BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NO. H301282

DUANE R. THOMAS, EMPLOYEE	**CLAIMANT**
SARACEN CASINO RESORT, EMPLOYER	**RESPONDENT**
LUBA CASUALTY INSURANCE CO., CARRIER/TPA	**RESPONDENT**

OPINION FILED 27 MAY 2026

Heard before Arkansas Workers' Compensation Commission Administrative Law Judge JayO. Howe on 12 March 2026 in Pine Bluff, Arkansas.

The claimant appeared *pro se*.

Mr. Jarrod S. Parrish, Worley, Wood & Parrish, P.A., appeared for the respondents.

I. STATEMENT OF THE CASE

A Prehearing Order was filed on 13 January 2026 and admitted to the record as Commission's Exhibit № 1. The parties agreed to the following stipulations at the hearing:

STIPULATIONS

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

2. The respondents accepted a medical-only claim associated with a compensable right knee injury by specific incident on 8 October 2020.

3. Some medical benefits were eventually paid on that claim, including a surgery that was performed on 16 February 2023.

4. The applicable average weekly wage is $480 per week, which would entitle the claimant to temporary total disability (TTD) benefits of $320 per week and permanent partial disability (PPD) benefits of $240 per week.

ISSUES LITIGATED AT HEARING

Following a discussion at the beginning of the hearing, the parties agreed to litigate the following:

1. Whether the statute of limitations bars any claim for additional benefits.

2. Whether an independent intervening incident relieves the respondents of liability for any of the additional benefits sought by the claimant.

3. Whether the claimant is entitled to additional reasonable and necessary medical benefits, including but not limited to costs incurred between his date of injury and his right knee injury eventually being accepted as compensable.

4. Whether the claimant failed to provide timely notice of an injury for any benefits sought before his claim was accepted.

5. Whether the claimant is entitled to TTD benefits.

6. Whether the claimant is entitled to a permanent impairment rating and PPD benefits consistent with the same.

All other issues are reserved.

CONTENTIONS

The parties' Contentions were set out in their respective Prehearing Questionnaire responses and were amended at the hearing to read:

> Claimant
>
> The claimant contends that he sustained a compensable workplace injury to his right knee by specific incident and that the respondents did not begin paying benefits until after he sought treatment on his own. Claimant contends that he is entitled to TTD benefits, a permanent impairment rating, and PPD benefits.
>
> Respondents
>
> The respondents contend that the statute of limitations has run. Alternatively, claimant suffered an intervening incident relieving respondents of liability regarding this claim. They additionally assert a lack of notice of an injury until 10 September 2021.

The respondents amended their contentions at the hearing to include that the claimant was not actually an employee of Saracen Casino Resort on the 8 October 2020.[1]

[1] The respondents amended their contentions to include that the claimant was not an employee of Saracen Casino Resort at the time of his injury and that he was, instead, actually an employee of Downstream Casino Resort (a separate entity insured by the same Carrier) at the time of his accident. The injury occurred around the time of a change in the ownership and/or operating name of the facility. The claimant's reported injury was,

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the record as a whole, including the evidence summarized below, and having heard testimony from the claimant, observing his demeanor, I make the following findings of fact and conclusions of law under Ark. Code Ann. § 11-9-704:

1. The Commission has jurisdiction over this claim.

2. The Stipulations as set forth above are reasonable and are hereby accepted.

3. The claimant has failed to prove by a preponderance of the evidence that he made a timely filing of a claim for additional benefits. This claim is therefore barred under Ark. Code Ann. § 11-9-702(b)(1), the applicable statute of limitations.

4. Because the claim is barred by the statute of limitations, the other Issues listed above are moot and will not be addressed in this Opinion.

III. ADJUDICATION

The stipulated facts as outlined above are reasonable and accepted. It is settled that the Commission, with the benefit of being in the presence of a witness and observing their demeanor, determines a witness' credibility and the appropriate weight to accord their statements. *Wal-Mart Stores, Inc. v. VanWagner*, 337 Ark. 443, 990 S.W.2d 522 (1999). A claimant's testimony is never considered uncontroverted. *Nix v. Wilson World Hotel*, 46 Ark. App. 303, 879 S.W.2d 457 (1994). The determination of a witness' credibility and how much weight to accord to that person's testimony are solely up to the Commission. *White v. Gregg Agricultural Ent.*, 72 Ark. App. 309, 37 S.W.3d 649 (2001). The Commission must sort through conflicting evidence and determine the true facts. *Id.* In so doing, the Commission is not required to believe the testimony of the claimant or any other witness but may accept and translate into findings of fact only those portions of the testimony that it deems worthy of belief. *Id.*

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nonetheless, accepted as compensable and some benefits were provided for some time thereafter.

SUMMARY OF THE EVIDENCE

The claimant was the only witness at the hearing. The record consists of the hearing transcript, which includes following exhibits: Commission's Exhibit № 1 (the 13 January 2026 Prehearing Order); Claimant's Exhibit № 1 (a one-page return-to-work note and a one-page letter from the claimant (dated 3 March 2025) requesting a hearing); Claimant's Exhibit № 2 (23 pages of medical records); Respondents' Exhibit № 1 (34 pages of medical records); and Respondents' Exhibit № 2 (26 pages of non-medical records and a thumb drive containing a voice message audio file).

Claimant's Testimony

The claimant is fifty-four years old. He has a high school diploma and HVAC licensure. According to his testimony, he began working as a maintenance engineer for Saracen Casino Resort (Saracen) in June or July of 2020. He alleged that his workplace injury occurred on 8 October 2020 when his knee popped while stepping off a trailer.

He acknowledged some confusion about the identity of his actual employer at the time of his accident.

> A: I should have left with an employee of Saracen to drive me to the hospital. And the reason I say Downstream [the other potential employer at the relevant time] is because I was, literally, told at the time of my injury that we're switching hands. They don't know who they're gonna put this on. Those were not something I made up. These are words that I'm saying. Everything is the truth.
>
> . . .
>
> Q: Hold on. From what you just said, was that you were—it was not clear, at the time that you were injured, whether Downstream or Saracen would be responsible.
>
> A: Correct.

[TR at 29-30.]

The claimant went on to say that he sought treatment on his own after leaving work on the day of his injury. He eventually underwent right knee arthroscopy on 16 February 2023, and that surgery was covered by the respondents. According to his testimony, he suffered a stroke 30 or 40 days after that knee procedure. He claimed that the stroke was a result of the knee surgery.[2]

On cross-examination, the claimant acknowledged that his medical records reflect that he was released to return to work, at least regarding his right knee, on 9 August 2023. He has not received any treatment for his stipulated compensable injury since that release. He acknowledged returning to work for some time during the period between his knee surgery and his stroke. He also acknowledged that he has not returned to work since the stroke.

On continued cross-examination, the claimant vacillated on whether he had actually been injured on the 8 October 2020 date (as he had initially alleged and as the parties had stipulated). He was adamant, though, that the injury occurred at some point within his 90-day probationary period as a new hire. His earlier testimony was that his employment began in June or July of 2020, which would have placed the date of injury at some point in August to October. The medical records he submitted, however, relate his reported date of injury back to mid- or late-November. [Cl. Ex. № 2 at 1, 6.]

Finally, he confirmed that the last benefit he received related to his claim was in the form of a final doctor visit on 9 August 2023 and that he did not request a hearing on additional benefits before his letter dated 3 March 2025.

[2] The claimant did not raise as an issue for this litigation whether his stroke was a compensable consequence; I will not consider that issue on his behalf *sue sponte*.

Medical Records and Documentary Evidence

The claimant introduced into evidence a work excuse from Jefferson Regional Medical Center dated 8 October 2020. There are no additional records relating to a visit that day, and the note does not include any information relating to symptoms, diagnoses, or treatments. He also submitted a copy of a letter that he faxed to the Commission requesting a hearing on his claim. The letter has his signature and is dated 3 March 2025. [Cl. Ex. № 1.]

Additionally, the claimant submitted several medical records from Martin Orthopedics. The first record reflects an office visit on 16 June 2021 where the claimant complained of knee pain beginning seven months earlier. He attributed his symptoms to stepping off a trailer at work. A telephone visit then occurred on 8 July 2021. Imaging showed that the claimant had a suspected lateral meniscus tear.

On 28 September 2021, the claimant returned to clinic for a follow-up. That note includes, in part, the following:

> IMPRESSION/PLAN:
> Mr. Thomas had an exacerbation of his osteoarthritis while at work roughly 10 months ago. His previous XR and MRI support he has osteoarthritis and a degenerative lateral meniscal tear…
>
> . . .
>
> 1. Degenerative Joint Disease, Knee, Right
> Unilateral primary osteoarthritis, right knee (M17.11)
> Located on right knee joint

He eventually underwent a right knee arthroscopy procedure on 16 February 2023. He was to remain off work until his 6-week postoperative visit. On 14 April 2023, he returned to clinic. The note from that visit stated that he may return to work on 19 April 2023 without limitations or restrictions. At another visit on 24 May 2023, he complained of increased pain in his right knee and requested another MRI study.

The claimant's final orthopedic visit was on 9 August 2023. The note from that visit includes, in part:

> PLAN/RECOMMENDATIONS
> Discussed the results with him again of his MRI, this is confirmed from the arthroscopy as well as the MRI. He does have degenerative changes in his knee that are worsening with the X-rays. His pain today [is] primarily around the origin of the MCL of the medial femoral condyle. I discussed with him that we could try a brace to give him more comfort. Also recommended that he do water aerobics [so] he will maintain the strength of his right leg as he is recovering from a stroke. I discussed with him that at this point his arthritis is a pre-existing condition prior to his work injury. Lateral meniscus tear has been treated with knee arthroscopy. The MCL is nonoperative injury and a brace would help for comfort. From my standpoint, he has been optimized to return to work from his work-related injury. I cannot speak to whether or not the stroke would keep him from returning to work.

[Cl. Ex. № 2.]

The respondents also submitted a number of the claimant's medical records. Their evidence included emergency department notes that showed the claimant's stroke occurred on 25 May 2023. [Resp. Ex. № 1.] Those records indicate that his stroke occurred nearly 100 days after his knee surgery and not the 30 to 40 days after surgery that he suggested in his testimony.

DISCUSSION

A. THE CLAIMANT IS BARRED BY THE STATUTE OF LIMITATIONS FROM SEEKING ADDITIONAL BENEFITS.

The parties stipulated that the claimant sustained a compensable injury to his right knee on 8 October 2020, and I have accepted that as the stipulated date of injury. The respondents eventually accepted this claim as medical-only and provided some benefits accordingly. Those benefits included a right knee arthroscopy on 16 February 2023. The claimant acknowledged that he has not received any benefits associated with his claim since his last post-surgical visit on 9 August 2023. He eventually requested a hearing on 5

March 2025. The respondents argue that the statute of limitations bars this claim for additional benefits.

Claims for additional benefits are governed by Ark. Code Ann. § 11-9-702(b)(1), which provides:

> In cases in which any compensation, including disability or medical, has been paid on account of injury, a claim for additional compensation shall be barred unless filed with the commission within one (1) year from the date of the last payment of compensation or two (2) years from the date of the injury, whichever is greater.

The claimant has the burden of proving that he acted within the statutory period for filing a claim for additional benefits. *White Cty. Judge v. Menser*, 2020 Ark. 140, 597 S.W.3d 640. The stipulated date of injury was 8 October 2020. The statutory period extends to either two years from that date (to 8 October 2022) or to one year after the last payment of compensation, whichever is greater. Here, the latter of the two is the appropriate measure.

Providing medical services constitutes payment of compensation. *Spencer v. Stone Container Corp.*, 72 Ark. App. 450, 38 S.W.3d 909 (2001). The parties agreed that the claimant has not received medical services related to his compensable knee injury since his physician visit on 9 August 2023. The date of that appointment is clearly later than two years after the stipulated date of injury. The statutory period, therefore, ran for one year beyond the date of that last medical visit or until 9 August 2024. *See Wynne v. Liberty Trailer & Death & Permanent Total Disability Trust Fund*, 2022 Ark. 65, 641 S.W.3d 621. Any claim filed after 9 August 2024 is therefore barred as untimely. The claimant's request for a hearing was not filed with the Commission until 5 March 2025 — well beyond the expiration of the permissible period for seeking additional benefits. The claimant has failed to prove by a preponderance of the evidence that a claim for additional benefits was timely filed. Accordingly, any claim for additional benefits is barred by the statute of limitations.

B. THE CLAIMANT FAILED TO MEET THE STATUTORY REQUIREMENTS FOR INITIATING A CLAIM FOR ADDITIONAL BENEFITS.

While the statutory period for seeking additional benefits expired before the claimant filed his request for a hearing, I should note that the claimant has also failed to comply with the statutory requirements for filing a claim for additional benefits. The claimant never filed a Form AR-C in this matter. While the respondents noted the same in correspondence dated 14 July 2025 [Resp. Ex. № 2 at 14], they did not raise the issue or advance a defense or argument in that regard at the hearing.

The Commission has designated the Form AR-C as the typical means for initiating a claim for benefits before the Commission. But claimants are not limited to the completion of that particular form as the only means of initiating a claim for benefits. The Court of Appeals has held that communication with the Commission that is specific to a particular claim may be sufficient to serve as a claim for initial benefits, even in the absence of a Form AR-C. *See Garrett v. Sears, Roebuck & Co*. 43 Ark. App. 37, 858 S.W.2d 146 (1993) (citing *Cook v. Southwestern Bell Telephone Co.*, 21 Ark. App. 29, 727 S.W.2d 862 (1987).

Claims for *additional* compensation, though, are controlled by § 11-9-702(c), which states:

> A claim for additional compensation must specifically state that it is a claim for additional compensation. Documents which do not specifically request additional benefits shall not be considered a claim for additional compensation.

In *White Cty. Judge v. Menser*, *supra*, the Court of Appeals clearly stated (with emphasis in the original):

> under section 11-9-702(c), Menser should have filed a claim that "specifically state[d] that it [was] a claim for additional compensation." Any other documentation without "specifically request[ing] additional benefits *shall not be considered a claim for additional compensation*." Ark. Code Ann. § 11-9-702(c). The word *shall* means mandatory compliance unless it would lead to

> an absurd result. *Vaughn v. Mercy Clinic Ft. Smith Communities*, 2019 Ark. 329, 587 S.W.3d 216.

Here, the claimant's letter only stated, in full:

> Arkansas Workers Comp.
> Duane Thomas [Duane Thomas' signature]
> File No. H301282
> Request A Hearing 3-3-25
> Fax No. 501-682-1790

A plain reading of this correspondence reveals that the claimant simply failed to comply with the specific requirements for stating a claim for *additional compensation*. The parties stipulated that this was an accepted compensable claim and that benefits, including a knee surgery, had already been provided to the claimant. A more detailed statement was required to sufficiently lodge a claim for *additional benefits*. Still, even if the claimant had met the requirements for stating *what* he was seeking, the statute of limitations would no less serve to bar such a claim for *when* he eventually sought it.

Because the statute of limitations bars any claim for additional benefits, the other issues litigated at the hearing are moot and will not be addressed in this Opinion.

IV. CONCLUSION

The claimant has failed to prove by a preponderance of the evidence that he timely filed a claim for additional benefits. Because any claim is barred by the statute of limitations, it must be denied and dismissed.

SO ORDERED.

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JAYO. HOWE
ADMINISTRATIVE LAW JUDGE