

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

WCC NO. H400052

JIMMY PRUITT, Employee	CLAIMANT
NIDEC MOTOR CORP., Employer	RESPONDENT
TRAVELERS INDEMNITY CO., Carrier	RESPONDENT

OPINION FILED SEPTEMBER 3, 2024

Hearing before ADMINISTRATIVE LAW JUDGE ERIC PAUL WELLS in Fort Smith, Sebastian County, Arkansas.

Claimant represented by GREGORY R. GILES, Attorney at Law, Texarkana, Arkansas.

Respondents represented by GUY ALTON WADE, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

On June 6, 2024, the above captioned claim came on for a hearing at Fort Smith, Arkansas. A pre-hearing conference was conducted on March 11, 2024, and a Pre-hearing Order was filed on March 12, 2024. A copy of the Pre-hearing Order has been marked Commission's Exhibit No. 1 and made a part of the record without objection.

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

1. The Arkansas Workers' Compensation Commission has jurisdiction of this claim.
2. The relationship of employee-employer-carrier existed between the parties on July 15, 2023.
3. The claimant sustained a compensable injury to his right shoulder on or about July 15, 2023.

By agreement of the parties the issues to litigate are limited to the following:

1. Whether Claimant is entitled to medical treatment for his compensable right shoulder injury in the form of surgery as recommended by Dr. Justin Walden.

The claimant's contentions are as follows:

“a. Claimant contends that he is entitled to the additional medical treatment being recommended by Dr. Justin Walden.”

The respondents' contentions are as follows:

“Respondents contend that comparison of the two MRIs fail to show a need for surgery related to the work injury. Claimant's subsequent findings and any surgical recommendation is not related to the July 15, 2023 work event and therefore is not the responsibility of the respondents.”

The claimant in this matter is a 50-year-old male who sustained a compensable right shoulder injury on or about July 15, 2023. At the hearing in this matter the claimant gave direct examination testimony about how his right shoulder injury occurred as follows:

Q And on July the 15th of 2023, describe for us what happened that you sustained your injury.

A I had cranked the table down so I could sit down and when it came to the end of my shift, we always have to crank the table back up. And as I was cranking it up, it jammed. And when I was trying to pull the bar to turn it, I felt a pop and pulling and burning sensation in my shoulder. (indicating).

Q Which arm were you using to crank the crank?

A The right shoulder, the right hand.

Q I guess from a sitting position to a raised position, how much are you able to lower or raise the table?

A It's about two-foot to raise it all the way back up.

Q And as you were trying to raise it back up, what happened with the crank?

A The table jammed and I pulled and when I did, I felt the hurt in my shoulder, the pain, the pulling sensation (indicating), burning.

The claimant reported his injury at that time. However, the claimant declined to go see a doctor. The claimant continued to work in a light duty capacity for the respondent. The claimant testified that his right shoulder symptoms became worse over the next weeks and was allowed to see the company doctor after talking to his safety manager.

On August 14, 2023, the claimant was first seen for his compensable right shoulder injury by James McWilliams, ANP. Following is a portion of that medical report from JMAC Medical:

HPI:

Pt sustained what was thought to be mild right shoulder strain at work on 7/15. Since then he has been taking ibuprofen but the shoulder has not improved. He has pain in the shoulder when he reaches overhead or horizontal with outstretched arms. The pain tends to throb at night.

Assessment:

Impingement syndrome of shoulder region (disorder)
M75.4/726.2) Impingement syndrome of right shoulder modified
14 Aug. 2023.

Plan:

Impingement syndrome of shoulder region (disorder)
1. Right shoulder corticosteroid injection

The claimant was also given a right shoulder corticosteroid injection at that visit and given a full duty release.

On August 19, 2023, the claimant was again seen by ANP McWilliams. Following is a portion of that medical record:

Subjective:

Pt sustained what was thought to be mild right shoulder strain at work on 7/15. He had pain in the shoulder whenever he reaches overhead or horizontal with outstretched arms. The pain tends to

throb at night. On 8/14 he was seen by this provider and was given corticosteroid injection into the affected shoulder. However, he says the pain never resolved and may be somewhat worse. He is also having numbness in his right arm and hands. He says that this improves somewhat by letting his arm dangle and shaking it. Also c/o pain in bilateral anterior thighs and loss of taste.

Plan:

I have discussed with pt that arm numbness, thigh pain, & taste sensation are all under 3 different locus of neurological control. The fact that he can achieve improved sensation in his right arm by letting it dangle is subjective of circulatory etiology. It is difficult to imagine his recent shoulder injection causing these problems.

Taste sense altered (finding)

1. Rapid COVID negative
2. May need neuro consult if this persists

Thigh pain (finding)

1. OTC ibuprofen

Numbness and tingling sensation of skin (finding)

1. Limit overhead reaching

Impingement syndrome of shoulder region (disorder)

1. Right shoulder MRI without contrast.

The claimant was also prescribed gabapentin 300 mg, one capsule two times per day.

On September 13, 2023, the claimant underwent an MRI of his right shoulder at Mena Regional Health. The report from that diagnostic test was signed by Dr. Jonathan Welsh. A portion of that report follows:

FINDINGS: Multiplanar T1 and T2 weighted images of the right shoulder were obtained.

The motor cuff muscles and tendons are intact. The biceps tendon is within the bicipital groove. The glenoid labrum is normal in appearance. There is moderate acromioclavicular joint degenerative joint disease with subarticular bone marrow edema present in the distal clavicle and acromion. There is a small amount

of fluid in the subacromial/subdeltoid bursa consistent with bursitis.

IMPRESSION:

1. Acromioclavicular joint degenerative joint disease with inflammatory changes including subarticular bone marrow edema.
2. Evidence of bursitis.

On September 15, 2023, ANP McWilliams placed a memo in the claimant's medical record. The body of that memo follows:

Received the results of right shoulder MRI that was performed on September 13th. The rotator cuff muscles and tendons are intact. The bicep tendon is in place within the bicipital groove. The labrum is normal in appearance. There is moderate AC joint degenerative joint disease with subarticular bone marrow edema present in the distal clavicle and the acromion. There is a small amount of fluid in the subacromial subdeltoid bursa consistent with bursitis. Discussed the case with radiologist about possibility of osteomyelitis. His impression was while certainly it is possible it would not be his first suspicion as the bone marrow edema would be consistent with the AC joint DJD which often affects the acromion as well. Septic arthritis and other inflammatory process are within DDX. Will check CBC and CRP.

ANP McWilliams had the claimant's blood drawn and tested to rule out an infection in his right shoulder on September 19, 2023. An addendum was done after the results of the claimant's blood test as follows:

Received results of CBC & CRP. WCBs are normal (7.7) which suggest no infection. The CRP is also normal suggestive of low amount of inflammation consistent with the bursitis seen on recent MRI. Recommend continuation of anti-inflammatories and participation in PT.

On September 27, 2023, the claimant was again seen by ANP McWilliams. Following is a portion of that medical report:

Subjective:

Pt continues to have right shoulder pain with numbness in his right arm. He stated that he injured the arm at work on 7/15 and was

seen by me on 8/14 after it failed to improve. At that time examination indicated right shoulder impingement as he could not abduct the arm without significant pain. Apley Scratch and Empty-Can tests were positive for impingement. At that time he was given corticosteroid injection in the shoulder. However, 5 days later he reported that the pain never resolved and was somewhat worse. He also reported onset of numbness in right arm and hands and pain in bilateral anterior thighs and loss of taste. In was explained to him then that this collection symptoms could not all be caused by the same anatomical injury. MRI of the right shoulder was obtained and demonstrated AC joint djd with inflammatory changes and subarticular bone marrow edema in the distal clavicle and acromion. There was also a small fluid accumulation in the subdeltoid bursa consistent with shoulder bursitis. Discussed the MRI with radiologist and he thought it was probably not likely to be osteomyelitis but CBC and CR-P were done to rule out infection and both of these were negative. Pt states to me today that he had prior injury to the shoulder which also caused pain in his right shoulder and this was reported to safety officer at the time over a year ago. However, it resolved spontaneously and didn't give him any trouble until recent reinjury.

Plan:

Impingement syndrome of shoulder region (disorder)

I have discussed with him that his MRI findings explain shoulder pain but his arm & hand numbness are more suggestive of cspine or carpal tunnel etiology. As his original injury was specified as only shoulder pain I explained to him that I, or another provider, could work up that problem on his private medical insurance but workman's comp restricts me to the injury he first presented with. The logical next step would be to send him for specialty care, either Orthopedics, Physiatry, or PT for the shoulder impingement. He will continue to be restricted from reaching away from his body or overhead with extended arms.

1. Physical Therapy Eval and Treat right shoulder pain

The claimant began to see Dr. Justin Walden at Chi St. Vincent in Hot Springs on November 13, 2023, for his right shoulder complaints. Following is a portion of that medical report:

SUBJECTIVE: Jimmy Pruitt is here for complaints of pain in right shoulder. He reports pain began 7-15-2023. He was at work and was cranking a table and the gears stuck and he felt a pulling sensation associated with pain in his right shoulder. He reports he had occasional soreness in his shoulder prior to this episode but never pain this severe. He is right-hand dominant. He denies any numbness or tingling to his right upper extremity. He works at Nidec motors. He has had previous physical therapy which made his pain worse. He has had previous corticosteroid injection which he had an allergic reaction with loss of taste and tingling sensation through his right side. He has been taking oral anti-inflammatories with no improvement. He is unable to sleep on his right side. He has been working light duty. He has not had previous surgery to his right shoulder.

IMAGING STUDIES: Grashey AP and axial lateral views of right shoulder in office today which show moderate acromioclavicular joint space narrowing. No glenohumeral joint space narrowing. No acute fracture. Humeral head centered on glenoid. No hardware present.

MRI images unavailable for review but report shows subacromial bursitis with AC arthritis and bony edema.

ASSESSMENT: Right shoulder AC arthritis, biceps tendinitis, and subacromial bursitis.

TREATMENT AND PLAN: Patient is shoulder is related to aggravation of pre-existing arthritis. Diagnosis and treatment options discussed with patient recommended shoulder arthroscopy with biceps tenotomy, subacromial decompression, and open distal clavicle excision. Details of surgery as well as anticipated recovery were discussed with patient as well as need for postoperative therapy and activity restrictions. Potential complications including infections, arthrofibrosis, chronic pain, neurovascular injury, and anesthetic related complications. All questions were answered.

My future plan of care may include medications, injections, radiographs, physical therapy, occupational therapy, advanced imaging, splint application, cast application, bracing and surgical intervention as indicated. Future follow up visits may be with Neysa Ellis, PA-C, Jared Wilson, PA-C, or Mallory Melby, PA-C.

On January 19, 2024, Dr. Walden authored an addendum to his November 13, 2023, medical report regarding the claimant. As Dr. Walden noted, he was unable to view the actual MRI images during the claimant’s November 13, 2023, visit as they were unavailable to him. However, apparently, Dr. Walden received the MRI images and made the following addendum:

Addendum 1-19-2024: MRI images of right shoulder received and were reviewed which showed right shoulder AC arthritis with edema indicating acute inflammation. There is effusion of AC joint. Near complete detachment of superior labrum and biceps insertion. Partial thickness tear of supraspinatus with no atrophy or retraction. Recommend shoulder arthroscopy and biceps tenotomy and mini open distal clavicle excision.

The claimant has asked the Commission to determine whether he is entitled to additional medical treatment for his compensable right shoulder injury in the form of the surgical procedures recommended by Dr. Walden in his January 19, 2024, addendum.

Employers must promptly provide medical services which are reasonably necessary in connection with the compensable injuries, Ark. Code Ann. §11-9-508(a). However, injured employees have the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004). What constitutes reasonable and necessary medical treatment is a fact question for the Commission, and the resolution of this issue depends upon the sufficiency of the evidence. *Gansky v. Hi-Tech Engineering*, 325 Ark. 163, 924 S.W.2d 790 (1996).

On February 7, 2024, Dr. John Jaksha with Mena Regional Health System authored a “Preliminary Report” regarding the claimant’s September 13, 2023, right shoulder MRI. Following a portion of that “Preliminary Report:”

Clinical History: Second opinion, muscular/skeletal, radiologist if possible, HX of traumatic injury, patient for surgical consult (Hx).

Findings:

No rotator cuff tear is identified.

Minimal edema of the distal supraspinatus and mild peritendinous edema could represent a mild tendon strain or tendinopathy.

Minimal edema along the superficial margin of the infraspinatus could represent a mild muscle strain.

Biceps tendons intact.

No definite labral tear is seen.

Moderate acromioclavicular degenerative changes with narrowing of the shoulder outlet.

Moderate marrow edema in the distal clavicle is indeterminate.

Differential diagnosis includes sequoia of degenerative changes, recent or repetitive trauma.

Impression:

Minimal edema distal supraspinatus tendon.

Minimal edema along the superficial margins of the infraspinatus muscle.

Acromioclavicular degenerative changes with marrow edema in the distal clavicle, see above.

On February 28, 2024, Dr. Bryan Frentz authored a report regarding the claimant's right shoulder and answered questions at the conclusion of the report. The parties agreed that this report, which is found at Respondents' Exhibit 1, pages 20-23, was generated through a record review and that review did not include viewing the MRI images of the claimant's right shoulder. Instead, medical reports about the MRI results were used. I also note that the claimant was not examined by Dr. Frentz. On page 22 of Respondents' Exhibit 1, Dr. Frentz answered the following question, "Do the surgery requests make sense with the MRI report?" Dr. Frentz answered, "No. There is essentially no significant pathology noted on the right shoulder MRI report that would justify any type of surgical intervention."

This matter really comes down to a question of what do the September 13, 2023, MRI images of the claimant's right shoulder actually show. Dr. Welsh, a staff radiologist at Mena

Regional Health, and Dr. Jaksha, who signs his name with “Diplomat, American Board of Radiology,” both have very similar findings after reviewing the MRI images. Neither saw the type of derangement Dr. Walden, who is an orthopedic surgeon, saw when he viewed the MRI images and made a January 19, 2024, addendum about his findings. At that time Dr. Walden stated:

... showed right shoulder AC arthritis with edema indicating acute inflammation. There is effusion of AC joint. Near complete detachment of the superior labrum and biceps insertion. Partial thickness tear of supraspinatus with no atrophy or retraction.

I also note Dr. Walden had the opportunity to physically examine the claimant on November 13, 2023, during the claimant’s office visit with him.

In review of the medical evidence, I find that more weight should be given to Dr. Walden who was not only able to review the MRI images of the claimant’s right shoulder but had the opportunity to physically examine the claimant. Both Dr. Jaksha and Dr. Welsh only examined the MRI images. Given Dr. Walden’s opinion, I find his proposed surgical intervention of the claimant’s right shoulder to be reasonable and necessary medical treatment for his compensable right shoulder injury.

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

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. The stipulations agreed to by the parties at the pre-hearing conference conducted on March 11, 2024, and contained in a Pre-hearing Order filed March 12, 2024, are hereby accepted as fact.

2. The claimant has proven by a preponderance of the evidence that he is entitled to medical treatment for his compensable right shoulder injury in the form of surgical intervention as recommended by Dr. Justin Walden.

ORDER

The respondent shall pay for the reasonable and necessary medical treatment associated with the claimant's compensable right shoulder injury in the form of surgical intervention and its aftercare.

If they have not already done so, the respondents are directed to pay the court reporter, Veronica Lane, fees and expenses within thirty (30) days of receipt of the invoice.

IT IS SO ORDERED.

**HONORABLE ERIC PAUL WELLS
ADMINISTRATIVE LAW JUDGE**