BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. **H404754**

AMANDA ENGLEMAN, EMPLOYEE	CLAIMANT
WASHINGTON REGIONAL MEDICAL CENTER, EMPLOYER	RESPONDENT
RISK MANAGEMENT RESOURCES, CARRIER/TPA	RESPONDENT

OPINION FILED **APRIL 18, 2025**

Hearing before ADMINISTRATIVE LAW JUDGE JOSEPH C. SELF in Fort Smith, Sebastian County, Arkansas.

Claimant represented by EDDIE H. WALKER, JR., Attorney, Fort Smith, Arkansas.

Respondents are represented by MELISSA WOOD, Attorney, Little Rock, Arkansas.

STATEMENT OF THE CASE

On January 21, 2025, the above captioned claim came on for a hearing in Fort Smith, Arkansas. A pre-hearing conference was conducted on September 27, 2024, and a pre-hearing order was filed on that same date. A copy of the pre-hearing order has been marked as Commission's Exhibit #1 and made a part of the record without objection.

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

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.

2. The employee/employer/carrier relationship existed on June 2, 2023.

3 The respondents have controverted the claim in its entirety.

4. The compensation rates are the maximum.

By agreement of the parties, the issues to be litigated and resolved at the forthcoming hearing were limited to the following:

1. Whether claimant sustained a compensable injury on June 2, 2023, specifically bilateral shoulder injuries.

2. If compensable, whether claimant is entitled to temporary total disability benefits, and medical benefits.

3. Attorney fees.

All other issues are reserved by the parties.

The claimant contends that "She is entitled to temporary total disability benefits from June 13, 2024, to a date yet to be determined and reasonably necessary medical treatment. The claimant contends that her attorney is entitled to an appropriate attorney's fee."

The respondents contend that "Claimant's bilateral shoulder injuries were initially accepted as a medical only claim, but the claim has now been denied in its entirety due to a lack of objective findings. Additionally, respondents contend that claimant has preexisting issues with her shoulders and possibly underwent new injuries after June 2, 2023."

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

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at a pre-hearing conference conducted on September 27, 2024, and contained in a pre-hearing order filed that same date are hereby accepted as fact.

2. Claimant has met her burden of proving that she suffered a compensable bilateral shoulder

injury on June 2, 2023, and is entitled to reasonable and necessary medical treatment for that injury as recommended by Dr. Greg Jones.

3. Claimant has met her burden of proving she is entitled to temporary total disability from June 13, 2024, to a date to be determined.

4. Respondents are entitled to an offset for any short-term and long-term payments made to claimant if the employer paid for either short-term disability insurance, long-term disability insurance, or both.

FACTUAL BACKGROUND

Prior to the hearing, the parties advised they were unable to depose Dr. Greg Jones until the day after the scheduled hearing. They agreed that the record could be supplemented with that deposition. However, respondents subsequently determined to forego that deposition, and advised the record could be closed based on the testimony and documents submitted at the hearing.

Before the testimony began, the parties announced that there were both short-term and long-term disability policies under which claimant had drawn benefits. The parties agreed that if the employer paid for either or both, respondents are entitled to an appropriate offset.

HEARING TESTIMONY

Claimant was the only witness to testify on her behalf. She stated that on June 2, 2023, she injured her shoulders when she kept a patient from sliding off an operating room table. Claimant reported that she had popped her left shoulder, and her right shoulder was hurting. She was sent to the Employee Health nurse that same day. She stated that x-rays were done on the shoulders, and she was referred to physical therapy before returning to see a physician's assistant. The physical therapy did not help claimant alleviate her symptoms and she saw the physician, Dr. Konstantin Berestnev, on June 9, 2023. Her condition was unchanged after a week; she received a steroid injection, was told

to continue the physical therapy and was restricted from pushing, pulling, or lifting as well as no overhead activity.

Claimant testified she continued with physical therapy and had a second injection, but her condition was getting worse. She said the doctor released her on the last visit despite her request for an MRI or a referral to an orthopedic doctor.

Claimant had an injury to her left shoulder for which she was treated on February 17, 2022. She had injured her shoulder at home and when it was still hurting two weeks later, she decided to seek medical attention. There was no follow-up visit because claimant said the shoulder healed on its own. Claimant stated that she was able to perform her duties as a Covid ICU nurse following her fall at home.

Claimant took a position in the cardiac unit in a hospital in Columbus, Indiana in July 2022 and had no problems with either shoulder while she was working there. She began working at Washington Regional on November 29, 2022; between that date and June 2, 2023, she did not have any issues with either shoulder that required her to receive medical treatment. However, after the June 2, 2023, injury, she testified her shoulders never completely returned to the condition they were in before the incident in the operating room. She did not return to Conservative Care Occupational Health because when that doctor released her from his care, she believed that was all that would be done for her. When he denied her request for an MRI and a referral to an orthopedic doctor, she knew of no reason to go back to see Dr. Berestnev again.

In March 2024, claimant went to see Dr. J. Clayton because her shoulders had not healed. She gave Dr. Clayton a history regarding her shoulders which mentioned the previous injury she received from a fall, and also related a separate incident of hurting her shoulder while moving a dog. As a nurse, she felt Dr. Clayton needed a complete history of any issues she had with her shoulder. She was then

referred to Dr. Greg Jones, a shoulder specialist. Dr. Jones eventually performed surgery on claimant's left shoulder, and she reported that while she was helped by that surgery, a second surgery was scheduled for her left shoulder. Claimant said that surgery was also anticipated for her right shoulder. Claimant related that after the June 2, 2023, injury, she had a clicking or popping sound in her left shoulder because the bicep tendon had dislocated. Dr. Jones evaluated the right shoulder, and claimant believes her condition with it is the same as with her left shoulder.

Because she believed she could not receive workers' compensation benefits after she was released by Dr. Berestnev, claimant filed for short-term disability benefits and subsequently was placed on long-term disability. She did so because she believed that she could not receive workers' compensation benefits after she was released from care by Dr. Berestnev. Claimant had surgery on her left shoulder on June 13, 2024, and does not believe that she has been physically able to perform her job duties since that time.

On cross-examination, claimant explained what her job duties as an operating room circulator were at Washington Regional. These responsibilities included getting the rooms ready for an upcoming surgery which required equipment to be pushed into the room, changing a bed, and removing patients from the pre-op area and onto the operating table. She was required to lift patient's limbs, push heavy tables, and position people while they are under anesthesia.

Regarding the incident in question, claimant repeated that her left shoulder popped, and that her right shoulder also hurt while she was preventing the patient from falling, but she did not realize the right shoulder was hurt until the surgery was over. As of the date of the hearing, claimant had not had treatment on her right shoulder. Claimant explained on the fall around February 2022 occurred when she was painting and fell from a barstool onto her left elbow. She elaborated about what happened when she lifted a fifty-pound dog from the driver's side of her car into the passenger seat

in April 2023.

Claimant recognized that she stated in her report to the Joint Chiropractic Clinic on February 26, 2024, that her complaints began two years ago. She had identified that January 1, 2021, as a possible date the symptoms started. Claimant said she had been a nurse for twenty years, pushing, pulling, lifting, and having back pain. The report from Dr. Clayton on April 16, 2024, mentioned the injury to her left shoulder from a fall, as well as the incident of repositioning the dog.

Claimant had this exchange with respondent's counsel (TR.30)

> Question. (By Ms. Wood) And then we have one from Dr. Zimmerman dated May 17, 2024, showing that your left shoulder pain had been present for over two years and you associate it with falling off a barstool onto your left elbow; is that correct?
> Answer. (By claimant) No. I think the left shoulder was from the injury at work.
>
> Q. Did you tell Dr. Zimmerman about the fall at home?
> A. He did know, yes, because it is part of Mercy's records, and he has access to all the records.
>
> Q. So you did tell somebody about that.
> A. Yes.
>
> Q. You just didn't tell Dr. Zimmerman that?
> A. I told Dr. Zimmerman that I had been a nurse for a long time, and I was injured at work. I also told him about the fall and about the dog. I told everybody about everything that ever caused the shoulder pain.
>
> Q. And you definitely told him about the incident at work?
> A. Yes.
>
> Q. All Right. But we have one from Dr. Jones dated May 29, 2024, showing you told him you were pushing carts or lifting patients and that exacerbated your left shoulder pain, is that correct?
> A. Yes.
>
> Q. You also told him your symptoms began two and a half years ago when you fell off a ladder while painting and landed directly on your elbow. Did you tell him that as well?
> A. I did not tell him that. I told him I did fall two and a half years ago or however long it was at that point, and I think about the dog and then about

work.

Q. You then documented that there were two episodes when a dog jerked your shoulder. Did you tell him about that as well?
A. I did not tell him the dog jerked my shoulder, no.

On redirect examination, claimant testified that she answered the questions she was asked about other shoulder injuries that caused pain, but that neither the fall and the incident with the dog required physical therapy nor an injection into her shoulder.

After claimant rested, respondents called Shelly Crabtree, the assistant director of surgery at Washington Regional. The initial report of injury did not come to Ms. Crabtree; her testimony was primarily about how work-related injuries are normally managed at respondent Washington Regional. She testified that upon the report of an injury, the employee is sent to Employee Health and the recommendations from Employee Health govern whether an employee can come back to work that day or if they need to be sent to the workers' compensation doctor. She stated that at no time did claimant ask her for any assistance with her job duties or complain about continuing problems with her shoulders.

On cross-examination, Ms. Crabtree explained that there was no light duty in her department. She was unaware of the injections that claimant received at Conservative Care Occupational Health or the physical therapy that claimant had done before she was released. When a person gets a "full duty release," Ms. Crabtree did not do any follow-up because she believes they are fit to return to duty if released without restrictions.

Respondent called Heather Weathers, the occupational health nurse at Washington Regional, serving as the manager of that department. She was familiar with claimant's case and was aware of the incident of June 2, 2023. Claimant completed the paperwork and presented her complaint of shoulder pain on that date. Ms. Weathers said that the restrictions

of "no push/pull/lift more than five pounds with the left arm. No work above chest level with the left arm" were such that claimant could be accommodated in her department and once she was released to full duty in August, she went back to her regular job.

On cross-examination, Ms. Weathers stated that when an employee reported an injury, she would do what was best for the employee at the beginning and then the claim would be turned over to the workers' compensation adjuster. She did not know why the claim was initially accepted as job-related and then changed, as she was not involved in that determination. Ms. Weathers did not know of any new injuries that claimant sustained after August 8, 2023.

Having seen the witnesses testify and then reviewed the documentary evidence in view of that testimony, I have no reason to believe that any of the witnesses were less than truthful. I found claimant's testimony on her purpose for mentioning other injuries to her shoulders to various medical providers to be credible. I also believe that she did not understand she could continue with a workers' compensation claim after she was released from conservative care.[1] The witnesses for respondents did not agree on the existence of light duty, as Ms. Weathers said claimant worked under restrictions after being limited in weight and height use of her left arm. I do not believe Ms. Crabtree was trying to deceive when she said no light duty was available in her department, but simply testified as she remembered the events.

[1] This lack of understanding was not due to respondent's failure, as claimant was promptly given the Form N on June 2, 2023. (R. NMX.2). A petition to change physicians was not submitted until after she retained counsel, as it was filed by her attorney on July 29, 2024 (R. NMX. 7-8).

REVIEW OF THE EXHIBITS

Claimant submitted seventy pages of medical records in support of her claim, while respondent submitted fifty-two pages of medical records, many of which were duplicative of those records submitted by claimant.

Claimant's records begin with the medical reports from February 2022 when claimant fell while painting. As she testified, there was only one visit and after a negative left shoulder x-ray, claimant was referred to her family practice for any follow-up care that she might need.

The records from June 2, 2023, from Conservative Care Occupational Health contain the patient's description of the accident the day it occurred. These notes are consistent with her testimony that she stated that she was repositioning a patient on the surgical table when she felt a pop and sharp pain in her left shoulder. She mentioned that her right shoulder was hurting as well. X-rays were negative for any acute abnormalities, and she received conservative care before returning for a follow up visit on June 9, 2023. At that visit, claimant related that her primary problem was the pain in her left shoulder which ranged from moderate to severe depending on her activity; she thought she was improving slightly. Dr. Berestnev referred her to physical therapy and restricted her activity to no work above the shoulders.

Claimant began physical therapy at Total Spine at Washington Regional on June 14, 2023, and continued through July 18, 2023. At the final visit, the assessment was that claimant still had acute pain in the left and right shoulder, but she reported feeling better overall with increased function at work and decreased pain. She returned to Conservative Care on July 21, 2023, where she was seen by Physician's Assistant Ceth Dawson, who recommended that she return to regular duty with no activity restrictions. She returned to conservative care on August 8, 2023, when Dr. Berestnev found that she was getting better, and he released her from care with no restrictions.

Claimant next saw Dr. J. Clayton on March 26, 2024, with her chief complaint regarding her left shoulder. This report relates the incident of moving the dog in her vehicle and did not specifically mention the incident in the operating room where she was repositioning a patient. Dr. Clayton believed that claimant had a rotator cuff impingement and gave her an injection of 1cc of Kenalog 40 and 2cc of 1% Lidocaine. When claimant returned to Dr. Clayton on April 16, 2024, claimant related that she had an injury to her left shoulder which was from a fall and clarified that the incident involved repositioning a dog was not the actual inciting event. The result of the examination was "Left shoulder has positive impingement signs. She localizes the pain to the interior lateral aspect of her shoulder but says that it is really deeper than that site. She is grossly neurovascularly intact." Dr. Clayton believed that an MRI was appropriate to evaluate her rotator cuff pathology or some other pathology that might be causing her significant pain.

Following the MRI, claimant returned to see Dr. Clayton on May 14, 2024. The MRI was largely unremarkable although it did note some degenerative changes at the AC joint. Dr. Clayton believed that claimant needed to see his partner, Dr. Greg Jones. Before she was able to see Dr. Jones, she was treated by Dr. T. Zimmerman on May 17, 2024. Dr. Zimmerman performed an ultrasound guided corticosteroid injection into the long head of the bicep tendon sheath of her left shoulder and an ultrasound guided corticosteroid injection into the acromioclavicular joint of the left shoulder. Dr. Zimmerman recorded this history of present illness:

> "Forty-three-year-old female who presents for evaluation of left shoulder pain. She reports interior left shoulder pain which will radiate to her upper arm and sometimes posterior shoulder pain as well. This has been present for over two years and she associates it with starting after falling off a barstool onto her left elbow. She reports associated clicking and difficulty with motion. She has pain with reaching over her head or posteriorly."

Dr. Zimmerman noted that the MRI of the right shoulder demonstrated tendinosis of the supraspinatus tendon, degenerative of the AC joint, and a buildup of fluid in the long head of the

bicep tendon sheath. However, the entire visit related to treatment of her left shoulder; the narrative ends with the caveat that dictation software was used, and I suspect this was an error in dictation.[2]

Claimant first saw Dr. Greg Jones on May 29, 2024. Dr. Jones again recounted claimant's fall from a step ladder while painting and the episode where a dog jerked her shoulder, but did not mention the incident in the operating room which occurred on June 2, 2023. He reviewed the four views of the shoulder x-ray series from March 26, 2024, and found:

> "She has a flat acromion, non-pointed sealed coracold and normal anatomy of the glenohumeral joint. No evidence of arthritis. She has had an impingement change in the greater tuberosity and chronic AC arthropathy changes with overt spur formation, but definitely sclerosis and cystic changes on the clavicular in the AC joint site."

Dr. Jones also reviewed the MRI and found "There is no evidence of full fitness cuff tear, and the bicep tendon has minimal fluid on the Sheath. She has some evidence of subacromial bursitis to my evaluation and exam. There is no full thickness rotator cuff tear." He recommended a left shoulder arthroscopic AC resection and subacromial bursectomy as the appropriate next steps in treating claimant's symptoms. Surgery was performed on June 13, 2024. The post-operative diagnosis was:

> 1. Subluxation of the bicep tendon with longitudinal split and hyper vascular tenosynovitis.
> 2. AC meniscus arthropathy with torn AC meniscus elements.
> 3. Moderately severe subacromial bursitis rotator cuff fully intact.

Claimant returned to Dr. Jones on July 17, 2024. In his history in that clinic note, Dr. Jones mentioned the episode that was documented which involved a pop in her shoulder and which resulted in her being sent to physical therapy. He further stated:

> "I am a little bit confused in that appears to have clearly had a work component. A diagnosis was made at work that prompted the use of physical therapy for that purpose. I think confirming this was: 1.Reported 2. Recognized 3. In my opinion, greater to fifty percent contribution to the

[2] If it is not an error, then this finding should be included in my analysis regarding the objective findings for the right shoulder injury.

> problems that exist. I think she needs to pursue this in an appropriate fashion, and I have recommended same."

Dr. Jones said she was not ready to return to "full unrestricted lifting activity" and he did not release her to return to work.

Claimant began physical therapy at Mercy Occupational Therapy Treatment. The record from the ninth visit on August 19, 2024, showed that physical therapy was causing pain to the claimant's left shoulder. When Dr. Jones next saw claimant on August 28, 2024, he believed she was so anxious to get back to work that she has been pressuring her shoulders in terms of her range of motion recovery; her shoulder was very inflamed with bursitis at that visit. He gave her a subacromial bursitis injection of 8mL. of 0.25% Marcaine, 2 mL. of Decadron, and prescribed Hydrocodone for two to three weeks at night to help claimant sleep; he also prescribed Diclofenac. Dr. Jones stopped her physical therapy and scheduled claimant to come back in four weeks.

Claimant's next visit was October 2, 2024. Claimant reported she was dramatically better after the previous injection for about ten days, and while her shoulder remained weak, she had a near resolution of the pain in her left shoulder. At this visit, she mentioned the continuing problem with the right shoulder, but Dr. Jones thought that dealing with her left shoulder was more pressing and decided not to pursue anything with the right shoulder at that time. Dr. Jones concluded his notes with the following:

> "We are going to continue the physical therapy, hold off any consideration that a FCI or impairment assessment related to the surgery done on June 13, 2024. Will see her back in two months to evaluate her progress and hopefully the job and work-related caliber and the work comp setting can be identified that she can perform in the interim. This case has gotten confusing because of the refusal to consider an injury that was reported at work and is yet to be determined as to that situation."

Claimant sent a letter to Dr. Jones on October 14, 2024, asking for his opinion regarding

causation (respondent's non-medical exhibit, page 10-11). Dr. Jones was asked when considering other incidents claimant had with her shoulder if "within a reasonable degree of medical certainty that the June 2, 2023, incident is more than 50% the cause of her need for surgery." Dr. Jones responded on October 24, 2024 and clarified that he understood claimant's history with her left shoulder before June 2, 2023, mentioning both the fall with the contusion and moving a dog, but stated that nothing about those instances arose to the level of the nature of the symptomology which she presented to him. Dr. Jones noted that claimant:

> "had received optimum opportunity for conservative care including extending physical therapy with a conservative care, occupational health department or physicians and as detailed notes revealed that it was considered a work-related injury and persistent in its character. Although it did not rise to the level of 'needing surgery' had remained the principal diagnosis when she completed care under their auspices."

Dr. Jones stated that claimant's symptoms continued to worsen and became life-limiting when she came to see him:

> "It is my opinion that the nature of the injury sustained in the work-related incident described in detail historically both by her and in the medical records previously making it clear to me that within a reasonable degree of certainty that the June 2, 2023 incident is more that fifty percent the cause of the injury, subsequent symptomology and findings that led me to recommend the surgery procedure undertaken on June 13, 2024."

Dr. Jones saw claimant on December 4, 2024, he recommended a second surgery, an "open deltotrapezial fascial repair." In this record, the right shoulder is mentioned again:

> "If and when we get to the point of taking care of the right shoulder, I would just do it as an open AC resection given the display that she has made with returns to the bilateral stretching injury and catching the patient is likely to have the same sort of AC sprain on the right as we have seen on the left."

Bilateral shoulder x-rays were made during this visit and demonstrated:

> "Suttle superior displacement of the right distal clavicle compared to the

> acromion. The left shoulder has a wide AC resection, flat acromion. No glenohum arthritis or evidence of fracture or destructive lesion with respect to the left, fore view series. The right four view series demonstrate light to moderate AC arthropathy with slight dorsal displacement. No glenohumeral fracture displacement and no calcification of the rotator cuff insertion on either shoulder."

The second surgery on claimant's left shoulder was scheduled for January 31, 2025, ten days after the hearing in this case took place. No additional records regarding that surgery were submitted.

In addition to the medical records, claimant submitted a copy of the AR-N form that was completed on June 2, 2023, in which claimant maintained that she was injured on both shoulders while "holding heavy weight of patient to prevent injury".

Respondents' medical exhibits which did not duplicate the records submitted by claimant included records from Mercy Hospital Occupational Therapy on August 26, 2024, which added little to what Dr. Jones explained in his records. Respondents' non-medical records numbered were seven pages, including the Form N given to claimant on June 2, 2023, claimant's petition to change physicians, and the letter from claimant's attorney to Dr. Jones seeking clarification of his records and asking his opinion as to causation.

ADJUDICATION

As this claim was controverted in its entirety, claimant has the burden of proving by a preponderance of the evidence that (1) an injury occurred that arose out of and in the course of her employment; (2) the injury caused internal or external harm to the body that required medical services or resulted in disability or death; (3) the injury is established by medical evidence supported by objective findings, which are those findings which cannot come under the voluntary control of the patient; and (4) the injury was caused by a specific incident and is identifiable by time and place of occurrence. *Mikel v. Engineered Specialty Plastics*, 56 Ark. App. 126, 938 S.W.2d 876 (1997). Respondents opposed this claim because they believed there was a lack of objective findings as to the alleged injury

of June 2, 2023, and because claimant had preexisting issues with her shoulders.[3]

The proof on the first and fourth elements were well established; claimant promptly reported the injury on June 2, 2023, and was sent by her employer for medical treatment the same day. There is also objective medical evidence of an injury to both shoulders. Dr. Jones was able to see the left shoulder injury during surgery, recording the post operative diagnosis of a subluxation of the bicep tendon with longitudinal split and hyper vascular tenosynovitis, AC meniscus arthropathy with torn AC meniscus elements, and moderately severe subacromial bursitis rotator cuff fully intact. Because the left shoulder has been the main emphasis of her course of treatment, there are fewer medical records for the right shoulder injury. However, Dr. Jones mentioned in his December 04, 2024, chart note that x-rays of the right shoulder "demonstrates mild-to-moderate AC arthropathy with slight dorsal displacement." That suffices for an objective finding of an injury to the right shoulder.

That then leaves the question whether claimant showed by a preponderance of the evidence that the incident of June 2, 2023, caused the harm for which claimant seeks treatment. The evidence on this point was somewhat muddied by the inquiry claimant made of Dr. Jones regarding causation. He was asked if the June 2, 2023, incident was more than 50% the cause of claimant's need for surgery, and answered that he believed the "June 2, 2023, incident is more than 50% the cause of the injury." That, however, would only be relevant if one of the issues in this case called for a "major cause" analysis, which applies to injuries that are not identifiable by time and place pursuant to Arkansas Code Annotated § 11-9-102(4)(E)(ii)), or claims where a claimant is seeking permanent disability benefits pursuant to Arkansas Code Annotated section 11-9-102(4)(F)(ii). That analysis is unnecessary since claimant sufficiently identified the time and place of an injury, and she is not seeking permanent

[3] Respondent also contended that claimant "possibly underwent new injuries after June 2, 2023" but there was no evidence presented at the hearing to support a contention of a new injury.

disability at this time. An employer takes the employee as he finds him, and employment circumstances which aggravate pre-existing conditions are compensable. *Heritage Baptist Temple v. Robison*, 82 Ark. App. 460, 464, 120 S.W.3d 150, 152 (2003). An aggravation of a preexisting, non-compensable condition by a compensable injury is, itself, compensable. *Williams v. L&W Janitorial, Inc.*, 85 Ark. App. 1, 145 S.W.3d 383 (2004).[4]

Based on the foregoing analysis, I find claimant has met her burden of proof that she sustained a compensable bilateral shoulder injury on June 2, 2023. Because claimant's shoulder injuries are unscheduled injuries, she must prove by a preponderance of the evidence that she remains within her healing period and suffers a total incapacity to earn wages in order to receive temporary total disability benefits, *Allen Canning Co. v. Woodruff*, 92 Ark. App. 237, 212 S.W.3d 25 (2005). From the evidence before me, claimant has proven that she remains in her healing period and is entitled to additional medical treatment. I also find she is totally incapacitated from earning wages. Dr. Jones restricted her from work following surgery for two months on July 17, 2024. He noted she had functional limitations that rendered her not ready for work on October 2, 2024, and scheduled her for a reevaluation in two months. At the December 4, 2024, examination, it was determined that a second left shoulder surgery would be necessary, and as mentioned above, claimant was scheduled for that procedure after the hearing in this case. In *Farmers Coop. v. Biles*, 77 Ark. App. 1, 69 S.W.3d 899 (2002), the Arkansas Court of Appeals held: "If, during the period while the body is healing, the employee is unable to perform remunerative labor with reasonable consistency and without pain and discomfort, his temporary disability is deemed total." Based on my finding that additional medical treatment is appropriate for claimant's injury, and that I found her to be a credible witness as to the pain she suffers on a near-

[4] Because the issues in this matter were limited to whether this was a compensable injury and if so, claimant's entitlement to medical and temporary total disability benefits, it was not necessary for me to decide if claimant was suffering from a pre-existing condition on June 2, 2023, and I offer no opinion on that question.

constant basis, I find she qualifies for temporary total disability from June 13, 2024 until a date to be determined.

ORDER

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

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

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

The respondent shall pay the court reporter's fee in the amount of $585.45.

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

IT IS SO ORDERED.

JOSEPH C. SELF
ADMINISTRATIVE LAW JUDGE