

**NOT DESIGNATED FOR PUBLICATION**

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H101364

ELIJAH EMERSON, EMPLOYEE CLAIMANT

NEWTON COUNTY SHERIFF'S DEPARTMENT,  
EMPLOYER RESPONDENT

AAC RISK MANAGEMENT SERVICES,  
INSURANCE CARRIER/TPA RESPONDENT

OPINION FILED JUNE 28, 2022

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

Claimant represented by the HONORABLE JASON L. WATSON, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE ZACHARY F. RYBURN, Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Affirmed and Adopted.

OPINION AND ORDER

Respondents appeal an opinion and order of the Administrative Law Judge filed March 16, 2022. In said order, the Administrative Law Judge made the following findings of fact and conclusions of law:

1. The stipulations agreed to by the parties at a pre-hearing conference conducted on January 19, 2022 and contained in a pre-hearing order filed that same date are hereby accepted as fact.
2. Claimant has met his burden of proving by a preponderance of the evidence that he is entitled to

additional medical treatment in the form of surgery as recommended by Dr. Arnold.

We have carefully conducted a *de novo* review of the entire record herein and it is our opinion that the Administrative Law Judge's March 16, 2022 decision is supported by a preponderance of the credible evidence, correctly applies the law, and should be affirmed. Specifically, we find from a preponderance of the evidence that the findings made by the Administrative Law Judge are correct and they are, therefore, adopted by the Full Commission.

We therefore affirm the decision of the Administrative Law Judge, including all findings of fact and conclusions of law therein, and adopt the opinion as the decision of the Full Commission on appeal.

All accrued benefits shall be paid in a lump sum without discount and with interest thereon at the lawful rate from the date of the Administrative Law Judge's decision in accordance with Ark. Code Ann. §11-9-809 (Repl. 2012).

For prevailing on appeal to the Full Commission, 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 Palmer Concurs.

CONCURRING OPINION

I concur with the majority's opinion that Claimant is entitled to the additional medical treatment recommended by Dr. Arnold. Dr. Arnold's recommendation is based on his belief that Claimant has a chondral defect of the patella. It is undisputed that Dr. Cutler believed that Claimant needed ongoing treatment for his knee and that a second opinion was warranted. That this second opinion was delivered by Dr. Arnold rather than Dr. Diemel is of little consequence. Dr. Arnold's opinion does not contradict Dr. Cutlers' findings. It may be a different course of action than Dr. Cutler believed Claimant's treatment needed to go, but Dr. Cutler is no longer Claimant's treating physician. Accordingly, I concur with the majority.

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CHRISTOPHER L. PALMER, Commissioner