BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
CLAIM NO. G405501

THOMAS GREGORY, EMPLOYEE **CLAIMANT**

VS.

CITY OF SPRINGDALE, EMPLOYER **RESPONDENT**

ARKANSAS MUNICIPAL LEAGUE, CARRIER **RESPONDNET**

OPINION FILED JUNE 10, 2026

Hearing before Administrative Law Judge, James D. Kennedy, on the 22ndth day of April 2026, in Springdale, Arkansas.

Claimant is represented by Evelyn Brooks, Attorney at Law, Fayetteville, Arkansas.

Respondents are represented by Mary K. Edwards, Attorney at Law, North Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on the 22nd day of April 2026, to determine the sole issue of additional medical treatment, specifically right knee surgery as recommended by Doctor Wallace. A copy of the Pre-hearing Order, dated February 11, 2026, was marked "Commission Exhibit 1" and made part of the record without objection. The Order provided that the parties stipulated that the Arkansas Workers' Compensation has jurisdiction of this matter, and that the claimant sustained a compensable injury to his left ankle on April 9, 2014. Additionally, the respondents accepted as a compensable consequence, an injury to the claimant's right knee. At the time of the hearing, the parties agreed that the issue of temporary total disability and the respondent's entitlement to an offset would be reserved.

The claimant's and respondent's contentions were set out in their respective responses to the Pre-hearing questionnaire and made a part of the record without objection. The claimant contended that he is entitled to surgery for his right knee as recommended by Dr. Aaron Jack Wallace. All other issues were reserved at the time of the hearing. The respondents contended that claimant did sustain an initial injury to his left ankle on April 9, 2014. During his recovery, he began having problems with his right knee. Consequently, respondents accepted the right knee as a compensable consequence to his left ankle injury and paid for medical treatment. The claimant primarily saw Dr. Christopher Dougherty for his right knee, and he performed surgery on the knee on October 13, 2015. Following extensive physical therapy, on June 15, 2016, Dr. Dougherty placed claimant at MMI and assigned a two percent (2%) impairment rating to his right knee. In that visit note, Dr. Dougherty opined that claimant would continue to have some discomfort overtime but related this discomfort to the preexisting issues regarding his knee. Respondents were not aware of the claimant receiving medical treatment between June 15, 2016, and September 17, 2025, the date the claimant first saw Dr. Wallace. The respondents contended that the claimant could not prove by a preponderance of the evidence that the medical treatment by Dr. Wallace beginning on September 17, 2025, is reasonably necessary and causally related to this compensable workers' compensation injury. Further, the medical treatment by Dr. Wallace was unauthorized under the Act and therefore, respondents should not owe it. The respondents further contended that the medical treatment by Dr. Wallace was not reasonable, necessary, and causally related to claimant's compensable workers'

compensation injury. Additionally, claimant has not reentered a healing period since he was placed at MMI on June 15, 2016, by Dr. Dougherty.

The sole witness to testify was the claimant, Thomas Gregory. The claimant submitted two exhibits without objection. Claimant's Exhibit One consisted of 31 pages of medical records and Exhibit Two consisted of three pages of non-medical evidence. Respondents also submitted two exhibits without objection with exhibit One consisting of 32 pages of medical and Exhibit Two consisted of seventeen pages of non-medical evidence. From a review of the record as a whole, to include medical reports and other matters properly before the Commission and having had an opportunity to observe the testimony and demeanor of the witness, the following findings of fact and conclusions of law are made in accordance with Ark. Code Ann. 11-9-704.

FINDINGS OF FACT AND CONCLUSSIONS OF LAW

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. That an employer/employee relationship existed on April 9, 2014, the date that the claimant suffered a compensable injury to his left ankle.
3. That the injury to claimant's right knee was accepted as a compensable consequence to claimant's left ankle injury and medical treatment for the right knee was provided by the respondent, which included right knee surgery by Dr. Christopher Dougherty. Dr. Dougherty placed Claimant at MMI on June 15, 2016, and then assigned a two percent (2%) impairment to the right knee.
4. That the claimant has failed to satisfy his burden of proof to prove by a preponderance of the credible evidence that the medical treatment he

requested, treatment by Doctor Wallace and specifically a right knee replacement, is causally related to the treatment for the compensable right knee injury and within the statutory time-period to make said claim. If not already paid, the respondents are ordered to pay for the cost of the transcript forthwith.

REVIEW OF TESTIMONY AND EVIDENCE

The claimant, Thomas Gregory, testified that he was 59 years old at the time of the hearing, had worked as a police officer for the city of Springdale, and had served in the Air Force and received an honorable discharge. He admitted that he had suffered a left ankle injury while working for the Springdale Police Department and received surgery on his left ankle by Dr. Pleimann on July 29, 2014. After the surgery, the claimant testified that he sustained an injury to his right knee while attempting to shower and he slipped, due to not being able to stand on his left ankle, and his knee buckled. The injury to his right knee was accepted by the respondents and he was treated by Dr. Dougherty. At first, he received injections and then surgery to sew up a tear in his meniscus and then physical therapy. After the surgery, he went on to state that his knee hasn't been the same. He thought he received another MRI which showed that he had "re-tore" it. He denied having any new injuries since his surgery and stated that he continued to see Dr. Dougherty until they moved, which occurred in 2019, he believed. He returned to Dr. Dougherty to determine what was going on with his knee and received injections which did not resolve anything, so he then chose pain medications. He stated that he has tried to stay off his knee and doesn't do much walking. He testified that his knee hurts all the time and that it has gotten progressively worse. He understood he did not need to see a

doctor “until I just couldn’t take the pain anymore, so that is when I went and saw the doctor about my knee.” (Tr. 6 – 9)

After a move, he went to his local doctor in Ash Flat, who referred him to NEA Baptist. There, x-rays were taken and maybe an MRI. Dr. Wallace recommended surgery, but the claimant stated he has been unable to have the surgery due to it being a workers’ compensation case. He went on to testify that Dr. Wallace recommended that he get hold of a case worker. (Tr. 10) He denied having any trouble with his right knee prior to the ankle injury and went on to state that he had passed every PT test. He also stated that his knee had gotten progressively worse. (Tr. 11)

Under cross examination, the claimant admitted that he had initially injured his left ankle on April 9th, 2014, which sounded about right. He then slipped and fell while in the shower, injuring his right knee while his left ankle was healing. After the right knee injury occurred, he started seeing Dr. Dougherty, who performed the right knee meniscus surgery, the only surgery received on his right knee. The claimant was then asked if he was aware that Dr. Dougherty’s report provided “He will have some discomfort over time due to his preexisting chondral changes” and he responded, “No.” The claimant also thought that it was probably correct that the last time he saw Dr. Dougerty was April 2nd, 2018. (Tr. 12, 13) The following questioning then occurred:

> Q. So if there is nothing in the medical records that says anything about another surgery, about Dr. Dougherty recommending another surgery, do you have any reason to dispute that?
>
> A. No, no, no.
>
> Q. Okay.
>
> A. No.

> Q. That was my question.
>
> A. No, no, I didn't answer that question. No is not the question. I can't - - I don't think I can answer your question satisfactorily because you are going to say you object.
>
> Q. I am not going to say anything.
>
> A. Okay.
>
> Q. I am just asking you a question.
>
> A. Well, I can't say he said.
>
> Q. Okay.
>
> A. You understand? I can't say he said because he did say certain things.
>
> Q. Okay. I am going to let the medical records speak for themselves and move on.

The claimant went on to admit that he had not seen Dr. Dougherty from April 2, 2018, through the present. (Tr. 14) The claimant also admitted he did not see a physician for his right knee from about 2018 until 2025, and that when he did see a physician, he did not contact the Arkansas Municipal League and sought out the medical treatment on his own due to not being aware that he essentially needed to go through the process. He further admitted he sought out his nurse practitioner in Ash Flat, whose last name was Stucker, and who referred him to Dr. Wallace. (Tr. 15) Dr. Wallace recommended a total knee replacement, and he admitted that he had not undergone that procedure. (Tr. 16) He was asked if he was aware that Dr. Wallace's medical records failed to say anything about the total knee replacement being related to his workers' compensation injury and he responded, "I really don't know what he put in there." He also admitted that he filled out the Form N and signed it. (Tr. 16)

On redirect, in regard to the Form N, he testified that every year we do ground fighting at ALETA and this was where he initially injured his ankle, which was just like a sprain. He let his supervisor know. After his knee injury in the tub or shower, he first saw his family doctor. He was asked if the MRI dated July of 2015 was his first MRI and he responded he could not recall. Prior to his knee injury, he stated he did not have any problems with his right knee. (Tr. 17, 18) He admitted that he had discussions with Dr. Dougherty about what was going to happen with his right knee and his right knee was worse several years after the surgery.

On recross the claimant admitted that he had surgery after the MRI on July 14th, 2015. (Tr. 19)

The claimant submitted two exhibits, both admitted without objection. Claimant's Exhibit One, provided that the claimant was seen on October 22, 2013, for a left ankle injury that had progressively gotten worse, and which occurred while the claimant was attending ground fighting school. The x-ray of the left foot was unremarkable, but the x-ray of the left ankle was suspicious for a nondisplaced tibial fracture, but the interpretation was very difficult due to multiple degenerative changes from previous injuries. (Cl. Ex. 1, P. 1, 2) The records then provided that claimant presented to Dr. Jason Pleimann on May 15, 2014, for a complaint involving his left ankle. (Cl. Ex. 1, P. 3, 4) On July 29, 2014, the claimant presented to the North Hills Surgery Center, LLC, for a left ankle arthroscopy with extensive debridement by Dr. Pleimann. (Cl. Ex. 1, 5, 6) Less than a month later, on August 19, 2014, the claimant presented to Mercy Clinic due to right knee pain after falling in the bathtub after the left ankle surgery. An orthopedic referral resulted. (Cl. Ex. 1, P. 7 – 9)

On September 15, 2014, the claimant first presented to Dr. Dougherty for an office visit involving his right knee. The report provided for a finding of a medial meniscus tear which was treated with a knee injection. (Cl. Ex. 1, P. 10 – 12) The next visit of record to Dr. Dougherty occurred on April 2, 2018. The report provided for osteoarthritis of the right knee and with articular cartridge disorder of the left ankle. (Cl. Ex. 1, P. 13 – 16) The report also provided that the claimant presented to Dr. Dougherty on February 20, 2017, with a surgical history of a medial meniscus repair and with osteoarthritis of the right knee. (Cl. Ex. 1, P. 16 – 20)

The medical evidence of record also provided that the claimant presented to Baptist Orthopedic on March 19, 2025, with right knee pain that began two to two and a half months earlier. The claimant provided that he was unable to straighten the joint and when he walked, it wanted to buckle. X-rays provided claimant does suffer from bone-on-bone arthritis of the right knee. It went on to provide there was severe tri-compartment DJD (degenerative joint disease) and complete loss of medial compartment joint space. No fracture subluxation or dislocation was noted. (Cl. Ex. 1, P. 21 – 26) The claimant returned to Baptist Orthopedic on September 17, 2025, for a follow up for his right knee pain. The report provided that the pain had worsened. Walking, standing, and sleeping caused pain. The report referred to the last visit where the claimant reported right knee pain due to bone-on-bone degenerative joint disease. The report mentioned a history of meniscus surgery, which resulted in a retear. This was followed up by an incident where his knee suddenly locked up, causing significant pain and instability. A knee scope to clean up the joint was discussed. (Cl. Ex. 1, P. 27 – 31)

The claimant also submitted a summary of events to clarify the events involving his ankle and knee which was admitted without objection. The claimant initially injured his ankle on October 22, 2013, while attending Defensive Tactics Class and went to the doctor the following October 31, 2013, and was given rehabilitation. He reinjured his ankle during foot pursuit of an escaped prisoner on April 28, 2014, and later had surgery on the ankle on October 31, 2014. He began receiving therapy on the ankle on November 24, 2014. (Cl. Ex. 2, P. 1-3)

The respondents also submitted two exhibits which were admitted into the record without objection. The first exhibit consisted of 32 pages of medical records. The first medical report was from Mercy Clinic and contained a referral to Dr. Dougherty. (Resp. Ex. 1, P. 1) Dr. Dougherty initially saw the claimant for right knee pain on September 14, 2014. (Resp. Ex. 1, P. 2,3) The claimant returned to Dr. Dougherty on July 13, 2015, for right knee pain and a follow up for a tear of the medial meniscus of the right knee. (Resp. Ex. 1, P. 4 - 6) An MRI of the right knee on July 24, 2015, provided for a torn posterior horn of the medial meniscus, small joint effusion, and mild degenerative arthrosis. (Resp. Ex. 1, P. 7) The claimant returned to Dr. Daugherty on July 27, 2015, in regard to the right knee medial meniscus tear. (Resp. Ex. 1, P. 8 – 10)

An Operative Report from the Northwest Medical Center dated October 13, 2015, provided for a medial meniscus repair by Dr. Dougherty. (Resp. Ex. 1, P. 11, 12) On October 26, 2015, the claimant returned to Dr. Dougherty for a follow up which provided that the claimant was doing well and would continue physical therapy. (Resp. Ex. 1, P. 13, 14) The claimant returned to Dr. Dougherty four more times before presenting for another MRI of the right knee on May 5, 2016. The report provided there was small joint

effusion with a nondisplaced tear involving the posterior horn of the medial meniscus and mild osteoarthritic degenerative changes. (Resp. Ex. 1, P. 15 – 26) The claimant returned to Dr. Dougherty for a clinic visit on May 9, 2016, following the MRI. The report provided that the claimant's knee pain was "back to square one." A corticosteroid injection was performed. (Resp. Ex. 1, P. 27 – 29) The final report of record provided that the claimant returned to Dr. Dougherty on June 15, 2016. The report provided that the claimant "will continue to have some discomfort over time due to his preexisting chondral changes." (Resp. Ex. 1, P. 30 – 32)

The respondent also submitted seventeen pages of non-medical records that were admitted into the record without objection. The first document of record is an N Form dated April 9, 2014, and signed by the claimant that provided that his ankle was injured. The City of Springdale filed a First Report of Injury which provided that the Claimant was first injured on April 9, 2014, and then reinjured his left ankle while in the pursuit of a suspect on July 28, 2014. (Resp. Ex. 2, P. 1, 2) LOPFI Records were also provided as well as an LOPFI Offset Calculation. (Resp. Ex. 2, P. 3-6) A medical payment log provided that the last payment for medical services was made on September 7, 2018, and the last payment for physical therapy occurred on October 8, 2018. (Resp. Ex. 2, P. 7 – 13) The Indemnity Log provided that the last indemnity payment was made on December 19, 2018.

DISCUSSION AND ADJUDICATION OF ISSUES

In the present matter, the parties stipulated that the claimant sustained a compensable injury to his left ankle on April 9, 2014, and that the respondents accepted the claimant's injury to his right knee as a compensable consequence of the original injury.

The claimant received surgery for a right knee meniscus repair on October 13, 2015, followed up by extensive physical therapy. Dr. Dougherty, the surgeon who performed the meniscus repair, opined that the claimant reached MMI on June 15, 2016, and assigned a 2% impairment rating to the claimant's right knee. Consequently, the claimant is therefore not required to establish "objective medical findings" in order to prove that he is entitled to additional benefits. *Chamber Door Indus., Inc. v Graham*, 59 Ark. App. 224, 956 S.W.2d 196 (1997).

Dr. Dougherty's final medical report of record provided that the claimant would have some discomfort over time due to his preexisting chondral changes. The claimant testified that probably the last time he saw Dr. Dougherty was around April 12, 2018. The medical records at the time do not provide that Dr. Dougherty recommended additional surgery. The claimant also admitted that he did not seek out additional medical treatment for his right knee from about 2018 until 2025, when he was eventually seen by Dr. Wallace, after a referral from his nurse practitioner located in Ash Flat, near his new residence. The medical records provide that the claimant was seen at NEA Baptist Orthopedic on March 19, 2025, when he presented with right knee pain that as provided by the claimant, began two to two and a half months earlier per the medical records. The x-rays at the time provided for bone-on-bone arthritis. The medical report additionally provided for degenerative joint disease with a complete loss of the medial compartment joint space due to osteophyte formation. The claimant was later seen by Dr. Wallace on September 17, 2025, for a follow up for his right knee pain. Dr. Wallace stated in his report that a knee scope was discussed as a potential treatment for the mechanical symptoms of the knee but that scoping the knee would not alleviate the arthritis pain and given the

claimant's age of 59 at the time of the exam and the presence of arthritis behind the kneecap, and a total knee replacement was recommended. Dr. Wallace did mention that the claimant should contact his "work comp case manager" but did not connect the claimant's issues with his knee and his workers' compensation injuries.

A claimant must prove that he or she acted within the time allowed for filing a claim for additional compensation. *Farris v. Express Servs., Inc.*, 2019 Ark. 141, 572 S.W.3d 863. For purposes of this opinion, there are two general types of claims: (1) the initial claim and (2) claims for additional compensation which include disability or medical. A.C.A. §11-9-702. The Arkansas Workers' Compensation Act provides that in cases where any compensation, including disability or medical, has been paid on account of injury, a claim for additional compensation shall be barred unless filed with the commission within one (1) year from the date of the last payment of compensation or two (2) years from the date of the injury, whichever is greater. The burden is not on the carrier to find out whether medical treatments are continuing; the burden is, rather on the claimant to act within the time allowed. *Superior Fed. Sav. & Loan Ass'n v Shelby*, 265 Ark. 599, 580 S.W.2d 201 (1979). It is the claimant's burden to prove that the claim is timely. Here, there are no records of any benefits being provided to the claimant since the year of 2018, and no request for additional treatment regarding the right knee until 2025.

It is noted that in workers' compensation law, the employer takes the employee as he finds him and employment circumstances that aggravate pre-existing conditions are compensable. *Heritage Baptist Temple v. Robinson*, 82 Ark. App. 460, 120 S.W. 3d 150 (2003). The parties agreed that the claimant suffered as a consequence of his work-related injury on April 9, 2014, a compensable right knee injury. Various imaging

modalities provided the claimant also suffered from arthritic issues as do most people who are approximately 60 years of age. Dr. Dougherty, the treating surgeon, who performed surgery on the claimant's right knee, stated at the time he performed the surgery that the claimant would likely suffer some discomfort due to his existing chondral changes. Dr. Wallace, the surgeon who examined the claimant years later, recommended a right knee replacement in 2025. The related reports at the time of his examination provided for bone-on-bone arthritis with degenerative joint disease and made no connection to the claimant's knee issues at the time of the exam and his previous workers' compensation claim, with the exception of mentioning that the claimant talk to his workers' compensation case coordinator. The testimony of the claimant and the applicable medical records do not resolve the issue of the requested additional treatment recommended by Dr. Wallace. Speculation and conjecture cannot substitute for credible evidence. *Liaromatis v. Baxter county Regional Hospital*, 95 Ark App. 296, 236 S.W.3d. 52 (2006).

The claimant bears the burden of proof in establishing entitlement to benefits under the Arkansas Workers' Compensation Act and must sustain that burden by a preponderance of the evidence. *Dalton v. Allen Engineering Co*., 66 Ark. App 260, 635 S.W.2d 543. Injured employees have the burden of proving by a preponderance of the evidence that the medical treatment is reasonably necessary for the treatment of the compensable injury. *Owens Plating Co. v. Graham*, 102 Ark. App 299, 284 S.W. 3d 537 (2008). What constitutes reasonable and necessary treatment is a question of fact for the Commission. *Anaya v. Newberry's 3N Mill*, 102 Ark. App. 119, 282 S.W.3d 269 (2008).

The claimant suffered a right knee injury that was accepted as compensable back in 2014. Both the medical and pay records provided that the claimant did not receive

medical treatment or indemnity payments after 2018, and there is no proof that additional medical care for the right knee was requested until the claimant presented to Dr. Wallace in 2025. The claimant admitted that he did not seek medical care for his right knee from the end of 2018 until 2025. Additionally, the claimant has failed to prove that knee replacement surgery is related to the work-related injury years before.

Where there are contradictions in the evidence, it is within the Commissions' province to reconcile conflicting evidence and to determine the true facts. *Cedar Chem. Co. v. Knight*, 99 Ark. App. 162, 258 S.W.3d 394 (2007). The Commission has authority to accept or reject medical opinion and to determine its medical soundness and probative force. *Oak Grove Lumber Co. v. Highfill*, 62 Ark. App. 42, 968 S.W.2d 637 (1998). However, the Commission may not arbitrarily disregard the testimony of any witness. *Patchell v. Wal-Mart Stores, Inc*., 86 Ark. App. 230, 184 S.W.3d 31 (2004).

After reviewing all of the evidence, without giving the benefit of the doubt to either party, there is no alternative but to find that the claimant has failed to satisfy his required burden of proof to prove by a preponderance of the credible evidence that the medical treatment requested, specifically treatment by Doctor Wood which included a knee replacement, is causally related and reasonably necessary for the treatment of the compensable right knee injury and within the statutory period to make said claim.

IT IS SO ORDERED.

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JAMES D. KENNEDY
Administrative Law Judge