

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

AWCC NOS.: H004886 & H202191

LANA ROGERS, EMPLOYEE	CLAIMANT
UNITED PARCEL SERVICE, INC., EMPLOYER	RESPONDENT
LM INSURANCE CORPORATION, INSURANCE CARRIER	RESPONDENT
LIBERTY MUTUAL GROUP, THIRD PARTY ADMINISTRATOR (TPA)	RESPONDENT

OPINION FILED SEPTEMBER 17, 2024

A hearing was held before Administrative Law Judge Chandra L. Black, in Little Rock, Pulaski, County, Arkansas.

Claimant, appeared, *pro se*.

Respondents represented by the Honorable David C. Jones, Attorney at Law, Little Rock, Arkansas.

STATEMENT OF THE CASE

A hearing was held in the above-styled claim on June 19, 2024, in Little Rock, Arkansas. On April 17, 2024, a prehearing telephone conference was held on this claim. A Prehearing Order was entered into this matter on that same day. Said order set forth the stipulations offered by the parties, their respective contentions, along with the issues to be litigated.

Stipulations

The parties submitted the following stipulations, either pursuant to the prehearing order, or at the beginning and/or during the hearing. I hereby accept the jointly proposed stipulations as fact:

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. The respondent-employee-employer on June 12, 2020, when the Claimant sustained compensable injuries, including but limited to her head, left upper extremity and neck, arising out of and during the course and in the scope of her employment with United Parcel Service, Inc., the respondent-employer. That claim is on the record with the Commission as AWCC File No. H004886.
3. That on March 8, 2022, the Claimant sustained another work-related injury during the course in the scope of her employment when a package struck the Claimant on the head, causing further cervical strain or strain or aggravation of preexisting condition from the original injury. That claim is on record with the Commission as AWCC File No. H202191. Said claim was accepted as a compensable claim "medical-only," claim, and all the initial evaluation and treatment were provided.
4. The Respondents have controverted benefits related to both claims in their entirety.
5. The Respondents are entitled to an offset for any group health carrier, disability group benefits, and/or any unemployment benefits paid to or on behalf of the Claimant, should the Claimant have applied for and received said benefits.
6. All issues not litigated herein are reserved under the Arkansas Workers' Compensation Act.
7. The Claimant received a change of physician on March 7, 2023.

Issues

By agreement of the parties, the issues to be litigated at the hearing were as follows:

1. Whether the Claimant sustained an injury to her back on June 12, 2020.

2. Whether the Claimant is entitled to any additional medical benefits her neck injury and medical for her alleged back injury, in the form of physical therapy treatment.

Contentions

The parties' respective contentions are outlined below:

Claimant:

The Claimant contends that she sustained a compensable back injury in the course of her employment with the respondent-employer on June 12, 2020.

She further contends that she is entitled to additional medical treatment for neck injury of March 8, 2022, and initial medical treatment for her alleged back injury, in the form of physical therapy treatment.

Respondents:

1. The Respondents contend that all appropriate benefits have previously been paid in regard to the June 12, 2020, incident and injury sustained. In that regard, the Respondents paid for all reasonably necessary treatment, paid the Claimant a period of temporary total disability benefits while she remained off work, as well as accepted and paid out the 2% impairment rating to the wrist assigned by Dr. Jeanine Andersson on August 5, 2021. Accordingly, the Respondents contend that there are no further benefits due in regard to the June 12, 2020 incident, and that claim should be dismissed with prejudice based upon the statute of limitations and the last benefits having been paid more than 2 years since the injury date or last payment made on that particular claim.

2. The Respondents contend that all appropriate benefits have been paid in regard to the Claimant's compensable injury of March 8, 2022. In that regard, the Respondents contend that the Claimant merely sustained a temporary aggravation of her preexisting cervical condition, and

all reasonably necessary medical treatment was provided. It appears that this claim was a “medical-only” claim, and the Claimant continued to work for the Respondent/Employer thereafter. The Respondents contend that the Claimant was granted a one-time change of physician to Dr. Sokolow and that the Respondents provided the initial evaluations and treatment recommended. However, the Respondents contend that there were no significant objective medical findings to support the Claimant’s ongoing complaints, and that further treatment is not reasonably necessary nor related to the injury from March 8, 2022. Accordingly, the Respondents contend that the March 8, 2022, claim should be dismissed with prejudice.

3. The Respondents contend that no further medical treatment or indemnity benefits are due in regard to either of the above-referenced claims and therefore both claims should be dismissed.

4. The Respondents contend that they would be entitled to an offset for any group health carrier, disability carrier, and/or unemployment benefits paid to or on behalf of the Claimant, should the Claimant have applied for and received said benefits.

5. The Respondents reserve the right to amend and supplement their contentions after the discovery has been completed.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on my review of the record as a whole, to include the aforementioned documentary evidence, other matters properly before the Commission, and after having had an opportunity to hear the testimony of the Claimant and observe her demeanor, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. §11-9-704 (Repl. 2012):

1. The Arkansas Workers' Compensation Commission has jurisdiction over this claim.
2. I hereby accept the above-mentioned proposed stipulations as fact.
3. The Claimant failed to prove by a preponderance of the evidence that she sustained a compensable injury to her back during and in the course and scope of her employment with the respondent-employer on June 12, 2020. The issue relating to medical treatment the Claimant's back has been rendered moot and discussed in this Opinion.
4. The Claimant failed to prove by a preponderance of the evidence that any additional medical treatment is reasonably necessary in connection with her compensable neck injury of March 8, 2022.

Summary of Evidence

Lana D. Rogers (referred to herein as the "Claimant"), was the only witness to testify during the hearing. Sign language interpreters for the Claimant were: Ms. Julie Lowe and Ms. Karen Owens.

The record consists of the June 19, 2024 hearing transcript and the following exhibits: Specifically, the documentary evidence includes Commission's Exhibit 1, which comprises the Prehearing Order filed on April 17, 2024, along with the parties' responsive filings; the transcript for the Prehearing Telephone Conference was marked as Commission's Exhibit 2, which has been retained in the Commission's file; Claimant's medical Exhibit comprising eight (8) pages was marked Claimant's Exhibit No. 1; and Respondents' Medical Exhibit 1 contains two-hundred nineteen (219) numbered pages;

The Claimant was allowed to proffer the following: Claimant’s Exhibit 2 is a Non-Medical Documentary Exhibit consisting of thirteen (13) pages; and Claimant’s Exhibit 3 is a Non-Medical Documentary Exhibit consisting of the three (3). These exhibits have not been considered in this Opinion.

Testimony

Lana D. Rogers/the Claimant

At the time of the hearing, the Claimant, age 44 completed high school. She testified that she has worked for the respondent-employer/United Parcel Service (hereinafter referred to as, “UPS”) approximately six (6) years. The Claimant confirmed that she is alleging that she sustained a back injury in the course and scope of her employment with UPS on June 12, 2020.

The Claimant testified that on the day of her alleged injury to her back, she was inside of a trailer unloading boxes, which was pull up to the dock. According to the Claimant, the driver of the truck shifted and pulled away and caused the trailer tilt, causing some boxes to fall. She testified that a small box fell, and she bent down to pick it up, when another box fell on her head, causing injury to her back. The Claimant testified that she reported her injury to her supervisor. Per the Claimant, she had to go to the office to fill out an injury report, which was done by computer. According to the Claimant, it was a long form, and it took her about 45 minutes to an hour to complete it.

After the Claimant completed the injury form, she was told by the supervisor, Alan Harrelson, to go to the emergency room/ER at Baptist, in North Little, for medical treatment of her injury. However, the Claimant testified that while she was at the Baptist ER, Mr. Harrelson texted her and told her to go to Urgent Care at Concentra, and she did so. Per the Claimant, they did tests and made an appointment for her to come back for re-evaluation of her back. However,

the Claimant did not recall undergoing an MRI of her back. At that time, the Claimant essentially testified that she had a headache, and the back of her neck, all that way down her mid-back hurt. She testified that they recommended she undergo physical therapy treatment.

On cross-examination, counsel for the Respondents pointed out to the Claimant that she testified about the box hitting her on her head and she went to Concentra, but she is now claiming a back injury due to the 2020 incident. Counsel asked, “Are you claiming you hurt your back from the 2020 incident or the 2022 incident? The Claimant replied, “Both.” The Claimant confirmed that the insurance carrier provided her treatment at Concentra. She confirmed that she had physical therapy following the 2020 injury. The Claimant agreed that she saw Dr. Adametz, at Concentra, for both her neck, and she also had a wrist injury. She admitted that she had complaints of the neck and wrist. The Claimant underwent an MRI of both her wrist and lumbar spine at the direction of Dr. Adametz. She did not recall having had a prior MRI of the lumbar spine in 2018. The Claimant testified that she had a car accident in 2018. In fact, the Claimant confirmed that she had a couple of car wrecks.

The Claimant did not recall if there were any changes between the 2018 MRI and the 2020 MRI. She admitted that she was off work from UPS during the first injury and she went to work for Great Clips. The Claimant testified that during the car accident, she collapsed because she was hit from behind very hard. However, the Claimant agreed that she testified during her deposition that she had a car wreck on November 13, 2019. Said accident occurred after the earlier MRI. The Claimant confirmed that she was still actively undergoing treatment for the 2020 injury when she went to work for Great Clips. She confirmed that eventually based upon her wrist complaints, she was sent to a wrist/hand specialist, Dr. Jeanine Andersson.

She confirmed that Dr. Andersson ordered a nerve conduction study to determine if she had any radicular problems with her neck. The Claimant did not recall whether the test results were normal. The nerve conduction study was done on April 29, 2021, with an impression of no radiculopathy. She agreed that Dr. Andersson sent her for additional physical therapy after that. Dr. Andersson released that the Claimant for the 2020 injury on August 5, 2021. She assigned the Claimant a 2% impairment rating for her wrist. The Claimant was released to return to work in a full duty capacity and the impairment rating was paid out.

On March 8, 2022, the Claimant sustained a second injury. During the second injury, the Claimant testified that a box fell and hit her on the head. The Claimant admitted that she went to Concentra for initial medical treatment. Although the medical records do not mention her back being hit, the Claimant maintained that the box also hit her back. However, the Claimant specifically stated that she told doctors at Concentra that she her back was hit. The Claimant confirmed that she returned work for the respondent-employer after her 2022 injury, and she has continued to work for UPS almost ever since then.

On November 9, 2022, the Claimant had another car wreck. The Claimant denied that she aggravated her neck and back as a result of that non-work-related car wreck. Instead, the Claimant testified that she injured only her left shoulder.

The Claimant testified:

Q Did you not tell me in your deposition that you had aggravated your back as a result of the car wreck?

A So if you recall, I had two accidents, and in the last car accident I injured my left shoulder because of the seatbelt. I didn't say anything about my back. I didn't hurt my back. There might have been some misunderstanding. Maybe you misunderstood, I'm not sure, but I didn't say anything about hurting my back at that time.

She denied that she testified during her deposition that her back was hurt from the MVA

because it was already hurting. The Claimant admitted that she did recall saying that at her deposition, but she testified that it was not for the last car accident. She specifically testified that she said she had injured her back, but not in the last accident. The Claimant stated that she would prefer her words not be twisted.

According to the Claimant, she went to see Dr. Mocek after her injury from work, and not as a result of her November 9, 2022, car wreck. She denied that her personal injury attorney sent her to Dr. Mocek for her car wreck.

The Claimant explained:

Q Okay. You went to him after the car wreck though, correct?

A I believe that I saw Dr. Mocek before the car accident. If I did see him afterwards, it did not have anything to do with the accident injury of my left shoulder.

Q But he's the one that sent you for the MRI in January of 2023, correct?

A For my spine. I think you're trying to confuse me, but I was sent for my spine. It had nothing to do with that. The last car accident was from the seatbelt and the seatbelt tightening up and injury (sic) when it pushed and pull against my left shoulder.

It appears that the records submitted show that Dr. Mocek ordered that MRI for her lumbar spine after the car wreck. She had already had one for her prior workers' compensation claim in 2020. *The Claimant finally confirmed that Dr. Mocek sent her for another MRI after her car wreck. She essentially admitted that she has a third-party claim for the November 9, 2022, car accident, which is still active.* The Claimant received a change of physician to Dr. Sokolow for her back injury of 2022 with UPS. This order was entered on March 15, 2023.

She agreed that she saw Dr. Sokolow on March 15, 2023. The Claimant maintained that she told Dr. Sokolow about her years of back problems and pain that she had before she went to work at UPS. It was brought to the Claimant's attention that none of this information was in the

report. She explained that she did not have an interpreter for this medical visit. The Claimant also testified that she wrote back and forth to the doctor during her office visit with him. However, miraculously none of the information made to the history. The Claimant maintained that she told Dr. Sokolow about her car wreck in November 2022, but it did not make it into his medical file.

Under further questioning, the Claimant confirmed that she is claiming all of her back problems occurred in either 2020 or 2022 while working for UPS. She essentially testified that it took some time for her to sign the medical release form. She explained that she had a lot of things going on at the time, but once the Chief Judge finally explained why she need to sign, she did so. It appears that this was done at the dismissal hearing of December 13, 2023.

The Claimant admitted that she was asked many times during her deposition (taken on April 17, 2019) if she had prior back problems before she went to work for UPS. And, throughout the deposition she would say, “Well, I don’t recall. I don’t recall. I don’t remember a lot. I don’t remember.” However, the Claimant testified that she has read through some of the documents to refresh her memory so that she does not have to say she cannot remember. According to the Claimant, she testified during her deposition that she had an epidural and that made her back tight. She confirmed that she testified during her deposition that she had no prior treatment to her neck before going to work for UPS in 2019.

She was asked if she had chronic low back problems dating all the way back to 2006. The Claimant testified that she remembered that she had back problems dating back all the way to when she gave birth to her daughter in 2003. She denied that she had back pain at least 14 years prior to her injury at UPS. The Claimant replied: “It’s not back pain but just a feeling of tightness in my back, and uncomfortable feeling, not really pain to where it hurts but just an uncomfortable feeling in my back.”

The Claimant was asked if she had a car wreck in 2013, but she maintained she could remember if it was 2013. Next, the Claimant was shown page 8 of the exhibits in admission from Baptist Medical Center’s Emergency Room. Her reply was: “This says – wow. I do not remember this one.” The Claimant did not recall having neck pain following that motor vehicle accident although the medical records show that she did. She also did not remember following up at the ER three (3) days after that for ongoing neck pain.

Under further questioning, the Claimant admitted that as far as her prior back problems, she started seeing a chiropractor back in May of 2015. These records show that in 2015, the Claimant complained of cervical lumbar and lumbar sacral region pain and problems to the chiropractor. According to the Claimant, she complained to the chiropractor because of the shot she received when her child was born back in 2003. The Claimant denied that she had problems with back pain. Instead, the Claimant testified that she had an uncomfortable feeling in her back, but not specifically denied that she had back pain or that it her back hurt.

The following exchange took place with the Respondents’ attorney and the Claimant:

Q Did you get treatment for your back and neck and your whole spine with the chiropractor?

A To be honest with you, I really don’t remember the car accident. When you brought it up, I did not remember that car accident. When you brought it up, I did not remember that car accident, and then the one in 2015, I don’t remember that either. You asked and I’m just telling you that I don’t remember.

The Claimant did not recall a chiropractor for back issues and neck issues, from a period of almost three (3) years, which was from 2015 until 2018. *According to the Claimant, she went to see the chiropractor because of an uncomfortable feeling in her back, and not because of pain.* She specifically testified that she had a feeling of stiffness, “a feeling of very stiff.” The Claimant

admitted that she complained of left hip pain and pain going down her leg. These notes are on pages 21-27 of the exhibits. (Tr. 63)

She denied that she had leg pain or hip pain before she went to work at UPS. The Claimant testified that she hurt her left femur at UPS because she had fallen in a hole. She explained that it was not the left leg. Per the Claimant, it was two different things that were going on, so the injury to the femur was not happening at that time. She denied she recalled telling the chiropractor that anything she would do pretty much aggravate her back condition, which was on page 46 of the exhibits. The Claimant continued to maintain that anything she would do caused her back to be uncomfortable. She also maintained that this discomfort resulted from the epidural injection she received when her child was born in 2003.

The Claimant treated with Skinner Chiropractic and a couple of days and later she transited over to Pinnacle Chiropractic a couple of days apart. According to the Claimant, she transitioned from Skinner because he was a very tall and big gentleman, and he was very rough with her back. The Claimant testified she was afraid he was going to damage something. After the Claimant completed her treatment with the chiropractor, she started going to UAMS for chronic left side and low back sciatica in May of 2018. However, the Claimant did recall going to physical therapy, but she did not recall the specifics or reason for this treatment. She denied she recalled complaining about pain radiating down her thigh in 2018. Her reply was, “On the left leg, but was not the femur. That was a different separate issue.”

An MRI was performed of the Claimant’s back on May 29, 2018, which is found at page 97 of the exhibits. She admitted she was complaining about numbness and tingling in her feet when she was treating at UAMS. Next, the Claimant was asked about page 110 of the Respondents’ exhibit, which give a good history, as far as the chronic low back pain and pain into

her leg. Per these notes, the Claimant was noted to have lumbar radiculopathy at L5-S1. She agreed that UAMS did offer her epidural steroid injections for her back pain, but she did want them because of the prior problems.

She confirmed that she had a car wreck in 2019 and had a whiplash injury. Her next injury was not until 2020, when she had her first injury with UPS. The following exchange took place:

- Q So is it fair to say that you a pretty long history of prior back problems, pain down your leg, and lots of treatment for back problems before your first injury at UPS?
- A No. I specifically remember saying that my left leg, not the femur which is a different -- you're trying to make it all like the same issue. These are very separate injuries and my back issue was not an injury, it was uncomfortableness. It wasn't pain. I don't know how to specifically describe it to you.

The Claimant was asked if she had years and years of back pain, back complaints, and extensive treatment including MRIs, physical therapy, and chiropractic treatment before her first injury at UPS, no matter the cause. Her reply was, "Yes, I guess, because – I mean, yes."

It appears that the Claimant got a change of physician in March 2023 for her back to treat with Dr. Sokolow. He recommended physical therapy, and the Respondents paid for that treatment. At that point, therapy was no longer necessary and the carrier stop paying for it. Specifically, after the Claimant's second visit with Dr. Sokolow, the Respondents stopped paying.

Per the Claimant, the second car accident is still ongoing now with the courts. Regarding the November 9, 2022, car accident, she confirmed that it is her testimony that she only injured her shoulder in that accident. The Claimant testified that she was rear-ended.

Medical Records

Prior medical records dating back to August 18, 2006 demonstrates that the Claimant sought medical treatment from Baptist Health Medical Center, North Little Rock due to chronic

back pain. X-rays were performed with an IMPRESSION of: “No abnormality seen in the lumbar spine. Specifically, no fractures are seen.”

The Claimant sought emergency treatment from the Emergency Department in North Little Rock, ER due to a motor vehicle accident on January 29, 2013. This time, the Claimant was noted to have a “head contusion.” Said accident occurred while the vehicle was traveling at a low speed. The airbag was not deployed. The Claimant complained of a headache. She was discharged home in stable condition.

On February 2, 2013 the Claimant returned to the ER at Baptist NLR due to complaints of a headache and dizziness since MVA. The Claimant complained of mainly neck pain. She was assessed with “Post Traumatic headache,” for which she was discharged home with medications for her headache.

Chiropractic records show that the Claimant treated at Skinner Chiropractic from May 12, 2015, until November 14, 2016. The Claimant’s subjective complaints were for lower back pain and headaches. On April 1, 2016, the Claimant complained to the chiropractor that she was having a lot of pain and stiffness in her lower back, for which adjustments were performed in the form of spinal manipulation.

Further review of the medical records shows that the Claimant sought medical treatment again from Skinner Chiropractic from November 17, 2016, until May 7, 2018. The Claimant’s subjective complaints of aching, numbness and shooting discomfort in her thoracic, lumbar and lumbosacral. On November 17, during initial consultation, the Claimant specifically complained of pain that radiated the back of her left leg. She was seen for a follow-up chiropractic visit on November 28, 2016, and she described lumbar, thoracic, and cervical symptoms and pain as being sharp and dull in intensity.

The Claimant sought medical attention from UAMS on May 14, 2018, due to a two-year history of low back pain which radiated down her left anterior lateral thigh. She had numbness and tingling, but no associated weakness. The Claimant reported that she had been seeing chiropractor for two (2) years without improvement. At that time, the Claimant was diagnosed “Chronic left-sided low back pain with left sided sciatica” by, Melissa Bryan, MA.

An MRI was performed of the Claimant lumbar spine on May 29, 2018, with the following impression being rendered by Dr. Jennifer McCarty:

1. Moderated L4-5 facet arthropathy, without neural foraminal narrowing nerve root impingement, or disc herniation.
2. Mild degenerative disc disease at L5-S1 with loss of the normal disc signal. Mild-to-moderate bilateral L5-S1 osseous neural foraminal narrowing.

The Claimant was evaluated at the UAMS Orthopedic Clinic due to chronic low back pain associated with radiculopathy, June 6, 2018. Dr. Michael Casset referred the Claimant for Interventional Pain Specialty Services.

On June 25, 2018, the Claimant was evaluated at UAMS for continued complained of chronic back pain at the Spine Center, Interventional Pain. She showed signs and symptoms consistent with lumbar radiculopathy in the L-5 distributtion. The Claimant complained of falling off a ladder at work and sometimes falling when walking, such as in the parking lot. She complained of terrible burning pain in both feet, and numbness and tingling in the left leg.

The Claimant underwent initial evaluation at the Clinical Support in UAMS Rehabilitation Services, Physical Therapy due to a chief complaint of low back pain associated with radiculopathy on August 3, 2018. Physical Therapist, Deborah Davis, determined that the Claimant met the medical necessity requirement and would benefit from therapy intervention for her ongoing low back pain.

It appears that the Claimant underwent multiple sessions of physical therapy for her low back pain and associated radiculopathy at UAMS outpatient physical therapy clinic, until September 27, 2018.

On November 13, 2019, the Claimant sought medical treatment from the Emergency Department in North Little Rock, Emergency Room. The Claimant was involved in a motor vehicle accident after being rear-ended. A CT of the Claimant's cervical spine was performed as a result of the Claimant having complained of lower head and neck pain. The findings of this exam showed that there was no evidence of any acute bony fracture or misalignment. She also underwent a CT of the head with no acute findings. The Dr. Joshua Adam, Tennyson placed the Claimant in a C-collar and discharged her home with Naprosyn for pain as needed. It was also recommended that the Claimant apply a moist heating pad as needed for comfort.

On November 12, 2020, the Claimant underwent an MRI of the back. Dr. Alexander Albert opined: "IMPRESSION: Facet arthritis from L3-4 through L5-S1." The Claimant also underwent other diagnostic tests for the wrist and hand which do not pertain to this claim.

Dr. Jeannine Andersson returned the Claimant to work on August 5, 2021, without any restrictions.

Medical notes from Concentra Medical Center dated June 29, 2022, show an office visit recheck of the Claimant's neck and back pain. In fact, Clint Bearden authored a Form 3, in this regard. His assessment was "1. Thoracic myofascial strain initial encounter. 2. Neck Strain subsequent encounter." However, it was noted that the Claimant was at a functional goal and ready for discharge. At that time, the Claimant's neck symptoms had resolved. Dr. Bearden opined that her hip complaints were unrelated to the June 2022 incident. Therefore, the Claimant was

returned to work and regular activities without any physical limitations or restrictions due to her workplace injury.

The Claimant underwent an MRI of the lumbar spine on January 4, 2023. Dr. Raymond Peeples rendered the following IMPRESSION: “Multiple level facet hypertrophy. No evidence of acute lumbar spine injury or significant canal foraminal narrowing.”

A review of the medical evidence records shows that the Claimant underwent a comparison MRI of the lumbar spine WITHOUT IV CONTRAST on May 3, 2024, to compare with a prior lumbar spine MRI of January 4, 2023. IMPRESSION:

- * Mild central stenosis L4-5 and L5-S1.
- * Left-sided foraminal stenosis L5-S1.
- * Moderate Facet arthritis L3-S1.

- * Findings are worse than previous study.

ADJUDICATION

A. Compensability

The Claimant has asserted a compensable back injury on June 12, 2020, while working for the respondent-employer, United Parcel Service(UPS), Incorporated .

"Compensable injury" means an accidental injury causing physical harm to the body, arising out of and in the course of employment and which requires medical services or results in disability or death. Ark. Code Ann. §11-9-102(4)(A)(i). A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D). The Claimant must prove by a preponderance of the evidence that she sustained a compensable injury. Ark. Code Ann. § 11-9-102(4) (E)(i).

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).

After reviewing the evidence in this case impartially, without giving the benefit of the doubt to either party, I find that the Claimant failed to prove by a preponderance of the credible that she was sustained an accidental injury to her lumbar spine arising out and in the course of her employment with UPS on June 12, 2020. I am unable to find any objective medical evidence of an injury to the Claimant back. There is not any medical interpretation showing that there are any changes between the 2018 MRI the 2020 MRI. There are no objective findings of an injury to the Claimant's back which are causally connected to her work activities. The Claimant has complained chronic back pain and leg pain for years. She has received extensive chiropractic and physical therapy for her back prior to her ever going to work for UPS.

The Claimant's account of this incident is not credible. The Claimant initially reported that she was hit on the head by the box, and there was no mention of a back injury. Her testimony was not corroborated by the documentary medical evidence, which demonstrates that the Claimant has a lifelong history of prior medical treatment for her back. The Claimant's testimony is also not corroborated by the contemporaneous medical documentation of record do not mention an injury to the Claimant's back. The Claimant made mentioned of a neck injury. The Respondents accepted the neck injury and paid appropriate benefits for that injury. Additionally, the Claimant's testimony demonstrates that while she was off work for her 2020 injury she went to work for Great Clips. The Claimant was also involved in a subsequent motor vehicle accident on November 9, 2022, which aggravated her neck and back. Her 2024 MRI of the lumbar spine supports this conclusion.

In light of the above cited reasons, I find that the Claimant failed to prove an injury to her lumbar spine by medical evidence supported by objective findings.

Therefore, based on all of the foregoing, I find that the Claimant has failed to meet all of the necessary requirements for establishing a compensable injury to her lumbar spine while performing employment activities for her employer in June 2020. Thus, I therefore find that the Claimant failed to prove by a preponderance of the evidence that she sustained a compensable injury to her back on June 12, 2020, during and in the course of her employment with the respondent-employer/UPS. The issue of treatment for the Claimant's back is rendered moot.

B. Medical Benefits

An employer shall promptly provide for an injured employee such medical treatment as may be reasonably necessary in connection with the injury received by the employee. Ark. Code Ann. § 11-9-508(a). The Claimant bears the burden of proving by a preponderance of the evidence that medical treatment is reasonably necessary. *Stone v. Dollar General Stores*, 91 Ark. App. 260, 209 S.W.3d 445 (2005).

The Claimant failed to prove that additional medical treatment for her neck is reasonable and necessary medical treatment for her compensable neck injury. Her testimony concerning prior problems was conflicting and confusing. I did not find the Claimant to be a credible witness. Nevertheless, the documentary evidence establishes this issue most appropriately. Particularly, the evidence shows that the Claimant has had ongoing problems with neck and back dating to 2006. The Claimant was provided appropriate care for her neck injury by Respondents. The Claimant was declared to be MMI for this injury. She received a change of physician to treatment with Dr. Sokolow. The Respondents paid for two visits with her treating physician. They also paid for the additional medical physical therapy that he ordered for this injury. No doctor had recommended any additional medical treatment for the Claimant's neck injury in the form of physical therapy treatment. The Claimant has since returned to work for UPS. She also has had

a car wreck since her work-related neck injury. This car wreck occurred on November 9, 2022. Although the Claimant maintained that only her shoulder was injured during the car wreck, the evidence indicates otherwise. The probative evidence of record indicates that the Claimant complained of neck and back pain after this car wreck. The Claimant incredulously maintained during the hearing that a physical therapist ordered additional medical treatment for her neck. This alleged suggestion/recommendation for additional physical therapy, even if taken as a fact is insufficient evidence to support a finding for the need of more treatment for the Claimant's neck injury. I am not convinced of the Claimant being ordered any additional medical treatment by a doctor. The record is devoid of a recommendation by a doctor or any other medical personnel for additional medical treatment for her compensable neck injury. I am well aware that additional medical treatment may be required and in order after the Claimant's healing period has ended. However, I do not find that to be the case in this instance. The Claimant has been released to full duty work without any physical limitations or restrictions for this injury. I thus find that under these circumstances the Claimant failed to prove her entitlement to additional medical treatment for her compensable neck injury.

ORDER

Based in the foregoing findings of fact set forth herein this Opinion, I find that the Claimant failed to prove she sustained a back injury in June 2022, and she failed to her entitlement to any additional medical treatment for her neck. Hence, this claim is hereby respectfully denied and dismissed in its entirety.

IT IS SO ORDERED.

CHANDRA L. BLACK
ADMINISTRATIVE LAW JUDGE

