

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **H010070**

MARIA DELGADO, Employee	CLAIMANT
CLARKSVILLE FOOTWEAR, Employer	RESPONDENT
TRAVELERS INDEMNITY COMPANY, Carrier	RESPONDENT

OPINION FILED **DECEMBER 18, 2023**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF in Russellville, Pope County, Arkansas.

Claimant represented by ANDY L. CALDWELL, Attorney, Little Rock, Arkansas.

Respondents represented by GUY ALTON WADE, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On September 26, 2023, the above captioned claim came on for a hearing at Russellville, Arkansas. A pre-hearing conference was conducted on May 18, 2023, and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked as Commission's Exhibit #1 and made a part of the record without objection.

At the pre-hearing conference the parties agreed to the following stipulations:

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The employee/employer/carrier relationship existed on November 6, 2020.

At the pre-hearing conference the parties agreed to litigate the following issues:

1. Compensability regarding claimant's jaw, back, and leg injuries.
2. Whether claimant is entitled to additional medical treatment regarding a neurological injury to the head.

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3. Whether claimant is entitled to temporary total disability benefits from November 7, 2021, to a date yet to be determined.
4. Compensation rate.
5. Whether claimant is entitled to mileage and out of pocket medical expenses.
6. Attorney's fees.

At the hearing, claimant added an issue regarding the compensability of claimant's injuries to her eyes and ears. This additional issue had been raised in claimant's amended prehearing questionnaire, and respondent had no objection to this issue being added to those set forth above.

After the hearing, the parties stipulated claimant had an average weekly wage of \$448.80, which would provide a temporary total disability rate of \$299.

All other issues are reserved by the parties.

The claimant contends<sup>1</sup> that "claimant's average weekly wage will be determined by the contract of hire, wage records and Arkansas law. Claimant contends that her average weekly wage was \$448.80 at the time of her injury. Respondents have paid her at the incorrect rate. Claimant is entitled to an underpayment and her attorney is entitled to a fee for same. On or about November 6, 2020, the claimant sustained compensable injuries to her head, eyes, ears, jaw, back, and legs in the course and scope of her employment while falling from a ladder. The respondents accepted the claim and paid certain benefits. Respondents state that they have accepted compensable head injury. Respondents have controverted the claimant's entitlement to additional benefits. Respondents paid temporary total disability from the date of injury until November 6, 2021, albeit at the incorrect rate. The claimant contends that she is entitled to an underpayment and attorney's fees for same. The

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<sup>1</sup> These contentions are from the amended pre-hearing questionnaire claimant submitted after the pre-hearing order was entered. (CL.NM.X.2)

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claimant also contends that she is entitled to temporary total disability from November 7, 2021, to a date yet to be determined. The claimant is also entitled to additional treatment for her compensable injuries or compensable consequences thereof. Dr. Morse has recommended additional treatment for the claimant's head injury and symptoms, which have been denied. Dr. Bolding has recommended additional treatment for her TMJ which has been denied. The claimant is entitled to ongoing pain management for her back injury. Respondents accepted and paid for some benefits pertaining to claimant's ear and eye injuries. Respondents have not admitted that the claimant sustained admittedly compensable injuries to her eyes and ears. Claimant requests a determination as to compensability and a finding that all treatment for those was reasonable, necessary, and causally related to her compensable injuries or a compensable consequence therefrom. Upon information and belief, the claimant's group health providers have paid some of those benefits. Respondents should be required to pay all reasonable and necessary medical expenses for all compensable injuries and compensable consequences; reimburse the group health providers and the claimant for any out-of-pocket expenses and mileage, where necessary. The claimant contends her attorney is entitled to attorney's fees. All other issues are reserved."

The respondents contend that "they accepted and paid the medical and indemnity benefits related to the November 6, 2020, event. Claimant's present complaints are related to preexisting conditions/events for which respondents are not responsible."

From a review of the entire record, including medical reports, documents, and other matters properly before the Commission, and having had an opportunity to hear the testimony of the witnesses and to observe their demeanor, the following findings of fact and conclusions of law are made in accordance with A.C.A. §11-9-704:

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at a pre-hearing conference conducted on and contained in a pre-hearing order filed that same date are hereby accepted as fact, as is the stipulation by the parties as to the claimant's average weekly wage of \$448.80 per week.

2. Claimant has met her burden of proving that she is entitled to additional medical treatment for her compensable head injury of November 6, 2020.

3. Claimant has met her burden of proving that she suffered a compensable injury to her right jaw on November 6, 2020, and is entitled to medical benefits for that injury.

4. Claimant failed to meet her burden of proving that her back and leg were injured on November 6, 2020, or that the issues she has with those parts of her body were a natural and compensable consequence of the accident that occurred on that day.

5. Claimant met her burden of proving that she suffered a compensable injury to her right eye and the treatment for that injury was reasonable and necessary, but failed to meet that burden for her prescription lenses following the accident.

6. Claimant met her burden of proving she suffered a compensable injury to her right ear that resulted in posterior canal Benign Paroxysmal Positional Vertigo (BPPV) on November 6, 2020, and the medical treatment for that injury was reasonable and necessary. Claimant failed to prove that her bilateral hearing loss was a result of her compensable injury.

7. Claimant met her burden of proof that she was entitled to temporary total disability benefits until December 27, 2021, but failed to prove she was entitled to additional temporary total disability benefits after that date.

8. Respondent is liable for payment of all reasonable and necessary medical treatment provided in connection with claimant's compensable injuries, and for mileage for claimant's travel to

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all such medical providers.

9. Respondent has controverted claimant's entitlement to all unpaid indemnity benefits.

#### FACTUAL BACKGROUND

As mentioned above, claimant filed an amended prehearing questionnaire on July 10, 2023, after the prehearing order of May 18, 2023, was entered. A telephone conference between the parties and the Court took place shortly thereafter. Respondents' attorney advised that he did not need to file an additional prehearing questionnaire in response to the amended prehearing questionnaire, and I told the parties that I would simply announce the amended issues at the hearing rather than doing a new order.

At the hearing, the issues were individually recited, and both parties announced they were ready to proceed at the hearing on those recited issues.

Claimant objected to portions of Respondent's Medical Exhibit (pages 1-7 and 85-88). The objection was based on when the records were received by claimant. As these were turned over within seven days of the hearing, I admitted both over claimant's objection.

At the conclusion of the hearing, I requested briefs from the parties outlining their position on the various issues presented. The excellent briefs submitted by each party were very much appreciated.

#### HEARING TESTIMONY

Claimant testified that on November 6, 2020, she was working as a cleaner for respondent. On that date, she was on a ladder cleaning a window and fell from the third rung of the ladder. She was unaware that she had lost consciousness but was told by Rosa Torres, the HR person for respondent, that she had done so. She remembers sitting on a rock outside of the building surrounded by several employees of respondent. She was taken to the hospital in Clarksville and then sent by

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helicopter to Little Rock. Claimant said that her head hurt, and her neck had been immobilized with a collar. She related swelling on the right side of her head and testified that her neck “had a little ball that would inflate and then go down and inflate and go down.”

After the fall, claimant testified to other problems that she has had that she attributed to the fall. These include sensitivity to sound and noise on her left side, jaw pain on the right side of her head, issues with her low back when she is walking, and the pain radiates from her back into her right leg. She said because of the pain in her right leg, it can't hold her weight and it has caused her to fall. Claimant said that she has had problems with her vision since the accident, as lights and headlights from cars affect her at night. Claimant testified that she had headaches that were different from the high blood pressure headaches she had prior to the accident. She also stated that she had trouble sleeping due to pain and nightmares.

As of the date of the hearing, claimant said she had not been released to fully return to work. She has been approved for social security disability as of May 2023. She had hearing aids prescribed but wasn't wearing them on the date of the hearing, as they were being repaired.

On cross-examination, claimant related her employment history prior to the date of the fall, which included working in retail, cutting hair, and working in the plant at Clarksville Footwear in the sewing department before she began her position as a cleaner. Claimant said that she had some medical conditions before this injury in November 2020, including high blood pressure, diabetes, high cholesterol, a thyroid issue, and was on medication to protect her liver. She had not had any surgery either related to this accident or otherwise, as of the date of the hearing.

Claimant said she was working in the cleaning department because of some issues she had with her back before November 6, 2020.

Since the accident, claimant testified that she makes pinatas and earns between \$60.00 and

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\$120.00 per month doing that. She can drive to familiar places such as Walmart or church. She can cook, clean, and do some laundry but not like she did before the fall. As of the date of the hearing, claimant was not using a cane, a brace, or a walker, nor was she wearing glasses, but she said that was because she was not reading.

Claimant said she showed the knot on her head to the doctors in Clarksville and in Little Rock. She was going to physical therapy at the hospital in Clarksville. At the first physical therapy session, it was mentioned to her that she might be referred to a different neurologist but had not been referred to an orthopedist or a neurosurgeon for her back complaints.

On redirect, claimant clarified that she was not contending that she was blind or deaf, but her eyesight and hearing has become worse since the accident.

Claimant's daughter, Perla Delgado (referred to as "Perla" to eliminate confusion) testified that she is currently living with her mother and has for her entire 29 years of life. She has observed her mother's physical and mental condition before and after the accident and has noticed physical and emotional changes. She has seen where her mother has been limited in many ways since the incident as far as walking and the amount of pain she has. Emotionally, Perla said her mother was more withdrawn and defensive. Her interaction with her grandchildren has changed. Claimant is not as patient as she used to be and seems irritable. Perla had noticed problems with her mother's memory and had observed the difficulties that claimant had walking and getting in and out of a truck. She stated that claimant can still do some household chores, but such take her longer than it did before the accident. Perla accompanied her mother on doctor's visits to serve as an interpreter on occasions and observed that her mother had difficulty communicating the complaints that she was having to her doctors.

On cross-examination, Perla admitted that she did not see the accident, as she was not working

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at Clarksville Footwear when her mother fell. She said that claimant can drive now because her focus is better; immediately after the accident, they didn't allow her to do so because claimant was confused as to where she was. Perla was unaware that the neurologist had determined that claimant had reached maximum medical improvement.

On redirect examination, Perla said that she saw her mother in the early morning of the day after her accident and there were two nurses that helped claimant get up to walk as she was being discharged. Perla saw the throbbing of claimant's neck and the swelling on claimant's head on her right side above her ear.

#### REVIEW OF THE EXHIBITS

Between them, the parties submitted approximately 500 pages of medical records, making an overall review of them somewhat unwieldy. Instead of such a review, the records relevant to each of the individual claims will be addressed in the appropriate section of the adjudication.

Claimant's non-medical exhibits included payment details, forms filed with the Commission, and several medical bills. Respondent submitted a wage audit report. Again, these records will be discussed in the appropriate section of the adjudication portion of this opinion.

#### ADJUDICATION

Claimant seeks additional compensation for the admitted head injury, and for a finding of compensability for an additional five separate injuries—eyes, ears, jaw, back and right leg. The prehearing order was a bit nebulous as to what specific injuries respondent accepted as related to the November 6, 2020, event. In its brief, respondent clarified that it accepted “that claimant sustained a concussion when she fell descending a stepladder,” but maintains claimant reached maximum medical improvement (MMI) for that injury on or about November 20, 2021, and further disputes that the other injuries were related to her compensable head injury. These will be addressed individually below.



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1. Is claimant entitled to additional medical treatment for her compensable head injury?

A claimant can continue to receive medical treatment for a compensable injury after she has reached maximum medical improvement (MMI): “(A) claimant may be entitled to ongoing medical treatment after the healing period has ended, if the medical treatment is geared toward management of the claimant's injury. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004). I find that claimant is entitled to continued treatment by Dr. Morse for her headaches, as that treatment appears to be geared to managing her migraines, which I attribute to her compensable injury of November 6, 2020. In reviewing Claimant’s Exhibit #2, I do not see payments for that treatment beyond January 2022, and those entries were likely for the December 27, 2021, visit with Dr. Morse.

2. Was claimant’s TMJ caused by her fall of November 6, 2020, or alternatively, is it a compensable consequence of that fall?

Claimant contends that her TMJ was either caused by the fall or was a compensable consequence of her compensable head injury. Respondents counter that the maxillofacial CT performed on November 6, 2020, did not reveal any facial fractures, and an MRI performed in September 2021 showed only degenerative changes.

When she fell, claimant landed with enough force to produce an occipital scalp hematoma without laceration on the right side of her head. (R.X. page 34) Many of the records mention that she had a traumatic brain injury. She first reported she was having pain in her right jaw—the same side of her head that was swollen after the fall—within a week of the incident. Dr. Scotty Bolding did not see claimant until July 26, 2021, on a referral from One Call Dental (records from which were not provided). He ordered an MRI, which wasn’t performed until September 24, 2021. The impression was:

1. Degenerative change involving both temporomandibular joints with normal recapture of the disc with closed mouth technique.

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2. Degenerative change involving both discs and partial tears cannot be excluded.
3. Normal anterior translation of the mandibular and discs relative to the eminence with open mouth technique.
4. No medial or lateral subluxation of either disc

Dr. Stephen Kirkpatrick reviewed many of the medical records relating to this claim, and wrote a report dated December 17, 2021. While he said claimant has a temporomandibular disorder, he opined the TMJ was not related to her fall in November 2020. Perhaps inadvertently, he provided an explanation why nothing was done to treat claimant's reported jaw issue from November 12, 2020, until she saw Dr. Bolding: She was being treated for "her chief complaints of dizziness and other cognitive issues," as well as beginning a course of physical therapy for her complaints of back and leg pain. There was no reason for her to tell the neurologist or those treating other parts of her body about the jaw issue, because those providers were focused on other problems.

In reviewing decisions by the Court of Appeals and the Full Commission, I find claimant has proven by a preponderance of the evidence that she suffered TMJ on her right side because of the fall. That she had degenerative changes in her jaw is no bar to recovery; "An employer takes the employee as he finds him, and employment circumstances which aggravate pre-existing conditions are compensable." *Heritage Baptist Temple v. Robison*, 82 Ark. App. 460, 464, 120 S.W.3d 150, 152 (2003) (quoting *Nashville Livestock Comm'n v. Cox*, 302 Ark. 69, 73, 787 S.W.2d 664, 666 (1990)). An aggravation of a preexisting, non-compensable condition by a compensable injury is, itself, compensable. *Williams v. L&W Janitorial, Inc.*, 85 Ark. App. 1, 145 S.W.3d 383 (2004).

In *Convers v. Girl Scouts of Northwest Arkansas*, 2011 AR Wrk. Comp. LEXIS 233, the Full Commission reviewed the records and deposition of the same Dr. Bolding that treated claimant in this case. It quoted his testimony in the adjudication section of its opinion:

We reiterate Dr. Bolding's testimony, "The jaw joint is not - you know, it's

essentially, a loose bone attached by soft tissues to the skull. So any type of significant blow that moves the body or the head and neck area where - there doesn't have to be a direct blow on the jaw, but just the - the significant force of a - a sudden stop or a sudden jolt a different way can stretch the ligaments or stretch the - the tissues within the joint to create the inflammatory process that she, ultimately, developed the symptoms on."

Based on our de novo review of the entire record, the Full Commission finds that the claimant proved her temporomandibular joint dysfunction was a natural consequence flowing from the May 8, 2008, compensable injury. The Full Commission finds that there was a causal connection between the compensable injury and Dr. Bolding's treatment recommendations.

Given no records or testimony of claimant having TMJ issues before November 6, 2020, the severity of the fall she suffered that day, and her mention of jaw pain as early as November 12, 2020, that has not been treated, I find claimant is entitled to medical treatment on her right jaw as recommended by Dr. Bolding.

3. Is claimant's back and leg injury caused by her fall of November 6, 2020, or alternatively, is it a compensable consequence of that fall?

In her brief, claimant noted that in the medical records from Johnson Regional Medical Center (CL.X, page 8), she was prescribed Meloxicam at the hospital on the date of her fall, and "Meloxicam is a medication used to treat pain, swelling and stiffness. A diagnosis of muscle strain along with prescribed treatment of medication and pain management is sufficient to establish objective findings of a compensable injury." This is a misreading of that record; Meloxicam was among the list of medicines that claimant was taking prior to her fall. If it was for her back and leg issues, those conditions existed before November 6, 2020. Likewise, the prednisone prescription of January 5, 2021, was following an examination by Dr. Karthika D. Veerapaneni, and the reason for the visit was "dizziness, blurred vision, personality change, sadness, visual color changes, injury of head, sequela, abnormal CT scan and memory changes." (CL.X.69) There was no mention of back or leg problems

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that would have resulted in a prescription for prednisone as a treatment.

Respondent denied claimant can prove the problems claimant has with her back and right leg are related to her compensable fall, alleging the first report of issues with her back and leg was January 26, 2021. That is partially correct; the note from UAMS on January 5, 2021 (CL.X.68), mentions that claimant has a history of stumbling from her right leg, but there was no reference to her back injury until January 26, 2021. Unlike the jaw injury discussed in the previous section of this opinion which was reported a few days after the accident, it was two months before a problem with her leg was mentioned and three weeks after that before the problem with her back was noted in the records.

Claimant did not cite any objective evidence to support her claim that her back and leg were injured because of that accident, and I saw nothing from a medical provider that linked the fall with the back and leg complaints.

The Arkansas Supreme Court in *Wal-Mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 447, 990 S.W.2d 522, 524 (1999) stated:

"The plethora of possible causes for work-related injuries includes many that can be established by common-sense observation and deduction. To require medical proof of causation in every case appears out of line with the general policy of economy and efficiency contained within the workers' compensation law. To be sure, there will be circumstances where medical evidence will be necessary to establish that a particular injury resulted from a work-related incident but not in every case." (Emphasis added).

Given claimant was already prescribed Meloxicam, which she cited as support for her back and leg injury, as well as the delay in reporting the back and leg injuries, and the lack of objective medical evidence tying those injuries to the accident, I find claimant has failed to meet her burden of proof on this portion of her claim.

4. Did claimant suffer damage to her eyes and ears which were caused by her fall of November 6, 2020, or alternatively, a compensable consequence of that fall?

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Unlike the previous sections, there were records submitted regarding claimant's vision and hearing from before November 6, 2020. Claimant was seen in 2015 at UAMS for vision problems. The impression after that examination was "Orbital right optic nerve with enhancement consistent with optic neuritis. There are several scattered areas a deep and superficial areas of abnormal signal in the white matter as well. These are moderately suggestive of multiple sclerosis." When seen by Dr. Joseph Chacko on February 24, 2021, he recorded that claimant had "post-traumatic syndrome + photophobia. Fell off ladder 11/2020, hit head and had black eye OS" "OS" is the abbreviation for "left eye oculus sinister."<sup>2</sup> As claimant's fall was over two and a half months before she saw Dr. Chacko, I believe this entry is based solely on what he was told by claimant and not what he observed. Photophobia can be caused by optic neuritis<sup>3</sup>, and I believe claimant's fall aggravated her pre-existing optic neuritis condition. Dr. Chacko's notes from his visit with claimant on March 9, 2022, repeated his previous chart entries, but added "?R trigeminal neuralgia."

Much like Dr. Morse's notes were for his purposes and not mine, I believe Dr. Chacko knows exactly what he meant by this entry; my interpretation of it is that he suspects but is not positive that claimant has trigeminal neuralgia in her right eye. That condition has many causes, one of which is facial trauma.<sup>4</sup> I am satisfied that claimant has shown by a preponderance of the evidence that the blow to her head aggravated a pre-existing condition, and that medical treatment for her right eye is related to her compensable injury and is reasonable and necessary. I do not find claimant proved by a preponderance of the evidence any other work-related injury to her eyes; the optical prescription did not mention the blow to the head being the cause, and I cannot say without speculation that the decreased vision that required corrective lenses was due to the accident.

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<sup>2</sup> <https://www.aaopt.org/young-ophthalmologists/yo-info/article/ophthalmic-abbreviations-101>

<sup>3</sup> <https://my.clevelandclinic.org/health/symptoms/photophobia>

<sup>4</sup> <https://www.mayoclinic.org/diseases-conditions/trigeminal-neuralgia/symptoms-causes/syc-20353344>

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As for her claim for ear damage, claimant was diagnosed with posterior canal Benign Paroxysmal Positional Vertigo on April 19, 2021, and she began treatment via canalith repositioning maneuvers on May 4, 2021. That treatment was successful as per the May 17, 2021, report by Dr. Hsin Wei Huang. While BPPV can be idiopathic, it is also associated with a minor or severe blow to the head when such is known to have occurred.<sup>5</sup> As such, I find the BVVP is a compensable injury. I cannot tell from looking at claimant's Exhibit #2 if respondent covered this treatment, but I find it was reasonable and necessary and should have been paid.

Regarding the request for hearing aids, I note that Dr. Huang found "a mild decrease in hearing in the right and a significant decrease in hearing on the left since the last hearing evaluation done at work in September 2020." (R.X.81) Unlike the BVVN, I cannot see a common-sense connection between a concussion and hearing loss that comes to many people in their fifties that never had that injury. Dr. Huang did not try to connect the injury with the diminished hearing, and I decline to speculate that the two are related. However, it appears to be a moot point, because the records indicate that respondent paid for the hearing aids.

5. Was claimant released at MMI on October 26, 2021, for the compensable concussion injury, thus ending her claim for temporary total disability?

To be entitled to TTD benefits for an unscheduled injury, the claimant must prove by a preponderance of the evidence that she remains within her healing period in which she suffers a total incapacity to earn wages. *Arkansas State Highway & Transportation Department v. Breshears*, 272 Ark. 244, 613 S.W. 2d 392 (1981).

Respondent cites the October 26, 2021, note from Dr. Michael Morse to support its position that claimant has reached MMI: "Yolanda, I would say that the patient is at MMI at this time. There

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<sup>5</sup> <https://www.mayoclinic.org/diseases-conditions/vertigo/symptoms-causes/syc-20370055>

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is no additional evaluation necessary.” (CL.X.201) This was in response to an inquiry from Ms. Yolonda Reyes at Travelers Insurance, in which she asked “Do you believe she [Ms. Delgado] is close to reaching maximum medical improvement? We hope the Botox injections bring her relief and her symptoms improve enough to get her back into the work force in some capacity.” (CL.X.202).

Claimant maintains that Dr. Morse placed her at MMI but only for her headaches. That does appear to be his emphasis in his course of treatment and continued to be so after he deemed claimant to be at MMI. I note in his records, Dr. Morse restricted claimant from work on September 30, 2021, until he saw her again on December 27, 2021. Following that visit, he did not renew his work restrictions; the only other mention of claimant’s work was in the July 27, 2022, entry: “She has not been able to return to work,” but that was in the context of claimant relating the issues she was having with her back. Dr. Morse did not again restrict claimant from working to earn wages.

I recognize that Dr. Morse’s notes are somewhat confusing from a legal perspective; those were prepared for his use, and I am sure they make sense to him. He was not asked to clarify why he placed claimant at MMI during the time that he had told her to stay off work for 12 weeks. As such, I find that claimant’s TTD period for her head injury should have ended on December 27, 2021, as there is no indication that she had been told by her physician she could return to work before that date.

6. Did any of the other physical injuries that I have determined to be compensable render claimant unable to earn wages?

As for the other physical issues discussed above, I did not find that a physician removed her from work for her TMJ, or the compensable problems with her eyes or ears. I therefore cannot find she was temporarily totally disabled from any of those conditions.

7. Was claimant underpaid for temporary total disability benefits?

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At the hearing, the parties contested the compensation rate. As noted above, an agreement was reached that claimant's average weekly wage was \$448.80, yielding a TTD rate of \$299.00 per week. Claimant received three checks in the amount of \$598.00, representing six weeks of disability payments. Respondent underpaid the remainder of her TTD payments by paying only \$262.00 per week for the remainder of the time it paid those benefits. (CL.NMX.#2, page 1)<sup>6</sup> Claimant is entitled to the underpayment and as per my ruling earlier in this opinion, the benefits should be calculated to December 27, 2021.

8. Is claimant entitled to mileage and out of pocket expenses?

Claimant submitted several medical bills as part of her Exhibit #2. Taking them in that order:

- a. Clarksville Family Eye Clinic from March 11, 2021: There was no mention of what this bill was for, but it came within a few weeks of Dr. Chacko's prescription for eyeglasses (CL.X.1, page 112), and if it relates to eyeglasses, my earlier ruling denied this as a compensable expense.
- b. St. Mary's Physicians Services: This relates to a cardiology claim which was not a part of the issues to be decided in this case and is therefore reserved.
- c. Survival Flight, Inc.: This is for the airlift to UAMS on the date of her accident and is compensable as a reasonable and necessary expense.
- d. Radiologists of Russellville: This is for services provided on the date of her accident and is compensable as a reasonable and necessary expense.
- e. Washington Regional: This statement does not have dates of service included, but if it is for services provided by Dr. Morse at any time for claimant's concussion, my

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<sup>6</sup> There was an unexplained single payment of \$301.00 shown on that exhibit. Respondent should recalculate the entire amount due to claimant and is entitled to credit for all payments made at the incorrect rate for TTD.



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earlier ruling accepts this as compensable as a reasonable and necessary expense.

f. UAMS: This is for services provided on the date of the accident and is compensable.

g. Arkansas Medical Imaging, Inc. This is for an MRI related to claimant's TMJ, and my earlier ruling accepts this as compensable as a reasonable and necessary expense.

For any travel to a physician that I have found to be a reasonable and necessary expense, she is entitled to her mileage expense.

### ORDER

Respondents are directed to pay benefits in accordance with the findings of fact set forth herein this Opinion.

All accrued sums shall be paid in lump sum without discount, and this award shall earn interest at the legal rate until paid, pursuant to Ark. Code Ann. § 11-9-809.

Pursuant to Ark. Code Ann. § 11-9-715, the claimant's attorney is entitled to a 25% attorney's fee on the indemnity benefits awarded herein. This fee is to be paid one-half by the carrier and one-half by the claimant.

All issues not addressed herein are expressly reserved under the Act.

Respondent is responsible for paying the court reporter her charges for preparation of the transcript in the amount of \$1,173.65.

**IT IS SO ORDERED.**

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JOSEPH C. SELF  
ADMINISTRATIVE LAW JUDGE