BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H208579

KATHY L. CARROTHERS, EMPLOYEE	CLAIMANT
SOUTHERN ARKANSAS UNIVERSITY, EMPLOYER	RESPONDENT
PUBLIC EMPLOYEE CLAIMS DIVISION, INSURANCE CARRIER/TPA	RESPONDENT

OPINION FILED JUNE 5, 2026

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

Claimant represented by the HONORABLE GREGORY R. GILES, Attorney at Law, Texarkana, 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 claimant appeals an administrative law judge's opinion filed February 19, 2026. The administrative law judge found that the claimant failed to prove she was entitled to additional medical treatment. The administrative law judge found that the claimant failed to prove she sustained permanent anatomical impairment. After reviewing the entire record *de novo*, the Full Commission finds that the claimant proved an MRI performed May 1, 2025 was reasonably necessary, and that an evaluation provided by Dr. Hugghins was reasonably necessary. The Full Commission

finds that the claimant proved she sustained permanent anatomical impairment in the amount of 5% as a result of her compensable injury.

I. HISTORY

Kathy L. Carrothers, now age 72, testified that she became employed with the respondents, Southern Arkansas University, in 2003. Ms. Carrothers testified that her job title eventually became Assistant Specialist. The parties stipulated that the employment relationship existed at all pertinent times, including June 7, 2022. The claimant testified on direct examination:

> Q. Take us back to June 7, 2022, and what were you doing that caused your injury?
> A. We had a casino night for the students, so when they bring in everything, they bring it into my office, because I'm there in the front, and my supervisor wanted to move some of that stuff out of my office, because that's the front office, and they didn't want it cluttered, so I got up and assisted her, and the little case wasn't very big, but it had a lot of chips in it, because, you know, chips, and when I picked it up, I was like, oh, this thing is heavy, so I walked real fast and put it down in another office on the table, and then I said, that's it, I'm not going to move anything else, because I could feel, you know, that something had happened, so I said I'm not picking that up, because that's too heavy.
> Q. So you had picked up a case of casino chips?
> A. Yes….
> Q. Did you have anything that you felt or noticed about your shoulder at that time?
> A. Yeah. I just noticed that it was excruciating and I walked real fast, and I said, I'm not going to put this case down, and I'm not going to pick up any more, and my supervisor said yeah, it is heavy.
> Q. You explained to us in the deposition that there was an office next door to your office, and you walked around about

> 15 to 20 feet and carried the case and set it on the table in there?
> A. And put it on the table.

The parties stipulated that the claimant "sustained an admittedly compensable injury to her right shoulder" on June 7, 2022, for which the respondents "paid only medical benefits, but no indemnity benefits." The claimant treated with Dr. Rodney Griffin on June 28, 2022. Dr. Griffin assessed "Mild AC separation," and he planned physical therapy. The claimant began a program of physical therapy visits on August 1, 2022. On August 31, 2022, a physical therapist referred the claimant to Dr. Kenneth G. Gati. Dr. Gati ordered an x-ray of the claimant's right shoulder, which was taken on September 13, 2022:

> FINDINGS: 3 views of the right shoulder demonstrate joint space narrowing and osteophytosis at the acromioclavicular and glenohumeral joints. No fractures or dislocations are seen.
> IMPRESSION: Degenerative joint disease.

Dr. Gati reported on September 13, 2022, "Patient reports injuring her shoulder at work when she was lifting a heavy box of casino chips. Since then she has had continued pain within her shoulder. She has been treated with medication and physical therapy without relief….Due to her continued pain and lack [of] response to physical therapy and medication I have recommended [an] MRI for further evaluation of her shoulder."

An MRI of the claimant's right shoulder was taken on September 15, 2022 with the following impression:

> 1. High-grade interstitial tearing of the supraspinatus tendon at and near the footprint on a background of severe tendinosis.
> 2. High-grade delaminating tear extends into the infraspinatus musculotendinous junction, on a background of severe tendinosis.
> 3. Moderate subscapularis tendinosis.
> 4. At least mild intra-articular biceps tendinosis.
> 5. Moderate glenohumeral osteoarthrosis with degenerative labral tearing greatest posteriorly.
> 6. Severe acromioclavicular osteoarthrosis. Small marginal osteophytes and possible subacromial enthesophyte may contribute to the clinical diagnosis of extrinsic impingement.
> 7. Mild subdeltoid bursitis.

Dr. Gati reported on September 20, 2022, "MRI shows high-grade tendinosis to the rotator cuff. There was also bicipital tendinitis. There are (sic) degenerative tearing of the labrum. There is (sic) also degenerative changes to the glenohumeral joint and also the acromioclavicular joint. There is (sic) findings consistent with impingement." Dr. Gati performed an injection.

Dr. Charles E. Pearce noted on October 18, 2022:

> The patient is a 69-year-old right-handed employee of Southern Arkansas University in the student activities center who lifted a case containing casino chips that was unexpectedly heavy, on the above date. She says that she thought she had pulled a muscle and tried waiting for about 2 weeks, but was then seen for care after not improving. Her 1st evaluation was with Dr. Griffin who prescribed a Medrol Dosepak and tramadol. Apparently he had opined that the patient had a possible AC separation. She was in a sling for

> about a month. She has been going to therapy now for about 3 months. Because of continued pain she was referred to Dr. Gati and she was told that she may have a small tear in her shoulder….Her specific job is administrative specialist. She is an administrative specialist in the student activities center and has been employed there since 2003. An injection done by Dr. Gati was apparently helpful for 4-5 days. I suspect this was in the subacromial space but I cannot find the documentation. Currently she is on light duties consisting of no lifting greater than 5 lb and no over shoulder work. She is still going to therapy. Her main complaint is shoulder pain….She has never had similar problems in the past….
> IMAGING: X-rays ordered and interpreted by me show small humeral head osteophyte inferiorly and some mild narrowing of the glenohumeral joint on axillary lateral. There are some humeral head cyst (sic). MRI scan of September 15, 2022 show (sic) intertendinous fluid which was reported as [an] interstitial tear of the supraspinatus. There is glenohumeral arthritis which was thought to be moderate in nature and severe AC joint arthritis. There is no separation. There is tendinosis of the infraspinatus and report of a delaminated tear but this is mostly tendinosis in my opinion. There is no muscular atrophy.
> IMPRESSION: Right shoulder pain with probable exacerbation pre-existing arthritis. I suspect rotator cuff findings [are] age-related I do not see evidence for a full-thickness tear.
> PLAN: 1. The patient is not at maximum medical improvement[.]
> 2. No lifting greater than 5 lb and no over shoulder work[.]
> 3. Functional capacity evaluation[.]
> 4. Once [the FCE] is complete and I have report I will make further recommendation regarding further treatment, if needed, and restrictions.

The record contains a physical therapy Discharge Note dated November 1, 2022: "Pt completed FCE and workers comp did not authorize more visits."

The claimant participated in a Functional Capacity Evaluation on November 2, 2022: "The results of this evaluation indicate that a reliable effort was put forth, with 48 of 50 consistency measures within expected limits….Ms. Carrothers completed functional testing on this date with **reliable** results. Overall, Ms. Carrothers demonstrated the ability to perform work in the **LIGHT** classification of work[.]"

Dr. Pearce subsequently reported:

> This is an addendum being dictated on November 8, 2022….
> Functional capacity evaluation (FCE) was completed on November 2, 2022. The patient gave a reliable effort and was placed in the light category of work. This is secondary to her underlying pre-existing arthritis and not an on-the-job acute injury. This is stated within a degree of medical certainty. Further, there is no impairment rating related to the reported injury date of June 7, 2022. The only objective findings are those of a glenohumeral and acromioclavicular arthritis. Additionally, I have reviewed radiographs from June 28, 2022 and July 20, 2022 of the patient's right shoulder. There is no acute abnormality. She has preexistent arthritis. Patient was under the impression that she had [an] AC separation but that is not shown. Again this is stated within a degree of medical certainty.
> The patient has reached maximal medical improvement as it pertains to her on-the-job injury.

The claimant followed up with Dr. Gati on November 29, 2022:

> STATES INJECTION ONLY HELPED FOR A FEW DAYS AND THEN PAIN RETURNED….
> Patient reports injuring her shoulder [at] work when she was lifting a heavy box containing chips. She has been treated with physical therapy, medication and injection without relief. She does report the injection may [have] provided short-term temporary relief….

> Patient's MRI showed high-grade interstitial tearing of the supraspinatus tendon. There was also tendinitis of the subscapularis and infraspinatus muscles. Patient also had mild tendinitis of the biceps tendon. There was degenerative changes to the glenohumeral joint. Patient also has significant degenerative changes to the acromioclavicular joint with undersurface osteophyte formation….
> Treatment options were discussed with the patient. She has failed to improve with physical therapy and medication. I have recommended at this point proceeding with arthroscopic evaluation of her shoulder evaluation of the rotator cuff and if tearing is present proceeding with arthroscopic rotator cuff repair….

The claimant's testimony indicated that the respondent-carrier did not authorize surgery recommended by Dr. Gati.

On December 19, 2022, Dr. Kim Sloan reported on behalf of Medical Review Institute of America, LLC:

> **1. Based on your review of the MRI and x-rays what pathology is considered acute 06/07/22 injury related versus pre-existing?**
> Based on the review of the MRI and x-rays, the majority of the pathology demonstrated on the images is chronic in nature, and not related to the 06/07/22 injury.
> The x-rays on 06/28/22 showed osteoarthritis of the AC joint and the glenohumeral joint with no evidence of fracture or dislocation. The repeat x-rays of 7/20/22 showed the same findings.
> MRI of the right shoulder dated 9/15/22 showed osteoarthritis of the acromioclavicular (AC) joint and the glenohumeral joint. There was evidence of high grade degenerative tearing of the supraspinatus and infraspinatus. This is not an acute full thickness tear, but has the appearance of degenerative tearing. There was a small effusion present in the shoulder joint. There was tendinitis of the subscapularis. None of these findings would be considered traumatic in origin.
> **2. Is there a full thickness rotator cuff present on the MRI?**

No. There is no evidence of a full thickness tear of any of the portion of the rotator cuff on the MRI.

3. Is the proposed Right Shoulder Arthroscopy with Rotator Cuff Repair, Debridement, Distal Clavicle Resection and Biceps Tenodesis indicated and medically appropriate? Please explain and provide supporting rationale.

No. The proposed Right Shoulder Arthroscopy with Rotator Cuff Repair, Debridement, Distal Clavicle Resection and Biceps Tenodesis is not indicated nor medically appropriate. Reference the accident on 06/07/22, the procedures would not be considered medically appropriate. The pathology is not considered traumatic in origin, but rather degenerative in nature.

4. If the proposed Right Shoulder Arthroscopy with Rotator Cuff Repair, Debridement, Distal Clavicle Resection and Biceps Tenodesis is not indicated or medically appropriate, is there an alternate procedure and/or treatment indicated and medically appropriate?

An alternate procedure and/or treatment indicated and medically appropriate is the patient should have additional structured physical therapy and possible injection into the shoulder for the degenerative conditions.

5. If the proposed Right Shoulder Arthroscopy with Rotator Cuff Repair, Debridement, Distal Clavicle Resection and Biceps Tenodesis is not indicated and medically appropriate, is the need for this treatment indicated as the direct result of the 06/07/22 injury? Please explain.

Not applicable.

Conclusion: Based on review of the MRI and x-rays, the majority of the pathology demonstrated on the images is chronic in nature, and not related to the 06/07/22 injury. There is no evidence of a full thickness tear of any of the portion of the rotator cuff on the MRI. The proposed Right Shoulder Arthroscopy with Rotator Cuff Repair, Debridement, Distal Clavicle Resection and Biceps Tenodesis is not indicated nor medically appropriate. An alternate procedure and/or treatment indicated and medically appropriate is the patient should have additional structured physical therapy and

> possible injection into the shoulder for the degenerative conditions.

On January 17, 2023, Dr. Sloan provided a report which was virtually identical to Dr. Sloan's correspondence dated December 19, 2022. Dr. Sloan again concluded, "Based on review of the MRI and x-rays, the majority of the pathology demonstrated on the images is chronic in nature, and not related to the 06/07/22 injury. The proposed Right Shoulder Arthroscopy with Rotator Cuff Repair, Debridement, Distal Clavicle Resection and Biceps Tenodesis is not indicated or medically appropriate."

Dr. Gati stated on February 21, 2023, "Patient again has sustained a high-grade partial thickness tear to her supraspinatus tendon due to an on-the-job injury. She has failed to improve with multiple forms of non operative treatment. She has continued pain within her shoulder. It is again recommended that the patient have a right shoulder arthroscopy and arthroscopic repair of her rotator cuff. Patient reports that she will continue to fight with her work comp insurance carrier to get her the proper care that is required."

The record contains a "Change of Physician Order – AMENDED" dated November 19, 2024: "The Change of Physician Order issued by the Arkansas Workers' Compensation Commission Medical Cost Containment Administrator on November 12, 2024 for the above-referenced claim is

hereby amended to show that the claimant is rescheduled with D'Orsay Bryant, M.D."

Dr. D'Orsay D. Bryant, III saw the claimant on December 5, 2024:

> The patient is a 71-year-old female with a complaint of severe right shoulder pain. She injured her right shoulder on June 7, 2022….she picked up a heavy bag of casino chips and felt a sudden, sharp pain in the right shoulder. The initial evaluation was by Dr. Griffin, a family physician in Magnolia, Arkansas, who prescribed the medications of tramadol and a Medrol Dosepak. Dr. Griffin placed her in a sling for approximately a month and sent her to physical therapy. Dr. Griffin then referred the patient to orthopaedic surgeon Dr. Ken Gati.
> On September 13, 2022, Dr. Gati ordered an MRI of the right shoulder, and on September 15, 2022, the right shoulder MRI was done at the Medical Center of South Arkansas. The radiologist, Dr. Suzanne Shepherd reported:
> 1. High-grade interstitial tearing of the supraspinatus tendon at and near the footprint on the background of severe tendinosis.
> 2. High-grade delaminating tear extends into the infraspinatus musculotendinous junction, on a background of severe tendinosis.
> 3. Moderate subscapularis tendinosis.
> 4. At least mild intra-articular biceps tendinosis.
> 5. Moderate glenohumeral osteoarthrosis with degenerative labral tearing greatest posteriorly.
> 6. Severe acromioclavicular osteoarthrosis. Small marginal osteophytes and possible subacromial enthesophyte may contribute to the clinical diagnosis of extrinsic impingement.
> 7. Mild subdeltoid bursitis….
>
> On November 29, 2022, Dr. Gati recommended right shoulder arthroscopic surgery, which was denied….
> On today's office visit, the patient stated that her right shoulder pain and stiffness have increased in severity, following the June 7, 2022, work-related injury. She stated that her right shoulder is very painful at night and wakes her from sleep. She cannot neither carry nor hold objects or

> perform any heavy lifting. She cannot lift the shoulder fully overhead….
>
> Right Shoulder: She has tenderness in the subacromial region and rotator cuff….She has tenderness at the AC joint with soft tissue swelling.
>
> IMPRESSION: 1. Right shoulder impingement syndrome with rotator cuff tear.
> 2. Right shoulder intra-articular biceps tendinosis.
> 3. Severe acromioclavicular joint osteoarthrosis.
> 4. Right shoulder adhesive capsulitis.

Dr. Bryant planned, "The patient has failed a trial of conservative management….She has not had any treatment for her right shoulder since 2022. An MRI with contrast is clinically and medically necessary to corroborate a right shoulder rotator cuff tear. It will be ordered when approved by the Workers' Compensation Carrier."

Dr. Gati ordered another x-ray of the claimant's right shoulder, which was taken on April 22, 2025 with the following findings:

> There is anatomic alignment of the right shoulder. Negative for an acute fracture or dislocation. Mild degenerative change of the right AC joint.
> IMPRESSION: Negative for acute abnormality.

Dr. Gati ordered another MRI of the claimant's right shoulder, which was taken on May 1, 2025 with the following findings:

> There is intermediate signal in the supraspinatus and infraspinatus tendons. There is a low-grade interstitial tear at the junction of the supraspinatus and infraspinatus tendon footprints. The teres minor tendon is intact. The subscapularis tendon is intact. There is no rotator cuff muscle atrophy or edema.

> There is trace fluid in the subacromial/subdeltoid bursa.
> The long head biceps tendon is intact and located within the bicipital groove.
> There is degenerative tearing of the posterior superior labrum.
> There is low-grade chondral loss along the glenoid.
> Mild acromion collicular joint degenerative change.
> There is no joint effusion.
> There is no marrow replacing process.
> There is no soft tissue mass or fluid collection.
> Impression: 1. Superior rotator cuff tendinosis with low-grade interstitial tear at the junction of the supraspinatus and infraspinatus tendon footprints.
> 2. Degenerative tearing of the posterior superior labrum.
> 3. Mild acromioclavicular and glenohumeral joint degenerative change.

The record indicates that Dr. Gati performed an injection on May 6, 2025.

Dr. Gati reported on June 24, 2025:

> Patient returns for follow-up of her repeat MRI. Repeat MRI shows tendinosis and low-grade partial-thickness tear but no full-thickness rotator cuff tear. MRI findings were discussed with the patient. This point there is no indication for any surgical intervention. I recommended doing a steroid injection and having her continue with anti-inflammatory medication. Patient reports minimal relief of pain with this Royd injection. At this point there is nothing further that will probably help with her pain from an orthopedic standpoint. She will need just to continue with her home exercises. She will need to continue to anti-inflammatory medication as needed. At this point based on her work-related injury from 3 years ago and her 2 MRI findings along with her physical exam findings using AMA guidelines she has permanent impairment and is at MMI.

The claimant testified that she did not return to Dr. Gati after June 24, 2025.

Dr. Joe Hugghins, DC provided an Impairment Evaluation on July 7, 2025:

> Ms. Kathy Carrothers was referred to my Texarkana, Texas office on Tuesday, 7/22/25, by her attorney, Mr. Greg Giles, for evaluation of her work related injury that occurred in the State of Arkansas. I explained to Ms. Carrothers that the purpose of that date's examination was to evaluate her 6/7/22 work related injury and determine two issues: (1) Has she reached Maximum Medical Improvement, and if so (2) What, if any, appropriate impairment should be assessed. I went on to indicate that no doctor/patient relationship would be established and she seemed to understand all points.
> Ms. Carrothers indicates that on 6/7/22 she was injured while performing her normal duties as an Administrative Specialist for Southern Arkansas University, a position she has held for 22 years….She describes her mechanism of injury as lifting a case that was heavier than she thought it would be when she felt a pull in her right shoulder….
> Ms. Carrothers received an MRI of the right shoulder on 9/15/22. Impressions revealed high-grade interstitial tearing of the supraspinatus tendon at and near the footprint on a background of severe tendinosis, high-grade delaminating tear extending into the infraspinatus musculotendinous junction, on a background of severe tendinosis, moderate subscapularis tendinosis, at least mild intra-articular biceps tendinosis, moderate global humeral osteoarthrosis with degenerative labral tearing greatest posteriorly, severe acromioclavicular osteoarthrosis, small marginal osteophytes and possible subacromial enthesophyte may contribute to the clinical diagnosis of extrinsic impingement, and mild subdeltoid bursitis….
> Ms. Carrothers sought a second opinion with Dr. D'Orsay Bryant III on 12/5/24. After performing his examination and reviewing past diagnostics Dr. Bryant recommended an updated MRI to determine medical necessity for surgical intervention.
> It should be noted that after ordering the MRI Dr. Bryant underwent back surgery and retired/closed his practice….
> Ms. Carrothers received a right shoulder MRI on 5/1/25. Impressions revealed superior rotator cuff tendinosis with low-

grade interstitial tear at the junction of the supraspinatus and infra-Spinney distended footprints, degenerative tearing of the posterior superior labrum, and mild acromioclavicular and glenohumeral joint degenerative check….

Throughout the course of our consultation and examination Ms. Carrothers was frustrated. She indicates that she understands that she has significant pre-existing degenerative joint disease in her right shoulder, but also understands that this was there for her injury and prior to her injury she did not have significant pain in her shoulder or difficulty performing work activities or the above listed activities of daily living….

The current diagnosis associated with the file is a right shoulder strain and right biceps tendinitis….

After reviewing information provided in the medical file as well as information gathered in my consultation and examination, I find that Ms. Carrothers reached clinical Maximum Medical Improvement as of the date of her discharge from Dr. Gati, 6/24/25. As of that date it was determined that she was not a surgical candidate and no further injections or physical rehabilitation was anticipated or scheduled….

According to Figure 38, maximum right shoulder flexion of 136º yields 3% Upper Extremity Impairment and maximum extension of 32º yields 1% Upper Extremity Impairment. The sum of these values is 4% Upper Extremity Impairment. According to Figure 41, maximum abduction of 128º yields 2% Upper Extremity Impairment and maximum adduction of 36º yields o% Upper Extremity Impairment. The sum of these values is 2% Upper Extremity Impairment. According to Figure 44, maximum internal rotation of 48º yields 2% Upper Extremity Impairment and maximum external rotation of 56º yields 0% Upper Extremity Impairment. The sum of these values is 2% Upper Extremity Impairment. When the 4% Upper Extremity Impairment for flexion/extension is added to the 2% Upper Extremity Impairment for abduction/adduction and the 2% Upper Extremity Impairment for internal/external rotation, the sum of these values is 8% Upper Extremity Impairment.

According to Table 3 on page 20, 8% Upper Extremity Impairment converts to 5% Whole Person Impairment.

At this time I find 5% Whole Person Impairment Rating is appropriate for residual functional loss associated with Ms. Carrothers's 6/7/22 work related injury. I've advised her that it

> is in her best interest to continue her home stretching and exercise program, so as to maintain her current level of range of motion and strength in so as to decrease the possibility of reinjury. I further advised her that should she suffer any exacerbation of symptomatology in the form of increased pain, weakness, swelling, numbness, or instability she should return to Dr. Gati for further consultation and possible treatment….

A pre-hearing order was filed on October 3, 2025. According to the pre-hearing order, the claimant contended, "The claimant contends she is entitled to the payment of the MRI she underwent, as well as any and all additional medical treatment and expenses Dr. Gati rendered to her both before and after the date of the MRI, as they constitute related and reasonably necessary treatment for her compensable injury. The claimant further contends she is entitled to PPD benefits based on a permanent anatomical impairment rating of five percent (5%) to the body-as-a-whole associated with her compensable right [shoulder] injury, and that her attorney is entitled to a controverted attorney's fee."

The parties stipulated that the respondents "controvert the claimant's claim for additional medical treatment and any PPD benefits for alleged permanent anatomical impairment." The respondents contended, "The Respondents contend that the claimant has a preexisting condition of arthritis in her right shoulder, and that when she reported an injury occurring June 7, 2022, Respondent accepted her injury of a temporary aggravation of her preexisting condition as a medical only claim. The Respondent

accepted this medical only claim after providing initial treatment to the claimant for her reported injury, but the medical records, including September 15, 2022 MRI and a November 8th addendum of Dr. Charles Pearce indicate the claimant has reached MMI for any work injury and Dr. Pearce did not find a shoulder separation. The claimant was released to return to work, and she tested reliably in the Light classification at her Functional Capacity Evaluation on November 2, 2022."

The respondents contended, "The claimant did not pursue her claim, so the Respondent filed a Motion to Dismiss for Want of Prosecution on May 24, 2024, and after a hearing was held on August 8, 2024 the Motion to Dismiss was held in abeyance. The claimant requested, and was granted, her one-time Change of Physician, and has been provided the appointment with Dr. D'Orsay Bryant. Dr. Bryant ordered a new MRI to corroborate a right shoulder rotator cuff tear. However, there was no explanation of why a new MRI would be needed to corroborate a right shoulder rotator cuff tear when there has already been an MRI, or what the new MRI would show that is related to an injury occurring June 7, 2022. Dr. Pearce and a peer review physician had ruled out a full thickness acute tear, noting only degenerative findings. The claimant evidently chose to not return to Dr. D'Orsay Bryant, whom she contends is her treating physician, she instead saw Dr. Gati on her own who no longer recommends surgery

for the claimant after reviewing the MRI the claimant had obtained on her own finding that there is not a full thickness tear, thus reversing his previous opinion and agreeing with Dr. Pearce's and the peer reviewer's conclusion. The claimant has evidently pursued more unauthorized treatment in the form of a visit with a chiropractor for the purpose of obtaining an impairment rating which she now demands. Respondent contends that the claimant is not entitled to the unauthorized treatment she obtained, nor is she owed an impairment rating she obtained on her own from an unauthorized chiropractor who evidently did not provide any treatment for the claimant after none of the claimant's authorized treating physicians who actually treated the claimant assigned her any permanent impairment. The claimant now admits that she has reached Maximum Medical Improvement for any work injury she had."

The respondents contended, "The claimant admittedly returned to work, where she remains employed, and Respondent contends that the claimant is not owed indemnity benefits on her claim. The Respondent contends that the claimant cannot sustain her burden of proving her entitlement to additional medical treatment reasonable and necessary for or causally related to a compensable injury to her right shoulder, arising out of and in the course of her employment on June 7, 2022, or that an injury is the major cause of any indemnity benefits she claims to be owed. 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 was entitled to additional medical treatment in the form of an MRI, as well as any and all of Dr. Gati's medical treatment obtained before and/or after the date of the MRI.
> 2. Whether and to what extent, if any, the claimant is entitled to PPD benefits based on alleged permanent anatomical impairment.
> 3. Whether the claimant's attorney is entitled to a controverted fee on these facts.

A hearing was held on November 21, 2025. The claimant testified with regard to her right shoulder, "It's still sore. It hurts. I can only raise my arm so far."

An administrative law judge filed an opinion on February 19, 2026. The administrative law judge found, among other things, that the claimant failed to prove she was entitled to additional medical treatment. The administrative law judge found that the claimant failed to prove she was entitled to any permanent anatomical impairment. The administrative law judge therefore denied and dismissed the claim. The claimant appeals to the Full Commission.

II. ADJUDICATION

A. 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). It is within the Commission's province to weigh all of the medical evidence, to determine what is most credible, and to determine its medical soundness and probative force. *USA Truck, Inc. v. Webster*, 2020 Ark. App. 226, 599 S.W.3d 368. Reasonably necessary medical treatment includes that necessary to accurately diagnose the nature and extent of the compensable injury; to reduce or alleviate symptoms resulting from the compensable injury; to maintain the level of healing achieved; or to prevent further deterioration of the damage produced by a compensable injury. *Id*. 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 (2005). 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). 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 70 (1984).

An administrative law judge found in the present matter, "3. The claimant has failed to meet her burden of proof in demonstrating she is

entitled to additional medical treatment in the form of the second MRI at issue herein and unspecified treatment by Dr. Gati." The Full Commission does not affirm this finding. We find that the claimant proved the MRI provided on May 1, 2025 was reasonably necessary. The Full Commission also finds that treatment provided by Dr. Hugghins was reasonably necessary.

As we have discussed, the parties stipulated that the claimant sustained a compensable injury to her right shoulder on June 7, 2022. The claimant, who the Full Commission finds was a credible witness, testified that the compensable injury occurred as the result of lifting a case of "casino chips." Dr. Griffin's assessment on June 28, 2022 was "Mild AC separation." The claimant was treated conservatively following the stipulated compensable injury. An MRI taken on September 15, 2022 showed, among other things, "interstitial tearing of the supraspinatus tendon." The record indicates that the respondents did not authorize additional physical therapy after November 1, 2022. Dr. Pearce opined on November 8, 2022, "The patient has reached maximal medical improvement as it pertains to her on-the-job injury." Nevertheless, it is well-settled 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).

The claimant continued to follow up with Dr. Gati after Dr. Pearce's determination of maximum medical improvement. Dr. Gati recommended surgery, which the respondents did not authorize. However, the record indicates that the claimant no longer requests surgical treatment in connection with her compensable injury. The claimant eventually received a statutory change of physician to Dr. Bryant. Dr. Bryant recommended an MRI in order to corroborate a right shoulder rotator cuff tear. An additional MRI was actually carried out pursuant to Dr. Gati's recommendation. An MRI taken May 1, 2025 confirmed a "low-grade interstitial tear" in the claimant's right shoulder. Dr. Gati continued to treat the claimant conservatively. Dr. Hugghins, a chiropractor, stated on July 7, 2025, "The current diagnosis associated with the file is a right shoulder strain and right biceps tendinitis."

The respondents state on appeal that treatment provided by Dr. Hugghins was "unauthorized." Ark. Code Ann. §11-9-514(Repl. 2012) provides, in pertinent part:

> (c)(1) After being notified of an injury, the employer or insurance carrier shall deliver to the employee, in person or by certified or registered mail, return receipt requested, a copy of a notice, approved or prescribed by the commission, which explains the employee's rights and responsibilities concerning change of physician.

> (2) If, after notice of injury, the employee is not furnished a copy of the notice, the change of physician rules do not apply.
> (3) Any unauthorized medical expense incurred after the employee has received a copy of the notice shall not be the responsibility of the employer.

The Workers' Compensation Commission is obliged to strictly construe and apply this provision. *See* Ark. Code Ann. §11-9-704(c)(3)(Repl. 2012); *Delargy v. Golden Years Manor*, 2014 Ark. App. 499, 442 S.W.3d 889. If there is not a signed and delivered Form AR-N in the record before the Commission, then the claimant is not bound by the change of physician rules. *Id*. *See also Tempworks Mgmt. Servs. v. Jaynes*, 2023 Ark. App. 147, 662 S.W.3d 280.

In the present matter, there is not a signed and delivered Form AR-N in the record before the Commission. The Full Commission therefore finds that the claimant was not bound by the change of physician rules, and that she was entitled to seek reasonably necessary medical treatment from any physician of record. Dr. Hugghins reported that Dr. Bryant "retired/closed his practice" after Dr. Bryant's recommendation of an additional MRI. The Full Commission therefore finds that the MRI recommended by Dr. Gati and carried out on May 1, 2025 was reasonably necessary in connection with the compensable injury sustained by the claimant on June 7, 2022. The MRI performed on May 1, 2025 confirmed a "low-grade interstitial tear" in the claimant's right shoulder. Dr. Hugghins opined on July 7, 2025 that the

claimant had sustained a "right shoulder strain" as a result of the compensable injury. The Full Commission finds that Dr. Hugghins' examination and consultation on July 7, 2025 was reasonably necessary and shall be the responsibility of the respondents. There are currently no additional treatment recommendations in connection with the compensable injury.

B. Permanent Impairment

Permanent impairment is any functional or anatomical loss remaining after the healing period has been reached. *Johnson v. Gen. Dynamics*, 46 Ark. App. 188, 878 S.W.2d 411 (1994). The Commission has adopted the American Medical Association *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993) to be used in assessing anatomical impairment. *See* 11 C.A.R. §25-129; Ark. Code Ann. §11-9-522(g)(Repl. 2012). It is the Commission's duty, using the *Guides*, to determine whether the claimant has proved she is entitled to a permanent anatomical impairment. *Polk County v. Jones*, 74 Ark. App. 159, 47 S.W.3d 904 (2001).

Any determination of the existence or extent of physical impairment shall be supported by objective and measurable physical findings. Ark. Code Ann. §11-9-704(c)(1)(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). Although it is true that the

legislature has required medical evidence supported by objective findings to establish a compensable injury, it does not follow that such evidence is required to establish each and every element of compensability. *Stephens Truck Lines v. Millican*, 58 Ark. App. 275, 950 S.W.2d 472 (1997). All that is required is that the medical evidence be supported by objective medical findings. *Singleton v. City of Pine Bluff*, 97 Ark. App. 59, 244 S.W.3d 709 (2006). Medical opinions addressing permanent impairment must be stated within a reasonable degree of medical certainty. Ark. Code Ann. §11-9-102(16)(Repl. 2012).

Permanent benefits shall be awarded only upon a determination that the compensable injury was the major cause of the disability or impairment. Ark. Code Ann. 102(F)(ii)(a)(Repl. 2012). "Major cause" means "more than fifty percent (50%) of the cause," and a finding of major cause shall be established according to the preponderance of the evidence. Ark. Code Ann. §11-9-102(14)(Repl. 2012).

In the present matter, an administrative law judge stated in his discussion, "The preponderance of the credible medical evidence of record conclusively reveals the claimant sustained a minor injury which resulted only in a temporary aggravation of her long-standing preexisting arthritic condition in her right shoulder which was readily apparent to all of her authorized treating physicians, and to Dr. Pearce, as of – at the latest –

November 8, 2022, the full extent of the condition of the claimant's right shoulder, as well as the cause of her pain: the degenerative changes naturally associated with the aging process."

The Full Commission finds that the administrative law judge's above-quoted statement was manifest error. The parties stipulated that the claimant "sustained an admittedly compensable injury to her right shoulder" on June 7, 2022. We must strictly construe the provisions of the Workers' Compensation Act. *See* Ark. Code Ann. §11-9-704(c)(3)(Repl. 2012); *Clardy v. Medi-Homes LTC Servs., LLC*, 75 Ark. App. 156, 55 S.W.3d 791 (2001). Pursuant to strictly construing the provisions of Act 796 of 1993, the Full Commission is unaware of any statutory authority or controlling appellate precedent which provides for a denial of benefits based on a finding that a compensable injury was purportedly "a temporary aggravation" of a "long-standing preexisting arthritic condition." We again note that the Arkansas Court of Appeals has described the "temporary aggravation of a pre-existing injury" concept to be a "new, unfounded theory" that is "rather novel." *See Johnson v. Pal Salmon & Sons, Inc.*, 2011 Ark. App. 48 (Ark. App., 2011).

Nevertheless, the Full Commission has the duty to decide the case *de novo* and we are not bound by the administrative law judge's characterization of evidence. *Tyson Foods, Inc. v. Watkins*, 37 Ark. App.

230, 792 S.W.3d 348 (1990). 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).

An administrative law judge found in the present matter, "4. The claimant has failed to meet her burden of proof in demonstrating she sustained any permanent anatomical impairment as a result of her 'medical only', no-lost-time admittedly compensable right shoulder injury of June 7, 2022." The Full Commission does not affirm this finding. We find that the claimant proved she sustained permanent anatomical impairment in the amount of 5% as a result of her compensable right shoulder injury.

The parties stipulated that the claimant sustained a compensable injury to her right shoulder on June 7, 2022. An MRI of the claimant's right shoulder on September 15, 2022 plainly showed "1. High-grade interstitial tearing of the supraspinatus tendon" and "2. High-grade delaminating tear" extending into the musculotendinous junction. The probative evidence does not demonstrate that these objective abnormalities were present prior to the June 7, 2022 stipulated compensable injury. Dr. Pearce opined on October 18, 2022 that the interstitial tearing was actually "fluid" in the

claimant's tendon. Dr. Pearce opined on November 8, 2022 that there was no "acute abnormality" shown in the claimant's right shoulder.

Nevertheless, Dr. Gati, an orthopaedic specialist, reported on November 29, 2022, "Patient's MRI showed high-grade interstitial tearing of the supraspinatus tendon." Dr. Sloan essentially opined on December 19, 2022 and January 17, 2023 that the claimant's right shoulder condition was degenerative and not "traumatic in origin." Yet Dr. Gati on February 21, 2023 reiterated his opinion that diagnostic testing showed "a high-grade partial thickness tear to her supraspinatus tendon due to an on-the-job injury." On December 5, 2024, Dr. Bryant noted the findings of interstitial tearing and a delaminating tear. Dr. Bryant also noted "soft tissue swelling" in the claimant's acromioclavicular joint. The reasonably necessary MRI on May 1, 2025 confirmed a "low-grade interstitial tear at the junction of the supraspinatus and infraspinatus tendon footprints." Dr. Gati opined on June 24, 2025 that the claimant had sustained "permanent impairment." Dr. Hugghins assigned the claimant a 5% Whole Person Impairment on July 7, 2025.

The Commission has the duty of weighing medical evidence and, if the evidence is conflicting, its resolution is a question of fact for the Commission. *Green Bay Packaging v. Bartlett*, 67 Ark. App. 332, 999 S.W.2d 695 (1999). It is 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). In the present matter, the Full Commission finds that the opinions of Dr. Gati, Dr. Bryant, and Dr. Hugghins are corroborated by the record and are entitled to more evidentiary weight than the opinions of Dr. Pearce and Dr. Sloan.

The Full Commission finds in the present matter that the claimant proved she sustained permanent anatomical impairment in the amount of 5%. The Full Commission finds that Dr. Hugghins' assessment of 5% is consistent with the 4th Edition of the *Guides* as calculated on p. 3/20, Table 3. We find that Dr. Hugghins correctly assessed an 8% impairment of the right upper extremity, which rating converted to a 5% whole-person impairment according to Table 3, p. 3/20 of the applicable 4th Edition of the *Guides*. The Full Commission finds that the 5% permanent anatomical impairment rating is supported by objective and measurable physical findings which cannot come under the claimant's voluntary control. These supporting objective findings include: (1) Interstitial tearing and a delaminating tear as demonstrated on the September 15, 2022 MRI of the claimant's right shoulder, and subsequently confirmed by Dr. Gati, Dr. Bryant, and Dr. Huggins; (2) Fluid in the claimant's right shoulder as noted by Dr. Pearce; (3) an effusion in the shoulder joint noted by Dr. Sloan on December 19, 2022; and (4) soft tissue swelling noted by Dr. Bryant on

December 5, 2024. We find that the opinions of Dr. Gati, Dr. Bryant, and Dr. Hugghins were stated within a reasonable degree of medical certainty in accordance with Ark. Code Ann. §11-9-102(16)(B)(Repl. 2012). The Full Commission finds that the claimant proved the June 7, 2022 compensable right shoulder strain was the major cause of the 5% permanent anatomical impairment sustained by the claimant. Moreover, the Full Commission finds that the June 7, 2022 compensable injury aggravated an asymptomatic preexisting condition such that the condition became symptomatic and required treatment. *See Leach v. Cooper Tire and Rubber Co.*, 2011 Ark. App. 571, citing *Pollard v. Meridian Aggregates*, 88 Ark. App. 1, 193 S.W.3d 738 (2004).

After reviewing the entire record *de novo*, the Full Commission finds that the MRI performed on May 1, 2025 was reasonably necessary in connection with Ark. Code Ann. §11-9-508(a)(Repl. 2012). We also find that the evaluation provided by Dr. Hugghins was reasonably necessary. Because there was not a signed and delivered Form AR-N in the record, the claimant was not bound by the change of physician rules. *Jaynes, supra*. There are currently no recommendations for additional medical treatment. The claimant proved that she is entitled to a 5% permanent anatomical rating in accordance with the provisions of Act 796 of 1993. The respondents shall be solely liable for payment of the 5% rating awarded by

the Full Commission. 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 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.

_____
SCOTTY DALE DOUTHIT, Chairman

_____
M. SCOTT WILLHITE, Commissioner

Commissioner Mayton dissents.

DISSENTING OPINION

I must respectfully dissent from the Majority finding the claimant proved an MRI performed on May 1, 2025, was reasonably necessary, an evaluation provided by Chiropractor Joe Hugghins was reasonably necessary, and the claimant proved she sustained a 5% impairment rating.

"Permanent impairment" has been defined as "any permanent functional or anatomical loss remaining after the healing period has ended." *Carrick v*. *Baptist Health*, 2022 Ark. App. 134, 643 S.W.3d 466 (2022).

Any determination of the existence or extent of physical impairment must be supported by objective and measurable physical or mental findings. Ark. Code Ann. § 11-9-704(c)(1)(B). "Objective findings" are those findings which cannot come under the voluntary control of the patient. Ark Code Ann. § 11-9-102(16)(A)(i). Complaints of pain are not to be considered objective medical findings. Ark. Code Ann. § 11-9-102(16)(A)(ii)(a); *Reed v*. *First Step*, *Inc*., 2019 Ark. App. 289, 577 S.W.3d 424 (2019).

It is within the Commission's province to weigh all the medical evidence to determine what is most credible and to determine its medical soundness and probative force. *Sheridan Sch. Dist. v. Wise*, 2021 Ark. App. 459, 637 S.W.3d 280 (2021).

In weighing the evidence, the Commission may not arbitrarily disregard medical evidence or the testimony of any witness. *Id*. However, the Commission has the authority to accept or reject medical opinions. *Williams v. Ark. Dept. of Community Corrections*, 2016 Ark. App. 427, 502 S.W. 3d 530 (2016). Furthermore, it is the Commission's duty to use its experience and expertise in translating the testimony of medical experts into findings of fact and to draw inferences when testimony is open to more than a single interpretation. *Id*.

Here, none of the claimant's treating physicians assigned a permanent impairment rating resulting from the claimant's injury. In fact, in September 2022, Dr. Charles Pearce reviewed the claimant's MRI and opined, "I suspect rotator cuff findings or [sic] age-related. I do not see evidence of a full thickness tear."

After the claimant underwent a functional capacity evaluation, Dr. Pearce advised in his report dated October 18, 2022, as follows:

> Functional Capacity Evaluation (FCE) was completed on November 2, 2022. The patient gave a reliable effort and was placed in the light category of work. This is secondary to her pre-existing arthritis and not an on-the-job acute injury. This is stated within a reasonable degree of medical certainty. Further, there is no impairment rating related to the reported injury date of June 7, 2022. The only objective findings are those of a glenohumeral acromioclavicular arthritis.
>
> Additionally, I have revied radiographs from June 28, 2022, and July 20, 2022, of the patient's right shoulder. There is no acute abnormality. She has preexisting arthritis. Patient was under the impression that she had AC separation but that is not shown. Again this is stated within a degree of medical certainty.

> The patient has reached maximum medical improvement as it pertains to the on-the- job injury.

The respondents obtained a report dated January 17, 2023, based on a review of the claimant's MRI from Medical Review Institute of America. The report was signed by Dr. Kim Sloan, an orthopedic specialist, who was asked to review the claimant's MRI and X-rays and offer an opinion on what pathology was acute and what pathology was pre-existing. Dr. Sloan opined:

> Based on review of the MRI and x-rays, the majority of the pathology demonstrated on the images is chronic in nature, and note related to the 06/07/22 injury.
>
> The x-rays on 06/28/22, showed osteoarthritis of the AC joint and the glenohumeral joint with no evidence of fracture or dislocation. The repeat x-rays of 07/20/22 showed the same findings. The MRI of the right shoulder dated 09/15/22 showed osteoarthritis of the acromioclavicular (AC) joint and the glenohumeral joint. There was evidence of high-grade degenerative tearing of the supraspinatus and infraspinatus. This is not an acute full thickness tear but has the appearance of degenerative tearing. There was a small effusion present in the shoulder joint. There was tendinitis of the subscapularis. None of these findings would be

> considered traumatic in my opinion.

Dr. Sloan went on to state the proposed right shoulder arthroscopy "would not be medically appropriate. The pathology is not considered traumatic in origin, but rather degenerative in nature."

It was only Chiropractor Joe Hugghins who opined the claimant is entitled to a five percent (5%) permanent impairment rating after reviewing the claimant's medical records and examining her over the course of thirty-five minutes. Treatment by a chiropractor was not reasonable and necessary since the respondents had provided treatment by medical doctors including treatment by an orthopedic specialist.

In finding in the claimant's favor on this issue, the Majority arbitrarily disregards the opinions of three of the claimant's treating physicians and an orthopedic specialist who all opined she had no permanent impairment rating and did not need any additional medical treatment in favor of an out-of-state chiropractor. It strains reasoning the findings that an out-of-state chiropractor who met the claimant and reviewed her records for a handful of minutes and used testing required by the Texas Workers' Compensation Commission (TWCC) could have more knowledge than her own treating physicians. The claimant has not submitted any credible evidence that she is entitled to a permanent impairment rating.

Ark. Code Ann. § 11-9-508(a) requires an employer to provide an injured employee with medical and surgical treatment "as may be reasonably necessary in connection with the injury received by the employee." The claimant has the burden of proving by a preponderance of the evidence the additional treatment is reasonable and necessary. *Nichols v. Omaha Sch. Dist*., 2010 Ark. App. 194, 374 S.W.3d 148 (2010).

What constitutes reasonably necessary treatment is a question of fact for the Commission. *Gant v. First Step, In*c., 2023 Ark. App. 393, 675 S.W.3d 445 (2023). In assessing whether a given medical procedure is reasonably necessary for treatment of the compensable injury, the Commission analyzes both the proposed procedure and the condition it sought to remedy. *Walker v. United Cerebral Palsy of Ark*., 2013 Ark. App. 153, 426 S.W.3d 539 (2013).

The evidence in the record clearly shows the claimant sustained a minor injury which resulted in a temporary aggravation of her longstanding pre-existing arthritic condition in her right shoulder. This aggravation was treated conservatively, conclusively healed, and the claimant has reached MMI.

The imaging in the record supports that the extent of the claimant’s condition and her ongoing subjective complaints of pain were caused by degenerative changes. A thorough, independent review of the medical records conducted by Dr. Sloan supports the findings of Dr. Pearce. These

opinions are supported by the imaging, the claimant's medical history, and the examination by Dr. Pearce.

Because the opinions of Dr. Pearce and Dr. Sloan are well-reasoned and credible, the claimant has failed to meet her burden of proving she is entitled to additional imaging or medical treatment as requested. The MRI performed on May 1, 2025, and the examination by Joe Hugghins were not reasonable and necessary medical treatment for which the respondents should be held responsible. The claimant has clearly reached maximum medical improvement for her minor, medical-only injury and is not in need of further treatment related to this claim.

Accordingly, for the reasons stated above, I respectfully dissent.

_____
MICHAEL R. MAYTON, Commissioner