

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H101899

FELICIA PARKER,
EMPLOYEE

CLAIMANT

UAMS,
EMPLOYER

RESPONDENT

PUBLIC EMPLOYEE CLAIMS DIVISION,
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED JANUARY 10, 2024

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

Claimant represented by the HONORABLE SHEILA F. CAMPBELL,
Attorney at Law, North Little Rock, Arkansas.

Respondents represented by the HONORABLE CHARLES H. McLEMORE,
JR., Attorney at Law, Little Rock, Arkansas.

Decision of Administrative Law Judge: Reversed.

OPINION AND ORDER

The respondents appeal an administrative law judge's opinion filed July 19, 2023. The administrative law judge found that the claimant proved she was entitled to additional medical treatment and additional temporary total disability benefits. After reviewing the entire record *de novo*, the Full Commission reverses the administrative law judge's opinion. The Full Commission finds that the claimant did not prove she was entitled to additional temporary total disability benefits or medical treatment.

I. HISTORY

The testimony of Felicia Parker, now age 53, indicated that she became employed as a Certified Nursing Assistant with the respondents, University of Arkansas for Medical Sciences, in about 2021. The claimant testified that she performed “house calls” for the respondent-employer. The claimant testified that this employment position required her to carry medical equipment, occasionally climb stairs, and clean motor vehicles.

The parties stipulated that the employee-employer-carrier relationship existed at all pertinent times, including February 4, 2021. The claimant testified on direct examination:

Q. And what was the date of the injury?

A. February the 4, 2021, if I’m not mistaken.

Q. And can you tell us how the accident happened?

A. I was leaving one client’s house and I was on my way to the next client, and I was sitting at a stoplight at, I guess, that’s Percy Machin and Pershing. I was sitting there – there was a North Little Rock Police officer in front of me and as the light began to change while we were sitting there, I heard a screeching and when I looked to my left, you know, and I – and by the time I could look up in the mirror, the young lady had plowed into me while we were sitting still....When she plowed into me, it pushed me hard, so my knees hit the – the panel of the car and instantly I had a headache and the – my neck was hurting.

The parties stipulated that the claimant “sustained compensable injuries to her head, neck, and back” as a result of the February 4, 2021 motor vehicle accident. According to the record, the claimant received emergency medical treatment on February 4, 2021: “Patient presents with

- Motor Vehicle Crash....Injury location: Head/neck and torso.”

An ED Provider noted the following on February 4, 2021:

50 y/o F with hx of DM, HTN, CKD who presented after a MVC with lateral neck and diffuse lower back pain. Was the restrained driver at a stop when she was rear ended. Was ambulatory since accident. Was well appearing in no acute distress. Head AT, NC. Normal phonation. No obvious neck deformity, swelling or injury. Normal WOB. A&O. Normal speech. No acute findings on xrays. Supportive treatment with PCP follow up.

Impression:

1. MVC (motor vehicle collision), initial encounter Acute.
2. Cervical strain, acute, initial encounter Acute.
3. Low back strain, initial encounter Acute.

An x-ray of the claimant's lumbar spine on February 4, 2021 showed "No acute fracture. Scoliosis and multilevel degenerative disc disease and predominantly lumbar facet arthropathy."

The claimant signed a Form AR-N, EMPLOYEE'S NOTICE OF INJURY, on February 5, 2021. The ACCIDENT INFORMATION section of the Form AR-N averred that the claimant injured her "Back/neck/R. Knee" in an accident occurring February 4, 2021.

The respondents contended that they paid temporary total disability benefits beginning February 5, 2021. A physical therapist noted on February 9, 2021, "Per verbal authorization from Tiphonie Nelson, WC Adjuster, patient is allowed 6 Physical Therapy visits; additional visits will require prior authorization."

The claimant saw Dr. William E. Ackerman, III on February 22, 2021: "Pain in the lumbar spine and multiple joints. She was involved in an MVA

two days ago. She reports that her vehicle was stopped when another vehicle struck her from behind, and she now has pain in the cervical spine. She is now under the care of an orthopedic surgeon at UAMS....She has had the onset of increased neck and back pain since her MVA and last visit....It is my opinion that the patient has sufficient pathology to warrant continuation of pharmacologic management....I will refill the patient's hydrocodone as previously prescribed."

Dr. Michael D. Cassat attested on February 23, 2021, "We will get an MRI of her thoracic and lumbar spine prior to any additional physical therapy, follow up with me after. Her work restrictions will be no lifting, pushing, pulling greater than 10 lb, no flexion/extension."

The record indicates that an MRI of the claimant's thoracic and lumbar spine was taken on or about February 24, 2021 with the following impression:

1. Multilevel degenerative disc disease throughout the thoracic spine with disc protrusion superimposed at T9-10 and to a lesser degree T8-9.
2. Inferiorly directed left paracentral disc protrusion at L1-2 with abnormal soft tissue in the ventral epidural space with some compression of the left L2 nerve root within the lateral recess.
3. Advanced disc degeneration changes at L4-5 and L5-S1 with facet arthropathy. Asymmetric left-sided foraminal stenosis at L5-S1.
4. No intrinsic cord abnormality.
5. Incidental hemangioma at T6 vertebra.

The claimant followed up with Dr. Cassat on March 1, 2021:

She returns today to discuss her thoracic and lumbar MRI. [She] continues to have significant cervical spine pain, low back pain, some radicular leg pain. We reviewed her images which show multilevel degenerative change with multiple herniations, areas of central and foraminal stenosis, areas of facet hypertrophy. We discussed that the acuity of several of these discs is unknown, we will ask Radiology to compare to previous CT. Certainly she reports a significant symptom free period since her last period of low back pain. Her symptoms started shortly after her motor vehicle accident, from a causation standpoint this is greater than 51% likely to be directly related. We will plan on starting physical therapy, we discussed her existing pathology and different treatment options. She will follow up with me in 6 weeks, sooner if needed....

Her work restrictions will be no lifting, pushing, pulling greater than 10 lb. She can change positions from seated to standing as needed.

Dr. Cassat assessed "Lumbar strain, initial encounter" and "Cervical strain, acute, initial encounter." Dr. Cassat ordered "Ambulatory Referral to Physical Therapy."

The record indicates that the claimant received a series of physical therapy visits beginning March 8, 2021. The claimant followed up with Dr. Cassat on March 15, 2021:

She returns today to discuss her ongoing neck and back pain. She has only attended 2 physical therapy visits as of yet. She continues to have significant pain in both areas. She reports significant limitations in ability to perform activities secondary to pain....

We had a long discussion today regarding her pathology and return to activity. We discussed that her work restrictions will remain the same. I asked that she increase her physical therapy to 3 times per week. Try and increase her activity at home as well. We discussed that if physical therapy fails to improve her symptoms then we will likely arrange for epidural

steroid injections and if that fails she may need surgical consultation. Follow up with me after physical therapy.

Dr. Cassat reported on March 15, 2021:

It is my medical opinion that Ms. Felicia Parker may return to work, light duty with the following restrictions, no lifting, pushing, pulling greater than 10 lb, no flexion/extension of back. Please allow her to change positions from seated to standing, as needed.

Tiphanie Nelson, WC Claims Specialist, e-mailed Nancy Hall on

March 16, 2021:

Can these restrictions be accommodated? Please send me a copy of her job description so I can send to Dr. Cassat, there's been some confusion of her returning to work and I spoke with Dr. Cassat and he said that Ms. Parker can not go back in the field right now and that if these restrictions can not be accommodated, she must remain off work. Thank you.

Tiphanie Nelson e-mailed Donna S. Curtis, a case manager for the

respondents, on March 22, 2021:

Hey Donna –

I'm having issues with this. Usually if the doctor gives the claimant restrictions and they can not be accommodated then the claimant is to remain off work. Apparently they are telling her that after her FMLA is up end of today she has to return back to work tomorrow. I asked if they can accommodate these restrictions and I haven't received an answer from Mrs. Daily. I spoke with Nancy and she said that they need further detailed restrictions saying what she can and can not do. Dr. Cassat called me himself and stated that the (sic) never really takes the patient's off work they always give them restrictions but there's no way that she can return to work going out in the field lifting patients and he's never had to give any further detailed restrictions. He said that if they can not accommodate these restrictions that she's on that she can not do her regular job. The claimant seems to think that they can

fire her if she does not return to work and you know that would not be good if they did that. That will open up some legal problems. Can you help me with this.

Donna S. Curtis corresponded with Tiphonie Nelson and several other individuals on March 22, 2021:

Hello Everyone,
I just got off the phone with Melinda regarding Ms. Parker. Melinda is calling Ms. Parker now to tell her that she can return to work tomorrow at her usual time and in her "home department." Melinda and I also discussed that, if there is not enough for her to do in her deskwork on her home unit that we can share her time with her home department and another department, such as the POEM clinic. (Melissa Vandiver is off today so I cannot discuss the possibility of sharing or moving her to POEM during her time of restrictions but I will do that tomorrow when Melissa returns.)
So as of now, Ms. Parker will return to work with her restrictions tomorrow. I will also call Ms. Parker shortly just to reassure her that we will work with her as she works with her restrictions.
Thanks to everyone for helping out with assisting Ms. Parker and Melinda in bringing her back to work.

The claimant corresponded with her supervisor, Melinda A. Daily, and several other individuals on March 22, 2021:

Hello everyone! Its obvious that a lot of conversations have been going, but I just want to be open and frank about my current situation. I'm in constant pain everyday on a scale of 8 out of 10. I continue to have back pain and spasms, neck pain, numbness and tingles in my hands, fingers and down my legs. My anxiety is at an all time high and I'm very frustrated about the whole situation and process...

Melinda,
I'm fully aware that my FMLA periods end today, but I have decided not to return to work on tomorrow. There's no way that I can return tomorrow taking my current meds for pain

and muscle spasms. I have reached out to FMLA/Standard for an extension or help with this matter since all my time has been exhausted. I apologize for any inconvenience, but my first priority at this time it to take care of myself with the help of PT and medication to control my pain. Its evident that team UAMS is working on its behalf, with no regards to my pain or mobility but only the push for me to return to work ASAP. Please let me know if there's anything you need from me at this time.

I'm not really sure what my options are at this point, but I have spoken briefly with Ms Curtis and still awaiting for Ms Hall call back.

Hopefully, I will be able to return here in the near future!

Dr. Cassat,

HR stated that they have received everything from you that was needed, but according to your nurse she stated that she still has the paperwork. She also stated that since I'm on a pain contract with Dr. William Ackerman he may need to fill out the paperwork that Standard will be reaching out to you for the claim I submitted today. Thanks!

Ms Nelson,

Standard will be reaching out to you as well. I don't know how Workmans Comp and Standard works but hopefully you guys will help me with the do's and dont's to help advocate on my behalf. Thanks in advance for your assistance.

Tiphanie Nelson informed the claimant on March 22, 2021:

On the workers comp injury – We have to go by what Dr. Cassat says. He has you on restrictions that UAMS are willing to accommodate. The medication that Dr. Ackerman has you on is not related to the Workers Comp injury and you were obviously on before your work injury. We can not continue to pay TTD based on his prescriptions.

The respondents contended that they paid temporary total disability benefits until March 22, 2021, “when she was released to work with

restrictions by her treating physician, which her employer could accommodate and the claimant in fact returned to work for her employer.”

Donna S. Curtis e-mailed the claimant and several other individuals on March 23, 2021:

Good morning everyone,
I got a call from Melissa yesterday evening, even though she was off for the day. She did confirm that we are happy to have you, Felicia, work in our POEM clinic while you have your restrictions. So when things are worked out just let me know and Melissa will be working with us all.
Thank you all,
Donna

Deborah Davis, PT noted on March 23, 2021, “lifting restrictions including no lifting over 10lbs....Hard time the last couple of days. Back to work light duty this week. Can’t tell I am making any progress....Advised she try water therapy at our Spine Center to see if buoyancy of water will assist her mobility.”

The claimant testified on direct examination:

Q. And so when did you go back to work?

A. It was in April, I believe. I don’t remember the exact date, but I was in house calls. I was on light duty. I couldn’t do anything that I normally would do, so it kind of put a strain on our department. So my supervisor talked with Ms. Hutts, and they came up with the position in the Thomas and Lyon Longevity Clinic for me to become a phone MA where I would sit and do the phone calls – phone calls, refills and medications. Well, refills – just answer the phones and do the refills – fax refills and everything. She said that it was a position that I would – that I would go to to help some other young ladies to work. But when I got there, they moved

everyone else out and I was the only one there doing all the work.

Q. And so did that job require you to do a significant amount of walking?

A. No. I was stable, but the work was overwhelming, and I was in a lot of pain....

The respondents' attorney cross-examined the claimant:

Q. I heard you testify about going back to work.

A. Yes.

Q. You understood that you had been getting some restrictions and your employer was ready to accommodate you. Was that your understanding?

A. Yes.

Q. Okay. And you did actually go back to work?

A. I did.

The claimant followed up with Dr. Cassat on April 12, 2021:

She returns today for recheck. She reports overall improvement in her neck and low back pain but there is still persistent. She reports that she is able to do more but is not able to return to her baseline activities without discomfort. She reports that physical therapy has been helping but she feels that she has recently plateaued and is willing to investigate additional treatment options....at this point we discussed continuing her work restrictions as they have been, obtaining a cervical and lumbar spine MRI for possible intervention. She can continue with her physical therapy until that time. Follow up with me after imaging.

Dr. Cassat diagnosed "Cervical strain, acute, initial encounter" and "Lumbar strain, initial encounter."

Amelia R. Ray, APRN and Dr. Samuel Clay Overly saw the claimant at UAMS Orthopedic Spine Clinic on July 2, 2021:

The patient is a 50 y.o. female who presents to the clinic today as a new patient for evaluation of neck pain and back

pain. Her back pain bothers her worse. This started February 2021 after she was involved in a motor vehicle accident. She reports that she has low back pain especially with bending, walking or doing dishes....She previously has tried physical therapy and aqua therapy which did help a lot with her pain....Her neck pain was worse at the time of the accident but has since improved significantly....

Imaging: I reviewed all imaging studies myself.

Cervical and lumbar MRI

IMPRESSION:

1. Degenerative disc disease with spondylosis at C5-6. Right paracentral disc osteophyte is present. No central canal stenosis.
2. Multilevel advanced disc degeneration throughout the lumbar spine without stenosis. Neural foraminal stenosis left greater than right at L5-S1.
3. No acute fractures demonstrated.

Assessment/Plan:

50-year-old female with a BMI of 65 presenting to the clinic for chronic low back pain in absence of radiculopathy as well as cervical neck pain in absence of radiculopathy or myelopathy. The patient was involved in a motor vehicle accident February 21. The time of that accident, she was having neck pain associated with bilateral shoulder pain. This was likely due to the disc herniation seen at C5-6. However, the pain has completely resolved. Her main issue is low back pain which is likely mechanical axial low back pain secondary to the multilevel degenerative disc disease seen throughout the lumbar spine as well as her weight. At this point in time, she is not a surgical candidate for this reason. There is no canal stenosis seen in the lumbar spine. There is some foraminal stenosis on the left at L5-S1 however she is not presenting with true radicular type symptoms in his leg. For treatment, we have offered her a radiofrequency ablation of L4-5 were (sic) she has quite a bit of joint arthritis. This will likely help with a lot of her back pain especially when she is bending over. We have recommended physical therapy targeting the cervical and lumbar spine. We will write for naproxen for pain relief. She will follow up via telemedicine with me in 6 weeks to see how the RFA went and how physical therapy is going. The patient is on board with this plan.

Dr. Gregory L. Smith performed bilateral lumbar medial nerve branch blocks on August 2, 2021 and September 8, 2021. The claimant testified regarding Dr. Smith's treatment, "I – it wasn't hurting as bad as it was. I had a temporary relief – some relief. But then after a while, it wore off."

The claimant testified on direct examination:

Q. When did you stop actually working this phone job as an MA?

A. That was April the 7th – no February 7, 2022. February 7, 2022.

Q. And what precipitated you leave an employment on February 7, 2022.

A. Because I was in a lot of pain, and I just couldn't – I couldn't do that job anymore....I was just in a lot of pain. And so that's the reason why I stopped working and I was off to get ready to have my surgery.

The claimant testified that she underwent bariatric weight-loss surgery on April 1, 2022.

The claimant began treating with Dr. Ahmed Ghaleb on April 19, 2022: "Pleasant patient presents for the evaluation and management of chronic pain." Dr. Ghaleb's assessment included "Lumbosacral spondylosis without myelopathy" and "Cervical spondylosis without myelopathy." Dr. Ghaleb prescribed Nortriptyline, Tizanidine, and Hydrocodone.

Dr. Ghaleb performed "ESC Lumbar Medial Branch Nerves Neurotomy" on May 5, 2022.

The record contains a Change of Physician Order dated June 11, 2022: “A change of physician is hereby approved by the Arkansas Workers’ Compensation Commission for Felicia Parker to change from Dr. Michael Cassat to Dr. Ahmed Ghaleb[.]

The claimant returned to Dr. Ghaleb on July 19, 2022:

The patient complains of pain in the BACK, NECK, KNEES. The patient has been experiencing this pain for the last several years. She reports onset of pain gradually over time. The patient describes her pain as constant with intermittent flare ups. The pain is cramping, numbing, pressure like, sharp and shooting. **The pain radiates to the bilateral lower extremity**....Pain medication improves quality of life.... Patient was advised to maintain normal activities and advised to avoid prolonged bed rest and focus on improving the activity of daily living....

Dr. Ghaleb prescribed Nortriptyline, Methocarbamol, and Hydrocodone, and instructed the claimant to follow up in one month.

The claimant’s testimony indicated that the respondent-carrier paid for the claimant’s visit with Dr. Ghaleb occurring July 19, 2022, but that the respondents would not authorize additional visits with Dr. Ghaleb.

A pre-hearing order was filed on October 6, 2022. The claimant contended, “Claimant contends that she sustained a compensable injury to her lumbar spine, cervical spine and thoracic spine and knees in the course and scope of her employment. She is entitled to additional TTD from 3/20/21 through a date yet to be determined. Claimant further contends that she is entitled to additional medical treatment, a change of physician

rehabilitation, medical expenses, medical mileage, and attorney's fees in this claim."

The parties stipulated that the respondents "have controverted the additional benefits sought herein, inclusive of the Claimant's alleged bilateral knee injuries of February 4, 2021." The respondents contended, "The Respondent contends that the claimant reported having an injury to her back neck and right knee occurring February 4, 2021 in a motor vehicle accident. Respondent accepted the head neck and back symptoms as an aggravation of the claimant's preexisting condition, and provided benefits to the claimant for this aggravation."

The respondents contended, "Respondent has provided medical treatment reasonable and necessary for the compensable injury, including conservative treatment with Dr. Michael Cassat. Dr. Cassat ordered MRI studies of the cervical and lumbar, and referred the claimant for a surgical evaluation by Dr. Samuel Overly, who saw her July 2, 2021 noted her cervical pain resolved, and did not recommend surgery on her low back. The claimant was provided bilateral L3 to L5 medial nerve branch blocks to L4/L5, L5/S1 facets on August 2, 2021 and September 8, 2021 by Dr. Gregory Smith. The claimant used her one time Change of Physician to see Dr. Ghaleb July 19, 2022. Respondent paid for the visit, and the claimant cannot be entitled to another Change of Physician. The claimant

seeks pain management with Dr. Ghaleb, but she was already under a pain management contract with Dr. Ackerman at the time of injury for her chronic and preexisting conditions. Respondent contends that the claimant has preexisting condition to her spine and knees for which she was receiving treatment including chronic pain management with Dr. Ackerman, and preparing for bariatric surgery. The Respondent contends that the claimant cannot establish her need for pain management is reasonable and necessary for or causally related to a work injury occurring February 4, 2022. Respondent contends that the claimant cannot establish that her need for treatment of her knee(s) is reasonable and necessary for or causally related to a work injury occurring February 4, 2022.”

The respondents contended, “Respondent paid TTD benefits to the claimant while she was in a healing period and unable to work, from February 5, 2021 until March 22, 2021 when she was released to work with restrictions by her treating physician, which her employer could accommodate and the claimant in fact returned to work for her employer.”

The respondents contended, “Respondent contends that the claimant has been provided medical treatment reasonable and necessary for and causally related to the work injury, and has been paid the disability benefits she is owed to date. The Respondents reserve the right to raise

additional contentions, or to modify those stated herein, pending the completion of discovery.”

The parties agreed to litigate the following issues:

1. Whether the Claimant is entitled to additional reasonably necessary medical care in relation to her compensable head, neck, and back injuries of February 4, 2021;
2. Whether the Claimant sustained compensable bilateral knee injuries on February 4, 2021, and is entitled to appropriate benefits associated therewith;
3. Whether the Claimant is entitled to additional temporary total disability benefits from March 23, 2021 through a date yet to be determined, in relation to her compensable head, neck, and back injuries of February 4, 2021;
4. Whether the Claimant provided sufficient notice of her alleged left knee injury of February 4, 2021, in accordance with Ark. Code Ann. §11-9-701; and,
5. Attorney’s fees with respect to controverted indemnity benefits.

After a hearing, an administrative law judge filed an opinion on July 19, 2023. The administrative law judge found, among other things, that the claimant “did not sustain a compensable bilateral knee injury on February 4, 2021.” The claimant does not appeal that finding. The administrative law judge found that the claimant was “entitled to additional medical treatment for her head, neck, and back injuries of February 4, 2021.” The administrative law judge also found that the claimant proved she was entitled to temporary total disability benefits “from March 23, 2021, through a date to be determined.” The respondents appeal those findings to the Full Commission.

II. ADJUDICATION

A. Temporary Total 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 claimant has the burden of proving, by a preponderance of the evidence, that she remains within a healing period. *Hickman v. Kellogg, Brown & Root*, 372 Ark. 501, 277 S.W.3d 591 (2008). 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). 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).

In workers' compensation cases, the Commission functions as the trier of fact. *Blevins v. Safeway Stores*, 25 Ark. App. 297, 757 S.W.2d 569 (1988). 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 Commission is not required to believe the testimony of the claimant or any other witness but may accept and translate into findings of fact only those portions of the testimony it deems worthy of belief. *Farmers Co-op v. Biles*, 77 Ark. App. 1, 69 S.W.3d 899 (2002). An administrative law judge's findings with regard to credibility are not binding on the Full Commission. *Roberts v. Leo Levi Hospital*, 8 Ark. App. 184, 649 S.W.2d 402 (1983). The Full Commission has the duty to decide the case *de novo* and we are not bound by the characterization of evidence adopted by an administrative law judge. *Tyson Foods, Inc. v. Watkins*, 37 Ark. App. 230, 792 S.W.2d 348 (1990).

An administrative law judge found in the present matter, "4. The Claimant is entitled to additional temporary total disability benefits from March 23, 2021, through a date to be determined." The Full Commission does not affirm this finding. The parties stipulated that the claimant "sustained compensable injuries to her head, neck, and back" as the result of a motor vehicle accident occurring February 4, 2021. An emergency

physician's impression on February 4, 2021 included "Cervical strain" and "Low back strain." An x-ray on February 4, 2021 showed that the claimant suffered from degenerative disc disease in her lumbar spine. The respondents paid temporary total disability benefits beginning February 5, 2021. The claimant was treated conservatively and was provided physical therapy. Dr. Cassat assigned work restrictions beginning February 23, 2021. An MRI on February 24, 2021 showed degenerative disc disease in the claimant's thoracic and lumbar spine.

Dr. Cassat assessed "Lumbar strain" and "Cervical strain" on March 1, 2021. As the Full Commission has noted *supra*, Dr. Cassat reported on March 15, 2021, "It is my medical opinion that Ms. Felicia Parker may return to work, light duty with the following restrictions, no lifting, pushing, pulling greater than 10 lb, no flexion/extension of back. Please allow her to change positions from seated to standing, as needed." The subsequent correspondence of record indicates that the respondent-employer in good faith accommodated the work restrictions assigned by Dr. Cassat. The respondents allowed the claimant to return to restricted work in compliance with Dr. Cassat's restrictions. The respondent-carrier paid temporary total disability benefits until March 22, 2021. In order to prove that she was entitled to additional temporary total disability benefits, the claimant was required to prove that she was totally incapacitated from earning wages,

while she remained within a healing period. *See Breshears, supra*. The evidence of record in the present matter does not demonstrate that the claimant was totally incapacitated from earning wages at any time after March 22, 2021, following Dr. Cassat's release to restricted work duty on March 15, 2021. The Full Commission therefore finds that the claimant did not prove she was entitled to temporary total disability benefits after March 22, 2021.

In addition, the Full Commission finds that the claimant did not remain within a healing period for her compensable cervical strain or lumbar strain beyond July 2, 2021. Amelia Ray, APRN and Dr. Overly noted on July 2, 2021 that the claimant suffered with degenerative disc disease in her cervical and lumbar spine. Dr. Overly reported, however, that the claimant's cervical pain "has completely resolved." The record therefore shows that the claimant reached the end of the healing period for her cervical strain no later than July 2, 2021. Dr. Overly reported with regard to the claimant's low back or lumbar spine, "Her main issue is low back pain which is likely mechanical axial low back pain secondary to the multilevel degenerative disc disease seen throughout the lumbar spine as well as her weight." Dr. Overly did not opine that the claimant continued to suffer from the effects of a lumbar strain.

The evidence demonstrates that the claimant sustained a compensable cervical and lumbar strain resulting from the work-related motor vehicle accident which occurred on February 4, 2021. The Full Commission finds that the claimant reached the end of the healing period for her compensable cervical and lumbar strain no later than July 2, 2021. Temporary total disability benefits cannot be awarded after the healing period has ended. *Elk Roofing Co. v. Pinson*, 22 Ark. App. 191, 737 S.W.2d 661 (1987). Persistent pain does not extend an employee's healing period, provided that the underlying condition has stabilized. *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982). The record does not show that the claimant reentered a healing period at any time after July 2, 2021. The claimant did not prove that she was entitled to additional temporary total disability benefits after March 22, 2021, because she was no longer totally incapacitated from earning wages after that date.

B. Medical Treatment

The employer shall promptly provide for an injured employee such medical treatment as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. §11-9-508(a)(Repl. 2012). The employee has the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. *Stone v. Dollar General Stores*, 91 Ark. App. 260, 209 S.W.3d 445 (2002). It is the

Commission's duty to translate the evidence of record into findings of fact. *Gencorp Polymer Prods. v. Landers*, 36 Ark. App. 190, 820 S.W.2d 475 (1991). It is also within the Commission's province to weigh all of the medical evidence and to determine what is most credible. *Minnesota Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). What constitutes reasonably necessary medical treatment is a question of fact for the Commission. *Wright Contracting Co. v. Randall*, 12 Ark. App. 358, 676 S.W.2d 750 (1984).

An administrative law judge found in the present matter, "3. The claimant is entitled to additional medical treatment for her head, neck, and back injuries of February 4, 2021." The Full Commission does not affirm this finding. As we have discussed at length, the parties stipulated that the claimant "sustained compensable injuries to her head, neck, and back" as the result of a work-related motor vehicle accident occurring February 4, 2021. The evidence of record actually does not demonstrate that the claimant sustained a compensable injury to her head, and there are no treatment recommendations of record related to the claimant's head.

However, the claimant sustained a compensable cervical strain and lower back strain as a result of the accidental injury occurring February 4, 2021. The claimant was treated conservatively, which treatment included physical therapy and injections. There are no credible recommendations of

record indicating that the claimant is a candidate for surgery as a result of the February 4, 2021 compensable injury. The Full Commission has determined *supra* that the claimant reached the end of the healing period for her compensable injuries no later than July 2, 2021. We recognize that 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). Such services can include diagnosing the nature and extent of the compensable injury, reducing or alleviating symptoms resulting from the compensable injury, maintaining the level of healing achieved, or preventing further deterioration of the damage produced by the compensable injury. *Jordan v. Tyson Foods, Inc.*, 51 Ark. App. 100, 911 S.W.2d 593 (1995). A claimant is not required to furnish objective medical evidence of her continued need for medical treatment. *Castleberry v. Elite Lamp Co.*, 69 Ark. App. 359, 13 S.W.3d 211 (2000).

In the present matter, however, the evidence does not demonstrate that treatment provided after July 2, 2021 was reasonably necessary in connection with the compensable injury occurring February 4, 2021. Instead, the record shows that such treatment was related to the claimant's pre-existing degenerative condition rather than a cervical or lumbar strain. On June 11, 2022, the claimant received a Change of Physician Order from

Dr. Cassat to Dr. Ghaleb. When an employee has exercised her absolute, statutory right to a one-time change of physician, the respondents must pay for the initial visit to the new physician in order to fulfill their obligation to provide reasonably necessary medical treatment. *Wal-Mart Stores, Inc. v. Brown*, 82 Ark. App. 600, 120 S.W.3d 153 (2003). The record indicates that the respondent-carrier, in accordance with *Wal-Mart Stores, Inc. v. Brown*, in fact paid for the claimant's visit with Dr. Ghaleb which took place on July 19, 2022 following the Change of Physician Order.

The employee has the burden of proving by a preponderance of the evidence that additional medical treatment is reasonably necessary. *Stone, supra*. In the present matter, the Full Commission finds that the claimant did not prove additional medical treatment was reasonably necessary in connection with the compensable injury. The evidence demonstrates that the claimant suffered from pre-existing degenerative disc disease in her cervical and lumbar spine. The claimant sustained a work-related motor vehicle accident on February 4, 2021 which resulted in a cervical strain and lumbar strain. The claimant received physical therapy and injections, and she reached the end of the healing period for her compensable cervical and lumbar strain no later than July 2, 2021. There is no credible medical report of record indicating that the claimant is a candidate for surgery as a result of the injury occurring February 4, 2021. Following the statutory change of

physician to Dr. Ghaleb, the respondents fulfilled their obligation in accordance with *Wal-Mart Stores, Inc., supra*. The evidence does not demonstrate that any additional treatment with Dr. Ghaleb after July 19, 2022, including his prescriptions of Nortriptyline, Methocarbamol, or Hydrocodone, are reasonably necessary in connection with the February 4, 2021 compensable injury.

After reviewing the entire record *de novo*, the Full Commission finds that the claimant did not prove by a preponderance of the evidence that she was entitled to additional temporary total disability benefits or additional medical treatment. The Full Commission therefore reverses the administrative law judge's opinion, and this claim is respectfully denied and dismissed.

IT IS SO ORDERED.

SCOTTY DALE DOUTHIT, Chairman

MICHAEL R. MAYTON, Commissioner

Commissioner Willhite dissents.

DISSENTING OPINION

After conducting a *de novo* review of this claim, I dissent in part and concur in part with the majority. I dissent as to the finding that Claimant failed

to prove by a preponderance of the evidence that she is entitled to additional medical treatment for her lower back, but I concur as to the finding that the Claimant did not meet her burden of proof that she was entitled to additional temporary total disability and other medical treatment.

To show entitlement to additional medical treatment, Claimant must prove that the treatment is reasonably necessary in connection with her compensable injury. Ark. Code Ann. §11-9-508(a)(1). What constitutes reasonable and necessary treatment under this section is a question of fact for the commission. *Wright Contracting Co. v. Randall*, 12 Ark. App. 358, 676 S.W.2d 750.

The parties stipulated that the Claimant sustained a compensable injury to her head, neck and back as a result of the work-related motor vehicle accident that occurred on February 4, 2021. Approximately six months prior to the accident, Claimant underwent a CT that showed “multilevel facet arthrosis between L2 and S1 bilaterally.” After the motor vehicle accident, Claimant underwent an MRI at L2-S1 region which showed a “left paracentral disc protrusion” and compression of the nerve root. This is an identifiable change in Claimant’s condition. Dr. Ghaleb has recommended Claimant undergo a repeat lumbar radiofrequency ablation as a result of the Claimant’s compensable injury. Therefore, I find that the recommended medical procedure of lumbar radiofrequency ablation to be reasonable and necessary

and that Claimant has proved by a preponderance of the evidence to be entitled to additional medical treatment in that form.

For the foregoing reasons, I dissent from the majority opinion.

M. SCOTT WILLHITE, Commissioner