

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H201972

JAMES BEAUCHAMP,  
EMPLOYEE

CLAIMANT

CONAGRA FOODS PACKAGED FOODS, LLC,  
EMPLOYER

RESPONDENT

BROADSPIRE SERVICES, INC.,  
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED JULY 13, 2023

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

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

Respondents represented by the HONORABLE JARROD S. PARRISH, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed as Modified.

OPINION AND ORDER

The respondents appeal an administrative law judge's opinion filed January 23, 2023. The administrative law judge found that the claimant proved he sustained a compensable injury to his right hip and pelvis. After reviewing the entire record *de novo*, the Full Commission finds that the claimant's right hip and pelvis injury was a natural consequence of the compensable left hip injury. We find that the claimant proved he was entitled to temporary total disability benefits beginning February 15, 2022 until a date yet to be determined.

I. HISTORY

The record indicates that James Alan Beauchamp, now age 62, became employed with the respondents, Conagra, in 1997. Mr. Beauchamp testified that he was hired to be a “floater” for the respondents but had been an “operator” for 15-20 years. The claimant testified that the “operator” position entailed several work duties which included use of a “power jack.”

The parties stipulated that the employee-employer-carrier relationship existed on January 4, 2022. The claimant testified on direct examination:

Q. So what happened on January 4<sup>th</sup> of 2022?

A. I was taking the trash out and like I don't want to get into too much detail, but like the watermelons that you see at Sam's Club, them boxes like that. There is boxes like that and you know the straps around them, they had broke the box down and one of the straps was hanging out and I tripped over one of them straps and fell down on my left hip and knee and my hand – I mean on concrete.

The respondents' attorney cross-examined the claimant:

Q. Now, the mechanics of this fall at ConAgra, we understand you tripped on one of the bands that goes on one of these big boxes?

A. Yes, sir.

Q. You fell to your left on your left hip. Correct?

A. Yes, sir.

Q. Nothing hit your right hip. Correct?

A. No.

According to the record, the claimant treated at Arkansas Occupational Medicine Services PA on January 4, 2022:

James Beauchamp is a 61 year-old male, and employee of ConAgra/Pinnacle Foods....

Employer states patient fell injuring his left hip....

Patient states that he was walking and tripped on a strap causing him to fall, landing on his left knee and left hip.

Patient states that his left knee is scrapped (sic), but left hip is hurting....

James's primary problem is pain located in the left hip. He describes it as throbbing, stiff, aching, sharp. He considers it to be intense. The problem began on 1/4/21....He was injured today while at work....

IMAGING STUDIES

XRAY – Left Hip: Normal. Acute Findings – Absent. No Fracture Seen.

The diagnosis of J. Daniel Nicholas, PA-C on January 4, 2022 was

“1. Pain in left hip.” J. Daniel Nicholas planned conservative treatment and stated, “James’s recommended Work Status is Restricted Duty....Allow sitting work as needed.”

The claimant testified on direct examination:

Q. Did you return to work that day?

A. I know I – I don't know if I worked. I think they probably sent me home because I was pretty hurt.

Q. Okay.

A. And then I laid out the next day.

Q. So what were your symptoms?

A. Basically, the bruise on my leg and my knee was scraped and basically that is the way it was.

The claimant signed a Form AR-N, EMPLOYEE'S NOTICE OF INJURY, on January 6, 2022. The ACCIDENT INFORMATION section of the Form AR-N indicated that the claimant injured his “Left knee and hip.” It was reported on the Form AR-N, “Employee was moving a pallet of

cardboard boxes to the trash dock. He stopped to adjust the boxes and upon returning to the jack controls, got his foot tangled (sic) in a piece of loose strapping causing him to fall.”

J. Daniel Nicholas’ diagnosis on January 11, 2022 was “1. Pain in left hip....James’s recommended work status is Restricted Duty. Return to work plan discussed with patient and communicated to the employer....Avoid weightbearing left leg.”

J. Daniel Nicholas continued to follow up with the claimant for left hip pain.

A “Left lower extremity venous duplex” was carried out on January 24, 2022 with the impression, “Negative for left leg deep vein thrombosis. Subcutaneous edema of the left lower leg.”

The respondents’ attorney cross-examined the claimant:

Q. So the issue that is presented today has been framed as whether you suffered a compensable right hip injury on January 4, 2022. Do you understand that?

A. Yes.

Q. You agree you did not experience any right hip pain or right hip discomfort for nearly three weeks after January 4, 2022?

A. After the bruising had gone away from my left hip is when I started feeling pain all the way across.

Q. And that was approximately three weeks after January 4<sup>th</sup>?

A. I would say.

The claimant began treatment appointments at ApexNetwork Physical Therapy on January 27, 2022. A physical therapist diagnosed “1.

Contusion of right hip, initial encounter. 2. Right Hip Pain.” It was reported, “James states that his feet became caught in some pallet strapping causing him to fall, hitting his left knee and left hip on the floor....Mr. Beauchamp demonstrates signs consistent with a hip contusion and trochanteric bursitis which impairs his gait, mobility and ability to work and sleep.”

A physical therapist’s diagnosis on February 1, 2022 was “1. Contusion of right hip, initial encounter. 2. Right Hip Pain. 3. Low back pain.” It was noted, “James states that he was really sore on Sunday and [it’s] the right hip hurting today, along with the middle of the low back. He tells me that the left hip is doing ‘fine.’”

The claimant followed up with J. Daniel Nicholas on February 8, 2022: “Patient states his left hip is doing a little better, but he has been having severe pain in his right hip....James’s primary problem is pain located in the left hip....James’s secondary problem is pain located in the right hip....The problem began on 1/4/2022....James has significant improvement in his left hip. He has developed severe right hip pain with no specific injury.”

J. Daniel Nicholas’ diagnosis on February 8, 2022 was “1. Pain in left hip. 2. Right Hip Pain....The cause of his right hip pain is unclear. The only way it could be related to his original injury is if it was caused by

overcompensation when using crutches for his left leg.” Mr. Nicholas recommended a Work Status of “Restricted Duty. Return to work plan discussed with patient and communicated to the employer....No weightbearing with right leg.”

The claimant treated at MANA Family Medicine on February 9, 2022: “1. Pain in pelvis ... Acute, Fell on his L at work and was doing well until he started PT. Now with severe pain in the R pelvis possibly at the sacral (sic) iliac joint. Patient really needs a pelvic xray.” Dr. Joseph O’Connell reported, “Fell at work and bruised the left hip, now right hip also hurts really bad. Can walk on left hip, but not right. Walking is almost non-existent and extremely painful for patient. The pain is worse instead of getting better – in even more pain after completing PT exercises. Getting TENS unit in the back.”

The respondents’ attorney cross-examined the claimant:

Q. So as far as return-to-work efforts, you told me in your depo you worked up through February 12<sup>th</sup>. Is that right?

A. That sounds right.

Q. And then that is when you went back to a doctor and said you were taken off work. Correct?

A. They told me not to come back.

Dr. Mark Allard examined the claimant on or about February 15, 2022:

Pt here today WC injury (fall) on 01/04/2022. Pt was taking out some boxes to the trash, and tripped over a plastic strip. Pt fell directly on his left side. Pt was seen @ the

occupational clinic, and x-rays were taken, and they were negative for a fx. Pt was put on crutches, and sent to physical therapy.

Pt reports within a couple of wks he was feeling much better, and was down to only using 1 crutch. However, he had a visit to therapy on the 22<sup>nd</sup>, and was given a HEP, and completed all the exercises, went shopping with his wife and 3 yr old grandson, and by the next day was unable to walk, and had pain on the right side. Pt c/o today of right buttock/lower lumbar pain. Pt describes the pain as a sharp stabbing pain....

61-year-old man injured his left hip and thigh about 6 weeks ago at work. He tripped over something and landed hard on his left side. He saw the providers at the occupational medicine clinic [and] got some physical therapy and was making progress. Bruising and swelling were resolving and he was getting around better. They gave him some home exercises to do 2 weeks ago. Apparently there was a whole bunch of exercises and he did all of them that day. Then he went to the mall and went shopping with his wife and his grandson and that evening he was miserable and has stayed miserable. This pain is different though. The pain is over in his right sacroiliac area. He does have some low back pain. He does not have any left hip or thigh pain. This pain goes down into his buttock but does not radiate down his thigh or his leg. No numbness or tingling. No history of back problems. He is profoundly disabled by this pain however and is just barely able to get around with crutches and is having a tough time getting in and out of work due to his sitdown duty.

Dr. Allard arranged x-rays on or about February 15, 2022:

Lumbar Spine: Radiographic Findings: **evidence of osteoarticular abnormality**: He has got some anterolisthesis at L3/4 and retrolisthesis at L4/5. Mild degenerative scoliosis in his lumbar spine. No evidence of fracture of the lumbar spine or the pelvis. SI joints look normal....

Hip: Radiographic Findings: **evidence of osteoarticular abnormality**: He has got some early osteoarthritis of the right hip with some joint space narrowing and osteophyte formation. None on the left side. No evidence of fracture.

Dr. Allard assessed “**1. Low back pain** – Lumbar back strain. Symptoms are on the right side. He does not sound like he has a lot of radicular pain, but the amount of pain he has is remarkable and he [is] just barely able to even walk. It is my medical opinion that this is likely due to overuse 2 weeks ago and is not directly related to his work-related injury from 6 weeks ago....James will need to be off work for approximately the next 2 weeks.”

The claimant followed up with Dr. O’Connell on February 23, 2022: “His pain seems to be related to overcompensating with the R hip while using crutches.”

The claimant signed a Form AR-C, CLAIM FOR COMPENSATION, on March 7, 2022. The ACCIDENT INFORMATION section of the Form AR-C indicated that the Date of Accident was January 4, 2022. The claimant wrote on the Form AR-C, “I fell on my left hip while working, injuring both hips in the impact.”

An MRI of the claimant’s left hip was taken on April 12, 2022 with the following impression:

1. Mildly displaced, acute or subacute fractures of the left superior and left inferior pubic rami.
2. Nondisplaced, acute or subacute fracture of the right sacral ala.
3. No fracture of either proximal femora.



An MRI of the claimant's right hip was taken on April 13, 2022, with the following impression:

1. Acute or subacute, mildly displaced fractures of the left superior and left inferior pubic rami.
2. Nondisplaced, acute or subacute fracture of the right sacral ala.
3. No fracture of either proximal femora.
4. Findings of femoroacetabular impingement of each hip, a chronic finding. On this MRI of the right hip, abnormal signal in the superior aspect of the right acetabular labrum is consistent with chronic degeneration of the labrum related to the femoroacetabular impingement.

Dr. O'Connell signed a note on April 26, 2022 which indicated, "JAMES BEAUCHAMP is currently under my medical care. At this time it is my recommendation that he only use a walker and not crutches due to his pelvic fractures."

Dr. Matthew Coker examined the claimant on May 1, 2022:

Patient presents for evaluation of his bilateral hips. He is a 61-year-old gentleman who injured his hip on the left side back in January with a fall at work. He states that at first he did not think it was much better continue to bother him had it worked up and was recently found to have some ramus fractures on the left side. He was also subsequently found to have a right sacral alae fracture. He did develop some right hip pain but this was not associated with the fall on the left side. This started to bother him a few weeks later. The left side is a work-related injury but the right side is not considered a work-related injury. Patient is on Percocet at this time for the pain. States as the right side is bothering him the most at this time....

On physical exam he is a well-developed well-nourished 61-year-old male in no acute distress. Examination of the bilateral lower extremity shows light touch sensation intact to the L4-S1 distribution. He can flex and extend the hip, knee

and ankle. He has motion of the hip that is uncomfortable but he does have good motion both left and right. Straight leg raise a little uncomfortable but not exquisitely painful. MRIs were reviewed showing a left sided superior and inferior ramus fracture and on the right and the sacrum, on the superior and lateral aspect he has an increased uptake consistent with [an] acute versus subacute fracture of the right sacral alae.

Dr. Coker assessed and planned the following: "Impression is ramus fractures on the left after a fall at work and a right sacral fracture. Plan will be to continue to keep him off work for now because he is just not able to get around safely. He is not able to do his normal duties at work. He will follow-up with me in 6 weeks for repeat evaluation with [an] AP of the pelvis. My hope is at that time we can increase his activities at work."

Dr. Christopher P. Dougherty reported on June 22, 2022, "He was seen today for bilateral hip pain from a fall at work that occurred January 4<sup>th</sup>, 2022. The MRI and x-rays taken 4/15/22 and 1/4/22 showed a left inferior and superior pubic ramus fracture, non displaced sacral ala, and a possible nonunion fracture. New x-rays today were taken of the pelvis and they showed early osteoarthritis of the right hip." Dr. Dougherty assessed "1. Closed fracture pelvis, multiple pubic rami – stable."

A CT of the claimant's pelvis was taken on August 2, 2022 with the impression, "1. Fractures involving the left superior/inferior pubic rami and right aspect of the sacrum as described above."

The claimant followed up with Dr. Dougherty on August 3, 2022:

He was seen today to discuss his CT results for the pelvis. The Ct showed a left superior/inferior pubic ramus fracture and a right fracture of the aspect sacrum. AL (sic) of these fractures are directly related to his fall at work and he remains off work at thist (sic) time due to these fractures. He cannot do sedentary work due to his fractures. His vitamin D levels were discussed and noted at the level of 20. He will need to take part in 50,000 units for 8 weeks before other planning. He will need to get lab redrawn in 8 weeks and follow up to assess new vitamin lab reports.

Dr. Dougherty assessed "1. Fracture of superior pubic ramus.... 2. Vitamin D deficiency."

Dr. Dougherty signed a Return to Work/School note on August 8, 2022 which indicated that the claimant "Was Seen in my office on: 8/03/22....Work limitations: No work at this time."

A pre-hearing order was filed on September 15, 2022. According to the text of the pre-hearing order, the claimant contended that he was "entitled to medical treatment for his right hip, and pelvic fractures in addition to treatment respondents are providing for his left hip. Claimant contends he is entitled to temporary total disability benefits from the date last worked to a date yet to be determined. The claimant reserves all other issues."

The parties stipulated that the respondents "have controverted the claim regarding claimant's right hip and pelvis." The respondents contended that the claimant "did not suffer a right hip injury on or about January 4, 2022. Respondents further contend that in the event

compensability is found, the medical records do not support entitlement to medical treatment or indemnity benefits for the right hip.”

The parties agreed to litigate the following issues:

1. Whether claimant sustained a compensable injury on January 4, 2022, regarding his right hip and pelvis.
2. If compensable, whether claimant is entitled to temporary total disability benefits, and medical benefits.
3. Compensation rate.
4. Attorney fees.

At the referral of Dr. Dougherty, the claimant began physical therapy visits at Trinity Rehabilitation, Inc. on September 16, 2022.

Dr. O’Connell signed the following statement on November 2, 2022: “Mr. James Beauchamp, (DOB 12/23/60) has been my patient for over 10 years. He has never had issues with his hips or pelvis. His fracture of pelvis was a result of a fall at work in early 2022.”

After a hearing, an administrative law judge filed an opinion on January 23, 2023. The administrative law judge found that the claimant proved he “suffered a compensable injury to his right hip and pelvis on January 5, 2022.” The administrative law judge awarded reasonably necessary medical treatment and temporary total disability benefits. The respondents appeal to the Full Commission.

## II. ADJUDICATION

### A. Compensability

Act 796 of 1993, as codified at Ark. Code Ann. §11-9-102(4)(Repl. 2012), provides, in pertinent part:

- (A) “Compensable injury” means:
  - (i) An accidental injury causing internal or external physical harm to the body ... arising out of and in the course of employment and which requires medical services or results in disability or death. An injury is “accidental” only if it is caused by a specific incident and is identifiable by time and place of occurrence[.]

An injury must also be established by medical evidence supported by objective findings. Ark. Code Ann. §11-9-102(4)(D)(Repl. 2012). “Objective findings” are those findings which cannot come under the voluntary control of the patient. Ark. Code Ann. §11-9-102(16)(A)(i)(Repl. 2012).

The employee has the burden of proving by a preponderance of the evidence that he sustained a compensable injury. Ark. Code Ann. §11-9-102(4)(E)(i)(Repl. 2012). 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).

An administrative law judge found in the present matter, “2. Claimant has met his burden of proving that he suffered a compensable injury to his right hip and pelvis on January 5, 2022.” The administrative law judge inexplicably failed to cite any portion of the pertinent controlling statute, Ark. Code Ann. §11-9-102(4)(Repl. 2012), *supra*. Nevertheless, it

is the duty of the Full Commission to enter findings in accordance with the preponderance of the evidence and not on whether there is substantial evidence to support the administrative law judge's findings. *Roberts v. Leo Levi Hospital*, 8 Ark. App. 184, 649 S.W.2d 402 (1983). The Full Commission reviews an administrative law judge's opinion *de novo*, and it is the duty of the Full Commission to conduct its own fact-finding independent of that done by an administrative law judge. *Crawford v. Pace Indus.*, 55 Ark. App. 60, 929 S.W.2d 727 (1996). The Full Commission enters its own findings in accordance with the preponderance of the evidence. *Tyson Foods, Inc. v. Watkins*, 31 Ark. App. 230, 792 S.W.2d 348 (1990).

The Full Commission finds in the present matter that the claimant did not prove by a preponderance of the evidence that he sustained a compensable injury to his right hip or pelvis on January 4, 2022. The claimant testified that he tripped and fell on his left hip and knee while performing employment services for the respondents on January 4, 2022. There was no stipulation of record regarding compensability of the accidental injury which occurred on January 4, 2022. In their brief on appeal to the Full Commission, the respondents expressly state that the claimant sustained a "compensable injury to his left hip."

The claimant testified on cross-examination that he fell on his left hip as a result of the January 4, 2022 specific incident. The claimant agreed

that he did not injure his right hip on January 4, 2022. J. Daniel Nicholas, P.A. reported on January 4, 2022 that the claimant fell and injured his “left hip.” Mr. Nicholas did not report that the claimant also injured his right hip or pelvis. The claimant signed a Form AR-N, EMPLOYEE’S NOTICE OF INJURY, on January 6, 2022. It was reported on the Form AR-N that the claimant injured his “Left knee and hip.” There was no indication that the claimant also injured his right hip or pelvis. J. Daniel Nicholas continued to follow up with the claimant for complaints of “Pain in left hip.” A physical therapist noted on January 27, 2022 that the claimant injured his “left knee and hip” as a result of the accidental injury. Dr. Allard reported on February 15, 2022 that the claimant “landed hard on his left side” when the claimant fell on January 4, 2022. The evidence does not demonstrate that the claimant injured his right hip or pelvis as a result of the January 4, 2022 accidental injury.

The Full Commission finds that the claimant did not prove by a preponderance of the evidence that he sustained a “compensable injury” to his right hip or pelvis. The claimant did not prove that he sustained an accidental injury causing internal or external physical harm to his right hip or pelvis. The claimant did not prove that he sustained an injury to his right hip or pelvis which arose out of and in the course of employment, required medical services, or resulted in disability. The claimant did not prove that

he sustained an injury to his right hip or pelvis which was caused by a specific incident or was identifiable by time and place of occurrence on or about January 4, 2022. The Full Commission accordingly does not affirm the administrative law judge's finding that the claimant proved he "suffered a compensable injury to his right hip and pelvis on January 5, 2022."

B. Natural Consequence

The Full Commission has determined *supra* that the claimant did not prove he sustained a compensable injury to his right hip or pelvis on January 4, 2022. The respondents argue on appeal that the claimant "did not establish a causal link between his alleged right hip injury and the compensable injury to his left hip." When the primary injury is shown to have arisen out of and in the course of employment, the employer is responsible for any natural consequence that flows from that injury. *Nichols v. Omaha Sch. Dist.*, 2010 Ark. App. 194, 374 S.W.3d 148. The basic test is whether there is a causal connection between the injury and the consequences of such. *Id.* The burden is on the employee to establish the necessary causal connection. *Id.* Whether there is a causal connection is a question of fact for the Commission. *Jeter v. B.R. McGinty Mechanical*, 62 Ark. App. 53, 968 S.W.2d 645 (1998).

In the present matter, the parties implicitly stipulated that the claimant proved he sustained a compensable injury to his left hip on



January 4, 2022. The Full Commission finds that the claimant proved his subsequent right hip difficulties were a natural consequence flowing from the compensable left hip injury. The claimant agreed on cross-examination that he began suffering from right hip pain approximately three weeks after the compensable left hip injury. The determination of the credibility and weight to be given a witness's testimony is within the sole province of the Commission. *Murphy v. Forsgren, Inc.*, 99 Ark. App. 223, 258 S.W.3d 794 (2007). The Full Commission finds in the present matter that the claimant was a credible witness. The claimant informed a physical therapist no later than February 1, 2022 that his right hip was hurting. J. Daniel Nicholas noted on February 8, 2022 that the claimant "has been having severe pain in his right hip....He has developed severe right hip pain with no specific injury." Mr. Nicholas opined on February 8, 2022, "The cause of his right hip pain is unclear. The only way it could be related to his original injury is if it was caused by overcompensation when using crutches for his left leg." Such a notation by a treating health provider is evidence demonstrating that the claimant's right hip complaints were a natural consequence of the compensable left hip injury.

Dr. Allard reported on February 15, 2022 with regard to the claimant's right hip symptoms, "It is my medical opinion that *this is likely due to overuse 2 weeks ago* [emphasis supplied] and is not directly related

to his work-related injury from 6 weeks ago.” Dr. O’Connell stated on February 23, 2022, “His pain seems to be related to overcompensating with the R hip while using crutches.” An MRI of the claimant’s right hip on April 13, 2022 showed several abnormalities including a “fracture of the right sacral ala.” These diagnostic abnormalities were not shown to be present before the January 4, 2022 compensable injury to the claimant’s left hip. We find that these abnormalities were additional evidence demonstrating that the claimant’s right hip difficulties were a natural consequence of the compensable injury occurring January 4, 2022. Dr. Coker reported on May 1, 2022, “Impression is ramus fractures on the left after a fall at work and a right sacral fracture.” Dr. Dougherty opined on August 3, 2022, “He was seen today to discuss his CT results for the pelvis. The Ct showed a left superior/inferior pubic ramus fracture and a right fracture of the aspect sacrum. AL (sic) of these fractures *are directly related to his fall at work* [emphasis supplied].”

Based on the probative evidence of record, the Full Commission finds that the claimant proved his right hip and pelvis difficulties were a natural consequence of the January 4, 2022 compensable injury to the claimant’s left hip. *Nichols, supra.*

C. 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 continues until the employee is as far restored as the permanent character of the injury will permit, and if the underlying condition causing the disability has become stable and nothing further in the way of treatment will improve that condition, the healing period has ended. *Harvest Foods v. Washam*, 52 Ark. App. 72, 914 S.W.2d 776 (1996). The determination of when the healing period has ended is a question of fact for the Commission. *Carroll Gen. Hosp. v. Green*, 54 Ark. App. 102, 923 S.W.2d 878 (1996).

The Full Commission finds in the present matter that the claimant proved he was entitled to temporary total disability benefits beginning February 15, 2022 and continuing until a date yet to be determined. The claimant sustained a compensable injury to his left hip on January 4, 2022. J. Daniel Nicholas stated on January 4, 2022, “James’s recommended Work Status is Restricted Duty....Allow sitting work as needed.” The claimant’s testimony indicated that he returned to at least restricted work duties for the respondents. The claimant eventually began suffering from

pain in his right hip, which condition the Full Commission has found to be a natural consequence of the compensable left hip injury.

The claimant agreed on cross-examination that he worked for the respondents through February 12, 2022. Dr. Allard took the claimant off work on February 15, 2022. The evidence demonstrates that the claimant remained within a healing period and was totally incapacitated from earning wages beginning February 15, 2022. Dr. O'Connell recommended on April 26, 2022 that the claimant "only use a walker and not crutches due to his pelvic fractures." Dr. Coker kept the claimant off work beginning May 1, 2022. Dr. Dougherty stated on August 8, 2022, "No work at this time."

The evidence demonstrates that the claimant remained within a healing period and was totally incapacitated from earning wages beginning February 15, 2022. No treating physician has yet opined that the claimant reached the end of his healing period for the compensable left hip injury or natural consequences thereof. The Full Commission therefore finds that the claimant proved he was entitled to temporary total disability benefits beginning February 15, 2022 and continuing until a date yet to be determined. *Breshears, supra*.

After reviewing the entire record *de novo*, the Full Commission finds that the claimant proved his right hip and pelvis condition was a natural consequence of the compensable left hip injury which the claimant

sustained on January 4, 2022. The claimant proved that the treatment of record was reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Repl. 2012). The claimant proved that he was entitled to temporary total disability benefits beginning February 15, 2022 until a date yet to be determined. The respondents are entitled to an appropriate offset in accordance with Ark. Code Ann. §11-9-411(Repl. 2012). The claimant's attorney is entitled to fees for legal services in accordance with Ark. Code Ann. §11-9-715(a)(Repl. 2012). For prevailing on appeal, the claimant's attorney is entitled to an additional fee of five hundred dollars (\$500), pursuant to Ark. Code Ann. §11-9-715(b)(Repl. 2012).

IT IS SO ORDERED.

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SCOTTY DALE DOUTHIT, Chairman

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M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I must respectfully dissent from the Majority's determination that the claimant has met his burden of proving that he suffered a compensable injury to his right hip and pelvis on January 5, 2022. (The Full Commission

has recognized that the date of the claimant's date of accident is incorrectly documented as January 5, 2022. The correct date is January 4, 2022).

In order to prove a compensable injury as a result of a specific incident that is identifiable by time and place of occurrence, a claimant must establish the following by a preponderance of the evidence: (1) an injury arising out of and in the course of employment; (2) that the injury caused internal or external harm to the body which required medical services or resulted in disability or death; (3) medical evidence supported by objective findings, as defined in Ark. Code Ann. § 11-9-102(16), establishing the injury; and (4) that the injury was caused by a specific incident identifiable by time and place of occurrence. *Odd Jobs & More v. Reid*, 2011 Ark. App. 450, 384 S.W.3d 630 (2011).

More relevant here is the question of whether the claimant's right hip injury is a natural consequence of his January 4, 2022 injury. Arkansas Code Annotated section 11-9-508(a) requires an employer to provide an injured employee such medical services as may be reasonably necessary in connection with the injury received by the employee. When the primary injury is shown to have arisen out of and in the course of employment, the employer is responsible for any natural consequence that flows from that injury. *Nichols v. Omaha Sch. Dist.*, 2010 Ark. App. 194, 374 S.W.3d 148 (2010). However, for this rule to apply, the basic test is whether there is a

causal connection between the injury and its alleged consequences. *Id.* The burden is on the employee to establish the necessary causal connection. *Id.* Whether a causal connection exists between two episodes is a question of fact for the Commission. *Jeter v. B.R. McGinty Mech.*, 62 Ark. App. 53, 968 S.W.2d 645 (1998).

The claimant has been unable to indicate any record or recollection that would prove that his right hip injury is related to his January 2022 fall. In fact, the great majority of the evidence reflects that there is no causal links between the two injuries.

On January 4, 2022, the claimant was seen at Arkansas Occupational Medicine Services with a history of falling and injuring his left hip with no mention of all of any type injury to his right hip. (Resp. Ex. 1 Pp. 36-37). The claimant was seen again at Arkansas Occupational Medicine Services on February 8, 2022, complaining of pain in his left and right hips, stating that he had “developed severe right hip pain with no specific injury.” (Resp. Ex. 1, P. 51). At that time, Physician Assistant J. Daniel Nicholas opined that “[t]he cause of his right hip pain is unclear.

The claimant later reported that to Dr. Mark Allard on February 15, 2022, “he was feeling much better, and was down to only using 1 crutch” a couple of weeks after his injury. (Resp. Ex. 1, P. 57). He also told Dr. Allard it was not until the day after he did home exercises and went shopping with

his wife and 3-year-old grandson that his right hip began hurting and he was unable to walk. He also told Dr. Allard that his right hip pain was different from his original injury. (Resp. Ex. 1, Pp. 57-58). A lumbar spine x-ray taken on February 15, 2022, showed “early osteoarthritis of the right hip with some joint space narrowing and osteophyte formation. None on the left side. No evidence of fracture.” *Id.* The x-ray also showed degenerative scoliosis in the lumbar spine. *Id.*

A CT scan of the claimant’s pelvis on August 2, 2022, showed “a comminuted, mildly distracted fracture involving the left aspect of the sacrum” and “mild joint space narrowing involving both hips.” (Cl. Ex. 1, P. 115). “No acute fracture involving either hip [was] present.” *Id.* Dr. Allard went on to state that it was his medical opinion that the claimant’s pain in his right hip is likely due to overuse two weeks ago and is not directly related to his work-related injury from six weeks ago. (Resp. Ex. 1 P. 60).

Ultimately, the claimant presented to Dr. Matthew Coker on April 28, 2022, who reported that the claimant “did develop some right hip pain but this was not related with the fall on the left side. This started to bother him a few weeks later. The left side is a work-related injury but the right side is not considered a work-related injury.” (Resp. Ex. 1, P. 86).

Of the numerous professionals treating the claimant for his bilateral hip concerns, Dr. Christopher Dougherty, the claimant’s personal



practitioner, is the only one who related the claimant's right hip injury to his work-related fall. (Cl. Ex. 1, Pp. 119-120).

Three different providers, two of which are specialists, have opined that the claimant's right hip problems are not related to his work injury.

To determine if a claimant has sustained a compensable injury, it is important to review the reports of the initial medical treatment received by the claimant. When the claimant was treated on the date of the accident, January 4, 2022, he gave no history of any type injury to his right side and did not complain of any pain in that area. When he returned to his original medical provider on February 8, 2022, the PA, J. Daniel Nicholas, noted Mr. Beauchamp had developed right hip pain with no specific injury and the cause of his right hip pain was unclear. Dr. Allard noted that the claimant's right hip pain did not begin until a month after the January 4, 2022 accident and it was not until the day after the claimant had gone shopping with his wife and grandson that his right hip became painful and he could not walk. In addition, the claimant told Dr. Allard the pain was different than the original injury. After examining the claimant and receiving the history from the claimant, it was Dr. Allard's medical opinion that the claimant's complaints of an injury to his right hip were not related to his work injury six weeks prior. Finally, Dr. Coker opined after examining the claimant and taking the history from him that the claimant developed some right hip pain,

but this did not develop until a few weeks later and is not associated with the fall on the left side. It should also be pointed out that by the time the claimant was treated by Dr. Coker on April 28, 2022, nearly four months after the accident on January 4, 2022, there were no objective medical findings of a right hip injury by any of the medical providers who had treated the claimant. In addition, the opinion of the PA-C and the opinions of Dr. Allard and Dr. Coker were unequivocal that the right hip problems were not related to the January 2022 fall.

The claimant's testimony as to when his right hip pain started and the cause of his right hip pain was not only "somewhat confusing" as stated by the ALJ, but it was also all over the map and consisted of many different versions of when the pain started and the cause of the pain. As a result, the histories given by the claimant to PA Nicholas, Dr. Allard and Dr. Coker is of the utmost importance and confirms that his right hip issues are not related to the fall on January 4, 2022.

In his January 23, 2023 Opinion and Order, the ALJ concluded that "[r]elating a fracture on the right side of claimant's hip from a violent fall on his left side does not require speculation or guesswork." (P. 12). However, while the weight and interpretation of the medical evidence are matters for the Commission, it is within the Commission's province to reconcile conflicting evidence, including the medical evidence, and to determine the

true facts. *Hernandez v. Wal-Mart Assocs.*, 2009 Ark. App. 531, 337 S.W.3d 531 (2009); *Pyle v. Woodfield, Inc.*, 2009 Ark. App. 251, 306 S.W.3d 455 (2009). The Commission is entitled to review the basis for medical opinions in deciding the weight and credibility of the opinion and medical evidence, but the Commission may not arbitrarily disregard medical evidence or the testimony of any witness. *Aegon Ins. United States v. Durham-Gilpatrick*, 2010 Ark. App. 827, 378 S.W.3d 773, 777 (2010).

In this case, while purporting to use “common sense-observation and deduction” as required by our rules, the ALJ outright disregards the weight of the credible evidence. *Wal-Mart Stores v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999). Three medical providers state unequivocally that the claimant’s right hip issues were not work related. While the ALJ contends that PA Nicholas, Dr. Allard, and Dr. Coker were all equivocal about the source of the claimant’s right hip injury in their records, they each state with no hesitation and without question that the claimant’s right hip injury was not work related. The ALJ’s reliance on the report of Dr. Dougherty as the only unequivocal medical opinion is unfounded and not supported by a reading of the medical records. There is no evidence to suggest that the opinions of PA Nicholas and Drs. Allard and Coker were equivocal in anyway and it is stretch by the ALJ to state that the report by

Dr. Coker is equivocal when he opined: “The left side is a work-related injury, but the right side is not considered a work-related injury.”

Dr. Dougherty was the first medical provider to state the claimant’s right hip issues were related to the January 4, 2022 fall. Dr. Dougherty did not see the Claimant until June 22, 2022, nearly six months after the accident in question and did not find the right hip issues to be related to the January 4, 2022 fall until August 3, 2022, nearly seven months after the accident and his opinion was completely different from the three medical providers that treated the claimant immediately after the accident in question. (Cl. Ex. 1, Pp. 111,120). It is clear the three medical providers who treated the claimant immediately after the accident were in a much better position to determine if the claimant’s right hip issues were related to the fall in January 2022 than Dr. Dougherty who did not relate the right hip issues to the original fall until seven months after the accident. The opinion of one doctor who did not see the claimant until nearly six months after the accident should not carry the same weight as the three medical providers who treated the claimant beginning the day of the accident and all share the same medical opinion that the right hip problems were not related to the fall in January 2022.

The basis for the ALJ’s opinion appears to be that a series of mistakes were made on the part of the medical practitioners. The ALJ first

does this when disregarding records from NWA Physical Abilities Testing Center on January 27 and February 1, 2022, finding, without any proof, that the code reflecting that the claimant presented with a right hip contusion was simply entered incorrectly. (P. 11). There was absolutely no proof presented on this issue and nothing in the record to support this finding other than the conjecture and speculation of the ALJ which does not constitute proof and should not be considered.

This line of reasoning appears again when the ALJ states in his opinion: "It is unclear if the right hip issues were not considered a work-related injury by Dr. Coker, or not considered to be such by the workers' compensation carrier. It is evident Dr. Coker's staff had been contacted by the adjuster for the carrier prior to examining the claimant on April 28, 2022, because the contact information for that adjuster is provided under the heading "Patient's Care Team." From this wording, I cannot tell if Dr. Coker made an independent evaluation on whether the right hip injury was related to the fall or recited what he had been told by the carrier about a right hip claim." (P. 12). These statements and findings by the ALJ are disturbing and should not be condoned by the Commission. These findings by the ALJ are nothing more than pure conjecture and speculation on the part of the ALJ with absolutely no testimony or proof of any kind to support his accusations. To affirm the ALJ's opinion based on his own conjecture and

speculation rather than the proof would condone these actions. While the adjuster and respondent carrier's contact information appears under the "Care Team" section of Dr. Coker's report (Resp. Ex. 1, P. 84), there is no evidence or proof in the record to show that the adjuster or anyone from the carrier ever spoke with Dr. Coker or his team. The ALJ has pointed to no proof to support his accusations.

Simply put, "[s]peculation and conjecture cannot substitute for credible evidence." *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 72 S.W.3d 560 (2002) (citing *Dena Constr. Co. v. Herndon*, 264 Ark. 791, 575 S.W.2d 155 (1980)). The basis of the ALJ's opinion in this matter is his own speculation and conjecture. Rather than review and rely on the evidence and proof presented at the hearing, the ALJ relies on proof that he supplied *sua sponte* and the claimant's own self-serving testimony, which the ALJ admitted was confusing. The entirety of the reliable evidence in this matter proves that the claimant's right hip injury was unrelated to his January 2022 fall. To find otherwise would allow an opinion to be based on the speculation and conjecture of the ALJ rather than the proof submitted at the hearing.

For the reasons stated above, I respectfully dissent.

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MICHAEL R. MAYTON, Commissioner