

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H302799

GISELA GUTIERREZ,
EMPLOYEE

CLAIMANT

TYSON POULTRY, INC.,
EMPLOYER

RESPONDENT

TYNET CORPORATION,
INSURANCE CARRIER/TPA

RESPONDENT

OPINION FILED MAY 31, 2024

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

Claimant represented by the HONORABLE EVELYN E. BROOKS, Attorney at Law, Fayetteville, Arkansas.

Respondents represented by the HONORABLE JEREMY SWEARINGEN, 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 December 19, 2023. The administrative law judge found that the claimant failed to prove she sustained a compensable injury. After reviewing the entire record *de novo*, the Full Commission finds that the claimant proved by a preponderance of the evidence that she sustained a compensable injury.

I. HISTORY

Gisela Gutierrez de Maldonado, now age 45, testified that she became employed with the respondent, Tyson, in 2003. The claimant

testified that she initially performed “deboning” in her work for the respondent-employer. The parties stipulated that the employment relationship existed on June 15, 2022. The claimant testified on direct examination:

Q. What job were you doing in the spring and summer of 2022?

A. 2022, the same thing but they closed the plant in Rogers and moved us to Springdale....My wrist started hurting me from pulling the skin off.

Q. And which wrist was that?

A. The right one.

Q. Have you ever had any problems with that right wrist before these symptoms began?

A. No.

Q. Now, you said you were pulling the skin. Can you describe the job more specifically?

A. So the job there is to flip the breast over and then pull the skin off of it....

Q. And are you standing in an assembly line when you're doing this?

A. Yes.

Q. Do you know whether there's a quota for how many breasts you must do per minute?

A. Fifty.

Q. When you began having these symptoms in your right hand and wrist, did you report those?

A. Yes, I told the nurse's station.

Q. And is that the procedure that you were instructed to use when you have an injury at Tyson?

A. Yes, I mean there's a lot of different departments at Tyson, and it just depends on what area you work in....

Q. So when you reported to the nurse's station, what did the nurse do for you?

A. Nothing....

Q. As the days went on, did you begin to have more symptoms?

A. Yes....The pain moved up to my elbow.

Q. And is that your right elbow?

A. Yes, the right elbow.

Q. And did you report the problem again?

A. Yes, I told Maria, the supervisor.

Q. And about how long was this from the time you first reported the nurse's station?

A. About three weeks....

Q. So did the nurse offer you any treatment?

A. No, no. She just told me to take some of the cream that they had and rub that on.

Q. And did you make it clear to the nurse and to Maria that you believed it was your work that was causing your problems?

A. Yes, I told Maria and the nurse that.

Q. So when the nurse did not offer you any treatment, did you continue to work?

A. Yes, I did.

Q. And did you seek medical treatment on your own?

A. Yes. I went to my own doctor because I couldn't take the pain anymore.

Q. And who is your doctor?

A. Smiley, John Smiley.

Q. And did Dr. Smiley give you any treatment for your elbow and wrist?

A. No....He sent me to Dr. Chen.

According to the record, the claimant treated at Mercy Clinic

Orthopedics Rogers beginning October 6, 2022. The claimant reported

"pain on both arms" and that the pain was worsened by "Work." Dr.

Andreas Chen began treating the claimant on October 6, 2022:

A 43-year-old right-hand dominant female, who works at Tyson, who presents today for evaluation of her bilateral upper extremities. She states that her left hand has been bothering her especially at the wrist. She notes that it hurts her whenever she uses her left upper extremity. It has been going on for the last 3 months. She notes that her right hand has also been having numbness and tingling as well. It has been bothering her. She has not worn braces on either wrists

(sic). Of note, she is an uncontrolled diabetic with an A1c greater than 12.

Dr. Chen assessed “A 43-year-old female with uncontrolled diabetes with left TFCC inflammation along with right carpal tunnel syndrome.” Dr. Chen planned, “Her diabetes is too out of control for her [to] undergo steroid injection or to undergo surgical intervention. At this point, I would recommend placing a volar cock-up brace to help with the TFCC and using diclofenac gel. On the right side, I would like her to use a volar cock-up brace as well. I would like to see her back in another 6 weeks for repeat evaluation to see how she is doing with her diabetes. If her sugars are better and her A1c is better, then we can potentially give her a steroid injection or set her up for surgical intervention.”

Dr. Miles M. Johnson provided an EMG Report on November 30, 2022:

Median motor distal latencies are prolonged bilaterally, right worse than left. Ulnar motor study is normal bilaterally. Right median orthodromic response is nonrecordable. Ulnar response is normal. Left median ulnar orthodromic sensory latency difference is abnormal. Radial sensory response is normal bilaterally. EMG examination revealed reduced recruitment in the APB bilaterally.

ASSESSMENT: Bilateral carpal tunnel syndrome. This is severe on the right and moderate on the left. There is no electrodiagnostic evidence of radiculopathy, plexopathy, generalized peripheral neuropathy or other peripheral nerve entrapment syndromes...Would recommend evaluation for bilateral carpal tunnel releases beginning on the right.

The claimant followed up with Dr. Chen on December 13, 2022:

A 44-year-old female, who presents back today for evaluation of her right upper extremity....Electrodiagnostic testing from Dr. Miles Johnson was reviewed from 11/30/2022 revealing right carpal tunnel syndrome....She has carpal tunnel syndrome. It is fairly severe. At this point, I would recommend an endoscopic carpal tunnel release. I initially was hesitant to offer her surgical intervention as her sugars are not well controlled. Since they are much better controlled, we can do this....We will do her surgery under IV sedation in January. She will have 3 weeks off her work. She needs to wear her braces in the meantime to help with her tingling and to help with her pain in the left wrist.

On January 5, 2023, Dr. Chen signed a Tyson certification indicating that the claimant could return to regular work with no restrictions on February 1, 2023.

The record indicates that Dr. Chen performed a right carpal tunnel release on January 16, 2023. The claimant testified that she was off from work for two weeks following surgery.

Audrey C. Smith, PA noted on February 2, 2023, "Patient is 2 weeks postop right carpal tunnel release performed on 1/16/2023. She reports that she is doing much better. She is having some pain in her palm but other than that she is happy with the procedure. Patient is overall happy with the procedure....Patient is healing well from a right carpal tunnel release. She was educated that there may continue to be pain in their palm for up to 4-6 weeks post operatively but this should progressively improve. Patient is released to do what they would like as tolerated with pain."

Audrey C. Smith examined the claimant on April 26, 2023:

Gisela Gutierrez de Maldonado is a 44 y.o. female who presents with right elbow pain. This has been going on for the past 3 months. She has a lot of pain whenever she is trying to move her hand or her wrist. She uses her hands a lot at work and so she has some issues with that. The pain is in her elbow but does seem to radiate down her arm. She has not tried any conservative management....

MUSCULOSKELTAL: Upon exam of right upper extremity, patient has tenderness to palpation over the right lateral epicondyle. No tenderness over the medial epicondyle. No tenderness over the olecranon. Some tenderness throughout the forearm. Some tenderness with wrist extension. No deformities noted....

Patient has right lateral epicondylitis. This is something we can manage conservatively. What I would recommend is that we give her a tennis elbow strap as well as some numbness in her in some anti-inflammatory medication. I will send her in meloxicam. She should take it every day for the next 2 weeks and as needed thereafter. [Let's] see her back in about 6 weeks. I did tell her it takes a while for this to completely improve. She is a diabetic so this will increase her duration of healing....She is released to full duty.

Ms. Smith assessed "Right lateral epicondylitis."

A pre-hearing order was filed on June 21, 2023. According to the pre-hearing order, the claimant contended, "The claimant contends she is entitled to payment of medical treatment for her right wrist and elbow, and to payment of temporary total disability benefits for two weeks during January of 2023. Claimant reserves all other issues."

The parties stipulated that the respondents "controverted this claim in its entirety." The respondents contended, "The respondents contend that claimant has offered no proof at all that she sustained a compensable right wrist or elbow injury. She has provided no objective medical findings of

injury or any records whatsoever. Respondent contends that its first notice that the claimant was alleging a compensable right wrist and elbow injuries (sic) was the AR-C filed by the claimant's attorney which was received by the respondent on May 3, 2023. Thus, even if the claimant (sic) were somehow found to be compensable, respondent would not be liable for any benefits incurred or accrued before the date such notice was received. The claimant has not specified what temporary total disability benefits she is seeking. The claimant has not specified what medical she is seeking."

The parties agreed to litigate the following issues:

1. Compensability of a gradual onset injury to claimant's right wrist and elbow on or about June 15, 2022.
2. Medical expenses.
3. Temporary total disability benefits.
4. Attorney's fee.
5. Notice.

The parties deposed Dr. Chen on November 17, 2023. The respondents' attorney examined Dr. Chen:

Q. Did – you ended up conducting – performing surgery on the right side for carpal tunnel release. Is that right?

A. Correct....

Q. In the October 6th chart dictation, there's mention of uncontrolled diet. She's an uncontrolled diabetic with an A1c greater than 12. And why is that, in your opinion, relevant to a discussion of carpal tunnel or upper extremity complaints like this?

A. So there are a couple of reasons. One is that diabetes can increase your symptoms of carpal tunnel syndrome. Number two is that I would not intervene on any – I would not intervene on her care, if her diabetes is uncontrolled, so –

because the risk of infection goes up significantly, if her – your sugars are uncontrolled....

Q. Now, I've read some literature that indicates that there's, at least, a belief that diabetes is causative in the formation of carpal tunnel syndrome. Is that your understanding as well?

A. I think there's a correlation. I am not convinced of causation. I think there are people who are – people who are diabetic more likely to develop carpal tunnel syndrome. We have – we don't have a causation.

Q. Okay. Now, and some of the literature I read, just to try to figure out the correlation, there is a theory or, at least, a belief that the glucose in high-glucose-blood-sugar patients accumulates around the median nerve and causes inflammation within the carpal tunnel. Is that something that you've read?

A. It is possible. Correct....

Q. When you go in, for example, and do the carpal tunnel release, what you do is, you go in and essentially free up the median nerve within the carpal tunnel?

A. Correct.

Q. And that doesn't tell you, or does it, when you go in and you look at the median nerve, what is causing inflammation to the nerve?

A. I do not. I cannot tell what's causing it....

Q. When was the very first time that you heard talk about this condition of her being alleged to be work-related?

A. When you sent me a message about a deposition.

Q. Okay. Before I asked you for your deposition, did you have any opinion at all about whether this condition of hers was or was not work-related?

A. I did not have an opinion....

Q. Would it be fair to say that she has, at least, indicated that her symptoms she feels are worse when she's using her hands at work?

A. Correct.

Q. Would it also be correct to say that there's a temporal proximity between her blood sugars being out of control and her presentation for treatment of those symptoms, both in terms of coming – showing up, and also reporting severity?

A. Correct.

Q. Is there any way to state within a reasonable degree of medical certainty which of these causes or potential causes is

the cause of her carpal tunnel syndrome, as opposed to the symptoms just manifesting at a given time?

A. It is not possible to say.

Q. Would it be fair to say that it's not surprising that she has symptoms of pain and these carpal tunnel symptoms when she's using her hands a lot?

A. It is fair to say that. Correct.

Q. Because – and then, if she has carpal – underlying carpal tunnel syndrome from whatever reason, it would be – would it be expected for her to have those symptoms manifest when she's using her hands a lot?

A. Yes.

The claimant's attorney cross-examined Dr. Chen:

Q. I represent your patient, Giselda Gutierrez, and I am just trying to figure out a little bit about this. Because I thought I heard you say, at the very beginning of your deposition, that you would not say that diabetes is causative of carpal tunnel syndrome.

A. Correct. I said "correlation," but not causation.

Q. Okay. So a person who does rapid and repetitive work – we're talking about maybe 50 breaths per minute – who has done that for, not only weeks and months, but years, would that be a common cause of carpal tunnel syndrome?

A. No. The literature used to think that repetitive motion caused it. The newer literature does not support that.

Usually, it is repetitive trauma to it, such as, like, jackhammering for long periods of time. But repetitive action is not – the newer literature shows that actions are not a cause, but it can exacerbate the symptoms. But it is not the cause, typically.

Q. So the grasping and gripping of items in a quick way, the squeezing of your hands that we've thought, for years, was causative of carpal tunnel syndrome, would that be considered a trauma, repeatedly, over weeks and months?

A. No. No. They're very specific on it, where it's – it's a repetitive – not grasping, but it is repetitive trauma to the carpal tunnel....

Q. How would there be a correlation between someone that does this – not just repetitive, but the rapid and repetitive,

same motion, in a rapid way, over and over – how would that be correlated?

A. So – to me, carpal tunnel is idiopathic. The majority of carpal tunnel symptoms are because, hey, you're getting older. When you move your wrist around, it causes compression - or it causes the tunnel to become smaller. So if you're moving your wrist around, it doesn't cause carpal tunnel, but it causes the wrist to be smaller, which is why we have your wear braces. So when your wrist is straight, it is bigger. So the motion of your wrist, when you move it up and down, makes that tunnel smaller, but it does not cause – which is the thickening of the transverse carpal ligament which is what is the – what is – what we think is the cause of the carpal tunnel....Or of carpal tunnel syndrome....

A hearing was held on November 29, 2023. The claimant testified that she had returned to work for the respondent-employer, but that she continued to suffer with pain in her right hand and right elbow. An administrative law judge filed an opinion on December 19, 2023 and found that the claimant failed to prove she sustained a compensable injury. The claimant appeals to the Full Commission.

II. ADJUDICATION

Act 796 of 1993, as codified at Ark. Code Ann. §11-9-102(4)(Repl. 2012) provides, in pertinent part:

- (A) "Compensable injury" means:
 - (ii) An injury causing internal or external physical harm to the body and arising out of and in the course of employment if it is not caused by a specific incident and is not identifiable by time and place of occurrence, if the injury is:
 - (a) Caused by rapid repetitive motion. Carpal tunnel syndrome is specifically categorized as a compensable injury falling within this definition[.]

Ark. Code Ann. §11-9-102(4)(A)(ii)(Repl. 2012) explicitly provides that carpal tunnel syndrome is both compensable and falls within the definition of rapid repetitive motion. *Kildow v. Baldwin Piano & Organ*, 333 Ark. 335, 969 S.W.2d 190 (1998).

A compensable injury must also be established by medical evidence supported by objective findings. Ark. Code Ann. §11-9-102(4)(D)(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).

Ark. Code Ann. §11-9-102(4)(Repl. 2012) further provides, in pertinent part:

- (E) BURDEN OF PROOF. The burden of proof of a compensable injury shall be on the employee and shall be as follows:
 - (ii) For injuries falling within the definition of compensable injury under subdivision (4)(A)(ii) of this section, the burden of proof shall be by a preponderance of the evidence, and the resultant condition is compensable only if the alleged compensable injury is the major cause of the disability or need for treatment.

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). “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). The claimant must prove that the alleged *compensable injury*, not her *work*, is the major cause of the disability or need for treatment. *Medlin v. Wal-Mart Stores, Inc.*, 64 Ark. App. 17, 977 S.W.2d 239 (1998).

An administrative law judge found in the present matter, “2. Claimant has failed to prove by a preponderance of the evidence that she suffered a compensable gradual onset injury to her right wrist and elbow on or about June 15, 2022.” The Full Commission does not affirm the administrative law judge’s finding. The Full Commission finds that the claimant proved she sustained a compensable injury.

The claimant testified that she became employed with the respondents in 2003, and the parties stipulated that the employment relationship existed on June 15, 2022. The claimant testified that her right wrist began hurting in 2022 as a result of her strenuous work activities for the respondents. The determination of the credibility and weight to be given a witness’s testimony is within the sole province of the Commission. *Murphy v. Forsgren, Inc.*, 99 Ark. App. 223, 258 S.W.3d 794 (2007). The Full Commission finds in the present matter that the claimant was a credible witness. The claimant credibly described processing chickens for the respondents on an assembly line, which work began in 2003. The claimant testified that she reported her work-related symptoms to a company nurse

and a supervisor beginning in 2022. The claimant testified that the pain radiated from her right wrist to her elbow. The claimant testified that she sought treatment with Dr. Smiley who referred her to Dr. Chen.

The medical evidence of record corroborated the claimant's testimony. Dr. Chen reported beginning in October 2022 that the claimant was suffering from pain in her bilateral extremities but primarily pain in her right wrist. An October 6, 2022 report from Mercy Clinic Orthopedics Rogers confirmed that the claimant's pain was worsened by her "Work." Dr. Chen noted that the claimant had been suffering from pain for three months. Dr. Chen assessed "uncontrolled diabetes" and "Right carpal tunnel syndrome." Dr. Johnson performed objective electrodiagnostic testing on November 30, 2022 and assessed "Bilateral carpal tunnel syndrome," "severe on the right and moderate on the left." Dr. Johnson recommended "Bilateral carpal tunnel releases beginning on the right." Dr. Chen performed a right carpal tunnel release on January 16, 2023.

The Full Commission finds that the claimant proved she sustained a compensable injury in accordance with Ark. Code Ann. §11-9-102(4)(A)(ii)(a)(Repl. 2012). We recognize Dr. Chen's deposition testimony concerning his diagnosis of "uncontrolled diabetes" with regard to the claimant's carpal tunnel syndrome. Dr. Chen found that it was "not possible to say" whether the claimant's symptoms were related to carpal tunnel

syndrome rather than diabetes. Dr. Chen opined at deposition that the claimant's carpal tunnel syndrome was "idiopathic" and was not related to repetitive trauma. The Commission has the authority to accept or reject medical opinion and the authority to determine its medical soundness and probative force. *Green Bay Packaging v. Bartlett*, 67 Ark. App. 332, 999 S.W.2d 692 (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 Dr. Chen's opinion with regard to causation is entitled to minimal evidentiary weight. The evidence of record does not support Dr. Chen's opinion that the claimant's carpal tunnel condition was "idiopathic" or was causally related to "uncontrolled diabetes."

The Full Commission finds that the claimant proved by a preponderance of the evidence that she sustained a compensable injury. The claimant proved that she sustained a compensable right carpal tunnel syndrome injury which caused physical harm to the body, arose out of and in the course of the claimant's employment with the respondents, and was not identifiable by time and place of occurrence. The claimant also established a compensable injury by medical evidence supported by objective findings, namely Dr. Johnson's assessment of carpal tunnel syndrome based on objective electrodiagnostic testing. The claimant

proved that the compensable injury was the major cause of her disability and need for treatment.

After reviewing the entire record *de novo*, the Full Commission finds that the claimant proved she sustained a compensable right carpal tunnel syndrome injury in accordance with Ark. Code Ann. §11-9-102(4)(A)(ii)(a)(Repl. 2012). The claimant proved that she provided timely notice on or about June 15, 2022, when the claimant reported the compensable injury to a company nurse and a supervisor. The record therefore indicates that the employer had knowledge of the injury in accordance with Ark. Code Ann. §11-9-701(b)(1)(A)(Repl. 2012). The evidence of record demonstrates that the assessment of “Right lateral epicondylitis” was a natural consequence of the claimant’s compensable right carpal tunnel syndrome injury. *See Nichols v. Omaha Sch. Dist.*, 2010 Ark. App. 194, 374 S.W.3d 148. The claimant proved that the medical treatment of record, including surgery performed by Dr. Chen and subsequent treatment provided by Audrey C. Smith, was reasonably necessary in accordance with Ark. Code Ann. §11-9-508(a)(Repl. 2012). Finally, the evidence demonstrates that the claimant remained within a healing period and did not return to work beginning January 16, 2023 and continuing until February 1, 2023. The claimant therefore proved that she was entitled to temporary total disability beginning January 16, 2023 and

continuing until February 1, 2023. See *Wheeler Constr. Co. v. Armstrong*, 73 Ark. App. 146, 41 S.W.3d 822 (2001).

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, 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's finding that the claimant proved by a preponderance of the evidence that she sustained a compensable gradual onset injury to her right wrist.

It is undisputed that the claimant was diagnosed with bilateral carpal tunnel syndrome in November of 2022 and underwent right carpal tunnel release in January of 2023. What is at issue here is the whether the

claimant has established that her work for the respondent employer was the major cause of her right carpal tunnel syndrome as required by our Rules.

It is well settled that carpal tunnel syndrome (CTS) constitutes a gradual onset injury and the claimant is therefore not required to establish that her injury was caused by rapid and repetitive motion. *Kildow v. Baldwin Piano & Organ*, 333 Ark. 335, 969 S.W.2d 190 (1998). However, she must still prove that (1) her CTS arose out of and in the course and scope of her employment; (2) her injury caused internal or external physical harm to the body that required medical services or resulted in disability; and (3) the injury was the major cause of the disability or need for treatment. Ark. Code Ann. § 11-9-102(4)(A)(i),(ii), (E)(ii).

Here, the claimant was diagnosed with Type II Diabetes twelve years prior to the onset of her CTS symptoms. (Hrng. Tr., P. 12). At the claimant's initial visit with Dr. Andreas Chen on October 6, 2022, the claimant was living with uncontrolled diabetes and her A1c was greater than 12. (Hrng. Tr., P. 16; Cl. Ex. 1, P. 1). In his deposition testimony, Dr. Chen explained the relationship between diabetes and CTS symptoms:

Q: (by Mr. Swearingen) In the October 6th chart dictation, there's mention of uncontrolled diet. She's an uncontrolled diabetic with an A1C greater than 12. And why is that, in your opinion, relevant to a

discussion of carpal tunnel
or upper extremity
complaints like this?

A: So there are a couple of reasons. One is that diabetes can increase your symptoms of carpal tunnel syndrome. Number two is that I would not intervene on any -- I would not intervene on her care, if her diabetes was uncontrolled, so -- because the risk of infection goes up significantly, if her - - your sugars are uncontrolled. I would -- that is my way of saying, hey, I would not operate on her. It also says, hey, I would not give her a steroid injection, either.

(Depo. of Dr. Andreas Chen, P. 11).

Dr. Chen testified that some diabetics are more likely to develop CTS, and that the glucose in a diabetic person can accumulate around the median nerve and cause inflammation in the carpal tunnel which tends to produce symptoms. (Depo., P. 12). In fact, resolution of uncontrolled blood sugar can decrease or even eliminate the symptoms of CTS. (Depo., P. 15). Dr. Chen stated when he performs surgery and releases the median nerve within the carpal tunnel, there is no way to determine what is causing the inflammation, whether it is CTS or diabetes. In other words, Dr. Chen cannot determine whether the CTS is a result of job activities or diabetes.

(Depo., Pp. 13,14). Dr. Chen testified that he was unwilling to state within a reasonable degree of medical certainty that the claimant's CTS resulted from her job activities:

Q: (by Mr. Swearingen) So as we sit here today, with Ms. Gutierrez specifically, is there any way -- and let me preface this by saying, would it be correct to say that Ms. Gutierrez gave you a history of noticing problems with her hands when she used them a lot at work?

A: Ask that question again.

Q: Sure. And I'm going back to the very, very --

A: Yes.

Q: -- intake form. She said -- "What makes your pain worse?" "Work."

A: Correct.

Q: And she has a hand-intensive job. Would it be fair to say that she has, at least, indicated that her symptoms she feels are worse when she's using her hands at work?

A: Correct.

Q: Would it also be correct to say that there's a temporal proximity between her blood sugars being out of control and her presentation for treatment of those symptoms, both in terms of coming -- showing up, and also reporting severity?

A: Correct.

Q: Is there any way to state within a reasonable degree of medical certainty which of these causes or potential causes is the cause of her carpal tunnel syndrome, as opposed to the symptoms just manifesting at a given time?

A: It is not possible to say.

Q: Would it be fair to say that it's not surprising that she has symptoms of pain and these carpal tunnel symptoms when she's using her hands a lot?

A: It is fair to say that. Correct.

Q: Because -- and then, if she has carpal -- underlying carpal tunnel syndrome from whatever reason, it would be -- would it be expected for her to have those symptoms manifest when she's using her hands a lot?

A: Yes.

Q: Would it also be expected that -- if her blood sugar becomes more out of control, getting into those upper levels, like 250, 300, would it also be expected for her to experience symptoms from her carpal tunnel syndrome at those times where her blood sugar is way out of control?

A: Yes.

Q: Would it be fair to say that correlation doesn't necessarily mean causation?

A: Correct.

(Depo., Pp. 26-28).

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. *Schulgen v. Lowe's Home Improvement Ctrs.*, 2022 Ark. App. 166, 644 S.W.3d 433 (2022).

Dr. Chen's opinion is entitled to significant weight as the claimant's treating and operating physician. In his testimony, Dr. Chen was explicit in his refusal to state within a reasonable degree of medical certainty that the claimant's work was the cause of her CTS. This opinion is based on his experience, training, and current medical literature which is widely accepted within the medical community. (Depo., P. 38).

Based on Dr. Chen's testimony, the claimant has failed to prove by a preponderance of the evidence that her job duties were the major cause of her need for medical treatment. It is undisputed that the claimant presented to Dr. Chen with uncontrolled diabetes and an elevated A1c greater than 12 at the same time that her complaints of CTS symptoms began. Dr. Chen testified he cannot state within a reasonable degree of medical certainty the claimant's CTS issues are related to her work for the respondent employer. The claimant has failed to prove that her work for the respondent employer was the greater cause for her CTS than her uncontrolled blood sugar.

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

MICHAEL R. MAYTON, Commissioner