

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H203788

RONALD LASLO, EMPLOYEE

CLAIMANT

ARKANSAS STATE POLICE, EMPLOYER

RESPONDENT

**PUBLIC EMPLOYEES CLAIMS DIVISION,
CARRIER/TPA**

RESPONDENT

AMENDED OPINION FILED APRIL 29, 2025

Hearing before Administrative Law Judge, James D. Kennedy, on the 26th day of February, 2025, in Batesville, Arkansas.

Claimant is represented by Mark Alan Peoples, Attorney at Law, Little Rock, Arkansas.

Respondents are represented by Charles McLemore, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was conducted on the 26th day of February 2025, to determine the issue of additional medical treatment, specifically treatment by Doctor Edwards for evaluation of his right hip. The Prehearing Order also listed unpaid medical and attorney fees, with all remaining issues reserved, but at the time of the hearing, the issue was narrowed down to the sole issue of additional medical by Dr. Edwards. A copy of the Prehearing Order, which was dated December 17, 2024, was marked "Commission Exhibit 1" and made part of the record without objection. The Order provided the parties stipulated that the Arkansas Workers' Compensation has jurisdiction of the case and that there was an employer/employee relationship that existed on or about May 10, 2022, when the claimant sustained injuries to his right hip due to a trip injury, which the

respondent accepted as compensable. The claimants authorized treatment was by Dr. Dominic Maggio, who later referred the claimant to Dr. Paul Edwards for further evaluation. The respondents have not controverted this claim in its entirety. They are providing treatment to the claimant and continuing to pay TTD to the claimant. The respondents have denied authorization to see Dr. Edwards. The claimant's average weekly wage on or about May 10, 2022, was \$1224.67, with a corresponding temporary total disability rate of \$790.00 and a permanent partial disability rate of \$593.00.

The Prehearing Order along with the claimant's and respondent's contentions are set out in their respective responses to the Pre-hearing questionnaire and made a part of the record without objection. The sole witness to testify was the claimant, Ronald Laslo. The claimant submitted two exhibits without objection. Claimant's Exhibit One consisted of twenty-six pages of medical with index and Exhibit Two consisted of five pages of non-medical with index. The respondents submitted three exhibits without objection, with Respondent's Exhibit one consisting of medical records consisting of 220 pages, Respondent's Exhibit Two consisting of 40 pages of documentary records, and Respondents Exhibit three consisting of twenty-two pages, and four CD's of surveillance video. 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 CONCLUSIONS OF LAW

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

2. The stipulations set forth above are reasonable and are hereby accepted.
3. That the claimant has proved by a preponderance of the credible evidence that the medical treatment requested, consisting of a referral and additional evaluation, consultation, and treatment by Dr. Paul Edwards, is causally related to and reasonably necessary for the treatment of the stipulated compensable work-related right hip injury.
4. If not already paid, the respondents are ordered to pay for the cost of the transcript forthwith.

REVIEW OF TESTIMONY AND EVIDENCE

At the start of the hearing, the issues were clarified by the representative of the claimant who contended that that the sole issue before the Commission at the time of the hearing was the referral from the claimant's authorized doctor to a different doctor for an additional evaluation, consultation, and treatment. The representative for the Respondent responded that their position was that the claimant had refused treatment due to the fact the claimant was offered a return visit to Dr. O'Malley, that the claimant already had a Change of Physician to Dr. Maggio, and that the referral to Dr. Edwards was not reasonable and necessary.

The claimant, Ronald Laslo, testified that he was working as a state trooper back in May of 2002, when he was called out in the middle of the night to work a highway accident. While walking back to his vehicle to get his tape measure and paperwork to work the accident, he stepped off the pavement where a shoulder should have been, and which had been washed out on the side of the highway. This caused the claimant to almost fall down the hill resulting in him twisting, and hearing a loud pop. His car kept

him from falling. He suffered shooting pain from his toe to the top of his head. He went to his car and waited until he felt better, and then worked the wreck. After working the accident, he was off work a couple of days and he thought he would get better, but after the time off, he still had half the original pain and was then sent to Sherwood Urgent Care. He was 55 or 56 at the time of the incident. While there, he stated that his knee hurt a little but then pointed to his right hip and buttocks. He saw Dr. O'Malley, who treated him and released him. (Tr. 7 – 10)

He then obtained a Change of Physician and then saw Dr. Maggio, a neurosurgeon, who provided injections. The claimant's understanding of his injuries was that he was suffering from a labrum tear which caused his hip problems and that he had additionally damaged his SI joint, which was causing his back pain. The claimant was then questioned about some surveillance videos. He stated that he had watched them, and they more or less showed him engaged in his day to day activities, except the one which showed him doing more than he normally did. That particular video showed him lifting a box and a mattress or box springs. He stated that he tipped it up and slid it into a dumpster. He went on to testify that he had good and bad days, and was having a good day that day due to having received an injection that morning. He finished his direct testimony by stating that Dr. Maggio had referred him to Dr. Edwards for an additional evaluation. (Tr. 11 - 13)

Under cross examination, the claimant stated that when he stepped down off the highway, he felt pain from head to toe and it was like a shooting pain which just hurt. He admitted he had personally filled out Form N and his signature was at the bottom of the page and also on the back of Form N. He also agreed that the writing on Form PECD –

1 was his and that he also signed that one. The claimant agreed he had received a lot of treatment. He admitted that Dr. Ron Bates was his family doctor. The claimant also admitted seeing Dr. Wesley Greer for his hip. (Tr. 15 – 18)

The claimant admitted receiving two MRI's. He then stated as follows:

“After Dr. Greer had said it was my back, it was - - I mean, it - - it - - they were trying to figure out whether it was both or if it was - - what was - - I guess what was more significant, if it was - - if I was having more back problem than hip problem or if I was having more hip problem than back problems. And I know that each doctor pointed fingers back at the opposite back and forth, and that's why it kept - - or why they kept sending me to different places. (Tr. 19)

The claimant remembered seeing Dr. O'Malley, a hip doctor, a couple of times and receiving an EMG nerve study and also receiving two MRIs of the right hip and seeing Dr. Angel. He also remembered a functional capacity exam where he performed the best that he was capable of. (Tr. 20, 21)

The claimant was also questioned about his duties as the Fire Chief in a volunteer fire department. He admitted that he did in fact respond to fires after his injury. He also admitted to resigning from the State Police on August 11, 2022, when he retired. (Tr. 22, 23) He also admitted he had attempted to return to work as a police officer against medical advice because they needed the money. (Tr. 24) He admitted going to work for the Bald Knob Police Department. He was then questioned about obtaining a document from Dr. Bates which provided for “No restriction” as a release. The claimant was then questioned about the Functional Capacity Exam on November 6, 2023, and he responded that he thought that he had stopped working for the Bald Knob Police Department by then, but he was not sure. He also admitted driving a pickup and sometimes performing

maintenance on his home and his swimming pool. (Tr. 25 - 28) The claimant was questioned about bush hogging his 80 acres and he responded that he had probably done that 10 years ago. His tractor was 25 years old and only had 200 hours on it. (Tr. 29) The claimant was then questioned about the sticker on his pickup back window and what was required in regard to that position. He responded that he didn't do anything. He went on to state that they had problems in their area with Constables doing things that they shouldn't be doing, and he was a placeholder. (Tr. 30) The claimant also admitted that he was still with the fire department and went to a fire a while back where he had just driven and that his wife did everything. (Tr. 31)

The claimant was questioned about a video that showed him loading some furniture onto a trailer. He testified that when he pulled through the gate, the items were already on the trailer, which had been loaded by his wife, daughter, and her boyfriend. The claimant was then specifically questioned about a console television, and he responded that they didn't lift it but pivoted it he guessed. "We didn't lift it." The claimant admitted to disposing of a box spring and mattress. (Tr. 32, 33)

The claimant also admitted to owning two rental properties. He denied owning Hillside Bayou, LLC, explaining that it was his father's mobile home park. He admitted to being the agent for service for the LLC. (Tr. 34)

The claimant was then questioned again about the medical. The claimant admitted that the last time he saw Dr. Bruffett and Dr. O'Malley, they had released him with no restrictions and were through treating him. He admitted that he then used his change of physician and chose Dr. Maggio. (Tr. 37, 38) The claimant went on to state that when he talked to the office of the respondent's representative, and when he saw the last hip

doctor, Dr. O'Malley, "he said that I have a tear and so on and that it would have to be addressed, but when I went to see him the last time, he thought most of my problems were coming from my back which needed to be resolved and he was releasing my hip so the last doctor that they sent me to was for my back which could have been Dr. Bruffett, 'whatever the one that released me on my back.'" (Tr. 39)

The claimant went on to testify as follows:

"So I went and saw Dr. Bruffett, and he said, - - he said, yeah, you've got some back issues and you've got this and whatever, he said, but all your problems are coming from your hip. You need to go see a hip doctor, and I'm going to release you on your back. So each one released me on that particular body part and then pointed the finger the other way, which is what's been going on the entire time." "Then your office called me and told me that I was done with treatment, and I'm like - - I told her that I still hurt, that what do I do, and she got a little angry at me and said that, 'Well, that's not our problem.'" (Tr. 40)

The claimant went on to testify in regard to the Change of Physician that all of the hip doctors thought that he was having more problems with his back, so he had to make a choice and he picked treatment for his back, and that's how he saw Dr. Maggio, who treated his back and provided injections in the SI joint. Dr. Maggio then wanted an MRI of the hip, and the claimant admitted he received one on September 10, 2024. He was then supposed to return to Dr. O'Malley to review the MRI but felt that Dr. O'Malley had provided a disservice to him. He went on to state that all of his hip doctors were in agreement that he had a problem but due to his age, "it would be a bad time to get it." "Most of my pain's coming from my back, so I just felt like he did me, I guess, wrong. I mean that's the only way I can say it." The claimant also admitted to seeing a chiropractor

for a couple of months and paying for the treatment himself since “at that point, I was grasping at straws.” The claimant denied seeing Dr. Edwards. (Tr. 42 - 45)

On redirect, the claimant clarified that he had actually contacted the Workers’ Compensation Commission and not the office of the attorney for the Respondents. He also denied refusing treatment for his hip. He admitted that his treating doctor had recommended that he see Dr. Edwards and that’s what he wants to do. (Tr. 48, 49)

Claimant’s Exhibit One of medical records provided that the claimant presented to Dr. Maggio on May 1, 2024. The report provided that the claimant’s chief complaint was back pain radiating to the right hip and buttock. The report went on to provide that the claimant stated that the back pain was worse than the leg pain. There was tenderness to the SI Joint upon palpation. The finding of a partial labrum tear discovered by a hip surgeon was mentioned. An EMG/nerve conduction study demonstrated no evidence of radiculopathy. Right sided SI joint injections were recommended. (Cl. Ex. 1, P. 1 – 7)

The claimant presented to Dr. Bates on May 7, 2024, with the chief complaint of lumbar back pain and right hip pain. Dr. Bates opined that the claimant would be unable to perform the job requirements of an Arkansas State Trooper and although he had returned to a sedentary position, he would be a danger to himself, others, or the public, if he was placed in a position to defend the public. (Cl. Ex 1, P. 8) Dr. Maggio placed the claimant on light duty on May 10, 2024. (Cl. Ex. 1, P. 9)

Dr. Sheffield Kent, on June 12, 2024, provided a sacroiliac joint injection to the claimant at the Legacy Surgery Center. (Cl. Ex. 1, P. 10, 11). Later on June 20, 2024, the claimant presented to Dr. Maggio of Legacy Spine and Neurological Specialists with

the chief complaint of lower back pain radiating to the right hip and buttocks. Dr. Maggio felt the majority of the claimant's pain was coming from the SI Joint and he recommended another SI Joint injection. Dr. Maggio also issued a work note that provided the claimant remains off work while undergoing interventional treatment. (Cl. Ex. 1, P. 12 – 19) The claimant was admitted to the Legacy Surgery Center on June 20, 2024, for another SI joint injection on the right side. (Cl. Ex. 1, P. 20) On August 8, 2024, Dr. Maggio made a referral to Dr. Edwards at Bowen Hefley for a hip evaluation. He also issued a work note stating the claimant should refrain from lifting, twisting, or sitting or standing for long periods of time. (Cl. Ex. 1, P. 21, 22)

The claimant received an MRI of the right hip on September 10, 2024, with findings of an anterosuperior labral tear and with high grade cartilage loss from the anterior acetabulum with associated cysts. No significant hip joint effusion and no hip fracture was noted. (Cl. Ex. 1, P. 24) Two days later, on September 12, 2024, a chart note was issued by Dr. Maggio, who stated the hip MRI demonstrated extensive changes in the bilateral hip and that the claimant was scheduled to see Dr. Paul Edwards for further evaluation. (Cl. Ex 1, P. 25).

Claimant's nonmedical exhibits consisted of five pages of emails between attorneys. An email from the respondent's attorney timestamped 8:12 a.m. stated he would let his client know the claimant was refusing treatment. An email response from the claimant's attorney addressed to the respondent's attorney shortly thereafter, provided that the claimant was not refusing treatment, just the opposite, and that he wanted to go forward with the treatment. (Cl. Ex. 2, p. 1 – 5)

The respondents submitted 220 pages of medical records. On October 7, 2021, the claimant saw Dr. Bates, and the office note provided that the claimant presented needing paperwork to defer his physical exam for the state police due to experiencing bilateral knee pain. A Physical Fitness Assessment Medical Release Form provided that it was not recommended that the claimant participate in the physical fitness assessment at that time. (Resp. Ex. 1, P. 1, 2) On March 21, 2022, Dr. Bates issued another deferment in regard to the physical fitness assessment due to tendonitis of both knees. (Resp. Ex. 1, P. 3)

On March 16, 2022, the claimant presented to Sherwood Urgent Care and was seen by Lesli Ashten, APRN, in regard to his treatment for pain in the right hip, knee and lumbar spine. (Resp. Ex. 1, P. 4 – 12) The claimant returned to Lesli Ashten, APRN, on May 23, 2022, for continued right hip pain and was referred to physical therapy. (Resp. Ex. 1, P. 13 – 15) The claimant then again returned to Lesli Ashten, APRN, on May 30, 2022, with continued pain in the right hip and knee, a tear of an unspecified meniscus per a differential diagnosis, along with right hip and knee pain. (Resp. Ex. 1, P. 16 – 18) The claimant again returned to Lesli Ashten, APRN, on June 6, 2022, for right hip and knee pain and an ortho referral was mentioned. A request for an MRI was made on June 7, 2022. (Resp. Ex. 1, P. 19 – 22)

On June 13, 2022, the claimant was seen by Dr. Jeff Angel for an injury of the right hip due to his hip pain. An MRI of the right hip to check for soft tissue abnormalities was made. (Resp. Ex. 1, P. 23 – 32) The MRI of the hip dated June 21, 2022, provided for moderate arthrosis of the right hip joint without acute bone marrow edema, fracture, dislocation or joint effusion. There was an intermediate to high signal undercutting the

anterior/superior portion of the labrum. (Resp. Ex. 1, P. 33) On June 27, 2022, Dr. Angel issued an assessment and plan referring the claimant to Dr. Greer for an evaluation and an assessment for a labral tear verses osteoarthritis. A note to the patient provided that the claimant could return to work pending his July 7, 2022, appointment. (Resp. Ex. 1, P.34 – 39)

On July 7, 2022, the claimant was seen by Dr. Wesley Greer. The MRI was reviewed, and it provided for a labral tear along with osteoarthritis of the right hip along with low back pain. The claimant was placed on desk duty only. (Resp. Ex. 1, P. 40 – 49) The claimant returned to Dr. Greer on August 11, 2022, and the report provided that the physical therapy had helped considerably, and the claimant could return to work. The report went on to provide that there was a full range of motion of the right hip but with pain. (Resp. Ex. 1, P. 50 – 54) The claimant was later discharged from physical therapy and a report provided he could return to work on August 22, 2022, with the report dated August 18, 2022. (Resp. Ex.1, P. 55 – 57) A report by Dr. Bates, dated August 23, 2022, provided the claimant was doing well and he was there to review lab results. On September 15, 2022, the claimant again returned to Dr. Greer, who provided that the claimant's pain was better but that it does get somewhat irritated by the end of the day, due to getting in and out of his car and wearing his gun belt. The knee pain seemed to halve resolved. (Resp. Ex. 1, P. 59 – 63)

On September 19, 2022, the claimant saw Dr. Bates, who examined him and placed him on no restrictions. (Resp. Ex. 1, P. 64, 65) The next physician's visit occurred on November 7, 2022, when the claimant again returned to Dr. Greer. The report provided the pain was still bothering the claimant, but he could work under his current

restrictions, but that he was starting to have pain in his anterior hip and that his back had improved. (Resp. Ex. 1, P. 66 – 72) Later on November 21, 2022, an MRI of the lumbar spine was provided to the claimant. Under impression, the report provided that spondylosis was noted at the L3-4 through L5-S1 with mild disc bulges resulting in mild to moderate foraminal narrowing that was greatest on the right at L3-4 and on the left at L4-5. Mild narrowing of the thecal sac was seen at these levels. A small broad-based central disc protrusion was seen at L5-S1, superimposed on a mild disc bulge. (Resp. Ex. 1, P. 73 - 76)

The claimant then returned to Dr. Greer on December 1, 2022, and the report provided the back was the biggest issue, and claimant was released to full duty. (Resp. Ex. 1, P. 77 – 85) The claimant then again returned to Dr. Greer on January 5, 2023, and the report provided that the injection helped considerably, and at this point, the back was the major issue, and the claimant was then referred to Dr. Wayne Bruffet. The claimant's MRI was reviewed by Trent Tappan PA-C who opined that the low back looked stable, and he did not think there was a specific objective injury and placed the claimant at MMI and released him without restrictions. The letter provided for no restrictions pertaining to the lumbar and was signed by Dr. Bruffet. (Resp. Ex. 1, P. 93 – 99)

Nearly a month later, the claimant returned to Dr. Greer on February 20, 2023, who stated that the pain in the hip was mild and was not keeping him from being able to work, but there was continued pain in his lower back. (Resp. Ex. 1, 100 – 106) The claimant then returned to Dr. Bates on July 10, 2023, and the report provided the claimant was doing well, with the chief complaint being body weight, with no other complaints. (Resp. Ex. 1, P. 107)

On August 1, 2023, the claimant presented to Dr. John Larson for chronic low back pain. Increased home exercise and core musculature strengthening was recommended. (Resp. Ex. 1, P. 108 -113) The claimant then followed up with Dr. Greer on August 31, 2023, and the report provided there was still some hip pain, but the back seemed to be the main problem, but that it could be a variable presentation for the hip. The report further mentioned that the claimant had lost a significant amount of weight which had likely helped the situation. (Resp. Ex. 1, P. 114 – 119)

On October 18, 2023, a second opinion was obtained from Dr. Barry Baskin. Dr. Baskin opined that he felt the claimant's biggest problem was his hip and it was likely the hip was the pain producer. He stated that the claimant's hip arthritis does not look severe on imaging studies but "his pain is quite severe, I believe." He recommended an FCE. His impression was that the claimant's issues were degenerative in nature and not clearly post-traumatic. (Resp. Ex. 1, P. 120 – 122)

A functional capacity evaluation occurred on November 6, 2023, and the claimant provided a reliable effort in 48 of 48 categories and demonstrated the ability to work in the medium classification of work. (Resp. Ex. 1, P. 123 – 141) Dr. Baskin then added to his original second opinion and opined that the claimant could resume work based on his FCE and perform up to medium duty. (Resp. Ex. 1, P. 142 – 143) On December 4, 2023, the claimant presented to Dr. O'Malley who recommended a nerve study along with a lumbar MRI. (Resp. Ex. 1, P. 144 – 154) The lumbar MRI of December 12, 2023, provided for mild to moderate spondylosis from L3-4 through L5-S1 with disc bulges and facet arthropathy. Foraminal narrowing was moderate on the right at L3-4. Mild foraminal narrowing was noted bilaterally at L4-5 and L5 – S1, asymmetrically worse on the left at

L4-5. Thecal sac narrowing was mild at these three levels. (Resp. Ex. 1, P. 155, 156) A nerve conduction study occurred on December 14, 2023, which provided for no electrophysiologic evidence suggestive of a Sciatic nerve axon loss process on the right, a common Fibular nerve compromise at the knee on the right, a Tibial nerve compromise at the posterior tarsal tunnel on the right, and a Sural, superficial Fibular sensory or Saphenous N axon loss on the right. (Cl. Ex. 1, P. 157 – 160)

On January 29, 2024, the claimant returned to Dr. O'Malley who opined that the claimant's right hip had pre-existing arthritis, and he would not recommend that a hip arthroscopy could be beneficial for the patient. Dr. O'Malley issued a note that the claimant could return to work full duty without restrictions in regard to his right hip. However, with regard to his back, he may return to work with the restriction of seated desk duty. (Resp. Ex. 1, P. 161 – 167)

On March 25, 2024, a progress note, from Dr. Bruffett provided that on his review of the MRI and x-rays of the claimant, the claimant had not sustained any objective evidence of injury, and he was at MMI in regard to his back. (Resp. Ex. 1, P. 168 – 172) Later on May 1, 2024, the claimant returned to Dr. Maggio with a chief complaint of lower back pain radiating to the right hip and buttock. (Resp. Ex. 1, P. 173 – 179) A few days later, office notes from Dr. Bates on May 7, 2024, provided the claimant presented with a chief complaint of lumbar pack pain and right hip pain and Dr. Bates opined that the claimant would not be able to perform the job requirements. Two days later on May 9, 2024, Dr. Vadera opined that a proposed right SI joint injection was indicated. (Resp. Ex. 1. P. 180 -185) On June 12, 20, and 31, 2024, the claimant again received SI injections on the right. (Resp. Ex. 1, P. 185, 186) On August 8, 2024, a decision was made for

further diagnostic testing and the ordering of an MRI. (Resp. Ex. 1, P. 200 – 209) On September 10, 2024, an MRI of the right hip occurred which provided for right hip osteoarthropathy with a worn and flattened labrum and intermediate grade chondromalacia acetabulum roof. No acute ten osseous injury was noted. (Resp. Ex. 1, P. 210)

An authentic 4D report dated October 16, 2024, provided for a high-grade cartilage loss from the anterosuperior acetabulum, associated with subchondral cysts and an anterosuperior labral tear. The report further mentioned that the labral tear could be related to chronic and related arthritis but went on to state that an acute labral tear would be difficult to exclude. (Resp. Ex. 1, P. 211, 212.)

Finally, an IME from Dr. O'Malley dated January 13, 2025, provided that based on a certain degree of medical certainty, he still did not believe that the patient's hip arthritis was related to his work injury. (Resp. Ex. 1, P. 213, 214)

The respondents also submitted multiple pages of documentary evidence without objection. On February 21, 2022, the claimant showed interest in a promotion to the position of Sergeant in the Arkansas State Police (Resp. Ex. 2, P 1 – 4) An article with pictures in Firewire, dated February 22, 2022, pictured the claimant with some vehicles and provided that the claimant was the Fire Chief of the Cord Fire Department. (Resp. Ex. 2, P. 5). The respondents also submitted a form entitled Workers' Compensation Incident Report signed by the claimant which provided that no medical treatment was required and included the Arkansas N Form in regard to the accident and the acknowledgement signed by the claimant, as well as Form PECD 1 which was the employee's report of the accident. (Resp. Ex. 2, P. 6 - 10)

The claimant resigned from the Arkansas State Police effective August 21, 2022, by a letter dated August 11, 2022, which was accepted by a letter from Colonel Bryant dated August 16, 2022. (Resp. Ex. 2, P. 11 - 14) A Memorandum dated October 10, 2022, provided that the claimant was interviewed by the Office of Professional Standards regarding an alleged policy violation involving working with the Cord Fire Department after being injured in a crash investigation and while on workers' compensation for the Arkansas State Police. It was noted that the claimant had a Secondary Employment form dated February 28, 2022. The claimant was found to have not violated policy due to receiving no compensation from the Cord Fire Department and was exonerated from the complaint. However, the report went on to provide that the claimant was not in good standing with the Arkansas State Police because he resigned while under investigation. (Resp. Ex. 2, P. 15, 16) Various corporate entities were also investigated which apparently primarily involved the claimant's father per the testimony taken above.

Pages of emails between the attorney for the claimant and the attorney for the State Police were also made part of the record which involved requesting information regarding the claimant's treatment and the status of an appointment. (Resp. Ex. 2, P. 32 – 37) Finally, there was a Ballotpedia Independence County Constable printout dated November of 2024, which provided that the claimant was on the ballot for Constable in the Dota Township. (Resp. Ex. 2, P. 38, 39)

The respondents' final exhibit consisted of four CD's which contained surveillance videos from the date of May 19, 2024, through June 14, 2024, as well as surveillance reports and Facebook photos. The Facebook photos showed the claimant sitting in an overstuffed recliner petting and hugging his dog. Additionally, there were photos of a pile

of logs that appeared to be in the process of becoming firewood. The four CDs introduced into evidence were viewed multiple times. The videos contained footage of a dark colored (described as dark blue in the surveillance report) Ford F-150 with emblems on the rear cab window that apparently referred to the claimant's status as constable and which also contained a short emergency light bar on the roof. There was also a video of a dark colored late model Ford Edge driving and parking. Part of the video showed the claimant getting out of the Ford Edge and going to a bathroom door and then to another door with no apparent trouble. Another section of video, however, showed the claimant getting out of the Ford Edge with a stiff and hobbling gait when he walked away from the vehicle. One section of video showed a female, who appeared to be the claimant's wife, carrying a very large flowerpot which nearly blocked out her entire chest and abdomen from the video, while the claimant walked along side her and opened the rear hatch of the Ford Edge. Another section showed what appeared to be the same women along with the claimant, looking for something on the side of a street or road. Finally, there was a video of the claimant's truck pulling an empty trailer. Testimony was taken where the claimant admitted being involved in removing a box springs and mattress and moving a console television, which was not lifted but rotated out of the trailer. The trailer was loaded by his wife, daughter, and her boyfriend.

DISCUSSION AND ADJUDICATION OF ISSUES

In the present matter, the parties stipulated that the claimant sustained a compensable work-related injury on May 10, 2022. 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).

However, when assessing whether medical treatment is reasonably necessary for the treatment of a compensable injury, we must analyze the proposed procedure and the condition that it is sought to remedy. The respondent is only responsible for medical services which are causally related to the compensable injury. Treatments to reduce or alleviate symptoms resulting from a compensable injury, to maintain the level of healing achieved, or to prevent further deterioration of the damage produced by the compensable injury are considered reasonable medical services. Foster v. Kann Enterprises, 2009 Ark. App. 746, 350 S.W.2d 796 (2009). Liability for additional medical treatment may extend beyond the treatment healing period as long as the treatment is geared toward management of the compensable injury. Patchell v. Wal-Mart Stores, Inc., 86 Ark. App. 230, 180 S.W.3d 31 (2004).

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 testified that he was injured when he stepped off the highway onto what he thought was the shoulder, which had apparently washed out, while working an accident one night. He immediately felt a sharp pain from his toes to his head and heard a pop. His car kept him from falling. After resting, he went ahead and worked on the

accident. He was off work for the next two days and assumed he would recover, but was still hurting when he returned to work, where he reported his injury. The claimant was sent to Sherwood Urgent Care where he began navigating the labyrinth of our health care system. Multiple well-respected physicians seemed at various times to point either to the claimant's right hip or his lower back as the primary cause of the claimant's pain. Issues involving the lumbar spine, sacrum, and hip, can clearly be difficult to distinguish in certain cases, similar to issues involving the cervical spine and shoulder.

The testimony of the claimant is found to be believable and reliable. The videos of record provided in one segment that the claimant appeared to have little to no problem ambulating, but in a second segment, he appeared to have some difficulty getting out of the Ford Edge and that he somewhat hobbled away. The claimant denied loading the trailer that was in one video but did admit unloading the mattress and box springs and rotating a console television off the trailer. The claimant was found to have a reliable effort in 48 out of 48 categories in regard to a functional capacity exam. He testified that his wife did the actual work in regard to a fire run and he only drove the truck. This would correspond with one of the videos of record where the claimant walked beside or behind a woman who appeared to be his wife and who was carrying an enormous pot to their car while the claimant opened the hatch to the Ford Edge.

The claimant was questioned about his actions as a duly elected constable, and he responded that he did nothing in that position but was only a place holder. Dr. Barry Baskin stated in his second opinion that although he felt the hip was the primary cause of claimant's pain, "his pain is quite severe, I believe." Other doctors pointed to the back as the primary problem. Dr. Magio, who appears to be a back specialist and who was in

the chain of referral, made a referral to Dr. Edwards at Bowen Hefley for a hip evaluation on August 8, 2024. This recommendation is the primary issue currently before us.

Questions concerning the credibility of witnesses and the weight to be given to their testimony are within the exclusive province of the Commission. Powers v. City of Fayetteville, 97 Ark. App. 251, 248 S.W.3d 516 (2007). 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 the authority to accept or reject medical opinions and to determine their 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).

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 a compensable right hip injury from a work-related incident on May 10, 2022. The testimony of the claimant is found to be believable in that he was not aware of pain and a problem in his right hip prior to the work-related accident. A labrum tear was noted in some of the imaging studies involving the right hip after the work-related incident on May 10, 2022, and the claimant desires to treat with Dr. Edwards for this.

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 satisfied his burden of proof

to prove by a preponderance of the credible evidence that the medical treatment requested, specifically additional review and treatment by Doctor Edwards, is causally related and reasonably necessary for the treatment of the stipulated compensable work-related right hip injury and is approved.

IT IS SO ORDERED.

JAMES D. KENNEDY
Administrative Law Judge