

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H400417

KENNETH CYPERT (DEC'D), Employee	CLAIMANT
DAVIS IRON & METAL, INC., Employer	RESPONDENT
SUMMIT CONSULTING, LLC, Carrier	RESPONDENT

OPINION FILED DECEMBER 15, 2025

Hearing before ADMINISTRATIVE LAW JUDGE GREGORY K. STEWART in Fort Smith, Sebastian County, Arkansas.

Claimant represented by GARY DAVIS, Attorney at Law, Little Rock, Arkansas.

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

STATEMENT OF THE CASE

On November 17, 2025, the above captioned claim came on for a hearing at Fort Smith, Arkansas. A pre-hearing conference was conducted on August 20, 2025, and a pre-hearing order was filed on that same date. A copy of the Pre-hearing Order has been marked Commission's Exhibit No. 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 the within claim.
2. Claimant sustained a compensable burn injury on January 9, 2024.

At the time of the hearing the parties agreed to stipulate that claimant earned an average weekly wage of \$689.60.

The issues to be litigated at the forthcoming hearing are as follows:

1. Whether Claimant's death was the result of his compensable burn injury.
2. Dependency benefits.

Mary Edith Cypert contends she is the mother of the deceased, Kenneth Cypert, who passed away as a result of his compensable on-the-job fire injury on January 9, 2024. She contends that she is entitled to benefits as a dependent.

The respondents contend "while this is an accepted claim for the burn injuries, the death of the claimant is not accepted. Additionally, the claimant's mother is not a dependent of the claimant."

From a review of the record as a whole, to include 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 the pre-hearing conference conducted on August 20, 2025, and contained in a pre-hearing order filed that same date are hereby accepted as fact.

2. The parties' stipulation that claimant earned an average weekly wage of \$689.60 is also hereby accepted as fact.

3. Claimant's death was causally related to his compensable burn injury.

4. Respondent is liable for payment of funeral expenses in the amount of \$6,000.00.

5. Mary Cypert, claimant's mother, has met her burden of proving by a preponderance of the evidence that she was partially dependent upon claimant's earnings for support at the time of his death.

6. Mary Cypert is entitled to dependent benefits in the amount of \$34.48 per week.

7. Respondent has controverted payment of dependency benefits.

FACTUAL BACKGROUND

Claimant was a 59-year-old man who worked for respondent. The parties have stipulated that claimant suffered a burn injury while working for respondent on January 9, 2024. According to the history contained in the medical evidence, claimant's coat caught on fire from a propane heater. Claimant was taken to the Arkansas Children's Burn Center where he was hospitalized, and he was diagnosed with having second- and third-degree burns involving more than 20-29% of his body's surface. Claimant's treatment included surgery for burn wound excision and allograft placement. The medical records indicate that while hospitalized claimant was placed on treatment for alcohol withdrawal.

On the morning of January 17, 2024, claimant was found to be unresponsive and unfortunately, he perished. At the time of his injury, claimant was living with his mother, Mary Edith Cypert. Cypert has filed this claim contending that her son's death was a result of his compensable injury and requesting payment of dependent benefits.

ADJUDICATION

The first issue for consideration is whether claimant's death was a result of his compensable burn injury. I find based upon the evidence presented that claimant's death resulted from his compensable burn injury on January 9, 2024.

In support of his contention that claimant's death did not result from his burn injury, respondent states that there is no proof that the death was caused by the injury and that he was suffering from alcohol withdrawal while in the hospital. While it is true that claimant was being treated for alcohol withdrawal during his hospitalization, the evidence proves that his death was a result of the burn injury. Following claimant's death, an autopsy was performed, and a Certificate of Death was completed by Jennifer A. Forsyth, Associate Medical Examiner for the State of Arkansas. In the section, Cause of Death, Forsyth indicated:

IMMEDIATE CAUSE a. COMPLICATIONS OF THERMAL
INJURY

On the Certificate there is also a section labeled "PART II" which states: "Enter other significant conditions contributing to death [emphasis provided] but not resulting in the underlying cause given in PART I". In this portion, Forsyth stated:

HEPATIC STEATOSIS AND FIBROSIS

Thus, while Forsyth did indicate that there were other conditions that contributed to claimant's death, the form indicates that these conditions did not result in the underlying cause. As previously noted, Forsyth indicated that the immediate cause of claimant's death was from "COMPLICATIONS OF THERMAL INJURY".

Based on the findings in the Certificate of Death completed by the associate medical examiner, which I find to be credible, I find that claimant's death was causally related to his compensable burn injury of January 9, 2024.

Mary Cypert submitted into evidence funeral expenses totaling more than \$10,000.00. Pursuant to ACA §11-9-527(a), I find that respondent is liable for paying the maximum of \$6,000.00.

The next issue for consideration involves Mary Cypert's request for partial dependency benefits. The applicable statute is ACA §11-9-527(i)(1) which states:

If the employee leaves dependents who are only partially dependent upon his or her earnings for support at the time of injury, the compensation payable for partial dependency shall be in the proportion that the partial dependency bears to total dependency.

Dependency is a fact question that must be determined in light of the surrounding circumstances. *Findlay v. Farm Cat, Inc.*, 103 Ark. App. 292, 288 SW 3d 685 (2008); *Fordyce Concrete v. Garth*, 84 Ark. App. 256, 139 SW 3d 154 (2003). Factors to be considered in making a determination of partial dependency for workers' compensation purposes includes whether support was given at the time of the injury and the reasonable expectation of future support. *Williams v. Cypress Creek Drainage*, 5 Ark. App. 256, 635 SW 2d 282 (1982). The fact that the claimant is not the sole source of support is not dispositive, because partial dependency benefits are calculated in proportion that the partial dependency bears to the total dependency. ACA §11-9-527(i): *Pinecrest Memorial Park v. Miller*, 7 Ark. App. 185, 646 SW 2d 33 (1983).

As previously noted, Mary Cypert is the claimant's mother, and claimant was living with her at the time of his death. Cypert testified that when claimant received his

weekly check, he would cash it and give her \$300.00. She testified that this would happen every week unless the claimant had an unusual expense. In response, respondent notes that there are no written or financial records supporting Cypert's testimony regarding the money given to her by her son. However, I find Cypert's testimony regarding the financial support given to her by her son to be credible.

Cypert testified that during the calendar 2023 she earned \$5,000.00 sitting with individuals who are incapacitated or unable to take care of themselves. She also testified that she received \$1,588.00 per month in Social Security retirement benefits. This resulted in an annual income of \$24,056.00 for 2023. While Cypert testified that her son gave her \$300.00 per week, she also acknowledged that there were some weeks that she did not receive cash due to her son's expenses. I also note that in answers to interrogatories, Cypert indicated that the weekly payments were \$200.00 to \$250.00 per week.

Finally, if a parent is claiming dependency benefits, it is also appropriate to consider the amount of any contribution the parent made in support of the claimant. *Williams*, supra. Here, Cypert was providing her son a monetary benefit by providing him a place to live.

After taking all of this evidence into account, I find that Cypert was partially dependent upon claimant in the amount of 20% pursuant to ACA §11-9-527(i)(1). Consequently, in accordance with ACA §11-9-527(c)(4), she is entitled to a weekly benefit amounting to 5% of claimant's average weekly wage, or \$34.48. [\$689.60 AWW X 25% equals \$172.40, maximum wholly dependent rate. Partial dependent finding of 20% X \$172.40 equals \$34.48.]

AWARD

Claimant's death was causally related to his compensable burn injury. Respondent is liable for payment of funeral expenses in the amount of \$6,000.00. Mary Cypert, claimant's mother, was partially dependent upon claimant's earnings for support at the time of his death. Mary Cypert is entitled to dependent benefits in the amount of \$34.48 per week. Respondent has controverted Cypert's entitlement to payment of those dependency benefits.

Pursuant to A.C.A. §11-9-715(a)(1)(B), claimant's attorney is entitled to an attorney fee in the amount of 25% of the compensation for indemnity benefits payable to the claimant. Thus, claimant's attorney is entitled to a 25% attorney fee based upon the indemnity benefits awarded. This fee is to be paid one-half by the carrier and one-half by the claimant. Also pursuant to A.C.A. §11-9-715(a)(1)(B), an attorney fee is not awarded on medical benefits.

All sums herein accrued are payable in a lump sum and without discount. This award shall bear interest at the maximum legal rate until paid.

Respondents are liable for payment of the court reporter's charges for preparation of the hearing transcript in the amount of \$416.00.

IT IS SO ORDERED.

GREGORY K. STEWART
ADMINISTRATIVE LAW JUDGE