3d 774. Ms. Bradley recalled not being under any physician-ordered restrictions, and only offered that she was restricting herself from working or even attempting to work because she was afraid of hurting herself.

The claimant failed to prove, by a preponderance of the evidence, that she is permanently and totally disabled. Ms. Bradley did not offer persuasive testimony that she was totally unable to earn any wages. Her own testimony that she could not perform any kind of work is not supported by the medical evidence. She did not describe attempts to find

work or any difficulties associated with actually attempting any work duties. Instead she only suggested generally that any sort of work she was familiar with would be impossible because of the physical requirements or because pain medication makes her feel tired. I find the records consistent with Dr. Pearce's release to be credible. I find her letter from Dr. Firmatura to be of little evidentiary value as it seems to be relating to her Social Security Disability determination and as she was self-reporting a "disability" status to his clinic from the outset of her care with him.

Accordingly, I find that the claimant failed to prove by a preponderance of the evidence that her compensable shoulder injury rendered her permanently and totally disabled.

B. The Claimant Failed to Prove by a Preponderance of the Evidence that she is Entitled to Wage-loss Benefits.

The wage-loss factor is the extent to which an injured worker's compensable injury negatively impacts that person's ability to earn a livelihood. *Rice v. Ga.-Pacific Corp.*, 72 Ark. App. 148, 35 S.W.3d 328 (2000). "In considering claims for permanent partial disability benefits in excess of the employee's percentage of permanent physical impairment, the Workers' Compensation Commission may take into account, in addition to the percentage of permanent physical impairment, such factors as the employee's age, education, work experience, and other matters reasonably expected to affect his or her future earning capacity." Ark. Code Ann. § 11-9-522(b)(1). A claimant's motivation to return to work may be considered also. *Rice, supra*. If a work-related injury combines with a preexisting disease or condition or the natural process of aging to cause or prolong the disability or need for treatment, permanent benefits shall be payable for the resultant condition only if the compensable injury is the major cause of the permanent disability or need for treatment. Ark. Code Ann. § 11-9-102(4)(F)(ii)(a). Major cause means something that is more than fifty percent (50%) of the cause. Ark. Code Ann. § 11-9-102(14)(A).

Ms. Bradley chose not to return to her job despite several work release authorizations provided by her physicians through the course of her treatment. She did not provide testimony about how she now earns wages less than she did previously, attributing that decrease in earnings to her compensable injury; nor did she testify that she attempted or was attempting to return to work. I do not find her motivated to return to work, and she testified to as much. Upon her presentation to establish care with Dr. Firmatura, her problem list included: (1) diabetes mellitus with diabetic neuropathy, (2) hypertension, (3) hyperlipidemia, (4) non-occlusive coronary artery disease, (5) gastroesophageal reflux disease, (6) constipation, (7) morbid obesity, (8) lumbar radiculopathy, (9) sleep apnea, and (10) a Vitamin D deficiency. [Resp. Ex. № 1 at 37-38.]

The claimant is over sixty (60) years old, with a bachelor's degree and secretarial certification, and she has ample experience in administrative duties from her corrections experience and her work in education. Aside from general concern about hurting, she did not provide persuasive evidence as to any loss in her ability to perform those functions or others for which she may be qualified. Moreso, she did not provide persuasive testimony that difficulty in the workplace would be attributed by at least fifty percent (50%) to her compensable injury and not to any of the litany of other conditions with which she has been diagnosed.

The claimant has no physician-ordered work restrictions, and the rating assigned by Dr. Pearce was accepted and paid. I do not find that she prove, by a preponderance of the evidence, that she is entitled to wage-loss disability.

C. Attorney's Fee

Consistent with the above, the claimant fails to establish that he is entitled to an attorney's fee.

V. ORDER

L. BRADLEY- G708582

Consistent with the Findings of Fact and Conclusions of Law set forth above, this claim is DENIED AND DISMISSED.

SO ORDERED.

JAYO. HOWE
ADMINISTRATIVE LAW JUDGE