ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC027137
Case Name	Jeffery Strait v. State of Illinois - Vienna Correctional Center
Consolidated Cases	24WC027141
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0220
Number of Pages of Decision	14
Decision Issued By	Marc Parker, Commissioner, Maria Portela, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Aaron Wright

DATE FILED: 8/3/2026

/s/Maria Portela, Commissioner

Signature

DISSENT

/s/Marc Parker, Commissioner

Signature

26IWCC0220

STATE OF ILLINOIS)	☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
) SS.	☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
COUNTY OF WILLIAMSON)	☐ Reverse	☐ Second Injury Fund (§8(e)18)
		☐ PTD/Fatal denied
	☒ Modify down	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

JEFFERY STRAIT,

Petitioner,

vs. NO: 24 WC 027137

STATE OF ILLINOIS – VIENNA CORRECTIONAL CENTER,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of medical expenses and permanent partial disability benefits and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Commission affirms the Arbitrator's Decision as to causation, but only through Petitioner's last visit with Dr. Winkleman on December 4, 2024. Accordingly, medical expenses pursuant to Px1 are awarded through December 4, 2024, pursuant to the fee schedule. However, the Commission finds that Petitioner did not meet his burden of proof that his current condition of ill-being is causally connected to the alleged occupational exposure of September 21, 2024, and therefore vacates the Arbitrator's award for permanent partial disability benefits.

Petitioner is employed as a correctional officer at Vienna Correctional Center (T. 11-12) Petitioner testified that on September 21, 2024, he noticed an inmate rattled a door and motioned for Petitioner to come over. (T. 12-13) Petitioner testified that upon opening the cell door, there was a gray hazy fog throughout the cell and a chemical smell inside of the cell. *Id*. Petitioner's sergeant arrived, and the inmate became combative, after which the inmate was sprayed twice with pepper spray. (T. 14-15) Petitioner was sprayed with pepper spray on the second spray. (T.15) The inmate was cuffed and taken to healthcare. (T. 15-16) Petitioner went to the bathroom to wash the pepper spray from his hands and face and noticed a tingling and numbness. (T. 16)

The Commission finds that the evidence supports that the Petitioner was exposed to an

unknown substance on September 21, 2024, and that he sought reasonable and necessary care with the Emergency Department and Dr. Winkleman. Petitioner was not able to identify the substance to which he was exposed. The lab tests run on September 22, 2024, in the Emergency Room failed to identify the substance to which Petitioner was exposed. (Px3) The lab tests run by Dr. Winkleman on September 25, 2024, did not identify any substance to which the Petitioner was exposed. (Px4) Finally, the lab tests run by Dr. Winkleman on December 24, 2024, did not identify a substance to which Petitioner was exposed, and at that point Dr. Winkleman opined that any findings in Petitioner's lab reports were not of clinical significance and were unlikely to be related to Petitioner's recent exposures. Neither party submitted toxicology reports identifying the substance in the cells to which Petitioner was exposed. No internal affairs reports were submitted into evidence to substantiate Petitioner's testimony regarding "roach dope" which was testimony the Arbitrator used to reason there was a causal connection. The Commission finds the Emergency Department visit and the follow up treatment with Dr. Winkleman through December 4, 2024, to be reasonable and therefore awards same.

However, the Commission does not find causation beyond December 4, 2024, as the Petitioner did not meet his burden of proof that his current condition of ill-being is causally connected to the alleged workplace exposure. Despite multiple visits with Dr. Winkleman and a referral for counseling/psychotherapy, Dr. Winkleman did not provide a causation opinion correlating the Petitioner's alleged anxiety or any physical conditions to the workplace exposure.

Specifically, Dr. Winkleman opined that any findings in Petitioner's lab reports were unlikely to be related to Petitioner's recent exposures and by the time Petitioner was discharged from care on December 4, 2024, Petitioner's cardiovascular and pulmonary exams were normal. (Px4) Additionally, the Petitioner did not make any non-physical complaints until nearly 2 weeks after the exposure and after the second drug test came back negative. Despite claiming that Petitioner was denied treatment at Centerstone for behavioral health, and despite another referral for counseling, Petitioner at no point obtained behavioral health counseling. The diagnosis of anxiety came from Dr. Winkleman approximately 2 weeks after the work accident and based solely on Petitioner's self-report.

As Petitioner did not prove his current condition of ill-being is causally connected to the alleged workplace exposure, the Commission vacates the award of permanent partial disability benefits.

All else is affirmed.

IT IS THEREFORE ORDERED BY THE COMMISSION that causation terminates on December 4, 2024.

IT IS FURTHER ORDERED BY THE COMMISSION that the award for permanent partial disability benefits is vacated.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the reasonable and necessary medical expenses contained in Px1 pursuant to §8(a) of the Act, subject to the fee schedule in §8.2 of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Pursuant to §19(f)(1) of the Act, claims against the State of Illinois are not subject to judicial review. Therefore, no appeal bond is set in this case.

August 3, 2026

/s/ *Maria E. Portela*
Maria E. Portela

MEP/dmm
O: 070926
49

/s/ *Christopher A. Harris*
Christopher A. Harris

DISSENT

I respectfully dissent from the decision of the Majority. I would have affirmed and adopted the well-reasoned decision of the Arbitrator.

/s/ *Marc Parker*
Marc Parker

August 3, 2026

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC027137
Case Name	Jeffery Strait v. State of Illinois - Vienna Correctional Center
Consolidated Cases	24WC027141
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	10
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Aaron Wright

DATE FILED: 10/2/2025

/s/ Bradley Gillespie, Arbitrator
Signature

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

OCTOBER 2 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF SEPTEMBER 30 2025 3.72%

STATE OF ILLINOIS)
)SS.
COUNTY OF **Williamson**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

Jeffery Strait
Employee/Petitioner

v.

State of IL / Vienna Correctional Center
Employer/Respondent

Case # **24** WC **027137**

Consolidated cases:

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Bradley Gillespie**, Arbitrator of the Commission, in the city of **Herrin, Illinois**, on **July 8, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☐ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☐ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **09/21/2024**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**64,285.61**; the average weekly wage was $**1,236.26**.

On the date of accident, Petitioner was **49** years of age, ***married*** with **0** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has not*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**0**.

Respondent is entitled to a credit of $**if any** under Section 8(j) of the Act.

ORDER

Respondent shall pay the reasonable and necessary medical services outlined in Petitioner's group exhibit, as provided in Sections 8(a) and 8.2 of the Act.

Respondent shall be given a credit for medical benefits that have been paid, and Respondent shall hold petitioner harmless from any claims by any providers of the services for which Respondent is receiving this credit, as provided in Section 8(j) of the Act.

See the Decision Form for case no. 24WC027141 for orders regarding permanent partial disability.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Bradley D. Gillespie

Signature of Arbitrator

OCTOBER 2 2025

BEFORE THE ILLINOIS WORKERS'S COMPENSATION COMMISSION

JERRERY STRAIT,	)	
	)	
Petitioner,	)	
	)	
v.	)	**Case No.: 24WC027137 & 24WC027141**
	)	
STATE OF ILLINOIS/ VIENNA CORRECTIONAL CENTER,	)	
	)	
	)	
Respondent.	)	

DECISION OF ARBITRATOR

FINDINGS OF FACT

These matters came before an Arbitrator appointed by the Commission pursuant to Petitioner's Motion for a hearing on all issues. Issues in dispute were causation, medical bills, and the nature and extent of Petitioner's injuries. (Tr. pp. 4-6)

Petitioner filed two Application for Adjustment Claim forms. One for an accident date of September 21, 2024, is numbered 24WC027137 and states that Petitioner was exposed to an unknown substance/chemical affecting his respiratory and nervous system/body as a whole. (Arb. Ex. 3) The other is for an accident date of September 22, 2024, is numbered 24WC027141and alleges an exposure to an unknown substance/chemical affecting his respiratory and nervous system/body as a whole. (Arb. Ex. 4)

Petitioner's Testimony

Petitioner is employed as a correctional officer at Vienna Correctional Center and has been employed by Respondent for three years. (Tr. pp. 11-12) Petitioner testified that on September 21, 2024, he was employed by Respondent. (Tr. p. 12) On that date, he noticed an inmate rattled a door and motioned for Petitioner to come over. (T. 12-13) Petitioner took another officer and opened the door. (Tr. p. 13) Petitioner testified that the inmate appeared to be intoxicated and said that he kept hearing his sister calling for him, and that he refused to accept that his sister was not there and that he was in prison. *Id.* The inmate refused direct commands and Petitioner followed him to where his cell was located.(Tr. pp. 13-14) He noticed that the inmate's gait was off, and he was stumbling around. (Tr. p. 14) Petitioner testified that upon opening the cell door, there was a grey hazy fog throughout the cell and a chemical smell inside of the cell. *Id.* Petitioner's sergeant arrived, and the inmate became combative, after which the inmate was sprayed twice with pepper spray. (Tr. pp. 14-15) Petitioner was sprayed with pepper spray on the second spray. (Tr. p.15) The inmate was cuffed and taken to healthcare. (Tr. pp. 15-16) Petitioner went to the bathroom to wash the pepper spray from his hands and face and noticed a tingling and numbness.(Tr. p. 16)

He testified that he had been an officer for 23 years outside his employment with Respondent and that he had been pepper sprayed hundreds of times but had never experienced tingling. (Tr. p. 16) Petitioner noticed respiratory issues, which he initially attributed to the pepper spray. (Tr. pp. 16-17) He continued to work that day. (Tr. p. 17)

The following day, Petitioner still had some burning in his chest and painful inspiration. (Tr. pp. 17-18) He testified that he did not have any of these symptoms prior to September 21, 2024, and that the symptoms were different in comparison to the hundreds of other times he had been exposed to pepper spray. (Tr. p. 18)

Petitioner presented to work on September 22, 2024, and was assigned to the same wing. (Tr. p. 18) A medical code was called so they locked up everybody while others responded from different parts of the facility. (Tr. pp. 18-19) He entered a cell in which an inmate was sitting on a plastic stool, "bobbing and weaving." (T. 19) Petitioner testified that the inmate would not answer, would not respond to commands, and appeared to be intoxicated in the same way that the other inmate had been the day prior. *Id.* Petitioner testified that the same chemical smell was in the room on September 22, 2024. *Id.* Petitioner had to cuff the individual and became exposed to him at that time. *Id.* The inmate was taken to healthcare and Petitioner believed that he was sent out by ambulance. (Tr. pp. 19-20)

Shortly thereafter, Petitioner begin experiencing shortness of breath, tingling in his legs and hands, altered gait, and an elevated heart rate and pulse. (Tr. pp. 19-20) He reported his symptoms to his major, who sent him to healthcare. (Tr. p. 20) Petitioner testified that the nurse "didn't like it", so she had him sent to the hospital via a state van. *Id.* Petitioner testified that when he arrived at the hospital, he experienced shortness of breath, elevated heart rate, weakness in his legs, tingling in his fingers, legs, and toes, and a "massive migraine." (Tr. pp. 21-22) He had never experienced these symptoms prior to his exposure. (Tr. p. 21)

Documentary Evidence

A notice of injury completed by Petitioner on September 22, 2024, indicated that he was exposed to an unknown chemical which an inmate had consumed and that this had occurred both on September 21, 2024 and on September 22, 2024 in different cells. (RX 1) An incident report completed by Lieutenant Lucas Reed indicated that the inmate in question from September 21, 2024, had been in an altered mental state and had to receive two rounds of Narcan before becoming responsive. *Id*. He noted that EMS arrived at the healthcare unit in response to the inmate. *Id*. Lt. Reed indicated that there were multiple staff that witnessed the incident. *Id.*

An Employee Injury Preliminary Report signed by staff at the Health Care Unit indicated that on September 22, 2024, Petitioner presented for a wellness check after possible substance exposure, and that he was advised to get medical care. *Id.*

Medical Evidence

Emergency department records from Deaconess Regional Healthcare Services indicated that Petitioner presented from work at a local prison where he was exposed to an unknown substance and started feeling dizzy and weak with blurred vision and a headache. (PX 3 p. 5) He reported he was one of several exposed in a cell with another guard who had symptoms after handling papers that were believed to be soaked in a toxin. *Id*. Petitioner entered the emergency department through the decontamination shower room where he undressed and bagged his belongings. *Id*. He was washed down with soap and water. *Id*.

It was noted that Petitioner felt dizzy, weak, had blurred vision, and a headache. (PX 3 p. 7) He also reported mild chest pressure. *Id.* Lab tests showed some abnormalities. (PX 3 pp. 8-9) A drug screening, which tested for 11 drug types such as opiates and amphetamines, was negative. (PX 3 p. 13) The final impression was poisoning by drug or medicinal substance, accidental or unintentional. (PX 3 p. 10) Petitioner was discharged and instructed to follow up with Dr. Winkleman in two days. *Id*.

On September 25, 2024, Petitioner presented to the office of Dr. Matthew Winkleman at SIH Medical Group Family Medicine with symptoms of congestion, cough, fatigue, and rhinorrhea. (PX 4 p. 3) Petitioner reported that he was involved in an incident two days prior when he was attempting to remove an inmate from his cell and entered the cell, where there were fumes and residue on the walls. *Id*. Petitioner reported that he began experiencing a burning sensation in his nose, tingling of his lips, as well as cough, weakness and fatigue. *Id*. Petitioner was feeling better, but still had brain fog, mild cough, and rhinorrhea. *Id*. The assessment was occupational exposure in the workplace. *Id*. Labs were obtained that day, which were negative for 11 specific drugs. (PX 4 p. 15)

On October 4, 2024, Petitioner returned to Dr. Winkleman who noted that he was following up after occupational exposure and that he continued to complain of daily headaches that had been making it difficult to work. (PX 4 p. 23) Petitioner had intermittent blurred vision, paresthesias in his hands, was extremely anxious and hypervigilant, and experienced fatigue. *Id*. He was prescribed amitriptyline and was given a referral to counseling/psychotherapy. (PX 4 p. 24)

A telephone encounter from October 17, 2024, from SIH Primary Care indicated that Petitioner had called regarding the referral that was sent to Centerstone for behavioral health, as they would not accept him because he had a worker's compensation case. (PX 4 p. 26)

Petitioner returned to Dr. Winkleman on October 21, 2024, and reported he had not been able to get into Centerstone because they did not take worker's compensation cases. (PX 4 p. 28) He indicated he was going to try to call Dr. Qureshi's office to schedule an appointment. *Id*. It was noted that Petitioner continued to feel anxious about the possibility of repeat exposures. *Id*. He was tolerating the amitriptyline and reported that his sleeping had improved somewhat. *Id*. Petitioner

was given a referral to psychiatry, and it was noted that he would benefit from counseling.(PX 4 p. 29) He was instructed to continue his medications and to return in six weeks. *Id.*

On December 4, 2024, Petitioner returned to Dr. Winkleman's office and reported continued anxiety about repeat exposures. (PX 4 p. 38) He reported improvement in his insomnia while taking amitriptyline. *Id*. His headaches had improved. *Id*. He had not been able to see a counselor primarily due to no providers accepting worker's compensation. *Id*. Lab tests were ordered, and Petitioner's amitriptyline was refilled. (PX 4 pp. 39-40) Labs were performed on December 4, 2024, and Dr. Winkleman authored a phone note that indicated the labs were okay. (PX 4 p. 42) He noted that a few items were just outside normal range but none were of clinical significance. *Id*.

PETITIONER'S TESTIMONY - CONTINUED

Petitioner testified that pieces of paper were floating in the hot pot that was set to boil in the cell of the inmate from the incident on September 21, 2024. (Tr. p. 23) He testified that "that was all sent to IA" but he did not know "what they did with that." *Id.* He is not aware that Respondent has positively identified the substance but stated that "IA has put out stuff for what they call roach dope, wasp dope, stuff like that, which is basically wasp spray and roach spray soaked into a sheet of paper. It is worth a lot of money inside the prison because when you smoke it or you inhale it, it gives you a euphoric high, such as what narcotics would do for somebody." (T. 28, 29)

Petitioner testified that his primary care physician gave him amitriptyline for sleep, anxiety disorder, and headaches. (Tr. pp. 24-25) As to his current symptoms, Petitioner testified that the headaches come and go, and that he takes amitriptyline, Aleve, Tylenol, and Ibuprofen. (Tr. p. 26) Petitioner was sniffling during Arbitration and testified that he has allergies but did not have them severely before the incident. (Tr. pp. 30-31) He testified that whatever he was exposed to caused massive nasal drainage and caused him to "sniff a lot" and to blow his nose a lot. (Tr. p. 31) He testified that he has been sick more since he has been exposed. *Id.* He testified that he has "anxiety level days" and has used sick days due to same. (Tr. pp. 26-27) He tries to lessen his exposure to inmates by using a back door and is hypervigilant and always looking over his shoulder "wondering what's next". (Tr. p. 27) Petitioner testified that he never had any migraines at all prior to September 21, 2024, nor did he have any issues with anxiety prior to that date. (Tr. p. 28)

CONCLUSIONS OF LAW

Issue (F): Is Petitioner's current condition of ill-being causally related to the injury?

Circumstantial evidence, especially when entirely in favor of the Petitioner, is sufficient to prove a causal nexus between an accident and the resulting injury, such as a chain of events showing a claimant's ability to perform manual duties before accident but decreased ability to still perform immediately after accident. *Pulliam Masonry v. Indus. Comm'n*, 77 Ill. 2d 469, 397 N.E.2d

834 (1979); *Gano Electric Contracting v. Indus. Comm'n*, 260 Ill.App.3d 92, 96–97, 631 N.E.2d 724 (1994); In*ternational Harvester v. Indus. Comm'n*, 93 Ill.2d 59, 442 N.E.2d 908 (1982).

In addition to or aside from expert medical testimony, circumstantial evidence may also be used to prove a causal nexus between an accident and the resulting injury. *Gano Electric Contracting v. Industrial Comm'n*, 260 Ill.App.3d 92, 631 N.E.2d 724 (4th Dist. 1994); *International Harvester v. Industrial Comm'n*, 442 N.E.2d 908 (1982). Circumstantial evidence, especially when entirely in favor of the Petitioner, is sufficient to prove a causal nexus between an accident and the resulting injury. *Gano Electric Contracting v. Industrial Comm'n*, 260 Ill.App.3d 92, 96–97, 631 N.E.2d 724, 728 (1994); *International Harvester v. Industrial Comm'n*, 93 Ill.2d 59, 442 N.E.2d 908 (1982).

The Arbitrator notes that Respondent disputes causation with respect to Petitioner's accidents but does not dispute the preliminary issue of accident. (Arb. Ex. 1; Arb. Ex. 2) Petitioner credibly testified that there was a chemical smell in each cell, both on September 21, 2024, and on September 22, 2024, and that both inmates appeared to be intoxicated on those dates, and that both inmates were taken to the healthcare unit. (Tr. pp. 12-16, 19-20)

The evidence shows that multiple staff witnessed the incident of September 21, 2024, and that the inmate had to be given two doses of Narcan before becoming responsive and being taken by EMS. (RX 1; Tr. pp. 12-16)

Due to his background in law enforcement, Petitioner had previously been pepper sprayed hundreds of times but never had the symptoms he experienced in September 2024. (T. 12-16) Petitioner credibly testified that he was still experiencing symptoms from the September 21, 2024, incident when he was exposed again on September 22, 2024. (Tr. pp. 17-18)

The fact that the laboratory testing was negative drugs of abuse does not establish that no exposure occurred, as the testing was limited in scope to less than a dozen types of drugs and does not account for the plethora of other chemicals or substances to which Petitioner might have been exposed. (PX 3) Petitioner's medical providers recognized this, and despite the negative drug screen, the emergency room physician's impression was that Petitioner sustained accidental poisoning by a drug or medicinal substance, and Dr. Winkleman's diagnosis was occupational exposure in the workplace. (PX 3; PX 4) Petitioner's testimony that internal affairs has put the facility on notice that wasp and roach spray is being used as a narcotic in the prison system adds weight to Petitioner's position regarding causation, as it demonstrates that toxic substances such as these, which would not be the subject of a standard drug screen, are a known risk to employees who work in corrections. (Tr. p. 23) Respondent offered no contrary medical or documentary evidence and produced no witnesses to rebut Petitioner's credible testimony.

Therefore, the Arbitrator finds that Petitioner has met his burden of proof with respect to causation regarding his accidental exposures on September 21, 2024, and September 22, 2024.

Issue (J): Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?

Upon establishing causal connection and the reasonableness and the necessity of recommended medical treatment, employers are responsible for necessary prospective medical care required by their employees. *Plantation Mfg. Co. v. Indus. Comm'n*, 294 Ill.App.3d 705, 691 N.E.2d. 13, 229 Ill.Dec. 77 (Ill. 2000). This includes treatment required to diagnose, relieve, or cure the effects of claimant's injury. *F & B Mfg. Co. v. Indus. Comm'n*, 758 N.E.2d 18 (1st Dist. 2001).

The right to be compensated for medical costs associated with work-related injuries is at the very heart of the Workers' Compensation Act. *Hagene v. Derek Polling Const*., 388 Ill. App. 3d 380, 383, 902 N.E.2d 1269, 1273 (2009).

Petitioner was seen for emergency care immediately following his exposure and subsequently followed up with his primary physician on three occasions, where additional laboratory testing was ordered, and medications were prescribed. (PX 3; PX 4) Based upon the above findings on causation, the Arbitrator finds and concludes that the medical treatment rendered to Petitioner was reasonable, necessary, and causally related to his September 21, 2024 and September 22, 2024 accidents.

Issue (L): What is the nature and extent of the injury?

Pursuant to § 8.1b of the Act, permanent partial disability from injuries that occur after September 1, 2011 are to be established using the following criteria: (i) the reported level of impairment pursuant to subsection (a) of the Act; (ii) the occupation of the injured employee; (iii) the age of the employee at the time of the injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. 820 ILCS 305/8.1b. The Act provides that, "No single enumerated factor shall be the sole determinant of disability." 820 ILCS 305/8.1b(b)(v).

(i) **Level of Impairment**: Neither Party submitted an AMA rating. Therefore, the Arbitrator uses the remaining factors to evaluate Petitioner's permanent partial disability.

(ii) **Occupation**: Petitioner continues to serve as a correctional officer for Respondent. (T. 11, 12, 27) As Petitioner has already been exposed to harmful substances twice, his occupation as an officer places him at a higher risk for additional chemical/drug exposure in the future. The Arbitrator places moderate weight on this factor.

(iii) **Age**: Petitioner was 49 years of age at the time of his injury. He is a younger individual and must live and work with his disability for an extended period of time. Pursuant to *Jones v. Southwest Airlines*, 16 I.W.C.C. 0137 (2016) (wherein the Commission concluded that

greater weight should have been given to the fact that Petitioner was younger [46 years of age] and would have to work with his disability for an extended period of time).

(iv) **Earning Capacity**: While there is no direct evidence of reduced earning capacity contained in the record; based on the severity of Petitioner's injuries, the requisite treatment and the resulting disability, it is reasonable to conclude that such repercussions will manifest in the near future. The Arbitrator places little weight on this factor.

(v) **Disability**: Due to his exposure to harmful substances, Petitioner now suffers from migraines and anxiety – conditions which he did not have prior to his exposure. (T. 28) He was sniffling at Arbitration and testified that he did not have allergies so severely prior to his exposure. (T. 30, 31) As a result of his continued symptoms, he takes over-the-counter medication in the form of Aleve, Tylenol, and ibuprofen, and takes prescription medication in the form of amitriptyline. (T. 26) He suffers from anxiety while working and is hypervigilant due to same. (T. 26, 27) Petitioner's final visit with Dr. Winkleman corroborated Petitioner's testimony, as it was noted that Petitioner had continued anxiety and his amitriptyline was refilled. (PX4) The Arbitrator places significant weight on this factor.

Based upon the foregoing evidence and factors, the Arbitrator finds that Petitioner sustained serious and permanent injuries that resulted in the 2.5% loss of Petitioner's body as a whole.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

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Case Name	Jeffery Strait v. State of Illinois - Vienna Correctional Center
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Decision Issued By	Maria Portela, Commissioner, Marc Parker, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Aaron Wright

DATE FILED: 8/3/2026

/s/Maria Portela, Commissioner

Signature

DISSENT

/s/Marc Parker, Commissioner

Signature

26IWCC0221

STATE OF ILLINOIS)
) SS.
COUNTY OF WILLIAMSON)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
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☒ Modify down	☒ None of the above

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Petitioner,

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Respondent.

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Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of medical expenses and permanent partial disability benefits and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Commission affirms the Arbitrator's Decision as to causation, but only through Petitioner's last visit with Dr. Winkleman on December 4, 2024. Accordingly, medical expenses pursuant to Px1 are awarded through December 4, 2024, pursuant to the fee schedule. However, the Commission finds that Petitioner did not meet his burden of proof that his current condition of ill-being is causally connected to the alleged occupational exposure of September 22, 2024, and therefore vacates the Arbitrator's award for permanent partial disability benefits.

Subsequent to an accident on September 21, 2022, where Petitioner is alleging to have been exposed to a chemical substance (refer to case no. 24W027137), Petitioner presented to work on September 22, 2024, and was assigned to the same wing where he worked on September 21, 2022. (T. 18) A medical code was called so they locked up everybody while others responded from different parts of the facility. (T. 18-19) He entered a cell in which an inmate was sitting on a plastic stool, "bobbing and weaving." (T. 19) Petitioner testified that the inmate would not answer, would not respond to commands, and appeared to be intoxicated in the same way that the other inmate had been the day prior. *Id.* Petitioner testified that the same chemical smell was in the room on September 22, 2024. Shortly thereafter, Petitioner begin experiencing shortness of breath, tingling in his legs and hands, altered gait, and an elevated heart rate and pulse.

The Commission finds that the evidence supports that the Petitioner was exposed to an unknown substance on September 22, 2024, and that he sought reasonable and necessary care with the Emergency Department and Dr. Winkleman. Petitioner was not able to identify the substance to which he was exposed. The lab tests run on September 22, 2024, in the Emergency Room failed to identify the substance to which Petitioner was exposed. (Px3) The lab tests run by Dr. Winkleman on September 25, 2024, did not identify any substance to which the Petitioner was exposed. (Px4) Finally, the lab tests run by Dr. Winkleman on December 24, 2024, did not identify a substance to which Petitioner was exposed, and at that point Dr. Winkleman opined that any findings in Petitioner's lab reports were not of clinical significance and were unlikely to be related to Petitioner's recent exposures. Neither party submitted toxicology reports identifying the substance in the cells to which Petitioner was exposed. No internal affairs reports were submitted into evidence to substantiate Petitioner's testimony regarding "roach dope" which was testimony the Arbitrator used to reason there was a causal connection. The Commission finds the Emergency Department visit and the follow up treatment with Dr. Winkleman through December 4, 2024, to be reasonable and therefore awards same.

However, the Commission does not find causation beyond December 4, 2024, as the Petitioner did not meet his burden of proof that his current condition of ill-being is causally connected to the alleged workplace exposure. Despite multiple visits with Dr. Winkleman and a referral for counseling/psychotherapy, Dr. Winkleman did not provide a causation opinion correlating the Petitioner's alleged anxiety or any physical conditions to the workplace exposure.

Specifically, Dr. Winkleman opined that any findings in Petitioner's lab reports were unlikely to be related to Petitioner's recent exposures and by the time Petitioner was discharged from care on December 4, 2024, Petitioner's cardiovascular and pulmonary exams were normal. (Px4) Additionally, the Petitioner did not make any non-physical complaints until nearly 2 weeks after the exposure and after the second drug test came back negative. Despite claiming that Petitioner was denied treatment at Centerstone for behavioral health, and despite another referral for counseling, Petitioner at no point obtained behavioral health counseling. The diagnosis of anxiety came from Dr. Winkleman approximately 2 weeks after the work accident and based solely on Petitioner's self-report.

As Petitioner did not prove his current condition of ill-being is causally connected to the alleged workplace exposure, the Commission vacates the award of permanent partial disability benefits.

All else is affirmed.

IT IS THEREFORE ORDERED BY THE COMMISSION that causation terminates on December 4, 2024.

IT IS FURTHER ORDERED BY THE COMMISSION that the award for permanent partial disability benefits is vacated.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the reasonable and necessary medical expenses contained in Px1 pursuant to §8(a) of the Act,

subject to the fee schedule in §8.2 of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Pursuant to §19(f)(1) of the Act, claims against the State of Illinois are not subject to judicial review. Therefore, no appeal bond is set in this case.

August 3, 2026

/s/ *Maria E. Portela*
Maria E. Portela

MEP/dmm
O: 070926
49

/s/ *Christopher A. Harris*
Christopher A. Harris

DISSENT

I respectfully dissent from the decision of the Majority. I would have affirmed and adopted the well-reasoned decision of the Arbitrator.

/s/ *Marc Parker*
Marc Parker

August 3, 2026

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC027141
Case Name	Jeffery Strait v. State of Illinois - Vienna Correctional Center
Consolidated Cases	24WC027137
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	10
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Aaron Wright

DATE FILED: 10/2/2025

/s/ Bradley Gillespie, Arbitrator
Signature

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

OCTOBER 2 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF SEPTEMBER 30 2025 3.72%

STATE OF ILLINOIS)
)SS.
COUNTY OF **Williamson**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

Jeffery Strait
Employee/Petitioner

v.

State of IL / Vienna Correctional Center
Employer/Respondent

Case # **24** WC **027141**

Consolidated cases:

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Bradley Gillespie**, Arbitrator of the Commission, in the city of **Herrin, Illinois**, on **July 8, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☐ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☐ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **09/22/2024**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**64,285.61**; the average weekly wage was $**1,236.26**.

On the date of accident, Petitioner was **49** years of age, ***married*** with **0** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has not*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**0**.

Respondent is entitled to a credit of $**if any** under Section 8(j) of the Act.

ORDER

Respondent shall pay the reasonable and necessary medical services outlined in Petitioner's Exhibit 1, as provided in Sections 8(a) and 8.2 of the Act.

Respondent shall be given a credit for medical benefits that have been paid, and Respondent shall hold petitioner harmless from any claims by any providers of the services for which Respondent is receiving this credit, as provided in Section 8(j) of the Act.

Respondent shall pay Petitioner compensation that has accrued from 12/04/2024 through 7/8/2025, and shall pay the remainder of the award, if any, in weekly payments.

Respondent shall pay Petitioner permanent partial disability benefits of $741.76/week for 12.5 weeks, because the injuries sustained caused the 2.5% loss of Petitioner's body as a whole, as provided in Section 8(d)2 of the Act.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Bradley D. Gillespie

Signature of Arbitrator

OCTOBER 2 2025

BEFORE THE ILLINOIS WORKERS'S COMPENSATION COMMISSION

JERRERY STRAIT,	)	
	)	
Petitioner,	)	
	)	
v.	)	**Case No.: 24WC027137 & 24WC027141**
	)	
STATE OF ILLINOIS/ VIENNA CORRECTIONAL CENTER,	)	
	)	
	)	
Respondent.	)	

DECISION OF ARBITRATOR

FINDINGS OF FACT

These matters came before an Arbitrator appointed by the Commission pursuant to Petitioner's Motion for a hearing on all issues. Issues in dispute were causation, medical bills, and the nature and extent of Petitioner's injuries. (Tr. pp. 4-6)

Petitioner filed two Application for Adjustment Claim forms. One for an accident date of September 21, 2024, is numbered 24WC027137 and states that Petitioner was exposed to an unknown substance/chemical affecting his respiratory and nervous system/body as a whole. (Arb. Ex. 3) The other is for an accident date of September 22, 2024, is numbered 24WC027141and alleges an exposure to an unknown substance/chemical affecting his respiratory and nervous system/body as a whole. (Arb. Ex. 4)

Petitioner's Testimony

Petitioner is employed as a correctional officer at Vienna Correctional Center and has been employed by Respondent for three years. (Tr. pp. 11-12) Petitioner testified that on September 21, 2024, he was employed by Respondent. (Tr. p. 12) On that date, he noticed an inmate rattled a door and motioned for Petitioner to come over. (T. 12-13) Petitioner took another officer and opened the door. (Tr. p. 13) Petitioner testified that the inmate appeared to be intoxicated and said that he kept hearing his sister calling for him, and that he refused to accept that his sister was not there and that he was in prison. *Id.* The inmate refused direct commands and Petitioner followed him to where his cell was located.(Tr. pp. 13-14) He noticed that the inmate's gait was off, and he was stumbling around. (Tr. p. 14) Petitioner testified that upon opening the cell door, there was a grey hazy fog throughout the cell and a chemical smell inside of the cell. *Id.* Petitioner's sergeant arrived, and the inmate became combative, after which the inmate was sprayed twice with pepper spray. (Tr. pp. 14-15) Petitioner was sprayed with pepper spray on the second spray. (Tr. p.15) The inmate was cuffed and taken to healthcare. (Tr. pp. 15-16) Petitioner went to the bathroom to wash the pepper spray from his hands and face and noticed a tingling and numbness.(Tr. p. 16)

He testified that he had been an officer for 23 years outside his employment with Respondent and that he had been pepper sprayed hundreds of times but had never experienced tingling. (Tr. p. 16) Petitioner noticed respiratory issues, which he initially attributed to the pepper spray. (Tr. pp. 16-17) He continued to work that day. (Tr. p. 17)

The following day, Petitioner still had some burning in his chest and painful inspiration. (Tr. pp. 17-18) He testified that he did not have any of these symptoms prior to September 21, 2024, and that the symptoms were different in comparison to the hundreds of other times he had been exposed to pepper spray. (Tr. p. 18)

Petitioner presented to work on September 22, 2024, and was assigned to the same wing. (Tr. p. 18) A medical code was called so they locked up everybody while others responded from different parts of the facility. (Tr. pp. 18-19) He entered a cell in which an inmate was sitting on a plastic stool, "bobbing and weaving." (T. 19) Petitioner testified that the inmate would not answer, would not respond to commands, and appeared to be intoxicated in the same way that the other inmate had been the day prior. *Id.* Petitioner testified that the same chemical smell was in the room on September 22, 2024. *Id.* Petitioner had to cuff the individual and became exposed to him at that time. *Id.* The inmate was taken to healthcare and Petitioner believed that he was sent out by ambulance. (Tr. pp. 19-20)

Shortly thereafter, Petitioner begin experiencing shortness of breath, tingling in his legs and hands, altered gait, and an elevated heart rate and pulse. (Tr. pp. 19-20) He reported his symptoms to his major, who sent him to healthcare. (Tr. p. 20) Petitioner testified that the nurse "didn't like it", so she had him sent to the hospital via a state van. *Id.* Petitioner testified that when he arrived at the hospital, he experienced shortness of breath, elevated heart rate, weakness in his legs, tingling in his fingers, legs, and toes, and a "massive migraine." (Tr. pp. 21-22) He had never experienced these symptoms prior to his exposure. (Tr. p. 21)

Documentary Evidence

A notice of injury completed by Petitioner on September 22, 2024, indicated that he was exposed to an unknown chemical which an inmate had consumed and that this had occurred both on September 21, 2024 and on September 22, 2024 in different cells. (RX 1) An incident report completed by Lieutenant Lucas Reed indicated that the inmate in question from September 21, 2024, had been in an altered mental state and had to receive two rounds of Narcan before becoming responsive. *Id*. He noted that EMS arrived at the healthcare unit in response to the inmate. *Id*. Lt. Reed indicated that there were multiple staff that witnessed the incident. *Id.*

An Employee Injury Preliminary Report signed by staff at the Health Care Unit indicated that on September 22, 2024, Petitioner presented for a wellness check after possible substance exposure, and that he was advised to get medical care. *Id.*

Medical Evidence

Emergency department records from Deaconess Regional Healthcare Services indicated that Petitioner presented from work at a local prison where he was exposed to an unknown substance and started feeling dizzy and weak with blurred vision and a headache. (PX 3 p. 5) He reported he was one of several exposed in a cell with another guard who had symptoms after handling papers that were believed to be soaked in a toxin. *Id*. Petitioner entered the emergency department through the decontamination shower room where he undressed and bagged his belongings. *Id*. He was washed down with soap and water. *Id*.

It was noted that Petitioner felt dizzy, weak, had blurred vision, and a headache. (PX 3 p. 7) He also reported mild chest pressure. *Id.* Lab tests showed some abnormalities. (PX 3 pp. 8-9) A drug screening, which tested for 11 drug types such as opiates and amphetamines, was negative. (PX 3 p. 13) The final impression was poisoning by drug or medicinal substance, accidental or unintentional. (PX 3 p. 10) Petitioner was discharged and instructed to follow up with Dr. Winkleman in two days. *Id*.

On September 25, 2024, Petitioner presented to the office of Dr. Matthew Winkleman at SIH Medical Group Family Medicine with symptoms of congestion, cough, fatigue, and rhinorrhea. (PX 4 p. 3) Petitioner reported that he was involved in an incident two days prior when he was attempting to remove an inmate from his cell and entered the cell, where there were fumes and residue on the walls. *Id*. Petitioner reported that he began experiencing a burning sensation in his nose, tingling of his lips, as well as cough, weakness and fatigue. *Id.* Petitioner was feeling better, but still had brain fog, mild cough, and rhinorrhea. *Id*. The assessment was occupational exposure in the workplace. *Id*. Labs were obtained that day, which were negative for 11 specific drugs. (PX 4 p. 15)

On October 4, 2024, Petitioner returned to Dr. Winkleman who noted that he was following up after occupational exposure and that he continued to complain of daily headaches that had been making it difficult to work. (PX 4 p. 23) Petitioner had intermittent blurred vision, paresthesias in his hands, was extremely anxious and hypervigilant, and experienced fatigue. *Id*. He was prescribed amitriptyline and was given a referral to counseling/psychotherapy. (PX 4 p. 24)

A telephone encounter from October 17, 2024, from SIH Primary Care indicated that Petitioner had called regarding the referral that was sent to Centerstone for behavioral health, as they would not accept him because he had a worker's compensation case. (PX 4 p. 26)

Petitioner returned to Dr. Winkleman on October 21, 2024, and reported he had not been able to get into Centerstone because they did not take worker's compensation cases. (PX 4 p. 28) He indicated he was going to try to call Dr. Qureshi's office to schedule an appointment. *Id*. It was noted that Petitioner continued to feel anxious about the possibility of repeat exposures. *Id*. He was tolerating the amitriptyline and reported that his sleeping had improved somewhat. *Id*. Petitioner

was given a referral to psychiatry, and it was noted that he would benefit from counseling.(PX 4 p. 29) He was instructed to continue his medications and to return in six weeks. *Id.*

On December 4, 2024, Petitioner returned to Dr. Winkleman's office and reported continued anxiety about repeat exposures. (PX 4 p. 38) He reported improvement in his insomnia while taking amitriptyline. *Id*. His headaches had improved. *Id.* He had not been able to see a counselor primarily due to no providers accepting worker's compensation. *Id*. Lab tests were ordered, and Petitioner's amitriptyline was refilled. (PX 4 pp. 39-40) Labs were performed on December 4, 2024, and Dr. Winkleman authored a phone note that indicated the labs were okay. (PX 4 p. 42) He noted that a few items were just outside normal range but none were of clinical significance. *Id*.

PETITIONER'S TESTIMONY - CONTINUED

Petitioner testified that pieces of paper were floating in the hot pot that was set to boil in the cell of the inmate from the incident on September 21, 2024. (Tr. p. 23) He testified that "that was all sent to IA" but he did not know "what they did with that." *Id.* He is not aware that Respondent has positively identified the substance but stated that "IA has put out stuff for what they call roach dope, wasp dope, stuff like that, which is basically wasp spray and roach spray soaked into a sheet of paper. It is worth a lot of money inside the prison because when you smoke it or you inhale it, it gives you a euphoric high, such as what narcotics would do for somebody." (T. 28, 29)

Petitioner testified that his primary care physician gave him amitriptyline for sleep, anxiety disorder, and headaches. (Tr. pp. 24-25) As to his current symptoms, Petitioner testified that the headaches come and go, and that he takes amitriptyline, Aleve, Tylenol, and Ibuprofen. (Tr. p. 26) Petitioner was sniffling during Arbitration and testified that he has allergies but did not have them severely before the incident. (Tr. pp. 30-31) He testified that whatever he was exposed to caused massive nasal drainage and caused him to "sniff a lot" and to blow his nose a lot. (Tr. p. 31) He testified that he has been sick more since he has been exposed. *Id.* He testified that he has "anxiety level days" and has used sick days due to same. (Tr. pp. 26-27) He tries to lessen his exposure to inmates by using a back door and is hypervigilant and always looking over his shoulder "wondering what's next". (Tr. p. 27) Petitioner testified that he never had any migraines at all prior to September 21, 2024, nor did he have any issues with anxiety prior to that date. (Tr. p. 28)

CONCLUSIONS OF LAW

Issue (F): Is Petitioner's current condition of ill-being causally related to the injury?

Circumstantial evidence, especially when entirely in favor of the Petitioner, is sufficient to prove a causal nexus between an accident and the resulting injury, such as a chain of events showing a claimant's ability to perform manual duties before accident but decreased ability to still perform immediately after accident. *Pulliam Masonry v. Indus. Comm'n*, 77 Ill. 2d 469, 397 N.E.2d

834 (1979); *Gano Electric Contracting v. Indus. Comm'n*, 260 Ill.App.3d 92, 96–97, 631 N.E.2d 724 (1994); In*ternational Harvester v. Indus. Comm'n*, 93 Ill.2d 59, 442 N.E.2d 908 (1982).

In addition to or aside from expert medical testimony, circumstantial evidence may also be used to prove a causal nexus between an accident and the resulting injury. *Gano Electric Contracting v. Industrial Comm'n*, 260 Ill.App.3d 92, 631 N.E.2d 724 (4th Dist. 1994); *International Harvester v. Industrial Comm'n*, 442 N.E.2d 908 (1982). Circumstantial evidence, especially when entirely in favor of the Petitioner, is sufficient to prove a causal nexus between an accident and the resulting injury. *Gano Electric Contracting v. Industrial Comm'n*, 260 Ill.App.3d 92, 96–97, 631 N.E.2d 724, 728 (1994); *International Harvester v. Industrial Comm'n*, 93 Ill.2d 59, 442 N.E.2d 908 (1982).

The Arbitrator notes that Respondent disputes causation with respect to Petitioner's accidents but does not dispute the preliminary issue of accident. (Arb. Ex. 1; Arb. Ex. 2) Petitioner credibly testified that there was a chemical smell in each cell, both on September 21, 2024, and on September 22, 2024, and that both inmates appeared to be intoxicated on those dates, and that both inmates were taken to the healthcare unit. (Tr. pp. 12-16, 19-20)

The evidence shows that multiple staff witnessed the incident of September 21, 2024, and that the inmate had to be given two doses of Narcan before becoming responsive and being taken by EMS. (RX 1; Tr. pp. 12-16)

Due to his background in law enforcement, Petitioner had previously been pepper sprayed hundreds of times but never had the symptoms he experienced in September 2024. (T. 12-16) Petitioner credibly testified that he was still experiencing symptoms from the September 21, 2024, incident when he was exposed again on September 22, 2024. (Tr. pp. 17-18)

The fact that the laboratory testing was negative drugs of abuse does not establish that no exposure occurred, as the testing was limited in scope to less than a dozen types of drugs and does not account for the plethora of other chemicals or substances to which Petitioner might have been exposed. (PX 3) Petitioner's medical providers recognized this, and despite the negative drug screen, the emergency room physician's impression was that Petitioner sustained accidental poisoning by a drug or medicinal substance, and Dr. Winkleman's diagnosis was occupational exposure in the workplace. (PX 3; PX 4) Petitioner's testimony that internal affairs has put the facility on notice that wasp and roach spray is being used as a narcotic in the prison system adds weight to Petitioner's position regarding causation, as it demonstrates that toxic substances such as these, which would not be the subject of a standard drug screen, are a known risk to employees who work in corrections. (Tr. p. 23) Respondent offered no contrary medical or documentary evidence and produced no witnesses to rebut Petitioner's credible testimony.

Therefore, the Arbitrator finds that Petitioner has met his burden of proof with respect to causation regarding his accidental exposures on September 21, 2024, and September 22, 2024.

Issue (J): Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?

Upon establishing causal connection and the reasonableness and the necessity of recommended medical treatment, employers are responsible for necessary prospective medical care required by their employees. *Plantation Mfg. Co. v. Indus. Comm'n*, 294 Ill.App.3d 705, 691 N.E.2d. 13, 229 Ill.Dec. 77 (Ill. 2000). This includes treatment required to diagnose, relieve, or cure the effects of claimant's injury. *F & B Mfg. Co. v. Indus. Comm'n*, 758 N.E.2d 18 (1st Dist. 2001).

The right to be compensated for medical costs associated with work-related injuries is at the very heart of the Workers' Compensation Act. *Hagene v. Derek Polling Const*., 388 Ill. App. 3d 380, 383, 902 N.E.2d 1269, 1273 (2009).

Petitioner was seen for emergency care immediately following his exposure and subsequently followed up with his primary physician on three occasions, where additional laboratory testing was ordered, and medications were prescribed. (PX 3; PX 4) Based upon the above findings on causation, the Arbitrator finds and concludes that the medical treatment rendered to Petitioner was reasonable, necessary, and causally related to his September 21, 2024 and September 22, 2024 accidents.

Issue (L): What is the nature and extent of the injury?

Pursuant to § 8.1b of the Act, permanent partial disability from injuries that occur after September 1, 2011 are to be established using the following criteria: (i) the reported level of impairment pursuant to subsection (a) of the Act; (ii) the occupation of the injured employee; (iii) the age of the employee at the time of the injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. 820 ILCS 305/8.1b. The Act provides that, "No single enumerated factor shall be the sole determinant of disability." 820 ILCS 305/8.1b(b)(v).

(i) **Level of Impairment**: Neither Party submitted an AMA rating. Therefore, the Arbitrator uses the remaining factors to evaluate Petitioner's permanent partial disability.

(ii) **Occupation**: Petitioner continues to serve as a correctional officer for Respondent. (T. 11, 12, 27) As Petitioner has already been exposed to harmful substances twice, his occupation as an officer places him at a higher risk for additional chemical/drug exposure in the future. The Arbitrator places moderate weight on this factor.

(iii) **Age**: Petitioner was 49 years of age at the time of his injury. He is a younger individual and must live and work with his disability for an extended period of time. Pursuant to *Jones v. Southwest Airlines*, 16 I.W.C.C. 0137 (2016) (wherein the Commission concluded that

greater weight should have been given to the fact that Petitioner was younger [46 years of age] and would have to work with his disability for an extended period of time).

(iv) **Earning Capacity**: While there is no direct evidence of reduced earning capacity contained in the record; based on the severity of Petitioner's injuries, the requisite treatment and the resulting disability, it is reasonable to conclude that such repercussions will manifest in the near future. The Arbitrator places little weight on this factor.

(v) **Disability**: Due to his exposure to harmful substances, Petitioner now suffers from migraines and anxiety – conditions which he did not have prior to his exposure. (T. 28) He was sniffling at Arbitration and testified that he did not have allergies so severely prior to his exposure. (T. 30, 31) As a result of his continued symptoms, he takes over-the-counter medication in the form of Aleve, Tylenol, and ibuprofen, and takes prescription medication in the form of amitriptyline. (T. 26) He suffers from anxiety while working and is hypervigilant due to same. (T. 26, 27) Petitioner's final visit with Dr. Winkleman corroborated Petitioner's testimony, as it was noted that Petitioner had continued anxiety and his amitriptyline was refilled. (PX4) The Arbitrator places significant weight on this factor.

Based upon the foregoing evidence and factors, the Arbitrator finds that Petitioner sustained serious and permanent injuries that resulted in the 2.5% loss of Petitioner's body as a whole.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	18WC036975
Case Name	Victor Levandoski v. State of Illinois
Consolidated Cases	19WC021161 21WC003567
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0222
Number of Pages of Decision	9
Decision Issued By	Raychel Wesley, Commissioner

Petitioner Attorney	William Trimble
Respondent Attorney	Bradley Defreitas

DATE FILED: 8/6/2026

/s/ Raychel Wesley, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF McLEAN)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

VICTOR LEVANDOSKI,

Petitioner,

vs. NO: 18 WC 36975

STATE OF ILLINOIS,
ILLINOIS STATE UNIVERSITY,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by Petitioner herein and notice given to all parties, the Commission, after considering the issue of the nature and extent of Petitioner's permanent disability, and being advised of the facts and law, corrects the Decision of the Arbitrator as stated below, but otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

While the Commission ultimately affirms the Arbitrator's award of permanent partial disability benefits, we have reviewed and recalculated the figures used to determine the award based on the evidence in the record. The evidence indicates that Petitioner was married with two dependent children at the time of his May 10, 2018 accident. On that date, Petitioner's average weekly wage was $442.25. According to the Act, Petitioner, having three dependents, is subject to the minimum permanent partial disability rate of $319.00 per week for 44.275 weeks after sustaining a 17.5% loss of use of his right arm.

All else is affirmed.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed January 26, 2026, as corrected above, is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $319.00 per week for a period of 44.275 weeks, as provided in §8(e)(10) of the Act, for the reason that the injuries sustained caused a 17.5% loss of use of Petitioner's right arm.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Pursuant to §19(f)(1) of the Act, claims against the State of Illinois are not subject to judicial review. Therefore, no appeal bond is set in this case.

August 6, 2026

/s/ *Raychel A. Wesley*

RAW/wde

D: 7/22/26

/s/ *Carolyn M. Doherty*

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/s/ *Frank J. Soto*

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	18WC036975
Case Name	Victor Levandoski v. State of Illinois
Consolidated Cases	19WC021161 21WC003567
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	6
Decision Issued By	Kurt Carlson, Arbitrator

Petitioner Attorney	William Trimble
Respondent Attorney	Bradley Defreitas

DATE FILED: 1/26/2026

/s/ Kurt Carlson, Arbitrator
Signature

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

JANUARY 26 2026

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF JANUARY 21 2026 3.52&

STATE OF ILLINOIS)
)SS.
COUNTY OF **McLean**)

- ☐ Injured Workers' Benefit Fund (§4(d))
- ☐ Rate Adjustment Fund (§8(g))
- ☐ Second Injury Fund (§8(e)18)
- ☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
NATURE AND EXTENT ONLY

Victor Levandoski
Employee/Petitioner bill@williamsandswee.com
v.

Case # **18** WC **036975**

Consolidated:

State of Illinois/Illinois State University
Employer/Respondent Bradley.Defreitas@ilag.gov

The only disputed issue is the nature and extent of the injury. An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Kurt Carlson**, Arbitrator of the Commission, in the city of **Bloomington**, on **11-26-25**. By stipulation, the parties agree:

On the date of accident, **05-10-18**, Respondent was operating under and subject to the provisions of the Act.

On this date, the relationship of employee and employer did exist between Petitioner and Respondent.

On this date, Petitioner sustained an accident that arose out of and in the course of employment.

Timely notice of this accident was given to Respondent.

Petitioner's current condition of ill-being is causally related to the accident.

In the year preceding the injury, Petitioner earned $ **23,240.18**, and the average weekly wage was $ **442.25**.

At the time of injury, Petitioner was **51** years of age, ***married*** with **2** dependent children.

Necessary medical services and temporary compensation benefits have been provided by Respondent.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**0**.

After reviewing all of the evidence presented, the Arbitrator hereby makes findings regarding the nature and extent of the injury and attaches the findings to this document.

ORDER

Respondent shall pay Petitioner the sum of $ **286.00**/week for a further period of **44.275** weeks, as provided in Section **8(e)(10)** of the Act, because the injuries sustained caused **17.5% loss of a right arm**.

In making this Order, the Arbitrator notes that Petitioner had three dependents at the time of injury and is subject to the minimum PPD rate set forth under the Act.

RULES REGARDING APPEALS Unless a Petition for Review is filed within 30 days after receipt of this decision, and a review is perfected in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Kurt Carlson

Signature of Arbitrator

JANUARY 26 2026

Victor Levandoski v. Illinois State University, 18 WC 036975. 19 WC 021161, 21 WC 003567

This matter was heard November 26, 2025, before Arbitrator Kurt Carlson, in Bloomington, Illinois. The only issue at the hearing for each of these three cases was Nature and Extent.

FINDINGS OF FACT:

TESTIMONY AT ARBITRATION

First Injury: May 10, 2018

Dr. Lawrence Li performed right cubital tunnel release surgery on July 11, 2018. (TX 19)

Post-surgery, Petitioner continued to have accommodated work restrictions. (TX 21-22) As of October 23, 2018, Petitioner reported significant right small finger pain to Dr. Lawrence Li, and as of October 25, 2018, Petitioner reported increased right elbow pain at the location of the surgical incision, without new injury. In both cases, Dr. Lawrence Li prescribed medication. (TX 22-23)

On December 7, 2018, Dr. Lawrence Li examined Petitioner's right elbow and provided an injection. (TX 23) As of January 4, 2019, Dr. Lawrence Li examined Petitioner's elbow, and continued Petitioner on home exercise program. (TX 23)

Petitioner endured a left elbow injury May 2, 2019 and an additional left elbow injury on September 3, 2020 which are the subject matter of the other consolidated claims.

MEDICAL EVIDENCE

June 19, 2018, Dr. Lawrence Li examined Petitioner and diagnosed him with right lateral epicondylitis and cubital tunnel syndrome.(PX 5, pp. 69 – 72)

July 11, 2018, Dr. Lawrence Li performed right lateral elbow release using Tenex, right cubital tunnel release and transposition of ulnar nerve anteriorly. (PX 5, pp. 96 – 97; *see also* PX 7))

July 16, 2018, Petitioner received an elbow brace at Orthopedic & Shoulder Center. (PX 5, pp. 108 – 109) Petitioner subsequently underwent further occupational therapy. (PX 5, pp. 102 – 107, 110 – 120, 123 – 128, 133 - 143, 147 – 155, 160 – 162)

On December 7, 2018, Dr. Lawrence Li gave Petitioner a Kenalog/Lidocaine injection. (PX 5, pp. 170 – 173). Petitioner reported improvement in follow-up January 4, 2019. (PX 5, pp. 174 – 176)

PHYSICIANS

Deposition of Dr. Lawrence Li

On June 24, 2021, the deposition of Petitioner's treating orthopedic surgeon, Dr. Lawrence Li, was taken in this matter. The transcript of that deposition was entered into evidence as Petitioner's Exhibit 1.

Dr. Lawrence Li testified that he is board-certified in orthopedic surgery and has been practicing general orthopedics in Bloomington-Normal, Illinois, since 1996. He specializes in shoulders, hands, and knees and holds hospital privileges at OSF St. Joseph and Carle BroMenn. Dr. Li completed his residency at Ohio State University and is certified by the American Board of Orthopedic Surgery. (PX 1, pp. 5-6)

First Injury: May 10, 2018 (18 WC 36975)

On July 11, 2018, Dr. Li performed a right cubital tunnel release surgery, which involved releasing the ulnar nerve and transposing it to the anterior elbow to reduce tension during repetitive motions. He also performed a lateral elbow release using Tenex, an ultrasound-guided device to remove damaged tissue. (PX 1, pp. 15-17)

Dr. Lawrence Li emphasized that the nerve transposition was made necessary by Petitioner's work injury, and not a preexisting anatomical feature. (PX 1, p. 17)

Dr. Li testified that Petitioner initially experienced improvement after surgery but continued to report numbness and tingling in his right hand and elbow. Dr. Li prescribed a Game Ready cryocompression system, which reduced swelling and pain and minimized narcotic use. Petitioner returned to work with restrictions. Dr. Lawrence Li saw Petitioner for follow-up on several visits, and returned Petitioner to work September 14, 2018, to advance activities as tolerated (PX 1, pp. 17-20)

Dr. Lawrence Li testified that he next saw Petitioner October 23, 2018, for continued pain in the right small finger. Although Dr. Lawrence Li changed Petitioner's medications, Petitioner reported no improvement in follow-up on October 25, 2018, and Dr. Li performed an ultrasound that showed inflammation in the tendons, but nothing wrong with the ulnar nerve. Dr. Li continued Petitioner on Mobic. (PX 1, p, 21)

In follow-up on January 4, 2019, Petitioner told Dr. Lawrence Li that the injection was really helping, and Dr. Lawrence Li released Petitioner to work full duty. (PX 1, p. 22)

CONCLUSIONS OF LAW

The Arbitrator finds and concludes as follows:

The Arbitrator notes at the outset of this analysis that the injury in this case is right cubital tunnel syndrome with surgery then a post operative injection.

As the accident occurred after September 1, 2011, the nature and extent of the injury must be determined through the five-factor test set out in §8.1b(b) of the Act.

As Section 8(d) has two options for permanent partial disability awards then an analysis for a PPD award is necessary. With respect to disputed issue (L), pertaining to the nature and extent of Petitioner's injury, and consistent with 820 ILCS 305/8.1b, permanent partial disability shall be established using the following criteria: (i) the reported level of impairment pursuant to subsection (a) of Section 8.1b of the Act; (ii) the occupation of the injured employee; (iii) the age of the employee at the time of injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. 820 ILCS 305/8.1b. No single enumerated factor shall be the sole determinant of disability. *Id*

With regard to (i) of Section 8.1(b) of the Act, the reported level of impairment:

There was no evaluation pursuant to the American Medical Association's Guide to the Evaluation of Permanent Impairment. Therefore, the Arbitrator gives no weight to this factor.

With regard to (ii) of Section 8.1(b) of the Act, the occupation of the injured employee:

Petitioner's occupation was as a kitchen services worker, a job which requires some repetitious use of both upper extremities, including frequent and forceful gripping, lifting and carrying. The Arbitrator gives greater weight to this factor.

With regard to (iii) of Section 8.1(b) of the Act, the age of the employee at the time of the injury:

Petitioner was 51 years old at the time of the incident and is less able than a younger person to develop job skills at a lower demand level. The Arbitrator gives some weight to this factor.

With regard to (iv) of Section 8.1(b) of the Act, the employee's future earning capacity:

Petitioner did return to work after his cubital tunnel release, but he was quickly re-injured (*see* 21WC3567). There is no evidence that this injury caused a diminishment in the Petitioner's future earnings. The Arbitrator gives *no* weight to this factor.

With regard to (v) of Section 8.1(b) of the Act, evidence of disability corroborated by the medical records:

The Arbitrator finds that there was evidence of disability corroborated by the medical records. In so finding, the Arbitrator gives significant weight to the medical records introduced at hearing in this matter, as outlined above. Based on the evidence introduced at trial, the Arbitrator gives *greater* weight to this factor.

Based on the factors above, the Arbitrator concludes the injuries sustained by Petitioner caused a 17.5% loss of a right arm, as provided in Section 8(e)(10) of the Act.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	19WC021161
Case Name	Victor Levandoski v. State of Illinois - Illinois State University
Consolidated Cases	18WC036975 21WC003567
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0223
Number of Pages of Decision	10
Decision Issued By	Raychel Wesley, Commissioner

Petitioner Attorney	William Trimble
Respondent Attorney	Bradley Defreitas

DATE FILED: 8/6/2026

/s/ Raychel Wesley, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF McLEAN)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

VICTOR LEVANDOSKI,

Petitioner,

vs. NO: 19 WC 21161

STATE OF ILLINOIS,
ILLINOIS STATE UNIVERSITY,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by Petitioner herein and notice given to all parties, the Commission, after considering the issue of the nature and extent of Petitioner's permanent disability, and being advised of the facts and law, corrects the Corrected Decision of the Arbitrator as stated below, but otherwise affirms and adopts the Corrected Decision of the Arbitrator, which is attached hereto and made a part hereof.

While the Commission ultimately affirms the Arbitrator's award of permanent partial disability benefits, we have reviewed and recalculated the figures used to determine the award based on the evidence in the record. We agree with the Arbitrator's finding that Petitioner has suffered a 15% loss of use of his left arm as a result of the instant accident, however we find that this necessitates the payment of benefits for a period of 37.95 weeks.

In addition, the Commission notes that the evidence indicates Petitioner was married with two dependent children at the time of his May 2, 2019 accident. On that date, Petitioner's average weekly wage was $482.97. According to the Act, Petitioner, having three dependents, is subject to the minimum permanent partial disability rate of $319.00 per week. Accordingly, the Commission changes the weekly payment award to this amount

All else is affirmed.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Corrected Decision of the Arbitrator filed February 10, 2026, as corrected above, is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $319.00 per week for a period of 37.95 weeks, as provided in §8(e)(10) of the Act, for the reason that the injuries sustained caused a 15% loss of use of Petitioner's left arm.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Pursuant to §19(f)(1) of the Act, claims against the State of Illinois are not subject to judicial review. Therefore, no appeal bond is set in this case.

August 6, 2026

/s/ *Raychel A. Wesley*

RAW/wde

D: 7/22/26

/s/ *Carolyn M. Doherty*

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/s/ *Frank J. Soto*

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	19WC021161
Case Name	Victor Levandoski v. State of Illinois - Illinois State University
Consolidated Cases	18WC036975 21WC003567
Proceeding Type	Request for Hearing
Decision Type	Corrected Decision
Commission Decision Number	
Number of Pages of Decision	7
Decision Issued By	Kurt Carlson, Arbitrator

Petitioner Attorney	William Trimble
Respondent Attorney	Bradley Defreitas

DATE FILED: 2/10/2026

/s/ Kurt Carlson, Arbitrator
Signature

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

FEBRUARY 10 2026

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF FEBRUARY 10 2026 3.50%

STATE OF ILLINOIS)
)SS.
COUNTY OF **McLean**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
CORRECTED DECISION
NATURE AND EXTENT ONLY

Victor Levandoski
Employee/Petitioner bill@williamsandswee.com
v.

Case # **19** WC **021161**

Consolidated

State of Illinois/Illinois State University
Employer/Respondent Bradley.Defreitas@ilag.gov

The only disputed issue is the nature and extent of the injury. An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Kurt Carlson**, Arbitrator of the Commission, in the city of **Bloomington**, on **11-26-25**. By stipulation, the parties agree:

On the date of accident, **05-02-19**, Respondent was operating under and subject to the provisions of the Act.

On this date, the relationship of employee and employer did exist between Petitioner and Respondent.

On this date, Petitioner sustained an accident that arose out of and in the course of employment.

Timely notice of this accident was given to Respondent.

Petitioner's current condition of ill-being is causally related to the accident.

In the year preceding the injury, Petitioner earned $**25,114.32**, and the average weekly wage was $**482.97**.

At the time of injury, Petitioner was **52** years of age, ***married*** with **2** dependent children.

Necessary medical services and temporary compensation benefits have been provided by Respondent.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**0**.

After reviewing all of the evidence presented, the Arbitrator hereby makes findings regarding the nature and extent of the injury and attaches the findings to this document.

ORDER

Respondent shall pay Petitioner the sum of $**289.78**/week for a further period of **50.** weeks, as provided in Section **8(e)(10)** of the Act, because the injuries sustained caused **15% loss of a left arm**.

In making this Order, the Arbitrator notes that Petitioner had three dependents at the time of injury and is subject to the minimum PPD rate set forth under the Act.

RULES REGARDING APPEALS Unless a Petition for Review is filed within 30 days after receipt of this decision, and a review is perfected in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Kurt Carlson

Signature of Arbitrator

FEBRUARY 10 2026

Victor Levandoski v. Illinois State University, 18 WC 036975. **19 WC 021161**, 21 WC 003567

This matter was heard November 26, 2025, before Arbitrator Kurt Carlson, in Bloomington, Illinois. The only issue at the hearing for each of these three cases was Nature and Extent.

FINDINGS OF FACT:

TESTIMONY AT ARBITRATION

Petitoner

Second Injury: May 2, 2019

Petitioner returned to Dr. Li June 3, 2019 who diagnosed Petitioner with left cubital tunnel syndrome. (TX 24-26)

On August 7, 2019, Dr. Li performed a left cubital tunnel release surgery

On October 9, 2019, Dr. Lawrence Li Petitioner to work full duty, to advance activities as tolerated. (TX 31)

MEDICAL EVIDENCE

On June 3, 2019, Petitioner saw Lawrence Li, MD and was diagnosed with left cubital tunnel syndrome, aggravated by his work activities as a kitchen services worker.(PX 10, pp. 1 – 5).

EMG performed June 26, 2019 found ulnar neuropathy at the left elbow (cubital tunnel syndrome), moderately severe in electroneurophysiologic testing terms,(PX 8, pp. 1 – 11)

On August 7, 2019, Dr. Lawrence Li did perform left cubital tunnel release and transposition of ulnar nerve anteriorly. (PX 5, pp. 208 – 208)

On October 9, 2019, Dr. Lawrence Li, MD returned Petitioner to work full duty. (PX 5, pp. 253 – 256)

On November 11, 2019, Petitioner saw Lawrence Li, MD in follow-up. Dr. Lawrence Li advised Petitioner to continue working full duty and advance activities as tolerated. (PX 5, pp. 263 – 265)

However, on July 22, 2020, Petitioner returned to Dr. Li with persistent numbness and tingling in his left ring and small fingers, which worsened without any new injury. After examining Petitioner, Dr. Li recommended trying splinting. (PX 11, pp. 8 – 10) On August 7, 2020, Petitioner reported that the splint helped with acute spurts of pain but he still experienced persistent numbness and tingling in his left elbow. Dr. Lawrence Li directed Petitioner top continue using the splint, and planned to consider repeating EMG/NCV study if symptoms persisted. (PX 11, pp. 11 – 13) On August 10, 2020, Petitioner was fitted with a nighttime static

elbow orthosis positioned at 40 degrees of flexion, and was instructed in ulnar nerve glides for a home exercise program. (PX 11, p. 36)

Petitioner experienced yet another left elbow accident on September 4, 2020.

On February 22, 2021, Dr. Lawrence Li returned Petitioner to work full duty. (PX 11, pp. 97 – 99)

PHYSICIANS

Deposition of Dr. Lawrence Li

On June 24, 2021, the deposition of Petitioner's treating orthopedic surgeon, Dr. Lawrence Li, was taken in this matter. The transcript of that deposition was entered into evidence as Petitioner's Exhibit 1.

Second Injury: May 2, 2019

On June 3, 2019, Dr. Li diagnosed left cubital tunnel syndrome based on physical examination and ultrasound findings, which revealed swelling around the ulnar nerve. He opined that the injury was caused by work activities. (PX 1, pp. 25-27)

Dr. Li testified that on July 3, 2019, he saw Petitioner in follow-up to EMG, which showed bilateral cubital tunnel syndrome, and also showed that right cubital tunnel was improved from before surgery. (PX 1, p 29) On July 10, July 16, and July 23, 2019, Petitioner continued to suffer from left elbow complaints. Since surgery had provided significant benefits to Petitioner's right elbow, Dr. Lawrence Li and Petitioner decided that Dr. Li would perform left elbow cubital tunnel release. (PX 1, p. 30-31)

Dr. Li performed a left cubital tunnel release surgery on August 7, 2019. The procedure was like the one performed on Petitioner's right elbow, involving release and transposition of the ulnar nerve. After this surgery, Petitioner underwent physical therapy for several months. (PX 1, pp. 31-32)

By October 9, 2019, Petitioner still had some pain, but had no numbness or tingling in his fingers, meaning the nerve was free and conducting normally. Ultrasound found the same thing. (PX 1, pp. 33-36) In follow-up on November 11, 2019, Petitioner still had some elbow pain and significant discomfort with numbness around elbow and fingers. Again, ultrasound showed typical postoperative changes and that the ulnar nerve was in reasonable position postoperatively. Petitioner returned to work. (PX 1, p. 37-38)

Dr. Li testified that Petitioner continued to experience symptoms in his left elbow, including numbness, tingling, and hypersensitivity. On July 22, 2020, Petitioner reported persistent

unresolved numbness and tingling. After examination finding a positive Tinel's test, Dr. Lawrence Li attempted to solve the problem by splinting. However, by August 7, 2020, Petitioner continued to complain of numbness and tingling. Dr. Lawrence Li determined that this should simply be treated by allowing more time for healing. PX 1, p, 43)

Third Injury: September 3, 2020 (21 WC 3567)

Dr. Lawrence Li testified that on September 4, 2020, Petitioner presented to him with a history of having experienced another "pop" in his left elbow while vigorously stirring six pounds of rice and two pounds of vegetables by hand.

CONCLUSIONS OF LAW

The Arbitrator finds and concludes as follows:

The Arbitrator notes that on August 7, 2019, a left cubital tunnel release and transposition of ulnar nerve anteriorly was performed by Dr. Li . After considerable post-operative treatment, Petitioner was released to work full-duty October 9, 2019, but additional treatment was required and the Petitioner reinjured his left elbow on September 3. 2020.

As the accident occurred after September 1, 2011, the nature and extent of the injury must be determined through the five-factor test set out in §8.1b(b) of the Act.

As Section 8(d) has two options for permanent partial disability awards then an analysis for a PPD award is necessary. With respect to disputed issue (L), pertaining to the nature and extent of Petitioner's injury, and consistent with 820 ILCS 305/8.1b, permanent partial disability shall be established using the following criteria: (i) the reported level of impairment pursuant to subsection (a) of Section 8.1b of the Act; (ii) the occupation of the injured employee; (iii) the age of the employee at the time of injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. 820 ILCS 305/8.1b. No single enumerated factor shall be the sole determinant of disability. *Id*

With regard to (i) of Section 8.1(b) of the Act, the reported level of impairment:

There was no evaluation pursuant to the American Medical Association's Guide to the Evaluation of Permanent Impairment. Therefore, the Arbitrator gives no weight to this factor.

With regard to (ii) of Section 8.1(b) of the Act, the occupation of the injured employee:

Petitioner's occupation was as a kitchen services worker, a job which requires some repetitious use of both upper extremities, including frequent and forceful gripping, lifting and carrying. The Arbitrator gives some weight to this factor.

With regard to (iii) of Section 8.1(b) of the Act, the age of the employee at the time of the injury:

Petitioner was 52 years old at the time of the incident and might be less able than a younger person to develop additional job skills in the future. The Arbitrator gives some weight to this factor.

With regard to (iv) of Section 8.1(b) of the Act, the employee's future earning capacity:

There is no direct evidence that Petitioner's future earnings were affected by this claim. Petitioner returned to work. The Arbitrator gives *little* weight to this factor.

With regard to (v) of Section 8.1(b) of the Act, evidence of disability corroborated by the medical records:

The Arbitrator finds that there was evidence of disability corroborated by the medical records. In so finding, the Arbitrator gives considerable weight to the medical records introduced at hearing in this matter, as outlined above. Based on the evidence introduced at trial, the Arbitrator gives *greater* weight to this factor.

Based on the factors above, the Arbitrator concludes the injuries sustained by Petitioner caused a 15% loss of a left arm, as provided in Section 8(e)(10) of the Act.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	21WC003567
Case Name	Victor Levandoski v. State of Illinois - Illinois State University
Consolidated Cases	18WC036975 19WC021161
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0224
Number of Pages of Decision	17
Decision Issued By	Raychel Wesley, Commissioner

Petitioner Attorney	William Trimble
Respondent Attorney	Bradley Defreitas

DATE FILED: 8/6/2026

/s/ Raychel Wesley, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF McLEAN)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

VICTOR LEVANDOSKI,

Petitioner,

vs. NO: 21 WC 03567

STATE OF ILLINOIS,
ILLINOIS STATE UNIVERSITY,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by Petitioner herein and notice given to all parties, the Commission, after considering the issue of the nature and extent of Petitioner's permanent disability, and being advised of the facts and law, corrects the Decision of the Arbitrator as stated below, but otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

While the Commission ultimately affirms the Arbitrator's award of permanent partial disability benefits, we have reviewed and recalculated the figures used to determine the award based on the evidence in the record. The evidence indicates that Petitioner was married with two dependent children at the time of his September 3, 2020 accident. On that date, Petitioner's average weekly wage was $412.02. According to the Act, Petitioner, having three dependents, is subject to the minimum permanent partial disability rate of $386.67 per week for 125 weeks after sustaining a 25% loss of use of his person as a whole.

All else is affirmed.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed January 26, 2026, as corrected above, is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $386.67 per week for a period of 125 weeks, as provided in §8(d)(2) of the Act, for the reason that the injuries sustained caused a 25% loss of use of Petitioner's person as a whole.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Pursuant to §19(f)(1) of the Act, claims against the State of Illinois are not subject to judicial review. Therefore, no appeal bond is set in this case.

August 6, 2026

/s/ *Raychel A. Wesley*

RAW/wde

D: 7/22/26

/s/ *Carolyn M. Doherty*

43

/s/ *Frank J. Soto*

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	21WC003567
Case Name	Victor Levandoski v. State of Illinois - Illinois State University
Consolidated Cases	18WC036975 19WC021161
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	14
Decision Issued By	Kurt Carlson, Arbitrator

Petitioner Attorney	William Trimble
Respondent Attorney	Bradley Defreitas

DATE FILED: 1/26/2026

/s/ Kurt Carlson, Arbitrator
Signature

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

JANUARY 27 2026

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF JANUARY 27 2026 3.53%

STATE OF ILLINOIS)
)SS.
COUNTY OF **McLean**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
NATURE AND EXTENT ONLY

Victor Levandoski
Employee/Petitioner bill@williamsandswee.com
v.

Case # **21** WC **003567**

Consolidated:

State of Illinois/Illinois State University
Employer/Respondent Bradley.Defreitas@ilag.gov

The only disputed issue is the nature and extent of the injury. An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Kurt Carlson**, Arbitrator of the Commission, in the city of **Bloomington**, on **11-26-25**. By stipulation, the parties agree:

On the date of accident, **09-03-20**, Respondent was operating under and subject to the provisions of the Act.

On this date, the relationship of employee and employer did exist between Petitioner and Respondent.

On this date, Petitioner sustained an accident that arose out of and in the course of employment.

Timely notice of this accident was given to Respondent.

Petitioner's current condition of ill-being is causally related to the accident.

In the year preceding the injury, Petitioner earned $ **21,424.91**, and the average weekly wage was $ **412.02**
At the time of injury, Petitioner was **53** years of age, ***married*** with **2** dependent children.

Necessary medical services and temporary compensation benefits have been provided by Respondent.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**0**.

After reviewing all of the evidence presented, the Arbitrator hereby makes findings regarding the nature and extent of the injury and attaches the findings to this document.

ORDER

Respondent shall pay Petitioner the sum of $**346.67**/week for a further period of 125 weeks, as provided in Section **8(d)(2)** of the Act, because the injuries sustained caused **25% loss of person-as-a-whole**.

In making this Order, the Arbitrator notes that Petitioner had three dependents at the time of injury and is subject to the minimum PPD rate set forth under the Act.

RULES REGARDING APPEALS Unless a Petition for Review is filed within 30 days after receipt of this decision, and a review is perfected in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Kurt Carlson

Signature of Arbitrator

JANUARY 27 2026

Victor Levandoski v. Illinois State University, 18 WC 036975. 19 WC 021161**, 21 WC 003567**

This matter was heard November 26, 2025, before Arbitrator Kurt Carlson, in Bloomington, Illinois. The only issue at the hearing for each of these three cases was Nature and Extent.

FINDINGS OF FACT:

TESTIMONY AT ARBITRATION

Petitioner

Third Injury: September 3, 2020

Petitioner testified that on September 3, 2020, his job duties with Respondent were the same as previously described. (TX 33) On that date, while cooking fried rice and using the paddles, he experienced severe pain in his left elbow shooting from his elbow down through his hand and out his fingers. His hand "contorted into unusable shape" and he dropped the paddle. His hand was pulled towards his chest, and he could not use his arm. Petitioner described the sensation as "excruciatingly painful." (TX 34) That afternoon he was told by Dr. Lawrence Li that his cubital tunnel surgery had failed, his ulnar nerve had pulled free of the sling that was made for it, and the ulnar nerve was stretching his arm and preventing use of his arm and fingers. (TX 34-35)

Dr. Lawrence Li recommended revision of cubital tunnel release of the left elbow which was performed October 13, 2020.

At further follow-up on January 12, 2021, Petitioner told Dr. Li that he was improving, but was still suffering from pain and numbness, and Dr. Lawrence Li continued medication and occupational therapy. However, by January 25, 2021, Petitioner told Dr. Lawrence Li he was experiencing increased pain in his left elbow, forearm, and fingers. In addition to continuing medication and occupational therapy, Dr. Lawrence Li referred Petitioner to Dr. Ji Li for pain management. (TX 38)

Petitioner saw Dr. Ji Li for the first time February 17, 2021. At that time, Petitioner was experiencing numbness in his ring and little finger, and throughout his left hand from the ring finger to the bottom of his palm, as well as the underside of his wrist, traveling halfway up his forearm, and began again in his elbow. Petitioner had difficulty gripping things and would sometimes get a shooting pain from his elbow down through his ring finger. At hearing, Petitioner described this "like someone was jamming a wire down my arm through my finger," which sensation he experienced frequently. (TX 40) At that time, pain with picking up or lifting heavy things was affecting Petitioner's work. (TX 40)

Dr. Lawrence Li released Petitioner to work full duty. (TX 41) However, on March 16, 2021, Petitioner reported to Dr. Ji Li that he was having persistent burning, aching, and occasionally sharp pain in the left fourth and fifth fingers and the inside of his left forearm and elbow. Petitioner told Dr. Ji Li that he needed pain medication to continue working, and Dr. Ji Li

told Petitioner that Petitioner had Complex Regional Pain Syndrome. (TX 41-42) Petitioner reported these symptoms again to Dr. Ji Li on April 13, 2021, and told Dr. Ji Li that pain medications let him perform his daily activities but only provided forty to sixty percent relief. (TX 42)

By May 18, 2021, Petitioner reported to Dr. Ji Li that his pain was now continuous. Dr. Ji Li continued Petitioner on medications and discussed other treatment options. (TX 43-44)

On June 15, 2021, Dr. Ji Li discussed options for pain management with Petitioner. Petitioner had both pain and numbness, with some relief from Lyrica. He was not prepared to undergo a stellate ganglion nerve block, and Dr. Ji Li continued Petitioner on medications. (TX 44) A month later, July 20, 2021, when Petitioner saw Dr. Ji Li, Petitioner still had burning pain, hypersensitivity, and some swelling, and reported that prolonged use of his arm worsened his pain. (TX 45)

August 30, 2021, Petitioner reported to Dr. Ji Li that Petitioner had returned to work after being off for the summer, and that returning to work had made his left elbow pain and hypersensitivity worse, with pain at 5 out of 10. Petitioner requested pain medications so that he could manage his symptoms to continue working. (TX 46)

On December 31, 2021, Petitioner retired from work for Respondent because he could no longer perform the duties of his job. He testified that he loved his job, and that he would still be working were it not for the pain and other symptoms he experiences in his arms. His injuries forced his retirement. (TX 48-49) Petitioner testified that he was 55 when he retired, that this was seven years early, and that his pension suffered as a result. (TX 49) He testified that he had been employed as a cook for 36 years and could no longer cook. He also testified that the symptoms in his arms would prevent other employment, as he could not keyboard or use vibratory tools or tools such as a hammer or reciprocating drill which caused force. (TX 50)

Petitioner further testified that his injuries significantly impact his daily life. He cannot perform household tasks such as opening jars, gardening, or performing home repairs due to loss of grip strength and pain. He also described the need to carefully plan physical activities to avoid exacerbating his symptoms, as overexertion often leaves him unable to use his hands or drive the following day. Although he has the skills to do electrical, plumbing, and remodeling work, and has done such work in the past, he cannot do any of these due to his work injuries. (TX 50-53)

Petitioner testified that at the time of hearing, both his hands were completely numb from the ring finger through the little finger, and through the bottom of his palm. His elbows were sensitive, and when he overuses his hands, he has pain across his forearms into his hands, and with extreme use, he ends up with shooting pain from his elbows to his fingers. (TX 53)

MEDICAL EVIDENCE

On September 4, 2020, Petitioner saw Lawrence Li, MD at Orthopedic & Shoulder Center, reporting experiencing a pop in the left elbow while cooking, followed by pain shooting down into the entire hand. The pain subsided after half an hour, but he was left with severe numbness and tingling in the ring and small fingers. He had some numbness and tingling before, but the severity increased significantly after the incident. Dr. Lawrence Li diagnosed Petitioner with acute rupture of previous transposition of the ulnar nerve, considered neuropraxia injury to be most likely, and ordered MRI and EMG/NCV. (PX 11, pp. 14 – 18) September 8, 2020, MRI of the left elbow showed: 1. Mild tendinosis and low-grade partial thickness tear of the common extensor tendon. 2. Thickening and hyperintense signal on fluid sensitive pulse sequences within the ulnar nerve status post ulnar nerve transposition, compatible with ulnar neuritis. Possibility the abnormal signal and caliber of the ulnar nerve is the result of superimposed posttraumatic change cannot be excluded. (PX 11, pp. 19 – 20) September 24, 2020, EMG/NCV found ulnar neuropathy at the left elbow and mild ulnar neuropathy at the right elbow. (PX 12, pp. 3 – 16)

On October 1, 2020, Petitioner saw Dr. Lawrence Li in follow-up. Dr. Li diagnosed Petitioner with left recurrent cubital tunnel syndrome due to previous compression and a new injury. Plan included discussing findings and treatment options with the patient, recommending left revision cubital tunnel release. (PX 11, pp. 21 – 24)

On October 13, 2020, Dr. Lawrence Li performed left elbow revision cubital tunnel release, and applied a long-arm splint post-operatively. (PS 11, p. 26) On October 15, 2020, Petitioner was fit for an orthosis. (PX 11, p. 25)

Dr. Lawrence Li saw Petitioner in follow-up on October 21, 2020 (PX 11, pp. 27 – 30), and participated in occupational therapy for 27 sessions, from October 22, 2020, until February 11, 2021. (PX 11, pp. 31 - 35, 37 – 39, 42 – 54, 57 – 68, 71 – 78, 83 – 96) Petitioner returned for follow-up November 18, 2020, at which visit Dr. Li examined Petitioner and determined that the ulnar nerve remained in position, and recommneded continued therapy and medication, (PX 11, pp. 40 – 41) On December 15, 2020, Petitioner returned to Dr. Lawrence Li for a post-operative examination and ultrasound. Dr. Lawrence Li prescribed further medication, use of Game Ready Vasopneumatic Cryo-compression therapy, and recommended continuation of occupational therapy and follow-up in 4 weeks. (PX 11, pp. 55 – 56) At follow-up January 12, 2021, Petitioner reported improvement in symptoms but that he was still experiencing some pain and numbness. Dr. Lawrence Li again recommended continued occupational therapy and medication. (PX 11, pp. 69 – 70)

On January 25, 2021, Dr. Lawrence Li found residual dysfunction following left elbow revision cubital tunnel release, prescribed Ultram and Lyrica, and referred Petitioner to Dr. Ji Li for pain

evaluation, continued occupational therapy, and scheduled follow-up in 4 weeks. (PX 11, pp. 79 – 82)

On February 17, 2021, Petitioner saw Ji Li, MD at Applied Pain Institute LLC, gave a history of his spring 2018 work accident with two surgeries on the left elbow, and his continued achy, numbing, and occasionally sharp pain in the left elbow, ulnar side of the forearm, and 4th and 5th fingers, with increased pain with repetitive use of the left arm. Dr. Ji Li noted neuropathic pain in the left elbow, possibly complex regional pain syndrome (CRPS), and chronic pain, and continued Lyrica. Dr. Ji Li also prescribed topical diclofenac gel and oral Ultram PRN for pain, and discussed potential left stellate ganglion nerve block if needed. Dr. Ji Li directed Petitioner to complete physical therapy and follow up with Dr. Lawrence Li. Scheduled follow-up in 3-4 weeks. (PX 14, pp. 3 – 12; PX 15, pp. 1-2)

February 22, 2021, Dr. Lawrence Li returned Petitioner to work full duty. (PX 11, pp. 97 – 99)

On March 16, 2021, Petitioner saw Ji Li, MD at Applied Pain Institute LLC, reporting persistent pain in the left 4th and 5th fingers, inner side of the left forearm, and elbow, described as burning, achy, and occasionally sharp. He experienced numbness, hypersensitivity, and allodynia in the left elbow and forearm post-surgery. He needed pain medications to continue working. Dr. Ji Li diagnosed ppp with Complex Regional Pain Syndrome (CRPS) and chronic pain. The plan was to continue pain medications, maintain home exercise, and follow up in one month. Counseling was a significant part of the visit. (PX 15, pp. 4-5)

On April 13, 2021, Petitioner told Dr. Ji Li that he had 40-60% relief with current medications and was able to perform daily activities. Dr. Ji Li diagnosed Petitioner with CRPS in the left arm, continued Ultram as needed, increased Lyrica, and considered left stellate ganglion block. (PX 15, pp. 7-10) In follow-up on May 18, 2021, Petitioner presented again at Applied Pain Institute LLC, with continued pain as before, and Dr. Ji Li planned to continue the current pain medications, follow up in one month, and discuss the possibility of a Stellate Ganglion Nerve Block (SGNB). (PX 15, pp. 11-12)

On June 15, 2021, Petitioner saw Dr. Ji Li with similar symptoms as before. Dr. Ji Li planned to increase Lyrica, continue Ultram as needed, and follow up in one month. (PX 15, pp. 13-14) On July 20, 2021, Petitioner's condition was not improved, and Dr. Ji Li planned to increase Lyrica again, continue Ultram as needed, and follow up in one month. (PZ 15m pp. 15-16)

On August 30, 2021, Petitioner saw Ji Li, MD and reported that returning to work increased his left elbow pain and hypersensitivity, with worsening numbness and tingling pain in his left fingers, described as burning and numbing, with a moderate severity and continuous duration over years. He rated his pain level as 5/10 and mentioned needing pain medications to manage

his symptoms and continue working. The physical exam revealed redness and slight swelling of the left elbow and hand, with hypersensitivity, allodynia, and tenderness in the left elbow, forearm, and hand. Dr. Ji Li diagnosed Petitioner with Complex Regional Pain Syndrome (CRPS). The plan included continuing pain medications, discussing a left Stellate ganglion block, refilling pain medications, and scheduling a follow-up in one month. (PX 15, pp. 17-18)

On October 6, 2021, Dr. Ji Li and Petitioner determined to try a left stellate ganglion block, with follow-up one week after the injection. (PX 15, Counseling was a significant part of the visit. (PX 15, pp. 19 – 20). Because this was not approved by workers' compensation, Petitioner opted to have this done on private insurance. (PX 15, pp. 25-28)

On February 18, 2022, Petitioner saw Ji Li, MD at Ireland Grove Center for Surgery, Preoperative Diagnosis: CRPS Procedure: left stellate ganglion block in Carle BroMenn Medical Center. There were no complications. Neurological exam was without deficit. (PX 15, pp. 39 – 40)

On March 21, 2022, Petitioner reported no pain relief from the stellate ganglion block, and reported pain level 6/10. (PX 15, pp. 41 – 42) He was seen again June 13, 2022, symptoms 4/19 but otherwise unchanged (PX 15, pp. 43 – 44). On December 12, 2022, Petitioner's Gabapentin was increased to 200 mg three times daily, with a plan to increase to 300 mg three times daily for 5-7 days, then four times daily if no side effects or relief. (PX 15, pp. 45 – 46).

On February 13, 2023, Petitioner reported that he was experiencing burning, sharp pain from the left elbow down the forearm to the hand, worsened by coldness, night, repetitive motions, and resting elbows on chair arms. Pain level was 6/10, continuous for years, with numbness and tingling in the arms. Gabapentin was used for relief but was no longer effective. The plan was to increase Gabapentin to 600 mg three times daily, with consideration of switching to Pregabalin 200 mg three times daily if no relief. Follow-up was scheduled in 1 month, with counseling on physical activity and potential side effects of medication. (PX 15, pp. 47 – 48)

On March 13, 2023, Petitioner saw Ji Li, MD at Applied Pain Institute LLC, reporting increasing Neurontin 600mg TID, which provided 75% pain relief for bilateral elbow and hand pain. The plan was to continue Neurontin 600mg TID, with a follow-up in 3 months. (PX 15, pp. 49 – 50) On June 13, 2023, Petitioner saw Nickolas Rhoades, APRN at Applied Pain Institute LLC, with similar symptoms as before, and was considered to be stable on gabapentin and denied side effects or kidney disease. (PX 15, pp. 52 – 53) This was repeated September 12, 2023, (PX 15, pp. 58-59), and December 12, 2023 (PX 15, pp. 60 – 61). However, by March 12, 2024, Petitioner reported that gabapentin was not working well and that he did not want to increase the dose. Lyrica had been tried without relief. (PX 15, pp. 62 – 63) Likewise, at a visit on June 4, 2024, Petitioner reported the same symptoms but declined to increase his dosage of gabapentin

due to drowsiness. A peripheral nerve stimulation (PNS) consultation was considered. (PX 15, pp. 64 – 65)

On September 4, 2024, Petitioner saw Nickolas Rhoades, APRN at Applied Pain Institute LLC, with the same symptoms as before, but CRPS was now noted in bilateral upper extremities. Various possible treatments were discussed. (PX 15, pp. 67 – 68) APRN Rhoades made a referral to Dr. Daniel Bunzol - Rush peripheral nerve restoration clinic for a patient with CRPS type 1(no direct damage to the nerves) in both upper extremities to explore peripheral nerve stimulation after unsuccessful stellate ganglion blocks. (PX 15, p. 66)

On December 4, 2024, Petitioner again saw Nickolas Rhoades, APRN at Applied Pain Institute LLC, with similar symptoms, now diagnosed as bilateral upper extremity CRPS. Again, various treatment options were discussed. (PX 15, pp. 69 – 70) On February 21, 2025, in follow-up with APRN Rhodes, Petitioner reported that when he had tried to reduce Gabapentin, he had significantly increased pain and no withdrawal effects. (PX 16, pp. 3-4)

On March 14, 2025, Lawrence Li, MD at Orthopedic & Shoulder Center, provided permanent restrictions including no lifting, pushing, pulling over 20 lbs, and no use of vibrating tools. (PX 17, p. 1)

March 17, 2025, Petitioner asked APRN Rhodes what work restrictions APRN Rhodes recommended. (PX 16, pp. 5-6) On that date, APRN Rhodes provided a permanent restriction of "Upper extremity fine motor limitations of 2 hours continuously, without a 2-hour break. No lifting, carrying, pushing, and pulling for 20 lbs. with the upper extremities. No use of vibrating or jarring tools." (PX 16, p. 9)

May 16, 2025, Petitioner was seen at Applied Pain Institute by APRN Tyrel Steidinger, largely unchanged from previous. (PX 16, pp. 10-11) At a follow-up visit August 8, 2025, it was noted that Petitioner's bilateral CRPS had been worsening over the past few months. (PX 16, pp. 12-13) This was the same at his next visit October 27, 2025 (PX 16, pp. 14-15).

PHYSICIANS

Deposition of Dr. Lawrence Li

On June 24, 2021, the deposition of Petitioner's treating orthopedic surgeon, Dr. Lawrence Li, was taken in this matter. The transcript of that deposition was entered into evidence as Petitioner's Exhibit 1.

Dr. Lawrence Li testified that he is board-certified in orthopedic surgery and has been practicing general orthopedics in Bloomington-Normal, Illinois, since 1996. He specializes in shoulders, hands, and knees and holds hospital privileges at OSF St. Joseph and Carle BroMenn. Dr. Li

completed his residency at Ohio State University and is certified by the American Board of Orthopedic Surgery. (PX 1, pp. 5-6)

Third Injury: September 3, 2020

Dr. Lawrence Li testified that on September 4, 2020, Petitioner presented to him with a history of having experienced another "pop" in his left elbow while vigorously stirring six pounds of rice and two pounds of vegetables by hand. Dr. Li diagnosed Petitioner with a rupture of the previously transposed ulnar nerve and recommended an EMG and MRI. Dr. Li diagnosed this as neuropraxia, which he testified meant that the nerve would most likely come back on its own. (PX 1, pp. 44-45) On October 1 follow-up to the MRI, Dr. Lawrence Li diagnosed Petitioner with recurrent cubital tunnel syndrome partly related to this latest injury. (PX 1, pp. 45-46) Dr. Li performed a revision surgery on October 13, 2020. (PX 1, p. 47) The surgery went well, but Petitioner still had numbness and tingling in his ring and small fingers, which was consistent with ulnar neuropathy and which was not surprising to Dr. Li. (PX 1, pp. 47-48) Petitioner completed occupational therapy and therapy using the Game Ready cryocompression device. (PX 1, pp. 48-54) On February 22, 2021, Dr. Lawrence Li released Petitioner to full duty. (PX 1, p. 55)

Despite the release to work, Petitioner was still experiencing increased pain in the left elbow, forearm, and into his fingers. Dr. Lawrence Li prescribed the pain reliever Ultram as well as Lyrica, for neuropathic pain, and referred Petitioner to Dr. Ji Li, a pain practitioner. (PX 1, p. 54)

Dr. Li testified to a reasonable degree of medical certainty that Petitioner's bilateral cubital tunnel syndrome and lateral epicondylitis were caused by repetitive work activities as a chef. (PX 1, pp. 55-59)

Deposition of Dr. Ji Li

On January 16, 2025, the deposition of Petitioner's pain management physician, Dr. Ji Li, was taken in this matter. The transcript of that deposition was entered into evidence as Petitioner's Exhibit 3.

Dr. Ji Li testified that he is a board-certified anesthesiologist and pain management specialist, practicing in Bloomington, Illinois since 1998. He completed his residency in anesthesia and fellowship in pain management at Mount Sinai in New York. Dr. Li explained that his practice focuses on conservative treatments, minimally invasive interventions, and advanced pain management techniques, including nerve blocks and spinal cord stimulators, all with the goal of reducing pain and making the patient more functional so they can be back to a normal life. (PX 3, pp. 4-6)

Dr. Li testified that he first saw Petitioner, Victor Levandoski, on February 17, 2021, on referral from orthopedic surgeon Dr. Lawrence Li. Petitioner presented with continuous burning pain in his left elbow, hypersensitivity, and mild allodynia (pain caused by gentle touch). (PX 3, pp. 7-8)

Dr. Li diagnosed Petitioner with complex regional pain syndrome (CRPS), a common neuropathic pain syndrome. (PX 3, pp. 8-9) Dr. Li testified that CRPS is a neuropathic pain disorder characterized by burning pain, hypersensitivity, swelling, redness, and temperature changes in the affected area. He explained that CRPS can result from trauma or surgery. (PX 3, pp. 9-10)

At this visit, Dr. Ji Li continued Petitioner's neuropathic medication (Lyrica) and advised him to complete physical therapy prescribed by Dr. Lawrence Li. (PX 3, pp. 9-10)

Dr. Ji Li next saw Petitioner on March 16, 2021, at which time Petitioner reported no significant change in symptoms. Dr. Li noted that the pain involved the ulnar nerve distribution, affecting the left forearm and fourth and fifth digits. He opined to a reasonable degree of medical certainty that Petitioner's CRPS was caused by trauma from repetitive work activities and aggravated by two prior surgeries. (PX 3, pp. 10-11)

On April 13, 2021, Dr. Ji Li recommended increasing Petitioner's Lyrica dose and adding Tramadol, a mild narcotic. He discussed left stellate ganglion nerve block, which is a sympathetic nerve block to treat CRPS and nerve-related pain. That procedure was eventually performed, but not until February 18, 2022. (PX 3, pp. 11-13)

Dr. Ji Li testified that he next saw Petitioner May 18, 2021. At that time, Petitioner's condition was unchanged. (PX 3 p. 13) On June 15, 2021, Petitioner's condition remained unchanged, he continued on Tramadol and Lyrica and declined stellate ganglion nerve block. (PX 3, p. 13)

July 20, 2021, Petitioner presented to Dr. Ji Li with continuous burning pain with hypersensitivity and told Dr. Ji Li that the pain was getting worse. Dr. Ji Li increased Petitioner's Lyrica. Dr. Ji Li testified that it is normal for CRPS patients to have waxing and waning of pain. (PX 3 p. 14-15)

August 30, 2021, Petitioner saw Dr. Ji Li in further follow-up. At that time, Petitioner continued to have left elbow pain which was sharp and burning and worsened with activity. Dr. Ji Li continued Petitioner's medication. (PX 3, p. 16)

At further follow-up October 6, 2021, Petitioner determined that he would get stellate ganglion nerve block, which took place February 18, 2022. It did not provide Petitioner with any significant relief, and when Dr. Ji Li saw Petitioner again on March 21, 2022, diagnosis and physical examination remained the same, and Dr. Ji Li and Petitioner determined to continue treatment with medication. (PX 3, p. 17)

Dr. Ji L saw Petitioner again June 13, 2022, at which visit Petitioner again advised Dr. Ji Li that the stellate ganglion block had not helped, but that while his pain was the same in the left elbow, forearm, and hand, he did not have hypersensitivity. (PX 3, p. 18) Petitioner was close to the maximum dosage of Lyrica. Dr. Ji Li again suggested trial of a spinal cord stimulator, but Petitioner was hesitant to do that. (PX 3, p. 19)

December 12, 2022, Dr. Ji Li's nurse practitioner saw Petitioner, still with pain from the left elbow down to the hand, worse with cold weather and at night. Dr. Ji Li's nurse practitioner changed Petitioner's medications due to tolerance of Lyrica and again suggested spinal cord stimulator. (PX 3, pp. 20-21)

On February 13, 2023, Petitioner again saw Dr. Ji Li's nurse practitioner with the same symptoms, worse at night and with repetitive motion. Regarding a notation in the file that Petitioner had bilateral nerve pain, Dr. Ji Li stated that although Petitioner had nerve damage on the left side, "CRPS has a tendency to move to other limbs," and although it was not fully understood how CRPS would change the nerve structures in the brain and spinal cord, there are some changes at the neurotransmitter levels and cell levels. (PX 3, pp. 24-25) Dr. Ji Li's nurse practitioner noted that Petitioner was unable to work due to his CRPS. (PX 3, pp. 26-27)

By March 13, 2023, Petitioner was reporting to Dr. Ji Li's nurse practitioner that he was still having the same pain on the left, was starting to have pain on the right. Although the record of Dr. Ji Li's nurse practitioner from that date indicates that Petitioner he was experiencing limited range of motion and pain worsening when he lifted anything, Dr. Ji Li testified that Petitioner had always had that symptom. (PX 3, pp. 27-28)

June 13, 2023, Dr. Ji Li's nurse practitioner again saw Petitioner, with the same symptoms as before. (PX 3, pp. 28-29) On September 12, 2023, Dr. Ji Li's nurse practitioner again saw Petitioner with similar symptoms as before and managed his medication,(PX 3, p. 29) and again December 12, 2023, with left elbow pain worse than right elbow pain, still worse with activity and cold weather, (PX 3, p. 30), March 12, 2024, (PX 3, p. 31) and June 4, 2024. (PX 3, p. 32) On June 4, 2024, Dr. Ji Li's nurse practitioner also referred Petitioner to another practitioner to explore the option of peripheral nerve stimulation. (PX 3, p. 33)

Regarding a September 4, 2024, visit, Dr. Ji Li testified that Petitioner's pain and diagnosis remained the same, and that medication was not increased because Petitioner did not want the increased drowsiness that a medication increase would entail. (PX 3, pp. 34-35) This situation remained unchanged at another follow-up visit on December 4, 2024. (PX 3, p. 35)

Dr. Ji Li testified that he continued to treat Petitioner, and that further options for pain management could be explored in the future. (PX 3, p. 36) Dr. Ji Li testified that Petitioner had not had significant improvement in the time that Petitioner had been seeing Dr. Ji Li. Dr. Ji Li testified that "So I don't think [Petitioner] can effectively work with his symptoms, the history of symptoms and the injury with the surgery." (PX 3, p. 37)

CONCLUSIONS OF LAW

The Arbitrator finds and concludes as follows:

The Arbitrator notes at the outset of this analysis that the injury in this case is bilateral complex regional pain syndrome, and that according to physicians and Petitioner it has prevented Petitioner from doing his previous job and has limited Petitioner from performing other work, For these reasons, Petitioner's injury in this case will be analyzed as a percentage of person-as-a-whole.

As the accident occurred after September 1, 2011, the nature and extent of the injury must be determined through the five-factor test set out in §8.1b(b) of the Act.

As Section 8(d) has two options for permanent partial disability awards then an analysis for a PPD award is necessary. With respect to disputed issue (L), pertaining to the nature and extent of Petitioner's injury, and consistent with 820 ILCS 305/8.1b, permanent partial disability shall be established using the following criteria: (i) the reported level of impairment pursuant to subsection (a) of Section 8.1b of the Act; (ii) the occupation of the injured employee; (iii) the age of the employee at the time of injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. 820 ILCS 305/8.1b. No single enumerated factor shall be the sole determinant of disability. *Id*

With regard to (i) of Section 8.1(b) of the Act, the reported level of impairment:

There was no evaluation pursuant to the American Medical Association's Guide to the Evaluation of Permanent Impairment. Therefore, the Arbitrator gives *no* weight to this factor.

With regard to (ii) of Section 8.1(b) of the Act, the occupation of the injured employee:

Petitioner's occupation is not a chef, therefore he is not as skilled worker in that sense, instead he is a seasonal worker who provides food service for college students at ISU that live in the dormitory. As such, the Arbitrator does not consider the matter in the same light as a skilled tradesman like a trained and rated plumber or electrician. While it is true that Petitioner may have suffered a job loss, he did not lose a trade. Nevertheless, the Arbitrator gives *moderate* weight to this factor.

With regard to (iii) of Section 8.1(b) of the Act, the age of the employee at the time of the injury:

Petitioner was 53 years old at the time of the incident and is probably less able than a younger person to develop additional job skills at a lower physical demand level. The Arbitrator gives *some* weight to this factor.

With regard to (iv) of Section 8.1(b) of the Act, the employee's future earning capacity:

Petitioner testified that he had to retire at 55 years old because pain prevented him from continuing to do his job. This is supported by the testimony of pain physician Dr. Ji Li that "I don't think [Petitioner] can effectively work with his symptoms, the history of symptoms and the injury with the surgery." (PX 3, p. 37) It is also supported by the permanent restriction imposed by Dr. Lawrence Li of no pushing, pulling or lifting over 20 pounds (PX 17), and the permanent restriction imposed by APRN Rhodes who provided a permanent restriction of "Upper extremity fine motor limitations of 2 hours continuously, without a 2-hour break. No lifting, carrying,

pushing, and pulling for 20 lbs. with the upper extremities. No use of vibrating or jarring tools." (PX 16, p. 9) However, these restrictions were created years after stating that Petitioner could return to work full duty as needed on February 22, 2021, and seem to be crafted for different job than he had at ISU. The Arbitrator gives but little weight to this factor.

With regard to (v) of Section 8.1(b) of the Act, evidence of disability corroborated by the medical records:

The Arbitrator finds that there was evidence of disability corroborated by the medical records. In so finding, the Arbitrator gives some weight to the medical records introduced at hearing in this matter, as outlined above. Additionally, the Arbitrator notes no functional capacity exam was ever administered and no vocational assessment was ever conducted. Nevertheless, the Arbitrator gives *some* weight to this factor.

Based on the factors above, the Arbitrator concludes the injuries sustained by Petitioner caused a 25% loss of Person-as-a-Whole as provided in Section 8(d)(2) of the Act.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	11WC008318
Case Name	Paul Osipavicius v. Chicago Transit Authority
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0225
Number of Pages of Decision	11
Decision Issued By	Christopher Harris, Commissioner

Petitioner Attorney	David Feuer, Melvyn Romanoff
Respondent Attorney	Barrett Long, Anne Zakrzewski

DATE FILED: 8/7/2026

/s/ Christopher Harris, Commissioner

Signature

26IWCC0225

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☒ Modify up	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

PAUL F. OSIPAVICIUS,

Petitioner,

vs. NO: 11 WC 8318

CHICAGO TRANSIT AUTHORITY,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of accident, causal connection, the reasonableness and necessity of the medical treatment and charges, prospective medical treatment, temporary total disability, and permanent partial disability, and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Arbitrator awarded medical expenses found to be reasonable and necessary, but omitted the outstanding bills from Prescription Partners, LLC, totaling $1,218.44. Petitioner's Exhibit 9 reflects unpaid charges of $588.38 for treatment received on November 7, 2011, and $630.06 for treatment received on December 5, 2011. After reviewing the record, the Commission finds that these prescribed medications were causally related to the accident and were reasonable and necessary.[1] Accordingly, the Commission modifies the Arbitrator's decision to award an additional $1,218.44 for the medical expenses set forth in Petitioner's Exhibit 9 and affirms the remainder of the decision.

1 At arbitration, Respondent offered no objection to Petitioner's exhibits other than denying liability based on accident. Having affirmed the finding of accident, the Commission notes no further objection was raised regarding the reasonableness and necessity of the medical treatment and charges. Petitioner's Exhibit 9 was properly admitted but the expenses were inadvertently excluded in the award.

26IWCC0225

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator, filed November 3, 2025, is hereby modified as stated above and otherwise affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $789.33 per week for a period of 55-3/7 weeks, February 25, 2011 through March 18, 2012, that being the period of temporary total incapacity for work under §8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $710.40 per week for a period of 125 weeks, as provided in §8(d)2 of the Act, for the reason that the injuries sustained caused 25% loss of use of the person-as-a-whole.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay outstanding reasonable and necessary medical services of $14,500.00 (out of pocket payments by Petitioner to Midwest Medcorp); $12,110.00 (Dr. Goldberg); $2,898.10 (Midwest Orthopaedics at Rush); $1,005.00 (out of pocket payments by Petitioner to Dr. Goldflies); $12,313.00 (St. Anthony Hospital); $805.00 (Chicago Orthopedics and Sports Medicine); $7,290.93 (Preferred Open MRI); $4,026.05 (Total Life Chiropractic); $70.00 (Specialized Radiology); $6,250.35 (Metro Pain Management); $5,019.00 (Metro Anesthesia Consultants); and $1,218.44 (Prescription Partners, LLC), as provided in Sections 8(a) and 8.2 of the Act and pursuant to the medical fee schedule.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Under Section 19(f)(2) of the Act, no "county, city, town, township, incorporated village, school district, body politic, or municipal corporation" shall be required to file a bond. As such, Respondent is exempt from the bonding requirement. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 7, 2026

/s/ *Christopher A. Harris*
Christopher A. Harris

CAH/tdm
O: 7/23/26
052

/s/ *Maria E. Portela*
Maria E. Portela

/s/ *Marc Parker*
Marc Parker

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	11WC008318
Case Name	Paul Osipavicius v. Chicago Transit Authority
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	8
Decision Issued By	Elaine Llerena, Arbitrator

Petitioner Attorney	David Feuer, Melvyn Romanoff
Respondent Attorney	Barrett Long, Anne Zakrzewski

DATE FILED: 11/3/2025

/s/Elaine Llerena, Arbitrator
Signature

INTEREST RATE WEEK OF OCTOBER 28 2025 3.64%

STATE OF ILLINOIS)
)SS.
COUNTY OF **COOK**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

Paul F. Osipavicius
Employee/Petitioner
v.
Chicago Transit Authority
Employer/Respondent

Case # **11** WC **008318**

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Elaine Llerena**, Arbitrator of the Commission, in the city of **Chicago**, on **August 5, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **February 22, 2011**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**61,568.00**; the average weekly wage was $**1,184.00**.

On the date of accident, Petitioner was **47** years of age, ***single*** with **1** dependent children.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**5,200.00** for nonoccupational indemnity disability benefits, for a total credit of $**5,200.00**.

Respondent is entitled to a credit of $**0** under Section 8(j) of the Act.

ORDER

Respondent shall pay Petitioner temporary total disability benefits of $789.33 per week for 55-3/7 weeks, commencing February 25, 2011, through March 18, 2012, as provided in Section 8(b) of the Act.

Respondent shall pay outstanding reasonable and necessary medical services, pursuant to the medical fee schedule, of $14,500.00 (out of pocket payments by Petitioner to Midwest Medcorp); $12,110.00 (Dr. Goldberg); $2,898.10 (Midwest Orthopaedics at Rush); $1,005.00 (out of pocket payments by Petitioner to Dr. Goldflies); $12,313.00 (St. Anthony Hospital); $805.00 (Chicago Orthopedics and Sports Medicine); $7,290.93 (Preferred Open MRI); $4,026.05 (Total Life Chiropractic); $70.00 (Specialized Radiology); $6,250.35 (Metro Pain Management); and $5,019.00 (Metro Anesthesia Consultants, as provided in Sections 8(a) and 8.2 of the Act.

Respondent shall pay Petitioner permanent partial disability benefits of $710.40 per week for 125 weeks, because the injuries sustained caused the 25% loss of the person as a whole, as provided in Section 8(d)2 of the Act.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Signature of Arbitrator

NOVEMBER 3 2025

FINDINGS OF FACT

This matter proceeded to hearing on August 5, 2025, in Chicago, Illinois before Arbitrator Elaine Llerena. The issues in dispute were accident, causal connection, medical expenses, temporary total disability benefits, and permanency. Arbitrator's Exhibit 1 (AX1).

Testimony

Petitioner testified that on February 22, 2011, Petitioner was working for Respondent as a bus operator. (T. 8) Petitioner explained that a passenger got on his bus and was fidgety while looking for his transit card. *Id.* Petitioner told the passenger to have a seat and to come back up with the transit card once he found it. *Id.* The passenger indicated that the police had taken his bus pass, so Petitioner told him not to worry about it and to have a seat. (T. 9) The passenger sat down, but then got up and went to the front of the bus again, looking for his transit card. *Id.* Petitioner reiterated to the passenger that the ride was free but if he found the card, he could come back up then to put it in the machine. *Id.* The passenger then accused Petitioner of not believing him and spit on Petitioner as he did so. (T. 10) Petitioner asked the passenger if he was spitting at him. *Id.* The passenger denied spitting on him but then did so again. *Id.* Petitioner smelled liquor on the passenger's breath. *Id.* The safety shield on the seat was not working, the lock was malfunctioning. (T. 24) After the passenger spit on Petitioner again, Petitioner got up from his seat, told the passenger that was enough and to leave. (T. 11) The passenger got closer to Petitioner, and as Petitioner went to defend himself, both Petitioner and the passenger ended up putting their hands on the other. *Id.* According to Petitioner, they both went at each other and ended up grabbing each other's shoulders at the same time. (T. 11-12) At that point, two other passengers on the bus came to the front of the bus and the passenger got off the bus. *Id.* During the incident, Petitioner had hit the silent alarm on the bus to notify Respondent's control center of what happened. (T. 12) As the passenger got off the bus, he was apprehended by police who had arrived at the scene. (T. 13)

Immediately after the incident, Petitioner felt a strain in his shoulders and lower back. (T. 14) The next day, as he woke up, Petitioner's body hurt. *Id.* Petitioner indicated that he felt as if he had run in front of a train. *Id.* Petitioner had right shoulder and lower back pain and tingling in his feet. *Id.* Petitioner had not felt these symptoms before. (T. 14-15)

Prior Medical Condition

Prior to the February 22, 2011, incident, Petitioner had not sustained injuries to his body like the injuries sustained during the incident. (T. 15) Petitioner had not undergone treatment for his right shoulder or lower back prior to the February 22, 2011, incident. *Id.*

On March 1, 2011, Dr. Alvin Goldberg noted that Petitioner had undergone right shoulder arthroscopic rotator cuff repair approximately six years earlier, but his shoulder was fine at the time of the February 22, 2011, altercation. (PX2) Petitioner reported the same to Dr. Ellis Nam on March 12, 2011, and indicated that he had a good recovery from the surgery and had no problems with his shoulder prior to February 22, 2011. *Id.*

Summary of Medical Records

Petitioner went to the Morris Hospital Emergency Department on February 25, 2011. (PX2) Petitioner was diagnosed as having bronchitis and a shoulder strain. *Id.* Petitioner was advised to follow up with his primary care physician and was taken off work from February 25, 2011, through February 28, 2011. *Id.*

On March 1, 2011, Petitioner saw Dr. Alvin Goldberg, seeking treatment following a work injury. *Id.* Petitioner reported that he worked as a bus driver and was sitting in his bus seat when he got into an altercation with a passenger. *Id.* The passenger assaulted Petitioner, resulting in injuries to his lower back, neck, right shoulder and right chest. *Id.* Petitioner reported having undergone right shoulder rotator cuff repair six years before and that his shoulder had been fine prior to this incident. *Id.* Petitioner complained of pain/dysfunction in the right shoulder, cervical spine and lumbar spine with paresthesias of the right hand and radiculopathy of the right lower extremity. *Id.* Dr. Goldberg diagnosed Petitioner as having lumbar radiculopathy on the right side, acute cervical strain, and acute musculoligamentous sprain. *Id.* Dr. Goldberg referred Petitioner to Dr. Ellis Nam regarding the right shoulder, ordered physical therapy, and gave Petitioner a TENS unit, intensive care unit, a lumbar and cervical supporter, and an arm sling. *Id.* Dr. Goldberg determined Petitioner was temporarily totally disabled. *Id.*

Petitioner saw Dr. Nam on March 12, 2011. (PX6) Petitioner reported he was in an altercation with a passenger at work and developed an acute onset of right shoulder pain. *Id.* Petitioner reported feeling immediate pain, popping, and tearing of his right shoulder. *Id.* Dr. Nam noted that Petitioner underwent a right shoulder arthroscopic rotator cuff repair approximately six years before and had a good recovery, so his right shoulder was fine prior to the altercation. *Id.* Dr. Nam ordered a right shoulder MR arthrogram, ordered physical therapy and took Petitioner off work. *Id.* Dr. Nam opined that Petitioner's right shoulder condition was secondary to the February 21, 2011, work injury. *Id.* Petitioner underwent the right shoulder MR arthrogram on April 5, 2011, the results of which revealed a full thickness supraspinatus insertional tear; infraspinatus and subscapularis tendinosis; osteoarthritic changes; and subcortical cystic changes with greater tuberosity adjacent to the supraspinatus insertion. (PX2) Dr. Nam reviewed the MR arthrogram on April 9, 2011, and noted that Petitioner continued to have pain and weakness in his right shoulder. (PX6) Dr. Nam ordered a right shoulder arthroscopy, subacromial decompression, and rotator cuff repair, continued physical therapy and kept Petitioner off work. *Id.* Petitioner continued to follow up with Dr. Nam while awaiting authorization for the recommended right shoulder surgery. *Id.* Dr. Nam kept Petitioner off work throughout. *Id.*

On May 3, 2011, Petitioner saw Dr. Jagan Mohan. (PX2) Petitioner indicated that he had been pushed backwards by someone who had picked a fight with him and slipped down, sustaining back injuries. *Id.* Petitioner also complained of tingling and numbness in his feet. *Id.* Dr. Mohan ordered an MRI of the lumbar spine and continued physical therapy. *Id.* The lumbar MRI, which Petitioner underwent on May 13, 2011, revealed posterior central disc herniation at L4-5; multilevel annular neural foraminal disc bulging with mild neural foraminal narrowing; mild loss of the vertebral body height along the superior endplate of T12; and a Schmorl's node. *Id.*

On May 20, 2011, Petitioner underwent a functional capacity evaluation (FCE) at physical therapy performed by Mario Garcia, DC. *Id.* The FCE determined that Petitioner had the ability to perform at a sedentary physical demand level and that his job as a bus operator was classified at the medium physical demand level. *Id.* On May 31, 2011, Dr. Mohan reviewed the lumbar MRI and noted Petitioner had multiple osteophytes and impingement neuroforamen with central herniation. *Id.* Dr. Mohan continued physical therapy and ordered chiropractic care. *Id.*

Petitioner saw Dr. Ali Bigan Rafie for chiropractic treatment on May 26, 2011. (PX1) During the physical therapy session on June 20, 2011, Dr. Garcia noted Petitioner had been referred and was undergoing chiropractic care with Dr. Rafie. (PX2) Dr. Garcia discharged Petitioner to the care and supervision of Dr. Rafie. *Id.*

On July 13, 2011, Petitioner saw Dr. Mitchell Goldflies, referred by Dr. Rafie, for evaluation of his low back injury following a fight at work. (PX4) Dr. Goldflies reviewed the lumbar MRI and diagnosed Petitioner as having a herniated disc at L4-5 with radiculopathy. *Id.* Dr. Goldflies continued physical therapy, ordered an EMG/NCV study of Petitioner's lower extremities and indicated Petitioner was a candidate for an LSO belt. *Id.* Dr. Goldflies opined that Petitioner's condition was consistent with the work injury described. *Id.* On August 10, 2011, Dr. Goldflies took Petitioner off work. *Id.*

On August 11, 2011, Petitioner saw Dr. Brian Cole. (PX3) Dr. Cole indicated he had not seen Petitioner since 2009, when he injected Petitioner's AC joint due to pain in the joint. *Id.* Dr. Cole noted that he had performed a superior labrum repair in 2006, and that Petitioner had done well afterward. *Id.* Petitioner reported an altercation at work on February 22, 2011, which resulted in pain in his right shoulder. *Id.* Dr. Cole reviewed the right shoulder MRI and diagnosed Petitioner as having a small full thickness supraspinatus rotator cuff tear and ordered arthroscopic right shoulder rotator cuff repair surgery. *Id.* Dr. Cole released Petitioner to sedentary duty work. *Id.*

Petitioner underwent the EMG/NCV study on August 15, 2011, the results of which revealed findings suggestive of mild left L5-S1 nerve root irritation. (PX1) On September 7, 2011, Dr. Goldflies reviewed the EMG/NCV study and found that Petitioner had lumbar radiculopathy. (PX4) On September 21, 2011, Dr. Goldflies noted that Petitioner was still symptomatic, continued Petitioner's chiropractic care, and kept Petitioner off work. *Id.*

On October 11, 2011, Dr. Cole performed an extensive intraarticular debridement, biceps release, tenodesis, subacromial decompression and distal clavicle excision. (PX3) On October 20, 2011, Dr. Cole ordered postoperative physical therapy. *Id.*

On February 3, 2012, Dr. Krishna Chunduri performed an L4-L5 percutaneous disc decompression under fluoroscopic guidance. (PX5)

On March 8, 2012, Dr. Cole noted that Petitioner's strength and flexibility had improved and that he had no complaints. (PX3) Dr. Cole found that Petitioner had done well postoperatively and while he was not back to completely normal function, it was safe for Petitioner to return to work full duty as of March 19, 2012. *Id.*

Video of Altercation

Respondent provided a video of the February 22, 2011, altercation. (RX1) The video shows the passenger getting on the bus and searching his body for his transit card. *Id.* Petitioner tells the passenger to go sit down, which the passenger does. *Id.* The passenger then gets up again and goes to the front of the bus and begins talking to Petitioner. *Id.* The two talk and the passenger appears to become agitated. *Id.* The passenger moves toward Petitioner, and Petitioner gets up from his seat. *Id.* At that point, the two appear to lunge at each other and grab each other around their shoulders. *Id.* They ultimately release the other and the passenger leaves the bus. *Id.*

Petitioner's Current Condition

Petitioner retired from Respondent's employ. (T. 18) Petitioner now works as a bus driver for District 61 in Darien, Illinois. *Id.* Petitioner started this new job about three to four years after the altercation. (T. 21) Petitioner continues to have aches and pains in his body when he gets up. (T. 18) He takes Tylenol Back & Body, and he moves slower so as to not aggravate his condition. *Id.* Petitioner feels pain getting out of bed and

can only raise his right arm about three-quarters of the way up. (T. 18-20) Petitioner has not sustained any other injuries since the February 22, 2011, altercation. (T. 20)

CONCLUSIONS OF LAW

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law set forth below.

WITH RESPECT TO ISSUE (C), DID AN ACCIDENT OCCUR THAT AROSE OUT OF AND IN THE COURSE OF THE PETITIONER'S EMPLOYMENT BY THE RESPONDENT, THE ARBITRATOR FINDS AS FOLLOWS:

The Arbitrator notes that the video of the altercation essentially confirms what Petitioner stated occurred. A passenger became unruly and spit on Petitioner. That escalated to the passenger coming at Petitioner and the parties ultimately grabbing each other by the shoulders. The descriptions provided in the medical records and by Petitioner at arbitration confirm what is seen on the video. The Arbitrator notes that there are some variances in the descriptions in the medical records, but they essentially describe what is seen on the video as to what occurred. As such, the Arbitrator finds Petitioner's testimony credible and supported by the evidence.

Based on the video footage, Petitioner's testimony and the descriptions of the altercation in the medical records, the Arbitrator finds that Petitioner sustained accidental injuries arising out of and in the course of his employment with Respondent on February 22, 2011.

WITH RESPECT TO ISSUE (F), IS THE PETITIONER'S PRESENT CONDITION OF ILL-BEING CAUSALLY RELATED TO THE INJURY, THE ARBITRATOR FINDS AS FOLLOWS:

The Arbitrator notes her finding above that Petitioner sustained accidental injuries arising out of and in the course of his employment with Respondent on February 22, 2011. The Arbitrator further notes that while Petitioner had undergone right shoulder surgery six years before the altercation, he had been working full duty without any right shoulder or back problems prior to the altercation. Both Dr. Nam and Dr. Goldberg noted Petitioner had a good recovery from his surgery six years earlier and that he did not have any right shoulder problems prior to the altercation. The records do not indicate that Petitioner was treating for any right shoulder or back problems prior to February 22, 2011. Further, Dr. Nam opined that Petitioner's right shoulder condition was secondary to the February 21, 2011, work injury and Dr. Goldflies opined that Petitioner's condition was consistent with the work injury described.

Based on the above, the Arbitrator finds that Petitioner's conditions of ill-being are causally related to the February 22, 2011, work accident.

WITH RESPECT TO ISSUE (J), WERE THE MEDICAL SERVICES THAT WERE PROVIDED TO PETITIONER REASONABLE AND NECESSARY AND HAS RESPONDENT PAID ALL APPROPRIATE CHARGES FOR ALL REASONABLE AND NECESSARY MEDICAL SERVICES, THE ARBITRATOR FINDS AS FOLLOWS:

The Arbitrator notes her findings above that Petitioner sustained accidental injuries arising out of and in the course of his employment with Respondent on February 22, 2011, and that his current conditions of ill-being are causally related to the February 22, 2011, work accident. The Arbitrator also notes that Petitioner

underwent conservative care, as well as an injection and surgery, all of which were to treat injuries resulting from the February 22, 2011, work accident. Petitioner was ultimately released from care on March 8, 2012, to return to full duty work as of March 19, 2012.

Based on the above, the Arbitrator finds that Respondent shall pay outstanding reasonable and necessary medical services of $14,500.00 (out of pocket payments by Petitioner to Midwest Medcorp); $12,110.00 (Dr. Goldberg); $2,898.10 (Midwest Orthopaedics at Rush); $1,005.00 (out of pocket payments by Petitioner to Dr. Goldflies); $12,313.00 (St. Anthony Hospital); $805.00 (Chicago Orthopedics and Sports Medicine); $7,290.93 (Preferred Open MRI); $4,026.05 (Total Life Chiropractic); $70.00 (Specialized Radiology); $6,250.35 (Metro Pain Management); and $5,019.00 (Metro Anesthesia Consultant, as provided in Sections 8(a) and 8.2 of the Act.

WITH RESPECT TO ISSUE (K), WHAT AMOUNT OF COMPENSATION IS DUE FOR TEMPORARY TOTAL DISABILITY, TEMPORARY PARTIAL DISABILITY AND/OR MAINTENANCE, THE ARBITRATOR FINDS AS FOLLOWS:

The Arbitrator notes her findings above that Petitioner sustained accidental injuries arising out of and in the course of his employment with Respondent on February 22, 2011, and that his current conditions of ill-being are causally related to the February 22, 2011, work accident. The Arbitrator also notes that Petitioner was taken off work by treaters at Morris Hospital from February 25, 2011, through February 28, 2011, and by Dr. Goldberg as of March 1, 2011. Petitioner was subsequently taken off work by other treaters and/or placed on sedentary work restrictions, which were not accommodated by Respondent. Petitioner was released to return to work, full duty, starting March 19, 2012.

Based on the above, the Arbitrator finds that Petitioner is entitled to temporary total disability benefits from February 25, 2011, through March 18, 2012, as provided in Section 8(b) of the Act.

WITH RESPECT TO ISSUE (L), WHAT IS THE NATURE AND EXTENT OF THE INJURY, THE ARBITRATOR FINDS AS FOLLOWS:

The Arbitrator notes her findings above that Petitioner sustained accidental injuries arising out of and in the course of his employment with Respondent on February 22, 2011, and that his current conditions of ill-being are causally related to the February 22, 2011, work accident. Additionally, Petitioner has returned to working as a bus driver for another employer following his retirement from Respondent's employ. Petitioner continues to have aches and pains for which he takes over the counter medication and indicated that he could only lift his right arm about three-quarters of the way. Petitioner was released to return to work, without restrictions, starting March 19, 2012.

Based on the above, the Arbitrator finds that Respondent shall pay Petitioner permanent partial disability benefits of $710.40 per week for 125 weeks, because the injuries sustained caused the 25% loss of the person as a whole, as provided in Section 8(d)2 of the Act.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC003914
Case Name	Eric Sprehe v. State of Illinois - Illinois Department of Transportation
Consolidated Cases	23WC011787 24WC009966
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0226
Number of Pages of Decision	16
Decision Issued By	Kathryn Doerries, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Shannon Rieckenberg

DATE FILED: 8/11/2026

/s/Kathryn Doerries, Commissioner

Signature

26IWCC0226

STATE OF ILLINOIS)	☐ Affirm and adopt (no changes)
) SS.	☒ Affirm with changes
COUNTY OF)	☐ Reverse Choose reason
WILLIAMSON	☐ Modify Choose direction
	☐ Injured Workers' Benefit Fund (§4(d))
	☐ Rate Adjustment Fund (§8(g))
	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

ERIC SPREHE,

Petitioner,

vs.

NO: 24 WC 003914
Consol. 23 WC 011787
24 WC 009966

STATE OF ILLINOIS, ILLINOIS DEPARTMENT OF TRANSPORTATION,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the Joint Stipulation of the Parties, and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Commission affirms and adopts the Arbitrator's Decision in its entirety with the following modifications for the purpose of correcting certain scrivener's errors.

In the Arbitrator's decision under No. 24 WC 003914, the Commission strikes "March 6, 2023" as the date of accident as set forth in the Arbitrator's Findings and replaces it with "February 16, 2022," and strikes "55 years of age" and replaces it with "54 years of age."

In the Arbitrator's Conclusions of Law regarding issue (L), nature and extent of the injury, the Commission strikes the last paragraph on page 10, and replaces it with, "See companion case bearing case number 23 WC 011787 regarding award for permanent partial disability."

The Commission further strikes the first and second paragraphs in the Arbitrator's Order and replaces the Order with the following: "See companion case bearing case number 23WC011787 for order regarding permanent partial disability."

26IWCC0226

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed on March 23, 2026, subject to the modifications herein, is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Pursuant to Section 19(f)(1) of the Act, this decision is not subject to judicial review. *820 ILCS 305/19(f)(1) (West 2013)*.

August 11, 2026
KAD/swj
O72826
42

/s/ *Kathryn A. Doerries*
Kathryn A. Doerries

/s/ *Amylee H. Simonovich*
Amylee H. Simonovich

/s/ *Stephen J. Mathis*
Stephen J. Mathis

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC003914
Case Name	Eric Sprehe v. State of Illinois - Illinois Department of Transportation
Consolidated Cases	23WC011787 24WC009966
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	13
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Shannon Rieckenberg

DATE FILED: 3/23/2026

/s/ Bradley Gillespie, Arbitrator
Signature

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

MARCH 23 2026

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF MARCH 17 2026 3.57%

STATE OF ILLINOIS)
)SS.
COUNTY OF **Williamson**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
NATURE AND EXTENT ONLY

Eric Sprehe
Employee/Petitioner

v.

State of Illinois / Dept. of Transportation
Employer/Respondent

Case # **24 WC003914**

Consolidated cases:

The only disputed issue is the nature and extent of the injury. An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Bradley Gillespie**, Arbitrator of the Commission, in the city of **Herrin, Illinois**, on **January 15, 2026**. By stipulation, the parties agree:

On the date of accident, **March 6, 2023**, Respondent was operating under and subject to the provisions of the Act.

On this date, the relationship of employee and employer did exist between Petitioner and Respondent.

On this date, Petitioner sustained an accident that arose out of and in the course of employment.

Timely notice of this accident was given to Respondent.

Petitioner's current condition of ill-being is causally related to the accident.

In the year preceding the injury, Petitioner earned $**81,034.55**, and the average weekly wage was $**1,558.36**.

At the time of injury, Petitioner was **55** years of age, ***married*** with **1** dependent children.

Necessary medical services and temporary compensation benefits have **or will be** provided by Respondent.

Respondent shall be given a credit of $**All TTD paid** for TTD, $**0** for TPD, $**0** for maintenance, and $**2 service connect days** for other benefits, for a total credit of $ **All TTD paid & 2 service connect days**.

After reviewing all of the evidence presented, the Arbitrator hereby makes findings regarding the nature and extent of the injury, and attaches the findings to this document.

ORDER

Respondent shall pay Petitioner the sum of $935.02/week for a further period of 75 weeks, as provided in Section 8(d)2 of the Act, because the injuries sustained caused the 15% loss of Petitioner's body as a whole.

Respondent shall pay Petitioner compensation that has accrued from October 20, 2025 through January 15, 2026, and shall pay the remainder of the award, if any, in weekly payments.

RULES REGARDING APPEALS Unless a Petition for Review is filed within 30 days after receipt of this decision, and a review is perfected in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Bradley D. Gillespie
Signature of Arbitrator

MARCH 23 2026

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

ERIC SPREHE,	)	
	)	
Employee/Petitioner,	)	
	)	
v.	)**Case Nos.:**	**23WC011787, 24WC003914**
	)	**24WC009966**
STATE OF ILLINOIS, ILLINOIS DEPARTMENT OF TRANSPORTATION	)	
	)	
Employer/Respondent.	)	

DECISION OF ARBITRATOR

FINDINGS OF FACT

This matter came before an Arbitrator appointed by the Commission pursuant to Petitioner's request for a hearing on all issues. The sole issue in dispute at Arbitration was the nature and extent of Petitioner's injuries. (Arb. Ex. 1; Arb. Ex. 3; Arb. Ex. 5; Tr. pp. 6-9)

Petitioner filed an Application for Adjustment of Claim – bearing case number 24WC03914 – for an injury date of February 16, 2022, wherein he injured his back, neck, and body as a whole when a truck bed lifted, causing him to fall. (Arb. Ex. 2) Petitioner filed a second Application for Adjustment of Claim – bearing case number 23WC11787 – for an injury date of March 6, 2023, wherein he injured his back and body as a whole after he fell on the back of a trailer. (Arb. Ex. 4) Petitioner filed a third Application for Adjustment of Claim – bearing case number 24WC09966 – for an injury date of March 25, 2024, wherein he injured his back and body as a whole while cutting up a tree. (Arb. Ex. 6)

Petitioner is currently employed by Respondent as a highway maintainer and has been so employed for approximately 13 years. (Tr. pp. 14-15) He testified that on February 16, 2022, he was standing in the bed of a truck with a pole saw when the truck bed was unexpectedly raised, causing him to fall on his back in the bed of the truck. (Tr. p. 15) He experienced symptoms in his neck, mid-back, and low-back as a result. (Tr. p. 16)

That same day, Petitioner presented to the emergency department at Massac Memorial Hospital in a wheelchair and reported symptoms of back pain. (PX 3 p. 9) He reported that just prior to arrival, he was standing in the back of a work truck when the bed shifted, and he fell onto his back. *Id*. He denied a history of similar episodes in the past. (PX 3 p. 10) It was noted that his symptoms were moderate, constant, dull, throbbing, and accompanied by stiffness. (PX3 pp. 9-10) He had paraspinal muscle tenderness, spasm, and abnormal gait. (PX 3 p. 10) His symptoms were diffuse in the spine area and included his back and neck. *Id.* He had generalized posterior neck tenderness to palpation. (PX 3 p. 11) CT of the cervical spine showed no acute abnormality and

CT of the thoracic spine showed no acute fracture or subluxation. (PX 3 pp. 18-19) CT of the lumbar spine showed a small central disc protrusion without significant stenosis, bilateral facet hypertrophy, and bilateral foraminal spurring with mild right and moderate left foraminal stenosis at L4-5, and a small posterior disc bulge, bilateral foraminal spurring, and mild bilateral foraminal stenosis at L5-S1. (PX 3 p. 20) Petitioner's diagnoses were a contusion of his back and a neck strain. (PX 3 p. 12) He was given prescriptions for hydrocodone and methocarbamol. *Id*. He was taken off work and advised to recheck with his primary care physician or work comp doctor. *Id*. Petitioner testified that he returned to work after taking off five days. (Tr. p. 16)

On March 6, 2023, Petitioner was working for Respondent and was standing on the back of a trailer that was being pulled by a truck. (Tr. p. 17) The truck braked suddenly, causing Petitioner to move backward. *Id.* The truck then accelerated suddenly, causing Petitioner to move forward and fall. *Id.* Petitioner testified that the "body slammed" and "face planted" onto the trailer, also striking barricades that were strapped to the trailer. *Id.* Petitioner had symptoms of low back pain in his buttocks, pain between his shoulder blades, and rib pain. (Tr. p. 18)

On March 7, 2023, Petitioner presented to the office of Dr. William Scott at Carle Urbana North Annex Occupational Medicine with symptoms of back pain. (PX 4 p. 37) He reported that the day prior, he was in the process of helping a crew lay down cones on the highway while standing on a moving trailer that was being pulled by a truck at approximately 10 to 15 mph. (PX 4 p. 39) He stated the driver of the truck accelerated suddenly, which caused him to fall backwards. *Id*. Petitioner landed face first into barricades, striking his right cheek. *Id*. Within 30 minutes, he experienced upper and lower back pain, stiffness, muscle spasm, and achiness. *Id*. He had radiating pain from his low back to both buttocks and upper legs. (PX 4 p. 39) He had mid back pain between the shoulder blades fanning out into the upper arms when he moved his extremities. *Id*. He had taken two naproxen with very little relief and his pain was 8/10 in his mid and lower back. (PX 4 p. 40) It was noted that approximately one year prior in February, he had a similar work-related accident after falling, and this resulted in upper and lower back pain. (PX 4 p. 39) However, Petitioner reported that he recovered from that incident in approximately one week. *Id.*

On exam, he had pain to palpation across the scapular area in the midline region and lumbosacral pain and soreness in the midline area of the lower spine that fanned out to both gluteal areas and upper posterior thigh regions. (PX 4 p. 40) He had no cervical neck pain; however, raising both arms above his head was difficult and caused pain across the bilateral trapezius and into the upper deltoid, especially on the left. *Id*. X-rays of the thoracic and lumbar spine were compared to x-rays from February 18, 2022, and there were no obvious changes. *Id*. The diagnosis was a fall from same level after stumbling in a moving trailer and striking objects, injury to the muscles of the upper back, acute low back pain due to trauma, pre-existing lumbar degenerative disc disease with aggravation, and thoracic degenerative disc disease with aggravation. (PX 4 p. 41) Petitioner was given an injection of Toradol and prescriptions for methocarbamol and sulindac. *Id*. He was kept off work and was instructed to return for reevaluation in one week. *Id.*

On March 13, 2023, Petitioner returned to Dr. Scott and reported that he had improved 10 to 20 percent; however, he still had soreness in his mid-back between his shoulder blades as well as in his lower back over the right lumbar region. (PX 4 pp. 32-33) He had no referred pain. (PX 4 p. 32) On exam, Petitioner's pain and soreness was in the paravertebral musculature on either side of the bony processes. (PX 4 p. 33) He also had paravertebral muscle tenderness on the right side of the lower lumbar spine and pain at end points of motion. *Id*. His diagnoses were history of falling in a moving trailer, injury to muscles of the upper and lower back region resulting in sprain/strain, and history of pre-existing thoracic and lumbar degenerative disc disease. *Id*. Dr. Scott recommended that Petitioner continue anti-inflammatory medication, muscle relaxants, and heat wraps. (PX 4 p. 34) Petitioner was returned to work with restrictions of no lifting, pushing, or pulling greater than 25 pounds, avoidance of repetitive bending at the waist and static bent postures, no overhead lifting, and sitting, standing or walking as needed. *Id*.

A telephone note from March 22, 2023, from Dr. Scott's office indicated that Petitioner had fallen on his back at work and had persistent severe pain down his left leg. (PX 4 p. 28) An MRI was ordered to rule out a fracture versus lumbar nerve root impingement. *Id*.

Petitioner underwent an MRI of his lumbar spine at Carle Foundation Hospital on March 31, 2023, and the impression was a small left paracentral foraminal and far lateral protrusion at L4-5, contributing to mild left foraminal narrowing. (RX 5 p. 5) There were also multilevel mild degenerative findings. *Id*.

Petitioner returned to Carle North Annex Occupational Medicine on March 24, 2023, where he saw Dr. James DeSalvio, who noted that Petitioner had symptoms of severe low back pain and had been calling with these complaints over the past week. (PX 4 p. 23) He had significant, uncontrolled low back pain and had pain in the left lumbar area with radicular symptoms down the left leg. *Id*. He had been released to work restricted duty but had not been accommodated at work. *Id*.

On exam, he was slow to rise and had an antalgic gait. (PX 4 p. 24) He had difficulty getting up onto the exam table to get into a seated position. *Id*. He had significant pain in the left lumbar area with extension of the lower extremity and was only able to extend to approximately 45 degrees. *Id*. Dr. Disalvio was unable to obtain a good patellar reflex bilaterally. *Id*. He noted that an MRI of the lumbar spine was ordered and was pending but there was difficulty obtaining a claim number. (PX 4 p. 24) The impression was acute lumbar strain secondary to a fall and possible lumbar disc herniation on the left with left lower extremity radicular symptoms. *Id*. Petitioner was given a prescription for Norco. *Id*.

Petitioner returned to Dr. Scott on March 27, 2023, and reported that the medication prescribed by Dr. Disalvio partially helped his pain but wore off quickly. (PX 4 p. 17). Petitioner had not returned to work with modified restrictions due to lack of accommodation by his employer. *Id*. He reported that his pain radiated to his left lower extremity, past his knee and into his ankle.

Id. On exam, he had pain in his left lower lumbar region and had no referred pain down his leg with straight leg testing on the left. (PX 4 pp. 17-18) The assessment was status post work-related fall on the back of a moving trailer without striking any specific objects, muscle back pain in the lower lumbar region, axial spinal pain without true radiculopathy, and underlying lumbar degenerative disc disease and degenerative joint disease. (PX 4 p. 18) Dr. Scott recommended a trial of Celebrex and omeprazole as well as Tylenol. *Id*. He ordered physical therapy and indicated that a lumbar MRI would be set up. *Id*. Petitioner was continued on work restrictions. (PX 4 pp. 18-19)

On April 11, 2023, Petitioner returned to Dr. Scott following his MRI and reported no improvement in his overall symptoms. (PX 4 p. 6) He remained off work due to lack of accommodation for his light duty restrictions. *Id*. Dr. Scott noted the MRI showed mild age-related degenerative changes as well as a protrusion at L4-5 contributing to mild foraminal narrowing on the left. (PX 4 pp. 6-7) It was noted that this could possibly be the source of his irritation. (PX 4 p. 7) Dr. Scott noted there might be a localized chemical reaction due to Petitioner's arthritic condition that may have been aggravated by his fall. *Id*. He recommended an epidural steroid injection at L4-5 on the left, continuation of Petitioner's Celebrex and cyclobenzaprine, as well as Norco at bedtime. *Id*. He recommended consultation with a local physical therapist as well and indicated that Petitioner was kept on work restrictions. *Id*.

On May 2, 2023, Petitioner presented to the office of Dr. Matthew Gornet with symptoms of low and mid back pain. (PX 6 p. 2) His low back pain was his main issue and same was central and constant to both sides and into both buttocks and hips. *Id*. The left-sided symptoms were greater than the right and went into his left posterior thigh to his knee. *Id*. He had occasional tingling in both thighs to the knee. *Id*. Dr. Gornet took the history of Petitioner's March 6, 2023, accident wherein he fell in the back of his work truck, striking the restraining barricade. (PX 6 p. 2) He noted that Petitioner showed him pictures of significant bruises. *Id*.

Dr. Gornet noted that Petitioner had a history of low back pain after a work injury where he fell in the bed of a truck but noted that Petitioner returned to full duty after five days off work. (PX 6 p. 2) He recalled a motor vehicle accident 12 years prior but did not recall any prior MRI scans. *Id*. On exam, Petitioner's left EHL function and ankle flexion were at 4/5 when compared to the right and deep tendon reflexes in the knees and ankles were absent. (PX 6 p. 3) Dr. Gornet reviewed Petitioner's March 31, 2023, MRI and indicated there was suggestion of an annular tear centrally to the left at L5-S1 and a large herniation out into the foramen at L4-5 on the left. *Id*. There was also a central and left-sided herniation at L3-4. *Id*. Dr. Gornet felt that Petitioner's radicular symptoms likely emanated from his large lateral herniation at L4-5, he recommended an epidural steroid injection at L5-S1 and a transforaminal steroid injection at L4-5 on the left. *Id*. He recommended six weeks of physical therapy for Petitioner's low back and placed treatment of his mid-back on hold. (PX 6 p. 3)He stated that some of Petitioner's pain might be referred from his cervical spine. *Id*. Petitioner was placed on light duty restrictions. (PX 6 pp. 3-4) Dr. Gornet

indicated that Petitioner's current symptoms and requirement for treatment were causally connected to his work injury of March 6, 2023. (PX 6 p. 4).

On May 16, 2023, Petitioner underwent an epidural steroid injection on the left at L5-S1 with Dr. Helen Blake. (PX 7 p. 2)

On July 13, 2023, Petitioner returned to Dr. Gornet and reported that the injection helped his low back, left buttock and left leg symptoms significantly. (PX 6 p. 6) His exam showed mild decrease in left EHL function and ankle dorsal flexion at 4/5. *Id*. His main symptoms were to his mid back and a thoracic spine MRI was performed that same day. *Id*. Dr. Gornet indicated that it showed structural changes at T10-11 which were possibly inflammatory. *Id*. Dr. Gornet indicated injections could be considered Petitioner's pain continued. (PX 6 p. 6) The MRI did not show significant herniation, fracture or other pathology. *Id*. Dr. Gornet recommended an MRI of Petitioner's cervical spine to evaluate his mid back pain as referred pain from his neck. *Id*. He ordered physical therapy and gave Petitioner prescriptions for prednisone and famotidine. *Id*. He placed Petitioner on light duty but noted that there was no light duty available, so Petitioner would be off work. (PX 6 p. 6)

Petitioner participated in physical therapy at Atlas Physical Therapy from September 11, 2023, through December 28, 2023. (*See* PX 10)

On October 2, 2023, Petitioner underwent an MRI of his cervical spine at MRI Partners of Chesterfield, which showed midline protrusions at C3-4, C4-5, C5-6, and C6-7, with midline annular tears/fissures at C5-6 and C6-7, and likely at C4-5. (PX 9 p. 4) Mild foraminal stenosis was present at C4-5 and C5-6. *Id*.

Petitioner returned to Dr. Gornet's office that same day, where the cervical MRI was reviewed. (PX 6 p. 9) Dr. Gornet noted that same showed structural disc pathology particularly at C5-6 and C6-7 centrally, as well as central pathology at C3-4 and C4-5, which was abutting up to the cord. *Id*. He indicated C4-5 might play a significant role in Petitioner's symptoms. *Id*. He recommended physical therapy and medial branch blocks and radiofrequency ablations at L4-5 and L5-S1 bilaterally. *Id.* He indicated that if Petitioner was not much improved by his next appointment, they would likely move forward with discography. *Id.* Petitioner was kept on work restrictions. (PX 6 p. 9)

On October 11, 2023, Petitioner underwent bilateral medial nerve branch blocks at L4-L5 and at L5-S1 with Dr. Blake. (PX 7 p. 4) On October 23, 2023, Petitioner returned to Dr. Blake, who noted that Petitioner received 100 percent improvement of his pain for the duration of the local anesthetic. (PX 7 p. 6) Petitioner was eager to proceed with more definitive treatment, and Dr. Blake recommended radiofrequency ablation procedures. *Id*. Petitioner underwent radiofrequency ablations on the right at L4-L5 and L5-S1 on November 7, 2023, and on the left at the same levels on November 14, 2023. (PX 7 pp. 8-11)

On December 14, 2023, Petitioner underwent a lumbar spine MRI, which showed a left foraminal to far lateral disc herniation resulting in moderate to severe left foraminal stenosis at L4-5, lateral foraminal protrusions at L5-S1 resulting in moderate bilateral foraminal stenosis, and a central broad-based protrusion at L3-4 extending into the medial foramina, resulting in mild bilateral foraminal stenosis. (PX 9 pp. 5-6)

That same day, Petitioner returned to Dr. Gornet's office and saw Nathan Collins, PA, who noted that Petitioner's low back exam remained unchanged. (PX 6 p. 13) Petitioner reported that the injections provided some relief and physical therapy was helping significantly. *Id*. PA Collins recommended continued physical therapy; however, stated that if Petitioner ultimately failed conservative measures, his next step would be that of a CT discogram. *Id*. Petitioner was kept on work restrictions, and the visit was discussed with Dr. Gornet. *Id*.

Petitioner returned to Dr. Gornet's office on March 4, 2024, and reported that while physical therapy had helped, he still had back pain. (PX 6 p. 17) At that point, however, Petitioner's low back was more tolerable, and given his age and desires, Dr. Gornet noted that Petitioner was not desirous of more definitive treatment. *Id*. He gave Petitioner a full-duty work release and instructed him to return in three months. *Id*. He stated that if Petitioner needed permanent restrictions, he would consider an FCE. *Id*.

Petitioner attempted a trial of returning to work full duty. (Tr. p. 21) On March 25, 2024, Petitioner was cutting up a tree with a chain saw, which was difficult for him to handle. (Tr. p. 21) He was then carrying the logs 60 feet to drop them. *Id.* As he was continuously cutting logs and carrying them, his back gave out, he dropped to his hands and knees and crawled into his truck. (Tr. pp. 21-22)

That day, Petitioner presented to the emergency department at Baptist Health in Paducah, Kentucky, with symptoms of low back pain. (PX 11 p. 12) He reported that he had a work-related injury approximately one year prior, and he gave the history of his subsequent treatment thereafter. *Id*. He reported that he had just recently returned to work on March 5, 2024, and had been working every other day to see how he tolerated the workload. *Id*. He had been cutting a tree earlier that day and began experiencing a new onset of back pain, which caused pain with ambulation. *Id*. A CT was performed, which showed degenerative endplate and facet joint changes. (PX 11 p. 14) The diagnosis was acute midline low back pain without sciatica. *Id*. at 16. Petitioner was given lidocaine patches and muscle relaxers. (PX 11 p. 17)

The following day, Petitioner called Dr. Gornet's office and spoke to PA Collins, who noted that Petitioner had increasing low back pain to both sides and into both hips and buttocks. (PX 6 p. 19) He indicated that since returning to work, his symptoms progressed to the point where he was seen in the emergency room the day prior. *Id*. PA Collins commended Petitioner on attempting to return to work full duty; however, placed him back on light duty restrictions. *Id*.

On June 10, 2024, Petitioner returned to Dr. Gornet, who noted Petitioner's significant increase in pain after his return to work. (PX 6 p. 21) Petitioner was currently on light duty but as none was available, he was not working. *Id*. Dr. Gornet indicated that Petitioner had seen Dr. Kevin Rutz, who felt that Petitioner's symptoms were work-related. *Id*. He noted that Dr. Rutz felt that Petitioner needed discography at L4-S1 to evaluate whether he was a candidate for lumbar arthroplasty, and that Petitioner might also require discography in his neck. *Id*. Dr. Gornet opined that Petitioner's best option would be permanent restrictions, given his age and overall health. (PX 6 p. 21) He was kept on restrictions and referred for an FCE. *Id*.

Petitioner presented for a functional capacity evaluation at ApexNetwork Physical Therapy with Kurt Muskopf on July 17, 2024. (PX 12) It was noted that Petitioner displayed acceptable effort but was unable to meet the job demands. (PX 12 p. 2) He was placed in the light physical demand level. *Id*.

On September 12, 2024, Petitioner returned to Dr. Gornet's office, where his FCE was reviewed. (PX 6 p. 23) PA Collins noted Petitioner's permanent restrictions. *Id*. He indicated that Petitioner might require treatment in the future; however, he noted that Petitioner did relatively well if he stayed within the restrictions. *Id*. Petitioner was placed at maximum medical improvement. *Id*.

Petitioner returned to Dr. Gornet on March 13, 2025, and indicated that he briefly had a job at AutoZone; however, this did not work out and he was looking for other work. (PX 6 p. 27) He continued to have low back pain to both sides, buttocks, and hips. *Id*. Dr. Gornet noted that potential requirement requirements for further treatment was discussed, and Petitioner was kept on permanent restrictions. *Id*.

On April 8, 2025, Petitioner returned to Dr. Gornet, where surgery was discussed. (PX 6 p. 29) Dr. Gornet indicated Petitioner had a three-level problem which was "not simple to fix." *Id*. Given Petitioner's overall comorbidities, Dr. Gornet opined that the best option was for Petitioner to try to live with his symptoms, work on his comorbidities, stay in the best back health that he could, and follow his restrictions. *Id*.

On July 24, 2025, Petitioner returned to Dr. Gornet with continued symptoms and indicated that he preferred to go back to work full duty. (PX 6 p. 31) Dr. Gornet ordered a new MRI scan, which was performed at save day. *Id*. The new MRI showed structural disc pathology on the left at C3 through C6. *Id*. Dr. Gornet indicated that the next step would be a CT discogram to help determine whether something more needed to be done. *Id*. Petitioner was kept on restrictions. *Id*.

On August 25, 2025, Petitioner called Dr. Gornet's office and spoke to Nathan Collins, PA regarding his symptoms. (PX 6 p. 34) Petitioner continued to have low back pain to both sides with intermittent leg symptoms. *Id*. He had been trying to exercise vigorously, and while he still had pain and symptoms, he requested to attempt to return back to work in a full capacity. *Id*. PA Collins noted that this could cause a significant increase in his symptoms and that he might require

further treatment; however, it was noted that they would hold off on the CT discogram and reassess at Petitioner's next appointment. *Id*. Petitioner was given a trial of full duty work beginning on August 26. (PX 6 p. 34)

Petitioner returned to Dr. Gornet on October 20, 2025, where it was noted that Petitioner was trending in a positive direction. (PX 6 p. 38) He stated that Petitioner had a multilevel problem. *Id*. Dr. Gornet indicated that he was content to continue watching Petitioner. *Id*. Petitioner was placed at maximum medical improvement and released to full duty with no restrictions. *Id*. Dr. Gornet stated that he could follow up with Petitioner as needed, and that his door was open if Petitioner's problem worsened. *Id*.

At Respondent's request, Petitioner submitted to a Section 12 examination with Dr. Kevin Rutz on November 28, 2024. (RX 4) Dr. Rutz opined that Petitioner's current condition was causally related to his March 6, 2023 accident. (RX 4 p. 3) His assessments were cervicalgia and low back pain. *Id*. He noted that Petitioner had documented low back pain with radiation and interscapular pain consistent with pathology in his neck. *Id*. He did not observe any malingering behavior. *Id*. He opined that Petitioner needed to have a discussion with his surgeon regarding the pros and cons of surgery and whether or not to live with his symptoms. (RX 4 p. 3) He indicated that if Petitioner chose not to have surgical intervention, he should return to work without restrictions. *Id*. If he could not return without restrictions, Dr. Rutz indicated that discography from L4 to S1 would be recommended to see if Petitioner was a candidate for lumbar disc arthroplasty. *Id*. With respect to the cervical spine, he indicated that the decision had to be made between the surgeon and the patient as to whether intervention was worthwhile. *Id.* He noted that if Petitioner was not interested in cervical surgery, he would be at MMI. (RX 4 p. 3) He indicated Petitioner's medical treatment date had been reasonable, necessary and causally related to his work. *Id.* He indicated that until Petitioner could consult with his surgeon, he should remain on a 20-pound lifting restriction. *Id*.

Dr. Rutz testified via deposition on July 23, 2024. (RX 5) On direct examination, he testified consistently with his report. He testified that Dr. Gornet is an excellent physician and surgeon. (RX 5 p. 21) He testified that Dr. Gornet was in a position to discuss pros and cons of surgery with Petitioner, and he deferred to Dr. Gornet regarding surgical and nonsurgical recommendations. (RX 5 pp. 21-22) He opined that it was reasonable for Dr. Gornet to assign permanent restrictions based on Petitioner's overall health and age, and he stated that Dr. Gornet's recommendation for an FCE was reasonable. (RX 5 pp. 22-23)

Dr. Gornet testified via deposition on December 19, 2024. (PX 13) Dr. Gornet testified consistently with his medical records. He opined that Petitioner's treatment and permanent restrictions were related to his work injury of March 6, 2023. (PX 13 pp. 6-10) He testified that because Petitioner had multilevel pathology in his cervical, thoracic, and lumbar spine. (PX 13 pp. 9-10) Because the probability of Petitioner returning to full duty work if he underwent surgery

was "quite low," Dr Gornet opined that Petitioner's best option was to live with permanent restrictions as long as his pain was tolerable. *Id*.

Petitioner completed daily job search logs from October 4, 2024, through October 11, 2024, and from February 24, 2025, through August 22, 2025. (PX 14) Petitioner engaged in vocational rehabilitation services with England & Company from October 21, 2024, through December 2, 2024. (PX 15, pp. 1-26) Petitioner incurred invoices with England & Company totaling $4,069.76. (PX 15 pp. 27-31)

Petitioner testified that during the time he was on light duty, he was kept off work because there was no light duty work available. (Tr. p. 20) Petitioner testified that while he was on restrictions, he got a light duty job at Auto Zone. (Tr. p. 24) He was required to climb a ladder, which made him "very sore." (Tr. p. 25)

He continued in physical therapy until "they… stopped it." (Tr. pp. 25-26) His therapist gave him weight bands and instructed him on what he needed to do to get healthy and get back to work, and Petitioner "worked at home every day just trying to strengthen up." (Tr. p. 26) He stated, "I was doing everything I could to get back to work." (Tr. pp. 26-27) He testified that he even practiced climbing in and out of the trash truck when his trash company came by. *Id.*

Petitioner is currently working full duty. (Tr. p. 27) He has an appointment with Dr. Gornet scheduled for one year after his last visit. (Tr. p. 28) Despite the improvement Petitioner has experienced, he still has issues with soreness. *Id.* He used to pull fence posts with concrete around them out of the ground, but can no longer do so and stated, "My fence is falling down around my house." (Tr. pp. 28-29) He has not been able to power wash or climb on his roof to fix his chimney. *Id.* He has "figured out ways to do things differently" with his hobby of deer hunting and in performing his job. (Tr. p. 29) He testified that his back pain is constant. (Tr. p. 30) He takes Advil, Aleve, and Tylenol "All the time" for his symptoms. *Id.* He can no longer play with his grandchildren like he used to, he cannot go camping or hiking, go to amusement parks or ride roller coasters. (Tr. p. 31) He stated, "Our whole lives have changed." *Id.*

CONCLUSIONS OF LAW

Issue (L): What is the nature and extent of the injury?

Pursuant to § 8.1b of the Act, permanent partial disability from injuries that occur after September 1, 2011 are to be established using the following criteria: (i) the reported level of impairment pursuant to subsection (a) of the Act; (ii) the occupation of the injured employee; (iii) the age of the employee at the time of the injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. 820 ILCS 305/8.1b. The Act provides that, "No single enumerated factor shall be the sole determinant of disability." 820 ILCS 305/8.1b(b)(v).

(i) **Level of Impairment**: Neither Party submitted an AMA rating. Therefore, the Arbitrator uses the remaining factors to evaluate Petitioner's permanent partial disability.

(ii) **Occupation**: After receiving permanent restrictions, Petitioner exercised "vigorously" and did everything he could in order to get back to work full duty. (PX6, p. 34; T. 26, 27) Petitioner was eventually able to return to work full duty; however, he still experiences significant symptoms and has had to figure out "ways to do things differently." (T. 27, 29, 30) The Arbitrator places moderate weight on this factor.

(iii) **Age**: Petitioner was 54 years old at the time of his first injury, 55 years old at the time of his second injury, and 57 years old at the time of his third injury. (Arb. Ex. 1; Arb. Ex. 3; Arb. Ex. 5) He has diminished healing capacity as a result thereof. The Arbitrator places moderate weight on this factor.

(iv) **Earning Capacity**: While there is no direct evidence of reduced earning capacity contained in the record; based on the severity of Petitioner's injuries, the requisite treatment and the resulting disability, it is reasonable to conclude that such repercussions will manifest in the near future. The Arbitrator places little weight on this factor.

(v) **Disability**: As a result of his accidents, Petitioner sustained injuries to his neck, mid-back, and low-back. (Tr. p. 16; PX 13 p. 9) Petitioner testified that as a result of his injuries, he can no longer perform home maintenance such as pulling fence posts, power washing, or fixing his chimney. (Tr. pp. 27-29) He is unable to play with his grandchildren like he used to, he can no longer go camping or hiking and can no longer go to amusement parks. (Tr. p. 31) He has had to figure out how to perform his job differently due to his symptoms. (Tr. p. 29) He testified that he has constant pain, that he takes over-the-counter pain medication "All the time", and that his whole life has changed as a result of his injuries. (Tr. pp. 30-31) Respondent's examiner, Dr. Rutz, opined that Petitioner's pathology and symptoms were such that they necessitated a discussion regarding cervical and lumbar surgery. (RX 4 p. 3) Petitioner's phone call with Dr. Gornet's office on August 25, 2025, demonstrates that he continued to have low back pain with leg symptoms. (PX 6 p. 34) At his most recent appointment in October 2025, Petitioner was trending positively; however, Dr. Gornet noted that Petitioner had a multilevel problem that he could continue to watch. (PX 6 p. 38) The Arbitrator places significant weight on this factor.

Based upon the foregoing evidence and factors, the Arbitrator finds that Petitioner sustained serious and permanent injuries that resulted in a 15% loss of Petitioner's body as a whole with respect to the accident of March 6, 2023.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	19WC036998
Case Name	Jamie Cameron v. Ulta Beauty
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0227
Number of Pages of Decision	12
Decision Issued By	Stephen Mathis, Commissioner

Petitioner Attorney	Casey VanWinkle
Respondent Attorney	Scott Webber

DATE FILED: 8/11/2026

/s/Stephen Mathis, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF MADISON)

☒ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Jamie Cameron,

Petitioner,

vs. NO. 19WC036998

Ulta Beauty,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Petitioner herein and notice given to all parties, the Commission, after considering the issues of accident, medical expenses, causal connection, and permanent disability, and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed May 12, 2025, is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

No bond is required for removal of this cause to the Circuit Court. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 11, 2026
SJM/sj
o-7/14/2026

44

/s/*Stephen J. Mathis*
Stephen J. Mathis

/s/*Kathryn A. Doerries*
Kathryn A. Doerries

/s/*Amylee H. Simonovich*
Amylee H. Simonovich

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	19WC036998
Case Name	Jamie Cameron v. Ulta Beauty
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	9
Decision Issued By	William Gallagher, Arbitrator

Petitioner Attorney	Casey VanWinkle
Respondent Attorney	Scott Webber

DATE FILED: 5/12/2025

/s/William Gallagher, Arbitrator

Signature

INTEREST RATE WEEK OF MAY 6 2025 4.09%

STATE OF ILLINOIS)
)SS.
COUNTY OF Madison)

- ☐ Injured Workers' Benefit Fund (§4(d))
- ☐ Rate Adjustment Fund (§8(g))
- ☐ Second Injury Fund (§8(e)18)
- ☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

Jamie Cameron — Case # 19 WC 36998

Employee/Petitioner

v. — Consolidated cases: n/a

Ulta Beauty, Inc.
Employer/Respondent

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable William R. Gallagher, Arbitrator of the Commission, in the city of Collinsville, on March 27, 2025. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On September 18, 2019, Respondent was operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship did exist between Petitioner and Respondent.

On this date, Petitioner did not sustain an accident that arose out of and in the course of employment.

Timely notice of this accident was given to Respondent.

Petitioner's current condition of ill-being is not causally related to the accident.

In the year preceding the injury, Petitioner earned $53,310.40; the average weekly wage was $1,025.20.

On the date of accident, Petitioner was 49 years of age, married with 0 dependent child(ren).

Petitioner has received all reasonable and necessary medical services.

Respondent has not paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $0.00 for TTD, $0.00 for TPD, $0.00 for maintenance, and $0.00 for other benefits, for a total credit of $0.00.

Respondent is entitled to a credit of $0.00 paid under Section 8(j) of the Act.

ORDER

Based upon the Arbitrator's Conclusion of Law attached hereto, claim for compensation is denied.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

William R. Gallagher

MAY 12 2025

William R. Gallagher, Arbitrator

ICArbDec p. 2

Findings of Fact

Petitioner filed two Applications for Adjustment of Claim which alleged she sustained accidental injuries arising out of and in the course of her employment by Respondent. In case 19 WC 36998, Petitioner alleged a date of accident of September 18, 2019, and that she "Fell over a box" and sustained an injury to her "Left hip" (Arbitrator's Exhibit 2). In case 19 WC 36999, Petitioner alleged a date of accident (manifestation) of September 24, 2019, and that she sustained "Repetitive trauma" to "Bi-lateral shoulders and bi-lateral feet" (Arbitrator's Exhibit 2). In both cases, Respondent disputed liability on the basis of accident and causal relationship (Arbitrator's Exhibit 1).

Petitioner claimed she was entitled to temporary total disability benefits of 207 weeks, commencing September 24, 2019, through September 15, 2022. Respondent claimed Petitioner was not entitled to any payment of temporary total disability benefits (Arbitrator's Exhibit 1).

Petitioner worked for Respondent as the salon manager and, on occasion, worked as the GM. While employed by Respondent, Petitioner performed a wide variety of tasks which included stocking items on the retail floor and keeping areas clean, as well as working as a hairdresser/hairstylist. Petitioner testified that, while working as a hairdresser/hairstylist, she usually worked on four to eight people each day. The customers were seated in a hydraulic chair which Petitioner could move up/down as needed.

Petitioner stated that when she was working on the customers, she was not permitted to sit down. While working on the customers, she worked with her arms extended, sometimes in an overhead position. The positions of Petitioner's hands/arms would depend on the height of the customer being serviced. When Petitioner worked on customers with long hair, she had to lift up their hair, which required her to have her arms at chest level or higher. In addition to the preceding, Petitioner was also required to mop floors and do laundry. These job duties were the basis of Petitioner's repetitive trauma claim.

Prior to both of the alleged work-related accidents, Petitioner received medical treatment for a variety of medical conditions which included both right and left knees, lumbar and cervical spine, bilateral leg pain, diabetes, hypertension, and hypothyroidism. Medical records regarding Petitioner's treatment for these conditions from July, 2013, through August, 2019, were received into evidence at trial. Petitioner did not allege any reinjury or aggravation of the preceding conditions as a result of either work-related accident. Further, there were no medical opinions finding a causal relationship between any of the preceding medical conditions in either alleged work-related accident. Accordingly, in this Decision, the Arbitrator has not summarized/abstracted any of the medical records regarding those conditions.

Subsequent to both alleged work-related accidents, Petitioner continued to receive treatment in respect to the preceding conditions, but primarily in respect to her cervical and lumbar spine. Medical records for treatment Petitioner received from September, 2019, through April, 2022, were received into evidence at trial. Again, Petitioner did not allege any reinjury or aggravation of these conditions as a result of either accident and there was no medical opinion finding a causal

relationship regarding same. Accordingly, in this Decision, the Arbitrator has not summarized/abstracted any of the medical records regarding those conditions.

On direct examination, Petitioner agreed she sustained a fall while tripping over a box on September 18, 2019. However, Petitioner did not testify regarding the circumstances and details of how she sustained the accident. Further, Petitioner did not seek any medical treatment subsequent to the accident of September 18, 2019. It was not until after the accident of September 24, 2019, that she sought medical treatment.

Petitioner initially sought medical treatment on September 24, 2019, at the ER of Herrin Hospital. At that time, Petitioner complained of left leg pain and stated she was "pretty sure" she hurt it at work. She also complained of pain in both hips and her right foot. Petitioner did not advise of having sustained an accident at work on September 18, 2019 (Petitioner's Exhibit 1).

While in the ER on September 24, 2019, Petitioner also complained of left shoulder pain and chronic right shoulder pain. Petitioner denied having sustained any "new trauma." In respect to her shoulders and hips, Petitioner complained of pain; however, the range of motion of both shoulders/hips was normal. Multiple x-rays were obtained which were all negative for abnormalities. Petitioner was given medication, discharged, and directed to follow-up with her primary care physician (Petitioner's Exhibit 1).

The following day, September 25, 2019, Petitioner sought medical treatment at the Orthopedic Institute of Southern Illinois and was evaluated by Dr. Jeffrey Jones, an orthopedic surgeon. However, Dr. Jones did not evaluate Petitioner for shoulder/hip symptoms, but he saw Petitioner her cervical and lumbar spine complaints. The medical record of that date did not contain any reference to any work-related accidents at all, including any work-related accidents of either September 18, 2019, or September 24, 2019 (Respondent's Exhibit 5).

Petitioner was subsequently seen at the Orthopedic Institute of Southern Illinois on October 2, 2019, by Dr. John Davis, an orthopedic surgeon. At that time, Petitioner complained of bilateral shoulder pain which she said "…came to a head over the past few weeks at work." Petitioner advised she worked as a hairdresser and was required to keep her arms at shoulder height while working on clients' hair (Respondent's Exhibit 5).

On physical examination, Petitioner had diminished strength in both rotator cuffs, but a full range of motion. Dr. Davis diagnosed Petitioner with bilateral shoulder pain, bilateral rotator cuff tendinosis, and outlet impingement with calcific tendinosis in both shoulders. He ordered physical therapy and imposed work restrictions (Respondent's Exhibit 5).

Petitioner was subsequently evaluated at Logan Primary Care on October 10, 2019, by Micah Oakley, a Physician Assistant. At that time, Petitioner complained of bilateral shoulder pain which she had for years, but had been getting worse. The medical record of that date did not contain any reference to Petitioner's work activities. On examination, Petitioner had a decreased range of motion in both shoulders; however, the other findings on examination were benign. PA Oakley opined Petitioner had chronic left shoulder pain and chronic right shoulder pain. He ordered MRI scans of both shoulders (Petitioner's Exhibit 2).

The MRI scans of Petitioner's shoulders were performed on November 5, 2019. According to the radiologist, the MRI of Petitioner's left shoulder revealed moderate acromioclavicular joint degenerative arthrosis, supraspinatus/infraspinatus tendonosis, tearing of the posterior inferior infraspinatus, but no full thickness rotator cuff tear. According to the radiologist, the MRI of Petitioner's right shoulder revealed acromioclavicular joint degenerative arthrosis, supraspinatus/infraspinatus tendinosis, an insertional tear involving 50% of the cuff, but no full thickness tear (Petitioner's Exhibit 4).

On November 26, 2019, Petitioner was seen at the Orthopedic Institute of Southern Illinois by Jeffrey Palmer, a Physician Assistant. PA Palmer reviewed the MRI scans and opined they revealed incomplete rotator cuff tears. He deferred administering steroid injections because of Petitioner's blood sugar level, but ordered physical therapy (Petitioner's Exhibit 3).

Petitioner was again seen by PA Palmer on January 6, 2020. At that time, Petitioner continued to complain of bilateral shoulder pain, more on the left than right. PA Palmer opined that, because of the repetitive nature of Petitioner's job, it could be a contributing factor of her complaints (Petitioner's Exhibit 3).

At the direction of Respondent, Petitioner was examined by Dr. Michael Nogalski, an orthopedic surgeon, on January 21, 2020. In connection with his examination of Petitioner, Dr. Nogalski reviewed medical records and diagnostic studies provided to him by Respondent. In regard to the accident of September 18, 2019, Petitioner informed Dr. Nogalski she was in the back of the store and in the process of removing a drink from the refrigerator. There was a box in the way and Petitioner used her left foot to push it to the side. When she did so, Petitioner lost her balance and fell/twisted. As a result of this accident, Petitioner stated she experienced pain in her left groin/hip. Subsequent to the accident of September 18, 2019, Petitioner continued to work, but started experiencing pain in both shoulders as well as both feet. Petitioner then sought medical treatment on September 24, 2019 (Respondent's Exhibit 1).

In regard to the medical records reviewed by Dr. Nogalski, they included records for Petitioner's cervical and lumbar spine treatment. Petitioner informed Dr. Nogalski she did not understand why he had those records because she did not injure her neck or back as a result of either accident (Respondent's Exhibit 1).

Petitioner informed Dr. Nogalski she had ongoing shoulder issues for several years and described, in detail, her job duties as a hairdresser which required her to use her hands at chest or shoulder level on a repetitive basis. Dr. Nogalski diagnosed Petitioner with bilateral rotator cuff tendinopathy and adhesive capsulitis. In respect to causality, Dr. Nogalski opined that while Petitioner might experience symptoms associated with tendinopathy with the requirements of her job, her job duties were not a causative or aggravating factor for her shoulder conditions. He opined Petitioner's bilateral shoulder conditions were likely associated with Petitioner's uncontrolled diabetic condition. He noted there is a higher risk of tendinopathy and adhesive capsulitis in individuals who are diabetic. He also noted there was a higher risk of adhesive capsulitis with individuals who have hypothyroidism (Respondent's Exhibit 1).

In regard to Petitioner's left hip condition, Dr. Nogalski's examination of Petitioner's left hip revealed some pain at the end range of motion, but was otherwise unremarkable. Dr. Nogalski could not identify any specific acute findings indicative of a left hip injury of September 18, 2019. Dr. Nogalski also examined Petitioner's feet and observed calluses especially on the third metatarsals and suspected diabetic neuropathy. He opined Petitioner's bilateral foot condition was not related to the accident of September 18, 2019 (Respondent's Exhibit 1).

Petitioner was again seen by Dr. Davis on February 10, 2020. At that time, Petitioner complained of bilateral shoulder pain, right worse than left. Dr. Davis administered a steroid injection into Petitioner's right shoulder (Petitioner's Exhibit 3).

From February 25, 2020, through October 28, 2020, Petitioner continued to be treated by Dr. Davis. During this time, Petitioner received several steroid injections into both shoulders. No invasive surgical procedures were either recommended or performed (Petitioner's Exhibit 3).

Dr. Davis was deposed on December 28, 2020, and his deposition testimony was received into evidence at trial. On direct examination, Dr. Davis' testimony was consistent with his medical records regarding his diagnosis and treatment of Petitioner's bilateral shoulder condition and he reaffirmed the opinions contained therein. In respect to causality, Dr. Davis testified Petitioner performed work duties at shoulder level for hours at a time which contributed to her bilateral shoulder condition. He explained that when the arms and hands get away from the body, the force against the ball and socket or rotator cuff is increased (Petitioner's Exhibit 6; pp 11-13).

On cross-examination, Dr. Davis was interrogated regarding his opinion in respect to causality. When questioned whether he had ever reviewed Petitioner's job description, Dr. Davis responded that his knowledge was based on the information contained in Dr. Nogalski's report which he had reviewed prior to being deposed. Dr. Davis did not know how many years Petitioner had been a hairdresser, how many clients she saw during the day, how many hours she worked per day, or what percentage of her time at work was spent with her arms extended at shoulder level or above. Dr. Davis conceded his opinion regarding causality was based on his treatment of other hairdressers with similar complaints so his causality opinion was based, in part, on prior experience with other clients (Petitioner's Exhibit 6; pp 24-27).

Petitioner continued to be treated for her bilateral shoulder condition with Dr. Davis and PA Palmer from January, 2021, through December, 2022. During this time, treatment consisted of medication, physical therapy and home exercises. In the medical record dated December 15, 2022, Dr. Davis reaffirmed his diagnosis of bilateral adhesive capsulitis with partial thickness rotator cuff tearing (Petitioner's Exhibit 3).

Dr. Davis was again deposed on March 21, 2022, and his deposition testimony was received into evidence at trial. Dr. Davis testified he reviewed a job description prepared by Petitioner which consisted of a detailed statement of her job duties. Dr. Davis testified Petitioner worked 40 hours per week, worked on four to 12 clients per day, and performed various repetitive tasks which required the hands/arms to be away from the body which included stocking product and caring for clients. He stated the preceding information confirmed his original opinion and that Petitioner's shoulder condition was related to her job duties (Petitioner's Exhibit 7; pp 6-8).

Dr. Nogalski was deposed on March 29, 2021, and his deposition testimony was received into evidence at trial. On direct examination, Dr. Nogalski's testimony was consistent with his medical report and he reaffirmed the opinions contained therein. Specifically, Dr. Nogalski testified he diagnosed Petitioner with bilateral rotator cuff tendinopathy and bilateral calcific tendinopathy which was not related to either the accident of September 18, 2019, or the repetitive trauma injury of September 24, 2019. He explained that Petitioner extending her arms could cause her to experience symptoms of chronic shoulder problems, but this did not mean that the activity was the cause or aggravating factor of the condition. Dr. Nogalski testified Petitioner had both diabetes and hypothyroidism, which are two risk factors for adhesive capsulitis. He stated Petitioner had to have had the calcific tendinopathy process well before September, 2019 (Respondent's Exhibit 2; pp 18-22).

In regard to Petitioner's left hip condition, Dr. Nogalski testified he could not diagnose a hip problem other than something which may have been attributable to her lumbar spine condition. He stated it was not related to the accident of September 18, 2019. In regard to Petitioner's bilateral foot condition, Dr. Nogalski stated it was likely related to her foot shape and diabetes, but not related to the accident of September 18, 2019 (Respondent's Exhibit 2; pp 27-28).

Petitioner testified she was able to return to work in September, 2022, but not for Respondent. She sought employment as a finance manager and was working in that capacity at the time of trial. Petitioner testified she has to live with two frozen shoulders and needs assistance with activities of daily living.

Conclusions of Law

In regard to disputed issue (C) the Arbitrator makes the following conclusion of law:

The Arbitrator concludes Petitioner did not sustain an accidental injury arising out of and in the course of her employment by Respondent on September 18, 2019.

In support of this conclusion the Arbitrator notes the following:

Petitioner did not seek any medical treatment following the accident of September 18, 2019. It was not until after the alleged repetitive trauma injury of September 24, 2019, that she sought medical treatment.

When Petitioner first sought medical treatment on September 24, 2019, she complained of pain in her hips and right foot, but did not advise she had sustained a work-related injury on September 18, 2019.

Petitioner did not provide a detailed history of the accident of September 18, 2019, to any of her treating medical providers. Petitioner did provide a history of the accident of September 18, 2019, to Dr. Nogalski, Respondent's Section 12 examiner.

At trial, Petitioner did not testify as to the specific circumstances of the accident of September 18, 2019, only that she fell while tripping over a box.

In regard to disputed issues (F), (J), (K), and (L), the Arbitrator makes no conclusions of law as these issues are rendered moot because of the Arbitrator's conclusion of law in disputed issue (C).

William R. Gallagher, Arbitrator

MAY 12 2025

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	21WC032964
Case Name	Douglas Sandstrom v. State of Illinois - Illinois Department of Transportation - Movable Bridges
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0228
Number of Pages of Decision	10
Decision Issued By	Kathryn Doerries, Commissioner

Petitioner Attorney	Michael D. Block
Respondent Attorney	Danielle Curtiss

DATE FILED: 8/11/2026

/s/Kathryn Doerries, Commissioner

Signature

21 WC 32964
Page 1

STATE OF ILLINOIS)
) SS.
COUNTY OF LASALLE)

☒ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

DOUGLAS SANDSTROM,
Petitioner,

vs. NO: 21 WC 32964

STATE OF ILLINOIS, ILLINOIS DEPARTMENT OF TRANSPORTATION,
Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Petitioner herein and notice given to all parties, the Commission, after considering the issues of accident, causal connection, medical expenses, temporary total disability, and permanent partial disability, and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed July 10, 2025 is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Pursuant to Section 19(f)(1) of the Act, claims against the State of Illinois are not subject to judicial review. Therefore, no appeal bond is set in this case.

August 11, 2026
O: 06/16/26
KAD/ma
042

/s/ *Kathryn A. Doerries*
Kathryn A. Doerries

/s/ *Amylee H. Simonovich*
Amylee H. Simonovich

/s/ *Stephen J. Mathis*
Stephen J. Mathis

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	21WC032964
Case Name	Douglas Sandstrom v. State of Illinois - Illinois Department of Transportation - Movable Bridges
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	8
Decision Issued By	Gerald Granada, Arbitrator

Petitioner Attorney	Michael D. Block
Respondent Attorney	Danielle Curtiss

DATE FILED: 7/10/2025

/s/Gerald Granada, Arbitrator
Signature

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

JULY 10 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF JULY 8, 2025 4.15%

26IWCC0228

STATE OF ILLINOIS)
)SS.
COUNTY OF **LASALLE**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

Douglas Sandstrom
Employee/Petitioner

v.

State of Illinois/Illinois Department of Transportation
Employer/Respondent

Case # **21** WC **032964**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Gerald Granada**, Arbitrator of the Commission, in the city of **Ottawa**, on **May 8, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☒ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **8/19/19**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did not*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is not*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**70,704.00**; the average weekly wage was $**1,359.69**.

On the date of accident, Petitioner was **60** years of age, ***single*** with **0** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**2,966.59** for other benefits, for a total credit of $**2,966.59**.

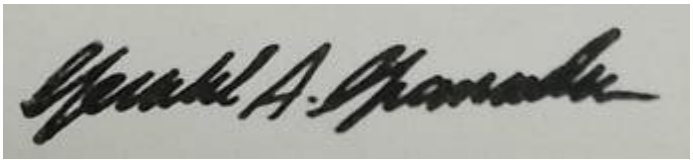
Respondent is entitled to a credit for any benefits paid under Section 8(j) of the Act.

ORDER

Petitioner failed to prove that he sustained an accident arising out of his employment. Therefore, all benefits are denied.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.



Signature of **Arbitrator Gerald Granada**

JULY 10, 2025

FINDINGS OF FACT

This case involves Petitioner Douglas Sandstrom, who alleges to have sustained injuries while working for Respondent State of Illinois / Illinois Department of Transportation on August 19, 2019. Respondent disputes Petitioner's claim, with the issues being: 1) accident; 2) causation; 3) medical expenses; 4) TTD; 5) credit; and 6) nature and extent.

Job Duties

Petitioner worked for IDOT as a Bridge Tender. Petitioner was responsible for lifting the bridges at the Cass Street bridge in Joliet, Illinois. Petitioner stopped traffic on the road when a barge was about to go through. He then started the signal for barge traffic to come through, then lowered the bridge, and let traffic through. He was also responsible for logging the time, direction and number of boats. Petitioner testified that this position did not involve much physicality other than minor cleaning, and cleaning and carrying 5-gallon water jugs up the stairs.

Accident

On August 19, 2019, Petitioner was two hours into his shift. Petitioner testified that the air conditioning was not working in the building that day, and it was the hottest day of the year. He began to walk down the stairs to splash water on his face when he ended up at the bottom of the stairs. He testified that, immediately before the incident, he felt as though he needed water, and he was soaked in sweat. He was unable to testify whether he tripped or lost his balance, but testified that there was nothing blocking him on the staircase and he was not carrying anything. Petitioner testified that he believed he may have blacked out, but he was unsure as to what happened. Petitioner had no recollection of actually falling on the stairs. Petitioner testified that the stairs were inspected by IDOT and there were no issues.

Pre-Injury Condition

The Arbitrator notes that Petitioner underwent pre-accident treatment for his cervical spine, lumbar spine, left shoulder, right ankle, and head in case number 16WC019360, which was consolidated with this case. At the time of this subsequent injury, Petitioner was still receiving treatment for his left shoulder and for neurological care. (Px 3, Px 16). Petitioner had not sought care related to his cervical spine since June 9, 2021, and his left hip or right foot since December 20, 2016. (Px 9, p. 103).

Regarding Petitioner's left shoulder, a total left shoulder replacement was recommended by Dr. Hurbanek on August 4, 2016 (Px 43, p. 45). On July 22, 2016, Petitioner underwent a glenohumeral joint injection in his left shoulder, as recommended by Dr. Hurbanek. (Px 15, p. 14). On December 6, 2018, Dr. Hurbanek noted that there are no restrictions regarding the left shoulder. (Px 9, p. 86). Petitioner was diagnosed with left shoulder osteoarthritis. *Id.* Shoulder replacement surgery was recommended. *Id.* Petitioner declined to undergo the recommended surgery.

Summary of Medical Treatment

On August 19, 2019, Petitioner presented to the Presence St. Joseph Medical Center emergency room via ambulance with complaints of dizziness. (Px 2, p 250). Petitioner stated that he had been at work and the air conditioning was not working. *Id.* He went down the stairs, became dizzy and slid down. *Id.* Upon examination, he was diaphoretic and complained of left shoulder pain. *Id.* A history of vertigo, hypertension, laminectomy and depression was noted. *Id.* The records note that Petitioner was uncooperative, refused tests, and Tylenol. *Id.* Petitioner underwent x-rays of the left shoulder, lumbar spine, left hip, and left foot which were negative acute fractures. *Id.*

Petitioner saw Dr. Pethkar on August 22, 2019 with ongoing complaints of cervical spine, lumbar spine, and left shoulder pain. (Px 3, p. 186). Petitioner was referred to Dr. Templin. *Id.*

On September 17, 2019, Petitioner underwent an MRI of the lumbar spine which revealed degenerative changes of the lumbar spine, most pronounced at L4-5 with mild to moderate spinal stenosis and mild to moderate bilateral foraminal narrowing. (Px 2, p. 303).

Petitioner saw Dr. Templin on September 24, 2019 for his lumbar spine pain. (Px 2, p. 200). Dr. Templin reviewed the lumbar MRI and recommended a course of physical therapy. *Id.* He diagnosed Petitioner with an aggravation of his lumbar degeneration with radicular symptoms extending into the left leg. *Id.*

Petitioner next saw Dr. Pethkar on October 8, 2019 and October 30, 2019 for low back pain, hypertension, and dizziness. (Px 3, p. 191; 192). Dr. Pethkar noted that Petitioner continued to have high blood pressure secondary to neck pain as well as low back pain and stress. *Id.* Dr. Pethkar also noted that Petitioner was currently off work due to dizziness, despite being cleared by the neurologist to return to work. *Id.* Petitioner continued to see Dr. Pethkar every three months for complaints of low back pain, cervical pain, hypertension, and dizziness. (Px 3, p. 199).

On December 4, 2020, Dr. Pethkar noted that Petitioner had previously suffered head, neck, low back and right ankle injuries. He noted that, over the last few months, Petitioner had shown cognitive and neurological deterioration, with body aches and frequent headaches. (Px 5). Dr. Pethkar opined that Petitioner should stop working because he was totally and permanently disabled both physically and neurologically. *Id.*

Petitioner saw Dr. Templin on December 8, 2020 with complaints of worsening lumbar spine pain. (Px 9, p. 97). Dr. Templin reviewed the lumbar MRI from 2018, which revealed an asymmetric collapse of L4-L5 to the right and L5-S1 to the left with severe modic endplate change. *Id.* A new MRI was ordered. *Id.*

Petitioner followed up with Dr. Pethkar on January 4, 2021, March 16, 2021, and March 30, 2021 for lumbar spine, cervical spine, and left shoulder pain. (Px 3, p. 211; 215; 217; Px 4, p. 6; p. 7).

Petitioner underwent an MRI of the lumbar spine on April 26, 2021 which revealed L5-S1 disc space narrowing and disc desiccation with global disc bulge/annular tear. (Px 9, p. 99). The MRI showed that the moderate right and moderate left neuroforaminal narrowing was unchanged. *Id.* The MRI noted that there were no significant changes since the prior examination. (Px 9, p. 99).

Petitioner underwent an MRI of the cervical spine on June 9, 2021 which revealed post-surgical changes since Petitioner's March 7, 20218 discectomy at C5-C6 at C6-C7 and anterior hardware fusion of C5, C6 and C7. (Px 9, p. 103). The MRI showed an abnormal collection of fluid in the prevertebral soft tissues abutting the C5, C6, and C7 vertebral bodies and reactive marrow edema in the C5, C6 and C7 and to a lesser extent in the anterior C4 vertebral body. *Id.* the MRI noted these degenerative changes and neural foraminal narrowing at a few levels. *Id.*

Petitioner saw Dr. Templin on October 19, 2021 and November 2, 2021 for a follow ups on his lower back. (Px 11, p. 228; 234). On November 2, 2021, Dr. Templin reviewed the MRI from April 2021 which revealed severe degenerative changes at L4-L5. (Px 11, p. 234). Dr. Templin noted that there was lateral recess stenosis impinging on the L5 nerve root but that at the L5-S1 level there was well preserved disc height and a prior laminectomy defect. *Id.* He also noted that the foramina showed at most moderate foraminal stenosis. *Id.* Dr. Templin opined that surgical intervention was warranted. *Id.*

Petitioner underwent lumbar spine surgery on December 15, 2021. (Px 2, p. 1136). The procedure performed was a L4-L5 lateral interbody fusion with interbody cage placement. *Id.* His post operative diagnosis was L4-L5 degenerative disc disease, and spinal stenosis with radiculopathy. *Id.* Petitioner was instructed to remain off work. *Id.* Petitioner saw Dr. Templin on January 25, 2022, and was doing well. (Px 10, p. 34). A lumbar spine x-ray showed the instrumentation in place with no loosening. *Id.* Petitioner followed up with Dr. Templin on March 8, 2022 for his lumbar and cervical spine. (Px 11, p. 262). Physical therapy was ordered. *Id.*

Petitioner underwent a CT of the cervical spine on April 8, 2022 which revealed post-surgical changes with surgical hardware intact, without evidence of loosening. (Px 2, p. 1291).

Petitioner followed up with Dr. Templin for his lumbar and cervical spine on May 10, 2022. (Px 11, p. 283). Dr. Templin ordered a functional capacity evaluation ("FCE") to address Petitioner's ability to return to work. *Id.* Dr. Templin noted that Petitioner had limitations with regard to cognition and vertigo, but that once an FCE was completed, Petitioner would be at maximum medical improvement. ("MMI"). *Id.* Petitioner did not undergo the FCE due to his intracranial issues. (Px 11, p. 306)

Petitioner saw Dr. Templin on December 22, 2022 (Px 11, p. 306). Petitioner complained of left shoulder pain, and wanted an opinion as to whether his cervical spine was contributing to the pain. *Id.* X-rays of the cervical spine revealed no changes. *Id.* Dr. Templin opined that the cervical spine was not contributing to pain in his left shoulder. *Id.* Petitioner had been off work due to his intracranial issues. *Id.* Petitioner was instructed to follow up on an as needed basis. *Id.*

Petitioner saw Dr. Hurbanek on January 12, 2023 for his left shoulder. (Px 11, p. 331). He was diagnosed with left shoulder osteoarthritis, and an intra-articular cortisone injection was recommended. *Id.*

Petitioner underwent a cervical spine MRI on February 2, 2024 which revealed no significant interval changes, and mild degenerative disc disease above the level of the fusion at C4-5. (Px 11, p. 379). Moderate left and right foraminal narrowing at C4-5 were also shown. *Id.*

Petitioner saw PA-C Thomas Pittman on June 18, 2024 for a cervical spine follow up. (Px 11, p. 400). An MRI of the cervical spine was ordered. *Id.* Petitioner saw Dr. Hurbanek on July 22, 2024 for a follow up of his left shoulder. (Px 11, p. 422). Petitioner was not interested in shoulder replacement, so a cortisone injection was recommended. *Id.*

Petitioner last saw Dr. Templin for his lumbar and cervical spine on August 20, 2024. (Px 11, p. 449). Petitioner did not undergo the recommended cervical MRI. *Id.* A lumbar MRI was ordered. *Id.*

Summary of Current Condition

Petitioner testified that he experiences intermittent dizziness and headaches, around one to two times per month. He requires assistance in activities of daily living, as standing up too quickly will sometimes cause dizziness.

Vocational Status

Petitioner was off work beginning June 16, 2021 and voluntarily retired from IDOT on June 30, 2023. (Rx 7).

CONCLUSIONS OF LAW

1. Regarding the issue of accident, the Arbitrator finds that the Petitioner failed to meet his burden of proof regarding this issue. In support of this finding, the Arbitrator relies on the Petitioner's testimony and the evidentiary records which do not support Petitioner's accident claim. To obtain compensation under the Act, a claimant bears the burden of proving by a preponderance of the evidence two elements: (1) that the injury occurred in the course of claimant's employment and (2) that the injury arose out of claimant's employment. *McAllister v. Ill. Workers' Comp. Comm'n*, 450 Ill. Dec. 309, 313 (2020). The 'arising out of' component is primarily concerned with causal connection. *Id.* To satisfy this requirement it must be shown that the injury had its origin in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury. *Id.* A risk is incidental to the employment when it belongs to or is connected with what the employee has to do in fulfilling his or her job duties. *Id.* at 314. Generally, all risks to which a claimant may be exposed fall within one of three categories. *Id.* The three categories of risks recognized by the case law are (1) risks distinctly associated with the employment; (2) risks personal to the employee; and (3) neutral risks which have no particular employment or personal characteristics. *Id.* Injuries resulting from personal risks generally do not arise out of employment. *Id.* at 315. An exception to this rule exists when the workplace conditions significantly contribute to the injury or expose the employee to an added or increased risk of injury. *Id.* The first category of risks involves risks that are distinctly associated with employment. "Employment risks include the obvious kinds of industrial injuries and occupational diseases and are universally compensated." McAllister, 2020 IL 124848, ¶ 40; *Illinois Institute of Technology Research Institute v. Industrial Comm'n*, 314 Ill. App. 3d. 149, 162, 731 N.E.2d 795, 247 Ill. Dec. 22 (2000). Injuries resulting from a risk distinctly associated with employment are deemed to arise out of the claimant's employment and are compensable under the Act. *McAllister*, 2020 IL 124848, ¶ 40; *Steak 'n Shake v. Illinois Workers' Compensation Comm'n*, 2016 IL App (3d) 150500WC, ¶ 35, 409 Ill. Dec. 359, 67 N.E.3d 571. Examples of employment-related risks include "tripping on a defect at the employer's premises, falling on uneven or slippery ground at the work site, or performing some work-related task which contributes to the risk of falling." *McAllister*, 2020 IL 124848, ¶ 40; *First Cash Financial Services v. Industrial Comm'n*, 367 Ill. App. 3d 102, 106, 853 N.E.2d 799, 304 Ill. Dec. 722 (2006).

In the case at bar, no credible evidence was presented that the premises were defective. Petitioner testified that it was hot in the building. However, the Arbitrator is left to speculate whether the building was, in fact, hot, or whether Petitioner was experiencing some sort of medical issue that led him to feel overheated. Petitioner presented no evidence of the temperature of the building, or the stairwell in which the alleged injury occurred. Petitioner additionally presented no evidence that the alleged heat is what caused the injury. He clearly testified that he did not know how he ended up at the bottom of the stairs, and he assumed that he fell. He testified that the stairs were inspected by IDOT, and no defects existed. The Arbitrator finds that Petitioner failed to sustain his burden of proving that he sustained an employment-related risk.

The second category of risks involves risks personal to the employee. "Personal risks include nonoccupational diseases" and "injuries caused by personal infirmities such as a trick knee." McAllister, 2020 IL 124848, ¶ 40; *Illinois Institute of Technology Research Institute*, 314 Ill. App. 3d. at 162-63. Injuries resulting from personal risks generally do not arise out of employment. *McAllister*, 2020 IL 124848, ¶ 40. An exception to this rule exists when the workplace conditions significantly contribute to the injury or expose the employee to an added or increased risk of injury. *Id*.; *Rodin v. Industrial Comm'n*, 316 Ill. App. 3d 1224, 1229, 738 N.E.2d 955, 250 Ill. Dec. 486 (2000). In the case at bar, Petitioner suffered from pre-accident vertigo. However, as indicated above, Petitioner has failed to present evidence as to what precisely caused him to fall. In fact, he testified that he was walking down the stairs, then, the next thing he knew, he was at the bottom of the stairs. Other than Petitioner being at the bottom of the stairs, there was no evidence as to him falling on the stairs at all. Therefore, the Arbitrator is left to speculate as to the cause of the fall, and whether a fall even occurred.

The third category of risks involves neutral risks that have no particular employment or personal characteristics. *McAllister*, 2020 IL 124848, ¶ 44. Injuries resulting from a neutral risk generally do not arise out of the employment and are compensable under the Act only where the employee was exposed to the risk to a greater degree than the general public. *Id*.; *Springfield Urban League v. Illinois Workers' Compensation Comm'n*, 2013 IL App (4th) 120219WC, ¶ 27. Such an increased risk may be either qualitative, such as some aspect of the employment which contributes to the risk, or quantitative, such as when the employee is exposed to a common risk more frequently than the general public. *McAllister*, 2020 IL 124848, ¶ 44; *Metropolitan Water Reclamation District of Greater Chicago v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 1010, 1014, 944 N.E.2d 800, 348 Ill. Dec. 559 (2011). In the case at bar, as indicated above, insufficient evidence was presented for Petitioner to sustain his burden in proving that he was exposed to a risk to a greater degree than the general public. Petitioner's accident is categorized as an unexplained, and therefore not work-related. Therefore, the Arbitrator finds that Petitioner has failed to prove that he sustained an accident that arose out of his employment.

This Arbitrator finds that Petitioner has presented no credible evidence that an accident occurred which arose out of his employment for Respondent and Petitioner is not entitled to compensation for his injuries.

2. Based on the Arbitrator's findings regarding the issue of accident, all other issues are rendered moot.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	16WC019360
Case Name	Douglas Sandstrom v. State of Illinois - Illinois Department of Transportation & RAF
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0229
Number of Pages of Decision	15
Decision Issued By	Kathryn Doerries, Commissioner

Petitioner Attorney	Michael D. Block
Respondent Attorney	Danielle Curtiss

DATE FILED: 8/11/2026

/s/Kathryn Doerries, Commissioner

Signature

26IWCC0229

STATE OF ILLINOIS)
) SS.
COUNTY OF LASALLE)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse Choose reason	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☒ Modify Choose direction	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

DOUGLAS SANDSTROM,

Petitioner,

vs. NO: 16 WC 019360

STATE OF ILLINOIS, ILLINOIS DEPARTMENT OF TRANSPORTATION,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Petitioner herein and notice given to all parties, the Commission, after considering the issues of causation, medical expenses, and whether Petitioner is entitled to permanent total disability benefits under §8(f) of the Act, and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

Regarding the Arbitrator's Conclusions of Law, the Commission modifies the Arbitrator's findings regarding maximum medical improvement (MMI) and awards additional TTD benefits for the period of temporary total disability following the lumbar spine fusion performed on December 15, 2021. The Commission strikes the third paragraph regarding the issue of TTD and MMI, and replaces the third paragraph with the following.

3. Regarding the issue of TTD and consistent with the findings above, the Petitioner was temporarily totally disabled from May 13, 2016 through July 15, 2016; September 6, 2016 through December 4, 2016; March 5, 2018 through October 31, 2018; and December 15, 2021 through May 10, 2022, as provided in §8(b) of the Act. This finding is supported by Petitioner's unrebutted testimony and the medical evidence showing Petitioner was taken off work during these time periods. During the periods in which he returned to work, he worked light duty as outlined in the restrictions by his treaters.

The lumbar spine surgery performed on December 15, 2021, and the current lumbar spine condition are causally related to Petitioner's first accident on May 12, 2016. The second accident on August 19, 2019, which was found not compensable in the decision filed under case number 21 WC 032964, did not break the chain of causation. Petitioner had radiating lower extremity pain both before and after the August 2019 accident. Additionally, Dr. Templin recommended the lumbar fusion prior to the second accident. The medical records reflect Petitioner wanted to proceed with the recommended lumbar fusion prior to the second accident but the surgery had not been authorized. When Petitioner finally underwent the lumbar fusion, there was no change in the surgical plan as the surgical procedure recommended prior to the August 2019 accident was the identical surgical procedure ultimately performed on December 15, 2021. Furthermore, Dr. Templin's testimony regarding the second accident failed to support anything more than a temporary exacerbation. Petitioner was off work from the lumbar spine surgery on December 15, 2021, through May 10, 2022, and is entitled to TTD benefits for that time period.

Respondent shall be credited for any TTD it has paid. Respondent shall also be credited for non-occupational disability benefits paid to Petitioner, if any, during the aforementioned periods of temporary total disability, and shall hold Petitioner harmless from any claims or liabilities that may be made against him by reason of having received such benefits only to the extent of such credit as provided under §8(j) of the Act.

Petitioner reached MMI for his right ankle injury on December 22, 2016. Earlier that year, Dr. Burgess noted Petitioner had reached full weight-bearing status with a reported 1/10 pain level as of July 6, 2016 (PX9 at 39), and Dr. Pethkar noted the right ankle fracture was healed on July 13, 2016. (PX3 at 48) Dr. Burgess then discontinued therapy and transitioned Petitioner to home exercises on August 3, 2016. (PX9 43-44). Finally, Petitioner followed up for his right ankle with Dr. Burgess on December 22, 2016, and was released from care with no restrictions. (PX9 at 53-54).

Petitioner's cervical spine injury reached MMI March 12, 2019. On that date, Petitioner was evaluated by Kelly Burgess, PAC, when he was one-year out from his C5-C7 cervical fusion. X-rays continued to show a solid fusion. Kelly Burges noted Petitioner's neck was much improved. (PX9 at 90) Kelly Burgess directed Petitioner to follow-up regarding his shoulder and lumbar spine, and no additional treatment was recommended for the cervical spine. On April 15, 2019, Respondent's section 12 evaluating physician, Dr. Goldberg, examined Petitioner and confirmed the cervical spine condition had reached MMI. Petitioner had no further treatment visits for his neck injury until he returned to Dr. Templin with neck related issues two years later on May 8, 2021. It was Dr. Templin's initial impression at that time that Petitioner's neck issues were due to adjacent segment problems from the fusion and he ordered an updated MRI. (PX9 at 101-102) The cervical MRI was completed June 9, 2021. (PX9 at 103) Dr. Templin next saw Petitioner on November 2, 2021, and noted the MRI showed fluid collection at the level above the fusion. (PX10 at 20) Dr. Templin further noted Petitioner had been evaluated by an ENT specialist who diagnosed a sinus tract from the pharynx extending into the neck. Dr. Templin further commented that Petitioner was under the care of an infectious disease provider at Rush. Petitioner sought a second opinion with Dr. Ghanayem concerning the infection and whether the cervical hardware should be removed. Dr. Ghanayem reviewed imaging and determined there was no infection in the spine. Dr. Ghanayem did not recommend hardware removal, "as it was not part of the infection." (PX29 at 17-18) There is no credible medical evidence connecting the infection to the cervical

spine injury. Accordingly, based on the evidence, the one-year post-operative evaluation with Kelly Burges on March 12, 2019, establishes the date on which Petitioner's cervical spine injury reached MMI.

Petitioner's lumbar spine injury reached MMI on May 10, 2022. At that time, Dr. Templin noted Petitioner had one more scheduled therapy visit to complete and was doing well. (PX11 at 283) Dr. Templin recommended an FCE and indicated Petitioner would be at MMI once the FCE was completed. *Id*. Petitioner was discharged from physical therapy on May 13, 2022, with instructions to continue his home exercise program. (PX11 at 301-302) Petitioner later reported he never completed the FCE as he had been off work secondary to his "intracranial issues." That discussion was documented on December 22, 2022. (PX11 at 306-307)

Regarding the left shoulder, Petitioner saw Dr. Hurbanek on several occasions between May 2016 and January 13, 2023, during which surgery was discussed. On December 6, 2018, Dr. Hurbanek advised Petitioner a shoulder replacement would be his best option but Petitioner indicated he wished to "think about it." (PX9 at 86) Petitioner received pain management with Dr. Patel for his cervical spine, lumbar spine, and left shoulder. On January 13, 2023, Petitioner returned to Dr. Hurbanek and received an injection in the left shoulder. Petitioner indicated he wanted to avoid shoulder surgery if he could. (PX11 at 336.) On December 9, 2024, Dr. Patel noted Petitioner complained of increased shoulder pain but had declined the shoulder replacement recommended by Dr. Hurbanek. Per Dr. Patel, Petitioner indicated he wanted to hold off on shoulder surgery because he would not be able to drive during the recovery process. (PX52 at 54) Dr. Patel indicated Petitioner "will continue with ortho for the left shoulder" but Petitioner never underwent the shoulder replacement. At trial, Petitioner agreed he has been postponing shoulder surgery for as long as he can. (T. 117) Given Petitioner's reluctance to undergo the recommended shoulder replacement, it is appropriate to place Petitioner's left shoulder condition at MMI. See *Jones vs. Sun Chemical*, 6 IWCC 730, 2006 Ill. Wrk. Comp. LEXIS 710 (Affirming and adopting arbitrator's MMI finding - "Now that Petitioner has effectively removed surgery as an option, common sense would dictate that his condition has stabilized or reached maximum medical improvement.") See also *Paic vs. Abt Electronics*, 5 IWCC 26, 2005 Ill. Wrk. Comp. LEXIS 27 ("It is well settled law that a Petitioner is not obligated to undergo surgery. However, with Petitioner's refusal to undergo the surgery option he has consequently attained MMI.") Accordingly, Petitioner's left shoulder reached MMI on December 9, 2024, when it became clear Petitioner's left shoulder had been restored as far as it could, short of surgery which Petitioner reported to Dr. Patel that he wished to hold off from undertaking.

Petitioner last saw Dr. Cohen for psychological counseling on May 6, 2024. (PX34 at 33) On May 13, 2024, Dr. Cohen testified she did not believe Petitioner had reached MMI and indicated Petitioner was to continue with counseling. (PX40 at 60) There was no medical evidence, however, showing additional treatment with Dr. Cohen between May 6, 2024, and the date of hearing on May 8, 2025. Accordingly, Petitioner reached MMI for his traumatic brain injury and post-traumatic stress disorder on May 6, 2024.

The Commission also modifies the fourth sentence in paragraph number "2" regarding medical expenses under the Conclusions of Law, so that it reads, "Accordingly, the Arbitrator hereby orders Respondent to pay any unpaid medical expenses related to Petitioner's injuries including the lumbar spine treatment and surgery provided after the second accident, as set forth in Petitioner's

exhibits, subject to the Fee Schedule pursuant to Section 8(a) and 8.2 of the Act."

All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $904.46 per week for a period of 77-3/7 weeks, commencing 5/13/16 through 7/15/16, 9/6/16 through 12/4/16, 3/5/18 through 10/31/18, and 12/15/21 through 5/10/22, that being the periods of temporary total incapacity for work under §8(b) of the Act. Respondent shall be credited for any TTD benefits it has paid. Respondent shall also be credited for payment of non-occupational indemnity benefits, if any, which were paid during the aforementioned periods of temporary total disability, provided Respondent shall hold Petitioner harmless from any claims or liabilities that may be made against him by reason of having received such benefits only to the extent of such credit as provided under §8(j) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $755.22 per week for a period of 300 weeks, as provided in §8(d)2 of the Act, for the reason that the injuries sustained caused the 60% loss of the person as a whole.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay directly to the providers the medical expenses incurred for the reasonable and necessary medical treatment related to Petitioner's injuries set forth in the Petitioner's exhibits, pursuant to the Illinois Medical Fee Schedule as provided in Sections 8(a) and 8.2 of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Pursuant to Section 19(f)(1) of the Act, this decision is not subject to judicial review. *820 ILCS 305/19(f)(1) (West 2013)*.

August 11, 2026

KAD/swj
O61626
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/s/ *Kathryn A. Doerries*
Kathryn A. Doerries

/s/ *Amylee H. Simonovich*
Amylee H. Simonovich

/s/ *Stephen J. Mathis*
Stephen J. Mathis

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	16WC019360
Case Name	Douglas Sandstrom v. State of Illinois - Illinois Department of Transportation & RAF
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	10
Decision Issued By	Gerald Granada, Arbitrator

Petitioner Attorney	Michael D. Block
Respondent Attorney	Danielle Curtiss

DATE FILED: 7/11/2025

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

JULY 11 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

/s/ Gerald Granada, Arbitrator

Signature

INTEREST RATE WEEK OF JULY 8 2025 4.15%

26IWCC0229

STATE OF ILLINOIS)
)SS.
COUNTY OF **LASALLE**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

Douglas Sandstrom
Employee/Petitioner

v.

State of Illinois / Illinois Department of Transportation
Employer/Respondent

Case # **16** WC **019360**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Gerald Granada**, Arbitrator of the Commission, in the city of **Ottawa**, on **May 8, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☒ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **5/12/16**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**70,703.88**; the average weekly wage was $**1359.69**.

On the date of accident, Petitioner was **57** years of age, ***single*** with **0** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has not*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**43,771.46** for TTD, $**0** for TPD, $**0** for maintenance, and $**225,308.64** for other benefits, for a total credit of $**269,080.10**.

Respondent is entitled to a credit for any benefits paid under Section 8(j) of the Act.

ORDER

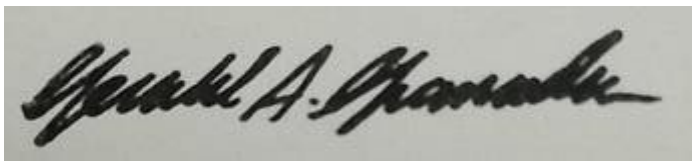
The Respondent shall pay directly to the provider, medical expenses as set forth in the Petitioner's exhibits, for treatment, pursuant to the Illinois Medical Fee Schedule as provided in Sections 8(a) and 8.2 of the Act. Respondent shall receive a credit for all medical expenses paid.

Respondent shall pay Petitioner temporary total disability benefits of $906.46/week for 56 3/7 weeks, commencing 5/13/16 through 7/15/16, 9/6/16 through 12/4/16, and 3/5/18 through 10/31/18, as provided in Section 8(a) of the Act. Respondent shall receive a credit for any TTD it has already paid.

The Respondent shall pay Petitioner permanent partial disability payments of **755.22**/week for 300 weeks, which represents 60% loss of use of person as a whole pursuant to § 8(d)(2) of the Act.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.



JULY 11 2025

Signature of **Arbitrator Gerald Granada**

FINDINGS OF FACT

This case involves Petitioner Douglas Sandstrom, who alleges to have sustained injuries while working for the Respondent State of Illinois / Illinois Department of Transportation on May 12, 2016. Respondent disputes Petitioner's claim, with the issues being: 1) causation; 2) medical expenses; 3) TTD; 4) credit; and 5) nature and extent.

Job Duties

Petitioner worked for Respondent as a Bridge Tender. Petitioner was responsible for lifting the bridges at the Cass Street bridge in Joliet, Illinois. Petitioner stopped traffic on the road when a barge was about to go through. He then started the signal for barge traffic to come through, then lowered the bridge, and let traffic through. He was also responsible for logging the time, direction, and number of boats. Petitioner testified that this position did not involve much physicality other than minor cleaning and carrying 5-gallon water jugs up the stairs.

Accident

On May 12, 2016, Petitioner was working as a Bridge Tender at the Cass Street Bridge when he was hit by a vehicle as he was crossing the street. Petitioner testified that he was in and out of consciousness, and it was the "worst pain he had ever experienced in his life."

The Illinois Traffic Crash report indicates that a vehicle driven by Juan Garcia was west bound on Cass in the furthest south lane, and Petitioner was crossing Cass Street from North to South. (Petitioner's Exhibit "Px" 41). Garcia stated that as his vehicle approached, Petitioner stopped and hesitated in the middle of the roadway. *Id.* Garcia stated that Petitioner stepped backwards, which caused Garcia's vehicle to strike Petitioner. *Id.* A witness, Rafael Rivera, stated that as Garcia's vehicle was approaching Petitioner appeared to lose his balance and stepped backward into the roadway. *Id.* It was noted that Petitioner did not cross the street at the cross walk, despite the fact that there are sidewalks on both sides of the roadway and a crosswalk 100 feet east of the crash. *Id.*

Summary of Medical Treatment Related to the Spine, Left Shoulder and Right Ankle

On May 12, 2016, Petitioner was treated by the Joliet Fire Department. (Px 1, p. 4). Petitioner was found lying conscious, alert and oriented in the middle of Cass street, laying next to a four-door jeep wrangler. Petitioner complained of pain to his head, neck, back, legs, and arms. *Id.* Petitioner was transported to the St. Joseph emergency room. *Id.*

At the St. Joseph emergency room, a head laceration and multiple abrasions to the left cheek, and bilateral hands were noted. (Px 2, p. 103). CTs of his abdomen and head which were negative for any findings. *Id.* A CT of the chest revealed a probable pericardial cyst near the right cardiophrenic angle. *Id.* A CT of the lumbar spine revealed mild disc space narrowing at C4-5 through C6-7 and central canal and bilateral foraminal stenosis at C5-6. *Id.* An x-ray of right ankle revealed a questionable acute fracture of the distal right fibular metaphysis. X-rays of the bilateral knees and pelvis were negative for fracture. *Id.* Petitioner was diagnosed with a scalp contusion and laceration, neck and back strains, a possible right ankle fracture, and abrasions. *Id.*

From May 16, 2016 through December 7, 2022, Petitioner saw Dr. Pethkar, his primary care physician, on a monthly basis, reporting neck pain, dizziness, headaches, left shoulder pain, right ankle pain, and left hip pain. (Px 3). He was diagnosed with a head injury, a cervical herniated disc, a left shoulder contusion, a left hip contusion, and a right ankle fracture. *Id.* Petitioner was kept off work. *Id.* He was referred to Dr. Templin for his

lumbar and cervical spine, Dr. Burgess for his right ankle, and Dr. Hurbanek for his left shoulder. (Px 3; Px 9). An MRI of the left shoulder on June 29, 2016 revealed a labral tear, bicep tendon tearing, effusion, an intact but inflamed rotator cuff tear, osteoarthritis and loose bodies of the left shoulder. (Px 9).

Right Ankle

Petitioner was given a cast, underwent PT and no surgery was required. (Px 9). On August 3, 2016, Dr. Burgess cleared Petitioner to transition to home exercise for his right ankle. Therapy was discontinued due to improvement. (Px 43). Petitioner followed up for his right ankle with Dr. Burgess on December 22, 2016. (Px 9, p. 53). Dr. Burgess noted that Petitioner was doing well until he jumped off a platform on December 20, 2016. *Id.* Petitioner's ankle was full weight-bearing. *Id.* Petitioner was released to work with no restrictions. *Id.*

Left Shoulder

On May 26, 2016, an x-ray of the left shoulder revealed a contusion, aggravation of osteoarthritis or a strain. (Px 9, p. 24). Petitioner saw Dr. Hurbanek on August 4, 2016 and reported that physical therapy was aggravating his left shoulder. (Px 43, p. 45). Dr. Hurbanek recommended a total shoulder replacement, or a glenohumeral joint injection if Petitioner did not want to undergo the surgery. *Id*. Petitioner declined to undergo the surgery. *Id.*

On July 22, 2016, Petitioner underwent a glenohumeral joint injection in his left shoulder, as recommended by Dr. Hurbanek. (Px 15, p. 14).

On December 6, 2018, Dr. Hurbanek noted that there are no restrictions regarding the left shoulder. (Px 9, p. 86). Petitioner was diagnosed with left shoulder osteoarthritis. *Id.* Shoulder replacement surgery was recommended. *Id.*

Petitioner's left shoulder condition did not reach maximum medical improvement before the subsequent claimed accident on August 19, 2019. Further, left shoulder treatment is addressed in the decision in case number 21WC032964.

Cervical and Lumbar Spine

On June 29, 2016, an MRI of the cervical spine revealed C2-C3 spondylotic changes with no significant sequela. (Px 9, p. 33). C3-C4 and C5-C6 bilateral spondylotic protrusions with broad disc protrusion were noted. *Id*. Moderate to severe right and moderate left neural foraminal narrowing are present with moderate central stenosis. Id. C6-C7 bilateral spondylotic protrusions with disc protrusion was noted. *Id*. Moderate to severe right and severe left sided neural foraminal narrowing are present with partial effacement of the anterior subarachnoid space. *Id*.

On July 5, 2016, Dr. Templin instructed Petitioner to continue physical therapy, and an epidural steroid injection was ordered. (Px 9, p. 37). Petitioner was authorized to return to work with restrictions of no driving a truck, and to sit, stand, and walk as comfort allowed. *Id.*

Petitioner underwent a right-sided cervical transforaminal epidural steroid injection on September 9, 2016. (Px 15, p. 24).

On January 30, 2017 an MRI of the lumbar spine revealed possible mild congenital spinal stenosis. (Px 9, p. 61). At L4-L5 in combination with listhesis, disc bulge and facet arthropathy was noted. *Id.* There was moderate

to severe stenosis of the central canal. *Id.* Low grade foraminal stenosis was found. *Id.* A L5-S1 small right paramedian disc herniation was noted. *Id.* Moderate right and moderate to severe left foraminal stenosis was found. *Id.*

Petitioner underwent an L4-L5 transforaminal epidural steroid injection on March 17, 2017. (Px 15, p. 53). Petitioner saw Dr. Templin on December 12, 2017 due to continued cervical and lumbar pain. (Px 9, p. 67). The cervical MRI reveals foraminal stenosis at C5-C6, and C6-C7 with no cord impingement. Dr. Templin opined that a L4-S1 fusion would likely be warranted in the future, but that the neck should be treated first.. (Px 9, p. 67). On February 27, 2018, Dr. Templin placed Petitioner off work starting March 5, 2018. (Px 9, p. 69).

Petitioner underwent a C5-6, C6-7 anterior cervical diskectomy and fusion on March 7, 2018. (Px 9, p. 71). Petitioner's post operative diagnosis was C5-6 and C6-7spondylosis and cervical radiculopathy. *Id.* On April 10, 2018, physical therapy was ordered and Petitioner was to remain off work. (Px 9, p. 74).

On May 29, 2018 Petitioner was authorized to return to work with restricted duty with ten-pounds weight restriction and occasional overhead lifting. (Px 9, p. 77).

On October 30, 2018 an x-ray of the cervical spine showed evidence of a solid fusion in cervical spine. *Id.* Petitioner was instructed to undergo physical therapy for his lumbar spine. (Px 9, p. 84).

Petitioner underwent physical therapy for his cervical and lumbar spine, and left shoulder from June 7, 2016 through June 2, 2017 (Px 14, p. 11). Petitioner also underwent physical therapy from February 5, 2018 through July 13, 2018 *Id.* Petitioner was discharged from physical therapy on July 13, 2018 due to ongoing left shoulder pain. *Id.*

Petitioner underwent an Independent Medical Examination for his cervical spine with Dr. Goldberg on April 15, 2019. (Rx 4). Dr. Goldberg diagnosed Petitioner with a well-healed fusion at C5-C6, C6-C7, that was necessary due to an aggravation of pre-existing asymptomatic cervical stenosis in C5-C6 and C6-C7 which was causally related to the work injury. *Id.* Petitioner was at maximum medical improvement ("MMI"). *Id.* No further testing was required nor was any further treatment necessary. *Id.* Petitioner was capable of returning to work full duty with no restrictions with regard to his cervical spine. *Id.*

On December 15, 2021, Petitioner had low back surgery by Dr. Templin, involving an L4-5 lateral interbody fusion with cage placement. (Px 11, pp 251-252). Six months later, May 10, 2022, Dr. Templin found that the surgery had restored and produced a significant reduction in lower back and radicular symptoms, and that he would be ready to perform a functional capacity evaluation with regards to the neck and back, noting that there is going to be some limitations due to his cognitive issues due to his ongoing vertigo, and otherwise.

On January 13, 2023, Petitioner underwent a injection for his left shoulder by Dr. Hurbanek for his continued complaints of aching, burning and numbness in that shoulder.

On August 13, 2024, Petitioner returned to Dr. Templin. (Px 11, p 446) with continued complaints of stiffness in the neck, with x-rays showing multi-level bridging osteophytes. He reported pain with extension of the neck, but no weakness or numbness. In regard to the low back, he is intermittently getting some pain extending into the left leg into what appears to be the L5 distribution. Dr. Templin noted that in regards to the neck they had found adjacent segment degeneration, but without significant radiculopathy or myelopathy.

Summary of Neurological Medical Treatment

On August 16, 2016, Petitioner saw Dr. Anjana Nair for a neurological consultation. (Px 16). Petitioner reported that he felt dizzy when getting out of bed quickly and had been losing his balance frequently but that it had subsided. *Id.* at 9. Petitioner reported that recently at work he did not hear police requesting that he open the bridge. *Id.* He is unsure as to whether he passed out or fell asleep. *Id.* Post-concussive syndrome was suspected. *Id.* An EEG was ordered, as well as physical therapy. *Id.*

Petitioner saw Dr. Pethkar on September 6, 2016 due to neck pain, dizziness, forgetfulness, confusion and headaches. (Px 3, p. 65). He was taken off work until released by a neurologist. *Id.*

Petitioner underwent the EEG at Presence St. Joseph Medical Center on November 9, 2016. (Px 2, p. 177). He had intermittent headaches, balance issues, memory issues, and intermittent dizziness. *Id.* The EEG revealed normal findings both when awake and asleep. *Id.*

Petitioner saw Dr. Nair November 21, 2016, and reported that physical therapy had improved his dizziness and vertigo. (Px 16, p. 14). The dizziness occurred a few times per week when he changed positions. *Id.* The EEG and 2d echocardiogram had not shown any significant abnormalities. *Id.* Petitioner was authorized to return to work with a ten pound lifting restriction. *Id.* Petitioner was instructed to return as needed. *Id.*

Petitioner saw Dr. Nair on March 14, 2017, reporting headaches post-physical therapy, memory issues, and ongoing dizziness. (Px 16, p. 16). He was referred to a neuropsychologist. *Id.*

On May 1, 2017, Petitioner underwent a neuropsychological examination at the University of Illinois with Dr. Pliskin. (Px 23, p. 25). Petitioner reported a high level of fatigue and limited mental stamina on a daily basis, as well as moderate symptoms of anxiety and posttraumatic stress disorder symptoms present since the accident. *Id.* Dr. Pliskin opined that Petitioner's emotional distress likely contributed to his disrupted sleep, which contributed to his fatigue and cognitive deficiency.

Dr. Pliskin opined that, while Petitioner sustained a concussive event and altered mental state as a consequence of the accident, his mild traumatic brain injury was uncomplicated, and these types of concussive injuries typically rapidly resolve and would not be expected to be producing symptoms of central nervous system dysfunction a year after the accident. *Id.* Dr. Pliskin further opined that Petitioner's generalized reduction in cognitive efficiency may be multifactorial, including a very high fatigue level, reduced mental stamina, chronic pain, impending surgeries and dizziness. *Id.* Dr. Pliskin recommended that Petitioner be referred to a psychologist and undergo a sleep study. *Id.* He noted that blacking out could have been due to him being somnolent (sleepy). *Id.*

Petitioner saw Dr. Pethkar on July 31, 2017, after physical therapy, and evaluations by a neurologist and neuropsychologist. (Px. 3, p. 125). Petitioner reported continued issues with memory that have worsened. *Id.* Petitioner reported daytime somnolence. *Id.* Petitioner asserted that he did not have these issues prior to the accident. *Id.* A sleep study was ordered. *Id.* Petitioner was instructed to avoid heights, and avoid driving if he was sleepy until the sleep study was completed. *Id.*

Petitioner saw Dr. Pethkar on June 11, 2019 with ongoing complaints of forgetfulness, and lapses in judgement. (Px 3, p. 181). Petitioner also complained of tremors, shakiness, and difficulty writing. *Id.* Dr. Pethkar referred him to a neurologist to rule out Parkinson's or vascular dementia. *Id.*

Two years later, on June 25, 2019, Petitioner saw Dr. Surendra Gulati for a neuropsychological consultation. (Px 16, p. 24). He reported dizziness, and memory issues as he was unable to recall what others have told him. *Id.* Dr. Gulati noted that at five minutes, Petitioner recalled two of three objects, that his speech was normal, and his language was fluent with no aphasia. *Id.* Petitioner was able to perform serial calculations. *Id.* Dr. Gulati noted that Petitioner's mental status seemed remarkable for having had a mild cognitive impairment, as he did quite well with testing, and his language function was normal. *Id.* Dr. Gulati noted that it was unclear which of Petitioner's issues were new as opposed to persistent since 2016. *Id.* He noted that Petitioner "dwells a great deal on complaints," however, Dr. Gulati acknowledged that the headaches and vertigo need to be addressed. *Id.*

An MRI of the brain on July 17, 2019 was unremarkable. (Px 16, p. 35).

Petitioner saw Dr. Surendra Gulati on August 1, 2019. (Px 16, p. 49). Dr. Gulati noted that a neurologic examination revealed no abnormalities, and the brain MRI was normal. *Id.* Petitioner previously underwent a sleep study, of which Petitioner was not satisfied. *Id.* He was referred to another sleep study doctor. *Id.* Petitioner saw Dr. Gulati on October 29, 2019. (Px 18, p. 25). Dr. Gulati reviewed the prior neuropsychological testing, and noted that Petitioner's physical neurological examination was normal. *Id.* Dr. Gulati stated that there appear to be a number of elements affecting Petitioner's cognitive function that included PTSD, anxiety, depressive feelings, a fixation on physical symptoms and memory disturbance and dementia. Dr. Gulati reviewed the brain MRI and noted that there was no foundation to support for a finding of vascular dementia. *Id.* Petitioner was noted to have a B12 deficiency, and he was instructed to have a repeat B12 level test as well as a repeat EEG, which had been normal two years prior. *Id.* The records reflect that no diagnosis is found. *Id.* Petitioner saw Dr. Alan Shepard for a neurology consultation on August 17, 2020. (Px 27). Dr. Shepard noted no abnormalities and referred Petitioner to neuropsychology for testing. *Id.*

On July 29, 2021, Petitioner underwent an Independent Medical Examination with Dr. Hartman. (Rx 5). Dr. Hartman diagnosed Petitioner with alcohol dependence with unspecified alcohol-induced disorder, chronic pain, and drug induced hyperalgesia. *Id.* He opined that there was no causal relationship between the work accident and the neuropsychological and psychological findings. *Id.* He noted that the current neuropsychological and psychological findings are most likely due to binge alcohol abuse and dependence. *Id.* Dr. Hartman stated that there appeared to have been inadequate consideration of chronic alcohol use's effect on the developing symptoms. *Id.* He opined that Petitioner use of multiple medications at the same time (Polypharmacy) for pain management, appeared to have caused hyperalgesia and medication overuse headache. *Id.* He noted that pain medication overuse is iatrogenic (caused by treatment) and was neither reasonable nor necessary. *Id.* He recommended tapering analgesics under a doctor's supervision, alcohol detoxification and follow-up treatment. *Id.* Dr. Hartman opined that Petitioner's prognosis was poor if the Petitioner continued drinking and that Petitioner's mental status will progress to alcohol associated dementia. *Id.* He found that Petitioner was at MMI regarding any neuropsychological and psychological effects of his May 2016 work injury. *Id.* He further found that Petitioner was disabled for all work capabilities as a result of a chronic alcohol use disorder. *Id.*

Petitioner underwent a Neuropsychological Assessment with Dr. Neli Cohen, PsyD on June 14, 2023. (Px 35, 39). Dr. Cohen noted that Petitioner presents with many cognitive and physical impairments which were residual effects of the accident that cause him significant daily functional and emotional limitations. *Id.* No drug or substance use was reported. *Id.* She noted that Petitioner reported occasional binge drinking in the past but that he discontinued such drinking around two years ago. *Id.* Dr. Cohen noted that, considering that Petitioner had no history of attention problems before the accident, it indicates a significant decline in his attention and response control, suggesting dysregulation of brain functioning. *Id.* She noted that QEEG showed significant variability and notable deficiencies in attention and response control, processing speed, verbal fluency, word-

finding difficulties, verbal, visual, and working memory, verbal inhibition, cognitive shifting and flexibility and sensorimotor integration. *Id.* Dr. Copen opined that the neuropsychological evaluation indicated a decline in Petitioner's functioning, attention, executive functions, emotional processing, and behavioral inhibition. *Id.* Dr. Cohen noted that, when considering these findings, along with the lack of history of attentional, learning problems and psychiatric disorders, the cause of the observed deficiencies in cognitive and emotional problems is the head trauma endured on May 12, 2016. *Id.* Dr. Cohen opined that, as a result Petitioner was permanently and totally disabled due to the emotional, cognitive, and adaptive deficits. *Id.* Dr. Cohen diagnosed Petitioner with a neurocognitive disorder due to a traumatic brain injury without behavioral disturbance. *Id.* She commented that Petitioner was not suffering from post-traumatic stress disorder. *Id.* She further opined that the disorder was not alcohol related because that would show up on an MRI/CT.

Petitioner treated with Dr. Miguel, a psychiatrist, between August 8, 2019 and December 30, 2022. (Px 26). He was diagnosed with major depressive disorder, cognitive deficits, and significant memory loss as a result of a history of traumatic brain injury. *Id.* at 52. On December 30, 2022, Dr. Miguel opined that Petitioner was unable to return to work. *Id.*

Summary of Current Condition

Petitioner testified that he experiences intermittent dizziness and headaches, around one to two times per month. He requires assistance in activities of daily living, as standing up too quickly will sometimes cause dizziness. He also complained of being unable to have intimate relations with his wife because of the pain in his back and shoulder. He testified that he has decreased strength with a maximum lift of 10 lbs.; cannot stand or sit for long periods of time; has regular pain in his shoulder and back at night; and frequent headaches.

Vocational Status

Petitioner was off work from May 13, 2016 through July 14, 2016, September 6, 2016 through December 4, 2016, March 5, 2018 through June 6, 2018, and July 24, 2018 through October 31, 2018. (Rx 7). During the periods in which he returned to work, he worked light duty as outlined in the restrictions by his treaters. Petitioner voluntarily retired from IDOT on June 30, 2023. *Id.* Petitioner testified that he did not do any job searches, nor did he seek vocational rehabilitation following his voluntary retirement.

CONCLUSIONS OF LAW

1. Regarding the issue of causation, the Arbitrator finds that the Petitioner has met his burden of proof. In support of that finding, the Arbitrator relies on the Petitioner's unrebutted testimony and the preponderance of medical evidence showing Petitioner sustained multiple injuries, including his right ankle, left shoulder, cervical and lumbar spine, and neuropsychological injuries. Although Respondent relies on their IME opinions that either place Petitioner at MMI or point to other factors such as alcohol use, the Arbitrator finds persuasive the opinions of Petitioner's various treating physicians on this issue. The Arbitrator notes that Petitioner had a subsequent alleged work accident on August 19, 2019 (see decision in companion case 21WC032964), but finds that this alleged incident did not rise to the level of an intervening event and did not break the causation chain between Petitioner's injuries from May 12, 2016 and his current condition of ill-being. Therefore, the Arbitrator concludes that Petitioner's current condition ill-being is causally related to his undisputed May 12, 2016 work accident.

2. Regarding the issue of medical expenses, the Arbitrator finds that the Petitioner's medical treatment related to the May 12, 2016 work accident has been reasonable and necessary in addressing his work-related conditions. This finding is based on the Petitioner's unrebutted testimony and the preponderance of the medical evidence. This finding excludes the August 18, 2019 ER treatment and ambulance bill relating to Petitioner's companion claim, and the June 2021 treatment for the infection near the cervical hardware found unrelated by Dr. Ghanayem. Accordingly, the Arbitrator hereby orders Respondent to pay any unpaid, related medical expenses as set forth in Petitioner's exhibits, subject to the Fee Schedule pursuant to Section 8(a) and 8.2 of the Act. Respondent shall receive a credit for any medical expenses it has already paid. Respondent shall also receive an 8(j) credit and hold Petitioner harmless for any charges paid by Petitioner's Teamster insurance or State health insurance for any treatment awarded herein.

3. Regarding the issue of TTD and consistent with the findings above, the Arbitrator further finds that Petitioner was temporarily totally disabled from May 13, 2016 through July 15, 2016; September 6, 2016 through December 4, 2016; and March 5, 2018 through October 31, 2018. This finding is supported by Petitioner's unrebutted testimony and the medical evidence that show Petitioner was taken off work during these time periods. During the periods in which he returned to work, he worked light duty as outlined in the restrictions by his treaters. Petitioner reached MMI for all causally related conditions on April 15, 2019 as outlined above. Petitioner was capable of returning to work for all work-related conditions on April 15, 2019, and the restrictions were accommodated by IDOT. Therefore, the Arbitrator awards Petitioner TTD benefits for these periods and Respondent shall be credited for any TTD it has paid.

4. Regarding the issue of the nature and extent of the Petitioner's injuries, the Arbitrator applies the factors set forth in Section 8.1b of the Act and notes the following: (i) no impairment rating was submitted into evidence and the Arbitrator gives no weight and relevance to this factor; (ii) Petitioner was a bridge tender who was able to return to similar type work with restrictions that were accommodated following his accident, before Petitioner's voluntary retirement - a factor to which the Arbitrator gives significant weight and relevance; (iii) Petitioner was 57 years old at the time of injury - a factor to which the Arbitrator gives some weight and relevance; (iv) there was no direct evidence of future earnings being impacted due to this injury since the Petitioner voluntarily retired from Respondent and the Arbitrator gives little weight and relevance to this factor; (v) there was evidence of disability which show that the Petitioner sustained multiple injuries to his right ankle, left shoulder, cervical and lumbar spine (both of which required surgical intervention), and neuropsychological injuries for which he underwent significant treatment, from which Petitioner still has continued complaints - the Arbitrator gives great weight and relevance to this factor. Based on the factors above, the Arbitrator concludes the injuries sustained by Petitioner caused a 60% loss of use of the person as a whole.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC020120
Case Name	Latrina Day-Bussie v. Chicago Transit Authority
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0230
Number of Pages of Decision	11
Decision Issued By	Raychel Wesley, Commissioner

Petitioner Attorney	Dana Kieras
Respondent Attorney	James Jackson

DATE FILED: 8/12/2026

/s/ Raychel Wesley, Commissioner

Signature

26IWCC0230

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

☒ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

LATRINA DAY-BUSSIE,

Petitioner,

vs. NO: 23 WC 20120

CHICAGO TRANSIT AUTHORITY,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b)/§8(a) having been filed by the Petitioner herein and notice given to all parties, the Commission, after considering the issues of accident, causal connection, medical expenses, prospective medical care, and temporary total disability, and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed October 24, 2025, is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Under §19(f)(2) of the Act, no "county, city, township, incorporated village, school district, body politic, or municipal corporation" shall be required to file a bond. As such, Respondent is exempt from the bonding requirement. Additionally, the bond requirement in §19(f)(2) of the Act is applicable only when the Commission has entered an award for the payment of money. Since no award of compensation was entered herein, no bond is required. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 12, 2026

/s/ *Raychel A. Wesley*

RAW/wde

O: 6/17/26

/s/ *Carolyn M. Doherty*

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/s/ *Frank J. Soto*

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC020120
Case Name	Latrina Day-Bussie v. Chicago Transit Authority
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	8
Decision Issued By	Elaine Llerena, Arbitrator

Petitioner Attorney	Dana Kieras
Respondent Attorney	James Jackson

DATE FILED: 10/24/2025

/s/Elaine Llerena, Arbitrator
Signature

INTEREST RATE WEEK OF OCTOBER 21 2025 3.66%

STATE OF ILLINOIS)
)SS.
COUNTY OF **COOK**)

- ☐ Injured Workers' Benefit Fund (§4(d))
- ☐ Rate Adjustment Fund (§8(g))
- ☐ Second Injury Fund (§8(e)18)
- ☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
19(b)/8(a)

Latrina Day-Bussie
Employee/Petitioner
v.
Chicago Transit Authority
Employer/Respondent

Case # **23** WC **020120**

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Elaine Llerena**, Arbitrator of the Commission, in the city of **Chicago**, on **July 31, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ Is Petitioner entitled to any prospective medical care?
L. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On the date of accident, **July 19, 2023**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did not*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

In the year preceding the injury, Petitioner earned $**66,685.32**; the average weekly wage was $**1,282.41**.

On the date of accident, Petitioner was **50** years of age, ***married*** with **0** dependent children.

Respondent shall be given a credit of $**28,213.02** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**28,213.02**.

Respondent is entitled to a credit of $**0** under Section 8(j) of the Act.

ORDER

Petitioner failed to prove that she sustained accidental injuries arising out of and in the course of her employment with Respondent on July 19, 2023.

All other issues are moot.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Signature of Arbitrator

OCTOBER 24 2025

FINDINGS OF FACT

This matter proceeded to hearing on July 31, 2025, in Chicago, Illinois before Arbitrator Elaine Llerena. The issues in dispute were accident, causal connection, medical expenses, temporary total disability benefits, prospective medical care and should the Arbitrator find so, permanency. Arbitrator's Exhibit 1 (AX1).

Testimony

Petitioner started working for Respondent in February 2000 as a bus operator. (T. 8-9) On July 19, 2023, Petitioner was driving her bus route when she arrived at the bus terminal and got off the bus for a break. (T. 10) As Petitioner got back on the bus, she heard and felt a loud explosion causing her to feel "weightless" like she had come off her feet and when she came down, she did so in a clenched and protected position. *Id.* When asked to elaborate on the weightless feeling on cross-examination, Petitioner testified that the bus came out from under her and nearly dropped from under her. (T. 30) She explained that she was off her feet for a couple of seconds. *Id.* After regaining her bearings, Petitioner looked around the bus and assessed the area. (T. 10) Petitioner was preparing to start her next route when the bus seesawed and dropped again. *Id.* When asked to display her physical clenched position, Petitioner indicated her knees were bent and that she came down in a protective state and was frozen for a couple of seconds. (T. 32) (Respondent's counsel noted for the record that Petitioner's hands were in an upward position and the Arbitrator added that Petitioner clenched her hands as she was coming down, which Petitioner confirmed. *Id.* Petitioner got off the bus and reported the issue to the supervisor at the terminal. (T. 10-11) The supervisor advised Petitioner to gather her things and took her to her relief point. (T. 11) At the relief point, Petitioner began to feel pain and discomfort and reported what had happened and how she was feeling to the manager on duty. *Id.* Petitioner filled out an incident report and the manager called 911. (T. 11-13) Petitioner was taken to Mount Sinai Hospital by ambulance. (T. 13)

Summary of Medical Records

Petitioner was treated at Mount Sinai Hospital on July 19, 2023. (PX3) Petitioner described the work incident, explaining that she heard a boom and the bus she was sitting in, restrained, did a big drop onto the ground. *Id.* at 17. Petitioner complained of low back pain since the incident. *Id.* X-rays of the lumbar spine revealed no acute findings. *Id.* at 18. Petitioner was diagnosed as having back pain and discharged with prescriptions for Extra-Strength Tylenol and Flexeril. *Id.*

On July 20, 2023, Petitioner followed up at Concentra. (PX5 at pgs. 35-50) Petitioner reported she was standing in a bus when a busted air suspension caused the bus to drop to the ground, causing a jolt to her body. *Id.* at 35. Dr. Lulu Husain diagnosed Petitioner as having a neck and lumbar strain. *Id.* at 41. Dr. Husain ordered physical therapy, prescribed medication and a comfort form back support, and restricted Petitioner to sitting 95% of the time and no driving the company vehicle. *Id.* at 41-42.

On July 24, 2023, Petitioner saw Dr. Chintan Sampat at Parkview Orthopaedic Group. (PX7 at pgs. 87-91) Petitioner reported that on July 19, 2023, she was at work and while standing in a bus the suspension dropped, and she was jarred up and down. *Id.* Petitioner complained of pain in her neck, mid back, and low back with pain and tingling in her lateral arms to the elbows and her buttocks and thighs down to her knees. Petitioner explained that aside from left-sided low back pain in February and March, for which she underwent physical therapy, she was asymptomatic prior to the July 19, 2023, incident. *Id.* Dr. Sampat diagnosed Petitioner as having strains of the cervical, thoracic and lumbar spines with low-grade radicular symptoms. *Id.* Dr. Sampat ordered physical therapy, prescribed medication, and took Petitioner off work. *Id.* Dr. Sampat opined that the mechanism of injury described by Petitioner was a competent mechanism of injury. *Id.* On August 21, 2023, Dr.

Sampat noted that Petitioner continued to complain of pain and reported that she had developed difficulty bending, lifting, and twisting. *Id.* at pgs. 83-85. Dr. Sampat ordered MRIs of the cervical and lumbar spines and kept Petitioner off work. *Id.*

Petitioner underwent the cervical MRI on September 11, 2023, the results of which revealed straightening of the normal cervical lordosis, suggestive of posttraumatic sprain/strain and/or disc injury; and multiple disc bulges and herniations throughout the cervical spine, most severe at the C3-C4 level where there is severe canal stenosis with associated indentation of the spinal cord and questionable subtle myelomalacia within the cord itself vs posttraumatic cord contusion. (PX9 at pgs. 260-261) The radiologist indicated that given the lack of endplate changes or osteophytes, many of the changes were highly suspicious for being nonchronic and posttraumatic in nature. *Id.* at 261. Petitioner underwent the lumbar MRI on September 12, 2023, the results of which revealed bilateral foraminal disc protrusion at L3-L4 with bilateral neural foramina minimally compromised and effaced ventral thecal sac; broad-based central disc protrusion at L4-L5 with bilateral neural foramina effaced and minimally compromised spinal canal; and broad-based central disc protrusion at L5-S1 with effaced ventral thecal sac, moderately compromised bilateral neural foramina and minimally compromised spinal canal. *Id.* at 262-263. The radiologist indicated that these were posttraumatic findings. *Id.* at 263.

On September 25, 2023, Dr. Sampat reviewed the MRIs, diagnosed Petitioner as having C3-C4 stenosis with myelopathy and myelomalacia, and recommended surgery for the neck and nonoperative treatment for the lumbar spine. (PX7 at pgs. 81-82) Dr. Sampat kept Petitioner off work, which he indicated was related to the work injury. *Id.* at 81. On October 2, 2023, Dr. Sampat again recommended surgery, explaining it would consist of a C3-C4 anterior cervical discectomy and fusion. *Id.* at 78-80. Dr. Sampat explained that Petitioner's need for the recommended treatment was related to the work injury. *Id.* at 78. Petitioner continued to follow up with Dr. Sampat. During her visits with Dr. Sampat, Petitioner continued to complain of ongoing neck and low back symptoms and Dr. Sampat continued to recommend surgery. *Id.* at 67-80.

On January 23, 2024, Petitioner underwent a Section 12 examination (IME) by Dr. Mark Levin from Barrington Orthopedic Specialists at Respondent's request. (RX3) Petitioner reported that on July 19, 2023, she was at work and while standing outside the operator's seat by the fare box on a bus, there was an explosion and the bus dropped a few inches, causing her to go airborne and landing on her feet in a squatted position. *Id.* Petitioner complained of intermittent daily neck pain which led to tingling in her hands and numbness in her thumbs and index and long fingers. *Id.* Petitioner also complained of low back pain that went down her low back and the center of her back, but explained that this pain did not occur daily. *Id.* Dr. Levin examined Petitioner and reviewed her medical records and diagnostic exams, as well as the video of the incident. *Id.* Dr. Levin diagnosed Petitioner as having cervical radiculopathy with spinal stenosis at C3-C4, but found that this diagnosis was not related to the July 19, 2023, incident. *Id.* Dr. Levin opined that Petitioner's description of the incident does not match the video of the incident and that there was no evidence of any traumatic episode to her cervical or lumbar spine on July 19, 2023. *Id.* Dr. Levin opined that the findings on the cervical MRI were not caused by the July 19, 2023, incident and, instead, were chronic findings. *Id.* Dr. Levin opined that Petitioner's cervical condition would have been present prior to the July 19, 2023, incident. *Id.* Dr. Levin determined that her treatment had been appropriate, and that the surgery recommended was appropriate, but not related to the July 19, 2023, incident. *Id.* Dr. Levin opined that Petitioner could not work full duty due to her cervical condition. *Id.*

On March 18, 2024, Dr. Sampat reviewed Dr. Levin's IME report. (PX7 at pgs. 64-66) Dr. Sampat disagreed with Dr. Levin's findings and opinions that Petitioner's cervical condition was not related to the July 19, 2023, incident and noted that Petitioner was not undergoing any treatment for her neck nor was she having any significant neck pain or upper extremity paresthesias prior to the incident at work, and that she was able to work prior to the work incident. *Id.* at 64. Dr. Sampat explained that the explosion in the bus and the sudden

back and forth motion that occurred to her neck as a result is a competent mechanism of injury resulting in Petitioner's current symptomatology. *Id.* Therefore, Dr. Sampat opined there was a causal relationship between the July 19, 2023, incident and Petitioner's need for treatment for her cervical stenosis which became symptomatic as a result of the work incident. *Id.* Dr. Sampat further opined that Petitioner suffered an aggravation of her preexisting condition due to the work injury. *Id.* Dr. Sampat again recommended surgical intervention and kept Petitioner off work. *Id.* Petitioner continued to follow up with Dr. Sampat at Parkview Orthopaedic Group and then at Illinois Bone and Joint Institute after Dr. Sampat moved practices. (PX7 at pgs. 55-63 and PX15) Petitioner reported continued cervical and lumbar spine pain and Dr. Sampat's recommendations remained the same. *Id.* Dr. Sampat diagnosed Petitioner as having lumbago, cervicalgia, spinal stenosis of the cervical region, cervical radiculopathy, spinal stenosis of the lumbar region with neurogenic claudication, and lumbar radiculopathy. (PX15 at pg. 915)

On March 3, 2025, Dr. Sampat's evidence deposition was taken. (PX17) Dr. Sampat's testimony was consistent with his findings and opinions in the medical records. Dr. Sampat could not recall if he had seen the video of the incident. *Id.* at 39. Dr. Sampat explained that the description provided by Dr. Levin in his IME report was consistent with the description provided by Petitioner. *Id.* at 40. Dr. Sampat testified that seeing the video for the first time or again would not materially change his opinion. *Id.* Dr. Levin's evidence deposition was taken on May 30, 2025. (RX2) Dr. Levin's testimony was consistent with his findings and opinions in the January 23, 2024, IME report.

Video

Respondent provided video footage of the July 19, 2023, incident. (RX1) The video starts with Petitioner driving the bus before parking the bus to go on break. At 07:08:00, Petitioner can be seen on Cameras 1 and 2 standing and reviewing papers when, at 07:08:13, the incident occurs causing Petitioner to look over her right shoulder in shock. Petitioner turns to her right, in an inquisitive manner, and looks around the bus. Petitioner puts the papers in her bag and overextends to look over her right shoulder before opening the bus door and exiting the bus to investigate, which is seen at 07:09:59. Camera 3 shows the incident and Petitioner's actions from the rear.

Petitioner's Current Condition

Petitioner continues to have discomfort and mobility issues in her neck and wants to undergo the recommended surgery to improve her current quality of life. (T. 24-25) Petitioner also wishes to undergo the recommended treatment for her lower back. (T. 27) Petitioner wants to get back to her life before the July 19, 2023, incident: enjoying her family, get back to work, relieve her financial hardship, bowling and do the things she loves to do. (T. 25) Petitioner explained that her legs buckle causing her to fall sometimes. (T. 26) She cannot open a jar of jelly sometimes and she wakes up in the middle of the night with pain going down her legs and shoulders. *Id.* Petitioner also complained that her fingers contract to where she has to keep them extended all day. *Id.* Petitioner has difficulty performing household chores, which have now been transferred to her husband and daughter. (T. 26-27)

CONCLUSIONS OF LAW

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law set forth below.

WITH RESPECT TO ISSUE (C), DID AN ACCIDENT OCCUR THAT AROSE OUT OF AND IN THE COURSE OF THE PETITIONER'S EMPLOYMENT BY THE RESPONDENT, THE ARBITRATOR FINDS AS FOLLOWS:

It is Petitioner's burden to prove by a preponderance of credible evidence all the elements of her claim, including the requirement that the injury complained of arose out of and in the course of her employment. *Martin v. Industrial Commission*, 91 Ill. 2d 288, 63 Ill. Dec. 1, 437 N.E. 2d 650 (1982). It is not enough that Petitioner is working when the alleged injury occurs. Petitioner must show that the injury was due to some cause connected with the employment. *Board of Trustees of the University of Illinois v. Industrial Commission*, 215 Ill. App. 3d 284, 574 N.E. 2d 1244 (1991). The Illinois Supreme Court has held that a claimant's testimony standing alone may be accepted for purposes of determining whether an accident occurred. However, the testimony must be proved credible. *Caterpillar Tractor v. Industrial Commission*, 83 III. 2d 213, 413 N.E. 2d 740(1980).

In the case at bar, Petitioner has consistently testified that the bus was jarred and went up and down, causing her injuries. However, the video of the incident does not show that is what occurred. The video of the incident shows Petitioner looking around after hearing the explosion, but there is no shaking, jarring or jolting of the bus or Petitioner. Further, the video does not show Petitioner landing in a clenched and protective position. The Arbitrator notes that the opinions of Dr. Sampat rely on the Petitioner's description of the incident and her reaction to the incident, and not on the viewing of the video of the incident. While Dr. Sampat testified that seeing the video would not materially change his opinions, the fact is that he is relying on a description of an event and Petitioner's reaction to the event that is not borne out in the video footage. As such, since the mechanism of injury that Dr. Sampat relied on to make his findings and opinions did not occur, Dr. Sampat's findings and opinions are not persuasive.

The Arbitrator notes that Dr. Levin examined Petitioner, reviewed her medical records and diagnostic exams, and saw the video footage of the incident. Dr. Levin noted that Petitioner's description of the incident did not match the video footage of the incident and that there was no evidence of any traumatic episode to her cervical or lumbar spine on July 19, 2023. Further, x-rays of the lumbar spine taken the date of the incident showed no acute findings. Based on the video footage and the medical records, the Arbitrator finds the findings and opinions of Dr. Levin more persuasive than those of Dr. Sampat.

Based on the above, the Arbitrator finds that Petitioner failed to prove that she sustained accidental injuries arising out of and in the course of her employment with Respondent on July 19, 2023.

WITH RESPECT TO ISSUE (F), IS THE PETITIONER'S PRESENT CONDITION OF ILL-BEING CAUSALLY RELATED TO THE INJURY, THE ARBITRATOR FINDS AS FOLLOWS:

Based on the Arbitrator's finding that Petitioner failed to prove that she sustained accidental injuries arising out of and in the course of her employment with Respondent on July 19, 2023, the issue of causation is moot.

WITH RESPECT TO ISSUE (J), WERE THE MEDICAL SERVICES THAT WERE PROVIDED TO PETITIONER REASONABLE AND NECESSARY AND HAS RESPONDENT PAID ALL APPROPRIATE CHARGES FOR ALL REASONABLE AND NECESSARY MEDICAL SERVICES, THE ARBITRATOR FINDS AS FOLLOWS:

Based on the Arbitrator's finding that Petitioner failed to prove that she sustained accidental injuries arising out of and in the course of her employment with Respondent on July 19, 2023, the issue of medical expenses is moot.

WITH RESPECT TO ISSUE (K), IS PETITIONER ENTITLED TO ANY PROSPECTIVE MEDICAL CARE, THE ARBITRATOR FINDS AS FOLLOWS:

Based on the Arbitrator's finding that Petitioner failed to prove that she sustained accidental injuries arising out of and in the course of her employment with Respondent on July 19, 2023, the issue of prospective medical care is moot.

WITH RESPECT TO ISSUE (L), WHAT AMOUNT OF COMPENSATION IS DUE FOR TEMPORARY TOTAL DISABILITY, TEMPORARY PARTIAL DISABILITY AND/OR MAINTENANCE, THE ARBITRATOR FINDS AS FOLLOWS:

Based on the Arbitrator's finding that Petitioner failed to prove that she sustained accidental injuries arising out of and in the course of her employment with Respondent on July 19, 2023, the issue of temporary total disability benefits is moot.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	21WC024832
Case Name	Maria Sanchez v. Christ Hospital
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0231
Number of Pages of Decision	12
Decision Issued By	Amylee Simonovich, Commissioner

Petitioner Attorney	Kenneth Lubinski
Respondent Attorney	Padraig McCoid

DATE FILED: 8/13/2026

/s/Amylee Simonovich, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

☒ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

MARIA SANCHEZ,
Petitioner,

vs. NO: 21 WC 24832

CHRIST HOSPITAL,
Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Petitioner herein and notice given to all parties, the Commission, after considering the issues of accident, notice, causal connection, medical expenses, temporary total disability, and permanent partial disability, and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed January 21, 2026 is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Based upon the denial of compensation herein, no bond is set by the Commission. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 13, 2026
O: 07/28/26
AHS/ma
051

/s/ *Amylee H. Simonovich*
Amylee H. Simonovich

/s/ *Stephen J. Mathis*
Stephen J. Mathis

/s/ *Christopher A. Harris*
Christopher A. Harris

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	21WC024832
Case Name	Maria Sanchez v. Christ Hospital
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	10
Decision Issued By	Elaine Llerena, Arbitrator

Petitioner Attorney	Kenneth Lubinski
Respondent Attorney	Padraig McCoid

DATE FILED: 1/21/2026

/s/Elaine Llerena, Arbitrator
Signature

INTEREST RATE WEEK OF JANUARY 21 2026 3.52%

STATE OF ILLINOIS)
)SS.
COUNTY OF **COOK**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

Maria Sanchez
Employee/Petitioner
v.
Christ Hospital
Employer/Respondent

Case # **21** WC **024832**

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Elaine Llerena**, Arbitrator of the Commission, in the city of **Chicago**, on **October 28, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☒ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **January 19, 2021**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did not*** sustain an accident that arose out of and in the course of employment.

In the year preceding the injury, Petitioner earned $**30,680.00**; the average weekly wage was $**590.00**.

On the date of accident, Petitioner was **54** years of age, ***married*** with **2** dependent children.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**14,724.00** for nonoccupational indemnity disability benefits, for a total credit of $**14,724.00**.

Respondent is entitled to a credit of $**0** under Section 8(j) of the Act.

ORDER

The Arbitrator finds that Petitioner failed to prove that she sustained an accident that arose out of and in the course of her employment with Respondent on January 19, 2021. Therefore, benefits are denied.

All other issues are moot.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Signature of Arbitrator

January 21 2026

FINDINGS OF FACT

This matter proceeded to hearing on October 28, 2025, in Chicago, Illinois before Arbitrator Elaine Llerena. The issues in dispute were accident, notice, causal connection, medical expenses, temporary total disability benefits, and permanency. Arbitrator's Exhibit 1 (AX1).

At trial, Petitioner made an oral motion to dismiss additional claims filed by Petitioner against Respondent (23WC009331and 23WC009631). (T. 4) The Arbitrator dismissed these two cases for want of prosecution. *Id.*

Testimony

Petitioner testified through the use of an interpreter. (T. 8) Petitioner works for Respondent as a housekeeper. (T. 9, 13)) Her duties include cleaning surgical rooms, handling carts with instruments, and lifting bags of soiled linens weighing up to 40 pounds. (T. 14-16) She mops, cleans bathrooms, and cleans areas where employees eat. (T. 16) Petitioner testified that the job involves standing for about seven hours a day with a 30-minute lunch and 15-minute break. (T. 17)

Petitioner testified that on January 19, 2021, she was cleaning a surgery room and when she lifted a heavy bag of dirty clothes onto a cart, she felt a pulling and popping sensation in her lower back. (T. 17-19) Petitioner estimated the bag weighed about 45 pounds. (T. 19) Petitioner testified that the pain she felt was a stabbing and burning type of pain. *Id.* Petitioner then went to the computer that is located in the employee lunchroom and filed a report of the accident. (T. 19, 23) After filing the report, Petitioner finished her shift. (T. 20) It was Petitioner's understanding that the procedure for reporting a work accident was to file a report on the computer and then wait for Employment Health to contact her. (T. 24) Petitioner testified that she was never contacted by Employment Health and was unable to get a copy of her report because the Employment Health Department disappeared. *Id.*

Petitioner continued to work following the injury, and testified that as time went on her pain became worse and she reached a point where she could not walk. (T. 20-21) Petitioner was taking Tylenol and started wearing a belt to minimize the pain. (T. 21-22) Petitioner explained that she did not seek medical attention immediately following the injury because she thought it was a simple pain that would go away, but it instead became worse. (T. 22)

Petitioner testified that she told her supervisor, Elena Sicairos, that she was injured the week of the injury and that she had filed a report. (T. 41) She testified that she told Ms. Sicairos that she was hospitalized due to the accident and worsening, numbing pain. (T. 42)

Petitioner acknowledged that she is able to read English. (T. 43) Petitioner is Spanish-speaking, but she confirmed the emergency rooms had interpreters and that she spoke in Spanish while undergoing treatment at Christ and Loyola hospitals. (T. 48-49) Petitioner testified that she told Dr. Espinosa that she was injured at work. (T. 47-48)

Elena Sicairos, environmental surgical services supervisor and Petitioner's supervisor, testified that Respondent's procedure following a work accident is to provide first aid and then send the injured worker to Employee Health. (T. 72) Failure to report a work accident would lead to disciplinary action against her. *Id.* Ms. Sicairos did not recall Petitioner reporting a work accident that occurred on January 19, 2021, to her. *Id.* Ms. Sicairos explained that Petitioner reported that she was having back surgery, but she did not state it was due to a work accident. (T. 72-73) If Petitioner had told her that her back problem had something to do with work, she

would have referred Petitioner to Employee Health to file an injury report right away. (T. 73) Ms. Sicairos reviewed Respondent's Exhibit 5, a print-out of Petitioner's timecard, and explained that she approved Petitioner's timecard on February 1, 2021. (T. 73-75) Ms. Sicairos explained that when she approves a timecard, she validates the time worked and the coding of the timecard. (T. 75) Worker's clock in and out of work via computer. (T. 79)

Ms. Sicairos testified that according to the coding on Petitioner's timecard, Petitioner was not working on January 18, 2021, and January 19, 2021. (T. 76) Per the coding used, Petitioner did not have any PTO in the bank on January 19, 2021, so she was not paid for that day. *Id.* Ms. Sicairos testified that she does not enter the coding in the timecards and that it is mostly done by lead management. (T. 78-80) The coded entries on Petitioner's timecard were done by Vince Dinuzzo. (T. 81) Ms. Sicairos did not create Petitioner's timecard marked as Respondent's Exhibit 5. (T. 80) Ms. Sicairos also did not know why the timecard indicated that Petitioner had worked under the dates of January 18, 2021, and January 19, 2021. (T. 83) She explained that lead management or the payroll department would be able to explain why something was coded the way it was coded. (T. 85)

Ms. Sicairos speaks Spanish and never had any issues communicating with Petitioner. (T. 77) According to Ms. Sicairos, Petitioner continues to work for Respondent as a housekeeper. *Id.*

Summary of Medical Records

Petitioner saw Dr. Rashid Abu-Shanab, DC, at Bridgeview Chiropractic Center on February 5, 2021. (PX2) Dr. Abu-Shanab noted that Petitioner had acute lumbar, left sacroiliac, right sacroiliac and sacral complaints due to an accident on February 1, 2021. *Id.* On the history form, the mechanism of injury is described as lifting a heavy bag and felt something pop and that the onset of symptoms began on Monday, February 1, 2021. *Id.* Petitioner underwent x-rays of the lumbar spine which showed postural alteration and mild multilevel degenerative disc disease and spondylosis. *Id.* Dr. Abu-Shanab diagnosed Petitioner as having lumbar spine disc herniated nucleus pulposus and spondylosthesis, and associated muscle spasm and began chiropractic treatment. *Id.* Petitioner underwent chiropractic treatment through February 19, 2021, when Dr. Abu-Shanab noted that while Petitioner reported that her complaints had improved, she still complained of lumbar, lower thoracic and sacral dull and aching discomfort. *Id.*

On February 18, 2021, Petitioner went to the emergency department at Advocate Christ Medical Center. (PX4) Petitioner complained of bilateral leg numbness that started the day before and chest pain and nausea that started that day. (PX4, pg. 24) Petitioner indicated that she had a gradual onset of bilateral lower extremity tingling, paresthesia, and discomfort. (PX4, pg. 25) Petitioner further indicated that she had no back pain and that her pain radiated from her feet up to her knees. *Id.* Petitioner had no radicular symptoms from the lower back or upper leg. *Id.* Petitioner also reported that she started having chest tightness after her leg symptoms began. *Id.* Petitioner underwent a chest x-ray and EKG, the results of which were normal. (PX4, pgs. 31-32, 38) Dr. Kyle Leonard noted Petitioner's history of diabetes and diagnosed Petitioner as having neuropathic pain. *Id.* Petitioner was given pain medication and discharged from care. *Id.*

On February 19, 2021, Petitioner again went to the emergency department, this time at Loyola Medicine, complaining of worsening bilateral lower extremity paresthesias and weakness. (PX3) Petitioner reported that she started noticing her left leg feeling stiff with numbness and tingling on February 15, 2021, and the next day the symptoms began in her right leg. (PX3, pg. 4) Petitioner felt weakness in her legs and difficulty walking. *Id.* The history taken from Viviana Rice, RN, was that Petitioner complained of numbness and tingling in her legs and feet since Monday, and that the symptoms had spread to her groin, coccyx and back. (PX3, pg. 3) Petitioner reported what occurred at another emergency room earlier and complained of worsening severity

of symptoms. (PX3, pg. 4) Petitioner also reported being prescribed gabapentin about 6 months before for some leg pain, but that it did not really help much so she had not taken it in months. (PX3, pgs. 4-5) Petitioner was evaluated by neurology who, due to concerns of a spinal cord lesion, recommended Petitioner be admitted and that she undergo an MRI of the cervical spine. (PX3, pg. 6) During the neurology consult with Dr. Jasmine Singh, Petitioner also indicated that she sometimes feels a prickle in her heart, which also started on Monday. (PX3, pg. 11) Petitioner underwent a CT angiogram of the chest, abdomen, and pelvis on February 20, 2021, the results of which were normal. (PX3, pg. 74) Petitioner also underwent an MRI of the complete spine on February 20, 2021, the results of which revealed severe spinal canal narrowing at C5-6 with anterior and posterior effacement and moderate to severe left neural foraminal narrowing; disc bugle with mild anterior effacement at T4-5; and milder degenerative changes. (PX3, pgs. 77-79) On February 21, 2021, Petitioner underwent an MRI of the head, the results of which revealed mild T2/FLAIR hyperintense lesions in white matter, nonspecific but differential included small vessel ischemia and demyelination. (PX3, pg. 84) Petitioner also underwent an MRI of the cervical spine, which showed cervical spondylosis, greatest at C5-C6, and no abnormal cord signal or enhancement within the cervical spine. (PX3, pgs. 85-86) On February 23, 2021, Dr. Michael Schneck performed a lumbar puncture at L3-4. (PX3, pg. 96) Petitioner also underwent an EMG study, the results of which revealed evidence of bilateral sensorimotor median neuropathies at the wrist, i.e. moderate carpal tunnel syndrome, and no evidence of peripheral polyneuropathy, myopathy, or right lumbar radiculopathy. (PX3, pg. 57) On February 24, 2021, Petitioner underwent an MRI of the thoracic spine which showed nonenhancing, nonspecific T2 hyperintense signal at T3-4 in the dorsal columns extending to the central canal. (PX3, pg. 110) On February 25, 2021, Petitioner again underwent an MRI of the complete spine, the results of which showed nonenhancing, nonspecific T2 hyperintense signal at T3-4 in the dorsal columns extending to the central canal, a distal cord within normal limits, and no definite vascular abnormality of diffusion signal abnormality. (PX3, pg. 111) X-rays of the abdomen were normal. (PX3, pg. 112) Dr. Atul Mallik performed a second lumbar puncture at the L3-4 level on February 26, 2021. (PX3, pg. 124) The results of the lumbar punctures were negative for malignancy. (PX3, pg. 131) On February 27, 2021, Petitioner was discharged with a diagnosis of thoracic spine myelopathy of unclear etiology. (PX3, pg. 64) Petitioner was to do home physical therapy and follow up with neurology. *Id.*

Petitioner followed up with Dr. Christina Arellano on March 4, 2021. (PX3, pgs. 144-150) Dr. Arellano noted that Petitioner still had some neuropathy, but that her symptoms had slightly improved. *Id.* Petitioner was to follow up with neurology. *Id.* Petitioner returned to Dr. Arellano on March 30, 2021, complaining of continued right lower extremity weakness and occasional paresthesias. (PX3, pgs. 153-159) Petitioner had a scheduled appointment to see neurology in a month. *Id.*

On April 15, 2021, Petitioner saw Dr. Fady Mousa-Ibrahim in neurology, complaining of ongoing numbness and weakness that had progressed from her feet to her chest and had advanced up the right side of her torso and breast line. (PX3, pgs. 162-172) Dr. Mousa-Ibrahim ordered an SSEP test and repeat EMG study and CT scan of the chest, abdomen and pelvis. *Id.*

Petitioner was taken by ambulance to the emergency department at Loyola Medicine on April 22, 2021, complaining of worsening numbness, pain and heaviness in her legs that had become more severe that morning. (PX3, pg. 175) CT of the chest, abdomen and pelvis showed minimal degenerative changes of the midthoracic and lower lumbar spine, including grade 1 anterolisthesis of L4 on L5. (PX3, pgs. 260-262) MRIs of the thoracic and cervical spines showed nonspecific, nonenhancing T2 hyperintensity at T3-4 that was stable from the prior MRI, with no abnormal enhancements, and evidence for high-grade cervical neuroforaminal stenosis at C5-C6 and C6-C7, and no other changes from prior MRIs. (PX3, pgs. 270-273) Dr. Laurent Loganathan performed a lumbar puncture at L3-4 on April 23, 2021. (PX3, pgs. 233-234) Petitioner was then discharged and advised to follow up with neurology. (PX3, pgs. 234-249)

On April 29, 2021, Petitioner followed up with Dr. Arellano and reported continued numbness of the lower extremities. (PX3, pgs.297-305) Dr. Arellanos diagnosed Petitioner as having myelopathy, bilateral leg weakness and numbness, Type 2 diabetes mellitus without complication or long-term current use of insulin, hypomagnesemia, and vitamin D deficiency. *Id.* Petitioner was to follow up with her primary care physician. *Id.* Dr. Arellanos also referred Petitioner to endocrinology. *Id.* On May 25, 2021, Petitioner reported that she had consulted with neurosurgery and was to undergo surgery to treat her herniated discs. (PX3, pg. 324)

On May 21, 2021, Petitioner saw Dr. Francisco Espinosa at Neurological Surgery & Spine Surgery. (PX5) Dr. Espinosa noted that he spoke in Spanish with Petitioner and no interpreter was needed. *Id.* Petitioner complained of numbness in her legs, from her knees to her feet, right sided flank, low back and neck pain. *Id.* Petitioner indicated that her symptoms began in February with no inciting incident. *Id.* Dr. Espinosa reviewed Petitioner's MRIs and indicated that Petitioner had neurogenic claudication due to spinal stenosis with severe lateral recess stenosis due to grade 1 L4-5 spondylosthesis and neck pain due to degenerative disc disease at C5-6 with mild to moderate spinal stenosis. *Id.* Dr. Espinosa opined that the only definitive treatment was an L4-5 laminectomy and transforaminal interbody fusion with interbody cage. *Id.* He ordered a DEXA to make sure Petitioner had normal bone density in order to proceed with surgery. *Id.* On May 26, 2021, Dr. Espinosa reviewed the DEXA scan, which Petitioner underwent on May 24, 2021, which showed normal bone density of the lumbar spine and scheduled Petitioner for surgery. *Id.*

On July 8, 2021, Dr. Espinosa performed an L4-L5 bilateral laminectomy and decompression of the lateral recess and left transforaminal interbody fusion with cage. *Id.* Petitioner followed up with Dr. Espinosa post-operatively on July 27, 2021. *Id.* Petitioner complained of mild intermittent low back pain, but reported significant improvement compared to her condition prior to surgery. *Id.* Petitioner followed up with Dr. Arellanos on July 29, 2021, and reported she was recovering well from surgery. (PX3, pgs. 358-363) Petitioner indicated that she had improved sensation in the left lower extremity. *Id.* X-rays taken of the lumbar spine on August 12, 2021, showed a posterior interbody fusion at L5-S1without hardware complication. (PX5) On September 21, 2021, Dr. Espinosa noted that Petitioner had minimal low back discomfort and no leg symptoms. *Id.* Petitioner indicated that she wanted to return to work on October 12, 2021, and Dr. Espinosa released Petitioner to do so with light duty restrictions of no lifting more than 15 pounds and to avoid bending, twisting and lifting with her lower back. *Id.* On November 2, 2021, Petitioner reported that she was working light duty and doing well, but complained of bilateral knee pain when standing and walking. *Id.* Dr. Espinosa gave Petitioner some exercises to do at home. *Id.* On December 7, 2021, Petitioner requested that she be released to return to work without restrictions. *Id.* Dr. Espinosa noted Petitioner was asymptomatic. *Id.* Dr. Espinosa ordered a CT of the lumbar spine and released Petitioner to return to work without restrictions starting December 8, 2021. *Id.*

Petitioner underwent the CT scan of the lumbar spine on January 27, 2022, the results of which showed Petitioner was status post posterior fusion decompression at L4-L5 with trace grade 1 anterolisthesis of L4 on L5. (PX3, pg. 388) On February 8, 2022, Dr. Espinosa reviewed the CT scan and noted that it showed a solid arthrodesis at L4-5 without any sign of complication. *Id.* Petitioner complained of left leg discomfort at night, for which Dr. Espinosa prescribed gabapentin. *Id.* Dr. Espinosa indicated that Petitioner could continue working without restrictions and that there was no need for restrictions, noting that Petitioner reported that her employer hired workers to do the heavy lifting in the area where she works. *Id.* Dr. Espinosa declared that Petitioner had reached maximum medical improvement (MMI). *Id.*

On September 20, 2022, Dr. Espinosa's evidence deposition was taken. (PX6) Dr. Espinosa's testimony was consistent with the findings and opinions in his records. Dr. Espinosa testified there was no report of an incident in his records. (PX6, pgs. 4-5) Dr. Espinosa testified he had a form that Petitioner filled out indicating that her symptoms started in February without any mention of an accident. (PX6, pg. 10) He opined all

treatment was needed to deal with Petitioner's symptoms, but he did not have the actual event that precipitated the onset of her symptoms. (PX6, pgs. 10-11) Dr. Espinosa explained that if Petitioner had told him about an accident and that her symptoms began while performing work activities, he would have documented it in his notes. (PX6, pg. 12)

On October 19, 2022, Petitioner saw Laura Connolly, PA-C. *Id.* Petitioner complained of continued low back and left leg pain following her fusion in July 2021. *Id.* Connolly noted that Petitioner had undergone an MRI of the lumbar spine on October 13, 2022, which showed the fusion surgery at L4-5 and degenerative disc disease throughout with loss of disc space and height at all levels. *Id.* Connolly reviewed the MRI with Dr. Espinosa and found there was no overt neural impingement. *Id.* Petitioner reported that she was scheduled for an EMG on November 9, 2022. *Id.* Connolly ordered physical therapy concentrating on strengthening, stabilization and home exercises. *Id.*

On December 7, 2022, Petitioner underwent a Section 12 examination (IME) by Dr. Jerry Bauer at Respondent's request. (RX2) A Spanish speaking interpreter was used during the evaluation. *Id.* Petitioner reported that on January 19, 2021, she was cleaning an operating room and when she lifted a heavy linen bag, she heard a noise in her back and felt numbness in both her legs. (RX2, pg. 1) Petitioner reported that she went to the emergency room on January 20, 2021, but upon further questioning, she agreed that she went to the hospital on February 18, 2021, and February 19, 2021. (RX2, pg. 2) Petitioner also reported that she returned to work following the July 2021 surgery but that her restrictions were not honored. *Id.* Dr. Bauer examined Petitioner and reviewed her medical records and diagnostic exams. (RX2, pgs. 6-18) Dr. Bauer opined that Petitioner's current conditions of ill-being were not causally related to a work accident on January 19, 2021. (RX2, pgs. 19-20) Dr. Bauer noted Petitioner's original condition was thoracic myelopathy with T3-4 signal changes and lumbar degenerative disease. *Id.* He emphasized that her symptoms began in February, she continued to work full duty for weeks after the alleged injury, and the initial emergency room records documented no back pain or trauma. *Id.* Dr. Bauer concluded that neither Petitioner's thoracic or lumbar conditions were caused, aggravated, or accelerated by the alleged work event and that lumbar surgery was not medically necessary for a work-related condition. *Id.* Dr. Bauer opined that Petitioner required no further treatment, and she could work without restrictions. (RX2, pg. 20) Dr. Bauer further opined that whether Petitioner was at MMI or not was not relevant, as Petitioner did not have a work-related condition. *Id.*

On February 17, 2023, Dr. Bauer issued an addendum report after reviewing the records from Dr. Abu Shanab. (RX3, pgs. 1-2) Dr. Bauer explained that the additional records did not change his findings and opinions. *Id.* Dr. Bauer found that Dr. Abu-Shanab's records were not consistent with an alleged injury occurring at work on January 19, 2021, and did not reflect the complaint of numbness and weakness in the lower extremities that Petitioner went to the emergency room for on February 18, 2021, and February 19, 2021. *Id.*

The evidence deposition of Dr. Bauer was taken on March 1, 2023. (RX4) Dr. Bauer's testimony was consistent with his findings and opinions in his IME report and addendum report. Dr. Bauer acknowledged that lumbar stenosis could become symptomatic after trauma, but reiterated that the imaging and clinical findings in Petitioner's medical records did not support a traumatic cause in this case. (RX2, pgs. 32, 39) Dr. Bauer also stated that inconsistencies in Petitioner's histories provided to different medical providers made it impossible to confirm a work-related injury. (RX2, pgs. 42-43)

Petitioner's Current Condition

Petitioner testified that she remained off work until December 8, 2021, then returned to full duty work without modifications. (T. 30-32) She testified she does not need to modify any of her job duties. (T. 32-33) She

was doing the same position, the same activity, same work upon her return to work. (T. 40) Petitioner testified that the surgery did not help much. (T. 33) Petitioner takes pain medication daily. (T. 33) Petitioner testified that she continues to experience severe back pain, numbness in her legs, and difficulty performing household tasks and daily activities (T. 33-37) She testified she is unable to sweep, mop, walk much distance, or stand for too long. (T. 35) She denied any prior back injuries or missed work for back problems before January 2021. (T. 39-40) Petitioner testified that she continues to see her primary care physician, Dr. Arellano, for her back, but she did not have any records showing current treatment. (T. 33, 66)

CONCLUSIONS OF LAW

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law set forth below.

WITH RESPECT TO ISSUE (C), DID AN ACCIDENT OCCUR THAT AROSE OUT OF AND IN THE COURSE OF THE PETITIONER'S EMPLOYMENT BY THE RESPONDENT, THE ARBITRATOR FINDS AS FOLLOWS:

Claimant bears the burden of proving an accidental injury arose out of and in the course of claimant's employment. *820 ILCS 305/2* (2025). It is the function of the Commission to judge the credibility of the witnesses and to resolve conflicts in the medical evidence and assign weight to witness testimony. *O'Dette v. Industrial Commission*, 79 Ill.2d 249, 253, 403 N.E.2d 221, 223 (1980); *Hosteny v. Workers' Compensation Commission*, 397 Ill. App. 3d 665, 674 (2009). Internal inconsistencies in a claimant's testimony, as well as conflicts between the claimant's testimony and medical records, may be taken to indicate unreliability. *Gilbert v. Martin & Bayley/Hucks,* 08 ILWC 004187 (2010).

In the case at bar, the Arbitrator notes that Petitioner and the medical records contain multiple differing dates of onset of symptoms. At trial, Petitioner testified that she sustained an accident at work on January 19, 2021. When Petitioner saw Dr. Abu-Shanab on February 5, 2021, she reported an accident date of February 1, 2021. On February 18, 2021, Petitioner complained of an onset of symptoms that began the day before. On February 19, 2021, Petitioner reported that her symptoms began on February 15, 2021. On May 21, 2021, Petitioner told Dr. Espinosa that her symptoms began in February. At the IME with Dr. Bauer, Petitioner reported that her symptoms began on January 19, 2021. The only time Petitioner indicated that anything happened on January 19, 2021, is during the IME. Also, at the IME, Petitioner reported that she went to the emergency room on January 20, 2021, which is not supported by the medical records, but upon further questioning, she agreed that she went to the hospital on February 18, 2021, and February 19, 2021. The Arbitrator also notes that when she reported her symptoms at the hospital, to Dr. Abu-Shanab, and Dr. Espinosa, she made no mention of her symptoms being a result of an accident at work. In fact, Dr. Espinosa testified that he had a form that Petitioner filled out indicating that her symptoms started in February without any mention of an accident, that he did not know the actual event that precipitated the onset of her symptoms, and that if Petitioner had told him about an accident and that her symptoms began while performing work activities, he would have documented it in his notes. The Arbitrator further notes that Dr. Espinosa speaks Spanish and spoke to Petitioner in Spanish, her native language, and that she used Spanish speaking interpreters at the hospital and during the IME. Also, when Petitioner reported to her supervisor, Ms. Sicairos, that she was undergoing back surgery, she did not mention it was due to a work accident and that she did not tell her of any work accident occurring on January 19, 2021. This testimony also contradicts Petitioner's claims that she notified Ms. Sicairos of the alleged work accident.

Respondent provided as evidence a print-out of Petitioner's timecard, alleging Petitioner did not work on January 19, 2021. Whether that is the case or not is unclear as the person who coded whether Petitioner worked on January 19, 2021, did not testify. Further, Ms. Sicairos could not explain the inconsistencies in the

timecard printout that Petitioner had taken time off, but had also worked on January 19, 2021. The Arbitrator, instead, focuses on Petitioner's own reporting throughout her treatment of when the alleged accident occurred and where. At trial she testified that she injured her back while working for Respondent on January 19, 2021, however, the medical records fail to support this testimony. The medical records make no mention of an accident on January 19, 2021, nor do they mention a work accident. Therefore, the Arbitrator finds that Petitioner failed to meet her burden in proving that an accident arose out of and in the course of her employment with Respondent.

Based on the above, the Arbitrator finds that Petitioner did not sustain an accident that arose out of and in the course of her employment with Respondent on January 19, 2021.

WITH RESPECT TO ISSUE (E), WAS TIMELY NOTICE OF THE ACCIDENT GIVEN TO THE RESPONDENT, THE ARBITRATOR FINDS AS FOLLOWS:

Based on the above finding by the Arbitrator that Petitioner did not sustain an accident that arose out of and in the course of her employment with Respondent on January 19, 2021, the issue of notice is moot.

WITH RESPECT TO ISSUE (F), IS THE PETITIONER'S PRESENT CONDITION OF ILL-BEING CAUSALLY RELATED TO THE INJURY, THE ARBITRATOR FINDS AS FOLLOWS:

Based on the above finding by the Arbitrator that Petitioner did not sustain an accident that arose out of and in the course of her employment with Respondent on January 19, 2021, the issue of causal connection is moot.

WITH RESPECT TO ISSUE (J), WERE THE MEDICAL SERVICES THAT WERE PROVIDED TO PETITIONER REASONABLE AND NECESSARY AND HAS RESPONDENT PAID ALL APPROPRIATE CHARGES FOR ALL REASONABLE AND NECESSARY MEDICAL SERVICES, THE ARBITRATOR FINDS AS FOLLOWS:

Based on the above finding by the Arbitrator that Petitioner did not sustain an accident that arose out of and in the course of her employment with Respondent on January 19, 2021, the issue of medical expenses is moot.

WITH RESPECT TO ISSUE (K), WHAT AMOUNT OF COMPENSATION IS DUE FOR TEMPORARY TOTAL DISABILITY, TEMPORARY PARTIAL DISABILITY AND/OR MAINTENANCE, THE ARBITRATOR FINDS AS FOLLOWS:

Based on the above finding by the Arbitrator that Petitioner did not sustain an accident that arose out of and in the course of her employment with Respondent on January 19, 2021, the issue of temporary total disability benefits is moot.

WITH RESPECT TO ISSUE (L), WHAT IS THE NATURE AND EXTENT OF THE INJURY, THE ARBITRATOR FINDS AS FOLLOWS:

Based on the above finding by the Arbitrator that Petitioner did not sustain an accident that arose out of and in the course of her employment with Respondent on January 19, 2021, the issue of permanency is moot.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC032236
Case Name	John Peterson v. State of Illinois - Centralia Correctional Center
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0232
Number of Pages of Decision	13
Decision Issued By	Amylee Simonovich, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Shannon Rieckenberg

DATE FILED: 8/14/2026

/s/Amylee Simonovich, Commissioner

Signature

26IWCC0232

STATE OF ILLINOIS)	☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
) SS.	☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
COUNTY OF)	☐ Reverse	☐ Second Injury Fund (§8(e)18)
JEFFERSON		☐ PTD/Fatal denied
	☒ Modify	☐ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

John Peterson,

Petitioner,

vs. NO: 24 WC 032236

State of Illinois-Centralia Correctional Center,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petitions for Review having been filed by Petitioner and Respondent herein and notice given to all parties, the Commission, after considering the issues of causation, medical expenses, temporary total disability, and permanent partial disability, and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below, and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

In the interest of efficiency, the Commission primarily relies on the detailed recitation of facts provided in the Decision of the Arbitrator, except as stated below. The Commission agrees with the Arbitrator's finding that as a result of the November 12, 2024 accident involving exposure to an unknown airborne substance at work, Petitioner's initial complaints of shortness of breath and chest tightness/pain were causally related to said exposure. However, the Commission does not agree with the Arbitrator's finding that Petitioner's current cardiac condition of ill-being was causally related to the work accident on November 12, 2024, and reverses the same. The Commission also modifies the award of medical expenses to limit the award to the medical treatment rendered by SSM St. Mary's Hospital in Centralia on November 12, 2024 and November 13, 2024. The Commission further reverses the Arbitrator's award of permanency as Petitioner failed to prove any permanent disability as a result of the accidental exposure.

Causal Connection to Current Condition of Ill-being

Petitioner bears the burden of proving each and every element of his case in order to recover under the Illinois Workers' Compensation Act. *Shelton v. Indus. Comm'n*, 267 Ill. App. 3d 211, 221 (5th Dist. 1994). It has long been recognized that, in preexisting condition cases, recovery will depend on the employee's ability to show that a work-related accidental injury aggravated or accelerated the preexisting disease such that the employee's current condition of ill-being can be

said to have been causally-connected to the work-related injury and not simply the result of a normal degenerative process of the preexisting condition. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193 (2003).

It is undisputed that while at work on November 12, 2024, Petitioner walked into a smoke-filled room that caused him to develop immediate dizziness, shortness of breath, and chest tightness. This was documented in the initial emergency room records from SSM St. Mary's Hospital in Centralia (hereinafter referred to as "St. Mary's"), as well as in the accident report. PX3; RX1. This was also supported by the Respondent's stipulation to accident. AX1.

The smoke-filled room contained several inmates who appeared to be unconscious and under the influence of an unknown substance. Given those circumstances and the Petitioner's immediate onset of symptoms, it is entirely reasonable for Petitioner to have sought emergency medical treatment. In addition, based upon Petitioner's pre-existing coronary artery disease, it is understandable that he be kept overnight for observation. While at St. Mary's, Petitioner underwent a full diagnostic work up, including laboratory testing, an EKG, and a chest x-ray. PX3. Petitioner's EKG showed a left bundle branch block, which had not previously been diagnosed. However, no statement as to the relation of this heart condition to the inhalation of a substance was given. At the time of his release from St. Mary's, Petitioner was noted to have had much improvement to his chest tightness and no other symptoms were noted. He specifically was noted to be able to walk the halls of the hospital without any chest pain or shortness of breath. He was given no restrictions and the only medications he was released with were potassium pills. The potassium pills were prescribed to counteract the IV flush they had performed in the emergency room for his elevated CK labs, which were specifically noted to be related to his excessive working out. Petitioner was advised to follow up with his primary care physician and cardiologist in the next week.

However, the medical records show Petitioner waited several months prior to seeking any additional medical treatment. The next medical visit was over two months later with Ashley Hofer, APRN-CNP at Petitioner's cardiologist's office on January 16, 2025. The medical records show Petitioner had been seeing his cardiologist since at least 2020. He testified that he had routine maintenance visits with his cardiologist every six months. The record of Petitioner's cardiology appointment on January 16, 2025 makes no indication the visit was a follow up to the November 12, 2024 work accident. As the medical records demonstrate he had his last echocardiogram in June of 2024, the January visit was likely his normal cardiology maintenance follow up visit, rather than a follow up for his exposure. This is particularly likely as Petitioner had no reported complaints of dizziness, pain, or chest tightness at the time of the January 16, 2025 cardiology appointment. In fact, all findings from the visit appeared to be routine in nature. While the record noted Petitioner had been seen at the hospital in November following a work exposure, there was no explicit relation of Petitioner's appearance on January 16, 2025 to his exposure at work two months prior. The "new" diagnosis of left bundle branch block was noted to have no anginal symptoms and no symptoms of conductive disease. No changes were made to Petitioner's prescriptions that were attributed to his new diagnosis of left bundle branch block. No restrictions were provided to prevent further exposure.

In his testimony, Petitioner complained of continued shortness of breath, chest tightness, random fluttering, and a decrease in endurance since his exposure on November 12, 2024. However, we do not find Petitioner's testimony regarding ongoing symptoms to be credible. The medical records show the chest tightness and shortness of breath were resolved at the time of his release from St. Mary's on November 13, 2024. In the cardiology visits of January 16, 2025 and February 20, 2025, there is no reference to any fluttering symptoms. Further, only notation regarding fatigue is on January 16, 2025 and is attributed not to the left bundle branch block, but to Petitioner's pre-existing cardiomyopathy. While we recognize a pre-existing condition may be aggravated or accelerated by a work injury, in this case a repeat echocardiogram on February 17, 2025, demonstrated an objective improvement in Petitioner's cardiomyopathy from the prior echocardiogram on June 24, 2024. PX4, p.57.

Though the new diagnosis of left bundle branch block had not appeared on testing prior to Petitioner's November 12, 2024 hospital work up, that does not mean it was caused by the alleged exposure. Given the type of testing necessary to make the diagnosis and the lack of any symptoms attributable to the diagnosis, the condition could have been present prior to the exposure. Based upon the gap in treatment and the lack of a credible report of continuing symptoms in Petitioner's subsequent cardiology appointments, there is nothing to relate the diagnosis to the exposure at work via a chain of events analysis. Further, no doctor has provided an opinion to establish causation.

Based on the foregoing, the Commission finds Petitioner failed to prove his current condition of ill-being was causally related to his work accident.

Medical Expenses

The Commission finds that emergency treatment on November 12, 2024 and November 13, 2024 to be reasonable and related medical expenses required to cure or relieve from the effects of the accidental exposure injury. As Petitioner had a documented history of cardiac complaints, emergency evaluation of his condition and an overnight stay at the hospital for observation was an appropriate response following his exposure.

The Commission finds that as Petitioner failed to prove causation with regard to his current cardiac condition of ill-being, treatment rendered after his initial emergency treatment was not related to the exposure on November 12, 2024. The Commission reverses the award of medical benefits after November 13, 2024.

Permanent Partial Disability

Based upon the Petitioner's failure to prove his ongoing cardiac condition was causally related and his failure to demonstrate any ongoing disability related to his exposure on November 12, 2024, the Commission reverses the Arbitrator's award of permanency.

Pursuant to § 8.1b of the Act, permanent partial disability from injuries that occur after September 1, 2011, are to be established using the following criteria: (i) the reported level of impairment pursuant to subsection (a) of the Act; (ii) the occupation of the injured employee; (iii)

the age of the employee at the time of the injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. 820 ILCS 305/8.1b. The Act provides that, "No single enumerated factor shall be the sole determinant of disability." 820 ILCS 305/8.1b(b)(v).

(i) Level of Impairment: Neither party submitted an AMA rating. Therefore, the Commission places no weight on this factor.

(ii) Occupation: Petitioner continues to serve as a correctional lieutenant for Respondent. T.11. Since the incident, no evidence was submitted to demonstrate any definable impact of the exposure on his job performance. The Commission places moderate weight on this factor.

(iii) Age: Petitioner was 41 years of age at the time of his injury. He is a younger individual and any demonstrable disability would impact him for an extended period of time. The Commission places moderate weight on this factor.

(iv) Earning Capacity: No evidence was submitted to demonstrate any loss of earning capacity related to his exposure on November 12, 2024. The Commission places greater weight on this factor.

(v) Evidence of Disability: Petitioner alleges continued complaints of shortness of breath, chest tightness, fluttering and decreased endurance, however, the medical records fail to corroborate the ongoing complaints. The only reference to fatigue in the medical records is attributed to Petitioner's unrelated cardiomyopathy. The Commission places greater weight on this factor.

Based upon the foregoing evidence and factors, the Commission finds Petitioner failed to prove any permanent disability as a result of the exposure on November 12, 2024.

The Commission otherwise affirms and adopts the Decision of the Arbitrator.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed on December 5, 2025, is modified as stated herein, and otherwise affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Petitioner's current cardiac condition of ill-being is not causally related to the November 12, 2024 accident.

IT IS FURTHER ORDERED BY THE COMMISSION that the Arbitrator's award of medical expenses is reversed.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner reasonable and necessary medical services as provided by SSM St. Mary's Hospital in Centralia on November 12, 2024 and November 13, 2024, as provided in Section 8(a) and 8.2 of the Act. Respondent is not liable for medical expenses occurring after November 13, 2024.

IT IS FURTHER ORDERED BY THE COMMISSION that the Arbitrator's award of permanency is hereby reversed.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall receive credit for all amounts it paid, if any, to or on behalf of said accidental injury.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest pursuant to §19(n) of the Act, if any.

Pursuant to §19(f)(1) of the Act, claims against the State of Illinois are not subject to judicial review. Therefore, no appeal bond is set in this case.

August 14, 2026

o: 6/16/2025
AHS/kjj
051

/s/ *Amylee H. Simonovich*
Amylee H. Simonovich

/s/ *Stephen J. Mathis*
Stephen J. Mathis

/s/*Kathryn A. Doerries*
Kathryn A. Doerries

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC032236
Case Name	John Peterson v. State of Illinois - Centralia Correctional Center
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	7
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Shannon Rieckenberg

DATE FILED: 12/5/2025

/s/ Bradley Gillespie, Arbitrator
Signature

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

DECEMBER 5 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF DECEMBER 2 2025 3.64%

STATE OF ILLINOIS)
)SS.
COUNTY OF JEFFERSON)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

JOHN PETERSON
Employee/Petitioner

v.

STATE OF IL/CENTRALIA C.C.
Employer/Respondent

Case # **24** WC **032236**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Bradley Gillespie**, Arbitrator of the Commission, in the city of **Mount Vernon**, on **September 9, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☐ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☐ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **November 12, 2024**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**93,404.80**; the average weekly wage was $**1,796.25**.

On the date of accident, Petitioner was **41** years of age, ***single*** with **2** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and **2 service connect days** for other benefits, for a total credit of $**-**.

Respondent is entitled to a credit of **any benefits paid** under Section 8(j) of the Act.

ORDER

Respondent shall pay the reasonable and necessary medical services of outlined in Petitioner's group exhibit related to the treatment of the injury, as provided in § 8(a) of the Act.

Respondent shall be given credit for medical benefits that have been paid through its group carrier, and Respondent shall hold Petitioner harmless from any claims by any providers of the services for which Respondent is receiving this credit, as provided by § 8(j) of the Act.

Respondent shall pay Petitioner permanent partial disability benefits of **$1,045.92**/week for **25** weeks, because the injuries sustained caused the **5% loss** of the **body as a whole**, as provided in § 8(d)2 of the Act.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Bradley D. Gillespie
Signature of Arbitrator

DECEMBER 5 2025

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

JOHN PETERSON,	)	
	)	
Petitioner,	)	
	)	
v.	)	**Case No.: 24WC032236**
	)	
STATE OF ILLINOIS/ CENTRALIA CORRECTIONAL CENTER,	)	
	)	
	)	
Respondent.	)	

DECISION OF ARBITRATOR

PROCEDURAL POSTURE

Petitioner, as a 41-year-old correctional sergeant for Respondent at the Centralia Correctional Center, filed an Application for Adjustment of Claim alleging injuries sustained on November 12, 2024, from exposure to an unknown substance. (Arb. Ex. 1; Arb. Ex. 2). He alleges injuries to his heart, respiratory, nervous system, and body as whole. *Id*. Respondent disputed causal connection, liability for medical expenses, and the nature and extent of the alleged injuries. (Tr. pp. 5-6)

FINDINGS OF FACT

At the time of the injury, Petitioner was a 41-year-old correctional lieutenant employed at Centralia Correctional Center. (Tr. p. 11) He has been employed with the Illinois Department of Corrections for fourteen years and eight months. *Id*. Petitioner began his employment as a correctional officer, was later promoted to sergeant, and for the past three months has served as a correctional lieutenant. *Id.*

On November 12, 2024, Petitioner was called to cell D9 in response to an emergency code. (Tr. p. 12) Upon arrival, he observed four inmates slumped over in their chairs and lower bunks, appearing to be unconscious and possibly under the influence of an unknown substance. *Id*. Petitioner assisted in cuffing and removing all four individuals from the cell and noticed smoke present while inside the cell. *Id*. Shortly after leaving the cell, he began to feel light-headed and experienced chest pain. *Id*. He reported to the workplace healthcare unit, which arranged transport to St. Mary's Hospital for further evaluation. (Tr. p. 12; PX 5)

The incident report corroborates this account. (PX 5) It documents that Petitioner arrived at cell D9, observed four individuals slumped over, and escorted them to healthcare. *Id.* Shortly thereafter, he experienced light-headedness and chest tightness. *Id.* Upon arrival at St. Mary's Hospital, an EKG revealed a double branch blockage on the left side of his heart, and Petitioner was admitted overnight. *Id.*

At St. Mary's Hospital, Petitioner underwent a full workup, including laboratory testing, an EKG, and a chest x-ray. (PX 3) The EKG revealed a new left bundle branch block and

laboratory testing indicated elevated CK (creatine kinase) levels. (PX 3 p. 22) He was treated with IV fluids and oral potassium supplementation. *Id.* Petitioner was discharged the following day with instructions to follow up with cardiology and primary care. (PX 3 p. 28)

Following the incident, Petitioner missed five workdays and used service-connected leave. (Tr. p. 14) He returned to his regular work schedule after these absences. (Tr. p. 15) He has experienced ongoing symptoms since the incident, including shortness of breath with ordinary tasks, chest tightness, decreased endurance, fatigue, and occasional palpitations. (Tr. pp. 15-16) He described, "I am short of breath on just my normal mundane tasks. I have chest tightness. And, basically, anything I do at work or outside of work, I have trouble with the endurance of it. Just I can't keep up with what I normally would have done before that . . . I have fluttering daily or every other day, one here and there, but it's not, it's not constant…No, I did not have that before the accident." (Tr. pp. 15-16)

Petitioner's cardiology follow-up at SSM Health Centralia on January 16 and February 20, 2025, documented that stress testing and CT coronary angiography revealed no myocardial ischemia or obstructive coronary artery disease. (PX 4) Left ventricular ejection fraction was reduced to 40-45%, consistent with cardiomyopathy. (PX 4 p. 4) He reported fatigue and palpitations but denied anginal symptoms. *Id.* He was prescribed lisinopril, Aldactone, and a heart muscle relaxant, and was schedule for repeat EKG and echocardiography. (PX 4 p. 11) Petitioner testified that these ongoing limitations affect both his employment and daily activities. (Tr. pp. 15-16).

CONCLUSIONS OF LAW

Issue (F): Is Petitioner's current condition of ill-being causally related to the injury?

The petitioner must show by a preponderance of evidence that his condition of ill-being is causally connected to his work accident. Causation may be established by medical testimony, circumstantial evidence, or a combination of both. The Illinois Supreme Court has consistently held that a work-related accident need not be the sole cause of an employee's injury or disability; it is sufficient if the accident is a causative factor. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill.2d 193, 205, 797 N.E2d 665 (2003).

Illinois precedent confirms that where a petitioner was able to perform his job duties before an accident but is unable to do so afterward due to newly documented symptoms and medical findings, a sufficient causal link has been established. In *International Harvester v. Industrial Comm'n*, 93 Ill.2d 5963, 442 N.E.2d 908 (1982), the Court held that causal connection may be inferred when an employee is working normally before an incident and becomes disabled immediately after. Similarly, in *Bennett Auto Rebuilders v. Industrial Comm'n*, 306 Ill.App.3d. 650, 655, 714 N.E.2d 1064 (1st Dist. 1999), the Court reiterated that causation may be found where credible testimony and medical records show a chain of events linking the accident to the worker's condition of ill-being.

The evidence in this case establishes such a causal connection. Petitioner testified credibly that prior to the incident on November 12, 2024, he had no significant cardiac restrictions and performed his duties as a correctional sergeant without difficulty. (Tr. pp. 9-11) Following his exposure to toxic smoke, he immediately developed chest tightness, dizziness, and shortness of

breath, symptoms not previously experienced. *Id.* His emergency evaluation revealed an elevated CK level and a newly diagnosed left bundle branch block, which was not present on prior cardiac testing. (PX 3; PX 5) Subsequent cardiology follow-ups documented reduced left ventricular ejection fraction of 40-45% and ongoing fatigue, chest tightness, and palpitations. (PX 4) Under the circumstances, the Arbitrator finds and concludes that Petitioner met his burden of proof on the issue of causation. Respondent shall therefore pay benefits as outlined below.

Issue (J): Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?

Upon establishing causal connection and the reasonableness and the necessity of recommended medical treatment, employers are responsible for necessary prospective medical care required by their employees. *Plantation Mfg. Co. v. Indus. Comm'n*, 294 Ill.App.3d 705, 691 N.E.2d. 13 (1997). This includes treatment required to diagnose, relieve, or cure the effects of claimant's injury. *F & B Mfg. Co. v. Indus. Comm'n*, 325 Ill. App. 3d 527, 758 N.E.2d 18 (2001).

Respondent directed Petitioner's care and provided transport to the emergency department following his exposure. (PX 3; Tr. pp. 12-13) Petitioner was assessed, provided reasonable care for his symptoms and discharged. (*See generally* PX 3) The Arbitrator therefore finds and concludes that Petitioner's care has been reasonable and necessary to treat his work accident.

Accordingly, Respondent is ordered to pay the medical bills contained in Petitioner's Exhibit #1. Respondent shall have credit for expenses which have been paid through its group health coverage but shall indemnify and hold Petitioner harmless from any claims arising out of the expenses for which it claims credit.

Issue (L): What is the nature and extent of the injury?

Pursuant to § 8.1b of the Act, permanent partial disability from injuries that occur after September 1, 2011, are to be established using the following criteria: (i) the reported level of impairment pursuant to subsection (a) of the Act; (ii) the occupation of the injured employee; (iii) the age of the employee at the time of the injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. 820 ILCS 305/8.1b. The Act provides that, "No single enumerated factor shall be the sole determinant of disability." 820 ILCS 305/8.1b(b)(v).

(i) **Level of Impairment**: Neither party submitted an AMA rating. Therefore, the Arbitrator places no weight on this factor.

(ii) **Occupation**: Petitioner continues to serve as a correctional lieutenant for Respondent. (Tr. 11). Since the incident, he cannot maintain the endurance required for his normal duties, both at work and outside of work. (Tr. 15, 16). The Arbitrator places moderate weight on this factor.

(iii) **Age:** Petitioner was 41 years of age at the time of his injury. He is a younger individual and must live and work with his disability for an extended period of time. Pursuant to *Jones v. Southwest Airlines*, 16 I.W.C.C. 0137 (2016) (wherein the Commission concluded that greater weight should have been given to the fact that Petitioner was younger [46 years of age] and

would have to work with his disability for an extended period of time), the Arbitrator places greater weight on this factor.

(iv) **Earning Capacity**: Although Petitioner returned to work after the incident, he testified to a substantial loss of endurance that has negatively impacted his job performance. (Tr. 15-16). Based on the severity of Petitioner's injuries, the requisite treatment, and the resulting disability, it is reasonable to conclude that such repercussions will manifest in the future.

Based upon the foregoing evidence and factors, the Arbitrator finds that Petitioner sustained serious and permanent injuries that resulted in the 5% loss of Petitioner's body as a whole.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	19WC028767
Case Name	Aaron J. Shirley v. Village of Clarendon Hills - Police Department
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0233
Number of Pages of Decision	15
Decision Issued By	Raychel Wesley, Commissioner, Frank Soto, Commissioner

Petitioner Attorney	David Figlioli
Respondent Attorney	John Fassola

DATE FILED: 8/14/2026

/s/ Raychel Wesley, Commissioner

Signature

DISSENT

/s/ Frank Soto, Commissioner

Signature

26IWCC0233

STATE OF ILLINOIS)
) SS.
COUNTY OF KANE)

☒ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

AARON J. SHIRLEY,

Petitioner,

vs. NO: 19 WC 28767

VILLAGE OF CLARENDON HILLS
POLICE DEPARTMENT,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of whether Petitioner's treatment choice implicates §19(d) as well as Petitioner's entitlement to wage differential benefits, and being advised of the facts and law, affirms and adopts the Corrected Decision of the Arbitrator, which is attached hereto and made a part hereof, and writes additionally to affirm the Arbitrator's well-reasoned analysis as follows.

I. §19(d) Injurious Practice

In her Corrected Decision, the Arbitrator correctly stated that, in the absence of bad faith, it is for the claimant to choose whether to continue to suffer from a disability or to submit to an operation designed to cure it:

> The Workmen's Compensation Act is not designed simply to protect employees who follow the best medical opinion of the day. It is designed for employees with divergent personalities, beliefs, and fears. If a claimant's response to an offer of treatment is within the bounds of reason, his freedom of choice should be preserved even when an operation might mitigate the employer's damages…The claimant should be entitled to decide on the basis of whatever competent medical advice he chooses to follow whether he should submit to major surgery. *Rockford Clutch Div., Borg-Warner Corp. v. Industrial Commission*, 34 Ill. 2d 240, 247-8 (1966) (Emphasis added).

Based on her analysis of the facts under the relevant legal standard, the majority affirms the Arbitrator's finding that the evidence established Petitioner's decision to forgo surgery was reasonable, in good faith, does not implicate §19(d), and in no way negates Petitioner's entitlement to a permanency award under §8(d)(1) of the Act.

In so affirming, the majority notes that the Arbitrator based her decision on the totality of credible evidence in the record including Petitioner's testimony as well as the testimony of Dr. Craig Phillips. While Respondent refers us to "unanimous testimony from three physicians," namely, Dr. Phillips, Dr. Burra, and Dr. Saltzman, the authenticated transcript includes only the deposition of Dr. Craig Phillips. Given that Dr. Burra's and Dr. Saltzman's depositions are *dehors* record, the Act clearly precludes them from being considered. *820 ILCS 305/19(e)*. Instead, the only medical expert opinion in the record was provided by Dr. Phillips, and Dr. Phillips did not conclude that Petitioner's choice was unreasonable. Significantly, Respondent's Counsel expressly invited Dr. Phillips to label Petitioner's decision as "not reasonable" and the doctor declined:

> Q. And it seems - - I mean in totality, it seems that you were concerned that his decision not to undergo surgery was not reasonable; is that correct?
>
> A. Well, reasonable is vague, but I thought it was strange is probably what I would call it that a young, active, healthy individual would choose not to do the surgery when it has such a high success rate. RX1, p. 20 (Emphasis added).

Dr. Phillips further testified it is "always the patient's choice" to have surgery, and the doctor has had multiple patients decline a proposed surgery and Petitioner exercising the same choice is "not unique." RX1, p. 25, 28. Critically, while Dr. Phillips opined surgery is the best option for Petitioner, the doctor readily conceded it is "clearly correct" that surgery is not Petitioner's only reasonable option. RX1, p. 29-30. In the majority's view, the medical expert opinion evidence reflects Petitioner's refusal is "within the bounds of reason." *Rockford Clutch Div*.

The Arbitrator's application of the decades-old precedent interpreting §19(d) to the facts herein mirrors our own. The record reflects Petitioner's treatment decision was reasonable and made in good faith. The majority notes Petitioner's baseline pain is mild, rated at 3/10, and he credibly testified to a fear that surgery will leave him in a worsened condition. While Respondent alleges Petitioner failed to provide supporting evidence of his fears, we note Respondent's argument is contrary to 40-year-old case law holding there is no such burden: "We do not believe that the claimant must in each instance proffer specific evidence indicating that some adverse consequence might result from the surgery." *Allied Chemical Corp. v. Industrial Commission*, 140 Ill. App. 3d 73, 77 (1st Dist. 1986). Moreover, the majority finds Petitioner's fears are corroborated by Dr. Phillips, who acknowledged Petitioner would be at risk for multiple complications, including worsened function, if he underwent surgery, and up to 10 percent of his arthroscopic labral repair patients have a suboptimal surgical result. RX1, p. 24-25, 10-11. To determine that Petitioner's treatment choice is "not within the bounds of reason" is to ignore the unrebutted evidence in the record. Accordingly, the majority finds that the Arbitrator's Decision was buttressed by the credible evidence in the record and affirms her well-reasoned decision.

II. Wage Differential Benefits

On Review, Respondent claims the award of wage loss benefits from November 22, 2021 through January 21, 2022 is contrary to the "established law of the case." According to Respondent, in the July 21, 2023 Decision on Review, the Commission "already determined that Petitioner had not proved entitlement to wage loss benefits as of the date of the prior hearing." We find this argument without merit as the parties did not raise permanency benefits as an issue in dispute in the March 1, 2022 §19(b) hearing; rather, the disputed issues were confined to causal

connection and maintenance benefits under §8(a) for the claimed period of April 10, 2021, through January 21, 2022. Those temporary maintenance benefits were denied by the Arbitrator in the prior §19(b) decision for failure to prove an adequate job search during the requested period. The Commission affirmed the denial of temporary benefits for that period noting further that Petitioner had in fact found a permanent job, which he started on November 21, 2021.

To be clear, the Arbitrator in the current matter tried on July 30, 2025, was presented with a request for permanency benefits under §8(d)1 and those benefits are awarded commencing on November 22, 2021, the day Petitioner in fact started working the first of many post-MMI jobs. The Commission affirms and adopts the Arbitrator's well-reasoned §8(d)1 analysis and award finding that Petitioner's permanent restrictions prohibit him from returning to his usual and customary line of employment, and that Petitioner's post-MMI jobs constitute suitable employment and resulted in wage losses at various rates. *820 ILCS 305/8(d)1*. The Commission further emphasizes that the prior denial of temporary disability benefits under §8(a) does not preclude a determination that Petitioner established entitlement to permanent disability benefits under §8(d)1. Rather, pursuant to the language of §19(b), the prior decision shall "in no instance be a bar to a further hearing and determination of a further amount of temporary total compensation *or of compensation for permanent disability*." *820 ILCS 305/19(b)*. *See also Thomas v. Industrial Commission*, 78 Ill. 2d 327 (1980).

IT IS THEREFORE ORDERED BY THE COMMISSION that the Corrected Decision of the Arbitrator filed December 12, 2025, is hereby affirmed, expanded, clarified and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Under §19(f)(2), no "county, city, town, township, incorporated village, school district, body politic, or municipal corporation" shall be required to file a bond. As such, Respondent is exempt from the bonding requirement.

August 14, 2026

/s/ *Raychel A. Wesley*

RAW/mck

O: 6/17/26

/s/ *Carolyn M. Doherty*

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DISSENT

I respectfully dissent from the majority's decision to affirm and adopt the Corrected Decision of the Arbitrator and would have found that Petitioner was not entitled to wage differential benefits because his choice to forego minor surgery was unreasonable as contemplated under Section 19(d) of the Act. It is Petitioner's choice whether or not he wants to undergo surgery. However, if his choice to decline surgery is unreasonable, then Petitioner should not qualify for

wage differential benefits under Section 8(d)(1) of the Act. In the case at bar, Petitioner's decision not to proceed with the recommended surgical procedure is unreasonable given that the procedure, which consists of an orthoscopic procedure, has been characterized as minor with a high success rate for returning to work, Petitioner lacks any preexisting condition potentially increasing any legitimate risks of surgical complications and Petitioner's claimed justification for refusing the surgery is based upon his desire not to return to his prior occupation and not due to fear associated with the surgical procedure.

Section 19(d) of the Act provides, in pertinent part, "If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery or shall refuse to submit to such medical, surgical, or hospital treatment as is reasonably essential to promote his recovery, the Commission may, in its discretion, reduce or suspend the compensation of any such injured employee." 820 ILCS 305/19(d) (West 2010). In accordance with this provision, "benefits may be suspended or terminated if the employee refuses to submit to medical, surgical, or hospital treatment essential to his recovery, or if the employee fails to cooperate in good faith with rehabilitation efforts." *Interstate Scaffolding, Inc. v. Illinois Workers' Compensation Comm'n,* 236 Ill. 2d 132, 146 (2010). Our Supreme Court has stated, "If a claimant's response to an offer of treatment is within the bounds of reason, his freedom of choice should be preserved even when an operation might mitigate the employer's damages." *Rockford Clutch Division, Borg-Warner Corp. v. Industrial Comm'n,* 34 Ill. 2d 240, 247-48 (1966). The question is whether Petitioner's behavior was reasonable under the circumstances. See *Allied Chemical Corp. v. Industrial Comm'n,* 140 Ill. App. 3d 73, 76-77 (1st Dist. 1986).

The majority's decision relies upon *Rockford Clutch Division, Borg-Warner Corp. v. Industrial Comm'n,* 34 Ill. 2d 240, 247-48 (1966) and *Keystone Steel & Wire Co. v. Indus. Comm'n*, 72 Ill. 2d 474 (1978) in support of their decision. However, Petitioner's case is distinguishable from *Rockford Clutch Div.*, because the laminectomy that the claimant refused in *Rockford Clutch Div.* was characterized as a "serious, large, important, major operation" and the claimant had a cardiac condition that further increased his surgical risks. *Id.* at 243, 245. Under such circumstances, and particularly given the serious character of the procedure, the Illinois Supreme Court found that the claimant's decision not to undergo the major spinal surgery was reasonable. *Id.* at 248. However, unlike the major character of the surgery declined in *Rockford Clutch Div.,* with a claimant who had a preexisting cardiac condition which created significant surgical risks, Petitioner has no preexisting condition which increases any surgical risk and the nature of the surgery recommended has been characterized as minor with an excellent chance of returning him to his prior occupation. Dr. Phillips emphasized that the risks of the recommended arthroscopic labral surgery were exceedingly small with less than 1% risk of infection, a 3% to 5% risk of shoulder stiffness, and a 5% risk of retear. Dr. Phillips indicated that 95% of people did well after the surgery and returned to their normal activities. As to the reasonableness of Petitioner's decision not to undergo the recommended minor surgery, Dr. Phillips described it as strange that a young, active, and healthy individual like Petitioner would choose not to undergo the surgery when it had such a high success rate. Petitioner expressed a vague fear of the outcome of the surgery and its potential for success; however, his fear is unreasonable in light of the extremely high success rate endorsed by Dr. Phillips.

This case is also distinguishable from *Keystone Steel & Wire Co. v. Indus. Comm'n*, 72 Ill. 2d 474 (1978). In *Keystone Steel*, the Illinois Supreme Court determined that the claimant was not acting in bad faith when he refused to undergo a hernia operation, because he sincerely *feared the surgery*. *Id.* at 481. (*Emphasis Added*). The claimant in *Keystone Steel* proffered evidence from a psychologist and neurologist who opined that the claimant was not malingering and

sincerely feared the risks accompanying further surgery. *Id.* at 481-482. The claimant in *Keystone Steel* previously underwent extensive spinal surgery resulting in a poor outcome and permanent physical restrictions. Unlike the claimant in *Keystone Steel* who introduced evidence from doctors who corroborated the sincerity of his fear, Dr. Phillips opined that Petitioner exhibited symptom magnification and acted in bad faith to avoid returning to work as a police officer. Petitioner failed to present evidence to establish that a reasonable fear of the surgery existed or any legitimate complications associated with the surgery.

While I agree with the majority that Petitioner's failure to prove entitlement to wage differential benefits from November 22, 2021 through January 21, 2022 does not prohibit Petitioner from receiving Section 8(d)(1) benefits outside of that period, however, Petitioner's failure to prove entitlement to receive those benefits for that period of time provides additional circumstantial evidence of Petitioner's lack of good faith not to undergo the procedure. Petitioner's decision not to proceed with the surgery was also found not to be reasonable by the Clarendon Hills Police Pension Fund who determined that Petitioner's decision not to undergo the surgery was unreasonable given its high success rate and likelihood of returning Petitioner to his police officer position. The Pension Fund denied both Petitioner's claim for a line of duty pension and non-duty disability pension accordingly. Dr. Phillips' testimony further denotes that an element of bad faith influenced Petitioner's decision not to pursue the surgery. Dr. Phillips testified that Petitioner's choice not to undergo a surgery with such a high success rate, coupled with some evidence of symptom magnification on physical exam, led him to believe that Petitioner had no desire to return to active police duty.

In consideration of the above, I would have found that Petitioner did not show a reasonable, good faith basis for choosing not to pursue the minor surgery. Although it is a claimant's choice whether or not to pursue a medical procedure, the employer should not bear the burden of a wage differential award when a claimant's refusal to undergo such a routine, low-risk procedure is unreasonable and in bad faith. Petitioner's choice to not pursue the minor surgery, which would have returned him to active police duty, warrants a reduction of his benefits pursuant to Section 19(d).

/s/ *Frank J. Soto*
Frank J. Soto

August 14 2026

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	19WC028767
Case Name	Aaron J. Shirley v. Village of Clarendon Hills - Police Department
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Corrected Decision
Commission Decision Number	
Number of Pages of Decision	9
Decision Issued By	Jessica Hegarty, Arbitrator

Petitioner Attorney	David Figlioli
Respondent Attorney	John Fassola

DATE FILED: 12/12/2025

/s/ Jessica Hegarty, Arbitrator
Signature

INTEREST RATE WEEK OF DECEMBER 9 2025 3.58%

STATE OF ILLINOIS)
)SS.
COUNTY OF **KANE**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
AMENDED ARBITRATION DECISION

Aaron J. Shirley
Employee/Petitioner
v.
Village of Clarendon Hills Police Department
Employer/Respondent

Case # **19** WC **028767**

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Jessica Hegarty**, Arbitrator of the Commission, in the city of **Geneva**, on **July 30, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☐ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☐ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☐ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☒ Other **Section 19(d)**

FINDINGS

On **March 15, 2019**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $ **100,629.36**; the average weekly wage was $ **1,935.18.**

On the date of accident, Petitioner was **39** years of age, ***married*** with **4** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $ **$0.00** for TTD, $ **$0.00** for TPD, $ **$0.00** for maintenance, and $ **$0.00** for other benefits, for a total credit of $ **$0.00** .

Respondent is entitled to a credit of $ **$0.00** under Section 8(j) of the Act.

ORDER

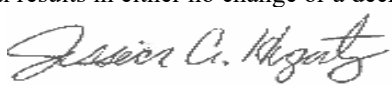
Respondent shall pay Petitioner permanent partial disability benefits as provided in Section 8(d)1 of the Act as follows:

$958.39 per week commencing November 22, 2021, through August 7, 2022,
$779.82 per week commencing August 8, 2022, through December 31, 2022,
$1,026.48 per week commencing January 1, 2023, through May 31, 2023,
$818.18 per week commencing June 1, 2023, through December 31, 2023,
$877.40 per week commencing January 1, 2024, through May 24, 2024,
$852.95 per week commencing May 25, 2024, through August 1, 2024,
$722.41 per week commencing August 2, 2024, through January 3, 2025,
$769.06 per week commencing January 4, 2025, through May 9, 2025,
$368.62 per week commencing May 10,2025, and continuing until the petitioner reaches 67.

Respondent shall pay Petitioner compensation that has accrued from March 15, 2019, through July 30, 2025, and shall pay the remainder of the award in weekly benefits.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.



Signature of Arbitrator

DECEMBER 12 2025

ICArbDec p. 2

ADDENDUM TO THE DECISION OF THE ARBITRATOR

Background

On March 3, 2022, Arbitrator Granada issued a Decision pursuant to a Section 19(b) hearing that occurred on January 21, 2021. The Arbitrator's Decision found that Petitioner had established a causal connection between his right arm condition (SLAP lesion and associated biceps tendonitis) and his undisputed work accident on March 15, 2019, while employed by Respondent as a Police Sergeant. In addition, the Arbitrator denied Petitioner's claim for maintenance benefits.

Petitioner filed a Petition for Review, and on July 21, 2023, the Commission issued its Decision, affirming the Arbitrator's Decision with changes. (23IWCC000309) The Commission agreed that Petitioner had failed to establish entitlement to vocational rehabilitation and maintenance benefits. Further, the Commission found that "Petitioner was unable to return to his pre-injury job as a police sergeant" due to his right shoulder condition. (Id., page 2, para. 1) The case was remanded to the Arbitrator for a determination of a permanent disability. (Id., page 1, para.1)

FINDINGS OF FACT

On July 30, 2025, this matter proceeded to a hearing in Geneva, Illinois. (Arbitrator's Exhibit 1) The disputed issues are the causal connection and the nature and extent of the injury. (Arb. 1) In addition, Respondent alleges that Section 19(d) of the Act precludes Petitioner's entitlement to a wage differential award. (Id.)

Petitioner has elected to pursue, under Section 8(d)(1), a wage differential benefit. (Transcript of 7/30/2025 hearing "T" p. 8) Alternatively, Petitioner requests a Section 8(d)(2) award if the Arbitrator finds insufficient evidence in support of a wage differential award. (T., p. 8)

Petitioner's testimony

Petitioner testified that since the January 22, 2022, hearing, he has resided in Ozark, Missouri. (Id., p. 9) Petitioner has not received any additional treatment to his right shoulder since January 22, 2022, because his treating physician, Dr. Burra, found he was at maximum medical improvement since Petitioner chose not to undergo right shoulder surgery. (Id.) Petitioner has not sustained any additional injuries to his right shoulder since January 22, 2022. (Id.)

With respect to the condition of his right arm since the January 22, 2022, hearing, Petitioner testified, "My symptoms are the same as they were prior to that. I have a lot of pain just throughout the day. And a lot of weakness." (Id., p. 10) Petitioner noted that he drives with his left arm because he cannot extend his right arm for a certain period of time without it "wearing out and exhausting". (Id.) Petitioner has difficulty throwing overhand. He rates his right shoulder pain at a 3/10 with general pain and burning. (Id., p. 11) His pain can increase to a 7/10 with activity, such as when he sleeps in a certain position or attempts to push open a heavy door. (Id., p. 12) With respect to his sleep pattern, Petitioner experiences sleeplessness and sleep disruption most nights due to his right shoulder pain. He uses a brace on his right arm and takes over-the-counter medication a few times per week. (Id., p. 13)

Petitioner began working as an insurance agent for Liberty National Life Insurance, also known as Globe Life, on November 22, 2021, and held this position until August 8, 2022. He received no salary or

benefits and was paid by commission. He identified the 1099 forms for 2021 and 2022, totaling $18,411.18 in earnings. (T., p. 15, Petitioner's Exhibit "PX" 1)

On August 8, 2022, Petitioner began working as a Facilities Coordinator for O'Reilly Automotive Stores. After a few months, he was promoted to a Senior Facilities Coordinator. Petitioner worked for O'Reilly Automotive Stores until June 1, 2023. He identified the W-2 tax forms for 2022 and 2023, which reflect earnings of $32,914.41. (T., pp. 17-20, PX 2)

While working for O'Reilly Automotive Stores, Petitioner continued to look for work on local job boards and on job search websites such as Indeed and ZipRecruiter. Petitioner testified that he continued looking for work during this time because he was trying to improve his situation and "get back to where I was salary-wise". (T., p. 20)

On June 1, 2023, Petitioner began working for Mid-States Organized Crime Information Center in Springfield, Missouri, as an Education and Outreach Trainer. (Id.) Petitioner testified that the Mid-States Organized Crime Information Center is a congressionally funded program that assists law enforcement agencies in solving crimes by analyzing cell tower data, cryptocurrency, utilizing facial recognition technology, and license plate readers. (T., p. 21). After one year, Petitioner was promoted to supervisor of his department, then to his current position as the organization's Education and Outreach Manager. In his current role, Petitioner works with the executive board, meets with members of Congress and senators on appropriations issues, and reviews and approves various funding initiatives. (Id., pp. 24-26) Petitioner testified regarding his earnings with his current employer and identified paycheck stubs that reflect a starting salary of $56,051 per year, followed by several increases in salary (i.e. $57,172, $59,079, $69,261, $70,646) before May of 2025, when his salary increased to $101,880.00, consistent with his current position. (T., pp. 26-27, PX 3)

Petitioner testified that he went on the Village of Clarendon Hills website to obtain the current pay scale for police sergeants for 2023, 2024, and 2025. Petitioner testified that he worked with two people who Respondent currently employs as police sergeants, Wendy Porter and Zach Finfrock. During Petitioner's employment by Respondent, he was promoted to the sergeant position after Wendy Porter and before Zach Finfrock. Petitioner's salary and seniority ranking would fall between Sergeant Porter and Sergeant Finrock. Petitioner also testified that salary increases for sergeants are based upon the duration of employment, as well as cost-of-living and merit-based increases. Prior to his accident and while employed by Respondent as a sergeant, Petitioner consistently received cost-of-living and merit salary increases, except for his last evaluation, which occurred while he was working light duty and not on the street. Petitioner believes he would have continued to receive salary increases (between the salaries listed for Sergeant Porter and Sergeant Finfrock) if he had been able to continue working as a police sergeant for Respondent. (Id., pp. 28-32)

On cross-examination, Petitioner testified regarding his refusal to undergo arthroscopic labral surgery and reiterated that he does not plan on undergoing the surgery. (T., p. 36) Petitioner agreed that his reasons for not undergoing the surgery were partly based on his fear that the surgery would not be successful and that he had heard from people who had undergone the surgery and it had either not helped them or had made them worse. (Id.)

Petitioner applied for a duty disability pension and underwent three examinations in association with that claim. Petitioner agreed that he discussed his Decision not to undergo surgery with two of the pension physicians, Dr. Phillips and Dr. Obermeyer. (Id., pp. 37-38) Both physicians advised Petitioner

that the labral surgery was the only option that would allow Petitioner to return to work full duty as a police sergeant for Respondent. (Id., p. 38) Petitioner agreed that no doctors have advised that he has any increased risk in association with a shoulder arthroscopy, or that the surgery is contraindicated due to his personal health history. (Id., p. 39) The Pension Board ultimately determined that Petitioner's inability to return to work was caused by his refusal to undergo an arthroscopic labral repair procedure. (T., pp. 41-42, RX 2)

Vocational assessment by Mr. Steven Blumenthal

Steven M. Blumenthal, a Certified Rehabilitation Counselor and Certified Vocational Evaluation Specialist, completed a vocational assessment of Petitioner. Mr. Blumenthal interviewed Petitioner, reviewed the medical records related to Petitioner's right shoulder treatment, and obtained information on the current salaries paid to sergeants by Respondent. Mr. Blumenthal also reviewed Petitioner's work and salary history to date. Following his initial report on April 6, 2025, Mr. Blumenthal completed an addendum report on April 8, 2025. In those reports, Mr. Blumenthal offered the following opinions; (1) Petitioner is unable to perform the job duties as a police officer due to his right shoulder injury and has lost access to his prior occupation, (2) Petitioner's inability to continue in his prior occupation has resulted in a wage loss and (3) Petitioner's current employment as the Education and Outreach Supervisor with Mid-States Organized Crime Information Center "represents employment and earning capacity that is consistent with Mr. Shirley's education, work history, and physical abilities in a stable labor market and would represent suitable employment." (T. pp. 33-35, PX 5)

Deposition of Dr. Craig Phillips

At the request of Respondent, Dr. Craig Phillips provided deposition testimony regarding his evaluation of Petitioner that occurred on October 12, 2021. (Respondent's Exhibit "RX" 1). Dr. Phillips is a board-certified orthopedic surgeon, and his practice specializes in the treatment of the upper extremities. He estimated that 30% of the patients he treats have shoulder conditions, and rotator cuff and labral tears comprise about half of those patients. He performs approximately 15 surgeries per week, and about one-third involve shoulder surgeries, 30% being labral tears. His success rate for repairing isolated shoulder labral tears is 90 to 95 percent. He testified that there are risks associated with surgery to repair a labral tear. There is a 1% risk of infection, a 3% to 5% risk of shoulder stiffness, and a 5% risk of a retear. Overall, the result with a superior labral tear is about 95% good or excellent. (RX 1, pp. 7-11)

Dr. Phillips evaluated the Petitioner at the request of the pension board through an organization called INSPE on October 12, 2021. During his evaluation, the doctor noted that Petitioner had shoulder pain with motion and no pain with passive range of motion. Petitioner had normal strength but had pain with this test, which is consistent with a labral SLAP tear. In addition, Petitioner's Speeds Test was positive, indicative of inflammation of the biceps, and the O'Brien's Test was also positive, which involves the labrum. Dr. Phillips also noted that Petitioner had pain during both active and passive range-of-motion testing. Petitioner completed a QuickDash questionnaire that assessed daily function. Petitioner scored 33, which the doctor found "fairly high". (RX 1, pp. 11-16) Dr. Phillips summarized his findings and opined that the Petitioner had sustained a SLAP tear to his right shoulder while attempting to restrain an individual on February 15, 2019. The doctor further opined that Petitioner could not return to work as a police officer due to the potential explosive nature of his job, but could work with limitations.

Dr. Phillips testified that if Petitioner underwent surgery to repair the labrum tear, he would have a successful outcome and would likely be able to return to work as a police officer. (Id., pp.17-20)

On cross-examination, Dr. Phillips testified that he has had patients whom he thought would recover well following a surgery, but they did not have a good recovery due to "infections, et cetera, et cetera, unpredictable things, yes." He also confirmed that Petitioner could possibly develop an infection, stiffness, or adhesive capsulitis after the surgery, which would require additional treatment, including another surgery. Dr. Phillips agreed that Petitioner could have an outcome after surgery where he would be less functional than he exhibited during his evaluation. (Id., pp. 24-25)

Dr. Phillips agreed that the decision to undergo surgery is always the patient's choice. If the patient chooses to forgo surgery, he will continue to treat them so they can achieve their best outcome, and he will not penalize them in any way for choosing the conservative route. (Id., pp. 25-26) He also agreed that there may be additional pathology in Petitioner's shoulder, beyond a labral SLAP tear, that would require additional techniques or procedures during the surgery, which could then increase the risk of stiffness, the development of scar tissue, and adhesive capsulitis of the shoulder. (Id., pp. 27-28)

CONCLUSIONS OF LAW

F. Is Petitioner's current condition of ill-being causally related to the injury?

Based on Petitioner's unrebutted testimony, the current condition of ill-being with respect to his right shoulder is causally related to the work injury he sustained on March 15, 2019.

O. 19(d) Refusal to undergo surgery

Respondent alleges that Petitioner is not entitled to wage differential benefits pursuant to Section 19(d), in that Petitioner's inability to return to work was the result of his refusal to undergo arthroscopic labral repair.

Section 19(d) of the Act provides, in pertinent part, "If any employee shall persist in insanitary or injurious practices which tend to either imperil or retard his recovery or shall refuse to submit to such medical, surgical, or hospital treatment as is reasonably essential to promote his recovery, the Commission may, in its discretion, reduce or suspend the compensation of any such injured employee." *820 ILCS 305/19(d) (West 2010).* In accordance with this provision, "benefits may be suspended or terminated if the employee refuses to submit to medical, surgical, or hospital treatment essential to his recovery, or if the employee fails to cooperate in good faith with rehabilitation efforts." *Interstate Scaffolding, Inc. v. Illinois Workers' Compensation Comm'n, 235 Ill. 2d 132, 146 (2010).*

In interpreting the application of Section 19(d), the Illinois Supreme Court stated, "[I]n the absence of bad faith, it is for the claimant to choose whether to continue to suffer from a disability or to submit to a major operation designed to cure it….A majority of the courts of review in other jurisdictions have adopted a rule that where the operation tendered is of a major character and attended with serious risk to life or limb, an injured employee's refusal to submit thereto is not unreasonable and compensation should not be denied on that account. This rule is supported by the better reasoning and is in accord with what this court has declared the purpose of the Workman's Compensation Act to be." *Rockford Clutch Div. Borg-Warner Corp. v. Industrial Comm. 34 Ill.2d 240 (1966).* Where the character of the surgery is major, the claimant's eligibility for compensation is not adversely affected by his refusal to undergo the operation, notwithstanding the fact that his unwillingness in this regard is based upon his fear of the operation. *Allied Chemical Corp. v. Industrial Comm'n, 140 Ill. App. 3d 73, 76-77 (1986).* The claimant doesn't need to proffer specific evidence indicating that some adverse consequence might

result from the surgery. *Allied Chemical, 140 Ill. App. 3d at 77.* Indeed, it has been held that the Workers' Compensation Act "is designed for employees with divergent personalities, beliefs, and fears. If a claimant's response to an offer of treatment is within the bounds of reason, his freedom of choice should be preserved even when an operation might mitigate the employer's damages." *Keystone Steel & Wire Co. v. Industrial Comm. 72 Ill.2d 474, 482, 381 N.E. 2d 672, 675, 21 Ill.Dec. 345 (Ill. 1978).* However, a claimant's refusal should be in good faith. *Keystone Steel & Wire Co., 381 N.E. 2d at 675.*

In Petitioner's case, the Arbitrator finds that Petitioner's refusal to undergo shoulder surgery to repair a torn labrum is reasonable and not in bad faith. Petitioner testified that he is afraid to undergo the surgery. His fear stems from uncertainty about the potential outcome. Petitioner was concerned that his shoulder condition might actually worsen as a result. Petitioner is aware of other individuals who underwent the same type of surgery and did not have good outcomes. Petitioner's refusal is based on uncertainty over the outcome and his legitimate concern that his condition could worsen, a possibility that Dr. Phillips conceded during his deposition. (RX 1, pp. 24-25) The Arbitrator finds nothing unreasonable about Petitioner's decision and finds no evidence that his refusal was borne out of bad faith.

L. What is the nature and extent of the injury?

To qualify for a wage differential benefit under Section 8(d)1 of the Act, a claimant must prove: (1) a permanent partial incapacity which prevents him from pursuing his usual and customary line of employment, and (2) an impairment of earnings. *Albrecht v. Industrial Commission, 271 Ill.App.3d 756 (1st Dist. 1995).* To prove an impairment of earnings, a claimant must prove his actual earnings for a substantial period before the accident, and after he returns to work, or in the event that he has not returned to work, he must prove what he can earn in some suitable employment. *Crittenden v. Ill. Workers' Comp. Comm., 2017 Il App (1st) 160002WC.* Under Section 8(d)1, an award should be calculated based upon the amount the claimant would have been able to earn at the time of the hearing if the injured worker were able to fully perform the duties of the occupation in which he was engaged at the time of the accident. *Old Ben Coal Company v. Industrial Commission, 198 Ill.App.3d 485, (5th Dist. 1990).*

Section 8(d)1 of the Act provides that, "if, after the accidental injury has been sustained, the employee as a result thereof becomes partially incapacitated from pursuing his usual and customary line of employment, he shall…receive compensation for the duration of his disability, subject to the limitations as to maximum amounts fixed in paragraph (b) of this Section, equal to 66-2/3% of the difference between the average amount which he would be able to earn in the full performance of his duties in the occupation in which he was engaged at the time of the accident and the average amount which he is earning or is able to earn in some suitable employment or business after the accident.' *820 ILCS 305/8(d)1.*

In this case, the Commission Decision on July 21, 2023, found that Petitioner is unable to return to his prior occupation as a police sergeant because of the right shoulder injury he sustained on March 15, 2019. (23 IWCC 0309, page 2, para.1) Therefore, the Arbitrator is left to determine the second prong required to establish entitlement to a wage differential benefit, which is an impairment of earnings.

Based on the Petitioner's unrebutted testimony regarding his wages and the wage records in evidence, the Arbitrator finds that sufficient evidence has been presented to establish that Petitioner has sustained an impairment of earnings and is entitled to a wage differential benefit under Section 8(d)1 of the Act.

To calculate the correct wage differential benefit in this case, a determination must first be made with respect to what the Petitioner would have been able to earn in his prior occupation as a police sergeant for the Respondent's police department. For the calendar year of 2022, the parties stipulated that the Petitioner's average weekly wage was $1,935.18. Petitioner testified and presented evidence as to what his salary would have been had he continued to work as a police sergeant for Respondent for the calendar years of 2023, 2024, and 2025, which would be a yearly salary, between two currently employed police sergeants, given that Petitioner was promoted after the higher paid sergeant, Porter, and before the lower paid sergeant; Finfrock. For the calendar year of 2023, the yearly salary between the current two sergeants would be $119,869.00; for the calendar year of 2024, the yearly salary between those two current sergeants would be $125,609.00, and for the calendar year of 2025, the yearly salary between those two current sergeants would be $130,632.50. (PX 4)

The second step in calculating the correct wage differential benefit is to determine what Petitioner is earning in his new occupation or occupations deemed suitable employment. In this case, Petitioner first worked as an insurance agent for Globe Life from November 22, 2012, through August 7, 2022, for a total of 37 weeks, and was paid gross wages of $18,411.18. (PX 1) This results in an average weekly wage of $497.60. Next, Petitioner worked as a Facilities Coordinator for O'Reilly Automotive Stores from August 8, 2022, through May 31, 2023, for a total of 43 weeks, with gross earnings of $32,914.41, resulting in an average weekly wage of $765.45. (PX 2) Petitioner then found employment as an Education and Outreach Trainer with Mid-States Organized Crime Information Center beginning on June 1, 2023, and continues working for this organization up to the present. Petitioner has been promoted several times, and his yearly salary has increased commensurate with his promotions and seniority. His initial yearly salary was $56,051.00, and his current yearly salary is $101,880.00. (PX 3) In all these positions, Petitioner is earning less than what he would have been earning in his prior occupation as a police sergeant. Additionally, Mr. Steven Blumental, the vocational counselor who performed a vocational assessment of the Petitioner, opined that the Petitioner's current employment with Mid-States Organized Crime Information Center is suitable employment given his education, work history, and physical abilities. (PX 5, p. 18)

Utilizing the calculations outlined above, Petitioner is entitled to receive Section 8(d)1 weekly wage differential benefits in the following amounts:

1. $958.39 per week for 37 weeks beginning November 22, 2021, through August 7, 2022.
2. $779.82 per week for 21 weeks beginning August 8, 2022, through December 31, 2022.
3. $1,026.48 per week for 22 weeks beginning January 1, 2023, through May 31, 2023.
4. $818.18 per week for 30 weeks beginning June 1, 2023, through December 31, 2023.
5. $877.40 per week for 21 weeks beginning January 1, 2024, through May 24, 2024.
6. $852.95 per week for 10 weeks beginning May 25, 2024, through August 1, 2024.
7. $722.41 per week for 22 weeks beginning August 2, 2024, through January 3, 2025.
8. $769.06 per week for 18 weeks beginning January 4, 2025, through May 9, 2025.
9. $368.62 per week beginning May 10, 2025, until the Petitioner reaches age 67.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC034365
Case Name	Pedro Lopez v. Ron's Staffing
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0234
Number of Pages of Decision	17
Decision Issued By	Marc Parker, Commissioner

Petitioner Attorney	Jordan Browen
Respondent Attorney	Michael J. Danielewicz

DATE FILED: 8/19/2026

/s/Marc Parker, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF KANKAKEE)

☒ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Pedro Lopez,

Petitioner,

vs. No. 24 WC 34365

Ron's Staffing,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b)/8(a) having been filed by Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection, medical expenses, temporary disability, and prospective medical care, and being advised of the facts and law, affirms and adopts the Corrected Decision of the Arbitrator, which is attached hereto and made a part hereof. The Commission further remands this case to the Arbitrator for further proceedings for a determination of a further amount of temporary total compensation or of compensation for permanent disability, if any, pursuant to *Thomas v. Industrial Commission,* 78 Ill.2d 327, 399 N.E.2d 1322, 35 Ill.Dec. 794 (1980).

IT IS THEREFORE ORDERED BY THE COMMISSION that the Corrected Decision of the Arbitrator filed December 2, 2025, is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

IT IS FURTHER ORDERED BY THE COMMISSION that this case be remanded to the Arbitrator for further proceedings consistent with this Decision, but only after the latter of expiration of the time for filing a written request for Summons to the Circuit Court has expired without the filing of such a written request, or after the time of completion of any judicial proceedings, if such a written request has been filed.

Bond for removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $50,600.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 19, 2026

/s/ *Marc Parker*
Marc Parker

MP/mcp
o-07/23/26
068

/s/ *Maria E. Portela*
Maria E. Portela

/s/ *Christopher A. Harris*
Christopher A. Harris

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC034365
Case Name	Pedro Lopez v. Ron's Staffing
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Corrected Decision
Commission Decision Number	
Number of Pages of Decision	14
Decision Issued By	William McLaughlin, Arbitrator

Petitioner Attorney	Jordan Browen
Respondent Attorney	Daniel J Levato

DATE FILED: 12/2/2025

/s/William McLaughlin, Arbitrator
Signature

INTEREST RATE WEEK OF DECEMBER 2 2025 3.64%

STATE OF ILLINOIS)
)SS.
COUNTY OF WILL)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
CORRECTEDARBITRATION DECISION (19F)
19(b)

Pedro Lopez
Employee/Petitioner

v.

Ron's Staffing
Employer/Respondent

Case # 24 WC 034365

Consolidated cases: N/A

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable McLaughlin, Arbitrator of the Commission, in the city of Joliet, on September 16, 2025. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ Is Petitioner entitled to any prospective medical care?
L. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On the date of accident, September 25, 2024, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $9,724.00; the average weekly wage was $858.00.

On the date of accident, Petitioner was 43 years of age, single with 2 dependent children.

Respondent ***has not*** paid all reasonable and necessary charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $0.00 for TTD, $0.00 for TPD, $0.00 for maintenance, and $0.00 for other (PPD advance) benefits, for a total credit of $0.00.

Respondent is entitled to a credit of $0.00 under Section 8(j) of the Act.

ORDER

Respondent shall pay Petitioner the sum of $14,626.86, representing 25 4/7 weeks from March 22, 2025, through September 16, 2025, at the rate of $572.00 per week, for TTD benefits as outlined in Section L of Arbitrator's Conclusions of Law.

Respondent shall pay directly to Petitioner all medical bills as outlined in Section J of Arbitrator's Conclusions of Law and pursuant to Sections 8(a) and 8.2 of the Act.

Respondent shall authorize the lumbar microdiscectomy procedure with Dr. Mekhail, as outlined in Section K of Arbitrator's Conclusions of Law.

In no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

William McLaughlin

Signature of Arbitrator

ICArbDec19(b)

DECEMBER 2 2025

STATE OF ILLINOIS)
) SS
COUNTY OF WILL)

ILLINOIS WORKERS' COMPENSATION COMMISSION

Pedro Lopez,	)	
Petitioner,	)	
	)	
v.	)	24 WC 034365
	)	
Ron's Staffing,	)	
	)	
Respondent.	)	

CORRECTED FINDINGS OF FACT

This matter proceeded to hearing on September 16, 2025, in Joliet, Illinois before Arbitrator William McLaughlin.

A 19(f) motion was filed by the respondent on or about December 1, 2025.

Arbitrator has corrected the inconsistencies in the facts and conclusions and re-submitted the corrected decision on December 2, 12025. Arbitrator wants it noted that he sent the wrong order in with the initial decision as he had a couple of different drafts.,

Petitioner, Pedro Lopez, testified that in September of 2024, he was employed with Ron's Staffing, Petitioner was on assignment with a company called Menasha, to drive a forklift and perform maintenance. (Tr. 8-9)

On September 25, 2024, while driving a forklift, Petitioner crashed into another forklift. (Tr. 9-10).

Petitioner was sent home and did not finish work that day. Petitioner did not seek medical attention on the day of the accident. (Tr. 11).

Petitioner testified that he did not seek medical attention immediately because the pain was not that bad. Petitioner testified that he did not feel pain until the next morning, describing the pain as shooting to my butt and my left leg. Despite the pain Petitioner worked on September 26th and 27th. (Tr. 12)

Petitioner testified that he first sought medical attention on October 3, 2024, when he went to Morris Hospital. Petitioner testified that at the time, he was having trouble walking and could not bend down or twist. Despite the pain, Petitioner continued to work at Menasha. (Tr.13).

Petitioner testified that he followed up with the health clinic on October 8, 2024. (Tr.14). Petitioner further testified that he worked after the October 8 appointment. (PX 7)

Petitioner continued working in pain at Menasha between October 8, 2024, and October 23, 2024. (Tr. 15)

On October 23, 2024, after Respondent saw him walking in pain at work, Petitioner testified that respondent requested that he go to Diagnostic and Rehabilitative Center. Petitioner testified that Ron's Staffing accommodated his restrictions after the October 23, 2024, office visit. (Tr. 16)

Petitioner testified that he was next sent by Respondent to Premier Occupational Health, where he was again given restrictions. Respondent accommodated the restrictions from Premier Occupational Health, where Petitioner testified that he continued working through the end of 2024. (Tr. 17)

Petitioner testified that when he was no longer able to work light duty, he was offered an alternative light duty assignment working with elderly people. (Tr. 18).

Petitioner testified that was referred to see specialists by Premier Occupational Health and including Orland Park Orthopedics. Petitioner further testified that he was recommended physical therapy, injections, and for a surgical consult. Petitioner testified that the first injection did not work well, but the second one helped for a couple of weeks, then the pain came back. (Tr. 18-19)

Petitioner testified that he was sent for a surgical consultation with Dr. Mekhail from Parkview Orthopedic, who evaluated him ad recommended surgery. (Tr. 19-20).

Petitioner presented for an independent medical evaluation by Respondent in February of 2025, and testified that the light duty assignment that he started in January of 2025 eventually ended. (Tr. 20- at 21).

Petitioners testified as to Petitioner's Exhibit 9, which is a letter from the Respondent where Petitioner testified that the Respondent was to find him another job, and according to him they did not. Petitioner testified Petitioner testified that the letter instructed him to return to work full duty. (Tr. 21)

Petitioner testified that while he was under the care of Dr. Mejia in March of 2025 with work restrictions, Petitioner was not offered a light duty position. (Tr. at 22-23).

Petitioner testified that he was recommended for surgery in May of 2025 but testified that he had not had the surgery yet and that he continued seeing his treating physicians at Premier Occupational Health, as well as the Pain Center of Illinois. (Tr. 24-25).

Petitioner testified that while waiting for surgery approval he is taking his pills, still under work restrictions, but not working. (Tr. 25-26).

Medical evidence

Petitioner first treated with Morris Hospital on October 3, 2024, with a medical authorization from Respondent. (PX 1 at 11). The records note, "Pt to ER with c/o left sided lower back pain. Pt stated he was driving a forklift on 9/25/24 when it collided with another forklift. Pt stated he has had pain to the lower back since and it is not getting better." Pt stated pain radiates up his back and down the left leg." (PX 1 at 15).

The record also noted that "back pain on left side, from shoulder and down his leg. Pt had an accident at work on 9/25. Was driving a forklift and hit another forklift. Back pain started the next day." (PX 1 at 22)

The hospital prescribed medication and released Petitioner with restrictions of "no lifting, climbing, twisting until released by physician." (PX 1 at 41,43)

October 8, 2024, Petitioner presented to a clinic affiliated with Morris Hospital. Petitioner was released without restrictions or further treatment recommendations. (PX 7, RX 7).

On October 23, 2024, Petitioner treated with Diagnostic and Rehabilitative Center. Petitioner was given restrictions at this visit including lifting, pushing, or pulling limitations: up to 20 Lbs. Petitioners diagnosis remained lumbago and sciatica and he was given an orthopedist referral. (PX 8, RX 8).

Petitioner was evaluated at Premier Occupational Health on October 31, 2024. He was diagnosed with "strain of muscle, fascia, and tendon of lower back, initial encounter; sciatica, left side; low back pain, unspecified." X-rays were completed, he was referred for an MRI, and he was prescribed cyclobenzaprine, meloxicam, provided lidocaine patches, topical diclofenac gel, and

pantoprazole and Tylenol. He was not given any work restrictions but scheduled to follow up in 7 days. (PX 2 at 267-269).

On November 5, 2024, Petitioner had another appointment with Premier Occupational Health. It was noted that his pain has not improved, and he continues to have pain while standing, ambulating and worse when sitting. He was given work restrictions of lifting limited to 25 pounds or less. Pushing and pulling should be limited to 25 pounds or less. It was noted that the MRI was completed but they did not have the results to review. His medications were adjusted, and he was given an order to start physical therapy. (PX 2 at 261-262).

The November 5, 2024, MRI revealed:

1. Straightening of lumbar lordosis noted, likely due to muscle spasm;
2. Reduced intervertebral disc space noted at L5-S1 level;
3. Multilevel disc desiccation noted in the lower lumbar spine;
4. Multilevel disc bulges noted extending from L1-L2 level to L5-S1 level with findings being more marked at L5-S1 level comprising of diffuse disc bulge with left paracentral disc protrusion causing moderate narrowing of the spinal canal along the left paracentral aspect. (PX 2 at 259).

Petitioner followed up at Premier on November 11, 2024. The MRI results were reviewed, and he was referred to a pain specialist. It was recommended that he continue with medications, physical therapy, and the 25-pound restrictions. (PX 2 at 253-255).

Petitioner was evaluated by Dr. Rhode at Orland Park Orthopedics on November 11, 2024. He presented with back pain due to a work-related injury 9/25/24. (PX 3 at 7). Dr. Rhode reviewed the MRI and recommended continued PT and opined that if he did not improve, he would be a candidate for ESI. (PX 3 a7 – 8).

On November 18, 2024, Petitioner was evaluated by Dr. Adrienne Mejia of The Pain Center of Illinois. The history noted at the initial visit included "patient complains of lower back pain, worse on the left side, that radiates into his left buttock and posterior lower extremity." The mechanism of injury was documented as "patient states he was injured at work on 9/25/24." "The patient states that he was reversing his forklift at work when a second forklift crashed into the back of the patient's forklift." Petitioner also reported axial lower back pain from a car accident in 2010. (PX 4 at 6).

Dr. Mejia performed a physical examination, reviewed the MRI, and recommended a lumbar epidural steroid injection at L5-S1. PX 4 at 8. She further recommended he continue physical therapy and extended light duty restrictions. (PX 4 at 9)

Petitioner followed up at Orland Park Orthopedics one more time on November 20, 2024. An injection was recommended along with continuing PT and light duty work restrictions. (PX3 at 11).

On November 25, 2024, Petitioners restrictions were continued, pending the injection. (PX 2 at 237). Petitioner continued physical therapy at Premier in early December until a follow up appointment on December 12, 2024. His medications and work restrictions were continued. (PX 2 at 226-228).

Petitioner continued physical therapy at Premier throughout December 2024, until March 17, 2025, with therapy and medications pending injections. His work restrictions were also continued. (PX 2).

Petitioner underwent a lumbar steroid injection at L5-S1 on March 17, 2025. (PX 5 at 4).

Petitioner followed up with Dr. Mejia on April 4, 2024. She noted 80% relief of pain which lasted 3 days about one week after the injection. Based on Petitioner's response to the first injection, she recommended a second injection at L4-5 and L5-S1. She continued him in physical therapy and extended his work restrictions. (PX4 at 27).

Petitioner followed up with Dr. Pitsilos on April 7, 2025, April 22, 2025, and May 7, 2025, at Premier. (PX 2 at 122).

Petitioner underwent a second injection on April 9, 2025. This was administered at the left L4-L5 and L5-S1. (PX 5 at 6).

On April 14, 2025, Petitioner had appointment with Dr. Mejia after his second injection. Dr. Mejia noted some improvement from the injection and less frequent flares of pain. Petitioner was referred for a spine consult after this evaluation. Work restrictions were continued. (PX 4 at 29).

Petitioner was evaluated by Dr. Mekhail on May 9, 2025. Dr. Mekhail diagnosed Petitioner with a left L5-S1 herniated disc with left lumbar radiculopathy. He opined that it was causally related to the work injury. Dr. Mekhail recommended a left L5-S1 microdiskectomy. (PX 6 at 4-5).

Petitioner continued to see Dr. Mejia on May 16, 2025, June 26, 2025, and July 31, 2025. Dr. Mejia continued him on work restrictions at each appointment. PX 4 at 34-48.

Petitioner continued to follow up with Drs. Pitsilos and Gorovits at Premier on May 22, 2025, June 5, 2025, June 19, 2025, July 3, 2025, July 18, 2025, July 31, 2025, and August 18, 2025, while pending approval of the recommended surgical procedure.. As of the August 18, 2025, visit, he was still on restrictions. (PX 2 at 79-107)

Testimony of Witness Enrique Landeros

Enrique Landeros testified that he is a safety and workers' compensation manager for Ron's Staffing. T at 48. Mr. Landeros further testified that his duties include helping injured employees return to work. Mr. Landeros testified that Petitioner was sent a letter after the Section 12 examination to call Ron's Staffing to return to full duty work. (Tr. at 50).

Mr. Landeros is the safety and workers' compensation manager for Respondent; his duties include overseeing workers' compensation safety and personnel departments and helping injured workers return to work. (Tr. 48-49). Mr. Landeros was aware of Petitioner's injury and testified that Petitioner was injured colliding with another forklift. (Tr. 49). Mr. Landeros testified that Petitioner continued to work full duty without restrictions "for some time" before eventually helping Petitioner secure work within his restrictions. (Tr. 48-49)

Mr. Landeros testified that he was aware of the accommodating work letter sent to Petitioner. (Tr. 50); (Rx6). He testified Petitioner never called Respondent regarding the letter and a return to work. Mr. Landeros confirmed that Respondent was aware of Petitioner's treating physician's recommended work restrictions following the tendering of this letter; Mr. Landeros confirmed that had Petitioner made the call to Respondent, he would have worked with Petitioner to find work within his current restriction recommendations. (Tr. 50- 51).

Testimony of Dr. Thomas Gleason

Dr. Thomas Gleason testified in an evidence deposition on August 19, 2025. Dr. Gleason testified that he performed a physical examination of the Petitioner on February 18, 2025. (RX 8)

Dr. Gleason diagnosed Petitioner with left lumbar radicular signal seemingly involving the S1 distribution, with a suggestion of a left L5-S1 protrusion/herniation abutting an S1 nerve root. (PX 8 at 26). Despite opining that Petitioner's "subjective complaints were supported by the medical records," Dr. Gleason opined that "I couldn't relate the complaints or his symptomatic

condition to the reported September 25, 2024, injury." (RX 8 at 31-32). Dr. Gleason based his opinion on the fact that Petitioner did not report immediate pain, but said he woke up with low back pain the next day, as well as the fact that he went to the emergency room a week later. (PX 8 32-33).

Dr. Gleason agreed that the treatment was necessary, if not causally related. He opined that some therapy was reasonable, but Petitioner's frequency was excessive. He also agreed that Petitioner was a candidate for the L5-S1 epidural steroid injection. (RX 8 at 37). He further opined that Petitioner was capable of sedentary to light type of work, restricted to 25 pounds lifting and/or pulling, but that those restrictions were not causally related to the work injury. (PX 8 at 38).

Dr. Gleason testified he evaluated Petitioner again on August 26, 2025, and confirmed that Petitioner was a candidate for the L5-S1 micro-discectomy procedure, but that the necessity for the procedure was not causally related to the September 24, 2025, accident. (RX 10).

CONCLUSIONS OF LAW

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law as set forth below. The claimant bears the burden of proving every aspect of his claim by a preponderance of the evidence. *Hutson v. Industrial Commission*, 223 Ill.App.3d 706, 714 (Ill. App. 5th Dist. 1992).

(F). Is Petitioner's current condition of ill-being causally related to the injury?

It is the Commission's province to assess the credibility of witnesses, draw reasonable inferences from the evidence, determine what weight to give testimony, and resolve conflicts in the evidence, particularly medical opinion evidence. *Berry v. Industrial Commission,* 99 Ill. 2d 401, 406-407 (1984). Expert testimony shall be weighed like other evidence within its weight determined by the character, capacity, skill and opportunities for observation, as well as the state of mind of the expert and the nature of the case and its facts. *Madison Mining Company v. Industrial Commission,* 309 Ill. 91, 138. The proponent of expert testimony must lay foundation sufficient to establish the reliability of the bases for the expert's opinion. *Gross v. Illinois Workers' Compensation Commission* 2011 Il App (4th) 100615WC. A finder of fact is not bound by an expert opinion on an ultimate issue but may look "behind" the opinion to examine the underlying facts.

The Arbitrator finds that the medical evidence and testimony in this matter supports the conclusion that Petitioner's current symptoms are causally related to the work injury. The Arbitrator further finds Petitioner was a credible witness. The Arbitrator concludes Petitioner's current condition of ill-being is causally related to the work-injury. In support of his determination, the Arbitrator states as follows:

The Arbitrator finds that Petitioner testified credibility and proved his current condition of ill-being is causally related to the undisputed work injury sustained on September 25, 2024.

The Arbitrator Petitioner's testimony was consistent the medical records from the emergency room at Morris Hospital, as well as the subsequent records from Ridge Road Clinic, Diagnostic and Rehabilitative Center, Premier Occupational Health, Orland Park Orthopedic, and the Pain Center of Illinois, and Parkview Orthopedic.

The Arbitrator gives greater weight to the opinions and conclusions from Petitioner's treating physicians – including Drs. Mekhail and Mejia than the opinions of Dr. Thomas Gleason, the IME.

The Arbitrator also finds that causal connection is established between Petitioner's current condition of ill-being and the undisputed September 25, 2024, work injury under the "chain of events" analysis frequently applied by the Commission and reviewing courts. *Martin Young Enterprises, Inc. v. Industrial Com*. 51 Ill. 2d 149 (1972).

In reaching said conclusions the Arbitrator considered the medical records corroborating Petitioner's testimony. Petitioner's complaints were consistent with his initial evaluations with his treating physicians, and the mechanism of injury is consistent in those records . Petitioner's testimony was consistent by the written reports of the injury from the date of the accident. (RX 1)

Regarding Arbitrators findings, it is undisputed that Petitioner's back was asymptomatic, and Petitioner was working full duty at the time of his September 25, 2024, work accident.

Immediately after the injury, Petitioner testified he was sent home from work and then felt several pain symptoms the next day. His symptoms persisted throughout his various treatments. Because his symptoms failed to improve, Petitioner received a recommendation for a lumbar microdiscectomy procedure from his treating surgeon, Dr. Mekhail.

Reviewing Petitioner's medical treatment timeline, the Arbitrator finds Petitioner sustained an injury to his lumbar spine that resulted in condition of ill-being that has not resolved despite conservative management, and treatment. There was not sufficient evidence submitted to contradict the Petitioners causal connection under a "chain of events" analysis.

When comparing the opinions of Dr. Mekhail and Dr. Gleason, in light of the chain of events analysis, Arbitrator finds Dr. Mekhail is more credible and therefore should be afforded more weight.

The Arbitrator notes at the outset that Dr. Gleason does not disagree with the reasonableness and necessity of the recommended procedure, aside from his opinion with respect to causation.

The Arbitrator finds it reasonable that Petitioner did not go to the emergency room immediately in the days following the accident. Arbitrator found the Petitioner to be credible and understandable for an injured employee, with a good work ethic and history, to continue working for several days following an accident until the pain fails to resolve or symptoms become unbearable, such that medical treatment becomes necessary.

Arbitrator notes Dr. Gleason, to some extent is in agreement respect to diagnosis and treatment plan, including the recommended procedure.

Based on the totality of the evidence, the Arbitrator finds that Petitioner has met his burden, proving by a preponderance of the evidence that his condition of ill-being is causally related to the undisputed work injury of September 25, 2024.

(J) Were the medical services that were provided to Petitioner reasonable and necessary and has Respondent paid all appropriate charges for all reasonable and necessary medical services?

The following unpaid Medical bills were entered into evidence:

1.	Premiere Occupational Health	$2,605.00
2.	Orland Park Ortho	$1,344.00
3.	The Pain Center of Illinois	$7,770.80
4.	Illinois Neck and Back Institute	$23,250.00
5.	Parkview Ortho	$866.00
	TOTAL:	$35,835.80

The Arbitrator finds the medical treatment ordered and rendered by Premier Occupational Health, Orland Park Orthopedic, The Pain Center of Illinois, Illinois Neck and Back Institute, and Parkview Orthopedic to be both reasonable and necessary and that Respondent has not paid all appropriate charges for Petitioner's reasonable and necessary medical services.

The Arbitrator has found that Petitioner's injuries were causally related to the work accident. There was no evidence to contradict the Bills. Therefore, the Arbitrator finds Petitioners care was reasonable and necessary and awards the payment of all medical bills as provided in §8(a) of the Act, to be adjusted in accord with the medical fee schedule provided by §8.2 of the Act.

(K). Is Petitioner entitled to any prospective medical care?

The Arbitrator finds Petitioner is entitled to prospective medical care. Petitioner has not reached MMI and remains under that care of Dr. Gorovits, Potsilis, Mejia, and Mekhail as of the date of the hearing, September 16, 2025.

Because the Petitioner suffered an undisputed work accident and the finding the issue of causal connection, the Arbitrator, awards the lumbar microdiscectomy procedure recommended by Dr. Mekhail, as well as all reasonable and necessary post-operative care.

(L). What temporary benefits are in dispute?

In *Interstate Scaffolding, Inc. Illinois Workers' Comp. Comm'm*, 236 Ill.2d 132, 142 (2010). When an injured Petitioner demonstrates that he continues to be temporarily totally disabled as a result of his work-related injury, he is entitled to TTD benefits. *Id.* at 149.

Having decided the issue of causation, and awarding the lumbar procedure, the Arbitrator holds that Petitioner is not at maximum medical improvement, Arbitrator finds that Petitioner is entitled to 25 and 4/7 weeks of TTD from March 22, 2025, to September 16, 2025.

Respondent relies heavily on a letter, dated March 20, 2025, in which Respondent alleges that he Petitioner should contact them in regards to a job that meets Petitioners restrictions. However, within the letter it is noted that they "received notice from the doctor indicating that you are cleared to return to work full duty" and that Respondent "is prepared to find a new job assignment for you." The letter also explicitly states that "your light-duty assignment at the Reemploy Ability program will conclude after work on Friday, March 21, 2025." (PX 9 at 1).

Arbitrator's plain reading of the letter indicates work expected and that light duty accommodation was yet readily available. The letter specifically informed Petitioner that his current light-duty assignment was ending, and that Respondent expected Petitioner to call in "to return to work full duty."

Prior to the March 20st letter, on two separate occasions, the Respondent, provided Petitioner with an "Acknowledgement of Light Duty (Return to Work)" document. (RX 4 at 1-2).

No such document was introduced pertaining to a light duty offer in March 2025.

Arbitrator did consider the testimony of Mr. Landeros, when he testified that he knew Petitioner was still under restrictions in March of 2025, but that he would have worked with Petitioner "to find full duty job within the restrictions of his doctor." (Tr. at 51).

However, Arbitrator finds that an accommodated position within his restrictions; was never made.

The Arbitrator relied heavily on the credibility of the Petitioner, that he would have worked, if offered work, consistent with his restrictions. Arbitrator finds that the Petitioner did not refuse a light duty accommodation.

In reaching said conclusion Arbitrator gives great weight that Petitioner worked from the day of the accident, throughout October 2024, and then accepted two light-duty assignments from November19, 2024, through March 21, 2025.

Based on a totality of the evidence, Respondent is responsible for TTD from March 22, 2025, through September 16, 2025 – a period of 25 and 4/7 weeks. At a TTD rate of $572.00 per week, 25 and 4/7 weeks of TTD is a total award of $14,626.86.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	22WC028305
Case Name	Norlan Rosales v. Triune Logistics
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0235
Number of Pages of Decision	10
Decision Issued By	Amylee Simonovich, Commissioner

Petitioner Attorney	Adam Rosner
Respondent Attorney	Jonathan E. Barrish, Robert M. Harris

DATE FILED: 8/21/2026

/s/Amylee Simonovich, Commissioner

Signature

26IWCC0235

STATE OF ILLINOIS)	☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
) SS.	☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
COUNTY OF WILL)	☐ Reverse	☐ Second Injury Fund (§8(e)18)
		☐ PTD/Fatal denied
	☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Norlan Rosales,

Petitioner,

vs. NO: 22 WC 028305

Triune Logistics,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b) having been filed by Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection, medical expenses, and prospective medical care, and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below, and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof. The Commission further remands this case to the Arbitrator for further proceedings for a determination of a further amount of temporary total compensation or of compensation for permanent disability, if any, pursuant to *Thomas v. Industrial Comm'n*, 78 Ill.2d 327, 399 N.E.2d 1322, 35 Ill.Dec. 794 (1980).

The Commission modifies the Order in the Arbitrator's Decision relating to prospective medical, striking, "Respondent shall approve and pay for the medical treatment prescribed by Dr. Wiesman, including the right third digit A1 pulley release and digital neurectomy and all resulting treatment, physical therapy, and follow-up care." This shall be replaced with, "Respondent shall provide and pay for the medical treatment prescribed by Dr. Wiesman, including the right third digit A1 pulley release and digital neurectomy, and the attendant care, subject to the fee schedule and in accordance with the provisions of §8 and §8.2 of the Act.

The Commission further modifies the last sentence of the last paragraph on page 7 of the Decision, striking "authorize" and replacing it with "provide".

All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Corrected Decision of the Arbitrator filed on February 25, 2026, is modified as stated herein, and otherwise affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay Petitioner directly through his counsel for the following outstanding medical services pursuant to Sections 8(a) and 8.2 of the Act: Illinois Orthopedic Network, $3,950.26; Midwest Specialty Pharmacy, $14,327.61; ATI Physical Therapy, $5,135.74.

IT IS FURTHER ORDERED BY THE COMMISSION THAT Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall provide and pay for the medical treatment prescribed by Dr. Wiesman, specifically the right third digit A1 pulley release and digital neurectomy, and the attendant care, subject to the fee schedule and in accordance with the provisions of §8 and §8.2 of the Act

IT IS FURTHER ORDERED BY THE COMMISSION, that in no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits or compensation for temporary or permanent disability, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $33,513.61. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 21, 2026
O: 07/28/26
AHS/kjj
051

/s/ *Amylee H. Simonovich*
Amylee H. Simonovich

/s/ *Stephen J. Mathis*
Stephen J. Mathis

/s/ *Kathryn A. Doerries*
Kathryn A. Doerries

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	22WC028305
Case Name	Norlan Rosales v. Triune Logistics
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Corrected Decision
Commission Decision Number	
Number of Pages of Decision	7
Decision Issued By	Gerald Granada, Arbitrator

Petitioner Attorney	Adam Rosner
Respondent Attorney	Jonathan E. Barrish, Robert M. Harris

DATE FILED: 2/25/2026

/s/ Gerald Granada, Arbitrator
Signature

INTEREST RATE WEEK OF FEBRUARY 24 2026 3.53%

STATE OF ILLINOIS)
)SS.
COUNTY OF **WILL**)

- ☐ Injured Workers' Benefit Fund (§4(d))
- ☐ Rate Adjustment Fund (§8(g))
- ☐ Second Injury Fund (§8(e)18)
- ☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
CORRECTED ARBITRATION DECISION
19(b)

Norlan Rosales
Employee/Petitioner

v.

Triune Logistics
Employer/Respondent

Case # **22** WC **028305**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Gerald Granada**, Arbitrator of the Commission, in the city of **Joliet**, on **October 21, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ Is Petitioner entitled to any prospective medical care?
L. ☐ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☐ TTD
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On the date of accident, **9/27/22**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**9,678.78**; the average weekly wage was $**667.46**.

On the date of accident, Petitioner was **38** years of age, ***single*** with **3** dependent children.

Respondent ***has not*** paid all reasonable and necessary charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**0**.

Respondent is entitled to a credit of $**0** under Section 8(j) of the Act.

ORDER

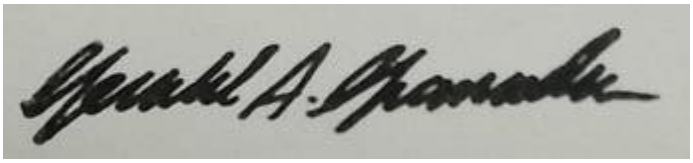
Respondent shall pay Petitioner directly through his counsel for the following outstanding medical services, pursuant to the medical fee schedule and Sections 8(a) and 8.2 of the Act: Illinois Orthopedic Network, $3,950.26; Midwest Specialty Pharmacy, $14,327.61; ATI Physical Therapy, $5,135.74

Respondent shall approve and pay for the medical treatment prescribed by Dr. Wiesman, including the right third digit A1 pulley release and digital neurectomy and all resulting treatment, physical therapy, and follow-up care.

In no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.



Signature of **Arbitrator Gerald Granada**

FEBRUARY 25 2026

FINDINGS OF FACT

This case involves Petitioner Norlan Rosales, who alleges to have sustained injuries while working for Respondent Triune Logistics on September 27, 2022. Respondent disputes Petitioner's claim, with the issues being: 1) causation; 2) medical expenses; and 3) prospective medical care. Petitioner testified via a Spanish translator.

Petitioner's Testimony

Petitioner testified that he was employed for Respondent in September of 2022 and had been there for about three years. He is not currently employed. His job duties included driving forklifts, unloading containers, and cutting wood and pipes. The pipes were made from metal or aluminum. His typical shift was from 6:30 AM to 5:00 PM, five days per week.

On September 27, 2022, Petitioner was lifting a metal ramp off another metal ramp with his supervisor. As he lifted the ramp, his supervisor pushed the bottom ramp on the side, causing his right middle finger to be smashed. Petitioner's right middle finger was trapped between the two ramps. After he was able to get his right middle finger out from between his ramps, he took off his glove, and noted his right middle finger was smashed and cut. The injury was at the right middle distal portion on the palm side of his right middle finger. His skin was hanging off, he was bleeding, and the portion where his finger was cut went numb. Petitioner went to grab coffee to insert into the wound to stop the bleeding and finish his shift. He later sought medical treatment.

Petitioner testified that he underwent injections that did not help. Throughout his treatment, he felt numbness in his right middle finger and lack of grip strength. He continued to work after the work accident in a full duty position with the same job duties as described previously. Petitioner is right-hand dominant and had to perform his job duties, such as cutting wood, using his left hand. Petitioner testified he continued to work full duty despite the pain and numbness for his family and that he did not want to lose his job.

Petitioner stopped working for Respondent in August of 2024. He has a separate worker's compensation claim from August of 2024, unrelated to his right middle finger. Petitioner testified he wished to proceed with the surgeries recommended by Dr. Wiesman because he wants to be able to have feeling in his right middle finger and improve his grip strength. His right middle finger has affected his ability to take care of his son and wiping himself. Prior to the work accident, he had no issues with his right middle finger or grip strength.

Medical care

On September 27, 2022, Petitioner presented to AMITA Emergency room with a finger laceration after moving a piece of metal and Petitioner's finger was crushed under a metal slab. PX1. Petitioner had 4/10 pain and a throbbing sensation. Id. On physical examination, a jagged laceration was noted to the distal phalanx on the right upper extremity. Id. Petitioner underwent wound repair with sutures. Id.

On September 29, 2022, Petitioner presented to Physicians Immediate Care with tenderness over the wound site, DIP joint flexion abnormal, and a U-shaped laceration to the right middle fingertip. PX2.

Petitioner was placed on work restrictions and followed up with Physicians Immediate Care on October 4, 2022 with similar complaints and physical examination findings. Id.

On October 12, 2022, Petitioner presented to Dr. Wiesman with 8/10 pain, numbness and tingling along the distal phalanx, and a history consistent with the testimony at trial. PX3. On physical examination, Dr. Wiesman noted tenderness over the incision site as well as along the proximal phalanx and into the palm; and reduced flexion of the MCP joint. Id. Petitioner was recommended to undergo physical therapy, which he completed at ATI Physical Therapy starting on November 10, 2022. PX4.

Petitioner followed up with Dr. Wiesman on November 4, 2022 and November 30, 2022 with continued pain in the distal phalanx of his right middle finger and numbness/tingling radiating towards his palm. PX3. On January 17, 2023, Petitioner presented to Dr. Wiesman with 8-9/10 pain and tingling/hypersensitivity over the distal fingertip. Id. Dr. Wiesman recommended continued occupational therapy and noted Petitioner may be a candidate for a scar tissue injection. Id. On March 21, 2023, Petitioner underwent a third digit A1 pulley Kenalog injection. Id. Petitioner followed up with Dr. Wiesman on April 6, 2023 with no relief from the injection. Id.

On April 18, 2023, Petitioner presented to Dr. Wiesman with pain over the ulnar and radial surface of the proximal third phalanx with numbness/tingling along the distal phalanx. Id. Dr. Wiesman noted that the pain would radiate into the dorsal hand and into the forearm as well as numbness along the tip of the middle right finger where the laceration occurred. Id. On physical examination, Dr. Wiesman noted mild amount of soft tissue noted over the pulp of the third digit that was sensitive to palpation, and tenderness along the ulnar and radial aspect of the proximal phalanx as well as the dorsal third MCP joint with A1 pulley tenderness. Id. Petitioner was recommended an MRI of his right hand and another course of physical therapy. Id.

Petitioner followed up with Dr. Wiesman on May 22, 2023, where he underwent a second Kenalog injection into his A1 pulley. Id. After the injection, Petitioner followed up with Dr. Wiesman on July 6, 2023 with no improvement from the injection and stiffness and throbbing pain in the right middle finger. Id. Dr. Wiesman recommended holding off on physical therapy due to exacerbated pain. Id. On July 31, 2023, Petitioner presented to Dr. Wiesman with 5-6/10 right middle finger pain, more so along the MCP joint and numbness/tingling noted and radiating pain into forearm and elbow. Id. Petitioner's pain was described as a burning sensation, especially along the distal phalanx where the laceration occurred. Id. On October 5, 2023, Petitioner underwent an MRI of his right hand, which showed edema along the palmar aspect of the 3rd digit/middle finger, at the level of the proximal phalanx and mild tenosynovitis of the right pinky. Id.

Petitioner followed up with Dr. Wiesman on October 17, 2023 with similar subjective complaints and physical examination findings. Id. At this visit, Dr. Wiesman recommended a right third A1 pulley release. Id. On May 20, 2024, Petitioner presented to Dr. Wiesman with right middle finger pain, radiating toward the palm and forearm and significant sensitivity to the fingertip and pain radiating proximally along the palm of his hand, volar aspect of the forearm. Id. Petitioner endorsed uncomfortable numbness/tingling in the right middle finger. Id. On physical examination, Dr. Wiesman noted tenderness most significant over the fingertip, where there was a slight soft tissue deformity where the laceration had been; abnormal sensation along the entirety of the finger along radial and ulnar aspects, and significant tenderness over the right third digit A1 pulley. Id. Dr. Wiesman updated his surgical recommendation to a right third digit A1 pulley release and digital neurectomy. Id.

Petitioner followed up with Dr. Wiesman on July 1, 2024; October 8, 2024; and May 13, 2025, where Petitioner had similar subjective complaints and physical examination findings. Id. During those visits, Dr. Wiesman continued his surgical recommendations. Id.

Testimony of Dr. Irvin Wiesman (Treating Physician)

On May 21, 2024, Dr. Wiesman testified via evidence deposition. In his deposition, Dr. Wiesman confirmed Petitioner's history of his hand being crushed between 150-pound aluminum sheets. PX5 at 8. He explained that after a crushing injury, numbness can indicate neuropraxia, which is irritation of the nerve. Id. at 9. He further explained that Petitioner could have pain radiating to his palm due to the crush injury which caused inflammation and that Petitioner's difficulty with range of motion of the right middle finger was indicative of flexor tenosynovitis or irritation along the flexor tendon – which can be caused by trauma. As of the July 31, 2023 visit, Dr. Wiesman was concerned for pain syndrome or CRPS with Petitioner. Id. at 24. He reviewed the right-hand MRI, which he noted showed swelling along the subcutaneous tissue of the right middle finger, explaining the triggering. Id. at 26. Dr. Wiesman testified that Petitioner's crush injury caused the laceration, which would cause irritation along the flexor tendon sheath by the trauma, and the laceration cut Petitioner's small branches of nerves at the distal tip of the finger. Id. at 31-32. Dr. Wiesman explained that the Petitioner's laceration could affect the median nerve as the median nerve goes from the distal tip of middle finger to the neck and could be a proximal migration of pain through the forearm. Id. at 39-42.

Dr. Wiesman recommended an A1 pulley release as Petitioner was complaining of clicking of the finger and tenderness along the flexor tendon. Id. at 27. Dr. Wiesman testified he recommended a neurectomy to help with hypersensitivity of Petitioner's distal tip of the right middle finger and proximal migration pain. Id. at 30.

Dr. Ajay Balaram - Independent Medical Examination

On March 7, 2023, Dr. Balaram examined Petitioner for an IME and authored a report. RX2. At the IME, Petitioner had complaints of numbness at the distal tip of his finger, radiating pain down to his forearm/elbow/shoulder, and difficulty gripping and grasping. Id. On physical examination, Dr. Balaram noted a circular scar to the distal tip of the right middle finger and inability to fully close his right middle finger to the palm of his hand. Id. Dr. Balaram noted symptom magnification which included pain from the middle finger to the palm, wrist, forearm, elbow, shoulder, and neck, which did not follow an anatomic distribution. Id. Dr. Balaram noted Petitioner's inability to make a composite fist on direct observation, but then able to on indirect observation as symptom magnification.

Dr. Balaram diagnosed Petitioner with a right middle finger laceration, which was causally related to the work accident. Id. Dr. Balaram opined Petitioner could return to work full duty and there was no indication of surgery. Id.

On October 8, 2024, Dr. Balaram testified via evidence deposition. RX3. His testimony was consistent with his IME report. Dr. Balaram noted Petitioner's complaints of significant tenderness about the entire right upper extremity did not follow any anatomic distribution. Id. at 28.

Dr. Balaram testified trigger finger is not diagnosed via MRI but rather a clinical diagnosis based on the

patient's reported symptoms as well as physical examination. Id. at 57. Dr. Balaram testified that an injection for trigger finger is an appropriate option once the diagnosis is established, and that if the injection does not work, consideration for surgery of an A1 pulley release can be made. Id. at 59. Dr. Balaram testified that Petitioner did not need any work restrictions, and he could not causally relate Petitioner's right upper extremity complaints to the work accident. Id. at 59-60. Dr. Balaram testified that tenderness over the A-1 pulley, active locking or triggering upon evaluation, range of motion, and pain over the volar aspect of palm would correlate with trigger finger. Id. at 61. He further testified that an acute trauma such as a crush injury can cause trigger finger. Id. at 70-71. He also confirmed that the emergency room record indicates a crush injury under a metal slab. Id. at 72.

CONCLUSIONS OF LAW

1. Regarding the issue of causation, the Arbitrator finds that Petitioner met his burden of proof. This finding is based on the Petitioner's unrebutted testimony and the preponderance of the medical evidence which show that he sustained an injury to his right middle finger following his undisputed September 27, 2022 work accident, which resulted in a crush injury leading to a number of symptoms as noted by his treating physician. On this issue, the Arbitrator finds persuasive the opinions of Petitioner's treating physician, Dr. Wiesman. Although the Respondent relies on their IME opinion from Dr. Balaram to dispute this issue, his opinions are outweighed by the preponderance of medical evidence. Dr. Balaram diagnosed Petitioner with a laceration, which he could not relate to Petitioner's other complaints of radiating pain, loss of grip strength, trigger finger, etc. However, Dr. Balaram does admit that a crush injury could cause trigger finger, which could correlate with tenderness, locking, and limited range of motion. This admission supports Dr. Wiesman's opinions that Petitioner sustained a crush injury to his finger that resulted in Petitioner's current pain complaints. The record is devoid of any evidence that Petitioner's complaints and treatment are due to any conditions not stemming from his work accident, such as a pre-existing condition or an intervening cause. Therefore, the Arbitrator concludes that the Petitioner's current condition of ill-being in his right middle finger and hand is causally connected to his undisputed September 27, 2022 work accident.

2. Regarding the issue of medical expenses, and consistent with the Arbitrator's findings on the issue of causation, the Arbitrator further finds that the Petitioner's medical treatment following his undisputed September 27, 2022 work accident have been both reasonable and necessary to address his work-related conditions. As such, the Respondent shall pay any and all medical expenses related to Petitioner's work-related right middle finger and hand condition as set forth in the Petitioner's exhibits subject to the Fee Schedule, including the following: Illinois Orthopedic Network, $3,950.26; Midwest Specialty Pharmacy, $14,327.61; ATI Physical Therapy, $5,135.74. Payment of these expenses shall be made to the Petitioner and her attorney. Respondent shall receive a credit for any medical expenses it has already paid.

3. Regarding the issue of prospective medical care and consistent with the findings above, the Arbitrator further finds that the Petitioner's request for prospective medical treatment is both reasonable and necessary in addressing his work-related finger/hand condition stemming from his September 27, 2022 work accident. Accordingly, Respondent shall authorize and pay for the surgery, as recommended by Dr. Wiesman, and the attendant care, subject to the fee schedule and in accordance with the provisions of §8 and §8.2 of the Act.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	22WC012018
Case Name	Lisa Sykes v. Greif, Inc
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0236
Number of Pages of Decision	18
Decision Issued By	Marc Parker, Commissioner

Petitioner Attorney	Brent Eames
Respondent Attorney	Jeff Goldberg

DATE FILED: 8/25/2026

/s/Marc Parker, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

☒ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☒ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☐ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Lisa Sykes,

Petitioner,

vs. NO: 22 WC 012018

Greif, Inc.,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection, medical expenses, penalties and attorney's fees, temporary total disability, and permanent disability, and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed March 2, 2026, is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Bond for removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $75,000.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 25, 2026
MP:yl
o 8/20/26
68

/s/ *Marc Parker*
Marc Parker

/s/ *Maria E. Portela*
Maria E. Portela

/s/ *Christopher A. Harris*
Christopher A. Harris

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	22WC012018
Case Name	Lisa Sykes v. Greif, Inc
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	15
Decision Issued By	Efi James, Arbitrator

Petitioner Attorney	Brent Eames
Respondent Attorney	Jeff Goldberg

DATE FILED: 3/2/2026

/s/Efi James, Arbitrator
Signature

INTEREST RATE WEEK OF FEBRUARY 24 2026 3.53%

STATE OF ILLINOIS)
)SS.
COUNTY OF COOK)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

LISA SYKES
Employee/Petitioner

v.

GREIF, INC.
Employer/Respondent

Case # **22WC012018**

Consolidated cases: **N/A**

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Efi James**, Arbitrator of the Commission, in the city of **Chicago**, on **December 4, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☐ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☐ TTD
L. ☒ What is the nature and extent of the injury?
M. ☒ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **May 3, 2022**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**43,765.28**; the average weekly wage was $**841.64**.

On the date of accident, Petitioner was **55** years of age, ***single*** with **0** dependent children.

Respondent ***has not*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**80,476.34** for TTD, $**0** for TPD, $**0** for maintenance, and $**11,028.57** for PPD advances, for a total credit of $**91,504.91**.

Respondent is entitled to a credit of $**0** under Section 8(j) of the Act.

ORDER

Respondent shall pay Petitioner temporary total disability benefits of $561.09/week for 148 4/7 weeks, commencing May 4, 2022 through March 9, 2025, as provided in Section 8(b) of the Act. Respondent shall be given a credit of $80,476.34 for TTD and $11,028.57 for PPD advances previously paid.

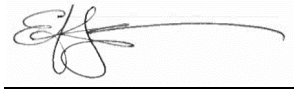
Respondent shall pay reasonable and necessary medical services, pursuant to the medical fee schedule of Ather Malik at SPI Franciscan Medical Pavilion in the amount of $180.00; Parkview Orthopedic in the amount of $15,828.50; Alikai Health in the amount of $8,669.27; Team Rehabilitation Physical Therapy, $3,900.00; Advanced RX in the amount of $17,046.05; Flexus Medical in the amount of $25,902.01; Oak Brook Surgical Centre in the amount of $71,799.65; Illinois Back & Neck Institute, $45,271.07; and Specialists in Medical Imaging, $121.00. as provided in Sections 8(a) and 8.2 of the Act. Respondent shall receive credit for payments made and adjustments made.

Respondent shall pay Petitioner permanent and total disability benefits of $650.56/week for life, commencing March 10, 2025, as provided in Section 8(f) of the Act. Petitioner may become eligible for cost-of-living adjustments, paid by the Rate Adjustment Fund, as provided in Section 8(g) of the Act.

Respondent shall pay to Petitioner penalties of $5,490.00, as provided in Section 19(l) of the Act.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.



Signature of Arbitrator

MARCH 2 2026

STATE OF ILLINOIS)
)
COUNTY OF COOK)

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

LISA SYKES,)
)
Petitioner,)
vs.)
) **22 WC 012018**
)
)
GREIF, INC, Respondent.)

PROCEDURAL HISTORY

This matter proceeded to hearing on December 3, 2025, in Chicago, Illinois before Arbitrator Efi Poziopoulos James on Petitioner's Request for Hearing. Issues in dispute include causal connection, medical and medical bills, nature and extent and penalties. (Arbitrator's Exhibit "AX" 1)

FINDINGS OF FACT

Job Duties

On May 3, 2022, Petitioner was employed by the Respondent as a general assembler. (Tr. 15) Her job duties consisted of catching and stacking parts of large drums from the assembly line. (Tr. 7-8) The Petitioner testified that she was required to stack these drum parts onto racks which were approximately five feet and five inches in height. (Tr. 17) The Petitioner's height is approximately four feet and eleven inches. (Tr. 17)

Petitioner's Prior Medical Condition

Before the accident, Petitioner did not have any problems or medical treatment involving her left shoulder. (Tr. 19-20)

Accident

On May 3, 2022, Petitioner was performing her work and reaching to the top of the rack to stack a part when she felt a pop in her left shoulder. (Tr. 20) Petitioner experienced excruciating pain in her left shoulder, and one of the operators stopped the assembly line to offer her assistance. (Tr. 21) The parties stipulated that Respondent was given notice of the accident within the time limits stated in the Act. (AX 1)

Medical Treatment

On May 4, 2022, Petitioner was seen by her primary care physician, Dr. Ather Malik, at Specialty Physicians of Illinois Family Medicine. (Tr. 21; PX 1, p. 17) Petitioner reported that she experienced excruciating pain in her left shoulder as a result of lifting something at work. (Tr. 21; PX 1, p. 17) Dr. Malik diagnosed Petitioner with a left shoulder sprain and referred her for a consultation with an orthopedic specialist. (Tr. 21; PX 1, p. 44) Petitioner was restricted from working and turned in a medical note confirming the same to Respondent. (Tr. 21) Since May 4, 2022, Petitioner has not been cleared to return to full duty work. (Tr. 22)

On May 9, 2022, Petitioner was examined by orthopedic surgeon Dr. Nirav Shah at Parkview Orthopaedic Group for a consultation. (Tr. 22; PX 2, p. 46) Petitioner reported feeling a popping sensation in her left shoulder while reaching overhead at work and suffering from pain and loss of range of motion since that time. (PX 2, p. 46) Dr. Shah recommended an MR arthrogram and advised Petitioner to remain off of work. (Tr. 22; PX 2, p. 47)

Petitioner underwent the MR arthrogram of her left shoulder on May 24, 2022. (Tr. 22; PX 2, p. 190) The MR arthrogram revealed a focal mid posterior labral tear. (PX 2, p. 190) After review of the diagnostic films, Dr. Shah recommended a trial of conservative treatment, which included cortisone injection, physical therapy, and continued work restrictions. (PX 2, p. 45)

On June 29, 2022, after conservative treatment failed to resolve Petitioner's symptoms, Dr. Shah recommended surgical intervention to consist of left shoulder arthroscopy, SLAP repair versus debridement, biceps tenodesis, subacromial decompression, and distal clavicle excision. (PX 2, p. 42) Dr. Shah kept Petitioner off work. (PX 2, p. 42) Petitioner's surgery was scheduled to proceed on July 4, 2022, but was cancelled due to a lack of approval from the Respondent. (PX 2, p. 171)

On July 28, 2022, Petitioner suffered a stroke and was hospitalized at Advocate Christ Hospital. (Tr. 24, 52) Her symptoms resulted in numbness on her left side from the waist down. (Tr. 25) After being discharged from the hospital, Petitioner had difficulty walking and talking. (Tr. 54) She received inpatient rehabilitation services following her stroke, before transitioning to outpatient rehabilitation services. (Tr. 55)

Petitioner returned to see Dr. Shah on October 13, 2022, reporting ongoing left shoulder pain and symptoms. (PX 2, p. 40) Dr. Shah reiterated his recommendation for surgery and continued to restrict Petitioner from her work duties. (PX 2, pg. 40) Dr. Shah instructed Petitioner to follow up once approval for the proposed surgery was obtained.

Petitioner underwent left shoulder surgery performed by Dr. Shah on May 23, 2023 at Oak Brook Surgical Centre, which consisted of left shoulder arthroscopic type II SLAP repair, left shoulder arthroscopic posterior stabilization, left shoulder arthroscopic biceps tenodesis, left shoulder arthroscopic subacromial decompression and acromioplasty, left shoulder arthroscopic distal clavicle excision, left shoulder arthroscopic extensive bursectomy and synovectomy. (PX 2, p. 204-206) Following surgery, Petitioner was prescribed and completed a course of postoperative treatment which consisted of physical therapy on a SLAP repair protocol, and work restrictions. (PX 2, p. 34-36)

Petitioner completed her post-operative physical therapy and proposed treatment, but continued to suffer from soreness, tightness, and weakness in the shoulder. (PX 2, p. 32-33) Petitioner returned to see Dr. Shah on October 25, 2023, reporting continued symptoms of left shoulder pain, including a locking sensation in her left shoulder. (PX 2, pg. 28) Given the persistent symptoms, Dr. Shah ordered the Petitioner to stop physical therapy and recommended an MR arthrogram. (PX 2, p. 28) He modified her medication and continued to restrict the Petitioner from full duty work. (PX 2, p. 28)

Petitioner underwent the MR arthrogram on November 7, 2023. (PX 2, p. 178-180) She followed up with Dr. Shah on November 13, 2023, who reviewed the films and confirmed the diagnosis of partial thickness rotator cuff tear, impingement, and AC joint arthrosis. (PX 2, p. 27) Dr. Shah recommended a revision arthroscopy, subacromial decompression, distal clavicle excision, capsular release, and debridement. (PX 2, p. 27) He continued to restrict Petitioner from her full work duties. (PX 2, p. 27)

On March 6, 2024, Petitioner underwent a pre-operative examination in anticipation of surgery. She reported pain, at times and limited range of motion of the left upper extremity. (RX 2, p. 91)

In April 2024, Petitioner underwent a second left shoulder surgery performed by Dr. Shah at Illinois Back & Neck Institute, which consisted of left shoulder arthroscopic subacromial decompression and acromioplasty; left shoulder arthroscopic distal clavicle excision; left shoulder arthroscopic capsular release with manipulation under anesthesia. (PX 2, p. 197-199) Following surgery, Petitioner was prescribed and completed a course of postoperative treatment which consisted of physical therapy, and work restrictions. (PX 2, p. 18-20) Petitioner underwent the proposed course of treatment, and although she improved with physical therapy, she continued to report pain and difficulty with any overhead activities and sleeping. (PX 2, p. 14)

On August 5, 2024, Petitioner was seen by Dr. Shah for a follow-up appointment. (PX 2, pg. 8) After examination of her left shoulder. Dr. Shah opined that her strength and range of motion were the best that they will be, and her recovery had plateaued. (PX 2, p. 8) Dr. Shah stopped physical therapy and recommended a functional capacity evaluation. (PX 2, p. 8)

On August 29, 2024, Petitioner underwent a functional capacity evaluation at Team Rehabilitation. (PX 2, p. 427-434) The FCE report indicated Petitioner demonstrated a full and consistent biomechanical and evidence-based effort during the evaluation. (PX 2, p. 428) The report further indicated that Petitioner reported reliable pain ratings 100% of the time. (PX 2, p. 428) Petitioner demonstrated the ability to perform 54.5% of the physical demands of her job as catcher, which was classified in the medium physical demand category. (PX 2, p. 428) Per the results of the FCE, Petitioner was restricted to the sedentary physical demand category based upon the definitions developed by the US Department of Labor. (PX 2, p. 428) Petitioner testified that she participated in this FCE in good faith and gave her best effort. (Tr. 34-35)

Petitioner returned to Parkview Orthopaedic Group on September 16, 2024 to discuss the results of the FCE. (PX 2, p. 6) Petitioner was given a work status note which reflected permanent work restrictions as outlined in the FCE report. (PX 2, p. 6) She was released from care and recommended to follow up as needed. (PX 2, p. 6)

Functional Capacity Examination on August 29, 2024

Petitioner underwent a functional capacity test on August 29, 2024, at Team Rehabilitation. (PX 10, Ex. B, p. 1) According to the FCE examiner, Brian Heimerdinger, Petitioner demonstrated consistent effort throughout 83.3% of the FCE test, but that pain "obtained" during testing indicate pain could have been considered while making functional decisions. (PX 10, Ex. B, p. 2)

The functional capacity evaluation revealed that Petitioner demonstrated the ability to perform within the sedentary physical demand category. Petitioner was found capable of working full-time within these reported limitations. (PX 10, Ex. B, p. 1) Petitioner's job as Catcher is classified at the Medium physical demand category. (PX 10, Ex B, p. 1)

Petitioner's physical abilities, according to the report, indicated Petitioner, could, occasionally, bilaterally lift a maximum of 5 lbs. to below waist height, lift a maximum bilaterally 2 lbs. to shoulder height, and lift a maximum bilaterally 1 lbs. overhead. (PX 10, Ex. B, p. 7) During occasional unilateral carry testing, Petitioner demonstrated the ability to carry a maximum 2 lbs. using her left upper extremity for 25 feet, and a maximum 2 lbs. using her right upper extremity for 25 feet. (PX 10, Ex. B, p. 7) On pinch testing, Petitioner demonstrated a maximum key pinchforce on the left upper extremity of 1 lbs. and a maximum key pinch on the right upper extremity of 2 lbs. (PX 10, Ex. B, p. 5) Regarding fine motor skills, Petitioner's right handed test results are considered unable to be scored within the tests normative scoring system, and her left handed test are considered unable to be scored with the tests normative scoring system. (PX 10, Ex. B, p. 5)

The FCE examiner found additional medical treatment could improve petitioner's functional work capacity abilities. The FCE report provides Rehabilitation Recommendations as follows: Physician approval Ms. Sykes would benefit from participating in 4 weeks of a skilled Work Hardening/Work Conditioning program to be performed at 3.5+ hours per day, Monday through Friday, with a focus on improving her strength and conditioning to allow full duty return to work. (PX 10, Ex. B, p. 1)

Testimony of Dr. Nirav Shah, Petitioner's treating physician

Dr. Nirav Shah is a board-certified orthopedic physician specializing in knee, shoulder and elbow surgeries for the last 16 years. (PX 10, p. 6-7)

Dr. Shah testified that Petitioner had provided a history to him of performing general labor, working with 55 lbs. repetitive heavy lifting and work overhead. (PX 10, p. 8) Dr. Shah testified that on May 9, 2022, Petitioner related to him that she reached up at work and felt something pop in her left shoulder. *Id.*

Dr. Shah noted that Petitioner's left shoulder active range of motion was severely diminished secondary to pain, passive range of motion is full but painful and orthopedic tests were positive. (PX 10, p. 9) Dr. Shah testified that an MR arthrogram performed on May 24, 2022 showed a posterior superior labral tear, AC joint arthrosis with edema and impingement with a supraspinatus sprain. (PX 10, p. 10) Dr. Shah found Petitioner's subjective complaints were consistent with the MR arthrogram findings. (PX 10, p. 10-11) Dr. Shah recommended conservative treatment including a cortisone injection, physical therapy, medication and he kept Petitioner off work. (PX 10, p. 11)

Dr. Shah testified that on June 29, 2022, he examined Petitioner and determined that surgery was medically necessary because Petitioner failed non-surgical treatment. Dr. Shah opined that Petitioner had suffered an acute injury with a torn labrum that was causing worsening pain in the labrum. (PX 11, p. 11-13) Dr. Shah testified that during this time, he was aware Petitioner had suffered a stroke and he continued to recommend surgery. (PX 10, p. 14-15)

Dr. Shah testified that on May 23, 2023, he performed surgery to repair a labral tear, stabilize the biceps tendon and decompress the "joint." (PX 10, p. 15-16)

Petitioner was seen by Dr. Shah on October 25, 2023. She exhibited full passive range of motion in all planes. Her active range of motion was only diminished by her sense of "something locking." (PX 10, p. 17-18) Dr. Shah testified he was unsure what was causing this sense of locking. Dr. Shah testified that there could be some scar tissue causing the "locking symptoms." (PX 10, p. 19)

Petitioner saw Dr. Shah on November 13, 2023 and an updated MR arthrogram which demonstrated a partial thickness rotator cuff tear, impingement, AC joint arthrosis. Petitioner reported some stiffness and loss of more

motion. (PX 10, p. 17-18) Dr. Shah testified that he recommended a second surgery as Petitioner was still symptomatic to clean up the shoulder joint to improve function and pain. (PX 10, p. 19)

Dr. Shah testified that on April 9, 2024, he performed a left shoulder arthroscopic debridement, decompression and distal clavicle excision. (PX 10, p. 19-20) Petitioner was advised to begin physical therapy. (PX 10, p. 21)

Dr. Shah opined on August, 5, 2024, four months post arthroscopic debridement, that Petitioner's range of motion had plateaued. Dr. Shah recommended Petitioner undergo an FCE and advised her to discontinue physical therapy as he not anticipating any further improvement as far as function and motion. (PX 10, p. 21-22)

Dr. Shah agreed that the FCE was valid. A valid FCE is significant, according to Dr. Shah, as her subjective and objective findings were found to be consistent. He opined that she was not faking any of the testing performed during the FCE, not exaggerating any pain or symptoms, and putting forth full effort. (PX 10, p. 25) On September 16, 2024, he placed Petitioner on permanent restrictions pursuant to the FCE. (PX 10, p. 23) Dr. Shah testified that Petitioner's job as a Catcher is classified within the medium physical demand level and Petitioner has been placed within the sedentary physical demand level. (PX 10, p. 24-25) Dr. Shah testified that the work accident was a causative or aggravating factor in Petitioner's current condition of ill-being. (PX 10, p. 26) He opined that Petitioner's medical treatment and work restrictions were causally related to the reported work accident. (PX 10, p. 27)

Dr. Shah testified that Petitioner's stroke did not impact his treatment or treatment plan for Petitioner. According to Dr. Shah, Petitioner's shoulder injury was a causative factor resulting in permanent restrictions which were outlined in the FCE. He opined that the permanent restrictions were consistent with Petitioner's subjective complaints of pain. (PX 10, p. 27-28)

Respondent's Section 12 Examinations by Dr. Joshua Alpert on December 27, 2022, January 26, 2024, and November 15, 2024 and addendum report dated February 10, 2025

At Respondent's request, on December 27, 2022, Petitioner attended an independent medical examination with Dr. Joshua Alpert pursuant to Section 12 of the Act. (PX 14) After examination and review of the diagnostic films, Dr. Alpert diagnosed Petitioner with a superior labral tear and AC joint arthritis. (PX 14, p. 2) Dr. Alpert confirmed that the proposed surgery by Dr. Shah would be reasonable, medical necessary, and related to Petitioner's work injury. (PX 14, p. 2) Dr. Alpert confirmed that Petitioner had not reached maximum medical improvement and she was not capable of returning to full duty work. (PX 14, p. 3-4)

At Respondent's request, on January 26, 2024, Petitioner attended a second independent medical examination with Dr. Joshua Alpert pursuant to Section 12 of the Act. (RX 3) After examination and review of the diagnostic films, Dr. Alpert diagnosed Petitioner with rotator cuff tendinopathy and AC joint arthritis. (RX 3, p. 2) Dr. Alpert confirmed that the proposed surgery by Dr. Shah would be reasonable, medical necessary, and related to the Petitioner's work injury. (RX 3, p. 3) Dr. Alpert also confirmed that Petitioner had not reached maximum medical improvement, and that she was not capable of returning to full duty work. (RX 3, p. 3) Following the issuance of this IME report, on February 26, 2024, Respondent authorized the proposed surgery by Dr. Shah. (PX 2, p. 64)

On November 15, 2024, per Respondent's request, Petitioner attended a third independent medical examination with Dr. Joshua Alpert pursuant to Section 12 of the Act. (RX 6) Dr, Alpert performed another physical examination and reviewed the updated medical records, including the FCE report of August 29, 2024. (RX 6, p. 1-2) Dr. Alpert opined that Petitioner suffered from postoperative pain after her second surgery, and her current objective exam findings pertain to the reported work accident. (RX 6, p. 2) Dr. Alpert opined that Petitioner had

reached maximum medical improvement and could only return back to work with the permanent restrictions based upon what he reported was a valid Functional Capacity Evaluation. (RX 6, p. 3) Dr. Alpert further opined that Petitioner's prognosis is guarded given her ongoing symptoms of pain, soreness, and stiffness in her left shoulder despite 2 surgical interventions. (RX 6, p. 3)

On February 10, 2025, Dr. Alpert prepared an addendum report at Respondent's request to obtain an opinion regarding why Petitioner was reportedly only able to lift 2 pounds bilaterally given the lack of an injury to her right shoulder. (PX 7, p. 1) Dr. Alpert confirmed he could not answer that question and said that question would be better directed to the physical therapist who performed the FCE. (PX 7, p. 1) Dr. Alpert reiterated that the FCE was a valid test and suggested it would be a reasonable option to obtain a new evaluation if Respondent had any concerns regarding the test. (PX 7, p. 1-2)

Vocational Assessment performed on May 27, 2025 and Testimony of Laura Belmonte on August 8, 2025

Ms. Belmonte testified via evidence deposition on August 8, 2025. (PX 11) Ms. Belmonte has been employed as a certified rehabilitation counselor for Vocamotive since May of 2019. (PX 11 at 5-6) As part of her duties as a certified rehabilitation counselor, Ms. Belmonte interviews and evaluates injured workers to determine whether they are employable, and if so, in what capacity. (PX 11 at 6-7) Ms. Belmonte is also responsible for creating rehabilitation plans for injured workers whom she considers employable. (PX 11 at 7) Ms. Belmonte testified that she regularly performs vocational assessments for both Petitioners and Respondents in Illinois Workers' Compensation Cases. (PX 11 at 8)

Ms. Belmonte evaluated Petitioner on May 27, 2025, and prepared a vocational evaluation report of her findings on June 30, 2025. (PX 11, Ex. B) Ms. Belmonte testified that based upon a reasonable degree of rehabilitation certainty and consistent with the Supreme Court precedent in the *National Tea* case, Petitioner is unable to perform services except those that are so limited in quantity, dependability or quality that there is no reasonable stable market for her. (PX 11 at 31-32)

Ms. Belmonte further testified that Petitioner suffered a stroke two months post injury. As a result, Petitioners sister was present during the evaluation to help Petitioner recall information about her education, work history and psychological state. *Id.* Petitioner testified that she was forthright during her interview with Ms. Belmonte. (PX 11 at 15) Ms. Belmonte considered elements of acquired disability to complete her vocational analysis which are things unrelated to the injury but still have an impact on vocational planning. (PX 11 at 30-31)

Petitioner reported that she dropped out of school after the tenth grade after suffering from sexual abuse. (PX 11 at 16) Petitioner never obtained a GED nor had any additional schooling. (PX 11 at 16) Ms. Belmonte testified that without a high school diploma, Petitioner would have difficulty finding employment as most employers who hire for "typical office-related" jobs want their workers to have a high school diploma. (PX 11 at 20)

As to her work history, Petitioner reported that she worked for a liquor store for approximately 20 years. Petitioner stocked the shelves, cleaned the store, operated the cash register and basically ran the liquor store. (PX 11 at 23) In 2011, she worked other unskilled labor positions including seasonal concessional worker and a packer. (PX 11 at 16-17, 23)

Petitioner told Ms. Belmonte that she was reliant, primarily, on a walker, and she did use, occasionally, a cane. (PX 11 at 12) Petitioner told Ms. Belmonte that she uses a cane or walker at all times due to the stroke. (PX 11 at 44) Petitioner told Ms. Belmonte that she can't stand for more than 10 or 15 minutes without leaning on her walker and she always has it nearby. (PX 11 at 50) Petitioner also had difficulty using stairs. (PX 11 at 50-51)

Petitioner advised she lost strength and balance following her stroke, requiring assistance from her sister. (PX 11 at 13) Ms. Belmonte testified that Petitioner needs the assistance of her sister to perform daily living activity functions. (PX 11 at 47) She opined that the fact that Petitioner needs her sister or some other person to assist her in daily living activities has a great impact on her ability to perform some type of work. (PX 11 at 48)

Petitioner also reported she lost her fine motor skills. (PX 11 at 13) Petitioner's neurologist told her it was not safe to drive due to her loss of peripheral vision and neuropathy in her feet, and therefore she doesn't drive. (PX 11 at 14; PX 11 at 50) Ms. Belmonte also learned Petitioner takes medication primarily to treat seizures, dizziness, seizure prevention, stroke and anxiety. (PX 11 at 12; PX 11 at 45-46)

In addition to reviewing Petitioner's medical records, including the FCE report and resulting physical restrictions, Ms. Belmonte documented that Petitioner does not have a GED nor a high school diploma. (PX 11 at 19-20) In regards to obtaining a GED, Ms. Belmonte testified that Petitioner has never worked a job where she has to do any reading, writing, spelling, or paperwork in any of her jobs. (PX 11 at 57) Petitioner would have to take remedial classes and it would take years to pass the exam, so a GED did not seem, to Ms. Belmonte, a fruitful opportunity. (PX 11 at 58)

Ms. Belmonte noted that Petitioner also lacks any licenses or certifications. (PX 11 at 25-26) There is nothing in Petitioner's vocational history which would qualify as a transferable skill at this point in time. (PX 11 at 26-28) Based on the foregoing, Ms. Belmonte concluded that Petitioner is unable to perform services except those that are so limited in quantity, dependability or quality that there is no reasonable stable market for her. (PX 11 at 32)

Ms. Belmonte testified that Petitioner has an unskilled work history with a low education and sedentary work restrictions, which means she cannot go back to any of those unskilled physically demanding jobs she did before. (PX 11 at 33) Given that she will be required to look for an entirely new job at the sedentary level of demand, she must have a skill set to offer employers to be able to function effectively on a computer and attempt to manage a computer-based job. (PX 11 at 33) Given the foregoing, Ms. Belmonte testified that Petitioner would not be viewed as a competitive candidate at all given her background and limitations. (PX 11 at 33)

Ms. Belmonte further testified that vocational rehabilitation would not be appropriate for Petitioner because there are too many barriers. (PX 11 at 34) Specifically, Petitioner's lack of a high school diploma would serve as a significant barrier to securing sedentary employment, along with the lack of any computer skills. (PX 11 at 34) Additionally, her advanced age and additional cognitive issues would create difficulty learning new skills, which resulted in Ms. Belmonte concluding that Petitioner does not have any stable labor market, and training is not going to be helpful. (PX 11 at 34)

Petitioner's Current Condition

Petitioner testified that at the time of trial, her left shoulder was still in a lot of pain, especially with any overhead activities. (Tr. 33) She testified that she relies on her sister to assist her with many activities of daily living, including doing laundry, stacking dishes on the shelf, and cooking. (Tr. 33) Petitioner testified that prior to the subject incident, she never suffered from any pain or problems related to her left shoulder, and she never received any medical treatment related to her left shoulder. (Tr. 18-19) Petitioner testified that she is able to distinguish the pain in her left shoulder caused by the accident from the symptoms of her stroke, which consisted primarily of numbness from the waist down into her left foot. (Tr. 34) Petitioner states her left shoulder has never been pain free since the 5/3/22 injury. (Tr. 72)

On May 3, 2023, the Petitioner received a letter confirming that her employment with Respondent was being terminated. (PX 12; Tr. 32)

CONCLUSIONS OF LAW

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law set forth below.

Decisions of an arbitrator shall be based exclusively on the evidence in the record of the proceeding and material that has been officially noticed. 820 ILCS 305/1.1(e). Credibility is the quality of a witness which renders her evidence worthy of belief. The Arbitrator, whose province it is to evaluate witness credibility, evaluates the demeanor of the witness and any external inconsistencies with her testimony. Where a claimant's testimony is inconsistent with his/her actual behavior and conduct, the Commission has held that an award cannot stand. *McDonald v. Industrial Commission,* 39 Ill. 2d 396 (1968); *Swift v. Industrial Commission,* 52 Ill. 2d 490 (1972).

It is the function of the Commission to judge the credibility of the witnesses and to resolve conflicts in the medical evidence and assign weight to witness testimony. *O'Dette v. Industrial Commission*, 79 Ill.2d 249, 253 (1980); *Hosteny v. Workers' Compensation Commission*, 397 Ill. App. 3d 665, 674 (2009). Internal inconsistencies in a claimant's testimony, as well as conflicts between the claimant's testimony and medical records, may be taken to indicate unreliability. *Gilbert v. Martin & Bayley/Hucks,* 08 ILWC 004187 (2010).

The Arbitrator finds that Petitioner demonstrated an inability to recall much as it relates specifically to her medical treatment. The Arbitrator finds that the difficulty she had in testifying was due to Petitioner's stroke and therefore relies primarily on the medical records and transcripts presented at trial. In watching her mannerisms and hearing her testimony, he Arbitrator finds that Petitioner did the best she could to respond to the questions posed.

Issue F, whether Petitioner's current condition of ill-being is causally related to the injury the Arbitrator finds as follows:

To obtain compensation under the Act, a claimant must prove that some act or phase of his employment was a causative factor in his ensuing injuries. It is not necessary to prove that the employment was the sole causative factor or even that it was the principal causative factor, but only that it was a causative factor. *Tolbert v. Ill. Workers' Comp. Comm'n*, 2014 IL App (4th) 130523WC, ¶ 1, 11 N.E.3d 453. A work-related injury need not be the sole or principal causative factor, as long as it was *a* causative factor in the resulting condition of ill-being. Even if the claimant had a preexisting degenerative condition which made him more vulnerable to injury, recovery for an accidental injury will not be denied as long as he can show that his employment was also a causative factor. Thus, a claimant may establish a causal connection in such cases if he can show that a work-related injury played a role in aggravating his preexisting condition. *Sisbro, Inc. v. Industrial Comm'n,* 207 Ill. 2d 193, 205, 797 N.E.2d 665, 278 Ill. Dec. 70 (2003). "A chain of events which demonstrates a previous condition of good health, an accident, and a subsequent injury resulting in disability may be sufficient circumstantial evidence to prove a causal nexus between the accident and the employee's injury." *International Harvester v. Industrial Com.*, 93 Ill. 2d 59, 63 442 N.E.2d 908 (1982).

"Whether a causal connection exists is a question of fact for the Commission, and a reviewing court will overturn the Commission's decision only if it is against the manifest weight of the evidence... The test is whether the evidence is sufficient to support the Commission's finding, not whether this court or any other tribunal might reach an opposite conclusion. For the Commission's decision to be against the manifest weight of the evidence, the record must disclose that an opposite conclusion clearly was the proper result." *Vogel v. Industrial Commission*, at 786 (2nd Dist. 2005)(citing *Navistar International Transportation Corp. v. Industrial Comm'n,* 331 Ill.App.3d 405, 415 (2002); *Pietrzak v. Industrial Comm'n,* 329 Ill.App.3d 828, 833 (2002); and *Gallianetti v. Industrial Comm'n,* 315 Ill.App.3d 721, 729-30 (2000)).

To obtain compensation under the Act, a claimant must prove that some act or phase of his employment was a causative factor in his ensuing injuries. *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 592 (2005). A work-related injury ***need not be the sole or principal causative factor, as long as it was a causative factor*** in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003).

Based upon the evidence, the Arbitrator finds that Petitioner's current condition of ill-being, including the permanent sedentary restrictions as outlined in the FCE, is causally related to the work accident of May 3, 2022.

The medical evidence is undisputed that Petitioner suffered a left shoulder injury which resulted in two surgeries, and that this left shoulder injury is causally connected to the subject work accident. In addition to the sworn testimony of her treating surgeon, Dr. Shah, in support of causation, the Respondent' own IME, Dr. Alpert, confirmed that the work accident in question was a causative factor in the Petitioner's left shoulder injury and resulting condition of ill-being. Both Dr. Shah and Dr. Alpert opined that the permanent restrictions outlined in the FCE are causally related to the work accident. There is no conflicting medical opinion nor evidence in the record which would rebut these opinions.

Petitioner's other unrelated health issues, particularly the stroke she suffered in July of 2022, do not render the Petitioner's current condition of ill-being to be unrelated to the undisputed work-related shoulder injury. Dr. Alpert was questioned regarding alleged inconsistencies in the FCE report which may be unrelated to the left shoulder injury but did not change his opinion that the restrictions are causally related to the work injury in question. Dr. Shah specifically confirmed that he was aware of the Petitioner's stroke and resulting medical condition during the course of his treatment of her shoulder injury, and he confirmed said condition had no impact on his treatment of the Petitioner's left shoulder, nor his resulting opinions regarding causation in order to satisfy her burden. *Westinghouse Electric Co. v. Industrial Comm'n*, 64 Ill. 2d 244, 249 (1976)

It is well-settled that Petitioner must demonstrate by a preponderance of the evidence that her injury arose out of and in the course of employment, and that the work-related injury was a causative factor in their condition. Importantly, the work-related injury does not need to be the sole or primary causative factor; it is sufficient if it was a contributing factor to the resulting condition of ill-being . *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193 (2003). Based upon the foregoing, the credible testimony of the Petitioner, the medical notes, records, sworn testimony of Dr. Shah and the reports and opinions of Dr. Alpert, the Arbitrator finds that Petitioner's current condition of ill-being is causally connected to the work accident of May 3, 2022.

Issue J, whether the medical services that were provided to Petitioner were reasonable and necessary and whether Respondent has paid all appropriate charges for all reasonable and necessary medical services, the Arbitrator finds as follows:

Section 8(a) of the Act states a Respondent is responsible …"for all the necessary first aid, medical and surgical services, and all necessary medical, surgical and hospital services thereafter incurred, limited, however, to that which is reasonably required to cure or relieve from the effects of the accidental injury…" A claimant has the burden of proving that the medical services were necessary, and the expenses were reasonable. See *Gallentine v. Industrial Comm'n*, 201 Ill.App.3d 880, 888 (2nd Dist. 1990).

Given the Arbitrator's finding regarding causal connection, and based upon the greater weight of the evidence, the Arbitrator finds that all claimed medical services provided to Petitioner were reasonable and necessary, and further finds that Petitioner is entitled to payment of all related unpaid medical expenses as itemized in paragraph 7 of Arbitrator's Exhibit 1 pursuant to the fee schedule or other negotiated rate, whichever is less. These charges include: Ather Malik at SPI Franciscan Medical Pavilion in the amount of $180.00; Parkview Orthopedic in the amount of $15,828.50; Alikai Health in the amount of $8,669.27; Team Rehabilitation Physical Therapy,

$3,900.00; Advanced RX in the amount of $17,046.05; Flexus Medical in the amount of $25,902.01; Oak Brook Surgical Centre in the amount of $71,799.65; Illinois Back & Neck Institute, $45,271.07; and Specialists in Medical Imaging, $121.00.

Issue L, as to the nature and extent of the injury, the Arbitrator finds as follows:

An injured worker is entitled to PTD benefits when she is unable to make some contribution to industry sufficient to justify the payment of wages. *A.M.T.C. of Illinois v. Industrial Commission,* 77 Ill. 2d 482, 487 (1979) Where a claimant's disability does not render her "obviously unemployable," the claimant has the burden "to prove by a preponderance of the evidence that she fits into an 'odd lot' category; that being an individual who, although not altogether incapacitated, is so handicapped that she is not regularly employable in any well-known branch of the labor market." *Sharwarko v. Illinois Workers' Compensation Comm'n*, 2015 IL App (1st) 131733WC, ¶ 53 (citing *Valley Mould & Iron Co. v. Industrial Comm'n of Illinois*, 84 Ill. 2d 538, 546-47 (1981)). A claimant may satisfy this burden by (1) "a preponderance of medical evidence;" (2) "showing a diligent but unsuccessful job search;" or (3) "demonstrating that, because of age, training, education, experience, and condition, there are no available jobs for a person in [her] circumstance." *Professional Transportation, Inc. v. Illinois Workers' Compensation Comm'n*, 2012 IL App (3d) 100783WC, ¶34. Once the claimant establishes that she falls within the "odd lot" category, the burden shifts to the employer to prove that she is employable in a stable, existing labor market. *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 544 (1st Dist. 2007).

The Arbitrator finds, based on the evidence presented at trial, that Petitioner has established that she qualifies for permanent and total disability benefits as provided in Section 8(f) of the Act effective March 10, 2025.

The medical evidence and expert opinions are unrebutted that Petitioner's current condition of ill-being is causally connected to the subject work accident. The Arbitrator finds the testimony and opinions of Dr. Shah and Dr. Alpert to be credible that based upon Petitioner's current condition of ill-being, she was restricted only to sedentary work. Petitioner is not medically totally disabled. The Arbitrator finds that Petitioner is capable of working in a sedentary physical demand level based upon the preponderance of the medical evidence. To qualify as permanently totally disabled, Petitioner would need to prove an odd lot theory.

In support of her claim for PTD benefits, the Petitioner presented the vocational report and testimony of certified rehabilitation counselor, Laura Belmonte. The Arbitrator finds the opinions of Ms. Belmonte to be credible and persuasive that Petitioner falls within the "odd lot" category. The Arbitrator finds persuasive Ms. Belmonte's opinion regarding the lack of the existence of a stable job market for Petitioner. Ms. Belmonte testified credibly and persuasively based upon her first-hand interactions with Petitioner, that Petitioner is unable to perform any services for which there is a reasonably steady labor market. The Arbitrator finds Ms. Belmonte's rationale to be credible and persuasive that Petitioner's limited education, advanced age, training, experience, and lack of any transferable skills would present too many barriers to securing employment at the sedentary demand level. Based upon the foregoing, the Arbitrator finds that Petitioner has met her burden of establishing by a preponderance of the evidence that she falls into the odd-lot category through a combination of limitations and characteristics which render her unemployable in the regular labor market.

Given that Petitioner has initially established that she falls into the odd-lot category, the burden has shifted to Respondent to show that some kind of suitable work is regularly and continuously available to Petitioner. *Fed. Marine Terminals, Inc. v. Ill. Workers' Comp. Comm'n* (Buza), 371 Ill. App. 3d 1117 (1st Dist. 2007); *ABB C-E Servs. v. Indus. Comm'n* (Haney), 316 Ill. App. 3d 745 (5th Dist. 2000). The employer must prove that the claimant is employable in a stable labor market and that such a market exists, *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 544 (1st Dist. 2007). Respondent has presented no evidence regarding the employability of the Petitioner. The sole evidence in the record regarding Petitioner's employability is limited to the report and

opinions of Laura Belmonte, CRC. Based upon the foregoing, the Arbitrator finds that Respondent has failed to meet its shifted burden to prove that Petitioner is employable in a stable labor market and that such market exists.

Based upon the record as a whole, and the stipulation with respect to temporary compensation, the Arbitrator finds that Petitioner has proven by a preponderance of the evidence that she is permanently and totally disabled effective March 10, 2025.

Issue M, whether penalties or fees should be imposed upon Respondent, the Arbitrator finds as follows:

The imposition of Section 19(l) penalties requires Petitioner to make a written demand or payment of benefits under Section 8(a) or Section 8(b). It also requires Respondent to fail, neglect, refuse, or unreasonably delay the payment of benefits without good and just cause. See *820 ILCS 305/19(l).* The Court has found that the act of submitting medical bills into evidence at hearing is not the same as tendering them to the employer for payment. See *Theis v. Illinois Workers' Comp. Comm'n*, 2017 IL App (1st) 161237WC.

Regarding the imposition of Section 19(k) penalties and Section 16 attorney fees, the Courts have confirmed that the imposition of these penalties is where there is not only a delay, but the delay is deliberate or the result of bad faith or improper purpose. These penalties are appropriate when the delay was vexatious, intentional, or merely frivolous. These penalties and fees require a higher standard of proof. See *McMahon v. Industrial Commission*, 183 Ill.2d 499, 515(1998). When Respondent acts in reliance upon reasonable medical opinion or where there are conflicting medical opinions, penalties are not ordinarily awarded. *USF Holland, Inc. v. Industrial Comm'n*, 357 Ill.App.3d 798, 805 (2005).

Sections 19(k) and 16, in pertinent part, both refer to instances where the position taken "does not present a real controversy" and is "frivolous." Section 16 refers to this language found in section 19(k) as well. See 820 ILCS 305/16, 19(k) (West 2012).

Respondent's Exhibit 1 is a summary of all TTD benefits paid. Although payments were demonstrated to be late and sporadic, at the time of hearing, the parties stipulated that all owed TTD benefits had been paid by Respondent, and TTD is not an issue in dispute. Accordingly, the Arbitrator is awarding no additional TTD, and penalties pursuant to Sections 16 and 19(k) are not applicable.

Regarding the claim for 19(l) penalties, on June 2, 2022, counsel for Petitioner made a written demand for immediate payment of all owed TTD benefits, and the first of many requests for hearing and penalties petitions was filed in conjunction with this TTD demand. (PX 13) Between June 2, 2022 and October 19, 2022, Petitioner filed a total of five requests for hearing with five penalties petitions due to Respondent failure to pay TTD benefits and failure to authorize medical treatment. (PX 13, 6th Penalties Petition) On or about November 29, 2022, Respondent scheduled an independent medical examination with Dr. Joshua Alpert for December 27, 2022. (PX 13, 6th Penalties Petition) (PX 14) Per the Arbitrator's recommendation, Respondent advanced $10,000.00 in PPD and agreed to pay Petitioner weekly TTD through the issuance of the IME report in exchange for the continuance to allow for the IME. (RX 1) (PX 13, 6th Penalties Petition) Payment of the lump sum of $10,000.00 was made on or about December 1, 2022. (RX 1; Tr. 10; Tr. 26) This was the first payment Petitioner ever received from Respondent. (Tr. 26)

Respondent made two additional payments totaling $1,028.57 and $1,042.02 respectively between December 1, 2022 and January 3, 2023 before once again ceasing all payments. (RX 1) (PX 13, 6th Penalties Petition) Petitioner filed a sixth request for hearing and penalties petition. (PX 13, 6th Penalties Petition) The IME report was issued on or about February 2, 2023, but again Respondent did not pay all owed TTD benefits and did not authorize the surgery. (PX 13, 6th Penalties Petition) Subsequently, Respondent made two lump sum payments

totaling $18,374.33 and $5,610.90, respectively. (RX 1) Respondent began paying Petitioner weekly TTD benefits totaling $561.09. (RX 1) On April 18, 2023, Respondent authorized the proposed surgery by Dr. Shah. (PX 2, p. 103)

Despite the approval of surgery, TTD benefits were once again stopped as of March 29, 2023 with no explanation. (RX 1; PX 13, 7th Penalties Petition) Petitioner filed a seventh penalties petition, and TTD benefits were reinstated via a lump sum of $3,366.54 before weekly benefits were reinitiated. (RX1) (PX13, 7th Penalties Petition)

The unrebutted evidence confirms that Petitioner received no TTD payments of any kind until December 1, 2022. This is a period of 183 days. Here, there is no evidence Respondent rebutted the presumption of unreasonable delay pursuant to 19(l). From June 2, 2022 through December 1, 2022, Respondent had no good-faith basis to withhold weekly benefits at all. Accordingly, Respondent shall pay $30.00/day for 183 days, totaling $5,490.00, pursuant to Section 19(l).

Accordingly, Respondent shall pay $30.00/day for 183 days, totaling $5,490.00, pursuant to Section 19(l).

CONCLUSION

In light of the above facts and considerations, the Arbitrator finds that Petitioner's current condition of ill-being is causally connected to the work accident of May 3, 2022. Given the Arbitrator's finding regarding causal connection, and based upon the greater weight of the evidence, the Arbitrator finds that all claimed medical services provided to Petitioner were reasonable and necessary, and further finds that Petitioner is entitled to payment of all related unpaid medical expenses as itemized in paragraph 7 of Arbitrator's Exhibit 1 pursuant to the fee schedule or other negotiated rate, whichever is less. These charges include: Ather Malik at SPI Franciscan Medical Pavilion in the amount of $180.00; Parkview Orthopedic in the amount of $15,828.50; Alikai Health in the amount of $8,669.27; Team Rehabilitation Physical Therapy, $3,900.00; Advanced RX in the amount of $17,046.05; Flexus Medical in the amount of $25,902.01; Oak Brook Surgical Centre in the amount of $71,799.65; Illinois Back & Neck Institute, $45,271.07; and Specialists in Medical Imaging, $121.00. The Arbitrator finds that Petitioner has proven by a preponderance of the evidence that she is permanently and totally disabled effective March 10, 2025. Respondent shall pay Petitioner permanent and total disability benefits of $650.56/week for life, commencing March 10, 2025, as provided in Section 8(f) of the Act. Petitioner may become eligible for cost-of-living adjustments, paid by the Rate Adjustment Fund, as provided in Section 8(g) of the Act. Respondent shall pay $30.00/day for 183 days, totaling $5,490.00, pursuant to Section 19(l).

It is so ordered:

Arbitrator Efi Poziopoulos James

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC026204
Case Name	Belinda Paul v. Maxim Healthcare Staffing
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0237
Number of Pages of Decision	20
Decision Issued By	Christopher Harris, Commissioner

Petitioner Attorney	Christopher Williams
Respondent Attorney	Craig Bucy

DATE FILED: 8/25/2026

/s/Christopher Harris, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

BELINDA PAUL,

Petitioner,

vs. NO: 24 WC 26204

MAXIM HEALTHCARE STAFFING,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b) having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection, the reasonableness and necessity of the medical treatment and charges, prospective medical treatment, benefit rates, and penalties, and being advised of the facts and law, corrects the clerical errors as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof. The Commission further remands this case to the Arbitrator for further proceedings for a determination of a further amount of temporary total compensation or of compensation for permanent disability, if any, pursuant to *Thomas v. Industrial Commission*, 78 Ill.2d 327, 399 N.E.2d 1322, 35 Ill.Dec. 794 (1980).

In the Decision, the Arbitrator calculated Petitioner's average weekly wage ("AWW") as $1,352.26 on page 2 but noted an AWW of $1,012.37 and a corresponding TTD rate of $674.85 on pages 14 and 15. Based on Petitioner's earnings of $40,494.76 over 40 weeks of employment prior to the injury, the correct AWW is $1,012.37 yielding a TTD rate of $674.91. Accordingly, the Commission corrects the clerical error on page 2 to reflect an AWW of $1,012.37 and the clerical errors on pages 14 and 15 to reflect a TTD rate of $674.91. The Commission also strikes the phrase "and beyond so long as her condition continues to render her unable to work" from the

third sentence of the first paragraph on page 15, so that the sentence now reads: "She is therefore entitled to TTD benefits from March 4, 2024 through May 27, 2025."

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed August 29, 2025 is hereby corrected as noted above and otherwise affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that this case be remanded to the Arbitrator for further proceedings consistent with this Decision, but only after the latter of expiration of the time for filing a written request for Summons to the Circuit Court has expired without the filing of such a written request, or after the time of completion of any judicial proceedings, if such a written request has been filed.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $39,500.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 25, 2026

/s/ *Christopher A. Harris*
Christopher A. Harris

CAH/tdm
O: 8/20/26
052

/s/ *Maria E. Portela*
Maria E. Portela

/s/ *Marc Parker*
Marc Parker

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC026204
Case Name	Belinda Paul v. Maxim Healthcare Staffing
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	17
Decision Issued By	Gerald Napleton, Arbitrator

Petitioner Attorney	Christopher Williams
Respondent Attorney	Michael Rusin

DATE FILED: 8/29/2025

/s/Gerald Napleton, Arbitrator

Signature

INTEREST RATE WEEK OF AUGUST 26, 2025 3.92%

STATE OF ILLINOIS)
)SS.
COUNTY OF **COOK**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
19(B)

BELINDA PAUL
Employee/Petitioner

v.

MAXIM HEALTHCARE
Employer/Respondent

Case # **24** WC **026204**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **NAPLETON**, Arbitrator of the Commission, in the city of **CHICAGO**, on **5/27/2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☒ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☐ What is the nature and extent of the injury?
M. ☒ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☒ Other **Propective Medical**

FINDINGS

On **2/28/2024**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**54,090.39**; the average weekly wage was $**1,352.26**.

On the date of accident, Petitioner was **45** years of age, ***married*** with **0** dependent children.

Petitioner ***has not*** received all reasonable and necessary medical services.

Respondent ***has not*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**27,906.45** for TTD, $**0** for TPD, $**0** for maintenance, and $**5,000.00** for other benefits, for a total credit of $**32,906.45**.

Respondent is entitled to a credit of $**0** under Section 8(j) of the Act.

ORDER

Respondent shall pay reasonable and necessary medical services, pursuant to the medical fee schedule for the following providers with balances listed: Prompt Med ($478.00), OrthoTennessee ($439.00), Tennova North Knoxville Medical Center ($4,384.14), Tennessee Cancer Specialists ($1,773.00), Parkwest Medical Center ($4,553.88), Abercrombie Radiology ($587.00), East Tennesee Pathology ($235.00), Knoxville Cardio ($194.00), Vista Radiology ($470.00), IWP ($3,988.87), Walgreens ($54.91), McNabb Center ($940.00), as provided in Sections 8(a) and 8.2 of the Act.

Respondent shall pay Petitioner temporary total disability benefits of $674.85/week for 64.2 weeks, commencing 3/4/24 through 5/27/25, as provided in Section 8(b) of the Act.

Respondent shall pay penalties under Section 19(k) and attorney fees under Section 16.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

/s/ Gerald W. Napleton
Signature of Arbitrator

Belinda Paul v. Maxim Healthcare - 24 WC 26204

FINDINGS OF FACT

Petitioner testified that she became a CNA in 2005 and started working for Respondent in 2021 (T. 63). Her job duties consisted of assisting patients with their everyday needs (T. 63). She testified that she signed a different travel contract for every contract (T. 83). She testified that she owned a home in Tennessee and lived there when she was not traveling (T. 85). She testified that she recently filed her 2023 and 2024 tax returns (T. 86). She testified that she provided all of her income and wage records showing her stipend payments to her accountant (T. 87).

Petitioner testified that her contracts with Respondent included a payment package that included wages and a stipend (T. 89). She testified that she was given an option from Respondent to receive more money in wages and a lower stipend, or a lower wage and higher stipend (T. 89). She testified that she chose to take the lower wage with higher stipend because she and her wife would make more money under that scenario (T. 89-90). She testified that with both of them travelling, they would only need to rent one room and pocket the remaining money, so it benefitted them financially (T. 90).

Petitioner testified that from February 2023 – February 2024, she worked four contracts for Respondents in Dixon, Kellogg, Kingsport, and Waukegan, each of which was more than 50 miles from her home (T. 91-92). She testified that the amount she received for meals and lodging changed with each contract and she did not know how it was calculated (T. 92).

Petitioner testified that when she travelled for work, she had to pay for her lodging and meals (T. 91-92). She testified that she stayed mostly in hotels until she signed an apartment lease, which was more expensive (T. 93-94). She testified that when she began working in Waukegan, she stayed in Illinois the whole time from October 2023 until the accident date (T. 98-99). She testified this was also true for Dixon and Kellogg, but that in Kingsport, she would go home on her days off (T. 99). She testified that while she worked in Kingsport, she stayed in town for the week and stayed in hotels on weekdays and at her brother's on weekends, for which she paid him cash (T. 100).

Petitioner testified that she has had an account with her credit union, ORNL Federal, for a long time and that she has a debit card for that account, but no credit cards (T. 94-95). She testified that she has only one credit card, from Kohl's (T. 95). She testified that all of her payments for lodging and meals were reflected on hers and her wife's bank statements (T. 96).

Petitioner testified that she never paid cash for food or drinks (T. 100-101). Petitioner testified that some days may not have had charges for meals because they may have worked overtime or cooked at home with food purchased at Walmart (T. 96). She testified that she spent $90.00 on food when she came to Chicago for an IME in November 2024, but that what she spent on food on a daily basis would vary (T. 102).

Petitioner testified that every cash withdrawal reflected on her bank statements was for casinos and that she spent a lot of time at casinos, as this what she liked to do (T. 97). She testified that she was never reimbursed for the travel to and from work sites (T. 98).

She testified that on February 28, 2024, she was working for Respondent at Ann Kiley and she was attacked by a patient (T. 64). She testified that on that day, she had been asked to work in the men's home because they were short staffed (T. 64). She testified that she walked to lay

eyes on her patients and a patient grabbed her by her right arm and violently threw her from left to right, down to the ground, and up against a wall (T. 64-65). She believed that this man was trying to rip her arm off (T. 65). She testified that 6-8 people were needed to pull the attacker off of her (T. 65). She testified that following this incident, she began experiencing immediate pain shooting up and down her right arm (T. 65).

Petitioner testified that she sought medical care at Prompt Med Urgent Care after being sent there by a supervisor named Eric (T. 66). She testified that this was on March 4, 2024 and she continued to work from February 28, 2024 – March 4, 2024 (T. 66). She testified that Prompt Med returned her to work with restrictions and that Respondent did not accommodate those restrictions (T. 67). She testified that when she stopped working due to her work restrictions not being accommodated, Respondent stopped paying for meal and housing allowances (T. 67).

Petitioner testified that she returned to Tennessee and visited her primary care doctor who referred her to Knoxville Orthopaedic/Ortho Tennessee (T. 67). She testified that she treated with two doctors at Knoxville Orthopaedic, Dr. Smith for her shoulder and Dr. Rogozinski for her arm (T. 68). She testified that she was referred for physical therapy and completed this at Select Physical Therapy (T. 68).

Petitioner testified that she visited the emergency room at Tennova North Knoxville Medical Center and Blount Memorial Hospital because she was having intense arm pain (T. 69). She testified that both orthopedic doctors ordered surgery and that she had elbow surgery June 28, 2024 (T. 69).

Petitioner testified that following her elbow surgery, she developed severe pain and was having difficulty breathing and was eventually admitted to Tennova North Medical Center with pulmonary embolisms (T. 70). She testified that she was in the hospital from July 2-8, 2024 and was referred to Tennessee Cancer Specialists upon release to treat her clots (T. 70). She testified that she went to the emergency room at Park West Medical Center because she was having chest pain and feared her clots had returned (T. 71).

Petitioner testified that she is still treating with Tennessee Cancer Specialist and that she recently had her shoulder surgery (T. 71). She testified that in addition to injuries to her right shoulder and arm, she has suffered from mental health issues following her injury (T. 72). She testified that ever since the accident, she has a fear of dying and bad anxiety (T. 73). She testified that she cries all of the time and does not go out in public very much (T. 73). She testified that her doctor recommended counseling, but the adjuster never approved it (T. 72). She testified that she had recently began treating at McNabb Center for her mental health and had to use her personal insurance (T. 73-74). She testified that she had depression in the past and was medicated for a short period of time (T. 105-106).

Petitioner testified that prior to February 28, 2024, she was taking one medication which was prescribed after she contracted Covid while working for Respondent (T. 74). She testified that prior to contracting Covid, she took no medications (T. 74). Since the accident, Petitioner takes 18-19 medications, which cause extreme side effects including stomach and bowel issues (T. 75). She testified that her hematologist had referred her to a gastroenterologist and she had just had that visit (T. 75). She testified that workers' comp refused to approve that visit and she had to use her health insurance (T. 75).

Petitioner testified that one of her medications is a blood thinner, Eliquis (T. 76). She testified that this medication has caused her menstrual cycles to become extremely heavy and require her to wear adult diapers (T. 76). She testified that her hematologist had referred her to

a gynecologist to address this, but that it had not been approved by workers' comp (T. 76). She is scheduled to see one in June using her own insurance (T. 76).

Petitioner testified that since her pulmonary embolisms, she has been receiving iron infusions (T. 76-77). She testified that these are provided by Tennessee Cancer Center and that she has had one on order since January 2024 and she has not received it because workers' comp refused to authorize (T. 77). She testified that while waiting for the iron infusion, she is weak and out of breath (T. 77). She testified that she falls a lot and feels depleted (T. 77).

Petitioner testified that she has incurred medical bills as a result of her injury and that workers' comp has not paid all of them (T. 78). She testified that she has been paid TTD while off of work in the amount of $429.33 per week (T. 79). She testified that she went to an IME in Chicago, but that she has never seen a report (T. 80).

Petitioner testified that since the accident, she is not the same person as she is depressed and cannot be active (T. 80). She has a fear that she is going to die from this and lives in a lot of pain (T. 80).

Testimony of Heather Paul

Heather Paul testified that Petitioner is her spouse and that she was employed by Respondent beginning in 2021 as well (T. 6-7). Heather testified that she worked as a traveling CNA for Respondent which required her to be licensed (T. 7). She testified that she and Petitioner began working for Respondent by reaching out to a recruiter, Lee Moore Mason, and that they were being hired as a traveling pair (T. 8). Being a traveling pair meant that she and Petitioner would receive identical contracts, including schedules, in the same facility (T. 8). She testified that all of her contracts were identical to Petitioner's (T. 11).

Heather testified that her and Petitioner's job required them to travel and that they were on the road 40 weeks out of the year (T. 9-10). She testified that they had to find housing for each location that they were working (T. 10). She testified that each contract provided terms for wages and hours and included allowances for housing and meals (T. 11-12). She testified that Respondent offered them an option to take a higher wage with a lower stipend, but they generally chose lower pay and higher stipend because the pay worked out better and there were lower taxes (T. 12-13).

Heather testified that some contracts required overtime, which was written into the contract and was mandatory (T. 13). She testified that they received meals and housing allowances for each week they were away from home and never had to account for their expenses (T. 13). She testified that if they did not use all of their stipend on housing or meals, that they could keep the money and did not need to return it to Respondent (T. 14). She testified that while working for Respondent, the pair never spent all of their stipend on food or housing and always had money left over (T. 14-15). She testified that the money they received for the stipends was never correlated with a specific expense (T. 15).

Heather testified that Respondent was able to reduce these allowances if they missed work or were sick (T. 15). She testified that even if they missed work, they were still in a different city and still needed to pay for food and housing (T. 16). She testified that she and Petitioner both contracted Covid while working for Respondent and had to miss work for the quarantine period and their housing and meal stipends were reduced (T. 16). In this scenario, they missed out on hourly wage and had to pay out of pocket for food and housing (T. 16).

Heather testified that from February 28, 2023 – February 27, 2024, she and Petitioner worked at four different locations for Respondent – at each of which the pair received the same contract (T. 17). She testified that during this period of time, the pair shared all finances and paid for expenses by using their debit cards (T. 17). She testified that PX16 was her Alcoa Tenn Federal Credit Union bank statements and that she went through them and, with Petitioner and the attorney, underlined all expenses relating to meals and housing (T. 17-18, 58). She testified that she and Petitioner each have their own bank accounts, but that they share access to each account (T. 18). She identified Petitioner's ORNL Federal Credit Union bank statements and testified that the underlined entries were expenses related to food and housing while working on the road for Respondent (T. 18-19). She testified that she, Petitioner, and the attorney reviewed the statements and underlined the entries (T. 58). Heather testified that she did not underline any bank debits related to travel because they were not paid for travel (T. 58).

Heather testified that she and Petitioner do not have credit cards and that they do not carry cash while traveling (T. 19). She testified that all of her and Petitioner's expenses are paid out of their two bank accounts (T. 20). She testified that the pair determine which account to use based on whichever had more money at the time (T. 39). She testified that the pair would withdraw money at various ATMs, but only to go a casino and spend money there (T. 55).

Heather testified that from February 28, 2023 – March 25, 2023, she and Petitioner were contracted to work at Jack Mabley in Dixon, Illinois (T. 20-21). She testified that they worked four days a week, 12 hours per day, and received meal and housing stipends (T. 21). She testified that they secured housing in Dixon at King Family Homestead, which cost the pair $1,950 per month (T. 21-22). She testified that while in Dixon, she and Petitioner would eat meals from drive thrus or buy groceries at Walmart and cook and that all expenses are reflected in the bank statements (T. 22).

Heather testified that from April 29, 2023 – May 13, 2023, she and Petitioner worked for Respondent in Kellogg, ID and stayed in an Airbnb (T.23). She testified that PX17 is a receipt for the Airbnb for which payments of $528.44 and $756.59 were made (T. 23-24). She testified that in Kellogg, ID, the pair ate a lot of times at a burger joint and sometimes picked up things at Walmart (T. 25).

Heather testified that from June 25, 2023 – September 30, 2023, the pair worked for Respondent at Ballad Health in Kingsport, TN, which is about 150 miles from their home in Knoxville (T. 25). She testified that the pair stayed at a Motel 6 and that PX18 was a receipt for their stays at Motel 6 (T. 26). She testified that they also stayed with a brother and were charged $200 per month (T. 26-27). She testified that they only stayed at their brother's place when he was not there and otherwise stayed at Motel 6 (T. 27). She testified that while in Kingsport, the pair ate fast food (T. 27-28).

Heather testified that the pair's last contract with Respondent was at Kiley Development Center in Waukegan (T. 28). She testified that they stopped working there in March 2024 (T. 28). She testified that they stayed at the Sonesta Simply Suites while working at Kiley (T. 29). She testified that PX19 was a receipt for their stay at Sonesta (T. 30). She testified that the pair rented an apartment just before Petitioner's injury in Chicago because they had just renewed their contract with Kiley and were planning on staying longer (T. 30-31). She testified that they made a large payment toward that lease, but had to break the lease because of Petitioner's injury and are now being sued (T. 31-32). She testified that they stayed at Sonesta through February 9,

2024 and then moved to the apartment through March 3, 2024 (T. 48). She testified that the monthly rent for the apartment was $3,200.

Heather testified that payments from the bank accounts to Flagship credit were for car payments (T. 54). She testified that a March 27, 2023 debit at Walmart in Dixon, IL may have been for gas to go back to Tennessee (T. 60).

Heather testified that she and Petitioner file joint tax returns, with the help of a tax preparer and that they provide the tax preparer with all of their wage information, including their housing and meal stipends (T. 32). She testified that she is unsure if the stipend money was included on their tax return (T. 51).

Heather testified that she is with Petitioner every day and Petitioner is mentally and physically different after her accident (T. 33). She testified that she falls a lot and she is very depressed (T. 33). Heather testified that Petitioner feels like her life has been taken from her and that she has been telling people goodbye (T. 33-34).

Testimony of Ryan Carbonneau

Respondent called Ryan Carbonneau to testify (T. 112). Mr. Carbonneau is employed by Respondent, now known as Amergis Healthcare, as the director of business operations (T. 112-113). He testified that Respondent hires and places CNAs in travelling positions and that the company pays the employee a taxable hourly rate and then a housing stipend and a meal and incidental stipend (T. 114-116). The terms of the agreement are memorialized in a contract signed for each assignment (T. 116). He testified that the amount reimbursed for stipends are not intended to be additional earnings and wages for the employee (T. 117). He testified that the stipends are intended to pay for housing and meals and incidentals while traveling (T. 117-118).

Carbonneau testified that Respondent uses a government website to determine the per diem to pay, which vary by date and location (T. 118-119). He testified that the stipends are not taxed (T. 120).

Carbonneau testified that the wages included in Petitioner's contract are the minimum wage allowed by law (T. 121). He testified that a CNA who was working locally would make more than minimum wage (T. 122). He testified that for Petitioner's Waukegan contracts, her lodging reimbursement was $650.00 per week, which is significantly less than the per diem amount in the guidelines relied upon by Respondent to set these amounts (T. 123-124). He testified that the recruiter can actually set the per diem through negotiations with the employee and that the guidelines are the maximum they can offer (T. 124). He testified that if Petitioner asked for the higher amount, she would have received it (T. 125). He also testified that Respondent never asked for receipts for meals or lodging from Petitioner and she was allowed to keep any money not used for those purposes (T. 125).

Petitioner's Earnings

Petitioner and Respondent both introduced Petitioner's paystubs from the year preceding the accident (PX13, RX7). Petitioner included a summary of the paystubs (PX13 p. 1). In the year preceding the accident, Petitioner worked a total of 40 weeks. She earned $16,809.28 in regular pay (an average of $420.23), $2,775.81 in overtime calculated at straight pay (an average

of $69.40), and $34,505.30 in meals/housing allowances (an average of $862.63) (PX13 p. 1). Respondent introduced a similar summary (RX12).

Petitioner and Respondent both introduced the Travel Assignment Agreement between Petitioner and Respondent regarding the work assignment at Kiley Development Center in Waukegan, IL (PX14, RX 6). The contract established Petitioner's hourly pay rate at $13.00 per hour, which at the time was minimum wage in Illinois (PX14 p. 1). The contract also establishes a weekly meal and incidentals allowance of $350.00 and a weekly lodging allowance of $650.00 (PX14 p. 1). The contract also includes a provision that a weekly housing chargeback may occur if the employee does not work enough hours in a given week (PX14 p. 5).

Petitioner introduced bank statements from Petitioner's ORNL Federal Credit Union Account (PX15) and from Heather Paul's Alcoa Tenn Federal Credit Union Account (PX16). Both exhibits included all statements from March 2023 – February 2024. Exhibit 1 references expenses underlined by Petitioner and her wife which are alleged to be meal or housing expenses while traveling for work for Respondent in the year preceding the accident. The exhibits suggests that Petitioner and her wife spent a total of $27,191.25 on housing and meal expenses in this period. Of that, 50% or $13,595.63 is attributable to Petitioner. This $13,595.63 makes up her actual expenditures for meals and housing during this period.

The arbitrator reviewed the statements from PX15 and PX16 and the debits and credits contained therein. The arbitrator notes that in these 12 months, between the two accounts, there were 159 ATM withdrawals. Of these, 108 occurred at casinos and 34 occurred at cannabis dispensaries. The remaining 17 were at various other locations. Of those 17, five were made during periods in which the women were not traveling (4/2/23, 4/13/23, 5/30/23, 6/13/23, 6/13/23).

Petitioner introduced receipts and statements from AirBnb (PX17), Motel 6 (PX18), Sonesta Suits (PX19), and a letter from Yossi Sarid (PX20), which indicate amounts paid for housing at various locations while traveling for Respondent in the year preceding the accident. These exhibits and the amounts charge correlate directly with the amounts listed in PX15 and PX16. The arbitrator notes that only two $200 ATM withdrawals were listed (both on 9/16/23). The women testified and Mr. Sarid's letter confirmed that they paid rent of $200 per month for three months, so an additional $200.00 should be added to the total housing expenditures. Petitioner's paystubs also reflect that she did not work from 12/24/23-12/30/23 (PX13, RX7), however, she did pay for housing at Sonesta Suites during this time at a rate of $85.00 per day or $595.00 (PX19 p. 5).

Respondent introduced a subpoena directed to Belinda Paul returnable on January 8, 2025 in Waukegan, IL seeking financial accounts (RX1). Respondent introduced Petitioner's employment application with Respondent, which referenced her applying to be a Travel Certified Nursing Assistant and her prior employment with Respondent from September 2021 – September 2022 at Dyouville St. Mary's in Lewiston, ME (RX2; T. 109). Respondent introduced a W-4 form filled out by Petitioner on August 24, 2022 (RX3). Respondent introduced an Illinois "Employee's Statement of Nonresidence in Illinois" form signed by Petitioner on September 5, 2022 (RX4). Respondent introduced a form signed by Petitioner in support of establishing a current tax home in Knoxville, TN (RX5).

Respondent introduced a spreadsheet of various payments purportedly made on Petitioner's workers' compensation case (RX8). The parties stipulated that Respondent shall be entitled credit for any medical bills or payments it has made pursuant to the Workers'

Compensation Act. (T. 127). Respondent introduced a November 20, 2024 email from Petitioner's counsel which indicated the expenses Petitioner incurred during her travel to Chicago for an IME (RX9). Respondent did not introduce an IME report.

Respondent introduced a printout from the U.S. General Services Administration regarding per diem rates (RX10). The printout includes per diem daily lodging rates for Waukegan from October 2023 – September 2024 (RX10). These rates range from $146.00 per day to $233.00 per day (RX10). It also includes rates for daily meal and incidental expenses for Waukegan in 2024 and this totaled $79.00 per day (RX10). Respondent introduced a printout of a website regarding Illinois Travel Per Diem Rates and Compliance Guide (RX11).

Respondent introduced Petitioner's 2022 (two years prior to Petitioner's accident date) tax return which reflected W2 earnings of $29,151.66 from Respondent and an adjusted gross income of $29,152.00 (RX13).

Petitioner's Medical Treatment

Petitioner presented to Prompt Med Urgent Care on March 4, 2024 indicating that she had been injured at work when a male inmate/patient attacked her, holding her right forearm/elbow and squeezing it tighter as she moved (PX1 p. 3). She complained of swelling, bruising, and pain going up the arm and down to the wrist (PX1 p. 3). She was diagnosed with a sprain of the right elbow and placed on work restrictions, which included left-hand only work (PX1 p. 5-6).

Petitioner next visited Dr. Eddie Brown at Tennova Primary Care on March 12, 2024 (PX2 p. 12-16). She reported a work-related injury to her right forearm with continued pain (PX2 p. 15). She was referred to orthopedics (PX2 p. 16). She presented to Ortho Tennessee and APN Matej Bosnjak on March 18, 2024 providing a history of being assaulted by a patient on February 28 (PX3 p. 74). She was examined and diagnosed with right wrist, elbow, and shoulder strains (PX3 p. 76).

Petitioner saw Dr. Robert Smith at Orth Tennessee on March 29, 2024 complaining of persistent symptoms with her right shoulder (PX3 p. 80). Dr. Smith ordered an MRI and recommended that she modify her activities (PX3 p. 80). On April 5, 2024, Petitioner returned to Ortho Tennessee to see Dr. Benjamin Rogozinski (PX3 p. 84). She provided a history of her work accident where a resident assaulted her and twisted her arm (PX3 p. 84). She complained of persistent pain radiating from the wrist to the elbow to the shoulder and neck (PX3 p. 84). She continued to have difficulty with daily activities (PX3 p. 84). She was diagnosed with right UCL sprain and wrist sprain and MRIs were ordered (PX3 p. 87-88).

Petitioner underwent MRIs of her right elbow, wrist, shoulder and cervical spine at University Diagnostics on April 23, 2024 (PX22 p. 6-11). Petitioner followed up with Dr. Rogozinski on May 1, 2024 at which time Dr. Rogozinski reviewed her MRIs and diagnosed her with a right elbow common extensor tendon traumatic tear (PX3 p. 92). The MRI of her right wrist revealed a small central perforation of the radial attachment of the TFCC (PX3 p. 92). He performed an injection on her elbow, updated her work restrictions, and sent her to physical therapy (PX3 p. 92). On May 15, 2024, she visited Dr. Smith to review her shoulder MRI (PX3 p. 94-98). Dr. Smith noted that the MRI revealed a rotator cuff tear and provided her with an injection (PX3 p. 98). He discussed surgery, referred her to physical therapy, and kept her on work restrictions of no lifting or overhead use of the right arm (PX3 p. 98).

On May 23, 2024, Petitioner visited the emergency department at Tennova North Knoxville Medical Center complaining of right arm pain that was aggravated on days when she was picking up her niece (PX4 p. 821). She was provided with pain medication and told to follow up with her orthopedic (PX4 p. 821).

On June 10, 2024, Petitioner visited Dr. Rogozinski for her right elbow and was provided further work restrictions and advised to allow physical therapy to progress (PX3 p. 107). She began physical therapy for her elbow on that same date at Select Physical Therapy (PX5 p. 8-13). On June 19, 2024, she began physical therapy for her shoulder as well (PX5 p. 20-23). Petitioner returned to Dr. Smith on June 24, 2024 and surgery was ordered for her right shoulder as he believed conservative treatment had failed (PX3 p. 117). On June 26, 2024, she returned to Dr. Rogozinski and indicated that she had gone to the emergency room the day before because of her elbow pain and had developed more bruising and tenderness (PX3 p. 119). At this visit, Dr. Rogozinski recommended elbow surgery (PX3 p. 123).

Petitioner underwent surgery on her right elbow on June 28, 2024 (PX3 p. 124-125). The procedure consisted of a right elbow common extensor tendon debridement with tendon reattachment (PX3 p. 124). On June 29, 2024, Petitioner presented to the emergency department at Blount Memorial Hospital complaining of uncontrolled postoperative pain after surgery the day before (PX6 p. 8). The doctors at Blount removed a splint and discharged her that day (PX8 p. 9-10).

Petitioner returned to Ortho Tennessee on July 1, 2024 complaining of excruciating pain since surgery on June 28, 2024 (PX3 p. 126). She was advised to get an ultrasound at the emergency room to rule out a DVT (PX3 p. 129). Petitioner visited Tennova North Knoxville Medical Center's emergency department the following day, July 2, 2024 after an ultrasound that was positive for large blood clot in the right cephalic vein (PX4 p. 39, 806). Petitioner was admitted to the hospital from July 2-8, 2024 (PX4 p. 7-639). While admitted, she was short of breath and a CTA of her chest was performed, which uncovered that she had multiple pulmonary emboli (PX4 p. 63). She was given IV medication of heparin and released with a prescription for Eliquis (PX4 p. 12). She was discharged on July 8, 2024 and advised to follow up with hematology and orthopedics (PX4 p. 12-14).

Petitioner returned to Dr. Rogozinski on July 11, 2024 and was referred to hematology regarding her clotting disorder (PX3 p. 139). Dr. Rogozinski also recommended restarting physical therapy (PX3 p. 139) which Petitioner did at Select PT on July 31, 2024 (PX5 p. 28). She continued physical therapy in August 2024 (PX5 p. 28-48). She visited the emergency department at Tennova North Knoxville Medical Center again on August 2, 2024 complaining of calf pain, shortness of breath, and chest pain (PX4 p. 699-786). Petitioner requested ultrasounds to ensure the blood clots were not worsening (PX4 p. 708).

Petitioner returned to Dr. Rogozinski on August 9, 2024 and indicated that she has contacted three hematologists and was waiting for acceptance (PX3 p. 141). Petitioner was evaluated by Dr. Mitchell Martin at Tennessee Cancer Specialists on August 21, 2024 (PX7 p. 32-35). She provided a history of her work injury and the blot clots she developed following surgery (PX7 p. 32). Dr. Martin opined that her DVT and pulmonary emboli were most likely precipitated by the traumatic event and surgery and recommended a hypercoagulable workup (PX7 p. 34). He also recommended a CBC and iron reading and advised her to follow up in six months with an updated CT scan (PX7 p. 34-35). Lab studies revealed iron deficiency anemia from her bleeding and anticoagulation (PX7 p. 31). Her hypercoagulable workup came back

unremarkable for genetic predisposition to clotting (PX7 p. 27). Her iron deficiency, DVT, and pulmonary embolism were caused, more than 50%, by the assault and resulting surgery (PX7 p. 27). Iron infusion of Feraheme was recommended (PX7 p. 27).

Petitioner visited Dr. Rogozinski on September 20, 2024 showing improvements in the right elbow (PX3 p. 146). She was provided with a 10-pound lifting restriction for the elbow and told to follow up in six weeks and continue with hematology (PX3 p. 150). She returned on November 13, 2024 and was given the same restrictions and advised to follow up in two months (PX3 p. 156).

Petitioner returned to Dr. Smith on January 13, 2025 for her right shoulder (PX3 p. 2-8). Dr. Smith provided an injection and advised her to discuss with the hematologist as to when she is a candidate for surgery (PX3 p. 7). On January 14, 2025, Petitioner returned to Dr. Rogozinski complaining of continued discomfort in the right elbow and gastritis as a result of the medication she was taking (PX3 p. 14). At this visit, Dr. Rogozinski stated that she was at MMI for her elbow and provided her with permanent restrictions, which included help with patient lifting and transfers (PX3 p. 18). He recommended she continue use of blood thinners and see Dr. Smith for the shoulder (PX3 p. 18).

On February 5, 2025, Petitioner returned to Tennessee Cancer Specialists for a re-evaluation (PX7 p. 21-24). She had a CT scan, which revealed no residual pulmonary embolus (PX7 p. 24). A psychiatric evaluation was recommended due to overwhelming anxiety and depression related to the stress of her injury (PX7 p. 14). A GI evaluation was also recommended due to her abdominal pain (PX7 p. 14). Additional iron studies were recommended (PX7 p. 14). She returned on March 26, 2025 and it was indicated that Tennessee Cancer Specialists had placed a referral last visit and was still waiting on workers' comp to approve the psych visit (PX7 p. 17). She was also referred to gynecology related to her menorrhagia exacerbated by Eliquis (PX7 p. 17). A GI consult remained pending (PX7 p. 20). She was cleared for shoulder surgery (PX7 p. 17).

Petitioner returned to Dr. Smith on April 4, 2025 and an arthroscopic rotator cuff repair was ordered (PX3 p. 24). She followed up with Dr. Rogozinski on April 7, 2025 after slipping and falling and experiencing recurrent right elbow pain (PX3 p. 26). She also visited Dr. Smith on April 9, 2025 complaining of additional right shoulder pain after a fall at home and asking to move the surgery up (PX3 p. 30).

Petitioner underwent a right shoulder arthroscopy on May 6, 2025, which included extensive debridement, subacromial decompression with acromioplasty, and a distal clavicle excision (PX3 p. 37). She was evaluated and began physical therapy for the right shoulder on May 9, 2025 at Ortho Tennessee (PX3 p. 39). She followed up with Dr. Rogozinski and Dr. Smith on May 20, 2025 (PX3 p. 51-62). She was experiencing elbow pain following shoulder surgery and Dr. Rogozinski performed an injection and advised to follow up in six weeks (PX3 p. 54). Dr. Smith saw her for her first post-op visit (PX3 p. 56-62). He kept her off of work and advised continued physical therapy (PX3 p. 60-61).

Petitioner presented to McNabb Center initially on May 1, 2025 for a psychological evaluation and provided a history of her work accident and having a lot of stress with workers' comp (PX25 p. 14). She noted that she is falling all of the time from low iron levels (PX25 p. 15). She noted that she has been stressed for 6-7 months and unable to sleep due to constant worry (PX25 p. 18). She was afraid of dying and had a decreased appetite causing her to lose 36 pounds in two months (PX25 p. 18). On May 5, 2025, she returned and detailed how afraid she was of

surgery the next day and that she was telling her family that it may be the last time she sees them (PX25 p. 28). She told her counselor that she believed workers' comp wanted her to die and they would not approve her blood transfusion (PX25 p. 28). She went for another visit on the same day as her surgery worrying about her medication and believing that workers' comp wanted her to die (PX25 p. 32). She also visited McNabb on May 9, 2025 and May 12, 2025 (PX25 p. 37-46).

Petitioner introduced the following outstanding medical bills:

1) PromptMed DOS 3/5/24: $478.00 (BCBS) (PX1)
2) OrthoTennessee DOS 3/18/24 – 11/13/24: $439.00 (PX3)
3) Tennova North Knoxville Medical Center DOS 5/23/24 – 2/19/25: $4,384.14 (PX4)
4) Tennessee Cancer Specialists DOS 8/21/24 – 3/26/25: $1,773.00 (PX7)
5) Parkwest Medical Center DOS 9/3/24: $4,553.88 (PX8)
6) Abercrombie Radiology DOS 7/2/24-2/19/25: $587.00 (PX9)
7) East Tennessee Pathology DOS 8/2/24-8/23/24: $235.00 (PX10)
8) Knoxville Cario DOS 7/3/24: $194.00 (PX11)
9) Vista Radiology DOS 9/3/24: $470.00 (PX12)
10) IWP DOS 12/20/24-3/18/25: $3,988.87 (PX23)
11) Walgreens DOS 5/2/25-5/14/25: $54.91 (PX24)
12) McNabb Center DOS 5/1/25-5/12/25: $940.00 (PX25)

CONCLUSIONS OF LAW

F. Is Petitioner's current condition of ill-being causally related to the injury?

There is no dispute that Petitioner was attacked while working for Respondent. The attack consisted of her right arm being grabbed and violently thrown around by her assailant to the point where she thought he was going to rip her arm off. She first treated five days later, identifying the same accident, and complaining of pain in her right arm. Upon her return to Tennessee, she had MRIs on her right shoulder and elbow, which both revealed tears. Petitioner's treating surgeons recommended surgeries to repair the tears.

Following Petitioner's elbow surgery, she developed pulmonary embolisms and blood clots in her right arm. Dr. Martin, Petitioner's hematologist at Tennessee Cancer, opined that her clot and pulmonary emboli were most likely caused by her work accident and surgery. The arbitrator also notes that these ailments arose immediately after surgery for her elbow. There is no evidence in the record to refute that her clot/pulmonary embolism were caused by anything other than her elbow surgery.

Following her pulmonary embolism diagnosis, Petitioner has been prescribed medications. She testified that prior to the accident, she had been on only one medication, and that now she was taking 18-19 medications. Petitioner testified that she has experienced significant side effects while taking these medications. These side effects, specifically, iron deficiencies, elevated

menstrual cycle, gastrointestinal, and psychological are all well documented in Petitioner's medical records with Tennessee Cancer. Tennessee Cancer specifically recommended treatment for all of these ailments and sought workers' comp approval for same.

Every natural consequence flowing from a work injury is compensable unless the chain of causation is broken by an independent intervening accident. *Vogel v. Ill. Workers' Comp. Commission*, 354 Ill.App.3d 780,786 (2d Dist. 2005). When Petitioner suffers an additional injury due to the treatment for the initial work injury, the chain of causation is not broken. *International Harvester Company v. Industrial Commission*, 46 Ill.2d 238, 245 (1970). Petitioner's clotting and other ailments were caused directly by the treatment she underwent for the work injury. Petitioner's psychological injuries stem from the results of her physical injury and the additional suffering she has endured following treatment for the physical injury. Her condition is "physical-mental" because it involves her mental injury was caused by physical stress. *Baggett v. Industrial Commission*, 201 Ill.2d 187, 195 (2002).

The arbitrator finds that Petitioner suffered an injury at work that initially caused damage to her right arm, including the shoulder and elbow. The treatment to repair the elbow, an orthopedic surgery, resulted in Petitioner's development of blood clots and pulmonary emboli. To treat Petitioner's new clotting conditions, she was prescribed a litany of medications which have caused additional ailments. The arbitrator finds that through a chain of events, Petitioner's condition as it relates to her right shoulder, right arm, blood clots, pulmonary emboli, gynecology, iron deficiency, gastrointestinal, and psychology are all causally connected to her initial work accident of February 28, 2024.

G. What were Petitioner's earnings?

Petitioner, as a traveling CNA, was paid taxable minimum wage for a job that required certification. Petitioner was paid stipends which were labeled as housing and meals, however, do not appear to be reimbursements as Respondent did not require or ask for receipts for actual expenses. Respondent offered Petitioner different pay models based on her choosing, potentially earning additional income in lieu of higher stipends. Furthermore, the amounts paid for these stipends were based on guidelines and were open to negotiation with each employee. Lastly, the stipends were not paid if Petitioner missed work for any reason, including when she contracted Covid while working for Respondent.

The arbitrator finds that Petitioner and Heather Paul testified credibly regarding their spending while traveling for work for Respondent. The arbitrator finds that the debit card transactions included payments for the two women during the covered time period and finds that the underlined/highlighted entries accurately reflect the debits which correspond to housing and/or meal expenses while traveling for Respondent. Additionally the records includes proof of all payments for housing during the time period which corroborate the bank statements.

Average weekly wage includes "anything of value received as consideration for the work." *Swearingen v. Industrial Commission*, 298 Ill.App.3d 666, 668 (5th Dist. 1998). Payments designated as travel expenses should be included in average weekly wage to the extent that such payments represent real economic gain rather than reimbursement for actual expenses incurred. *Id* at 671. If a reimbursement a claimant receives was greater than the expenses actually incurred during trips, the difference constitutes real economic gain and should be included in

average weekly wage. *United Airlines v. Ill. Workers' Comp. Commission*, 382 Ill.App.3d 437, 441 (1st Dist. 2008).

The arbitrator finds that Respondent's payment of stipends amounts to which are to be included in calculating her average weekly wage. The amount was never tied to any actual expense incurred by Petitioner. The stipends were payable only when working. If Petitioner missed a day of work while she was on the road traveling for months at a time, she will still incur housing and meal costs, however the stipends are deducted from her paycheck. These should not be considered reimbursement if they are taken away even when the purported expense is still incurred. The Arbitrator finds that the stipends are an economic gain received as consideration for working.

The Arbitrator calculates Petitioner's average weekly wage to be $1,012.37 based on the total of Petitioner's hourly rate ($16,809.28), overtime ($2,775.81), and stipend ($34,505.30) subtracting Petitioner's share of actual expenses of $13, 595.63 over the 40 weeks worked. This gives a TTD rate of $674.85.

J. Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?

Having found in favor on the issue of causation, the Arbitrator notes Petitioner's initial treatment consisted of immediate care and orthopedic care. She also sought emergency care due to extreme pain in her arm. She underwent two surgeries to correct the torn ligaments in her elbow and shoulder. Following her first surgery, Petitioner developed pulmonary embolisms and has been undergoing treatment ever since consisting of medications and transfusions. She visited the emergency room for shortness of breath shortly after being discharged from the hospital. Petitioner has had various other treatment recommended to remedy the various side effects she has experienced with the significant medications she has been prescribed. As of the trial date, she had begun treatment with a psychologist and a gastroenterologist. .

The arbitrator finds that all of Petitioner's treatment to date is reasonable and necessary. Respondent did not submit any evidence to suggest otherwise. The arbitrator further finds that Respondent has not paid for all medical treatment. Respondent shall pay the following providers pursuant to the fee schedule with appropriate credits for any payments that have already been made by Respondent:

1) PromptMed: $478.00
2) OrthoTennessee: $439.00
3) Tennova North Knoxville Medical Center: $4,384.14
4) Tennessee Cancer Specialists: $1,773.00
5) Parkwest Medical Center: $4,553.88
6) Abercrombie Radiology: $587.00
7) East Tennessee Pathology: $235.00
8) Knoxville Cardio: $194.00
9) Vista Radiology: $470.00
10) IWP: $3,988.87
11) Walgreens: $54.91
12) McNabb Center: $940.00

K. What temporary benefits are in dispute? TTD?

The arbitrator finds that Petitioner has been actively treating since her work accident and that her treating physicians have determined that she is currently unable to work. The record reflects that she was first taken of off work by Prompt Med on March 4, 2024. She is therefore entitled to TTD benefits from March 4, 2024 – May 27, 2025 and beyond so long as her condition continues to render her unable to work. This is a period of 64 2/7 weeks.

Having found Petitioner's average weekly wage to be $1,012.37, the Arbitrator finds her TTD rate to be $674.85 and that TTD is payable for the above-mentioned period of 64 and 2/7 weeks.

Petitioner testified that she has received weekly payments of $429.33 (the statutory TTD minimum) for each week that she has been off of work and the parties stipulated that she has received a total of $27,906.45 in TTD benefits. As the arbitrator has determined that Petitioner's average weekly wage has increased with the inclusion of her stipend to $1,012.37 with a correct TTD rate of $674.85, Respondent shall pay to Petitioner the difference of what is owed less the $5,000 advance previously paid and stipulated to as a credit.

M. Should penalties or fees be imposed upon Respondent?

Penalties and fees under Sections 16 and 19(k) of the Workers' Compensation Act are intended to address deliberate conduct or conduct undertaken in bad faith or for an improper purpose. *McDonald's v. Illinois Workers' Comp. Commission*, 214 N.E.3d 797, 809 (1st Dist. 2022).

At trial, Respondent placed causation at issue without a reasonable basis to do so. A Respondent must have a reasonable basis to take a position – a legitimate purpose for the litigation tactic. *McDonald's v. Illinois Workers' Comp. Commission*, 214 N.E.3d 797, 809 (1st Dist. 2022). A position is not legitimate simply because it is permitted by the Act. *Id.* Contesting an issue that has no real controversy only introduces delay in the proceeding and increases time and cost required by the parties, arbitrator and Commission, which is what the Act seeks to discourage. *Id* at 810. In *McDonald's*, the employer contested notice despite failing to produce any evidence challenging notice. They even had a supervisor testify that notice was received.

Respondent also disputed causation. The medical records are show that Petitioner had a serious right arm and shoulder injury. The records also show Petitioner developed pulmonary emboli as a result of her surgery and has developed significant side effects and symptoms which require further treatment. Respondent introduced no evidence that would dispute causation.

There is no reasonable basis in the record for Respondent's dispute on the issue of causation. The Arbitrator notes that the Request for Hearing form was not amended after testimony to remove these disputes. There was no real controversy concerning causation in the record.

Additionally, Respondent has failed to pay for reasonable and necessary medical treatment despite having no basis to dispute causation and not providing the Arbitrator with medical evidence regarding their reasonableness and necessity. The Tennessee Cancer Records include numerous details of attempting to provide Petitioner with care, but being denied by Respondent's insurance carrier (PX7 p. 68-71). Petitioner testified that her care has been

delayed and she has dealt with significant physical and emotional trauma as a result of these delays. These delays are unreasonable and are further basis for the arbitrator's award of penalties.

The arbitrator finds that Respondent's disputes of accident and causation and non-payment of medical bills were unreasonable and awards Petitioner penalties under Sections 16 and 19(k).

O. Is Petitioner entitled to prospective medical treatment?

Petitioner has been receiving orthopaedic care to address her right shoulder and arm injuries. She has not, however, been receiving all of the care that Tennessee Cancer has recommended to treat the side effects she has endured following her pulmonary emboli. The medication that she has been prescribed has caused her to seek ongoing treatment. The arbitrator finds that Petitioner is entitled to prospective medical treatment to treat the related resulting side effects and ailment currently at issue that were caused by her work -related injuries and subsequent treatment. The Respondent shall authorize the treatment prescribed in the medical records consisting of iron infusions, psychological treatment, gynecological treatment, gastrointestinal treatment, as well as continued orthopaedic and hematology treatment.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC015421
Case Name	Lolita Gray v. Chicago Transit Authority
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0238
Number of Pages of Decision	16
Decision Issued By	Frank Soto, Commissioner

Petitioner Attorney	Mark Fromm
Respondent Attorney	Andrew Zasuwa

DATE FILED: 8/25/2026

/s/Frank Soto, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

☒ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

LOLITA GRAY,
Petitioner,

vs. NO: 24WC015421

CHICAGO TRANSIT AUTHORITY,
Respondent,

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issue(s) of causal connection, medical treatment, prospective medical care, and temporary total disability, and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof. The Commission further remands this case to the Arbitrator for further proceedings for a determination of a further amount of temporary total compensation or of compensation for permanent disability, if any, pursuant to Thomas v. Industrial Commission, 78 Ill.2d 327, 399 N.E.2d 1322, 35 Ill.Dec. 794 (1980).

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed February 19, 2026 is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that this case be remanded to the Arbitrator for further proceedings consistent with this Decision, but only after the latter of expiration of the time for filing a written request for Summons to the Circuit Court has expired without the filing of such a written request, or after the time of completion of any judicial proceedings, if such a written request has been filed.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $31,100.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 25, 2026
O: 8/19/26
FJS/afr
046

/s/ *Frank J. Soto*
Frank J. Soto

/s/ *Carolyn M. Doherty*
Carolyn M. Doherty

/s/ *Raychel A. Wesley*
Raychel A. Wesley

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC015421
Case Name	Lolita Gray v. Chicago Transit Authority
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	13
Decision Issued By	Ana Vazquez, Arbitrator

Petitioner Attorney	Mark Fromm
Respondent Attorney	Andrew Zasuwa

DATE FILED: 2/19/2026

/s/Ana Vazquez, Arbitrator
Signature

INTEREST RATE WEEK OF FEBRUARY 18 2026 3.50%

STATE OF ILLINOIS)
)SS
COUNTY OF COOK)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
19(b)/8(a)

Lolita Gray
Employee/Petitioner

v.

Chicago Transit Authority
Employer/Respondent

Case # **24** WC **015421**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Ana Vazquez**, Arbitrator of the Commission, in the city of **Chicago**, on **December 4, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ Is Petitioner entitled to any prospective medical care?
L. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other:

FINDINGS

On the date of accident, **May 1, 2024**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**66,768.00**; the average weekly wage was $**1,284.00**.

On the date of accident, Petitioner was **55** years of age, ***married*** with **0** dependent children.

Respondent ***has not*** paid all reasonable and necessary charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**58,208.00** for TTD, $**0** for TPD, $**0** for maintenance, and $**0,** for other benefits, for a total credit of $**58,208.00**. Ax1.

Respondent is entitled to a credit of $**0** under Section 8(j) of the Act.

ORDER

Respondent shall pay Petitioner temporary total disability benefits of **$856.00/week** for **83 2/7 weeks**, commencing **May 2, 2024** through **December 4, 2025**, the date of arbitration, as provided in Section 8(b) of the Act. By stipulation, Respondent is entitled to a credit in the amount of **$58,208.00** for temporary total disability benefits paid to Petitioner. Ax1.

Respondent shall pay for the reasonable and necessary medical services provided to Petitioner by Chicago Center for Sports Medicine and Orthopedic Surgery, as provided in Px4, pursuant to the medical fee schedule and Sections 8(a) and 8.2 of the Act. Respondent is entitled to a credit for any payments made towards the awarded outstanding expenses including those payments reflected in Rx3.

Respondent shall authorize and is liable for the prospective medical treatment plan recommended by Dr. Gregory Primus, including viscosupplementation injections and a referral to a pain management physician for consideration of radioablation/genicular nerve blockade, as provided in Sections in 8(a) and 8.2 of the Act.

In no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Ana Vazquez

Signature of Arbitrator

FEBRUARY 19 2026

PROCEDURAL HISTORY

This matter proceeded to arbitration on December 4, 2025 before Arbitrator Ana Vazquez in Chicago, Illinois pursuant to Sections 19(b) and 8(a) of the Illinois Workers' Compensation Act ("the Act"). The issues in dispute are (1) causal connection, (2) unpaid medical bills, (3) temporary total disability ("TTD") benefits, and (4) prospective medical. Arbitrator's Exhibit ("Ax") 1. All other issues are stipulated. Ax1.

FINDINGS OF FACT

Petitioner has been employed as a bus operator for Respondent for the past four and a half years. Transcript of Proceedings on Arbitration ("Tr.") at 12. Petitioner works out of the 103rd Street garage. Tr. at 12-13.

Prior injuries

Petitioner testified that sometime prior to the end of April 2023, as she was driving a bus down Central, she noticed that the mirror was not as it should be, so she pulled over and parked the bus, and she hit her right knee on the metal box connected to the shield door when she stepped down from the driver's seat. Tr. at 23, 52-53. Petitioner sought treatment at an emergency room, was on crutches, and was off work for two weeks. Tr. at 24. Petitioner testified that she was released at 100-percent and continued to operate the bus. Tr. at 24-25.

Petitioner injured her right knee at the end of April 2023. Tr. at 21, 47. Petitioner testified that she was at 47th Street, which is the end of Route 15, and she stepped away from her seat to call control when gunshots rang out and she dropped down onto her knees. Tr. at 21, 48-49. Petitioner injured her bilateral knees. Tr. at 21, 47. Petitioner sought medical treatment with Dr. Steven Sclamberg, who referred Petitioner to physical therapy. Tr. at 22. Petitioner testified that she attended physical therapy for a few months and then returned to full-time work. Tr. at 22. Petitioner testified that she did not receive any injections in her knees or undergo surgery in 2023. Tr. at 22-23.

Petitioner testified that she was not experiencing any problems with her right knee in the nine-month period prior to May 1, 2024. Tr. at 20. Petitioner testified that during the nine-month period prior to May 1, 2024, she worked full time and was able to perform her full duties. Tr. at 20. Petitioner testified that she did not see any doctors for treatment of arthritis prior to May 1, 2024. Tr. at 32.

On cross examination, Petitioner agreed that following the April 2023 injury, she saw Dr. Sclamberg a total of three visits. Tr. at 47. Petitioner saw Dr. Sclamberg in May 2023, July 2023, and August 2023 for her bilateral knees. Tr. at 47-48. Petitioner testified that she underwent an x-ray and MRI of her right knee prior to the April 2023 injury. Tr. at 49-50. Petitioner testified that after the April 2023 injury, she was off work and returned to work full duty in September 2023. Tr. at 50. Petitioner worked full duty from September 2023 to May 2024. Tr. at 50. Regarding the injury occurring prior to April 2023, Petitioner agreed that she claimed an injury to her right knee on October 19, 2022. Tr. at 52; Rx10. Petitioner testified that after the October 19, 2022 injury, she sought treatment at St. Joseph's Emergency Room, then at Concentra, and then at Northwestern. Tr. at 54. Petitioner testified that she was taken off work following the October 19, 2022, but did not recall the date. Tr. at 54. Petitioner testified that she believed that she was released to return to work by Concentra, and then taken off work by her primary care physician at Northwestern because she was on crutches and still in pain. Tr. at 54-55.

Summary of medical records for treatment prior to May 1, 2024

Petitioner was seen at Concentra on October 20, 2022 for a chief complaint of hitting her right knee with a steel door on October 19, 2022. Respondent's Exhibit ('Rx") 9. Petitioner reported that she was seen at St. Joseph's Emergency Department on October 19, 2022 and diagnosed with a contusion. Nurse Practitioner Michael Polich noted (1) swelling, but no ecchymosis or erythema, (2) tenderness diffusely over the anterior knee but not over the lateral or medial joint lines, (3) moderate tenderness to palpation of the anterior knee, (4) limited range of motion secondary to pain, (5) normal motor strength, and (6) normal motor tone on examination of the right knee. Petitioner was assessed with a contusion of the right knee and lower leg. Petitioner was prescribed ibuprofen and was recommended use of an elastic knee support, crutches, and a hot/cold pack. Petitioner was placed on work restrictions, including (1) may work entire shift, (2) must use crutches, (3) weight bearing as tolerated, (4) wear splint/brace on right lower extremity frequently, (5) may not walk on uneven terrain, (6) no climbing stairs or ladders, and (7) no driving a bus.

Petitioner underwent x-rays of the right knee on May 10, 2023, which demonstrated (1) no posttraumatic findings, (2) low-grade tricompartmental degenerative joint disease, with slight medial joint space narrowing, and (3) bone demineralization. Rx4.

Petitioner underwent an MRI of the right knee on May 10, 2023, which demonstrated (1) low-grade tricompartmental degenerative joint disease with intact menisci, small effusion, and Baker's cyst and (2) no posttraumatic findings. Rx5.

On May 24, 2023, Petitioner was seen by Dr. Steven Sclamberg at Chicago Pain and Orthopedic Institute. Rx6. Dr. Sclamberg noted that Petitioner had returned to see him with follow-up imaging of the bilateral knees. Dr. Sclamberg noted that Petitioner was in physical therapy, was not using an assistive device, and was still having complaints of pain. Dr. Sclamberg noted no swelling, as well as muscle pain in the right hip anteriorly and laterally. On examination, Dr. Sclamberg noted (1) a reciprocal gait with no assistive devices, (2) mild diminished cadence, (3) no increased pain with internal rotation, (4) bilateral knees demonstrated intact soft tissue development, (5) mildly diminished range of motion, (6) nearly full resistive strength, (7) no instability, (8) no effusion, (9) mild diffuse tenderness, (10) no calf tenderness, and (11) distally neurovascularly intact bilaterally. Dr. Sclamberg noted that radiographs of the right knee demonstrated low grade tricompartmental arthritis, and that radiographs of the left knee demonstrated low-grade tricompartmental arthritis. Dr. Sclamberg noted that the MRI of the right knee demonstrated intact menisci and a small effusion with low grade tricompartmental osteoarthritis, and that the MRI of the left knee demonstrated low-grade tricompartmental osteoarthritis with small effusion with small Baker's cyst and intact menisci. Dr. Sclamberg's assessment was bilateral knee pain and contusion after injury at work. Dr. Sclamberg recommended that Petitioner continue physical therapy.

Petitioner followed up with Dr. Sclamberg on July 6, 2023. Rx7. Dr. Sclamberg noted that Petitioner was having some complaints of pain in the right thigh, and mostly in the bilateral knees, right greater than left. Dr. Sclamberg noted no swelling, catching, or clicking. Dr. Sclamberg's assessment was bilateral knee pain and contusion with aggravation of underlying prior asymptomatic osteoarthritis. Dr. Sclamberg recommended that Petitioner continue physical therapy, anti-inflammatories, ice, and ambulation. Dr. Sclamberg noted that Petitioner declined an injection at this visit, though the injection site is not specified.

Petitioner again saw Dr. Sclamberg on August 31, 2023. Rx8. Dr. Sclamberg noted that Petitioner still complained of bilateral knee pain. Dr. Sclamberg's assessment was bilateral knee pain with aggravation of underlying prior asymptomatic osteoarthritis. Dr. Sclamberg recommended that Petitioner continue home exercises. Dr. Sclamberg noted that Petitioner was going to attempt a return to full duty and that he would see her on an as-needed basis.

Accident

It is stipulated that on May 1, 2024, Petitioner sustained accidental injuries that arose out of and in the course of her employment with Respondent. Ax1.

Petitioner testified that on May 1, 2024, she was assigned to Route 26, which begins at the 103rd Street garage and goes to Chicago and Fairbanks in downtown Chicago. Tr. at 13. Petitioner testified that on May 1, 2024, at approximately 4 p.m. or 5 p.m., she arrived at Chicago and Fairbanks, the end of Route 26. Tr. at 13-14. Petitioner testified that when she arrives at the end of the line, she checks the bus for passengers and debris. Tr. at 14. If passengers are on the bus, she asks them to exit the bus. Tr. at 14. If there is trash on the bus, she picks it up and disposes of it. Tr. at 14. Petitioner testified that when she got to the end of Route 26, she was about to dispose of trash that was at the front of the bus, "so I turned around and stepped down, and my right knee made contact with the metal box that's attached to the shield door." Tr. at 14-15. Petitioner testified that "I was in the driver's seat. I stood up, turned around, and stepped down onto the metal box attached to the shield door." Tr. at 15. Petitioner struck her right knee on the metal box, and she felt extreme stabbing pain in her right knee. Tr. at 15. Petitioner testified that she was not able to stand and walk after striking her right knee on the metal box, and that she sat on the stairs leading up to the driver's seat and called control. Tr. at 16. Petitioner was transported to Northwestern Hospital by ambulance. Tr. at 17.

Summary of medical records for treatment after May 1, 2024

On May 1, 2024, Petitioner was seen in the Emergency Department of Northwestern Medicine. Petitioner's Exhibit ("Px") 1. Petitioner presented with complaints of right knee pain and abrasion. A consistent accident history was noted. It was noted that Petitioner felt immediate pain and was unable to ambulate. It was noted that Petitioner's physical exam was significant for small right knee effusion, tenderness to palpation over the anterior medial, anterolateral, and posterior knee, as well as pain with active and passive range of motion, patellar grind, and 1cm superficial laceration over the right kneecap. X-rays of Petitioner's right knee were obtained and no acute osseous abnormality was identified. Petitioner was diagnosed with right knee pain at discharge and was referred to occupational medicine.

On May 6, 2024, Petitioner was seen by Dr. Gregory Primus at Chicago Center for Sports Medicine and Orthopedic Surgery. Px2 at 188-191. A consistent accident history was noted. Dr. Primus noted that there was right knee pain posteriorly and anteriorly. Dr. Primus also noted that there was swelling, popping, and clicking deep in the center of the knee when ambulating. Dr. Primus noted that Petitioner had been using a cane due to pain and to take pressure off the right knee. Dr. Primus noted that Petitioner had undergone prior physical therapy for another work-related injury on the same knee last year. On examination of the right knee, tenderness, trace effusion, and a 1 cm open wound over the anterior patella, clean with an early scab, were noted. Dr. Primus' assessments were (1) chondromalacia patellae, right knee, (2) contusion of right knee, initial encounter, (3) sprain of the posterior cruciate ligament, right knee, and (4) work-related injury. Dr. Primus recommended physical therapy.

Petitioner followed up with Dr. Primus on May 23, 2024. Px2 at 184-187. Dr. Primus noted that Petitioner's symptoms had remained the same since the last visit. Petitioner reported pain, popping, and swelling. Petitioner reported that it felt like her whole right leg was swollen with associated stabbing pain that radiated posteriorly. Dr. Primus' assessments were unchanged. Dr. Primus ordered physical therapy and an MRI of the right knee for evaluation of a meniscal tear, chondral lesion, and posterior cruciate ligament injury.

Petitioner again saw Dr. Primus on June 27, 2024. Px2 at 180-183. Dr. Primus noted that Petitioner's symptoms had remained the same since the last visit. Petitioner reported pain and swelling in the right knee. Dr. Primus'

assessments were unchanged. Dr. Primus ordered physical therapy and an MRI of the right knee and noted that he would plan for surgery or injections after the MRI findings given that Petitioner's symptoms were not improving after two months. Petitioner testified that at the time of her June 27, 2024 visit, it was difficult to walk, she walked with a limp, and she could not walk for long periods. Tr. at 28-29.

Petitioner underwent a right knee MRI on July 12, 2024 which demonstrated arthritis from degenerative joint disease/osteoarthritis medial worse than lateral. Px2 at 555; Px3.

On July 25, 2024, Dr. Primus noted that Petitioner's symptoms had remained the same since the last visit. Px2 at 176-179. Petitioner reported occasional swelling and sharp pain with clicking and catching. Dr. Primus noted that the right knee MRI of July 12, 2024 showed diffuse arthrosis, medial greater than lateral. Dr. Primus' assessments were (1) chondromalacia patellae, right knee, (2) contusion of the right knee, initial encounter, (3) sprain of the posterior cruciate ligament, right knee, initial encounter, and (4) localized osteoarthritis of the right knee. Dr. Primus recommended physical therapy. Dr. Primus noted that he would obtain the MRI scan images to evaluate the actual images and that he was leaning towards a steroid injection followed by viscosupplementation injections based on Petitioner's persistent pain, swelling, and MRI findings.

Petitioner returned to Dr. Primus on August 1, 2024. Px2 at 172-175. Dr. Primus noted that Petitioner's symptoms had remained the same since the last visit. Petitioner reported pain in the knee and that she had noticed swelling in the whole right lower extremity. Dr. Primus noted that the right knee MRI images revealed slight cartilage wear in the lateral compartment with evidence of increased meniscus signal representing a likely meniscus tear. Dr. Primus' assessments were (1) chondromalacia patellae, right knee, (2) contusion of right knee, initial encounter, (3) sprain of the posterior cruciate ligament, right knee, initial encounter, (4) internal derangement of the right knee, (5) injury of the meniscus tear, initial encounter, and (6) localized osteoarthritis of the right knee. Dr. Primus recommended physical therapy, a well as a steroid injection due to Petitioner's persistent anterior knee pain and diffuse medical/lateral compartment pain. Dr. Primus noted that he may later also recommend viscosupplementation injections.

Petitioner next saw Dr. Primus on August 26, 2024. Px2 at 168-170. Dr. Primus noted that Petitioner's symptoms had significantly worsened by 90-percent since the last visit. Dr. Primus' assessments were unchanged. Dr. Primus continued to recommend physical therapy and a steroid injection, and again noted that he may later recommend viscosupplementation injections.

Petitioner followed up with Dr. Primus on September 26, 2024. Px2 at 164-166. Dr. Primus noted that Petitioner's symptoms had remained the same since the last visit. Petitioner reported less pain, but significant swelling in the right knee. Petitioner described an achy throbbing pain. On examination, Dr. Primus noted trace effusion, a better healed wound, as well as a positive McMurray's and patella grind. Dr. Primus' assessments were unchanged. Dr. Primus continued to recommend physical therapy, a steroid injection, and possibly viscosupplementation injections at a later date.

On October 25, 2024, Dr. Primus noted that Petitioner's symptoms had remained the same since the last visit. Px2 at 156-159. Petitioner reported that she still had a lot of pain and that it was very painful climbing stairs and bending. Dr. Primus continued to note trace effusion and a positive McMurray's and patella grind on exam. Dr. Primus' assessments were unchanged. Dr. Primus' treatment recommendations were also unchanged.

On November 12, 2024, Dr. Primus noted that Petitioner's symptoms had moderately worsened since the last visit. Px2 at 151-154. Petitioner reported sharp pain and constant aching, as well as consistent swelling of the right knee, intermittent weakness, and occasional popping. Petitioner also reported constant stiffness when the

right knee was in one position for a prolonged period. Dr. Primus' assessments and treatment recommendations were unchanged.
Petitioner saw Dr. Primus on December 13, 2024. Px2 at 146-149. Dr. Primus noted that Petitioner's symptoms had remained the same since the last visit. Petitioner reported sharp pain and swelling with a throbbing sensation. Dr. Primus' assessments and treatment recommendations were unchanged.

Petitioner returned to Dr. Primus on January 10, 2025. Px2 at 141-144. Dr. Primus noted that Petitioner's symptoms had minimally worsened since the last visit. Petitioner reported throbbing, constant sharp and aching pain, intermittent swelling associated with activities, and intermittent right knee weakness. Petitioner reported that her right knee was aggravated by prolonged walking and standing. Petitioner reported that she was starting to experience pain and stiffness when laying down. Dr. Primus' assessments and treatment recommendations were unchanged. Petitioner testified that on January 10, 2025, her pain was the same, but that it was a little more constant and persistent. Tr. at 34.

Petitioner followed up with Dr. Primus on February 11, 2025. Px2 at 136-139. Petitioner reported continued swelling, pain, stiffness, and weakness in the right knee. Dr. Primus noted that Petitioner ambulated with a limp. Dr. Primus' assessments and treatment recommendations were unchanged.

Petitioner again saw Dr. Primus on March 14, 2025. Px2 at 131-134. Dr. Primus noted that Petitioner's symptoms had minimally worsened since the last visit. Petitioner described a constant aching, throbbing, and stabbing pain, as well as constant swelling and continual stiffness and weakness in the right knee. Dr. Primus noted that Petitioner ambulated with a limp. Dr. Primus' assessments and treatment recommendations were unchanged.

Petitioner testified that physical therapy was authorized in April 2025. Tr. at 35. Petitioner attended a physical therapy evaluation on April 8, 2025. Px2 at 129-130.

On April 11, 2025, Dr. Primus noted that Petitioner's symptoms had significantly worsened since the last visit. Petitioner reported that the pain had worsened since the aggressive physical therapy session she had on April 8, 2025. Petitioner reported being in extreme pain following that physical therapy session. Dr. Primus' assessments and treatment recommendations were unchanged.

On May 8, 2025, Dr. Primus noted that Petitioner's symptoms had remained the same since the last visit. Px2 at 106-109. Petitioner reported achy pain in the knee. Dr. Primus noted that Petitioner was attending physical therapy and that Petitioner felt that she was making progress. Dr. Primus' assessments and treatment recommendations were unchanged.

Petitioner attended nine sessions of physical therapy between April 8, 2025 and May 16, 2025. Px2 at 97-105, 110-124. Petitioner testified that her symptoms were unchanged after completing nine sessions of physical therapy. Tr. at 37-38.

Petitioner returned to Dr. Primus on June 12, 2025. Px2 at 92-95. Dr. Primus noted that Petitioner's symptoms were unchanged since the last visit. Petitioner reported achy, popping in the in the knee. Dr. Primus' assessments and treatment recommendations were unchanged.

On July 17, 2025, Petitioner followed up with Dr. Primus. Px2 at 86-91. Dr. Primus noted that Petitioner was status post nine physical therapy sessions that really helped, but that did not get Petitioner to an independent state of improvement. Petitioner was administered trigger point injections/corticosteroid injections into the right knee. Petitioner testified that the injection of July 17, 2025 did not help, and that she still had stabbing pain in the middle of her knee, and her right leg was still swollen. Tr. at 38-39.

Petitioner followed up with Dr. Primus on August 21, 2025. Px2 at 78-81. Dr. Primus noted that Petitioner's symptoms had minimally worsened since the last visit. Petitioner reported continued pain after the steroid injection. Dr. Primus noted that the pain radiated around the right kneecap. Dr. Primus continued to note a positive McMurray's and patella grind on exam. Dr. Primus' assessments were (1) chondromalacia patellae, right knee, (2) contusion of right knee, initial encounter, (3) sprain of the posterior cruciate ligament, right knee, initial encounter, (4) internal derangement of the right knee, (5) injury of meniscus of the right knee, (6) localized osteoarthritis of the right knee, (7) unilateral primary osteoarthritis of the right knee, and (8) right knee pain, unspecified chronicity. Dr. Primus recommended additional physical therapy, as well as a viscosupplementation injection after a failed steroid injection.

Petitioner again saw Dr. Primus on September 5, 2025. Px2 at 73-76. Dr. Primus noted that Petitioner's symptoms had remained the same since the last visit and that Petitioner had not been able to start physical therapy. Petitioner reported intermittent pain, made worse by sitting, standing for long periods, walking, and bending. Petitioner also reported tingling up and down the right leg. Petitioner characterized the pain as throbbing and aching. Dr. Primus continued to note a positive McMurray's and patella grind on exam. Dr. Primus' assessments were (1) chondromalacia patellae, right knee, (2) contusion of right knee, initial encounter, (3) sprain of the posterior cruciate ligament, right knee, initial encounter, (4) internal derangement of the right knee, (5) injury of meniscus of the right knee, (6) localized osteoarthritis of the right knee, (7) unilateral primary osteoarthritis of the right knee, (8) right knee pain, unspecified chronicity, and (9) chronic pain due to trauma. Dr. Primus continued to recommend additional physical therapy and a viscosupplementation injection.

Petitioner attended 10 sessions of physical therapy between September 19, 2025 and October 16, 2025. Px2 at 38-52, 58-72. Petitioner testified that her pain was still consistent, persistent, and very painful after the additional physical therapy sessions. Tr. at 41-42.

Petitioner followed up with Dr. Primus on October 1, 2025, at which time Dr. Primus' assessments and treatment recommendations were unchanged. Px2 at 53-56.

On October 22, 2025, Dr. Primus noted that Petitioner's symptoms had worsened since the last visit, and also noted increased swelling. Px2 33-37. Dr. Primus continued to note a positive McMurray's and patella grind on exam. Dr. Primus' assessments were (1) chondromalacia patellae, right knee, (2) contusion of right knee, initial encounter, (3) sprain of the posterior cruciate ligament, right knee, initial encounter, (4) internal derangement of the right knee, (5) injury of meniscus of the right knee, (6) localized osteoarthritis of the right knee, (7) unilateral primary osteoarthritis of the right knee, (8) right knee pain, unspecified chronicity, (9) chronic pain due to trauma, and (10) nerve injury. Dr. Primus recommended physical therapy and viscosupplementation injections, as well as radioablation due to persistent nerve-like pain in the anterior knee.

On October 24, 2025, Dr. Primus provided a response to the July 21, 2025 Independent Medical Examination ("IME") of Dr. Brian Cole. Px2 at 25-32. Dr. Primus noted that increased signs of pain that may appear out of proportion is exactly what is described in patients that have some sort of pain hypersensitivity and/or complex regional pain syndrome ("CRPS") and that although rarer in the foot and hand, patients can get CRPS from a nerve injury. Dr. Primus noted that given that Petitioner had a direct contusion with a laceration, she may have bruised or cut a superficial nerve that contributed to a heightened pain response, and worsened over time due to guarding, muscle weakness and atrophy, and non-treatment. Regarding diagnostic imaging, Dr. Primus noted that given that Petitioner's knee at baseline represented some chondromalacia and moderate worn-down cartilage, she had a much higher chance of feeling more pain from a direct contusion and having more prolonged symptoms related to the knee joint. Dr. Primus disagreed with Dr. Cole's opinion that a knee contusion can lead to symptoms lasting only six to eight weeks, and noted that contusions leading to bone bruises can lead to pain that can last three to four months only if the contusion leading to the bone bruise is an isolated issue. Dr. Primus, however,

noted that trauma to a joint can be a catalyst that leads to a painful experience that then turns to chronic pain and is especially common if there are preexisting pathology in the knee that can compromise the knee's function. Dr. Primus noted that in Petitioner's case, she was noted to have a meniscal root tear, and assuming the tear was degenerative and not caused by the injury, whatever compensatory mechanism she had was lost once her knee experienced severe pain and her surrounding muscles shut off. Dr. Primus noted that Petitioner's asymptomatic knee became very symptomatic due to the trauma. Dr. Primus also noted that the same could be argued for Petitioner's degenerative cartilage wear. He noted that Petitioner was asymptomatic at the time of the injury, which meant that she was compensating quite well and that her acute pain caused her to lose this compensation, causing her bones to experience much more stress due to muscle weakness and discoordination, resulting in more progressive pain. Dr. Primus noted that he believed that the laceration and direct trauma to Petitioner's right knee led to some nerve injury that resulted in pain hypersensitivity and that he thinks that Petitioner is suffering from some sort of CRPS, not easily described, but not unknown in orthopedic trauma and unusual knee pain. Dr. Primus disagreed with Dr. Cole's maximum medical improvement ("MMI") assessment of two months. Dr. Primus noted that he has asked for viscosupplementation after the steroid injection, and if that treatment failed, he would progress to biological regenerative measures like PRP/stem cell but would first request less expensive and non-invasive shockwave treatments. Dr. Primus noted that if that treatment failed, he would bring in a pain specialist to consider radioablation to address the nerve hypersensitivity or address this concomitantly. Dr. Primus agreed with Dr. Cole's opinion that Petitioner's knee pain will not permit her to safely operate a bus, but disagreed with Dr. Cole's causation opinion. Dr. Primus opined that Petitioner's current condition was a direct and proximate cause of the work-related injury.

Petitioner returned to Dr. Primus on November 19, 2025. Px2 at 20-24. Dr. Primus noted that Petitioner's symptoms had remained the same since the last visit. Dr. Primus continued to note a positive McMurray's and patella grind on exam. Dr. Primus also noted an antalgic gait on the right. Dr. Primus' assessments were unchanged. Dr. Primus continued to recommend viscosupplementation injections, as well as a referral to pain management regarding radioablation as it may be affective in the setting of an atypical CRPS and evaluation for genicular nerve blockade.

Current condition

Petitioner testified that the pain she experienced after the May 1, 2024 injury was different than what she experienced after the two prior injuries. Tr. at 31-32, 45. Petitioner testified that with the two prior injuries, her pain was not as persistent and her right leg was not swollen, as it was after the May 1, 2024 injury. Tr. at 31-32.

Petitioner testified that she has difficulty sleeping, walking for long periods, sitting, and standing when washing dishes, doing laundry, and cooking. Tr. at 44.

Section 12 Exam by Dr. Brian Cole

Dr. Brian Cole performed a Section 12 exam of Petitioner's right knee on July 21, 2025. Rx1. Dr. Cole reviewed medical records, as well as the MRI report of July 12, 2024. Dr. Cole noted that the MRI of July 12, 2024 demonstrated a degenerative medial meniscal tear with extrusion, possibly consistent with a posterior meniscal root tear.

On examination of the right knee, Dr. Cole noted (1) significant pain demonstrated, (2) that Petitioner had "quite impressive pain-mediated behavior," (3) tenderness over the medial joint, while Petitioner said the pain was more "anterior," (4) a healed approximately 2 cm scar over the anteromedial knee in front, (5) that the knee was ligamentously stable and neurovascularly intact, (6) manual testing was full with subjective pain, (7) range of testing was aborted due to Petitioner's subjective pain behavior, (8) no effusion, and (8) no palpable temperature

difference or atrophic changes. X-rays of Petitioner's right knee were obtained and demonstrated grade 2 medial joint space narrowing consistent with moderate medial compartment osteoarthritis and moderate patellofemoral joint space narrowing in the lateral aspect of the patellofemoral compartment.

Dr. Cole's impression/assessment was right knee anterior contusion/laceration, resolved, with persistent subjective pain of unknown etiology far outweighing and out of proportion to minimal objective finding. Dr. Cole opined that Petitioner had a contusion mechanism to the right knee with skin laceration that resolved and was at MMI/healing endpoint/plateau eight weeks later on July 1, 2024. Dr. Cole opined that Petitioner's subjective pain complaints far outweighed any objective findings and that the previous history of right knee issues that she failed to disclose lent a question as to the veracity of Petitioner's complaints and suggested questionable reliability. Dr. Cole noted that contusing/striking the right knee against the door would not have caused or aggravated a meniscus tear. Dr. Cole opined that the treatment Petitioner received between May 1, 2024 and July 1, 2024 was reasonable, necessary, and related to the injury. Dr. Cole opined that treatment rendered subsequent to July 1, 2024 was not reasonable, necessary, or related to the injury. Dr. Cole opined that Petitioner was only capable of a sedentary-based job, but that the need for this restriction was not related to the injury. Dr. Cole opined that Petitioner was at MMI as of July 1, 2024, and that she had a moderate level of disability that was highly subjective and no longer related to the injury in question.

CONCLUSIONS OF LAW

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law set forth below.

Decisions of an arbitrator shall be based exclusively on the evidence in the record of the proceeding and material that has been officially noticed. 820 ILCS 305/1.1(e). The burden of proof is on a claimant to establish the elements of her right to compensation, and unless the evidence considered in its entirety supports a finding that the injury resulted from a cause connected with the employment, there is no right to recover. *Board of Trustees v. Industrial Commission,* 44 Ill. 2d 214 (1969).

Credibility is the quality of a witness which renders her evidence worthy of belief. It is the function of the Commission to judge the credibility of the witnesses and to resolve conflicts in the medical evidence and assign weight to witness testimony. *O'Dette v. Industrial Commission*, 79 Ill. 2d 249, 253 (1980); *Hosteny v. Workers' Compensation Commission*, 397 Ill. App. 3d 665, 674 (2009). Where a claimant's testimony is inconsistent with her actual behavior and conduct, the Commission has held that an award cannot stand. *McDonald v. Industrial Commission,* 39 Ill. 2d 396 (1968); *Swift v. Industrial Commission,* 52 Ill. 2d 490 (1972).

Issue F, whether Petitioner's current condition of ill-being is causally related to the injury, the Arbitrator finds as follows:

It is stipulated that on May 1, 2024, Petitioner sustained accidental injuries that arose out of and in the course of her employment with Respondent. Ax1.

To obtain compensation under the Act, a claimant must prove that some act or phase of her employment was a causative factor in her ensuing injuries. A work-related injury need not be the sole or principal causative factor, as long as it was *a* causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003). An employer takes its employees as it finds them. *St. Elizabeth's Hospital v. Illinois Workers' Compensation Comm'n*, 371 Ill. App. 3d 882, 888 (2007). Even if the claimant had a preexisting degenerative condition which made her more vulnerable to injury, recovery for an accidental injury will not be denied if the claimant can show that a work-related injury played a role in aggravating or accelerating her preexisting condition. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003). A chain of events which

demonstrates a previous condition of good health, an accident, and a subsequent injury resulting in disability may be sufficient to prove a causal connection between the accident and the claimant's injury. *International Harvester v. Industrial Com.*, 93 Ill. 2d 59, 63 (1982).

The Arbitrator finds that Petitioner's current right knee condition of ill-being is causally related to the May 1, 2024 injury. The Arbitrator relies on the following in support of her finding: (1) the records of Northwestern Memorial Hospital, (2) the records of Dr. Gregory Primus and Chicago Center for Sports Medicine and Orthopedic Surgery, (3) the fact that none of the records in evidence reflect that Petitioner was actively treating for a right knee condition immediately prior to May 1, 2024, (4) Petitioner's credible testimony as to the mechanism of injury and abrupt onset of symptoms, and (5) Petitioner's credible testimony that she was not experiencing any problems with her right knee in the nine-month period prior to May 1, 2024, that she was working full time, and that she was able to perform her full duties during that period.

The Arbitrator acknowledges that Petitioner sought treatment at Concentra on October 20, 2022 after hitting her right knee on a metal box/steel door on October 19, 2022. Petitioner was diagnosed with a contusion of the right knee and lower leg and treatment recommendations consisted of ibuprofen, use of an elastic knee support and crutches, and work restrictions. While there is no record of a follow-up visit, Petitioner credibly testified that she returned to work full duty two weeks later, and her testimony is unrebutted. The Arbitrator also acknowledges that Petitioner sought treatment with Dr. Steven Sclamberg for right hip and bilateral knee pain, right greater than left, on May 24, 2023, July 6, 2023, and August 31, 2023. Dr. Sclamberg's diagnosis was bilateral knee pain with aggravation of underlying prior asymptomatic osteoarthritis. Petitioner underwent a course of physical therapy. While Dr. Sclamberg noted that Petitioner declined an injection on July 6, 2023, the injection site is not specified. Petitioner credibly testified that after the April 2023 injury, she returned to work full duty, and her testimony is corroborated by the August 31, 2023 record. The Arbitrator notes that Petitioner's treatment prior to May 1, 2024 consisted of only medications, use of crutches, and physical therapy. Additionally, while Petitioner was placed on work restrictions that prevented her from operating a bus, Petitioner ultimately returned to work without restrictions after the October 2022 and April 2023 injuries. Overall, the record demonstrates (1) that Petitioner was in condition of good health immediately prior to May 1, 2024, (2), that Petitioner was able to work full duty and without restrictions immediately prior to the work accident, and (3) consistent complaints and continuous symptomology of the right knee following the May 1, 2024 injury.

The Arbitrator has considered the opinions of Dr. Brian Cole and finds that they do not outweigh the opinions of Dr. Gregory Primus, and further finds that overall, the record best supports Dr. Primus' opinions, including that Petitioner's asymptomatic right knee became symptomatic due to trauma. Further, there is no evidence of any reinjury or other intervening event that would sever the chain of causation.

In resolving the issue of causal connection, the Arbitrator also finds that Petitioner is not at MMI for her current right knee condition of ill-being.

Issue J, whether the medical services that were provided to Petitioner were reasonable and necessary and whether Respondent has paid all appropriate charges for all reasonable and necessary medical services, the Arbitrator finds as follows:

Petitioner claims unpaid bills from Chicago Center for Sports Medicine and Orthopedic Surgery in the amount of $17,858.17. Tr. at 6-7; Ax1; Px4. Respondent disputes Petitioner's claim for unpaid bills after July 21, 2025 and relies on the opinions of Dr. Cole. Ax1.

Consistent with the Arbitrator's prior finding as to causal connection, the Arbitrator finds that the medical services that were provided to Petitioner by Chicago Center for Sports Medicine and Orthopedic Surgery were reasonable, necessary, and casually related to the work accident, and that Respondent has not paid all appropriate charges. As the Arbitrator has found that Petitioner's treatment was reasonable and necessary, the Arbitrator further finds that all bills, as provided in Px4, are awarded and that Respondent is liable for payment of these bills, pursuant to the medical fee schedule and Sections 8(a) and 8.2 of the Act. Respondent is entitled to a credit for any payments made towards the awarded outstanding expenses including those payments reflected in Rx3.

Issue K, whether Petitioner is entitled to any prospective medical care, the Arbitrator finds as follows:

Consistent with the Arbitrator's prior findings, the Arbitrator finds that Petitioner is entitled to prospective medical care as recommended by Dr. Primus.

The Arbitrator notes that as of November 19, 2025, Dr. Primus has recommended viscosupplementation injections, as well as a referral to a pain management physician for consideration of radioablation/genicular nerve blockade. Accordingly, the Arbitrator finds that Petitioner is entitled to treatment as recommended by Dr. Primus, including viscosupplementation injections and a referral to a pain management physician for consideration of radioablation/genicular nerve blockade, all of which is contemplated as compensable treatment under Section 8(a) of the Act, and therefore, Respondent is responsible for authorizing and paying for same.

Issue L, whether Petitioner is entitled to temporary total disability benefits, the Arbitrator finds as follows:

Petitioner claims that she is entitled to TTD benefits for the period of May 2, 2024 through December 4, 2025, the date of arbitration. Ax1. Respondent disputes Petitioner's claim for TTD benefits after July 21, 2025 and relies on the opinions of Dr. Cole. Ax1.

Consistent with the Arbitrator's prior findings, the Arbitrator finds that Petitioner is entitled to TTD benefits. The Arbitrator notes that the overall evidence supports an award of TTD benefits for the period of May 2, 2024 through December 4, 2025, the date of arbitration. Accordingly, the Arbitrator finds that Petitioner is entitled to TTD benefits from May 2, 2024 through December 4, 2025, the date of arbitration.

Per the Parties' stipulation, Respondent is entitled to a credit in the amount of $58,208.00 for TTD benefits paid to Petitioner. Ax1.

Ana Vazquez

ANA VAZQUEZ, ARBITRATOR

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC028641
Case Name	Bradd Vescogni v. Peoria County Coroner
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0239
Number of Pages of Decision	15
Decision Issued By	Christopher Harris, Commissioner

Petitioner Attorney	Kevin Elder
Respondent Attorney	Jessica Bell

DATE FILED: 8/25/2026

/s/Christopher Harris, Commissioner

Signature

STATE OF ILLINOIS)	☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
) SS.	☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
COUNTY OF PEORIA)	☒ Reverse	☐ Second Injury Fund (§8(e)18)
		☐ PTD/Fatal denied
	☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

BRADD VESCOGNI,

Petitioner,

vs. NO: 23 WC 28641

PEORIA COUNTY CORONER,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Petitioner herein, and notice given to all parties, the Commission, after considering the issues of re-opening proofs, accident, notice, causal connection, medical expenses, temporary total disability (TTD) benefits and permanent partial disability (PPD) benefits, and being advised of the facts and applicable law, reverses the Decision of the Arbitrator.

The Commission finds that Petitioner sustained an accident on September 29, 2023 that arose out of and in the course of his employment by Respondent. The Commission further finds that timely notice of the accident was given to Respondent, and that Petitioner's current condition of ill-being related to his bilateral inguinal hernias is causally connected to said accident. Petitioner is entitled to workers' compensation benefits as awarded below.

FINDINGS OF FACT

May 21, 2025 Arbitration Hearing

Respondent hired Petitioner to work as its deputy coroner in January 2022, and he continued in that same position as of the arbitration date. The physical requirements of his job included moving bodies. (T.18-19). Petitioner testified that on September 29, 2023, he and a police officer responded to a call and found a deceased person in a chair. While the officer was in his car preparing a report, Petitioner decided to move the body to take photographs. (T.19-20).

> I just took it upon myself to go behind him, right, and to get under his arms and lift him up over the chair, right; and the chair had arms on it - - to get him on the ground to take posterior pictures and to put

> him in a body bag. Doing so when I lifted him up, I did feel a pop in my right groin. (T.20).

Petitioner testified that he felt pain but did not think anything of it at the time. "I went about my business as far as, you know, putting the decedent in a bag . . ." (T.20-21). He also prepared a case report. (T.21-22; T.41-42). Respondent's Exhibit 6 was the case report dated September 29, 2023. The weight of the corpse was 147.5 pounds. The "Investigator Narrative" stated: "No signs of trauma were noted to the anterior and posterior of the deceased upon examination . . . The deceased was lifted out of the chair and into a black body bag and an ID placed around his wrist." (RX6). The narrative was initialed "BV." (RX6). Petitioner further testified:

> [T]he pop came and it was kind of like a stinging, kind of burning sensation; and it lasted about a minute or two, you know. With this job, we get a lot of strains, a lot of pulls, a lot of different pops, you know, that sometimes you just shake off and it goes away and it's nothing; and this one, this - - it was a Friday; and you know, again, throughout the day - - it didn't really bug me until, you know, a couple days later . . . (T.22).

Petitioner continued with his job duties on September 29, 2023. He did not inform Jamie Harwood, his boss and the coroner, that he thought he had a hernia until about a week or two later, and: "I didn't specifically say I had injured it at work." (T.22-24; T.42-43). Petitioner also did not complete an accident report and did not seek immediate treatment. (T.24).

Petitioner testified that he noticed symptoms while participating in a softball game after September 29, 2023. "I started just stretching, you know, noticed that feeling what I had before. It didn't feel right . . ." (T.24-26; T.44). Petitioner explained that the discomfort he felt reminded him of the hernia he had about 20 years ago, but he did not believe it could be another hernia because his previous one had been fixed. (T.22; T.25-26). "I was in denial that that's what it was. After the game, you know, I didn't do a whole lot of running but it was definitely - - it was pretty sore like to the point where I could barely lift my leg up." (T.26). Petitioner confirmed that running during the softball game increased his pain and symptoms but also denied having pain and symptoms prior to stretching and prior to the softball game. (T.26; T.45). He clarified during cross-examination that following his alleged work injury, his pain depended on position. "[F]or example, like any stretching, like if I'm laying in bed, right, if I had to like stretch to, you know, you get out of bed, any stretching or movement of my leg, of the right leg like in a teetering position would aggravate it . . ." (T.46).

Petitioner continued working without restrictions, and first sought treatment for his hernia/groin injury on October 11, 2023. He had a previously scheduled wellness visit on this date with his primary care physician, Dr. Micah Boehr. "I just waited until then to seek treatment." (T.24; T.43; PX4). The visit note documented Petitioner's symptoms of pain and pressure when running for the last two weeks. He had no bulge, mass or swelling.

> Double/bilateral groin hernia 20 years ago repaired surgically – he thought it was pulled muscle then during softball playing but his

> doctor found it and connected him to surgeon. This recent symptom pattern seems like the same as previous hernias. It started about a month ago without much there and then started playing softball again and through last week game where things got bad . . . He has more symptoms right than left. Works at coroner office. Lifting weight often. He had a lift with pop/strain in the groin but was minor at the time. That event was at least in the past few months. (PX4).

Petitioner clarified the October 11 visit note at arbitration: "I was thinking back when could this have happened; and that popping of the groin of lifting that guy kind of came to me; and that's kind of where I told Dr. Boehr that, you know, my job requires lifting and this is where I presumed it had happened." (T.26-27). Dr. Boehr's examination indicated no obvious hernia, so he ordered an ultrasound. (PX4). The October 11, 2023 visit note also had some questionnaire responses:

> Question: When did your symptoms begin? If you are not experiencing any symptoms, please enter the date of your visit.
> Answer: 10/11/2023
>
> Question: Is this visit related to any of the following accident types?
> Answer: No. (PX4).

There was no testimony or further explanation in the medical records related to these entries.

Petitioner testified that he updated Mr. Harwood about his appointment with Dr. Boehr, but he did not specify that it was a work injury. (T.27-29; T.42).

> Because I wasn't sure what it was. Again, if it's just - - I mean he knew that, you know, I had some type of injury. We didn't know what it was at the time. So, again, it's one of those things where, you know, if it was nothing, if it's a pulled muscle, you know, you just tough it out . . . (T.29).

Petitioner added that he had been fairly new and was not comfortable discussing a possible workers' compensation claim with Mr. Harwood. "I didn't know him all that well and kind of where that would lead to." (T.29-30).

Petitioner filed an Application for Adjustment of Claim on October 25, 2023. (AX4). He denied discussing the details of the alleged work accident with a Ben Brewer. (T.30). During cross-examination, Petitioner testified that his original application alleged a September 25, 2023 work accident, but he later corrected it to September 29, 2023. Both applications stated that Petitioner's injury was from lifting a body. (T.41; AX4).

Petitioner completed the ultrasound on November 1, 2023. The reason for the exam was "[b]ilateral groin pain, worse on right. history of remote bilateral groin hernia repair." The results revealed "no suspicious mass or collection. Bilateral small fat-containing inguinal hernias with Valsalva maneuver more on the right. No adenopathy." (PX5). Petitioner testified that this was the

same condition and in the same location that he had 20 years before. (T.30-31). He also stated that his prior hernias were caused by lifting at work. "It was a Work Comp claim that was dealt with within the facility, the workplace. We didn't involve lawyers." (T.31). Petitioner also indicated that his prior hernia condition had resolved, and he was not having residual problems. (T.31-32).

Petitioner testified that after the ultrasound, he did not see Dr. Boehr again but discussed the results with him through My Chart. "[H]e said he had seen the results and he had scheduled a visit for the surgeon, Dr. Hopping." (T.32). Petitioner testified that he informed Mr. Harwood about his ultrasound results and that he was going to see a surgeon, but he did not tell him that he thought his condition was work-related. (T.32-33).

On January 16, 2024, Petitioner consulted with Dr. Jacob Hopping. (T.33; PX2). The visit note stated that Petitioner had a history of bilateral inguinal hernias that were repaired in his 20s. "He states that these were repaired laparoscopically and he had no issues with the hernia until about a week ago when he slipped on the ice and developed pain in the right groin. He had previous to this had a repeat ultrasound of the groin for pain playing softball . . ." (PX2). Petitioner testified regarding this visit: "I explained to him the events leading up to my injury; and I believe during the time from the ultrasound I, you know, and then me seeing Dr. Hopping, I had like a slip on the ice which aggravated the groin even more." (T.33). Petitioner did not recall the exact date of the slip and fall but testified that it occurred after the ultrasound. (T.33-34; T.45). Dr. Hopping noted the ultrasound results and that Petitioner was not experiencing pain on the left. "His pain is currently in the right medial thigh high into the groin." (PX2). Petitioner's assessment was recurrent bilateral inguinal hernias, symptomatic on the right. They considered physical therapy "due to the likelihood that this acute pain is caused by a groin strain from his recent slip versus inguinal hernia repair." (PX2). However, Petitioner decided to proceed with an open right inguinal hernia repair after discussing the risk of "delaying [sic] the inevitable." (T.34-36; PX2).

Petitioner underwent surgery on February 13, 2024. Dr. Hopping performed the open right inguinal hernia repair with mesh. Petitioner's post-operative diagnosis was symptomatic recurrent right inguinal hernia. (T.36; PX2). Petitioner testified that Dr. Hopping took him off work following surgery, but within a week, he was back to work. (T.36-37).

Petitioner followed-up with Dr. Hopping's office on February 28, 2024 and reported doing well and that his pain was improving. Examination revealed that Petitioner's incision was clean, dry and intact although some swelling was noted. His assessment stated "[u]nilateral inguinal hernia, without obstruction or gangrene, not specified as recurrent" and "[r]ight direct inguinal hernia." (PX2). By March 12, 2024, Petitioner continued to report doing well despite slight discomfort in the right groin region. He was released to return as needed. Petitioner testified that he was allowed to work without restrictions. (T.37; PX2).

Petitioner returned to Dr. Hopping on May 23, 2024 complaining of right groin pain that was limiting his ability to jog and raise his leg while lying supine. Dr. Hopping referred Petitioner to physical therapy for post-operative strengthening. (T.37-38; PX2). Petitioner received treatment at Moose Physical Therapy from June 12, 2024 through August 7, 2024. The Initial Evaluation Note documented that Petitioner had injured his right lower abdomen/groin "when transferring a corpse and twisted his body feeling a pop in his (R) groin. He states that pain worsened several

days later." (T.38; PX3). Petitioner's previous hernia repair from 20 years ago was noted, as well as the medical treatment he had since received for his hernia. "He reports that his pain has improved overall since surgery to where his constant pain is gone, but now exacerbated with certain movements . . ." (PX3).

Dr. Boehr prepared a letter, dated September 13, 2024, addressed to Petitioner and "To Whom It May Concern." (PX1, Dep. Ex. 2; PX4). Dr. Boehr stated that Petitioner had been under his care since April 2019, and that the letter was in response to a request for a narrative report. (PX1, Dep Ex. 2; PX4). Petitioner's attorney provided a hypothetical of the work accident in the September 10, 2024 request to Dr. Boehr: "[P]lease also consider that on or about September 29, 2023, Bradd assisted to lift a corpse and felt a pull in his groin. Subsequently, when he ran for softball, he felt pain in the same area as the pull he felt on September 29, 2023." (PX4). Petitioner's attorney asked Dr. Boehr to provide his understanding with regard to the mechanics of injury that Petitioner sustained while at work on or about September 29, 2023. Dr. Boehr wrote that Petitioner's hernia concern was addressed on October 11, 2023 where Petitioner reported "a pop and an immediate feeling of a strain in the groin after lifting on the job as an employee of the Peoria County Coroner office. There was reported subsequent activity including playing softball that escalated the initial symptoms in the groin." (PX1, Dep Ex. 2; PX4). The remainder of the letter was consistent with the October 11, 2023 visit note, the ultrasound report and Petitioner's testimony.

Dr. Boehr further wrote in his report that Petitioner would have been referred to a general surgeon the same day that they discussed the ultrasound results, but due to a transition in their healthcare system, access to chart information was unavailable prior to December 2023. Dr. Boehr concluded: "[I]t is my medical opinion, within a reasonable degree of medical and scientific certainty, that there was a causal relationship between the affects [sic] of the employment related inciting incident and the hernia that was diagnosed." (PX1, Dep. Ex. 2; PX4).

At his deposition on January 7, 2025, Dr. Boehr confirmed that he was a board-certified doctor of osteopath and he was not an internist or a surgeon. He deferred any surgical questions to Dr. Hopping. (PX1, pg. 6). Dr. Boehr testified consistent with Petitioner's medical records and stated that on October 11, 2023, Petitioner had mentioned his work at the coroner's office and that he lifted weight often at work, "and he did have a lift that he noticed an acute strain or pop or feeling in the groin afterwards. He reported it as being minor at the time. And that's really all he reported in terms of where things had been up to that point." (PX1, pg. 10; pg. 19). Dr. Boehr maintained the same opinion as written in his report. He agreed that his causation opinion relied in part on Petitioner's history of injury. (PX1, pgs. 13-14). Dr. Boehr also testified that based on treating Petitioner for four or five years, "I would have confidence he's a reliable historian." (PX1, pgs. 14-15).

During cross-examination, Dr. Boehr testified that inguinal hernias "can come from any sort of physical activity. It does not remain specific to one type of activity." (PX1, pg. 18). He also agreed that inguinal hernias could be congenital in nature, but stated: "I do not recall what the context of those prior hernias were, but I do not know whether he was someone with a congenital type." (PX1, pgs. 18-19). Dr. Boehr did not know when Petitioner's injury occurred even though his report had the date. (PX1, pg. 19).

Respondent had its Section 12 physician, Dr. Randal Wojciehoski, review Petitioner's medical records, and he prepared a report dated December 16, 2024. The parties took Dr. Wojciehoski's deposition on March 4, 2025. (RX4; RX5). Dr. Wojciehoski is board-certified in emergency medicine and internal medicine. (RX5, pg. 5; pg. 15). He testified that there was evidence that Petitioner had bilateral inguinal hernias, right greater than left, and had "undergone successful surgical correction of a small right inguinal hernia. This was a repeat hernia." (RX5, pg. 8).

Dr. Wojciehoski noted in his Section 12 report that Petitioner reported sustaining an inguinal hernia on September 29, 2023 after lifting a body at work and that his groin pain worsened by playing softball, but at his deposition he testified: "I was unable to substantiate that he had sustained an occupationally-related injury. The medical records did not articulate that this was an occupation-related injury. It noted that he had pain in his groin while playing softball that seemed to be worsened when he slipped on the ice." (RX5, pgs. 8-9). Dr. Wojciehoski testified that there was no evidence of a traumatically-induced hernia. "In general, traumatically-induced hernias require rather emergent repair, and this was not the case. This was a chronic condition." (RX5, pg. 9).

Dr. Wojciehoski further testified that the majority of inguinal hernias were congenital in nature, but for traumatically-induced hernias, "it's usually, you know, with significant force. Occupationally-related hernias, it's been shown in evidence-based medical literature, has shown that there's a significant amount of repetitive trauma that need to occur." (RX5, pg. 9). Dr. Wojciehoski discussed a study about bricklayers: "[A]fter 25 to 30 years of carrying cement blocks, those individuals, for example, were at risk for the development of an inguinal hernia due to that repetitive lifting trauma." (RX5, pg. 10).

Dr. Wojciehoski also opined that Petitioner's treatment appeared to be reasonable and customary, and in the event he became symptomatic as to his small left inguinal hernia, he would certainly be a candidate for surgical intervention. However, that treatment would be related to a personal health condition and not to any alleged work accident. (RX5, pgs. 10-11). Dr. Wojciehoski found that Petitioner had reached maximum medical improvement (MMI) as of August 5, 2024 and could work without restrictions. (RX5, pgs. 11-12). He testified that any prior work restrictions were not related to the alleged accident. (RX5, pg. 12).

During cross-examination, Dr. Wojciehoski clarified that an inguinal hernia could also be caused in one single traumatic event. Petitioner's attorney then provided the following hypothetical: "[W]ould bending down and lifting 180 or a 200-pound object, would that be a competent mechanism to cause an inguinal hernia?" (RX5, pg. 13). Dr. Wojciehoski responded that "[a]nything like that is possible." (RX5, pg. 13). He also agreed that lifting could possibly cause an inguinal hernia. (RX5, pgs. 13-14).

As of the date of arbitration, Petitioner testified that although he was not currently 100 percent around the right side of his groin, he could still perform all his job duties. (T.38-39). He also testified that other than the operated hernias from 20 years prior, he had not had any other

injuries to his groin. Petitioner clarified that subsequent to January 16, 2024, when he saw Dr. Hopping, he did not re-injure his groin anywhere else. (T.39).

During cross-examination, Petitioner stated that it was not uncommon to move the body yourself depending on the body, the position and who was around to help. (T.41-42).

Petitioner further testified that after his surgery for his hernias 20 years ago, no one told him that he was susceptible to another hernia. "They said I shouldn't be because the mesh is pretty high grade mesh. It shouldn't have any implications of retearing." (T.43-44). He denied that his current hernia condition was due to playing softball. (T.47). Petitioner also denied being informed that his hernias were congenital. (T.47-48).

Petitioner stated that the average body size he lifted by himself at work was about 220 pounds but he would also get help depending on the location of the body. (T.48-49).

Respondent called Jamie Harwood to testify. He confirmed that he was the coroner for Peoria County. (T.51-52). His chief deputy was Ben. (T.53). Mr. Harwood testified regarding Respondent's accident reporting policy. "When you get injured on a job or injured at work or whatever that looks like, you report it to your supervisor immediately . . ." (T.54). Mr. Harwood stated that employees receive a manual when they are hired and had to sign off on it. (T.55). He also described how the office handled body retrievals and stated: "I have been in this job nine years and have never once lifted a body by myself." (T.55-57; T.61-62). Mr. Harwood explained that they had the help of law enforcement. "Every single time we're on a call, law enforcement is there. The only time we dismiss law enforcement, which does happen, the funeral home comes and picks them up." (T.56). He stated on cross-examination that maybe it was possible that other deputies lifted bodies on their own when he was not there. (T.61-62).

Mr. Harwood testified that he did not specifically know Petitioner outside of work but stated that Petitioner had been to his house. He also stated that at work, they would talk about their families and friends and he knew about Petitioner's hobbies including playing softball. (T.57-58).

Mr. Harwood denied that Petitioner reported a work injury on September 29, 2023, and he did not receive an accident report. He learned about Petitioner's application through the County Human Resource Department and that it involved a hernia injury. (T.59-60; T.62-63). Mr. Harwood testified that once he learned about Petitioner's claim, he reviewed Petitioner's case reports and recalled that the September 29, 2023 case report identified a man in Dunlap that had died of an overdose, he weighed about 147 pounds, and the report also stated that Petitioner lifted him out of the chair by himself. (T.63-64).

Respondent also called Ben Brewer to testify. (T.67-68). He was the chief deputy for the Peoria County Coroner's Office. (T.69). Mr. Brewer testified regarding the various resources they had "if it's impossible to lift somebody by themselves." (T.70-71). He confirmed that he knew Petitioner and knew that he was very involved in his kid's baseball activity. (T.71-72).

Mr. Brewer confirmed that he received Respondent's Exhibit 6, the case report, and indicated that the report did not say by whom the deceased was lifted out of the chair. (T.75-79;

RX6). He testified: "Each investigator's reports are different. Most will document a body transfer, whether it was with multiple people, one, et cetera. It would be notated." (T.80).

Proofs were closed on May 21, 2025. (T.82).

June 17, 2025 Hearing on Respondent's Motion to Re-open Proofs

The parties appeared before the Arbitrator on June 17, 2025 on Respondent's Motion to Re-open Proofs which was filed on May 22, 2025, the day after arbitration. The Arbitrator had not yet issued his decision. (6/17/2025 Transcript, pgs. 4-5; AX5). Respondent sought to admit a chronology log that showed that the narrative of the September 29, 2023 case report (Respondent's Exhibit 6) had been altered by Petitioner on September 9, 2024. Respondent stated that Petitioner edited the phrase "[t]he deceased was placec [sic] into a black body bag and an ID placed around his wrist" to the deceased being "lifted" out of the chair and into the body bag. (6/17/2025 Transcript, pgs. 5-6; AX5). Petitioner filed a response objecting to Respondent's motion on May 23, 2025. "The reports were in full possession of the Respondent, along with the edits, throughout the entirety of the case." (AX6).

On June 17, 2025, the attorneys repeated their positions on the record. (6/17/2025 Transcript, pgs. 5-7). The Arbitrator granted Respondent's motion reasoning that the chronology log could be relevant for purposes of credibility, and "[i]f it were to be felt to be fraud, fraud is an exception to every rule." (6/17/2025 Transcript, pgs. 7-11). After proofs were opened, the parties proceeded to call witnesses for additional testimony. Relevant to Respondent's motion was Mr. Harwood's testimony that he had access to the full MDI log documentation system (comprising the subject chronology log), but he did not check it prior to the May 21, 2025 hearing. (6/17/2025 Transcript, pgs. 16-17; pgs. 20-21). "I didn't have reason to check it until you asked me the same question three times in our prior meeting here in the same room right here which gave me suspicion that something was wrong with the original document . . ." (6/17/2025 Transcript, pgs. 21-23; pg. 26). At the conclusion of Mr. Harwood's testimony, Respondent requested that the chronology log be admitted into evidence as Respondent's Exhibit 7. Petitioner's attorney had no objection and the Arbitrator admitted the exhibit. (6/17/2025 Transcript, pgs. 27-28).

CONCLUSIONS OF LAW

The Commission adopts the above Findings of Fact in support of the Conclusions of Law as set forth below.

Respondent's Motion to Re-open Proofs

Petitioner first asserts on Review that the Arbitrator abused his discretion when he re-opened proofs. "The decision whether to grant a motion to reopen proofs lies within the arbitrator's discretion and will not be disturbed on appeal absent an abuse of discretion." *Freeman United Coal Mining Co. v. Workers' Comp. Comm'n*, 386 Ill. App. 3d 779, 785-86 (2008). Further, "[t]he arbitrator may grant a continuance and extend the time for closing proofs if there is a showing of 'good cause.'" *Lefebvre v. Indus. Comm'n*, 276 Ill. App. 3d 791, 795 (1995); *but see Sawicki v.*

Sawicki, 346 Ill. App. 3d 1107, 1120 (if evidence could have been produced at an earlier time, it is not an abuse of discretion for the court to deny a motion to re-open proofs).

The record demonstrated that Respondent had access to the full MDI log documentation system with the chronology log prior to the May 21, 2025 arbitration hearing, but did not present this evidence before proofs were closed on that date. The relevant testimony during the motion hearing on June 17, 2025 indicated that Respondent had no reason to check their system until questions during Mr. Harwood's examination caused suspicion that something was wrong with the case report. The Commission finds that Respondent's failure to thoroughly review and investigate its own evidence in preparation for its defense does not constitute good cause for re-opening proofs. The Arbitrator therefore abused his discretion in granting Respondent's motion. Nevertheless, the Commission finds the Arbitrator's error was harmless when viewed in light of all the other testimony and evidence in this claim. *Compare Freeman United Coal Mining Co. v. Workers' Comp. Comm'n*, 386 Ill. App. 3d 779, 785-86 (2008), *and Lefebvre v. Indus. Comm'n*, 276 Ill. App. 3d 791, 796-97 (1995).

Accident

There is no dispute that Petitioner was working in his capacity as a deputy coroner for Respondent on September 29, 2023. He testified that on that date, he took it upon himself to lift the decedent's body up over a chair when he felt a pop in his right groin. Neither the testimonies of Mr. Harwood or Mr. Brewer, nor any other evidence, directly refuted Petitioner's testimony about moving the body.

The Arbitrator found Petitioner not credible and that he failed to introduce corroborating evidence of an accident on September 29, 2023. There was no report documenting a work accident or injury on that date, and Petitioner never informed Mr. Harwood that his hernia condition was or could be work-related. In the Commission's view, the testimony related to these facts neither prove or disprove the issue of accident. Instead, the Commission's finding of accident are supported by Petitioner's medical records.

Petitioner testified that he felt pain, stinging and a burning sensation after experiencing the pop, but it only lasted for a few minutes and he did not think anything of it until he noticed the symptoms again while participating in a softball game between September 29, 2023 and his visit with Dr. Boehr on October 11, 2023. Dr. Boehr's October 11, 2023 office visit note documented a similar history. He noted that Petitioner worked at the coroner's office, lifted weight often, and "had a lift with pop/strain in the groin but was minor at the time. That event was at least in the past few months." (PX4). The visit note also stated that Petitioner's symptoms started about a month ago without much there and then worsened while playing softball and through the prior week. Petitioner additionally felt pain and pressure when running for the last two weeks. Dr. Boehr clarified his understanding of the mechanism of injury in his September 13, 2024 narrative report and at his January 7, 2025 deposition. He stated in his report that the "injury sustained by Mr. Vescogni were reported as a pop and an immediate feeling of a strain in the groin after lifting on the job as an employee of the Peoria County Coroner office. There was reported subsequent activity including playing softball that escalated the initial symptoms in the groin." (PX4). He reiterated this history at his deposition, including Petitioner's report that the injury had initially

been minor. The Commission finds Petitioner's testimony about a work accident on September 29, 2023 was corroborated in part by Dr. Boehr's testimony and records, and despite evidence of Petitioner's attorney's hypothetical to Dr. Boehr, his recollection of Petitioner's injury remained consistent. Petitioner's testimony was further corroborated by the June 12, 2024 Moose Physical Therapy visit note which documented his injury at work: "transferring a corpse and twisted his body feeling a pop in his (R) groin. He states that pain worsened several days later." (T.38; PX3).

Petitioner testified that on January 16, 2024, he had explained to Dr. Hopping the events leading up to his injury. However, the visit note only noted Petitioner's history of his bilateral inguinal hernia repair, and that "he had no issues with the hernia until about a week ago when he slipped on the ice and developed pain in the right groin. He had previous to this had a repeat ultrasound of the groin for pain playing softball . . ." (PX2). Although the visit note did not describe the work accident, it did not conflict with Petitioner's testimony regarding his initial injury, his recurring symptoms during softball, for which Dr. Boehr ordered the ultrasound, and his later fall on ice that aggravated his groin even more.

Based on the above, the Commission reverses the Arbitrator's decision and finds that the preponderance of the evidence corroborates Petitioner's testimony about a work-related injury on September 29, 2023.

Notice

The Commission finds that Petitioner provided timely notice of the accident to Respondent. Petitioner filed his Application for Adjustment of Claim on October 25, 2023 claiming an accident date of September 25, 2023, and later amended the Application (on November 1, 2023 according to CompFile) to claim September 29, 2023 as the accident date. Petitioner's filings were within the Act's 45-day notice period pursuant to Section 6(c) of the Act. *820 ILCS 305/6(c)*.

Causal Connection

Petitioner testified that he immediately felt a pop and pain in the right groin while lifting a corpse during work on September 29, 2023. Within a few days, Petitioner noticed symptoms while stretching, after participating in a softball game and when he was in bed. He testified that his symptoms depended on his position. Petitioner admitted to a prior hernia injury, but there was no evidence that he had any residual problems from that injury in 20 years, including the immediate period prior to September 29, 2023. Petitioner eventually sought treatment with Dr. Boehr on October 11, 2023. The visit note documented Petitioner's history related to his double/bilateral groin hernia including that he had undergone surgical repair 20 years ago. The visit note also documented that Petitioner worked for Respondent and lifted weight often, and that he had a lift with pop/strain in the groin in the past few months that was minor at the time. "[T]hings got bad" after playing softball. (PX4). Dr. Boehr ordered an ultrasound which confirmed that Petitioner had bilateral inguinal hernias with more findings on the right side. He later opined within a reasonable degree of medical and scientific certainty that there was a causal relationship between the employment-related inciting incident and the hernia that was diagnosed.

Respondent relied on its Section 12 physician, Dr. Wojciehoski, to dispute that Petitioner's bilateral inguinal hernias were causally related to the September 29, 2023 work accident. Dr. Wojciehoski agreed with Petitioner's diagnosis and need for surgery, but testified that he found no evidence in the medical records of an occupation-related injury or a traumatically-induced inguinal hernia. Dr. Wojciehoski believed Petitioner's condition was congenital and/or chronic in nature, and also noted that Petitioner had groin pain while playing softball which seemed to worsen when he slipped on ice.

The Commission finds that the totality of the evidence does not support Dr. Wojciehoski's opinions. There was no evidence that Petitioner had ever been diagnosed with a congenital hernia condition, and despite his history of bilateral hernias that were surgically repaired 20 years ago, there was no evidence of ongoing issues or treatment. Dr. Wojciehoski's additional testimony regarding traumatically-induced hernias requiring emergent care, and that occupationally-related hernias required a significant amount of repetitive trauma, was also not specific to Petitioner and did not address his prior surgery with mesh which may have affected the presentation of symptoms and complaints.

Dr. Wojciehoski further noted Petitioner's symptoms during softball and after slipping on ice. To the extent that Respondent claims an intervening cause, the Commission finds none.

> [C]ompensability for an ultimate injury or disability is based upon a finding that the employee's condition was caused by an event that would not have occurred 'but for' the original injury. *International Harvester Co. v. Industrial Comm'n*, 46 Ill. 2d 238, 245, 263 N.E.2d 49 (1970). That the other event, whether work-related or not, may have aggravated the employee's condition is irrelevant. (Citation omitted). An employer is relieved of liability only if the intervening cause completely breaks the causal chain between the original work-related injury and the ensuing condition of ill-being. (Citation omitted). *Par Electric v. Ill. Workers' Comp. Comm'n*, 2018 IL App (3d) 170656WC, ¶ 56.

In *Vogel v. Ill. Workers' Comp. Comm'n*, 354 Ill. App. 3d 780 (2005), the claimant had undergone surgery for a work-related neck injury. He testified that after the surgery he was doing fine and had no pain until he was involved in an automobile accident. The claimant developed pseudoarthritis and was then involved in two more automobile accidents. He needed additional treatment. *Id.* at 782-85. The appellate court stated that the claimant's testimony about a lack of symptoms does nothing to change the fact that the claimant was still recovering from the surgery and therefore susceptible to complications such as pseudoarthrosis. *Id. 788*. The court (while discussing another case) also emphasized that an upsurge of pain did not mean that the causal connection was broken as the claimant's condition would not have progressed to the point it did but for his original work-related accident and that the claimant's work-related accident played a causative role in his current condition of ill-being. *Id*.

Here, the Commission finds that Petitioner's softball activity or his later fall on ice did not constitute intervening injuries that completely broke the causal chain. Petitioner's testimony and

the medical evidence established a timeline whereby the lifting at work on September 29, 2023 had initiated his groin pain, and that his symptoms during softball and after slipping on ice occurred after this injury at work. Although his pain appeared to increase with each subsequent injury, it is reasonable to assume that since Petitioner was still in the course of seeking treatment, he was more susceptible to these aggravating events. In other words, Petitioner's condition would not have progressed to the point it did but for his original work-related accident, and therefore, the work accident played a causative role in his current condition of ill-being. The Commission finds this especially true since there is testimony and evidence showing that Petitioner had an active lifestyle prior to the work accident, and had no complications related to hernias for approximately 20 years. Petitioner also testified that whatever strains, pulls or pops he may have experienced before September 29, 2023, he was able to shake them off. After September 29, 2023, the evidence demonstrated that Petitioner could no longer shake off or tolerate his symptoms. He was reporting increasing, worsening or aggravating pain and symptoms in the groin, and he was returning to treatment on a more frequent basis than ever before.

Overall, the Commission finds that the preponderance of the evidence supports finding a causal relationship between Petitioner's lifting injury on September 29, 2023 and his current condition of ill-being related to his bilateral inguinal hernias. The Commission's finding is based on the chain of events as well as Dr. Boehr's persuasive testimony and opinions which were consistent with and supported by the arbitration record.

Medical Expenses, TTD and PPD

Respondent denied liability for any workers' compensation benefits based on its position that Petitioner failed to prove the issues of accident and causal connection. Given the Commission's findings on these issues in favor of Petitioner, the Commission first awards the medical bills detailed in Petitioner's Exhibit 6 pursuant to Sections 8(a) and 8.2 of the Act. The Commission notes that irrespective of his causation opinion, Dr. Wojciehoski opined that Petitioner's treatment appeared to be reasonable and customary. The Commission next awards Petitioner TTD benefits from February 13, 2024 through February 20, 2024. Petitioner testified that Dr. Hopping had taken him off work following surgery, but that within a week, he was back to work. Respondent had no dispute regarding the claimed TTD period. Finally, as to PPD benefits, the Commission weighs the five factors under Section 8.1b(b) of the Act as follows:

(i) Impairment Rating: The parties did not offer any impairment rating into evidence. The Commission gives this factor no weight.

(ii) Occupation of Injured Employee: At the time of the work accident, Petitioner worked for Respondent as a deputy coroner. He testified that he returned to his regular duties for Respondent one week after his hernia repair surgery on February 13, 2024. Petitioner was still performing his regular duties for Respondent as of the arbitration date. The Commission gives this factor little weight.

(iii) Petitioner's Age: Petitioner was 43 years old on the accident date; neither party submitted evidence into the record which would indicate the impact of Petitioner's age

on any permanent disability resulting from the September 29, 2023 work accident. The Commission gives little weight to this factor.

(iv) Petitioner's Future Earning Capacity: Petitioner provided no evidence regarding this factor. The Commission therefore gives this factor no weight.

(v) Evidence of Disability: Evidence of Petitioner's disability is corroborated by the treating medical records. Following the September 29, 2023 work accident, Petitioner sustained bilateral inguinal hernias. However, he only required an open repair on the right side. The August 7, 2024 discharge summary from Moose Physical Therapy documented that Petitioner was doing really well and had increased higher level activities with his workouts including impact and was not having any pain. He did have some pain with right hip flexion range of motion. Petitioner testified at arbitration that he was not currently 100 percent around the right side of his groin, but he could still perform all his job duties. There is no evidence of continued or persistent left-sided symptoms or complaints requiring medical treatment. The Commission gives this factor significant weight.

In light of the foregoing, with no single enumerated factor being the sole determinant of disability, the Commission finds that Petitioner is entitled to three-percent (3%) loss of the person as a whole pursuant to Section 8(d)2 of the Act.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed on September 17, 2025 is hereby reversed for the reasons stated above.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay the reasonable, necessary, and related medical bills detailed in Petitioner's Exhibit 6 pursuant to Sections 8(a) and 8.2 of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner temporary total disability benefits of $643.33 per week for 1 1/7 weeks, from February 13, 2024 through February 20, 2024, that being the period of temporary total incapacity for work under Section 8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner permanent partial disability benefits of $579.00 per week for 15 weeks because the injuries sustained caused three-percent (3%) loss of the person as a whole pursuant to Section 8(d)2 of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all other amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Under Section 19(f)(2) of the Act, no "county, city, town, township, incorporated village, school district, body politic, or municipal corporation" shall be required to file a bond. As such, Respondent is exempt from the bonding requirement. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in the Circuit Court.

August 25, 2026

/s/ *Christopher A. Harris*
Christopher A. Harris

CAH/pm
7/9/26
052

/s/ *Maria E. Portela*
Maria E. Portela

/s/ *Marc Parker*
Marc Parker

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC033972
Case Name	Juan Hernandez v. Transwestern
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0240
Number of Pages of Decision	14
Decision Issued By	Carolyn Doherty, Commissioner

Petitioner Attorney	James Nawrocki
Respondent Attorney	Michael Baggot

DATE FILED: 8/25/2026

/s/Carolyn Doherty, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

☒ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

JUAN HERNANDEZ,

Petitioner,

vs. NO: 24 WC 033972

TRANSWESTERN,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b) and §8(a) having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection and prospective medical care, and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof. The Commission further remands this case to the Arbitrator for further proceedings for a determination of a further amount of temporary total compensation or of compensation for permanent disability, if any, pursuant to Thomas v. Industrial Commission, 78 Ill.2d 327, 399 N.E.2d 1322, 35 Ill.Dec. 794 (1980).

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed December 2, 2025 is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that this case be remanded to the Arbitrator for further proceedings consistent with this Decision, but only after the latter of expiration of the time for filing a written request for Summons to the Circuit Court has expired without the filing of such a written request, or after the time of completion of any judicial proceedings, if such a written request has been filed.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Bond for removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $100.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 25, 2026
O: 08/19/26
CMD/jjm
045

/s/ *Carolyn M. Doherty*
Carolyn M. Doherty

/s/ *Raychel A. Wesley*
Raychel A. Wesley

/s/ *Frank J. Soto*
Frank J. Soto

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC033972
Case Name	Juan Hernandez v. Transwestern
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	11
Decision Issued By	Joseph Amarilio, Arbitrator

Petitioner Attorney	James Nawrocki
Respondent Attorney	Michael Baggot

DATE FILED: 12/2/2025

/s/Joseph Amarilio, Arbitrator
Signature

INTEREST RATE WEEK OF DECEMBER 2 2025 3.64%

STATE OF ILLINOIS)
)SS.
COUNTY OF COOK)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
19(b)

Juan Hernandez
Employee/Petitioner

v.

Transwestern
Employer/Respondent

Case # **24** WC **033972**

Consolidated cases: **N/A**

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was electronically mailed to each party. The matter was heard by the Honorable **Joseph Amarilio**, Arbitrator of the Commission, in the city of **Chicago**, on **10/28/2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?

K. ☒ Is Petitioner entitled to any prospective medical care?

FINDINGS

On the date of the accident, **November 15, 2023**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**99,840.00**; the average weekly wage was $**1,920.00**.

On the date of accident, Petitioner was **46** years of age, ***married*** with **0** dependent children.

Petitioner has not received all reasonable and necessary medical services.

The issue of unpaid medical bills is reserved and deferred until a future hearing by agreement of the parties.

Respondent shall be given a credit of $**0.00** for TTD, $**0.00** for TPD, $**0.00** for maintenance, and $**0.00** for other benefits, for a total credit of $**0.00**.

Respondent is entitled to a credit of $**0.00** under Section 8(j) of the Act (reserved and deferred by agreement).

ORDER

Having found that Petitioner's current condition of ill-being was causally related to the work accident of November 15, 2023, Respondent is hereby ordered to authorize and pay for prospective medical care in accordance with Sections 8(a) and 8.2 of the Act, to wit: a L4-5 right-sided laminectomy and discectomy recommended by Dr. Chang, along with all reasonable, necessary and related medical services.

In no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

/s/ *Joseph D. Amarilio*

Signature of Arbitrator Joseph D. Amarilio

DECEMBER 2 2025

JUAN HERNANDEZ v. TRANSWESTERN 24 WC 033972

ATTACHMENT TO ARBITRATION DECISION

FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. PROCEDURAL HISTORY

Mr. Juan Hernandez (Petitioner), by and through his attorneys, filed an Application for Adjustment of Claim for benefits under the Workers' Compensation Act ("Act") (820 ILCS 305/1 et seq. (West 2014)). Petitioner alleged that he sustained accidental injuries that arose out of and in the course of his employment with Transwestern (Respondent).

The hearing proceeded on October 28, 2025, on the following issues in dispute: (1) Whether Petitioner's current condition of ill-being is causally related to the injury; (2) Whether Petitioner is entitled to prospective medical. The parties mutually requested a written decision, including findings of fact and conclusions of law. (Arb. Ex. 1). At the start of the hearing, the parties agreed and stipulated that the issue of medical bills and 8(j) credit were reserved and would be deferred.

II. FINDINGS OF FACT

OPn November 15, 2023, Petitioner was a 46-year-old stationary engineer employed at the Lyric Opera House (T. 11). He explained that the building employs two separate teams of engineers—one serving the Lyric Opera side and another serving the office tower, though the office tower supplies heating and air conditioning for the entire facility. (T. 11-12). Petitioner was assigned to the office tower side (T. 12). While his primary responsibility involved HVAC work, he was also called upon to perform electrical, plumbing, and wall repairs (T. 11).

Prior to November 15, 2023, Petitioner had no history of medical treatment for low back issues, with the exception of a brief episode in the early 2000s when sitting on his wallet while driving as part of his job caused temporary discomfort (T. 12-13).

On the date of the incident, Petitioner spent several hours atop a ladder, twisting and turning as he installed and removed 40-pound light fixtures. (T. 15/T. 13). Although he felt somewhat sore, the injury occurred while descending the ladder when he missed a step and jarred himself against the ground. While he did not fall completely, he experienced a sharp twinge in his back (T. 13).

He informed his co-worker of the incident, but Petitioner was able to finish his shift (T. 16). On the following day, he was walking in a hunched posture. On the third day, he found himself unable to rise from his La-Z-Boy chair at home (T. 17). At that point, he formally completed an accident report. (T. 17).

He continued to work while seeking treatment through the workers' compensation carrier. His boss told him he needed a claim number and that he would be provided with a list of doctors (T. 18). Once that information was e-mailed to him, he made an appointment with an orthopaedic surgeon, Dr. Mark

Chang (T. 18-19). Until the initial January 23, 2024 office visit, Petitioner used over-the-counter Icy Hot patches with Lidocaine and Ibuprofen to control his pain (T. 18).

On January 23, 2024, Dr. Chang had x-rays taken and recommended a lumbar MRI. Dr. Chang found mild neurological problems in the right leg consistent with nerve impingement. Dr. Chang's preliminary diagnosis was acute back pain, acute right L4 radiculopathy secondary to presumed nerve impingement. Dr. Chang also causally related this condition to the November 15, 2023 work injury (Pet. Ex. 1, pp. 13-14).

Petitioner underwent a lumbar MRI on February 1, 2024 (Pet. Ex. 1, p. 29). Dr. Chang read the MRI as showing L4-5 mild disc degeneration with small disc herniation (Id. at p. 14). Dr. Chang then recommended a 6-week course of physical therapy, but the physical therapy did not help (Pet. Ex. 1, p. 14, Px 2).

Dr. Chang then referred Petitioner to Dr. Nicholas Angelopoulos for pain management (T. 21-22). Dr. Angelopoulos performed 2 spinal injections, 2 test nerve blocks, and a nerve ablation between June 12, 2024 – October 1, 2024 (Pet. Ex. 3). On June 12, 2024, Dr. Angelopoulos fitted him for a custom LSO rigid with lumbosacral support which Petitioner was instructed to use during work and more vigorous activities of daily living (Pet. Ex. 3, p. 1175).

Petitioner did not receive the pain relief that was being sought through conservative care. On October 1, 2024, he reported that his low back pain improved after the medial branch RFA at the L4-L5 and L5-S1 levels on September 9, 2024. But his right buttock pain and right leg pain persisted, providing only temporary relief, despite responding well after undergoing two transforaminal injections of the right side at L4-L5 and L5-S1 in July 2024. On October 1, 2024, Dr. Angelopoulos referred him back to Dr. Chang with his strong surgical recommendation (T. 23, Pet. Ex. 3, p. 1223).

On October 24, 2024, when Petitioner reported that his symptoms worsened, Dr. Chang recommended an L4-5 right sided laminectomy and discectomy. Dr. Chang requested approval from Respondent. It was at this point that Respondent set up an examination with Dr. Chintan Sampat pursuant to Section 12 of the Act (Pet. Ex. 1, p. 14).

On November 4, 2024, Petitioner was examined by Dr. Sampat. Dr. Sampat opined that Petitioner sustained a lumbar strain with lumbar radiculopathy resulting from his work injury ofNovember 15, 2023. Dr. Sampat opined that Petitioner reached maximum medical improvement (MMI) as of the date of his Section 12 examination, with no surgery necessary, and that Petitioner could work full duty (Rx 1). Based on Dr. Sampat's report, benefits were terminated by the claims adjuster on November 27, 2024 (T. 25, PX 1). Since the cut-off of benefits, Petitioner has continued to work. He has changed his lifestyle activities, continued to take the prescription medication prescribed by Drs. Chang and Angelopoulos, and is grateful that his work has modified his duties (T. 25-28).

Evidence Deposition of Dr. Mark Chang (Pet. Ex. 5)

On April 29, 2025, Dr. Chang sat for an evidence deposition, during which he testified that the Petitioner's current condition of ill-being was causally related to the work incident on November 15, 2023 (Px. 5, p. 1247). He first saw the Petitioner on January 23, 2024, and performed a neurological examination which indicated that the Petitioner had mild weakness in the right knee and decreased

sensation in the right anterior thigh and medial leg (Px. 5, pp. 1235-1236). He diagnosed the Petitioner with acute lower back pain and acute right L4 radiculopathy secondary to presumed nerve impingement (Px. 5, p. 1238). After reviewing his records, Dr. Chang recalled that he initially recommended physical therapy and then recommended pain management. Petitioner eventually underwent pain treatment, epidural steroid injections, and a RFA with Dr. Angelopoulos before Dr. Chang recommended an L4-5 right laminectomy and discectomy (Id.).

On cross-examination, Dr. Chang did not agree with Dr. Sampat that a negative straight leg raising (SLR) test would necessarily be an indication of no radicular pain (Pet. Ex. 5, pp. 1250-1251). Dr. Chang explained that a negative SLR test generally indicates the absence of nerve root compression due to central or paramedian disc herniation. He opined that Petitioner's radicular symptoms were consistent with a lateral disc herniation. Thus, a negative SLR test is not inconsistent with a lateral disc herniation. Dr. Chang did perform SLR tests on Petitioner and they were negative. Accordingly, a SLR test is only one diagnostic indicator and does not rule out all types of herniations or nerve compression issues. Dr. Chang did not take Petitioner off work because he was willing to work and Dr. Chang never takes anyone off work that is willing to work (Id. at 1251).

Evidence Deposition of Dr. Sampat Evidence (Resp. Ex. 1)

During his evidence deposition on July 8, 2025, Dr. Sampat faithfully affirmed the opinions set forth in his Section 12 examination report of November 4, 2024. His testimony was consistent with the findings documented in his report (Resp. Ex. 1, last 7 pages).

Dr. Sampat testified that his diagnosis for the Petitioner was a lumbar strain with lumbar radiculopathy related to the incident on November 15, 2023. Dr. Sampat testified that the mechanism described by the Petitioner, of stepping off a ladder, could reasonably cause a temporary soft tissue strain and temporary radicular symptoms. He testified that the Petitioner had a new temporary soft tissue strain and radiculopathy, which did not precipitate, aggravate, or exacerbate the Petitioner's underlying preexisting condition. He opined MRI did not correlate with the Petitioner's current symptoms. He testified that the Petitioner had a family history of diabetes and that diabetes could cause neuropathy. He explained that neuropathy is a medical condition with nerve dysfunction, which could cause more diffused tingling, unlike radiculopathy from spinal etiology. He further testified that the Petitioner was a smoker, which has a strong association with promoting advanced degeneration of the spine, and smokers are more likely than nonsmokers to have symptomatic back pain.

Dr. Sampat testified that the Petitioner was at MMI at the time of his November 4, 2024 examination and would have reached MMI following the radiofrequency ablation [October 1, 2024]. He opined that Petitioner had been working in his full-duty capacity and was capable of continuing to do so without the need for surgery. Additionally, he opined that surgery was unlikely to give any improvement in the Petitioner's case due to his diffuse subjective complaints. Furthermore, although Dr. Sampat did not know of the type of surgery proposed by Dr. Chang, he opined that surgery would not address the nerves involved based on Petitioner's subjective complaints.

On cross-examination, Dr. Sampat acknowledged he only reviewed medical records up to August 19, 2024 and he was not provided with records beyond that date (Resp. Ex. 1, p. 37). Dr. Sampat testified

to conducting Waddell's testing and identifying two [of the five] Waddell signs (*Id.* at p. 18). During cross-examination, he confirmed that his review of the medical records disclosed no indication from any treating physician that Petitioner exhibited any Waddell's signs. Dr. Sampat testified that he was unable to determine whether the treating physicians had specifically tested for these signs but then confirmed seeing no positive Waddell findings documented in the records (*Id.* at pp. 33-34). He acknowledged that his diagnosis of lumbar strain with radiculopathy was causally related to the accident; that Petitioner's "onset of low-back pain, intermittent buttock pain and groin pain, right lower extremity pain" were "related to the injury on November 15, 2023" (*Id.* at pp. 40-41).

III. CONCLUSIONS OF LAW

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law set forth below. Section 1(d) of the Act provides that, to obtain compensation under the Act, To obtain compensation under the Act, Petitioner has the burden of proving, by a preponderance of the evidence, all of the elements of his or her claim. *O'Dette v. Industrial Commission*, 79 Ill. 2d 249, 253 (1980). And yet, it also is well established that the Act is a humane law of remedial nature and is to be liberally construed to affect the purpose of the Act; that the burdens of caring for the casualties of industry should be borne by the industry and not by the individuals whose misfortunes arise out of the industry, nor by public. *Shell Oil v. Industrial Commission,* 2 Ill. 2d 590, 603 (1954).

The Act should also be liberally construed to provide financial protection for injured workers. *McAllister v. Illinois Workers' Compensation Commission.* 2020 IL 124848. The Act's provisions are to be read in harmony to achieve that goal. *Vaught v. Industrial Commission*, 52 Ill. 2d 158,165 (1972). Workers are entitled to "prompt, sure and definite compensation, together with a quick and efficient remedy" with industry bearing the costs of such injuries: rather than the injured worker. *O'Brien v. Rautenbush*, 10 Ill. 2d 167, 174 (1956). Decisions of an arbitrator shall be based exclusively on stipulation of the parties, the evidence in the record of proceeding and material that has been officially noticed.

WITH RESPECT TO ISSUE (F), IS THE PETITIONER'S PRESENT CONDITION OF ILL-BEING CAUSALLY RELATED TO THE INJURY, THE ARBITRATOR FINDS AS FOLLOWS:

In a workers' compensation case, a preexisting condition does not prevent recovery under the Act if that condition was aggravated or accelerated by the claimant's employment. *Absolute Cleaning/SVMBL v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 463, 470 (2011), quoting *Caterpillar Tractor Co. v. Industrial Comm'n*, 92 Ill. 2d 30, 36 (1982). Further, "every natural consequence that flows from an injury that arose out of and in the course of the claimant's employment is compensable unless caused by an independent intervening accident that breaks the chain of causation between a work-related injury and an ensuing disability or injury." *Vogel v. Illinois Workers' Compensation Comm'n*, 354 Ill. App. 3d 780 (2005). To obtain compensation under the Act, a claimant must prove that some act or phase of his employment was a causative factor in his ensuing injuries. A work-related injury need not be the sole or principal causative factor, as long as it was a causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm'n,* 207 Ill. 2d 193 (2003).

It has long been held that "a chain of events which demonstrates a previous condition of good health, an accident, and a subsequent injury resulting in disability may be sufficient circumstantial evidence to prove a causal nexus between the accident and the employee's injury." *Int'l Harvester v. Indus. Comm'n*, 93 Ill. 2d 59, 63-64 (1982). "When the claimant's version of the accident is uncontradicted and his testimony is unimpeached, his recital of the facts surrounding the accident may be sufficient to sustain an award." (*Id.* at 64). An employer takes its employees as it finds them. *St. Elizabeth Hospital v. Worker's Compensation Comm'n*, 371 Ill. App. 3d 882, 888 (2007). That Petitioner had a pre-existing condition does not preclude the use of a chain of events analysis. The salient factor is not the precise previous condition; it is the resulting deterioration from whatever the previous condition had been. *Schroeder v. Illinois Worker's Compensation Comm'n,* 2017 Ill. App. (4th) 160192 WC (2017).

The Arbitrator also finds the case of *Tazewell County v. Illinois Workers' Compensation Comm'n* (Dora Potts), 2025 IL App (4th) 230754WC, a case of first impression, to be instructive in this matter. The *Tazewell* Court held that work activity that results solely in pain from a preexisting non-work-related condition is compensable under the Act in the absence of a concomitant worsening of the underlying non-work-related condition. If the aggravation is work-related and solely causes pain, the pain suffered is, in and of itself, a compensable aggravation of the preexisting condition. The Court held that pain by itself is a compensable condition under the Act. The Court further held that an aggravation or acceleration of a preexisting condition caused by work-related activity is compensable even in the absence of an organic or structural change in the preexisting condition.

The parties stipulated that Petitioner sustained a work accident. The stipulation is corroborated by the evidence. The evidence established that Petitioner's sustained an accident that arose out of and in the course of his employment. Petitioner was performing in his regular work duties when the accident occurred.

Both Dr. Chang and Dr. Sampat offered causation opinions. Dr. Chang on behalf of Petitioner and Dr. Sampat on behalf of Respondent. Both agreed that Petitioner sustained a low back injury with right-sided radicular pain as a result of the accident. A disagreement exists as to whether Petitioner's current condition of ill-being is causally related to the work accident. Dr. Sampat opined that the treatment he received was reasonable and necessary and causally related to the work injury but that Petitioner's work-related pathology was temporary. Dr. Sampat opined that Petitioner reached maximum medical improvement upon completion of the radiofrequency ablation.

Dr. Chang disagreed. Dr. Chang opined that conservative treatment failed to provide Petitioner relief from pain and that surgery was needed to relieve his persistent pain. Dr. Angelopoulos concurred with Dr. Chang that conservative treatment failed and he also recommended surgery.

The Arbitrator has considered and evaluated Dr. Sampat's medical opinions concerning Petitioner's condition of ill-being but concludes that they are not persuasive and that they are outweighed by the medical opinions of Petitioner's treating physicians. The medical evaluations from the treating physicians demonstrate that Petitioner's condition has not stabilized, contradicting Dr. Sampat's assessment of it being temporary, and confirm that Petitioner has not returned to his pre-injury functional or baseline status; a conclusion that Dr. Sampat failed to persuasively support or justify.

The evidence establishes that Petitioner enjoyed good health before November 15, 2023, that he was capable of performing full work duties without pain or any limitations prior to the work accident, and that he has experienced persistent ongoing symptoms involving his low back with right-sided radicular pain from November 15, 2023 through the hearing date of October 28, 2025.

Dr. Sampat did not have the benefit of a complete set of medical records. For example, although he was informed by Petitioner that Dr. Chang recommended surgery, he did not know the type of surgery. He was also unaware that Dr. Angelopoulos also strongly recommended surgery (Resp. Ex. 1, p. 21). He criticized Dr. Angelopoulos's diagnosis of "facet joint syndrome," stating this diagnosis is not known to exist, apparently referring to the fact that this diagnosis does not exist under the ICD Diagnostic Code (Resp. Ex. 1, p. 31). It appears that Dr. Sampat either did not have or did not review the supporting medical records or simply overlooked that Dr. Angelopoulos repeatedly matched this diagnosis with the correlating ICD Diagnostic Code along with his primary diagnosis lumbar stenosis.

Dr. Sampat suggested Petitioner's nerve pain may have stemmed from diabetes, which Petitioner denied (Resp. Ex. 1, pp. 11-12). Dr. Sampat did not point to any medical documentation confirming any diabetic diagnosis nor did he identify whether the alleged condition was Type 1, Type 2, or gestational diabetes. Dr. Sampat also failed to explain why the purported diabetic neuropathy affected only the right leg rather than both. This reasoning suggests Dr. Sampat was advancing speculative theories without adequate foundation.

And yet, *assuming arguendo* that Petitioner's current condition of ill-being is due in part to diabetes or some unidentified systemic condition indicated by Dr. Sampat, under the *Tazewell* holding, Petitioner's current condition would still be causally related. Like the Appellate Court justices in *Tazewell,* the Arbitrator finds that even if Petitioner's accident resulted solely in pain from a work-related condition, his current condition is compensable under the Act in the absence of a concomitant worsening of the underlying non-work-related condition. The Arbitrator would find that even if the work injury solely caused pain, the pain suffered is, in and of itself, a compensable aggravation of the preexisting condition. Based on the holding of Tazewell, the Arbitrator finds Petitioner's complaints of pain by itself is a compensable condition under the Act even in the absence of an organic or structural change in the preexisting condition.

However, the temporal relationship of the accident, combined with Petitioner's absence of pain prior to November 15, 2023, the accident of November 15, 2023, the documented evidence of the injury sustained, the prompt reporting of the injury, the subsequent uninterrupted medical treatment, and Petitioner's credible testimony of ongoing pain corroborated by the medical evidence, collectively support the conclusion that the work injury contributed to the need for medical treatment, his current condition of ill-being, and his need for surgery based on the chain of events.

The Arbitrator notes that Respondent voiced no complaints about Petitioner's pre-accident work performance. No mention was made that Petitioner missed time off work because of his preexisting condition or that he requested any accommodation because of his condition. Respondent did not because it did not exist.

The causal relationship between Petitioner's work injury and Petitioner's current low back pain with right-sided radicular pain is established by a preponderance of the evidence by Petitioner's reliable testimony, together with the corroborating evidence found in the medical records as well as the findings and opinions of Dr. Chang. Additionally, none of the medical evidence reflects that Petitioner

exhibited any complaints or received any significant treatment for back pain before November 15, 2023 nor that he sustained a subsequent intervening event that would break causation.

Dr. Sampat's evidence deposition testimony is unconvincing on the issue of causation. His opinions are inconsistent with the evidence. He did not provide a persuasive explanation as to how Petitioner was able to work prior to the accident without incident or need for medical treatment yet was unable to work following the accident without experiencing pain; pain that has not subsided. Dr. Sampat apparently believes that Petitioner should work in pain or doesn't believe that Petitioner is in pain.

Petitioner disagrees. At trial, he honestly, sincerely and in a straightforward manner related his pain to his work accident. His treating physicians disagree. The Act disagrees with Dr. Sampat. Section 8 of the Act states that injured employees are entitled to medical care which is reasonably required to cure or relieve the employee from the effects of the accidental injury. And the court in *Tazewell* disagrees. Pursuant to the holding in *Tazewell,* Petitioner should not be required to endure pain while working, even modified work, or experience pain while engaging in activities of daily living. Petitioner should not be required to continue wearing an LSO. He should not be required to take prescription medications for pain relief nor should he be required to change his lifestyle. If surgery can help, let it be.

Dr. Sampat testified to conducting Waddell's testing and identifying two [of the five] Waddell signs (Resp. Ex. 1, p. 18). During cross-examination, he confirmed that his review of the medical records disclosed no indication from any treating physician that Petitioner exhibited any Waddell's signs. Dr. Sampat was unable to determine whether the treating physicians had specifically tested for these signs but then confirmed seeing no positive Waddell findings documented in the records (Resp. Ex. 1, pp. 33-34).

Neither the Arbitrator nor the Commission is obligated to adopt the opinions of the treating physician when that physician's opinions are based on an inaccurate or incomplete history. *Prairie Farms Dairy v. Industrial Comm'n*, 279 Ill. App. 3d 546 (1st Dist. 1996) (wherein the appellate court's research had not revealed any case where the appellate court or the Illinois Supreme Court has said that, as a matter of law, the Commission must give more weight to a treating physician's testimony than to that of an examining physician). In juxtaposition, the *Prairie Farms Dairy* court noted that the Illinois courts have said numerous times that the Commission may give more weight to a treating physician's opinion. *O'Neal Brothers Construction Co. v. Industrial Comm'n*, 93 Ill. 2d 30, 38 (1982); *Prairie Farms Dairy v. Industrial Comm'n*, 279 Ill. App. 3d 546 (1st Dist. 1996). Here, Petitioner consistently provided an accurate and complete history to every medical provider of his November 15,2023 work injury.

Deference is often given to the opinions of treating physicians in light of their goal to cure or relieve the effects of their patient's injuries. However, opinions of treating physicians may lack persuasive power for a variety of reasons, including well-reasoned and persuasive contrary opinions. Here, Dr. Chang persuasively opined that Petitioner's work injury aggravated Petitioner's preexisting degenerative changes, which necessitated medical treatment and need for surgery. Dr. Angelopoulos concurred.

The Arbitrator finds Dr. Chang's causation opinion to be more persuasive than the causation opinion of Dr. Sampat. Dr. Chang and Dr. Sampat are board-certified orthopedic surgeons. But Dr. Chang enjoyed the advantage of caring for Petitioner over a span of 3 days shy of 14 months (Pet. Ex. 2, 01/23/2024–04/26/2024), whereas Dr. Sampat relied on a dry review of incomplete medical records

and brief clinical encounters. Dr. Chang had the advantage of a broader overview that Dr. Sampat lacked.

Furthermore, the Arbitrator finds Dr. Angelopoulos's findings and opinions to be more reliable. Dr. Angelopoulos provided pain management care for a 16-week period. The medical records from both Dr. Chang and Dr. Angelopoulos thoroughly document Petitioner's subjective complaints, objective findings, treatment provided, and outcomes achieved and outcomes still needed (Pet. Ex. 3, 06/12/2024–10/01/2024).

Therefore, the Arbitrator accepts and adopts the opinions of Dr. Chang that Petitioner's work injury was a contributing cause of his low back pathology and current condition of ill-being. In addition to the persuasive causation opinion of Dr. Chang and Dr. Angelopoulos, the Arbitrator finds that Petitioner has proven by a preponderance of the evidence that his current condition of ill-being and need for medical treatment received and for treatment still needed , including surgery, are causally connected to his work injury of November 15, 2023 based on the chain of events.

It is clear both from Petitioner's credible testimony and the treating medical records that Petitioner injured his lumbar spine due to his November 15, 2023 work injury. Dr. Chang and Dr. Angelopoulos both opined that conservative care failed, leaving surgery the only option to cure and relieve his current painful symptomatology. Petitioner wants to proceed with surgery.

Although a good surgical outcome is not guaranteed, neither Dr. Chang nor Dr. Sampat indicated it was a high-risk surgical procedure. Based on the totality of the evidence, the Arbitrator concludes that Petitioner has proven by a preponderance of the evidence that his current condition of ill-being is causally related to his work accident of November 15, 2023.

WITH RESPECT TO ISSUE (K), WHETHER PETITIONER IS ENTITLED TO PROSPECTIVE MEDICAL TREATMENNT, THE ARBITRATOR FINDS AS FOLLOWS:

Having found that Petitioner's current condition of ill-being was causally related to the work accident of November 15, 2023, and that the medical opinions of Dr. Chang and Dr. Angelopoulos were more persuasive than those of Dr. Sampat, the Arbitrator finds that Petitioner is entitled to prospective medical care, to wit: a L4-5 right-sided laminectomy and discectomy offered by Dr. Chang, along with all related medical and diagnostic services in accordance with Sections 8(a) and 8.2 of the Act. The Arbitrator orders Respondent to make it so.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	21WC021711
Case Name	Brad Dehle v. Smithfield Foods
Consolidated Cases	22WC016188
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0241
Number of Pages of Decision	12
Decision Issued By	Stephen Mathis, Commissioner

Petitioner Attorney	Matthew McCue
Respondent Attorney	Michael Brandow

DATE FILED: 8/26/2026

/s/Stephen Mathis, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF ROCK ISLAND)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse Choose reason	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify Choose direction	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

BRAD DEHLE,

Petitioner,

vs. NO: 21 WC 21711

SMITHFIELD FOODS,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection and nature and extent of disability, and being advised of the facts and law, affirms and adopts with expansion on the analysis of the five factors in Section 8.1b(b), the Decision of the Arbitrator, which is attached hereto and made a part hereof.

Reviewing the five factors enumerated in Section 8.1b(b), Determination of Permanent Partial Disability the Commission notes as follows:

(i) the reported level of impairment pursuant to subsection (a)
There is no impairment rating presented by either side. The Commission gives no weight to this factor.

(ii) the occupation of the injured employee
Petitioner's occupation is as a full-time pig chiseler. The Commission finds that this is a hand-intensive occupation requiring manual dexterity and grip strength in order to perform the tasks necessary to his job. Petitioner is a full-time employee

and works an 8-hour shift at full, unrestricted duty. Petitioner testified that he separates the jaws of 6,100 pig heads on spikes per 8-hour shift and that each pig head weighs between 5-10 lbs. The Commission finds that this job places great demands on the upper extremities and specifically Petitioner's left hand and fingers. The Commission finds that this weighs in favor of significant disability.

(iii) the age of the employee at the time of the injury
Petitioner was 47 years of age at the time he suffered his work-injury. Petitioner's young age means that he will have to live with the issues caused by his left-hand injury for the remainder of his natural and working life. The Commission finds that significant weight should be given to this factor.

(iv) the employee's future earning capacity
At present Petitioner continues to work for Respondent on a full-time capacity and there was no evidence presented that Petitioner's future earning capacity is compromised. The Commission gives some weight to this factor.

(v) evidence of disability corroborated by the treating medical record
Petitioner sustained a work-related injury to his left hand on June 21, 2021. A tool he was using in his occupation as a pig chiseler "kicked back" and bent his left thumb backwards severing the ulnar collateral ligament. Petitioner underwent a surgical repair on November 19, 2021. The surgical procedure required implantation of a bio-composite anchor which is attached on the distal tibia to secure the ligament. Petitioner was ordered off work and underwent extensive occupational therapy to regain range of motion, flexibility and grip strength. He was off work until April 13, 2022. On his return, Respondent placed him on light duty. On April 19, 2022, he sustained an injury to his right thumb which eventually also required surgical repair. The Commission further notes that Petitioner has undergone operative repair to the tendons on both hands. Petitioner testified that he experiences continuing stiffness, reduced range of motion and achiness in his right hand. Petitioner has testified that when he works, he gets aching in his left hand and an aching sensation in his thumb. Petitioner's medical records reflect that his job involves rolling his wrists "one right after another". The Commission gives significant weight to this factor.

Having weighed the evidence and analyzed the Section 8.1b(b) factors, the Commission finds that Petitioner sustained a significant level of permanent disability to his left hand. The Commission finds that Petitioner has a permanent partial disability equating to the 25% loss of use of the left hand.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed August 7, 2025, is hereby affirmed with foregoing changes.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay Petitioner the sum of $493.55 per week for a further period of 51.25 weeks, as provided in Section 8(e) of the Act, because the injuries sustained cause Petitioner to be permanently partially disabled to 25% loss of use of the left hand.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay the necessary medical services, as provided in Section 8(a) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Bond for removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $20,000.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 26, 2026
o: 7/14/26
SM/msb
44

/s/*Stephen J. Mathis*
Stephen J. Mathis

/s/*Kathryn A. Doerries*
Kathryn A. Doerries

/s/*Amylee H. Simonovich*
Amylee H. Simonovich

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	21WC021711
Case Name	Brad Dehle v. Smithfield Foods
Consolidated Cases	22WC016188
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	8
Decision Issued By	Kurt Carlson, Arbitrator

Petitioner Attorney	Matthew McCue
Respondent Attorney	Michael Brandow

DATE FILED: 8/7/2025

/s/Kurt Carlson, Arbitrator
Signature

INTEREST RATE WEEK OF AUGUST 5, 2025 3.98%

STATE OF ILLINOIS)
)SS.
COUNTY OF)
ROCK ISLAND

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

BRAD DEHLE
Employee/Petitioner / mmccue@goldfine&bowles.com

v.

SMITHFIELD FOODS
Employer/Respondent / mbrandow@stephenkellylaw.com

Case # **21** WC **021711**

Consolidated cases:

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Kurt Carlson**, Arbitrator of the Commission, in the city of **Rock Island**, on **07/09/2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☐ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☐ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☐ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **06/21/2021**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**42,774.68**; the average weekly wage was $**822.59**.

On the date of accident, Petitioner was 46 years of age, ***single*** with **1** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**0**.

Respondent is entitled to a credit of $**14,082.03** under Section 8(j) of the Act.

ORDER

The Respondent shall pay Petitioner the sum of $493.55 a week for a further period of 51.25 weeks, as provided in Section 8(e) of the Act, because the injuries sustained cause Petitioner to be permanently partially disabled to the extent of 25% of the left hand.

The Respondent shall pay the necessary medical services, as provided in Section 8(a) of the Act

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Kurt A. Carlson

Arbitrator

AUGUST 7, 2025

ATTACHMENT TO ARBITRATOR'S DECISION

Brad Dehle vs. Smithfield Foods

IWCC No.: 21 WC 021711

This matter was tried on July 9, 2025, on the issues of causal connection and Nature and Extent of the injury. Preliminary matters included consolidation of this matter with 22 WC 016188 which were tried together in this hearing, as well as Respondent's stipulation that there were unpaid bills for which they intended to hold the Petitioner harmless and an agreement on Respondent's credits for medical bills paid (Arb. Ex. 1, Tr. pp. 9).

Accident and Treatment History

Petitioner testified that he is a 50-year-old man who began working for Smithfield Foods in Monmouth, Illinois on March 1, 2021 (Tr. p. 12). Smithfield Foods is a pork processing plant and Petitioner was hired as a full-time pig chiseler. (Tr. pp. 12-13).

Petitioner testified that on June 21, 2021, he was chiseling pig jaws when he hit something in the jaw of the head of a pig which ratcheted his thumb back. (Tr. p. 13). He experienced instant pain and swelling which he described as pain in the upper side of the top of the left thumb into the joint on the front side, and on the back side into the palm of the left hand. (Tr. pp. 13-14). He reported the injury to his supervisor Diane Shaw, who instructed him to seek treatment at Smithfield Foods in-house medical. (Tr. pp. 14-15). He was instructed to soak his hand for fifteen minutes and return two-to-three times that day for additional soaking. (Tr, p. 15). Petitioner followed up the next day and was given restrictions of no use of the left hand. (Tr. pp. 15-16). Petitioner continued to follow up

with Smithfield foods daily while they set up a referral for additional medical treatment. (Tr. p. 16).

Petitioner testified that he was referred by Smithfield Foods to Dr. Steven Potaczek at OSF Orthopedic Surgery in Galesburg on July 1, 2021. (Tr. pp 16-17). Dr. Potaczek did a physical examination, diagnosed Petitioner with wrist tendonitis and gave him a Medrol Dosepak and told him to follow up if he had further issues. (Pet'r's Ex. 1). Petitioner testified that he did not think Dr. Potaczek understood his injury or complaints. (Tr. p. 18).

Petitioner elected to seek treatment with his primary care physician Dr. Tim Johnson at OSF Galesburg Clinic on July 29, 2021. (Tr. pp. 18-19). Dr. Johnson took a history, examined Petitioner and gave him a short-term light duty note, referring Petitioner to Midwest Orthopedics in Peoria. (Pet'r's Ex. 2).

Petitioner saw Dr. James Williams at Midwest Orthopedics on August 23, 2021. He reported an injury consistent with his testimony and that he had been working using a splint. The medical records noted Petitioner's complaints of significant pain around the MCP joint of his left non-dominant thumb, as well as pain going into the wrist around the FPL tendon. Dr. Williams did a physical examination, ordered an MRI and instructed Petitioner to continue using the splint and remain on his restrictions of no left-handed work. (Tr. pp. 19-21, Pet'r's Ex. 3 pp. 1-6).

Petitioner underwent an MRI on October 7, 2021, at Midwest Orthopedic Center. (Pet'r's Ex. 3, p. 9). Petitioner followed up with Dr. Williams on October 18, 2021, at which time the MRI was reviewed and showed a chronic injury to the ulnar collateral ligament of the left thumb. Dr. Williams recommended operative treatment to repair the

collateral ligament and indicated that he believed that this was a work-related problem. (Pet'r's Ex. 3 pp. 7-8, Tr. pp. 21-22). Petitioner underwent a pre-operative clearance appointment at Midwest Orthopedics on November 19, 2021. (Pet'r's Ex. 3 pp. 14-16). Petitioner was taken off work on November 22, 2021. (Pet'r's Ex. 3 p. 17).

Petitioner underwent surgery on October 23, 2021 at UnityPoint Health Proctor. His diagnosis was a left thumb ulnar collateral ligament rupture in the metacarpophalangeal joint. Dr. Williams performed a Left thumb ulnar collateral ligament repair. (Pet'r's Ex. 4). Petitioner testified that there is anchoring hardware and the incision ran into the base of the thumb. (Tr. pp. 22-24).

Petitioner followed up on November 29, 2021, with Dr. Williams. He was progressing normally and was transferred into a short-arm cast. His off-work note indicated that he could return to light duty with no use of the left arm. (Pet'r's Ex. 3 p. 18-21). Petitioner testified that he believed his stitches were taken out and he returned to work on that date. (Tr. pp. 24-25).

Petitioner followed up on December 8, 2021, with Dr. Williams. At that time he was moved to a hand-based splint and instructed to stay on light duty with no use of the left hand. He was also given a therapy referral and began therapy at OSF Rehabilitation Galesburg. (Tr. pp. 25-26, Pet'r's Ex. 3 pp. 24-28). He continued therapy until his follow-up on January 13, 2022, at Midwest, at which time he was allowed to return with full use of both hands and was instructed to continue therapy. (Tr. pp. 26-27, Pet'r's Ex. 3 pp. 29-34).

Petitioner followed up again on February 24, 2022, with Dr. Williams, at which time his range of motion had returned but he continued to gain strength through physical

therapy. He was given a one-pound restriction on his left hand. (Tr. p. 27, Pet'r's Ex. 3 pp. 35-37). Petitioner returned to Dr. Williams on April 13, 2022, at which time he was discharged from therapy, given a full duty release, and told to return as-needed. (Tr. pp. 27-28, Pet'r's Ex. 3 pp. 38-41). Petitioner testified that he did not return to full duty right away, as Smithfield foods medical wanted him to ease back into work and they did not release him fully. (Tr. p. 28).

Petitioner testified that he's had no additional treatment for his left hand since April 13, 2022. He testified that he had no left hand injury before his accident date or since. (Tr. p. 28). Petitioner testified that he gets an aching in his left thumb and hand when working, but it does not prevent him from working full duty. (Tr. p. 29). On cross-examination, Petitioner affirmed that he has lost no wages and still receives usual pay increases. (Tr. pp. 46-47).

Respondent's witness, Mr. Spencer Blanchard, did not testify regarding any of the facts or details of the injury to the left hand on June 21, 2021.

In Support of the Arbitrator's Decision regarding (F) Is Petitioner's current condition of ill-being causally related to the injury and (L) What is the Nature and Extent of the injury, the Arbitrator notes as follows:

Based on Petitioner's testimony and the medical records, the Arbitrator finds that a compensable accident occurred on June 21, 2021. Petitioner testified to his current condition, indicating that he had no new injuries and was able to perform his job full-duty with no loss of wages. The Arbitrator finds that Petitioner's current condition of ill-being, mainly his ongoing aching in his left thumb and hand, is causally related to his June 21, 2021 injury.

Reviewing the five factors enumerated in Section 8.1b, the Arbitrator notes as follows: there is no P.P.I. rating presented by either side; Petitioner's occupation is as a full-time pig chiseler; he was 46 years old at the time of injury; currently his future earning capacity is not compromised as he continues to work for Respondent in a full-time capacity; his treatment records indicate that he underwent a Left thumb ulnar collateral ligament repair on November 23, 2021, and he was released full-duty with anchoring hardware in the base of the thumb and hand.

In conclusion, the Arbitrator finds that Petitioner has suffered a significant level of permanent disability to his left hand. The Arbitrator notes that the location of the incision and Petitioner's pain complaints concerned the base of the thumb into the palm, and his injury was to his left hand. The Arbitrator finds Petitioner has a permanent total disability equating to 25% loss of use of the left hand.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	22WC016188
Case Name	Brad Dehle v. Smithfield Foods
Consolidated Cases	21WC021711
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0242
Number of Pages of Decision	14
Decision Issued By	Stephen Mathis, Commissioner

Petitioner Attorney	Matthew McCue
Respondent Attorney	Michael Brandow

DATE FILED: 8/26/2026

/s/Stephen Mathis, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF ROCK ISLAND)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse Choose reason	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify Choose direction	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

BRAD DEHLE,

Petitioner,

vs. NO: 22 WC 016188

SMITHFIELD FOODS,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection and nature and extent of disability, and being advised of the facts and law, affirms and adopts, with expansion on the analysis of the Section 8.1b(b) permanent disability factors, the Decision of the Arbitrator, which is attached hereto and made a part hereof.

Reviewing the five factors enumerated in Section 8.1b(b), Determination of Permanent Partial Disability the Commission notes as follows:

(i) the reported level of impairment pursuant to subsection (a)
There is no impairment rating presented by either side. The Commission gives no weight to this factor.

(ii) the occupation of the injured employee
Petitioner's occupation is as a full-time pig chiseler. The Commission finds that this is a hand-intensive occupation requiring both manual dexterity and grip strength to manage the equipment and instruments necessary to perform the tasks necessary to his job. Petitioner is a full-time employee and works an 8-hour shift at full, unrestricted duty. Petitioner testified that he separates the jaws of 6,100 pig heads on spikes per 8-hour shift and that each pig head weighs between 5-10 lbs.

The Commission finds that this job places great demands on the upper extremities and specifically Petitioner's right hand and fingers. The Commission finds that this weighs heavily in favor of significant disability.

(iii) the age of the employee at the time of the injury

Petitioner was 47 years of age at the time he suffered his work-injury. Petitioner's young age means that he will have to live with the issues caused by his right-hand injury for the remainder of his natural and working life. The Commission finds that significant weight should be given to this factor.

(iv) the employee's future earning capacity

At present Petitioner continues to work for Respondent on a full-time capacity and there was no evidence presented that Petitioner's future earning capacity is compromised. The Commission gives some weight to this factor.

(v) evidence of disability corroborated by the treating medical record

Petitioner is right hand dominant. He sustained a work-related injury on April 19, 2023, within days of being returned to work following an operated tendon repair of his left hand which also occurred on the kill floor at Respondent's pork processing plant. MRI imaging revealed that Petitioner sustained a torn central membranous portion of the scapholunate tendon. Petitioner failed conservative therapy and underwent operative repair on November 7, 2023. The repair required implantation of an anchoring device which permanently remains in Petitioner's hand. Petitioner's treatment records indicate that he underwent a right wrist arthroscopy and debridement, with a partial scapholunate repair and an open repair of the TFCC and implantation of anchoring hardware at the distal end of the radial bone.

Petitioner was off-work until July 8, 2024, at which time he returned to light duty status. During Petitioner's post-operative therapy he was noted to have issues with supination of his right forearm. The Commission notes that this limitation on movement of Petitioner's forearm speaks to the significance of the injury in the context of function of the right hand as opposed to a simple injury to the thumb. Additionally, the occupational therapy notes demonstrated reduced grip strength and range of motion.

The Commission further notes that Petitioner has undergone operative repair to the tendons on both hands. Petitioner testified that he experiences continuing stiffness, reduced range of motion and achiness in his right hand.

Having weighed the evidence and analyzed the Section 8.1b(b) factors, the Commission finds that Petitioner sustained a significant level of permanent disability to his right hand. The Commission finds that Petitioner has a permanent partial disability equating to the 30% loss of use of the right hand.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed August 19, 2025, is hereby affirmed with changes as stated above.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay the necessary medical expenses, as provided in Section 8(a) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay Petitioner the sum of $493.55 a week for a further period of 57 weeks as provided in Section 8 (e) of the Act, because the injuries sustained cause Petitioner to be permanently partially disabled to the extent of 30% loss of use of the right hand.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

Bond for removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $20,000.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

August 26, 2026
o: 7-14-26
SJM/msb
44

/s/*Stephen J. Mathis*
Stephen J. Mathis

/s/*Kathryn A. Doerries*
Kathryn A. Doerries

/s/*Amylee H. Simonovich*
Amylee H. Simonovich

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	22WC016188
Case Name	Brad Dehle v. Smithfield Foods
Consolidated Cases	21WC021711
Proceeding Type	Request for Hearing
Decision Type	Corrected Decision
Commission Decision Number	
Number of Pages of Decision	10
Decision Issued By	Kurt Carlson, Arbitrator

Petitioner Attorney	Matthew McCue
Respondent Attorney	Michael Brandow

DATE FILED: 8/19/2025

/s/Kurt Carlson, Arbitrator

Signature

INTEREST RATE WEEK OF AUGUST 19, 2025 3.95%

STATE OF ILLINOIS)
)SS.
COUNTY OF)
ROCK ISLAND

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
CORRECTED DECISION

BRAD DEHLE
Employee/Petitioner / mmccue@goldfineandbowles.com

v.

Case # **22** WC **016188**

Consolidated case:

SMITHFIELD FOODS
Employer/Respondent / mbrandow@stephenkellylaw.com

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Kurt Carlson**, Arbitrator of the Commission, in the city of **Rock Island**, on **07/09/2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☐ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☐ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☐ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **04/19/2022**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**42,774.68**; the average weekly wage was $**822.59**.

On the date of accident, Petitioner was 47 years of age, ***single*** with **1** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**0**.

Respondent is entitled to a credit of $**12,498.27** under Section 8(j) of the Act.

ORDER

The Respondent shall pay Petitioner the sum of $493.55 a week for a further period of 57 weeks, as provided in Section 8(e) of the Act, because the injuries sustained cause Petitioner to be permanently partially disabled to the extent of 30% of the right hand.

The Respondent shall pay the necessary medical services, as provided in Section 8(a) of the Act

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Kurt Carlson **AUGUST 19, 2025**

Arbitrator

CORRECTED DECISION

Brad Dehle vs. Smithfield Foods

IWCC No.: 22 WC 016188

This matter was tried on July 9, 2025, on the issues of Accident, Causal Connection, and Nature and Extent of the injury. Preliminary matters included consolidation of this matter with 21 WC 021711 which were tried together in this hearing, as well as Respondent's stipulation that there were unpaid bills for which they intended to hold the Petitioner harmless and an agreement on Respondent's credits for medical bills paid (Arb. Ex. 2, Tr. pp. 9).

Accident and Treatment History

Petitioner testified that he is a 50-year-old man who began working for Smithfield Foods in Monmouth, Illinois on March 1, 2021 (Tr. p. 12). Smithfield Foods is a pork processing plant and Petitioner was hired as a full-time pig chiseler. (Tr. pp. 12-13).

Petitioner testified that he experienced a work-injury on April 19, 2022. (Tr. p. 30). Prior to that date, he was recovering from his previous injury to his left hand and thumb and had not returned to full duty between his release on April 14, 2022, and April 19, 2022. (Tr. p. 29). He had been put on light duty work on April 19, 2022, by Smithfield Food medical and was working one handed at the jaw separator station. (Tr. pp. 29-30) Petitioner described the job of manually removing pig heads from a conveyor line, rotating them, and lifting them on another spike in the machine to separate the pig jaw from the head. (Tr. pp 30-31). Petitioner testified that on April 19, 2022 he was working one-handed at the jaw separator and experienced pain in the left side of his right wrist and in his right forearm. (Tr. p. 31). He testified that he returned Smithfield Foods

Medical who gave him Biofreeze and he was sent back to do continued light duty. (Tr. pp. 31-32).

Petitioner was referred by Smithfield Foods medical to Dr. Robert Ayers at OSF Occupational Health Galesburg on May 3, 2022. (Tr. p. 32). Dr. Ayers took a history noting that Petitioner was rolling his wrist repeatedly and began having pain in the forearm. Dr. Ayers put him on a five-pound restriction. (Pet'r's Ex. 5, p. 1-7). Petitioner followed up on July 28, 2022, at which time he requested a referral to Dr. James Williams and Midwest Orthopedic Center in Peoria, who had previously treated Petitioner for his left-hand injury. (Pet'r's Ex. 5, pp. 8-13; Tr. pp. 32-33).

Petitioner saw Dr. James Williams at Midwest Orthopedics on October 24, 2022. He reported a history of injuring himself using the jaw separator at Smithfield food and that he had been on light duty since the date of the injury. Dr. Williams noted right wrist tenderness over the TFCC and recommended an MRI. (Pet'r's Ex. 6, pp. 0-2; Tr. pp. 33-35). The MRI was completed on January 18, 2023 at OSF St. Francis Medical Center in Peoria. Dr. Williams reviewed the MRI and noted a torn central membranous portion of the scaphoid ligament and recommended a steroid injection on the right wrist and a follow up in six weeks. (Pet'r's Ex. 6, pp. 3-4; Tr. p. 36). Petitioner continued to work light duty through this time. (Tr. p. 36).

Petitioner followed up with Dr. Williams on April 10, 2023, at which time he recommended a right wrist arthroscopy with debridement versus repair. (Pet'r's Ex. 6, pp. 5-6; Tr. pp. 36-37). Respondent sent Petitioner to Dr. Craig Phillips for an examination under Section 12 of the Illinois Workers' Compensation Act, which was not included in the record by either party. (Tr. p. 37). Petitioner followed up with Dr. Williams on July

13, 2023, and underwent another cortisone injection and steroid based on the recommendations from Dr. Phillips. (Pet'r's Ex. 6, pp. 7-8; Tr. p. 38). Petitioner followed up with Dr. Williams on August 14, 2023, who noted only temporary relief for the Petitioner and again recommended surgery, keeping Petitioner on restrictions. (Pet'r's Ex. 6, pp. 9-11; Tr. p. 39).

Petitioner underwent a right wrist arthroscopy and debridement, with a partial scapholunate ligament tear and an open repair of the TFCC on November 7, 2023, at Carle Proctor Hospital. Petitioner's open repair involved 3-0 Fiberwire stitches and a 2.5mm by 8mm anchor in Petitioner's right wrist. (Pet'r's Ex. 7; Tr. p. 39).

Petitioner's post-operative treatment with Dr. Williams began on November 20, 2023, at which time he was kept off work completely due to the expected paii in the ulnar aspect of his wrist at the surgical site. He was kept in a cast at that time. (Pet'r's Ex. 6, pp. 12-14; Tr. p. 39). Petitioner followed up on December 6, 2023, and was kept off work due to continued pain and functionality concerns. (Pet'r's Ex. 6, pp. 15-17; Tr. pp. 39-40). Petitioner also began physical therapy at OSF St. Mary's in Galesburg. (Tr. p. 40). Petitioner returned on January 17, 2024, at which point Dr. Williams noted that he was still having issues with stiffness in the wrist, and he kept Petitioner off work another six weeks. (Pet'r's Ex. 6, pp. 18-20; Tr. pp. 40-41). Petitioner returned on February 28, 2024, at which time Dr. Williams noted improvement in stiffness but continued weakness, and kept Petitioner off work. (Pet'r's Ex. 6, pp. 21-24).

Petitioner followed up on April 10, 2024, at which time Dr. Williams noted there was still pulling around the ulnar aspect of the wrist wrist and that he required further strengthening, but he returned Petitioner to light duty work with a one-pound limit on

right-handed work. (Pet'r's Ex. 6, pp. 24-26; Tr. pp. 41-42). Petitioner returned on May 20, 2024, at which time Dr. Williams noted a marked improvement in strengthening and he put Petitioner on no restrictions for his right hand as he continued physical therapy. (Pet'r's Ex. 6, pp. 27-29; Tr. pp. 42-43). Petitioner's final visit was July 1, 2024, at which time he was showing improved strength and some reduced loss of range of motion. He was released without restrictions by Dr. Williams starting July 8, 2024. (Pet'r's Ex. 6, pp. 30-32; Tr. p. 43).

Petitioner testified that Smithfield foods did not let him return full duty for another three to four weeks. (Tr. pp. 43-44). He did return to work full duty and has had no additional treatment for the right hand since July 1, 2024. (Tr. p. 44). Petitioner testified that he experienced no injuries with his right hand prior to his accident date, nor since his release from treatment. (Id.).

Petitioner testified that he still has a little stiffness and loss of range of motion with minimal pain while working with his right hand. (Tr. pp. 44-45). Petitioner testified that his range of motion is limited and he still has an anchor at the distal end of his ulnar bone. (Tr. pp. 45).

Additional Trial Testimony

On Cross, Petitioner was shown a picture marked Respondent's Exhibit 3 that showed the jaw separator machine (Tr. pp. 47-54). Petitioner testified that a single line would process around 6,100 heads daily, depending on the speed of the conveyor. (Tr. pp. 48-49). Petitioner clarified that the job involves taking the heads off a spike and putting them in a different machine that removes the jaw. (Tr. pp. 51-52). Petitioner testified that he has to manually put the back of the head down and the jaw has to be

lifted in order for the machine to separate it. (Tr. p. 52). Petitioner also testified that there are two sides of the machine, and doing the job right-handed required him to move his wrist across his body. (Tr. p. 53). Petitioner testified that each head is between five and ten pounds (Tr. pp. 53-54).

Petitioner testified that the pain began as he was lifting pig heads, which was a position he had been moved to for the first time that day. (Tr. pp. 55, 58). He could not remember if the pain occurred at the beginning or end of the shift, only that it was within ten minutes of the start of pain to the point where his forearm was swollen. (Tr. pp. 55-56). Petitioner testified that he experienced a sharp pain in the wrist while lifting pig heads, but could not isolate it to one moment. (Tr. pp. 60-61). Petitioner testified that he worked the entire time light duty between his accident and his surgery. (Tr. p. 57). He did not have any hobbies he engaged in. (Tr. p. 58).

Respondent's witness, Mr. Spencer Blanchard, testified that he has been employed at Smithfield foods since April 2024 as the Environmental Health and Safety Manager. (Tr. pp. 63, 65). He testified that he was familiar with the day Mr. Dehle was working, though he did not work there at the time. (Tr. pp. 64-65). He testified that Mr. Dehle had restrictions from Smithfield Foods medical to work one hour on and one hour off through the day. (Tr. p. 64).

In Support of the Arbitrator's Decision regarding (A) Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent, the Arbitrator notes as follows:

Based on Petitioner's testimony and the medical records, the Arbitrator finds that a compensable accident occurred on April 19, 2022. Petitioner testified that he was

working one-handed duty lifting pig-jaws off of spikes onto a jaw separator machine. He further testified that this motion required repeated rotation of the wrist across his body due to the placement of the pig jaws. Petitioner identified a specific activity and time where he was injured. Although the injury worsened over a ten-minute period, this is not a repetitive injury as Petitioner did not have any prior complaints and could identify the activity that caused his pain, which eventually led to his treatment and subsequent surgery.

The Arbitrator does not find anything in the testimony of Respondent's witness relevant to the issue of Accident and does not give it any weight as he was not employed at the time of the injury and did not witness any events firsthand.

Further, Respondent conducted a section 12 examination of the Petitioner, at which time surgery was authorized. As Respondent has presented no medical evidence to contradict Petitioner's testimony regarding accident mechanism, the Arbitrator finds Petitioner credible and notes Dr. Williams' treatment and work history support a finding of Accident in this case. Therefore, the Arbitrator finds that Petitioner suffered a compensable work-related injury on April 19, 2022.

(F) Is Petitioner's current condition of ill-being causally related to the injury and (L) What is the Nature and Extent of the injury, the Arbitrator notes as follows:

Based on Petitioner's testimony and the medical records, the Arbitrator finds that Petitioner's current condition is related to the accident that occurred on April 19, 2022. Petitioner testified to his current condition, indicating that he had no new injuries and was able to perform his job full-duty with no loss of wages. The Arbitrator finds that

Petitioner's current condition of ill-being, mainly his stiffness and loss of range of motion is causally related to his injury.

Reviewing the five factors enumerated in Section 8.1b, the Arbitrator notes as follows: there is no P.P.I. rating presented by either side; Petitioner's occupation is as a full-time pig chiseler; he was 47 years old at the time of injury; currently his future earning capacity is not compromised as he continues to work for Respondent in a full-time capacity; his treatment records indicate that he underwent a right wrist arthroscopy and debridement, with a partial scapholunate ligament tear and an open repair of the TFCC and he was released full-duty with anchoring hardware in the distal end of the radial bone.

In conclusion, the Arbitrator finds that Petitioner has suffered a significant level of permanent disability to his right hand. The Arbitrator finds Petitioner has a permanent total disability equating to 30% loss of use of the right hand.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC002459
Case Name	Irene Morales Aguilar v. Elmhurst Hospital
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0243
Number of Pages of Decision	13
Decision Issued By	Stephen Mathis, Commissioner

Petitioner Attorney	Paul Coghlan
Respondent Attorney	Adam Maciorowski

DATE FILED: 8/26/2026

/s/Stephen Mathis, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF DUPAGE)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse Choose reason	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify Choose direction	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

IRENE MORALES AGUILAR,

Petitioner,

vs. NO: 24 WC 002459

ELMHURST HOSPITAL,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b) having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of accident, causal connection, medical expenses, temporary total disability, and prospective medical care and being advised of the facts and law, affirms and adopts with changes the Decision of the Arbitrator, which is attached hereto and made a part hereof. The Commission further remands this case to the Arbitrator for further proceedings for a determination of a further amount of temporary total compensation or of compensation for permanent disability, if any, pursuant to Thomas v. Industrial Commission, 78 Ill.2d 327, 399 N.E.2d 1322, 35 Ill.Dec. 794 (1980).

The Commission makes the following changes to the Arbitrator's Decision.

The first line of Issue F, page 5, the Commission adds "Here", before "the".

Under issue F on page 5, 4th paragraph, 1st sentence, after "shoulders" the Commission adds "and low back."

For the medical award in the order, the Commission adds "pursuant to Sections 8(a) and 8.2 of the Act." All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed December 9, 2025, is hereby affirmed and adopted with the foregoing changes.

IT IS FURTHER ORDERED BY THE COMMISSION that Petitioner's current condition of ill-being is causally related to the July 28, 2023, accident.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent is liable for the reasonable and necessary medical expenses related to the July 28, 2023, accident, specifically the unpaid medical services detailed in Petitioner's Exhibit 1, pursuant to Sections 8(a) and 8.2 of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Petitioner is entitled to prospective medical care in the form of a left rotator cuff repair and subacromial decompression as recommended by Dr. Kevin C. Tu.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay Petitioner temporary total disability benefits of $566.67/week for 111 & 6/7ths weeks, commencing August 3, 2023, through September 23, 2025, as provided in Section 8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that this case be remanded to the Arbitrator for further proceedings consistent with this Decision, but only after the latter of expiration of the time for filing a written request for Summons to the Circuit Court has expired without the filing of such a written request, or after the time of completion of any judicial proceedings, if such a written request has been filed.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $15,000.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

AUGUST 26 2026
o:7-28-26
SJM/msb
44

/s/*Stephen J. Mathis*
Stephen J. Mathis

/s/*Kathryn A. Doerries*
Kathryn A. Doerries

/s/*Amylee H. Simonovich*
Amylee H. Simonovich

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC002459
Case Name	Irene Morales Aguilar v. Elmhurst Hospital
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	10
Decision Issued By	Paul Seal, Arbitrator

Petitioner Attorney	Paul Coghlan
Respondent Attorney	Adam Maciorowski

DATE FILED: 12/9/2025

/s/ Paul Seal, Arbitrator

Signature

INTEREST RATE WEEK OF DECEMBER 9 2025 3.58%

STATE OF ILLINOIS)
)SS.
COUNTY OF DuPAGE)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
19(b)

Irene Morales Aguilar
Employee/Petitioner

v.

Elmhurst Hospital
Employer/Respondent

Case # **24** WC **002459**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Paul-Eric Seal**, Arbitrator of the Commission, in the city of **Wheaton**, on **September 23, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☐ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ Is Petitioner entitled to any prospective medical care?
L. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On the date of accident, **7.28.23**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**44,200.00**; the average weekly wage was **$850.00.**

On the date of accident, Petitioner was **52** years of age, ***single*** with **2** dependent children.

Respondent has not paid all reasonable and necessary charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**28,456.83** for TTD, $**0.00** for TPD, $**0.00** for maintenance, and $**0.00** for other benefits, for a total credit of $**28,456.83**.

Respondent is entitled to a credit of $**26,901.20** under Section 8(j) of the Act.

ORDER

Petitioner's current condition of ill-being is causally related to the July 28, 2023 accident.

Respondent is liable for all reasonable and necessary medical expenses related to the July 28, 2023 accident, including the unpaid services provided in Petitioner's Exhibit 1.

Petitioner is entitled to prospective medical care in the form of a left shoulder rotator cuff repair and subacromial decompression as recommended by Dr. Kevin C. Tu.

Respondent shall pay Petitioner temporary total disability benefits of $566.67/week for 111 & 6/7ths weeks, commencing August 3, 2023 through September 23, 2025, as provided in Section 8(b) of the Act.

See attached *Findings of Fact and Conclusions of Law*.

In no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Arbitrator Paul-Eric Seal

DECEMBER 9 2025

Irene Morales Aguilar vs. Elmhurst Hospital
24 WC 002459

STATEMENT OF FACTS

Irene Morales Aguilar (hereinafter "Petitioner") has worked as a sanitation laborer for Elmhurst Hospital (hereinafter "Respondent") since 2020. (T. 16). Petitioner testified that she was injured on July 28, 2023 while removing a bag of garbage from a trash can that was "filled with sand." (T. 18) Respondent does not dispute accident.

Prior to July 28, 2023, Petitioner had no medical issues with her back or shoulders and was not undergoing any medical care for those parts of her body. She testified that she did have a prior injury and workers compensation claim in relation to her left shoulder but that the condition had resolved prior to the July 28, 2023 work injury. (T. 21-22).

Petitioner testified that she immediately heard a "cracking" in her body and felt pain in both hands and in her back. She reported the accident and went to Respondent's Emergency Room (hereinafter referred to as "ER") the following day. (T. 18).

The records of Elmhurst ER of 7/29/2023 indicate that Petitioner presented to the ER with complaints of bilateral shoulder and low back pain. Petitioner related a consistent history of an injury while working emptying garbage cans and picking up over 50 pounds and not anticipating the weight. Petitioner was advised to follow up at Elmhurst Occupational. (PX2 at 612, 616).

Petitioner was seen at Elmhurst Occupational Clinic on August 1, 2023. (T. 20-21). She again related a consistent history of injuring her bilateral shoulders and low back while lifting a heavy garbage bag out of a container. which was much heavier than she thought. (PX6 at 12). She was diagnosed with bilateral shoulder pain, cervicalgia, lumbar radiculopathy, and low back strain and was taken off of work. (PX6 at 15).

Petitioner was seen in follow-up at Elmhurst Occupational Clinic on August 7, 2023, and again on August 22, 2023. During the visit of 8/22/23 Petitioner related that she has had little improvement since the prior visit and that her right shoulder was worse than the left. (PX6 at 17, 21).

Petitioner returned to Elmhurst Occupational Clinic on August 30, 2023. The records indicate that due to severe shoulder pain Petitioner was referred to Dr. Kevin Tu for further evaluation of the shoulders. The notes indicate that physical therapy was ordered as well. (T.24, PX6 at 26).

Shoulder Treatment with Dr. Tu

The following date, August 31, 2023, Petitioner presented for the first time to Dr. Kevin Tu. (T. 24; PX3, PX4). Dr. Tu testified by way of evidence deposition on April 3, 2024.

Dr. Tu testified that Petitioner related a consistent history of injury when she initially presented on August 31, 2023 and had "popping" in her shoulders bilaterally subsequent to the accident. Dr. Testified that his clinical examination revealed decreased range of motion as well as positive impingement signs and rotator cuff weakness. He recommended MRIs of both shoulders and

placed her on light-duty restrictions of no lifting more than 10 pounds and no overhead activity with her arms. (PX4 at 7-8).

Petitioner proceeded with MRIs of her left and right shoulders on September 14, 2023. The left shoulder MRI revealed a small full-thickness tear of the supraspinatus tendon and a partial-thickness articular surface tear of the infraspinatus with subacromial subdeltoid bursitis. The right shoulder MRI revealed partial-thickness articular surface tears of the supraspinatus and infraspinatus with subacromial subdeltoid bursitis, mild intra-articular biceps tendinosis, and degenerative tearing of the anterior and superior labrum with a nondisplaced posterior labral tear. (PX3 at 13-16).

Petitioner followed up with Dr. Tu following the MRIs on September 21, 2023. Dr. Tu testified that Petitioner had she had a left shoulder full-thickness rotator cuff tear; and a partial tear in the right shoulder. Dr. Tu recommended a cortisone injection for the partial tear in the right shoulder which he administered that day, along with physical therapy. Dr. Tu further recommended surgical intervention for the full-thickness tear in the left shoulder. Dr. Tu stated that whether or not she would be a candidate for surgery in relation to the right shoulder was yet to be determined. (PX4 at 9-11).

Dr. Tu testified that he continued to follow-up with Petitioner while he tried to obtain authorization for the surgery and saw her again on October 26, 2023 and November 30, 2023. He stated that he planned to obtain therapy after she has surgery for her left shoulder and had maintained light duty work restrictions consisting of no lifting greater than five pounds, no overhead activity with the right arm, and no use of the left arm. (PX4 at 11-12).

Petitioner next followed up with Dr. Tu on January 25, 2024. Dr Tu testified that Petitioner reported she was seen for an IME at request of Respondent in December and that he continued his efforts to obtain approval for left shoulder surgery and that he also was going to start therapy for her right shoulder. (PX4 at 13-14).

Petitioner next followed up with Dr. Tu on February 22, 2024; and also reviewed the IME report from Respondent's §12 examiner Dr. Jay Levin. Dr. Tu testified that his recommendations at the 2/22/2024 visit was unchanged from the prior visit in January. He further testified that he reviewed Dr. Levin's report on February 29, 2024 . Dr. Tu testified that he disagreed with Dr. Levin's opinion that Petitioner's symptoms should have resolved. He further opined that the reason her symptomology had not resolved was because she had a left shoulder full-thickness rotator cuff tear that was confirmed by MRI imaging and required surgery consisting of a left shoulder arthroscopic rotator cuff repair and subacromial decompression. (PX4 at 14-17).

Petitioner testified that she has continued to follow up with Dr. Tu pending authorization for the left shoulder surgery approximately once every 3 months between his deposition in April of 2024 and the trial in September, 2025. Petitioner testified that the last time she saw Dr. Tu was on April 10, 2025 and that at that time he continued to maintain her on the same continued work restrictions and he also continued to recommend left shoulder surgery. Petitioner testified that she desires to proceed with the left shoulder surgery recommended by Dr. Tu. (T. 25-27; PX8).

Back Treatment with Dr. Patel

Meanwhile, when Petitioner was seen in follow-up at Elmhurst Occupational Clinic on September 27, 2023; it was noted that Petitioner was being seen by Dr. Tu in relation to her shoulders but that her back pain has been ongoing since the original injury as well. The Clinic referred Petitioner to Dr. Patel in physiatry for further evaluation and treatment relative to her back. (PX6 at 29). Dr. Patel, like Dr. Tu, also testified by way of evidence deposition.

Dr. Patel testified on April 25, 2025. Dr. Patel testified that Petitioner related a consistent history of injuring her low back while she was lifting a heavy trash can when she initially presented on September 11, 2023; and that she had been evaluated by occupational health and had been sent to physical therapy already at this point but had not noticed any significant improvement. Dr. Patel recommended that Petitioner proceed with a lumbar MRI and also that she might benefit from an epidural injection. He recommended that she remain off work as well until she followed up, and advised her to continue her various medications. (PX5 at 7-10).

Petitioner proceeded with an MRI of her lumbar spine on October 3, 2023. The MRI revealed multilevel degenerative changes lumbar spine as above without significant spinal canal or neural foraminal stenosis at any level. (PX2 at 430-432).

Petitioner followed up with Dr. Patel following the MRI on October 18, 2023. Dr. Patel testified that he reviewed the MRI and proceeded with an S1 bilateral transforaminal epidural steroid injection. He further advised Petitioner to continue with her medication and therapy and return in follow up in 2 weeks. Dr. Patel released Petitioner to return back to work full time without restrictions with respect to her low back. (PX5 at 10-11, 14).

Petitioner continued, however, to follow up with Dr. Patel and proceeded with additional epidural steroid injections. Petitioner also had an EMG which demonstrated evidence of an acute bilateral lower extremity lumbar polyradiculopathy involving the L5 and/or S1 nerve roots. As of the 19(b) hearing, Petitioner underwent a total of 4 steroid injections to her back. (PX5 at 15-16; T. 27-28).

Dr. Patel testified that his last visit with Petitioner prior to his deposition in April 2025 took place on April 10, 2025. Petitioner's updated history was chronic lower back pain radiating down the right leg. Dr. Patel advised Petitioner to continue her Duloxetine medication and discussed seeing neurology for the ongoing symptoms in her legs to see if there's any other cause that could be identified. Dr. Patel testified that her treatment to date was possibly related to the work injury; and further testified that he was not aware of any treatment to Petitioner's back prior to the work injury. (PX5 at 22-24).

Respondent's First §12 Physician Jay L. Levin, M.D.

Petitioner was examined by Jay L. Levin, M.D. at the request of Respondent on December 13, 2023. Dr. Levin testified via evidence deposition. (RX 6).

Dr. Levin agreed that the Petitioners treatment was causally related to the accident; but that Petitioner's complaints were not supported by the expected outcomes and natural history of the

diagnosis; and that her symptoms should have resolved between zero to six weeks post injury. As a result, he opined that no further medical treatment was necessary. (RX6 at 33-37).

On cross examination, Dr. Levin conceded that it is not unusual for doctors to disagree as to what is appropriate treatment for a patient and that the surgery Dr. Tu is recommending may work out best for the patient. (RX6 at 56-57).

Respondent's Second §12 Physician Jesse P. Butler, M.D.

Petitioner was examined by Jesse P. Butler, M.D. at the request of Respondent on July 26, 2024. Dr. Levin testified via evidence deposition. (RX8).

Dr. Butler testified that Petitioner's low back treatment was initially causally related to her work injury; but that Petitioner was capable of regular work and not in need of any further treatment in relation to the work injury at the time of his examination. Dr. Butler also opined that Petitioner's treatment with Dr. Chagoya, a neurosurgeon who saw Petitioner on the referral from Dr. Patel, was not related to the accident and may be due to a hip injury that led to a referred back syndrome. (PX8 at 16-24).

On cross examination, Dr. Butler was confronted with substantial medical records, not referenced anywhere in his reports, documenting that Petitioner had in fact reported pain in her hips on various dates after the accident. (RX8 at PX1-PX6).

Petitioner's Testimony as to her Current Condition

Petitioner testified she has been off work since August 3, 2023 and has not been able to find any employment within Dr. Tu's restrictions. Petitioner testified that her shoulders remain painful and she has problems with activities of daily life such as cleaning. In addition, her back remains painful as well. (T. 27-31).

CONCLUSIONS OF LAW

The Arbitrator adopts the above Statement of Fact in support of the Conclusions of Law set forth below.

It is the function of the Commission to judge the credibility of the witnesses and to resolve conflicts in the medical evidence and assign weight to witness testimony. *O'Dette v. Industrial Commission*, 79 Ill.2d 249, 253, 403 N.E.2d 221, 223 (1980); *Hosteny v. Workers' Compensation Commission*, 397 Ill. App. 3d 665, 674 (2009). Credibility is the quality of a witness which renders her evidence worthy of belief. The Arbitrator, whose province it is to evaluate witness credibility, evaluates the demeanor of the witness and any external inconsistencies with her testimony. Where a claimant's testimony is inconsistent with her actual behavior and conduct, the Commission has held that an award cannot stand. *McDonald v. Industrial Commission,* 39 Ill. 2d 396 (1968); *Swift v. Industrial Commission,* 52 Ill. 2d 490 (1972).

In the case at hand, the Arbitrator observed Petitioner during the hearing and finds her to be a credible witness.

The Arbitrator makes the following findings on the issue of **(F) is Petitioner's current condition of ill-being causally related to the injury?**

The Workers' Compensation Act does not require a causation opinion. Instead, a simple chain of events which demonstrates a previous condition of good health, an accident, and a subsequent injury resulting in disability will suffice to prove a causal nexus between the accident and the employee's injury. *International Harvester v. Industrial Comm'n*, 93 Ill. 2d 59, 442 N.E. 2d 908(1982).

Prior to July 28, 2023, Petitioner had no previous accidents, workers compensation claims, work restrictions, or treatment for her back or her shoulders, with the exception of a prior workers' compensation claim involving her left shoulder that she had recovered from and successfully returned to full duty work. Petitioner testified that prior to this accident she had no ongoing medical treatment to either shoulder or her low back.

On July 28, 2023, she suffered a traumatic accident injuring her bilateral shoulders and low back. Petitioner sought treatment immediately and related consistent histories of injury to her medical providers. At no point since the accident have Petitioner's symptoms or pain gone away. The Arbitrator therefore concludes the chain of events supports a finding that Petitioner sustained an injury to her bilateral shoulders and low back as a result of the July 28, 2023 work accident.

Additionally, the credible opinion and testimony of Dr. Tu and Dr. Patel support the same conclusions with reference to Petitioner's shoulders. Dr. Tu opined Petitioner's current condition of ill-being is causally related to the July 28, 2023 work accident and Dr. Patel (who is employed at Respondent's Clinic) also testified that it was possible that Petitioner's condition of ill-being relates to the subject work accident. Moreover, the Arbitrator further finds that causation is logical and supported by the contemporaneous medical records and credible testimony of Petitioner.

By contrast, the opinion of Respondent's Section 12 examiner Dr. Levin is not persuasive. His opinion that the condition is not related to the accident because it should have resolved in 6 weeks is overly speculative. Dr. Levin's broad experience in how quickly patient's recover fails to recognize that not all patients respond quickly and/or in the absence of surgery.

Respondent's IME in relation to the back, Dr. Butler, offers an opinion that the Petitioner's current condition had resolved at the time of his examination, and that the complaints relative to the hip were unrelated. The Arbitrator finds that Dr. Butler's opinions are not persuasive. The medical records document consistent hip complaints after the accident. By definition, radicular low back pain may refer pain to the lower extremity; or vice-versa. The Petitioner is a hospital housekeeper and not a physician. Petitioner is not able to diagnose the origin of her pain on the level of a physician such as Dr. Butler; and that is something that is often difficult to determine even for a physician. The medical records are clear that none of these complaints were shown to

have existed prior to the subject work injury; and then were consistently present afterwards including, *inter alia,* complaints of hip pain. Petitioner's complaints are contemporaneous, consistent, supported by her credible testimony, and also confirmed by not just some but all of the contemporaneous medical records.

Based on all the above evidence, the Arbitrator finds Petitioner's current condition of ill-being to both shoulders and her low back (including her radicular complaints which include hip pain) is causally related to the July 28, 2023 work accident.

The Arbitrator makes the following findings on the issue of **(J) were the medical services provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?**

The Arbitrator finds Respondent is liable for unpaid and related medical expenses as found in Petitioner's Exhibit 1, in the amount of $3,833.92 to the extent these remain unpaid by Respondent's group medical plan. Respondent shall hold Petitioner harmless in relation to sums paid for said medical expenses by Respondent's group medical pursuant to the applicable provisions of §8(j) of the Act.

The Arbitrator makes the following findings on the issue of **(K) is Petitioner entitled to prospective medical care?**

As set forth above more fully, Petitioner suffered an accidental work injury on July 28, 2023 that resulted in an injury to her shoulders and low back. Dr. Tu noted Petitioner's MRI revealed a full-thickness rotator cuff tear and Petitioner's condition has not improved with conservative treatment to date.

As a result, the Arbitrator finds Petitioner is entitled to prospective medical treatment in the form of a left shoulder rotator cuff repair and subacromial decompression as recommended by Dr. Tu as well as all necessary ancillary treatment related to the same.

The Arbitrator makes the following findings on the issue of **(L) what amount of compensation is due for temporary total disability?**

It is a well-settled principle that when a claimant seeks TTD benefits, the dispositive inquiry is whether the claimant's condition has stabilized, i.e., whether the claimant has reached maximum medical improvement. *Westin Hotel v. Industrial Comm'n*, 372 Ill.App.3d 527, 542, 310 Ill.Dec. 18, 865 N.E.2d 342 (2007); *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill.App.3d 582, 594, 296 Ill.Dec. 26, 834 N.E.2d 583 (2005); *F & B Manufacturing Co. v. Industrial Comm'n*, 325 Ill.App.3d 527, 531, 259 Ill.Dec. 173, 758 N.E.2d 18 (2001). See also *Archer Daniels Midland Co. v. Industrial Comm'n*, 138 Ill.2d 107, 118, 149 Ill.Dec. 253, 561 N.E.2d 623 (1990) (TTD compensation is provided for in section 8(b) of the Workers' Compensation Act, which provides, "[W]eekly compensation * * * shall be paid * * * as long as the total temporary incapacity lasts," which this court has interpreted to mean that an employee is temporarily totally incapacitated from the time an injury incapacitates him for work until such time as he is as far recovered or restored as the permanent character of his injury will permit).

As shown above, Petitioner suffered an accidental work injury on July 28, 2023 that resulted in her current and ongoing condition of bilateral shoulder injuries as well as a low back injury.

Petitioner has not reached MMI and the while she was released for light duty, Respondent did not offer any. As stated above, Petitioner requires further treatment including left shoulder surgery. Dr. Tu has continued to maintain Petitioner on restricted duties pending surgery.

The Arbitrator therefore finds Petitioner is entitled to TTD benefits of $566.67/week for 111 & 6/7ths weeks, commencing August 3, 2023 through September 23, 2025, as provided in Section 8(b) of the Act.

Having found that the Petitioner is entitled to TTD in relation to her shoulder injury, the periods of TTD Petitioner may be entitled to in relation to her back condition is moot.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC026303
Case Name	Alice McDonald v. Menards
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0244
Number of Pages of Decision	16
Decision Issued By	Christopher Harris, Commissioner

Petitioner Attorney	Nicholas Clifford
Respondent Attorney	Monica Fernandez

DATE FILED: 8/26/2026

/s/Christopher Harris, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF WINNEBAGO)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

ALICE McDONALD,

Petitioner,

vs. NO: 23 WC 26303

MENARDS, INC.,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b) having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of accident, causal connection, benefit rate, the reasonableness and necessity of the medical treatment, temporary total disability, and permanent partial disability, and being advised of the facts and law, affirms and adopts, in part, the Decision of the Arbitrator, which is attached hereto and made a part hereof. The Commission writes to clarify the Decision with respect to the issue of causal connection as stated below. The Commission further remands this case to the Arbitrator for further proceedings for a determination of a further amount of temporary total compensation or of compensation for permanent disability, if any, pursuant to *Thomas v. Industrial Commission*, 78 Ill. 2d 327, 399 N.E.2d 1322, 35 Ill. Dec. 794 (1980).

The Commission strikes the Arbitrator's analysis regarding causal connection under issue (F) and replaces it with the following:

Based on the evidence adduced at hearing, Respondent does not dispute that Petitioner missed a step on a ladder while stocking shelves. Rather, Respondent contends that Petitioner is not credible and that the work accident did not cause her right knee condition. The Commission

finds that Petitioner's testimony regarding the accident and her resulting condition credible and largely unrebutted.

The Petitioner testified that after the accident, she reported to her manager that she had injured her knee, to which the manager cursed in acknowledgement and walked away. (T.20-22.) In an effort to impeach her testimony, Respondent questioned Petitioner regarding Menards' internal records indicating she had only reported a right ankle injury to Ms. Dawn Hornback. (T.37-38.) Petitioner maintained that she reported injuries to both her ankle and right knee. (T.38.) Respondent also relied on the Section 12 report from Dr. Jay Levin, who noted that the incident report and Illinois Form 45 referenced only an ankle injury and that Petitioner's initial emergency room visit on September 21, 2023, documented knee pain beginning the prior evening. (RX.A.) Dr. Levin concluded that Petitioner did not sustain an acute right knee injury on September 19, 2023. (*Id.*)

Despite these alleged inconsistencies, Respondent failed to call Ms. Hornback to testify and did not admit either the incident report or the Illinois Form 45 into evidence. As such, Respondent presented no credible evidence to contradict Petitioner's testimony.

The Commission finds that this case is similar to *Luckenbill v Industrial Com.*, 155 Ill. App. 3d 106, 507 N.E. 1185, 107 Ill. Dec. 816 (4th Dist. 1987). In *Luckenbill*, the Appellate Court addressed a similar fact patten where medical records appear inconsistent with the Petitioner's testimony of a work accident. The Court found, inter alia:

> While the inconsistency between claimant's initial statements to medical personnel concerning the onset of his injury and his subsequent statements and testimony reflect adversely on his credibility generally, it does not support a finding that claimant did not suffer a compensable accidental injury. Whether claimant suffered the gradual onset of pain or a specific, traumatic injury, the evidence presented to the arbitrator and the Industrial Commission proved that claimant injured his back while working for respondent on February 26, 1980. (See *Peoria County Belwood Nursing Home v. Industrial Com.* (1985), 138 Ill. App. 3d 880, 883, 885, 487 N.E.2d 356, 359, 360, *aff'd* (1987), 115 Ill. 2d 524.) Although the Industrial Commission might have rejected claimant's testimony, there appears no reason in the record to reject the other evidence supporting petitioner's claim. In the case at bar there does not appear to be a reasonable alternative explanation for petitioner's injuries. See *Butler Manufacturing Co. v. Industrial Com.* (1986), 140 Ill. App. 3d 729, 734-36, 489 N.E.2d 374, 379-80."

Here, as in *Luckenbill*, the record presents no reasonable alternative explanation for Petitioner's right knee condition. The contemporaneous ER record confirms that Petitioner sought

treatment for acute right knee swelling, pain and effusion. (PX.1.) While she thought she injured her left ankle, she was now concerned she may have injured her right knee at work when she missed a step while climbing up and down the ladder. (*Id.*) The subsequent MRI of the right knee confirmed a moderate amount of suprapatellar joint effusion, a complex tear of the posterior horn of the medial meniscus and degenerative changes of the medial tibiofemoral and patellofemoral compartment. (PX.3.)

The Commission finds the causation opinion of Petitioner's treating physician Dr. Tu more persuasive than the Section 12 opinion of Dr. Levin noted above. Dr. Tu opined that the work accident was an acute traumatic event that resulted in the medial meniscus tear. (PX.2. pg.18.) He noted that Petitioner was asymptomatic prior to the work accident. (*Id.*) While the medical history reflects that Petitioner favored her right leg due to unrelated left knee pain and had undergone a prior right knee meniscal repair several years earlier, she was asymptomatic prior to the accident.

The examination at the ER following the accident further supports Dr. Tu's findings. The record revealed acute pathology demonstrating small palpable suprapatellar joint effusion, generalized peripatellar tenderness, medial joint line tenderness greater than lateral line tenderness, mildly limited flexion due to pain, and medial knee pain on valgus maneuvers. (PX.1. pg.4.) Furthermore, the x-ray of the right knee showed suprapatellar density suggestive of knee joint effusion. (PX.1. pgs.4-5.) The physician noted that the joint effusion was likely due to the recent work injury rather than secondary inflammation from the degenerative changes. (PX.1. pg.5.)

Accordingly, relying on the unrebutted testimony of Petitioner, the objective medical records, and the persuasive opinion of Dr. Tu, the Commission finds the Petitioner established causal connection between the work-related accident of September 19, 2023 and her right knee condition.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed January 5, 2026 is hereby clarified as stated above and otherwise affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that this case be remanded to the Arbitrator for further proceedings consistent with this Decision, but only after the latter of expiration of the time for filing a written request for Summons to the Circuit Court has expired without the filing of such a written request, or after the time of completion of any judicial proceedings, if such a written request has been filed.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $7,400.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

AUGUST 26 2026

/s/ *Christopher A. Harris*
Christopher A. Harris

CAH/tdm
O: 8/20/26
052

/s/ *Maria E. Portela*
Maria E. Portela

/s/ *Marc Parker*
Marc Parker

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC026303
Case Name	Alice McDonald v. Menards
Consolidated Cases	
Proceeding Type	8(a)/19(h) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	11
Decision Issued By	Francis Brady, Arbitrator

Petitioner Attorney	George Chepov
Respondent Attorney	Monica Fernandez

DATE FILED: 1/5/2026

/s/Francis Brady, Arbitrator
Signature

INTEREST RATE WEEK OF DECEMBER 30 2025 3.50%

STATE OF ILLINOIS)
)SS.
COUNTY OF **COOK**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
8A ARBITRATION DECISION

McDonald
Employee/Petitioner

v.

Menards, Inc.
Employer/Respondent

Case # **2023** WC **026303**

Consolidated cases: **N/A**

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Francis Brady**, Arbitrator of the Commission, in the city of **Rockford**, on **October 28, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☐ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☒ Other **Prospective medical treatment1**

FINDINGS

On **September 19, 2023**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to the Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**9,797.04**; the average weekly wage was $**653.14**

On the date of the accident, Petitioner was **48** years of age, ***married*** with **0** dependent children.

Petitioner ***has not*** received all reasonable and necessary medical services.

Respondent ***has not*** paid all appropriate charges for all reasonable and necessary medical services.

ORDER

As detailed in the attached memorandum discussing the *Findings of Fact and Conclusions of Law*:

1) The Petitioner's current condition of ill-being is causally related to the September 19, 2023, accident.

2) The Respondent shall pay for reasonable and necessary medical services pursuant to Section 8(a), Section 8.2, as follows: G&T Orthopaedics **$1,035.00** and Midwest Advanced Radiology **$1,950.00**

3) The Respondent shall pay to the Petitioner temporary total disability benefits of **$653.14** per week for **6 4/7 weeks**, commencing September 20, 2023 – November 4, 2023, as provided in Section 8(b) of the Act.

4) The Respondent shall authorize the right knee arthroscopic partial medical meniscectomy prescribed by Dr. Tu, including pre-operative testing and post-operative physical therapy.

In no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Signature of Arbitrator

JANUARY 5 2026

STATEMENT OF FACTS

Petitioner, Alice McDonald, McDonald, had a workers compensation claim in 2013 or 2014 working at Spencer Gifts. She slid on water and injured her right knee. (TR. 15-16; PX. 1 at 2). She underwent right meniscus repair and a course of post operative physical therapy. (id) Following this treatment, she had no problems with her right knee until the accident at issue in this case. (TR 15 – 18; PX. 1 at 2). McDonald also had a workers' compensation claim while working for Cook County Forest Preserve involving her left elbow in 2018 and a claim in 2023 for her left knee at Libertyville High School. (TR. 16)

On September 19, 2023, around 3:30. or 4:00 p.m. McDonald was working without any physical limitations and having no difficulties performing her job duties for respondent, Menard, Inc "Menard", (TR. 30, 31) and she had a heavy box of motor oil positioned on her right shoulder as she stocked shelves from a ladder. (TR. 19) As she stepped onto what she believed was the third step her right slid, and her leg twisted, and she felt a pop in her right knee. (TR at 20-22). McDonald testified that she experienced immediate pain in her right knee but did not fall to the ground. (id)

McDonald testified that after the accident she was able to walk but could not "put pressure down on it." (TR. 22) She returned to the desk of the hardware department and reported the accident to her supervisor. She was able to finish her shift and then went home. (TR. 23) The next day her knee hurt and "was two times bigger than what it should have been . . ." (TX 23).

She was scheduled off that day, but the next day (that is, two days after the accident or September 21, 2023) McDonald awoke still in distress and she presented at the "ER at Northwestern McHenry County" "ER" where personnel directed her to stay off work. (TR. 24, 25) She "called to work" and told "HR" (id).

ER personnel recorded that "2 days ago, while at work, (McDonald) was climbing up and down the ladder at Menard's and missed a step , she thought she injured her left ankle but is now concerned she may have actually injured her right knee but does not recall any pain or difficulty weightbearing after the possible injury. She does state that with her ongoing left knee issues she has been favoring her right knee more. Last night she began noticing swelling throughout the anterior right knee with 'tightness' with knee flexion." (PX. 1 at 2) McDonald confirmed she'd undergone surgical repair of the right meniscus more than 10 years before but had been "asymptomatic for issues since" (PX. 1 at 2) The etiology for her current right knee pathology was "unclear exactly " but the Physician's Assistant who examined McDonald diagnosed ",. . . likely joint effusion due to recent work injury versus secondary inflammation from the no degenerative changes" (PX. 1 at 5) At another place in the chart the PA diagnosed "right knee pain; DJD; subchondral cyst and effusion" (PX. 1 at 1) Donald was ordered to elevate, ice, and compress the knee and ambulate using crutches (PX. 1 at 6) Mcdonald requested "a work excuse note as she works at Minard's (sic) and does long periods of standing and walking." (PX. 1 at 6) The ER excused her from work entirely (TR. 26)

As noted, McDonald's Exhibit 1, (1 – 13) dates her ER presentation to September 21, 2023, and at that time she denied "any ipsilateral hip ankle or foot pain." (PX. 1 at 2) That is, she rejected discomfort in her right foot or ankle. By the time she testified through she recalled sharp pain in her right ankle, radiating to her knee (TR. 25)

On September 25, 2023, McDonald's right knee remained very painful, so she saw Kevin C Tu, MD "Tu" with whom she was already treating for her left knee (TR. 26, 27) By that date, however, her right ankle pain had just sort of gone away on its own. (TR. 27) She told Tu she hurt her knee on September 19, 2023 when, while at work she missed a step on a ladder resulting in pain and swelling in her right knee. (TR. 27, 28: PX. 2 at 1) Inexplicably Tu records this work incident occurred on September 20, 2023 (TR 27; PX. 2 at 1) Tu noted McDonald was having trouble ambulating as well as tenderness without laxity in the right knee with x-ray revealing mild degenerative spurring (PX. 2 at 1) Tu ordered am MRI (id) and told her to walk and stand as tolerated, lift only 10 pounds, and do no kneeling or squatting. (id).

The MRI was performed on October 3, 2023, at Midwest Advanced Radiology, "Midwest" with the radiologist reporting moderate joint effusion, complex tear of the posterior horn medical meniscus and degenerative changes of the medical tibiofemoral and patellofemoral compartments (PX. 3 at 2, 5). Basis of the testing was "Right knee pain. Fall" and there were no prior films for comparison. (PX. At 4)

McDonald returned to review the results with Tu and discuss treatment options on October 16, 2023 (TR. 28; PX. 2 at 5). Tu read the MRI films as disclosing "degenerative changes in the medical compartment as well as a complex meniscus tear . . . (and) . . . a large effusion." (TR.29; PX. 2 at 5) He scheduled McDonald for right knee arthroscopic partial medical meniscectomy upon authorization and in the meantime limited her to no prolonged walking or standing , no kneeling or squatting beyond tolerance, and no lifting greater than 10 [pounds. (TR. 29; PX 2 at 5) . As directed by Menards, McDonald emailed Tu's restrictions to the Crystal Lake location, but they were not accommodated (TR. 30)

Without objection, McDonald introduced into evidence, proof she continued to treat on December !8, 2023; February 5, 2024; April 8, 2024; July 15, 2024; October 21, 2024; February 10 , 2025; and August 25, 2025 (PX. 2 at 7, 9; 11, 16, 18, 21, 23). Her history in December 2023 included complex tear of the posterior horn of the medial meniscus and aggravation of pre-existing arthritis with persistent pain and swelling and difficulty kneeling squatting and pivoting along with occasional giving way (PX. 2 at 7) and Tu's prescription was for right knee arthroscopic partial medical meniscectomy. (id) He continued to restrict her walking and standing to her level of tolerance, and to prohibit kneeling and squatting and lifting more than 10 pounds (id).

Tu duplicated his December 2023 charting on each subsequent office visit. until July 15, 2024, when he observed that McDonald underwent an "independent medical examination evaluation at the end of June." (PX. 2 at 16) and October 21, 2024, by which visit he had reviewed a copy of Dr Levin's independent medical evaluation of June 26, 2024 (PX. 2 at 18).Tu interprets Levin's opinion to be "that notes in the records do not support an acute injury to her right knee from an alleged September 19, 2023, occurrence as her reported symptoms do no start immediately" (PX. 2 at 18). Relying on the history he got from McDonald (that she mis stepped on September 20, 2023, and went to the ER the next day with significant swelling), Tu concluded the medial meniscal tear likely resulted from the traumatic work event. (PX. 2 at 18). He noted she denies any issues with the right knee prior to her injury. He still advised right knee arthroscopic partial medial meniscectomy and until it was authorized and performed directed McDonald remain under the same functional limitations (id)

Tu still wishes to perform that same surgery as McDonald's right knee now pops four or five times daily and the pain and swelling persists as does her trouble walking bending and kneeling and work functionality. (TR 31, 32; PX. 2 at 21 and 23) As to that last, work functionality, McDonald never returned to employment with Menard (TR. 31). She found a desk job at Petco on November 5, 2023 and after approximately fifteen

months she left Petco for Meijer where she works as a general merchandising manager, again a role within the restrictions laid down by Tu (TR. 33,34, 35)

WITH RESPECT TO ISSUE (C), DID AN ACCIDENT OCCUR THAT AROSE OUT OF AND IN THE COURSE OF THE PETITIONER'S EMPLOYMENT BY THE RESPONDENT, THE ARBITRATOR FINDS AS FOLLOWS:

Menard disputes that the trauma McDonald claims, slipping on a ladder while stocking shelves, is work connected (TR. 5). However , it offers no evidence contradicting that McDonald was on the ladder with a case of motor oil on her shoulder stocking shelves during her regularly scheduled shift at the Menard store in Crystal Lake. This version of the accident is echoed loudly throughout the evidence without any variance. There is no basis for claiming, let alone concluding that the accident did not arise out of and in the course of McDonald's employment with Menard.

WITH RESPECT TO ISSUE (F), IS THE PETITIONER'S PRESENT CONDITION OF ILL-BEING CAUSALLY RELATED TO THE INJURY, THE ARBITRATOR FINDS AS FOLLOWS:

Judging from the evidence it adduced, Menard isn't disputing that McDonald missed a step on the ladder stocking shelves as job required during a regularly scheduled shift. It's arguing that she can't be believed the trauma caused her right knee injury.

Why shouldn't she be believed? Let's look at what she said about her right knee in connection to the ladder incident. She told her manager at the store, right after the trauma, that she just messed up her knee and her manager cursed in acknowledgment (TR 22, 37 and EX 2 at 1 to RX A, entered into evidence without objection RX A at 6)

Cross-examining McDonald, Menard alluded to its "records (which) indicate that (Mcdonald) reported to Ms. Dawn (Hornback) that (she) had hurt (her) right ankle. . . " (TR 37, 38). Menard itself never identified the "records" It's Section 12 expert, Dr Lay L. Levin, "Levin" testified to a ". . . Menard's (sic) incident report dated September 21, 2023, not(ing) team member stated that she was stepping off the ladder in our automotive section and missed a step and twisted her right ankle. Body part described: Ankle. Reported incident to department manager on September 19, 2023. Reported it to no one else after. Had to be called by her HR

coordinator to get details of medical treatment being sought. Date of loss: September 19, 2023, at 2:55 p.m." Levin also testified he examined "(a) n Illinois Form 45 dated September 21, 2023, reporting only a right ankle injury." (RX. A at 8; RX 2 at 3 to RX A admitted without objection (RX A at 6) But neither party tried to introduce the Menard's Incident report or the Illinois Form 45 into the record.

Should an inference be drawn against one or the other based on the notion that the documents were withheld? Either could easily have admitted them or tried anyway. Granted they were in the possession of Menard but not secreted and certainly McDonald knew of them no later than the date she got Levin's June 26, 2024, narrative. She could have accessed them informally upon request or formally per the subpoena provisions of the Act.

Depending on what the documents recorded, it's likely McDonald's assertion that she gave notice of her right knee from the moment of its occurrence or Menard's characterization that she was confused or fabricating would have been materially abetted.

But McDonald's charge was to meet its burden of proving by a preponderance of the evidence that her right injury was caused by the slip on the ladder. She did this with her testimony. Menard then sought to impeach McDonald's credibility, but it failed to complete the impeachment. It needed to conclude by introducing at least one of the documents or better yet testimony of Dawn Hornback. Ming Auto Body v Indus. Comm' 387 Ill App. 3d 244 899 N.E. 2d 335, 326 Ill Dec 148 (1st Dist., 2008)

It's not McDonald's responsibility to fend off impeachment as none was properly achieved. If any inference were to be indulged owing to the failure to introduce the documents, it would be indulged against Menard as it presumably had the documents readily available. However, McDonald argues for the adoption of no such inference and so the only finding is that her claim that she reported both her right knee, and her ankle is persuasive.

Menard's attack on McDonalds credibility however does not end with its failed impeachment relative to her reporting on the loss date. It also insists she could not have hurt her right knee on the ladder at work on September 19th, 2023, because of the history she gave at the ER on September 21, 2023. Menard insisted on cross examination that McDonald told "treaters (she) hurt (her) left ankle (TR 38)" McDonald answered that she said she hurt her ankle and her right knee. (id) Levin focused on the portion of the ER chart wherein McDonald reported her initial belief she hurt her left ankle but presently was concerned she has a right knee

injury even though she recalled no pain or difficulty weightbearing after this possible injury. (RX. A. at 9). Since her right knee symptoms commenced only on September 20, 2023, she did not sustain that injury acutely on September 19, 2023, Levin opined. (RX. 2 at 5 and 6 to RX A) Menard concludes her reporting at the ER, to Levin, and even to Tu was "incongruent" with her testimony that she felt immediately pain in her right knee after slipping on the ladder at work on September 19, 2023 and reported that version consistently after the trauma.

Were Menard really worried about whether McDonald was incongruent, it could have cleared up the issue with one or both reports detailed above. But it chose to leave its roulette wheel spinning, So the more certain account of McDonald is adopted. And attention must be paid to the Appellate Courts guidance in Luckenbill v Industrial Com, 155 Ill. App. 3d 106, 507 N.E. 1185, 107 Ill Dec. 816 (4th Dist. 1987) where the worker testified, he told his foreman and a coworker he had just gotten hurt bending over, lifting parts. The coworker and foreman testified in support of the workers report of notice to a greater or lesser degree. The worker's father also testified that on the loss date he called the employer reporting his son's work injury and his impending absence from work. However, medical records contradicted the idea that the worker got hurt on the job. The Court found, inter alia:

"While the inconsistency between claimant's initial statements to medical personnel concerning the onset of his injury and his subsequent statements and testimony reflect adversely on his credibility generally, it does not support a finding that claimant did not suffer a compensable accidental injury. Whether claimant suffered the gradual onset of pain or a specific, traumatic injury, the evidence presented to the arbitrator and the Industrial Commission proved that claimant injured his back while working for respondent on February 26, 1980. (See *Peoria County Belwood Nursing Home v. Industrial Com.* (1985), 138 Ill. App. 3d 880, 883, 885, 487 N.E.2d 356, 359, 360, *aff'd* (1987), 115 Ill. 2d 524.) Although the Industrial Commission might have rejected claimant's testimony, there appears no reason **[*113]** in the record to reject the other evidence supporting petitioner's claim. In the case at bar there does not appear to be a reasonable alternative explanation [**1190] [****821] [***14] for petitioner's injuries. See *Butler Manufacturing Co. v. Industrial Com.* (1986), 140 Ill. App. 3d 729, 734-36, 489 N.E.2d 374, 379-80."

Here, as in Luckenbill, to the extent the medical records are incongruent with McDonald's testimony they indicate only understandable forgetfulness and confusion and possible typographical errors (for example Tu noting the accident occurred on September 20. 2023).

And there's certainly no alternative explanation. Levin is content to state that McDonald sustained no right knee injury at work because of the history she gave and its timing. When asked to disregard etiology and consider only whether "she had any issue- - issue with her knee" (110) Levin studiously avoided diagnosing but focused tightly on whether any knee condition could relate to an acute injury on September 19.2023 (which it could not in his opinion). Levin did allude to degenerative fraying which didn't represent a traumatic finding 13) but he pointedly denied McDonald had a meniscal tear, notwithstanding the specific findings of the October 3, 2023, MRI, to the contrary. And those findings were made by a radiologist and by Tu.

This leads to the credibility of the putative medical experts. For his part Levin's curriculum vitae is at least introduced and he testifies a bit as to what makes him credible. He's board certified in Orthopedic Surgery through December 2028, and he's fellowship trained, albeit in spine surgery. But except for two speeches there is nothing indicating he has any knowledge of knees or knee surgery. Even less is known of Tu. Still Levin characterizes him as a knee specialist (EX. 2 at 1 to RX A) and he is the treater. More weight may be given to his testimony. Hines v. Indus. Comm'n 356 Ill. App. 3d 186, 825 N.E. 2d 773, 292 Ill. Dec. 185 (2nd Dist. 2005)

After scrutinizing Levin's "assessment" Tu specifically "disagreed" finding that McDonald's likely tore her right meniscus when she slipped on the step at work. (PX. 2 at 18). Causation is found in McDonald's behalf.

(J) Whether the medical services provided to Petitioner were reasonable and necessary

Without hearsay or foundation objections, McDonald introduced billing statements for medical care rendered of $1,035 (TR. 44; PX 2) and $1,950 (TR. 45, PX. 3) Menard did object to the first amount on lack of causation and further that the care was neither reasonable nor necessary. Causation has been found to exist (above). And Menard introduced no evidence controverting reasonableness and necessity. The amounts are awarded in McDonalds favor.

(K) What amount of compensation is due for temporary total disability?

Tu's records document that McDonald had restrictions of walking and standing as tolerated, lifting only 10 pounds, and no kneeling or squatting. McDonald did not return to work at Menard after September 19, 2023, as there is no evidence she was ever afforded work within her restrictions. She testified that she found new employment at Petco on November 5, 2023.

Based on the foregoing, McDonald is entitled to TTD benefits for the period of September 20, 2023, through November 4, 2023. (TR. 6,7) Menard marked Arbitrators Exhibit 1, para 8, that it offered suitable alternative duty to McDonald on October 29, 2023, but it introduced no proof of it. (TR 8, 9, 25)

O. Is Petitioner entitled to prospective medical treatment?

Tu recommends a right knee arthroscopic partial medical meniscectomy. As a knee specialist and the treater, his opinion is most credible. Menard is ordered to approve this procedure including pre-operative testing and post-operative therapy.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC008361
Case Name	Timeca Brown v. State of Illinois - Choate Mental Health
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0245
Number of Pages of Decision	12
Decision Issued By	Amylee Simonovich, Commissioner

Petitioner Attorney	Mary Massa, Todd Schroader
Respondent Attorney	Shannon Rieckenberg

DATE FILED: 8/27/2026

/s/Amylee Simonovich, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF MADISON)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse Choose reason	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify Choose direction	☐ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

TIMECA BROWN,

Petitioner,

vs. NO: **24WC008361**

STATE OF ILLINOIS – CHOATE MENTAL HEALTH,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by Petitioner herein and notice given to all parties, the Commission, after considering the issues of accident, causal connection, medical expenses, prospective medical care, and temporary total disability, and being advised of the facts and law, corrects the Decision of the Arbitrator as set forth below but otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof. The Commission further remands this case to the Arbitrator for further proceedings for a determination of a further amount of temporary total compensation or of compensation for permanent disability, if any, pursuant to *Thomas v. Industrial Commission*, 78 Ill.2d 327, 399 N.E.2d 1322 (1980).

On page 2 of the Arbitration Decision, in the Order section, the Commission strikes the following sentence: "No additional TTD is due" and replaces it with: "Petitioner was entitled to TTD from March 21, 2024, through July 30, 2024, a period of 18 6/7 weeks, and Respondent is awarded a credit for TTD payments made and for service-connected days under Section 8(j) of the Act and the stipulations of the parties." Similarly, on page 6 of the Memorandum of Decision of Arbitrator, in the third paragraph of that page, the Commission strikes the following sentence: "No additional TTD is due" and replaces it with: "Petitioner was entitled to TTD from March 21, 2024, through July 30, 2024, a period of 18 6/7 weeks, and Respondent is awarded a credit for TTD payments made and for service-connected days pursuant to Section 8(j) of the Act and the stipulations of the parties."

On page 6 of the Memorandum of Decision of Arbitrator, in the first paragraph of that page, the Commission strikes the following language: "Petitioner previously claimed an injury to her left shoulder due to use of a cart in 2022. Petitioner lacked objective evidence of injury at that time and was released from care by Dr. Davis to go back to work full duty. The facts are parallel to the present case."

The Commission observes Petitioner's personal identity information was unredacted in the exhibits. The Commission cautions Counsel to adhere to Supreme Court Rule 138. *Ill. S. Ct. R. 138* (eff. Jan. 1, 2018).

IT IS THEREFORE ORDERED BY THE COMMISSION that the Arbitrator's Decision filed on September 23, 2025, is modified as stated herein, and is otherwise affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Pursuant to §19(f)(1) of the Act, claims against the State of Illinois are not subject to judicial review. Therefore, no appeal bond is set in this case.

AUGUST 27 2026

/s/ *Amylee H. Simonovich*
Amylee H. Simonovich

O: 7/14/26
AHS/ps
051

/s/ *Stephen J. Mathis*
Stephen J. Mathis

/s/ *Kathryn A. Doerries*
Kathryn A. Doerries

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC008361
Case Name	Timeca Brown v. State of Illinois - Choate Mental Health
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	9
Decision Issued By	Edward Lee, Arbitrator

Petitioner Attorney	Todd Schroader
Respondent Attorney	Shannon Rieckenberg

DATE FILED: 12/15/2025

/s/Edward Lee, Arbitrator

Signature

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

DECEMBER 15 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF DECEMBER 9 2025 3.58%

STATE OF ILLINOIS)
)SS.
COUNTY OF **MADISON**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
19(b)

TIMECA BROWN
Employee/Petitioner

v.

CHOATE MENTAL HEALTH
Employer/Respondent

Case # **24** WC **008361**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Edward Lee**, Arbitrator of the Commission, in the city of **Collinsville**, on **10/30/2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☐ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☒ Other: Prospective medical

FINDINGS

On **03/13/2024**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is not*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**36,865.88 (over 41 3/7 weeks)**; the average weekly wage was $**889.84**.

On the date of accident, Petitioner was **29** years of age, ***single*** with **0** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**15,664.64** for TTD, $**NA** for TPD, $**NA** for maintenance, and $**5 service connect days** for other benefits, for a total credit of $**15,664.64 & 5 SC days**.

Respondent is entitled to a credit of $**if any** under Section 8(j) of the Act.

ORDER

The Arbitrator finds Petitioner sustained an accident that arose out and in the course of her employment. Petitioner reached MMI on 07/30/2024. Respondent shall be responsible for all medical bills incurred on and before that date. Petitioner's request for prospective medical benefits is denied. No additional TTD is due.

In no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits for compensation for a temporary or permanent disability, if any.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Edward Lee_____
Signature of Arbitrator

Timeca Brown v. Choate Mental Health
IWCC 24 WC 008361

This matter proceeded to arbitration on October 30, 2025, in Collinsville, Illinois before Arbitrator Edward Lee. (AX1, T4). The issues in dispute are accident, medical benefits, causal connection, and TTD. (AX1, T4). In the Application for Benefits, Petitioner alleges to have sustained injury to her body as a whole while loading carts on the back of a food truck while holding it in place on March 13, 2024. (AX2).

On March 13, 2024, Petitioner provided information contained in Illinois Form 45. (RX1, P1). She claimed injury to her shoulders and neck while steadying carts. *Id.* Petitioner also completed a Workers' Compensation Employee's Notice of Injury form alleging sharp pains on both sides of her neck and shoulders. (RX2, P2). A prior work injury to Petitioner's left shoulder caused by food carts was recorded to have occurred on November 1, 2022. (RX1, P3).

On March 14, 2024, Petitioner presented to Union County Hospital Emergency Department for upper back, neck, and bilateral shoulder pain. (PX1, P3). She was advised to follow up with her PCP or an orthopedist and given work restrictions of no lifting greater than 10 lbs. (PX1, P5).

On March 19, 2024, Petitioner presented to Dr. John T. Davis at the Orthopedic Institute of Southern Illinois (OISI) with left greater than right shoulder and neck pain. (PX2, P2, 6). A history of left shoulder pain was recorded, but that Petitioner said this felt different than it had in the past. (PX2, P6). Diagnoses of bilateral rotator cuff strains were given. (PX2, P9). Petitioner remained on work restrictions and physical therapy was ordered. (PX2, P9-10).

On March 27, 2024, Petitioner presented to Diversified Rehab Services for left worse than right shoulder strains. (PX5, P2). She attended 23 sessions until she was discharged on May 29, 2024. (PX5, P27)

On April 22, 2024, Petitioner returned to OISI and met with PA Jeremy Palmer for bilateral shoulder pain, still left worse than right. (PX2, P11). On bilateral physical exam, Petitioner's testing was negative overall with only mild bicipital groove tenderness on the left. (PX2, P13). She was to continue in therapy. (PX2, P14).

On May 20, 2024, Petitioner returned to OISI and Dr. Davis. (PX2, P15). Her right shoulder was now more painful than the left. *Id.* Petitioner also reported new clicking and popping with her pain. *Id.* Physical examination was performed but does not identify which shoulder was examined. (PX2, P17). The exam produced new findings of a positive Speed's test, Yergason's tests, O'Brien's test, and tenderness over the bicipital groove. *Id.* Dr. Davis assessed Petitioner with "right traumatic long head of the biceps tendinopathy versus tearing, possible SLAP tear, left shoulder with same diagnosis." (PX2, P17-18). Though, only the right-sided tear was included under the plan section. (PX2, P17). A right shoulder MRI arthrogram was ordered. (PX2, P19).

On July 30, 2024, Petitioner obtained an MR Arthrogram of the right shoulder at SIH Memorial Hospital of Carbondale. (PX3, P1). It was unremarkable, specifically without labral pathology or rotator cuff tear. (PX3, P2).

On August 1, 2024, Petitioner returned to OISI and PA Palmer for right shoulder pain. (PX2, P21). The physical exam was recorded as unchanged. (PX2, P23). The MRI showed no tear. *Id.* Petitioner's diagnosis became tendinopathy of the right bicep tendon and strain of the rotator cuff. *Id.* No diagnosis was given on the left. *Id.* A diagnostic and therapeutic ultrasound guided injection of the biceps tenon sheath was ordered. (PX2, P24).

On January 21, 2025, Petitioner underwent a right shoulder ultrasound guided biceps sheath injection at OISI. (PX2, P27).

On February 24, 2025, Petitioner returned to OISI and PA Palmer for right shoulder pain. (PX2, P30). Petitioner had great relief from the injection, but the pain recurred. *Id.* Petitioner's physical exam remained positive for tenderness over the bicipital groove, Yergason's, Speed's, Neer, and Hawkin's testing. (PX2, P31). A repeat injection was ordered. (PX2, P32).

On March 11, 2025, Petitioner underwent a right shoulder ultrasound guided biceps sheath injection at OISI. (PX2, P35).

On April 8, 2025, Petitioner returned to OISI and PA Palmer for right shoulder pain. (PX2, P39). She was somewhat better but felt she could not do her normal work. *Id.* Petitioner was interested in proceeding with arthroscopy for a debridement with open subpectoral biceps tenodesis. (PX2, P40). Her diagnosis was rotator cuff strain and biceps tendinopathy. *Id.*

On April 29, 2025, Petitioner presented to Dr. Timoney Farley at Motion Orthopaedics for an Independent Medical Examination. (RX2). Dr. Farley diagnosed Petitioner's with bilateral shoulder pain without objective evidence of injury on physical examination, x-ray, or MRI findings. (RX2, P6). He classified Petitioner's pain complaints as nonorganic and amounting to symptom magnification. *Id.* Dr. Farley found no causal connection between Petitioner's alleged shoulder pain and the reported work accident. *Id.* He said none of the medical treatment provided after the MRI, which lacked any abnormalities, would have been reasonable and necessary. *Id.* Dr. Farley placed Petitioner at MMI as of her MRI of July 30, 2024. (RX2, P7).

On June 30, 2025, Petitioner returned to OISI and PA Palmer for right shoulder pain. (PX2, P48). Petitioner had returned to work after her IME. *Id.* She reported persistent pain and intolerance to her work duties. *Id.* Her testing on the right side remained positive. (PX2, P49). Surgery on the right shoulder was again offered. (PX2, P50).

The parties deposed Dr. Davis on July 21, 2025. (PX6). Dr. Davis is an orthopedic surgeon. (PX6, P5). Jeremy Palmer is his physician's assistant that he says runs a lot of his clinic, answering

95% of the problems he encounters on his own. (PX6, P9). Dr. Davis testified Petiitoner's treatment began with him on March 19, 2024, with left greater than right shoulder pain. (PX6, P5-6). He recounted the information found in his medical records. (PX6, P6-10). Dr. Davis explained that a diagnostic and therapeutic injection can be used when there is no clear-cut structural tearing, but a patient still has complaints in the front of the shoulder. (PX6, P8). If the patient gets short term relief, then they are treating the correct spot. *Id.* The steroid can also calm inflammation. *Id.* Dr. Davis said that based on the lack of MRI findings, subjective complaints, and injection response, he diagnosed Petitioner with biceps tendinopathy and inflammation of the groove at the front part of the shoulder. (PX6, P12). Though this usually improves through conservative measures, this had not and so warranted a subpectoral tenodesis. *Id.* Dr. Davis said this is a common surgery with a predictable outcome after tying the biceps down. (PX6, P14-15). Dr. Davis based his opinion that the work accident caused Petitioner's condition on the report that she was doing fine until the accident occurred and her pain persisted thereafter. (PX6, P15). He noted no symptom magnification. (PX6, P16).

On cross examination, Dr. Davis testified his PA sees more patients than he does each week. (PX6, P17). It would not surprise Dr. Davis if his patients said they see his PA more often than they see him. (PX6, P17-18). Dr. Davis indicated that Petitioner's complaints began as left greater than right shoulder pain. (PX6, P18-20). As of May 20, 2024, Dr. Davis said Petitioner's symptoms changed in that her right side became more painful and was the predominant issue for her rather than the left side. (PX6, P21). Dr. Davis confirmed the May visit was the first one with reports of popping and clicking he assumes were on the right, along with many positive testing maneuvers and tenderness over the bicipital groove. (PX6, P21-22). Dr. Davis could not say if the right or left shoulder was examined on May 20, 2024, as it was not documented. (PX6, P22). Dr. Davis could not explain how it was documented that Petitioner's testing was negative bilaterally in March and April but then moved to being positive in May, with the specific side being undefined. (PX6, P22-24, 25-26). Dr. Davis said his diagnoses of right and left shoulder biceps tendinopathy versus tearing, with possible SLAP tears, were based on his physical examinations and Petitioner's subjective reports. (PX6, P24). Dr. Davis said he relied on Petitioner's weakness but found it minimal and the same bilaterally. (PX6, P25-26).

Dr. Davis testified he ordered an MR arthrogram for the right and not the left side because as of May 2024, that was the more symptomatic of the two. (PX6, P26). He agreed that from the accident leading to May, the more symptomatic side was the left. (PX6, P27). An arthrogram was ordered because it has increased sensitivity. *Id.* Dr. Davis said tendinopathy means the tendon causing pain, which can be degeneration, tearing, chronic inflammation, or other pain. (PX6, P28). He said tendinopathy or a rotator cuff strain can be seen on MRI depending on the level or grade. (PX6, P29). Dr. Davis agreed neither was seen on Petitioner's imaging. *Id.*

Dr. Davis testified Petitioner did not treat from August 2024 to January 2025, but her restrictions stayed in place. (PX5, P30). Dr. Davis explained that Petitioner eventually returned for an

injection and obtained some relief. (PX5, P32). He said it was likely that the numbing medicine that gave her that relief, which told him he was treating the appropriate area. (PX5, P33-34). Dr. Davis only met with Petitioner himself on two occasions, with the most recent being May 20, 2024. (PX5, P34).

Dr. Davis had a history of seeing Petitioner as a patient prior to this most recent work accident. (PX5, P35). Dr. Davis explained Petitioner treated with him for her left shoulder after an earlier work accident which involved pulling another food cart. *Id.* Then, Dr. Davis had suspected Petitioner had a left shoulder tear, but none was present on MR Arthrogram. (PX5, P36). Dr. Davis confirmed he released her to work full duty after the MRI despite some lingering symptoms due to a rotator cuff strain. *Id.* Dr. Davis believes the difference in the present case is that Petitioner now has biceps tendinopathy, a surgical condition, rather than only a strain. (PX5, P37).

The parties deposed Dr. Farley on August 5, 2025. (RX3). Dr. Farley is an orthopedic surgeon with about 40% of his practice devoted to treating the shoulder. (RX3, P4-5). When he examined Petitioner, Dr. Farly identified clear signs of symptom magnification. (PX5, P9). For example, when pushing on the pec tendon, where a shoulder injury should not reach, Petitioner cried out with light touch and recoiled in pain. *Id*. Dr. Farley was unable to perform simple testing due to Petitioner's self-limiting. (PX5, P9-10). He found this to be over the top and her complaints so wide that it did not support any certain diagnosis. (PX5, P10). Dr. Farley diagnosed bilateral shoulder pain but elaborated that this was entirely subjective in nature. (PX5, P11).

Dr. Farley testified that Petitioner's mechanism of injury would be insufficient to cause a structural shoulder injury in a 30-year-old. (PX5, P11). The MRI demonstrated that no injury had occurred in that her shoulder was normal. *Id.* Dr. Farley believed Petitioner should have recovered from any sort of strain she may have suffered as she was off work for an extended period. (PX5, P12). He disagreed with the diagnosis of biceps tendinopathy, stating the bicep was normal and without inflammation on MRI. (PX5, P13). Dr. Farley explained that relief from a subjective injection alone would be insufficient to give such a diagnosis without other evidence. *Id.* The doctor elaborated that even if Petitioner had biceps tendinopathy and inflammation, this would not be a surgical condition, but rather one addressed with anti-inflammatories and physical therapy. (PX5, P14).

On cross examination, Dr. Farley testified the treatment up to Petitioner's MRI would be reasonable and necessary, but that does not mean it was causally connected to a work injury as he did not identify that one had occurred. (PX5, P17). Dr. Farley agreed that though arthroscopic surgeries are partially diagnostic, that does not mean that they are done to determine the source of the problem. (PX5, P19). He said that identifying entirely new findings in surgery that were not seen on MRI at all never really happens. (PX5, P18). Dr. Farley indicated that diagnoses are not made or confirmed in an operating room as you should already know what will be seen before going to surgery. (PX5, P19-20).

At arbitration, Petitioner testified on direct examination that she is employed as a Support Service Worker which means she delivers food from the kitchen to the patients. (T8). Petitioner explained that on March 13, 2024, she was picking up dirty dishes using carts with two shelves, using the bottom shelf for said dishes. (T9). Petitioner described directing the cart but having to hold and push it to move it in the correct direction. (T10). Petitioner said she went to the hospital for injury to both of her shoulders as a result. *Id.* She said she primarily treated for the right side, but the provider always asked about the left, though that side is not as symptomatic now. (T10-11). Petitioner stated she returned to work full duty, but her coworkers assist her so she can do lighter work than is assigned. (T13). Petitioner noted she has a history of prior left shoulder injury and symptoms. (T14). Petitioner thought her right side was worse because that is her dominate side that she uses to drive and for other activities. *Id.* Petitioner wishes to have the right shoulder arthroscopic debridement with open subpectoral biceps tenodesis that Dr. Davis has recommended. (T16).

On cross examination, Petitioner testified she has remained in full duty status since returning to work on June 19, 2025. (T17). Petitioner says her supervisor is aware that she is doing the lighter of her assigned duties. (T18). Petitioner said she informed Dr. Davis and his PA as well. (T19). Petitioner agreed that her prior, left sided injury was in 2022. *Id.* She indicated that prior injury was also from pushing a cart at work. *Id.* Petitioner was treated non-operatively by Dr. Davis. (T20).

Therefore, the Arbitrator concludes the following:

1. The Arbitrator finds the opinions of Dr. Farley to be more credible than those of Dr. Davis.

   Both orthopedic surgeons are experienced in diagnosis and treatment of shoulder conditions. Dr. Davis relies heavily on his physician's assistant, Jeremy Palmer. The records from OISI do not clearly document consistent physical examination findings that would support a causal connection between Petitioner's accident and her current condition. Petitioner alleges an injury to the person as a whole in her Application for Benefits, rather than injury to one or both shoulders. Petitioner's condition began as left greater than right shoulder pain. Her symptoms changed to right greater than left shoulder pain in May 2024, accompanied by newly reported symptoms. The physical testing performed at OISI to determine the cause of Petitioner's complaints changed from mostly negative to entirely positive in May 2024, as well. The physical examinations documented in the records from OISI do not indicate whether the left or right side was examined and Dr. Davis did not clarify this in his deposition. Dr. Davis stated that his opinions are based on Petitioner's subjective complaints and the physical examination records. As these records lack clarity and cannot be relied upon, neither can the opinions of Dr. Davis.

Dr. Farley's opinion that Petitioner did not suffer an injury as the result of her work accident is supported by the evidence. Her MRI was normal, according to every doctor who reviewed it. Petitioner appeared to be magnifying her symptoms during the IME as her presentation did not support any specific diagnosis. Her expressions of pain and apprehension were not what one would expect to see even if an injury had been sustained. Dr. Farley did not find Petitioner's mechanism of injury to be appropriate to have sustained an acute injury or aggravation lasting several months and throughout a course of physical therapy. Petitioner previously claimed an injury to her left shoulder due to use of a cart in 2022. Petitioner lacked objective evidence of injury at that time and was released from care by Dr. Davis to go back to work full duty. The facts are parallel to the present case. However, Dr. Davis is now recommending surgery despite the lack of objective evidence of shoulder pathology. As Petitioner's current condition lacks structural changes to the shoulder, it does not warrant surgical intervention.

Based on the foregoing, the Arbitrator finds in favor of Petitioner as to the issue of accident as use of a cart may have caused some complaints.

The Arbitrator finds in favor of Respondent as to the issue of causal connection and finds Petitioner to have reached MMI as of the date of her MRI on July 30, 2024. The medical treatment provided up to July 30, 2024, has been reasonable and necessary and Respondent shall be responsible for the medical bills incurred to this date. No additional TTD is due.

Petitioner's request for prospective medical treatment is denied.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC030424
Case Name	Patricia Eddington v. State of Illinois - Illinois Department of Corrections
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0246
Number of Pages of Decision	15
Decision Issued By	Amylee Simonovich, Commissioner

Petitioner Attorney	Mary Massa, Nathan Becker
Respondent Attorney	Nicole Werner

DATE FILED: 8/27/2026

/s/Amylee Simonovich, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF JEFFERSON)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse Choose reason	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify Choose direction	☐ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

PATRICIA EDDINGTON,

Petitioner,

vs. NO: **23WC030424**

STATE OF ILLINOIS, ILLINOIS DEPARTMENT OF CORRECTIONS

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by Respondent herein and notice given to all parties, the Commission, after considering the issues of accident, causal connection, medical expenses, temporary total disability, and permanent partial disability, and being advised of the facts and law, corrects the Decision of the Arbitrator as set forth below but otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

On page one of the narrative of the Decision, in the first paragraph of that page, the Commission strikes "???" and replaces it with "injuries".

On page 7 of the narrative of the Decision, under Issue (F), the Commission strikes the first sentence in its entirety.

On page 8 of the narrative of the Decision, under Issue (J), in the second paragraph, the Commission strikes the following language: "and no evidence that the medical services the Petitioner received were not reasonable and necessary."

IT IS THEREFORE ORDERED BY THE COMMISSION that the Arbitrator's Decision filed on October 7, 2025, is corrected as stated herein, and is otherwise affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under § 19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Pursuant to §19(f)(1) of the Act, claims against the State of Illinois are not subject to judicial review. Therefore, no appeal bond is set in this case.

AUGUST 27 2026

/s/ *Amylee H. Simonovich*
Amylee H. Simonovich

O: 8/25/26
AHS/ps
051

/s/ *Stephen J. Mathis*
Stephen J. Mathis

/s/ *Kathryn A. Doerries*
Kathryn A. Doerries

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC030424
Case Name	Patricia Eddington v. State of Illinois - Illinois Department of Corrections
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	12
Decision Issued By	Jeanne AuBuchon, Arbitrator

Petitioner Attorney	Nathan Becker
Respondent Attorney	Nicole Werner

DATE FILED: 10/7/2025

/s/ Jeanne AuBuchon, Arbitrator

Signature

INTEREST RATE WEEK OF OCTOBER 7, 2025 3.70%

CERTIFIED as a true and correct copy pursuant to 820 ILCS 305/14

OCTOBER 7 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

STATE OF ILLINOIS)
)SS.
COUNTY OF JEFFERSON)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

Patricia Eddington
Employee/Petitioner

v.

IDOC
Employer/Respondent

Case # 23 WC 030424

Consolidated cases:

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable AuBuchon, Arbitrator of the Commission, in the city of Mt. Vernon, on 8/19/2025. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☐ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other

FINDINGS

On **11/1/2023**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned **$106,092.00** the average weekly wage was **$2,040.23**

On the date of accident, Petitioner was **62** years of age, ***married*** with **0** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has not*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $0 for TTD, $ for TPD, $0 for maintenance, and $**0** for other benefits, for a total credit of $.

Respondent is entitled to a credit of $**Any Amount Paid** Section 8(j) of the Act.

ORDER

Respondent shall pay the reasonable and necessary medical services outlined in Petitioner's Exhibit 6, as provided in Sections 8(a) and 8.2 of the Act.

Respondent shall be given a credit for medical benefits that have been paid, and Respondent shall hold Petitioner harmless from any claims by any providers of the services or group health insurance for which Respondent is receiving this credit, as provided in Section 8(j) of the Act.

Respondent shall pay Petitioner temporary total disability benefits of $1,360.15/week for 8 and 4/7 weeks, commencing November 2, 2023, through December 31, 2023, as provided in *Section 8(b) of the Act.*

Respondent shall pay Petitioner permanent partial disability benefits of $1,024.87 per week for 68.3 weeks, because the injuries sustained caused 20% loss of use of the right leg and 10% loss of use of the left arm.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Jeanne L. AuBuchon
Signature of Arbitrator

OCTOBER 7 2025

PROCEDURAL HISTORY

This matter proceeded to trial on August 19, 2025, on all disputed issues. The issues in dispute are: 1) whether the Petitioner sustained accidental injuries that arose out of and in the course of her employment; 2) the causal connection between the accident and the Petitioner's ???; 3) payment of medical bills; 4) entitlement to temporary total disability (TTD) benefits; and 5) the nature and extent of the Petitioner's injury. The parties agreed that the issues of causation, medical bills and TTD were disputed on the basis of accident/liability.

FINDINGS OF FACT

At the time of the accident, the Petitioner was 62 years old and employed by the Respondent as a healthcare unit administrator. (AX1, T. 9) The Petitioner testified that on November 1, 2023, she was on her way from her office in the healthcare unit to CPR training at the work camp. (T. 12-13) She let herself out of the gate and locked it after she walked through it and was walking to the gatehouse when she encountered stairs. (Id.) The Petitioner identified photos of the stairs. (T. 13, RX5) She said she was going up the steps, holding the handrail with her right hand, and put her left leg on the top. (T. 13-14) She said she was bringing her right leg up and stepped on a hard object that threw her off balance. (Id.) She said she started to go forward, put her left arm down. (Id.) She said her elbow snapped, her face hit the concrete, and her knee hit the edge of the top of the step. (Id.) She said her right knee did not give out leading to the fall. (T. 14) She said the path she was taking was the most-direct and normal path she would take. (T. 15) She said the steps were in a restricted area behind a fence that the public could not access. (T. 15-16) She said there was nothing covering the steps to protect them from the weather. (T. 14)

The Petitioner acknowledged having a prior right knee injury on Memorial Day 2023 when a dog hit her in the knee. (T. 10-11) On October 5, 2023, she underwent right knee arthroscopic

surgery for a right lateral medial meniscus tear performed by Dr. Carl Painter, an orthopedic surgeon at the St. Francis Orthopaedic Center. (T. 10-11) She was released to work full duty on October 18, 2023. (T. 12)

On the day of the accident, the Petitioner submitted an Employee's Notice if Injury in which she stated that she had placed her left foot on the top of the steps, and "something (object unknown)" caused her to lose her balance and fall. (RX2)

Bradley Essenpreis, internal affairs officer for the Respondent, testified that he inspected and took photographs of the stairs on the day of the accident. (T. 27-28) He said he did not notice any kind of defect or hard object on the stairs. (T. 28)

After the accident, the Petitioner was taken by ambulance to the emergency department at Sarah Bush Lincoln Fayette County Hospital. (T. 16, PX 1, PX2) The Petitioner reported to ambulance staff that she may have slipped on a nut. (PX1) X-rays showed a radial head fracture of the left elbow and a patellar fracture of the right knee. (PX2) A head and cervical spine CT showed no acute intracranial abnormality and no acute cervical spine fracture. (Id.) She was diagnosed with a closed head injury, facial contusions, right patellar fracture, radial head fracture of the left elbow and skin abrasions. (Id.) She was given an arm splint and knee immobilizer, prescribed pain medication and ordered off work until cleared by an orthopedist. (Id.)

The Petitioner saw Dr. Painter on November 8, 2023, and complained of right knee and left elbow pain with associated numbness and tingling in her fingers. (T. 17, PX3) The Petitioner testified that she did not previously have the numbness and tingling. (T. 17) She was prescribed pain medication, and a knee CT scan was ordered. (PX3) The scan was performed on December 5, 2023, and showed a minimally commuted predominantly transverse fracture of the midportion

of the right patella with slight displacement and joint effusion. (Id.) A ligamentous injury could not be excluded. (Id.)

The Petitioner underwent physical therapy for her right knee and left elbow beginning December 14, 2023, at RehabEdge. (PX5)

At a follow-up visit to Dr. Painter on January 11, 2024, the Petitioner continued to report pain in her right knee and left elbow with numbness and tingling to the first and fifth fingers and elbow catching. (Id.) X-rays showed healing fractures with mild/minimal residual deformity. (Id.)

On February 13, 2024, the Petitioner reported to Dr. Painter that she had continued pain and swelling in the left elbow with pain shooting down into the left first and fifth fingers and radiating at times into the bicep region. (Id.) She was having difficulty making a fist and straightening her left arm all the way. (Id.) She said therapy helped her knee, but she had pain when doing exercises and with certain movements. (Id.) Knee X-rays showed further healing of the patellar fracture with stable alignment. (Id.) Elbow X-rays showed radial head fracture with interval increase in the degree of displacement. (Id.) Dr. Painter added a diagnosis of left cubital tunnel syndrome and ordered electromyography (EMG), which did not demonstrate evidence of nerve injury. (Id.)

The Petitioner continued to undergo physical therapy until April 25, 2024, for a total of 26 visits. (PX5) She reported having less pain with activities. (Id.)

At a follow-up on April 26, 2024, Dr. Painter diagnosed medial epicondylitis of the left elbow and performed a steroid injection. (PX3) Dr. Painter stated that the persistent right knee pain with stairs and squatting was associated with patellofemoral arthritis after patella fracture. (Id.)

The Petitioner next sought treatment from Dr. Brett Wolters, an orthopedic surgeon at Springfield Clinic, because she felt Dr. Painter was not taking her complaints seriously and the quality of care was not adequate. (T. 19) At her first visit on June 26, 2024, the Petitioner complained to Dr. Wolters of continued pain in her elbow and knee. (PX4) She said she was going up some steps, and something caused her to fall. (Id.) X-rays showed a healed left radial head fracture with malunion and possible medial epicondylitis as well as a healed right patella fracture. (Id.) Dr. Wolters diagnosed a healed left radial head fracture with malunion and possible medial epicondylitis, a healed right patella fracture and right sided medial-sided knee pain with a possible recurrent meniscus tear. (Id.) He recommended MRIs of the knee and elbow. (Id.)

The MRIs were performed on July 9, 2024, at Springfield Clinic. (Id.) The knee MRI showed a meniscus tear with a displaced meniscal fragment and a healed patellar fracture with chondrosis. (Id.) The elbow MRI showed a healed slightly impacted radial head fracture with minimal chondrosis and no evidence of medial or lateral epicondylitis. (Id.)

On September 16, 2024, Dr. Wolters performed a right knee arthroscopy with partial medial and lateral meniscectomy/revision. (Id.) The Petitioner underwent physical therapy from October 2, 2024, through October 30, 2024, for nine visits. (PX5) At her last visit, she reported less pain with activities. (Id.) She had persisting right knee minimal edema, tenderness, clicking and medial joint instability. (Id.) Her left elbow had persisting but reducing tenderness and reduced edema but persisting severe restrictions with end active range of motion. (Id.)

At a follow-up visit with Dr. Wolters on December 10, 2024, the Petitioner reported that she continued to experience knee pain. (PX4) Dr. Wolters recommended viscosupplement injections. (Id.) No records of these injections were submitted at arbitration, but the Petitioner testified that they provided some benefit. (T. 20) On April 11, 2025, told Dr. Wolters that her

knee pain was overall better than before the surgery, that her range of motion was better, and that she was having some discomfort, but it was tolerable. (Id.) She had intermittent catching of her knee. (Id.) Dr. Wolters released her at maximum medical improvement for both her left elbow and right knee. (Id.) There were no restrictions listed in the note. (Id.)

The Petitioner testified that she still has occasional numbness and tingling of her elbow down and recurrent pain. (T. 21) She said she can't lift heavy objects well, such as her granddaughter, and has increased pain when she does. (Id.) She said she still has right knee pain and popping sensations. (T. 22) She said her knee gets weak at times. (Id.) She retired from the State of Illinios on January 1, 2024, and now works as a registered nurse at a nursing home on an as-needed basis – four hours whenever she can. (T. 10, 22)

CONCLUSIONS OF LAW

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law as set forth below.

Issue (C): Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?

In order to obtain compensation under the Act, a claimant bears the burden of proving by a preponderance of the evidence two elements: (1) that the injury occurred in the course of the claimant's employment and (2) that the injury arose out of the claimant's employment. *McAllister v. Ill. Workers' Comp. Com'n,* 2020 IL 12484, ¶ 32.

The phrase "in the course of employment" refers to the time, place and circumstances of the injury. *Id.* at ¶34. A compensable injury occurs in the course of employment when it is sustained while a clamant is at work or while he or she performs reasonable activities in

conjunction with his or her employment. *Id.* In this case, the Petitioner was at work walking from her office to the gatehouse for CPR training. Therefore, the Arbitrator finds that the Petitioner's injury occurred in the course of her employment.

The "arising out of" component is primarily concerned with causal connection. *Id.* at ¶ 36. To satisfy this requirement, it must be shown that the injury had its origin in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury. *Id.* A risk is incidental to the employment when it belongs to or is connected with what the employee has to do in fulfilling his or her job duties. *Id*. The three categories of risk are: (1) risks distinctly associated with the employment; (2) risks personal to the employee; and (3) neutral risks which have no particular employment or personal characteristics. *Id.* at ¶38.

A risk is distinctly associated with an employee's employment if, at the time of the occurrence, the employee was performing: (1) acts he or she was instructed to perform by the employer; (2) acts that he or she had a common-law or statutory duty to perform; or (3) acts that the employee might reasonably be expected to perform incident to his or her assigned duties. *Id.* at ¶46. The Court in *McAllister* gave examples of employment-related risks to include tripping on a defect at the employer's premises, falling on uneven or slippery ground at the work site or performing some work-related task which contributes to the risk of falling. *Id*. at ¶40.

If the Petitioner is to be believed that she slipped on an object, then the risk involved in traversing stairs to attend a CPR class was a risk distinctly associated with her employment. Mr. Essenpreis testified that he did not see an object when he inspected the site, which was consistent with what was depicted in the photos. However, Mr. Essenpreis was not present when the Petitioner fell and did not see if there was an object on the steps at that time. It is not outside the

realm of possibility that whatever the Petitioner slipped on was knocked off the step. Furthermore, the Arbitrator finds the Petitioner to be credible. Her testimony regarding how the accident occurred was consistent with her reports to the ambulance staff and what she wrote in her accident report.

The Arbitrator also considers whether there was a neutral risk. Injuries resulting from a neutral risk generally do not arise out of the employment and are compensable under the Act where the employee was exposed to the risk to a greater degree than the general public. *Id*. at ¶44. Such an increased risk may be either qualitative, such as some aspect of the employment which contributes to the risk, or quantitative, such as when the employee is exposed to a common risk more frequently from the general public. *Id*.

In this case, the Petitioner satisfied the requirement that she was exposed to a common risk of falling on those stairs more frequently than the general public. The stairs were not accessible by the general public – being behind a locked gate. The Petitioner testified this was the most direct and the usual route from the healthcare unit to the work camp. Therefore, the Arbitrator finds that traversing the steps also was a compensable neutral risk.

Lastly, there was no evidence that the Petitioner's fall was the result of a personal risk, such as her previously injured right knee giving out or any other health condition.

Therefore, the Arbitrator finds that the Petitioner has proved by a preponderance of the evidence that her injuries occurred in the course of and arose out of her employment.

Issue (F): Is Petitioner's current condition of ill-being causally related to the accident?

There was no evidence that the Petitioner's injuries were medically causally related to the fall. Based on the analysis above, the Arbitrator finds that the Petitioner's current condition of ill-being was causally related to the accident.

Issue (J): Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?

The right to be compensated for medical costs associated with work-related injuries is at the very heart of the Workers' Compensation Act. *Hagene v. Derek Polling Const.,* 388 Ill. App. 3d 380, 383, 902 N.E.2d 1269, 1273 (2009).

Based on the findings above and no evidence that the medical services the Petitioner received were not reasonable or necessary, the Arbitrator finds the medical services as listed in Petitioner's Exhibit 6 are found to be reasonable and necessary. Therefore, the Arbitrator orders the Respondent to pay the medical expenses contained in Petitioner's Exhibit 6 pursuant to Section 8(a) of the Act and in accordance with medical fee schedules. The Respondent shall have credit for any amounts already paid or paid through its group carrier. Respondent shall indemnify and hold Petitioner harmless from any claims arising out of the expenses for which it claims credit.

Issue K: What temporary benefits are in dispute? (TTD)

An employee is temporarily totally incapacitated from the time an injury incapacitates him for work until such time as he is as far recovered or restored as the permanent character of his injury will permit. *Archer Daniels Midland Co. v. Indus. Comm'n*, 138 Ill.2d 107, 118 (1990).

Based on the above findings, the Arbitrator finds the Petitioner is entitled to TTD benefits for 8 and 4/7 weeks from November 2, 2023, when she was first taken off work, through December 31, 2023, when she retired.

Issue (L): What is the nature and extent of the Petitioner's injury?

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law as set forth below. Pursuant to Section 8.1b of the Act, permanent partial disability from injuries that

occur after September 1, 2011, is to be established using the following criteria: (i) the reported level of impairment pursuant to subsection (a) of Section 8.1; (ii) the occupation of the injured employee; (iii) the age of the employee at the time of the injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. 820 ILCS 305/8.1b. The Act provides that, "No single enumerated factor shall be the sole determinant of disability." *Id.*

(i) **Level of Impairment.** Neither party submitted an AMA rating. Therefore, the Arbitrator uses the remaining factors to evaluate the Petitioner's permanent partial disability.

(ii) **Occupation.** The Petitioner is retired from employment with the Respondent but works part time at a nursing home. The Arbitrator places some weight on this factor.

(iii) **Age.** The Petitioner was 62 years old at the time of the injury. She has a few work years left during which time she will need to deal with the residual effects of the injuries. The Arbitrator places some weight on this factor.

(iv) **Earning Capacity.** There was no evidence of limitation of the Petitioner's earning capacity. Therefore, the Arbitrator places no weight on this factor.

(v) **Disability.** Although Dr. Wolters released her with no apparent restrictions, she testified that she still has occasional numbness and tingling and recurrent pain in her arm. She said she can't lift heavy objects well. She said she still has right knee pain, popping sensations and weakness. The Arbitrator puts significant weight on this factor.

Based on the foregoing evidence and factors, the Arbitrator finds that the Petitioner sustained serious and permanent injuries that resulted in the 20 percent loss of use of her right leg and 10 percent loss of use of her left arm.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	22WC002070
Case Name	Iyore Iyare v. State of Illinois - Illinois Department of Children and Family Services
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0247
Number of Pages of Decision	13
Decision Issued By	Christopher Harris, Commissioner

Petitioner Attorney	
Respondent Attorney	Maya Rojas

DATE FILED: 8/27/2026

/s/Christopher Harris, Commissioner

Signature

STATE OF ILLINOIS)	☐	Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
) SS.	☐	Affirm with changes	☐ Rate Adjustment Fund (§8(g))
COUNTY OF COOK)	☒	Reverse	☐ Second Injury Fund (§8(e)18)
			☐ PTD/Fatal denied
	☐	Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

IYORE IYARE,

Petitioner,

vs. NO: 22 WC 2070

ILLINOIS DEPARTMENT OF CHILDREN
& FAMILY SERVICES,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Petitioner herein, and notice given to all parties, the Commission, after considering the issues of accident, causal connection, medical expenses, temporary benefits and permanent partial disability (PPD) benefits, and being advised of the facts and applicable law, reverses the Decision of the Arbitrator. The Commission finds that Petitioner sustained an accident on November 18, 2021 that arose out of and in the course of her employment by Respondent. The Commission further finds that Petitioner's current condition of ill-being related to her bilateral carpal tunnel syndrome is causally connected to said accident. Petitioner is entitled to workers' compensation benefits as awarded below.

FINDINGS OF FACT

Petitioner began working as an investigator with the Illinois Department of Children & Family Services in March 2021. (T.8; T.53). Her investigations involved child abuse and abandonment. (T.8). Petitioner's normal work shift was from Monday through Friday, 8:30 a.m. to 5:00 p.m., "and sometimes I work overtime," which included Saturdays. (T.8-9). She testified that she did not have breaks but would " . . . just eat as we go." (T.13).

Petitioner performed part of her work in an office cubicle equipped with a laptop, desk monitor and a non-adjustable chair. (T.9-10). She testified that the keyboard on her desk was "a little bit high for my chair," and she had to lean in with her hands at chest level to type. (T.10-11). Petitioner also stated that the keyboard did not really work and she had to repeatedly press the same keys. (T.11-13).

Petitioner's job duties included making phone calls to doctors, schools or family members that she needed to interview. "[E]ven when you are talking to those people on the phone, you are collecting notes and you are still typing no matter what." (T.13-14). Sometimes the interviews were in person either at a child's school or at their home. (T.8; T.14-15). Petitioner had six to nine cases per week with multiple parties in each case. (T.15-16). She explained that if a household had five children, "I have to treat all five children as part of my caseload as well." (T.16). Petitioner had her laptop while out on the field, but would take notes on a notepad and then later transfer them to the computer. (T.17-18). "I drive a block away. And then I sit in my car and put in the case notes because I have to go to another family." (T.19). Petitioner confirmed that the laptop would be on her lap and she still had difficulty with the keystrokes. She also moved the car seat back from the steering wheel to give herself more space. (T.19). Petitioner explained that the notes she typed included the conversations she had from A to Z exactly. "[T]here's no shortcut or try to abbreviate the notes. So it's the story, the narrative." (T.19-20).

On October 20, 2021, Petitioner presented to her primary care physician's office at Mile Square-Englewood with concerns related to carpal tunnel syndrome in both hands. She reported to the Nurse Practitioner that she first experienced carpal tunnel syndrome when she was pregnant. Her OB/GYN records from UI Hospital documented that she delivered a child in 2017. (PX1). Petitioner further reported that recently, symptoms of numbness and pain in both hands and wrists had returned. "Pt states that the confluence of increased computer keyboarding and the receipt of Covid 19 vaccine, influenza vaccine and hep B vaccines are all contributory to her current symptoms." (T.21-22; PX1). The Nurse Practitioner examined Petitioner and assessed her with bilateral carpal tunnel syndrome. Petitioner was prescribed Naprosyn and Prednisone and provided with bilateral wrist splints. The Nurse Practitioner also recommended an EMG/NCV study and ortho consultation. Petitioner requested to be taken off work for the rest of the month, and also indicated that she would need to take an unpaid leave from work due to her school (nursing student) and work schedules. She was provided with an off work slip covering October 18, 2021 through October 24, 2021. (PX1).

On November 18, 2021, Petitioner sought emergency treatment at Cook County Health. She complained of bilateral hand pain and numbness and decreased range of motion. Petitioner also reported being unable to function well with daily activities. The ED records noted that Petitioner had no significant past medical history and she had been experiencing bilateral hand pain for several months. Petitioner's pain traveled from her wrists to her elbows and she also noted that her hands felt swollen and she had difficulty gripping items. She had attempted to treat her pain with Naproxen and Prednisone with no significant benefit. "Patient is employed as a typist for several years and has noted that has been increasingly difficult to type. Patient denies trauma to the bilateral upper extremities." (T.22-23; PX2). Physical examination was significant for positive Tinel's test bilaterally. Petitioner's diagnoses included carpal tunnel syndrome, tendinitis of the wrist, a sprain, and fracture, but "[c]arpal tunnel syndrome most likely based on patient's occupation requiring constant typing, worsening pain at night, and bilateral positive Tinel's test. Rheumatologic causes considered though less likely based on the location of the pain at the carpal tunnel, no tenderness or swelling of the digit joints bilaterally." (T.23; PX2). Bilateral wrist x-rays revealed no acute findings or tissue swelling. Petitioner's pain improved with Ketorolac, and she was placed in bilateral wrist splints and referred to hand surgery. (T.23; PX2).

Petitioner was evaluated on the same date by the orthopedic surgery department at Cook County Health. The history of present illness added that Petitioner's symptoms began on 9/24/2021, "two days after she [sic] her second Pfizer COVID 19 vaccine dose, a flu shot, and hep B series." (PX2). Petitioner's symptoms were worse at night and worse in her left hand even though she is right-handed. "She reports that she works as an investigator and types the majority of the time at her job." (PX2). The medical record stated that Petitioner's clinical presentation and history were consistent with carpal tunnel syndrome. She was encouraged to continue wearing wrist splints at night for short-term relief and to follow-up with Dr. Grevious. (T.23; PX2).

Dr. Mark Grevious was the attending physician at the Cook County Health Plastic Surgery department and he examined Petitioner on November 23, 2021. The visit note documented Petitioner's ED visit for bilateral wrist swelling and pain, and that she had developed symptoms on 9/24/2021, two days after receiving vaccinations. The visit note further indicated that Naproxen and Prednisone did not alleviate her pain or symptoms, and she was referred to the hand surgery team for suspicion of carpal tunnel syndrome. "The pt is a typist and has not been able to work." (T.23; PX2). The visit note stated that Petitioner's presentation was "not entirely congruent with carpal tunnel syndrome as her tingling is not in the expected median nerve distribution. The circumferential swelling in her wrists may be causing to [sic] the nerve symptoms she is experiencing via compression." (PX2). Petitioner's working diagnoses included "RA" versus carpal tunnel syndrome versus idiopathic inflammatory process. An EMG/NCV study was ordered and Petitioner was referred to rheumatology. (T.23; PX2).

Petitioner consulted with Dr. Shilpa Arora at the Cook County Health rheumatology department on November 24, 2021. The medical record stated that Petitioner had been referred for evaluation of pain in both wrists which started abruptly in "9/21" after COVID and flu shots. She also had severe pain in the palmar aspects of both hands that radiated to her fingers, as well as numbness and tingling. The record stated: "She started a new job in 3/21 where has to type all day (although uses R hand predominantly)." (T.24; PX2). Dr. Arora opined: "Young woman with acute onset numbness, tingling and pain in both wrists. Symptoms and exam consistent with B/L carpal tunnel syndrome probably precipitated by repetitive motion from typing. No evidence of inflammatory arthritis on exam." (PX2). An EMG/NCV study was ordered, and splinting, rest and Gabapentin were advised. If conservative measures failed, then a trial steroid injection would be offered. (PX2).

Petitioner returned to the rheumatology department on December 20, 2021. She reported doing worse despite using splints, Gabapentin and Prednisone. Dr. Arora examined Petitioner and diagnosed her with worsening bilateral carpal tunnel syndrome. Petitioner also completed an ultrasound that showed synovial distension in both wrists "which is partially compressible with questionable grade 1 doppler signal on R side." (PX2). Petitioner was advised to continue with the splints and medication. (PX2).

Petitioner was next evaluated by Dr. Matthew Kruchten on January 3, 2022 at the Cook County Health Plastic Surgery Hand Clinic. The visit note documented that Petitioner had no significant prior medical history, and that the rheumatology department had referred her to the clinic for suspected bilateral carpal tunnel syndrome. Petitioner reported bilateral hand pain, numbness, tingling and weakness that began about 3-4 months ago. She denied any known inciting

event. Petitioner had been treating with hand splints, Gabapentin and started a 21-day course of Prednisone. "She works for DCF and reports significant difficulty completing her job because she does a lot of typing at work which exacerbates her symptoms." (T.24-25; PX2). Petitioner was scheduled for an EMG. (PX2).

Petitioner completed the EMG/NCV study on January 13, 2022. The results revealed electrophysiologic evidence of bilateral median mononeuropathies at the wrists which were mild to moderate in severity on the right, and moderate in severity on the left. (T.24; PX2).

On January 18, 2022, Petitioner was evaluated by Dr. Idanis Perez-Alvarez, another physician at the Cook County Health Plastic Surgery department. The history stated that Petitioner had been experiencing symptoms since "8/21, presented initially and was sent to many other specialist[s] for initially suspected inflammatory arthritis, told to pursue conservative management." (PX2). The visit note stated that Petitioner's pain had worsened, left greater than right, "so bad she has to drive with the back of her hands. She notes that her job requires her to sit at a computer and thinks that it was not properly adjusted to her." (PX2). Petitioner's EMG results were also noted. Dr. Perez-Alvarez administered a steroid injection into the carpal tunnel bilaterally and advised Petitioner that she would likely need a carpal tunnel release in the future. (T.25; PX2).

Petitioner followed-up with the rheumatology department at Cook County Health on January 24, 2022 for management of her carpal tunnel syndrome. Her symptoms were improving, but pain was worse on the left than the right and increased with use and at night. Petitioner could make fists more freely but still had difficulty with her left hand. She continued using her splints and taking Gabapentin. The visit note documented that Petitioner was scheduled for a surgical evaluation for CTS release. Petitioner also completed a second ultrasound that showed grade 2 synovial distension at the wrist with grade 1 doppler signal suggestive of synovitis. The impression was probable seronegative rheumatoid arthritis based on exam and ultrasound findings. Bilateral hand x-rays also indicated no acute osseous abnormality. (PX2).

Petitioner followed-up with the rheumatology department at Cook County Health on February 22, 2022. The visit pertained to probable seronegative rheumatoid arthritis and bilateral carpal tunnel syndrome. Joint pain and swelling were much better. (T.25; PX2). Petitioner testified that the injections helped for about a month but then the pain returned. (T.25).

Petitioner proceeded with a right carpal tunnel release with Dr. Jafar Hasan and Dr. Grevious on April 7, 2022. (T.26-27; PX3). She testified that she continued treatment after the surgery and that Dr. Shilpa completed physician statements for CMS. She also released her from care in June 2022. (T.27-28).

On August 11, 2022, Petitioner followed-up with a Nurse Practitioner at Mile Square-Back of the Yards Family Medicine. The visit note stated that Petitioner was there to establish care. The visit note also stated that Petitioner was out of work after carpal tunnel surgery, and that physical therapy at Cook County was not helping her. Petitioner's right wrist was more swollen and painful than the left. It was further documented that Petitioner typed at work and she was not ready to return at this time. She was referred to UIHealth PT/OT and received post-operative occupational

therapy from August 12, 2022 through August 26, 2022. The Initial Evaluation record noted that Petitioner's medical history included obesity, chronic back pain, carpal tunnel syndrome, and seronegative rheumatoid arthritis. (PX1).

Petitioner acknowledged that her doctors took her off work from November 19, 2021 through June 30, 2022. (T.25-28). She also testified that she continued treatment into 2023 at the Mile Square Health Center but there were no medical records past August 26, 2022 in evidence. There were CMS physician statements related to bilateral carpal tunnel syndrome and right/wrist hand pain that listed the treatment date range from November 24, 2021 through January 22, 2024. The forms also indicated bi-monthly acupuncture and pain management. Petitioner was expected to resume work on March 20, 2024. (T.29-30; PX1). Petitioner testified that Public Aid paid for her treatment related to carpal tunnel syndrome. (T.30).

As of the arbitration date, Petitioner continued to feel tingling and tenderness in the right hand. She also could not open a jar or cook like she used to. (T.31; T.47-48). Petitioner additionally had difficulty writing and bathing herself and her child. Her hand would swell after vacuuming. (T.31-32; T.45-47).

During cross-examination, Petitioner testified that she had been receiving more assignments around the time of the manifestation date. (T.42-44). She further testified that checking in for work involved a text or phone call to her supervisor, but there was no process for checking out of work. (T.48-49). There was an approval process for overtime work. Petitioner testified that either a supervisor or administrator would suggest working overtime if she could not meet her deadline. "I always tell them, no, my timeframe is from 8:30 to 5:00 because I don't like working overtime because I have to get my baby from the daycare . . . But I was told I need to meet my deadline. They said, no." (T.49-50). Petitioner also explained that along with her timesheet, there was a separate document for overtime. (T.51-52). Respondent offered Petitioner's wage statement as evidence. (RX1). Petitioner confirmed that she was still employed by Respondent but was on an unpaid medical leave of absence. (T.44-45; T.54-55).

During re-direct examination, Petitioner testified that she worked overtime because "I was not able to do all my caseload. And also I have to parallel with other workers from different states. And sometimes we have to take over other people's notes that have quit also." (T.56-57). Petitioner stated that she has conducted home visits in the evenings and also on Saturdays. She also worked at night on the computer. (T.57). Petitioner additionally testified that she spent five to six hours driving during her work day. "And that's why I have to do all the caseload when I get home." (T.58-60).

Petitioner denied having hand problems or treatment for her hands prior to March 2021. (T.57-58). She also denied participating in any repetitive extracurricular activities. (T.58).

Deposition of Respondent's Section 12 Examiner Dr. Robert Wysocki – July 24, 2023

Respondent sent Petitioner for a Section 12 examination with Dr. Wysocki on April 1, 2022. He testified consistent with his report. (T.26-27; RX2, pgs. 10-11; pgs. 26-27; RX3). Dr. Wysocki is a board-certified orthopedic surgeon who specializes in the hand and upper extremity.

(RX2, pg. 5). He testified that some known causes or associated factors of carpal tunnel syndrome included genetic pre-disposition where the condition runs in the family. The female gender was also a significant risk factor, as well as obesity, smoking, inflammatory arthropathies such as rheumatoid, thyroid conditions and trauma. Dr. Wysocki also stated that women who were currently pregnant or had recently given birth had a higher incidence of carpal tunnel. (RX2, pgs. 13-14). He testified that the condition usually subsided after birth, but not always. (RX2, pg. 14). Dr. Wysocki specifically noted that Petitioner carried the female gender and obesity as independent factors for the development of carpal tunnel syndrome. (RX2, pgs. 21-22; pg. 24).

Respondent's attorney asked if someone experienced carpal tunnel issues during certain activity, would the symptoms then stop if the activity ceased. Dr. Wysocki indicated that the symptoms would subside in milder conditions, but "[i]f someone has been doing that activity for a very long period of time and there are much more chronic changes, it can be harder for it to subsidize when the activity is stopped." (RX2, pg. 15). Dr. Wysocki testified that Petitioner reported developing symptoms in both hands simultaneously in September 2021 with no specific trauma. She also reported that around the time her symptoms developed, her caseload at work doubled from three cases per week to six or seven, "and this led to her working considerable over time." (RX2, pg. 16). Petitioner further informed Dr. Wysocki that the home visits would be about six to eight hours per day in total followed by 6 to 10 hours of computer-based documentation. The documentation was performed on a standard keyboard and typed rather than written. (RX2, pgs. 16-17).

Dr. Wysocki testified regarding Petitioner's treatment and EMG/NCV study, and noted that she had an upcoming right carpal tunnel release. (RX2, pgs. 17-21). Petitioner denied any pre-existing symptoms or problems with her hands. (RX2, pg. 18). Dr. Wysocki agreed that Petitioner would benefit from bilateral carpal tunnel release surgery assuming that the EMG test was positive for carpal tunnel syndrome as Petitioner reported. (RX2, pg. 22).

Dr. Wysocki testified that he had spoken with Petitioner in detail regarding the work activity she was performing for Respondent. He opined that Petitioner's carpal tunnel syndrome was not related to her job duties.

> [T]he sum total of the orthopedic and occupational literature does not strongly support a causal connection between standard typing activities and the development of compressive neuropathy such as carpal tunnel syndrome. Even though she was working long days from an hours standpoint in September of 2021 when the symptoms began, the time during which she was performing typing activities did not appear to have routinely exceeded that which would be part of a normal workday. She had said it was somewhere between six and eight hours often. (RX2, pg. 23).

Dr. Wysocki testified that Petitioner personally linked her typing activities as more connected with her symptoms rather than the non-typing activities of home visits and interviewing families. (RX2, pgs. 23-24). He further noted that Petitioner had no marked improvement in her symptoms after she stopped working. "Also worth noting that her symptoms were by far most

profound at night and not necessarily during her daily activities at work." (RX2, pgs. 24-25). Dr. Wysocki testified that the vast majority of carpal tunnel cases were idiopathic. (RX2, pgs. 24-25). In his Section 12 report, Dr. Wysocki stated: "I do believe that her case of carpal tunnel syndrome should be considered idiopathic." (RX2, pg. 27; RX3).

During cross-examination, Dr. Wysocki stated that his opinion on causation would not change if Petitioner's job duties included using a keyboard that required extra pressure to type, 6 to 10 hours a day, or if she typed with the laptop on her lap. (RX2, pgs. 28-29). Dr. Wysocki also could not give an exact cutoff regarding the timing of pregnancy and the development of carpal tunnel syndrome, but would have trouble linking the two around three months after pregnancy. (RX2, pgs. 31-32). He further admitted that there was literature supporting a causal relationship between computer activities, but "when you balance the two together, it doesn't appear to strongly enough support a causal connection . . ." (RX2, pg. 33). Dr. Wysocki added that if someone had to put their wrist consistently into prolonged extreme positions (with their wrist way back or way forward for hours), "like, if the work station was highly non-traditional, then that could be a factor." (RX2, pgs. 33-34). Dr. Wysocki did not believe that Petitioner's job duties aggravated, accelerated or exacerbated her condition. (RX2, pgs. 34-35).

CONCLUSIONS OF LAW

The Commission adopts the above Findings of Fact in support of the Conclusions of Law as set forth below.

The Arbitrator determined that Petitioner did not sustain work-related repetitive trauma to her wrists, and as such, her current condition of ill-being related to bilateral carpal tunnel syndrome is not causally connected to her job duties for Respondent. The Arbitrator found that Petitioner lacked credibility, in part due to her manner of speech, body language and flow of answers to questions during arbitration which he believed were "indicative of someone who seemed to be searching for rehearsed answers and was nervous." (Arbitrator's Decision, pg. 11). On this premise, our Supreme Court has held that "[w]here the sole support for an award rests upon the claimant's own testimony and claimant's actual behavior or conduct is inconsistent with that testimony, we have held the award cannot stand." *McDonald v. Indus. Comm'n*, 39 Ill. 2d 396, 405 (1968); *but see Swift & Co. v. Indus. Comm'n*, 52 Ill. 2d 490 (1972). Through these cases, the Supreme Court reasoned that where a claimant's actual behavior or conduct, *as revealed through other testimony or evidence*, is inconsistent with the claimant's testimony at hearing, then the Commission may have basis to deny the claim. *Id.* Therefore, the Commission's determination of Petitioner's credibility will be considered in the context of her testimony at arbitration in accordance with the record as whole, and after reviewing this matter, the Commission finds no substantive inconsistency that would merit a denial of Petitioner's claim. Accordingly, the Arbitrator's credibility assessment of Petitioner as described is set aside.

In the case at bar, Petitioner alleged that her employment activities were contributory to her bilateral carpal tunnel syndrome. She testified regarding awkward hand positioning when typing at her office desk or in her car, broken keyboards that required pressure when typing, and continuous and excessive note-taking and typing. An employee who alleges injury based on repetitive trauma is not required to show that a certain percentage of the workday was spent on a

given task in order to support a finding of repetitive trauma. *Edward Hines Precision Components v. Indus. Comm'n*, 356 Ill. App. 3d 186, 193-94 (2005). However, the employee must still meet the same standard of proof as other workers' compensation claimants alleging "accidental injury"; there must be a showing that the injury is work-related and not a result of the normal degenerative aging process. *Peoria Cnty. Belwood Nursing Home v. Indus. Comm'n*, 115 Ill. 2d 524, 530 (1987); *Edward Hines Precision Components v. Indus. Comm'n*, 356 Ill. App. 3d 186, 194 (2005). In such repetitive trauma cases, a claimant's unrebutted testimony alone, even if credible, cannot establish that his or her injuries were the result of the employment because this question is not within the common knowledge of a layman. The employee can make that showing, however, through medical opinion evidence from an expert or a treating physician. *Univ. of Ill. v. Ill. Workers' Comp. Comm'n*, 2021 IL App (4th) 210236WC-U, ¶ 41; ¶ 42; ¶ 44.

Petitioner did not take depositions of her physicians but instead relied on the medical opinion evidence found in the medical records to show that her bilateral carpal tunnel condition is work-related. On November 18, 2021, the emergency department physician opined that Petitioner most likely had carpal tunnel syndrome "based on patient's occupation requiring constant typing." (PX2). Similar to the ED physician, Dr. Arora, at the Cook County Health rheumatology department, evaluated Petitioner on November 24, 2021, and noted that Petitioner "started a new job in 3/21 where has to type all day (although uses R hand predominantly)." (T.24; PX2). Dr. Arora opined: "Young woman with acute onset numbness, tingling and pain in both wrists. Symptoms and exam consistent with B/L carpal tunnel syndrome probably precipitated by repetitive motion from typing. No evidence of inflammatory arthritis on exam." (PX2).

Respondent relied on the testimony and opinions of its Section 12 examiner, Dr. Wysocki, and argued that Petitioner's carpal tunnel syndrome was not work-related because her job duties varied and she worked limited overtime. Respondent also argued that according to Dr. Wysocki, Petitioner's symptoms did not improve after she stopped working, and as such, her condition was more likely the result of her co-morbidities or it was idiopathic. The Commission is not persuaded by these arguments.

Petitioner reported to Dr. Wysocki that around the time her symptoms developed, her caseload at work doubled from three cases per week to six or seven, and home visits would be about six to eight hours per day followed by 6 to 10 hours of computer-based documentation. At first, Dr. Wysocki testified that orthopedic and occupational literature did not support a causal connection between standard typing activities and the development of carpal tunnel syndrome, but he later admitted that there was literature supporting a causal connection. Notwithstanding, Dr. Wysocki still did not believe Petitioner's condition was work-related because her typing activities did not routinely exceed her normal workday. The Arbitrator agreed with Dr. Wysocki's conclusion that Petitioner's condition was not work-related but misunderstood that Petitioner had indicated working 16 hours a day which was contrary to the wage statement in evidence. The Arbitrator found Petitioner's reporting to be exaggerated and not credible. (Arbitrator's Decision, pgs. 14-15). The Commission finds both reasonings flawed.

Petitioner's wage statement showed that she worked 1050 regular working hours and 31 overtime hours in the approximate 7 months she worked for Respondent, until 10/15/2021. There was no evidence indicating that any of the regular hours were vacation, sick or personal time hours

used, and there was no evidence that Petitioner was off work during this period. The Commission finds the overall hours documented reasonable and significant. The wage statement also corroborated Petitioner's testimony about working the majority of her shift with some overtime with her work hours increasing in July and August 2021. This timeline tracked with Petitioner's medical records which documented the gradual onset of symptoms beginning around August/September 2021, and her first appointment related to bilateral carpal tunnel syndrome on October 20, 2021.

The Commission similarly finds Dr. Wysocki's opinion that Petitioner's condition was idiopathic or due to being female and obese not persuasive. The arbitration record demonstrated that despite so being, Petitioner did not experience carpal tunnel symptoms until after she had worked several months for Respondent and after her note-taking and typing increased in the latter half of 2021. Further, the Commission does not find dispositive Dr. Wysocki's comment about Petitioner not improving after she stopped working as he also testified that symptoms could persist if an individual had been performing the activity for a long period and there were chronic changes. In other words, he did not foreclose the possibility of Petitioner experiencing symptoms of carpal tunnel syndrome after she stopped working for Respondent.

By its Brief, Respondent additionally claimed that likely causes of Petitioner's carpal tunnel syndrome included pregnancy or having rheumatoid arthritis. Petitioner's medical records documented that she was last pregnant in 2017. There is no evidence that Petitioner had any issues or treatment related to carpal tunnel syndrome after her pregnancy and prior to 2021. In fact, Dr. Wysocki similarly noted that Petitioner had no pre-existing symptoms or problems with her hands. Petitioner also did not have any prior diagnosis, treatment or issues related to rheumatoid arthritis, and Dr. Arora specifically indicated that Petitioner had bilateral carpal tunnel syndrome with no evidence of inflammatory arthritis. No physician, including Dr. Wysocki, opined that the probable seronegative rheumatoid arthritis caused or resulted in the bilateral carpal tunnel syndrome.

The Commission is further not persuaded by Dr. Wysocki's testimony that his opinion on causation would not change if Petitioner's job duties included using a keyboard that required extra pressure to type or if she typed with the laptop on her lap. He had also stated that if someone had to put their wrist consistently into prolonged extreme positions (with their wrist way back or way forward for hours), "like, if the work station was highly non-traditional, then that could be a factor." (RX2, pgs. 33-34). Dr. Wysocki offered no opinion on whether Petitioner typing with her hands at chest level, and her body leaned in, because her office desk was higher than her chair could be considered a non-traditional work station. He also offered no opinion on whether typing while in the front seat of a vehicle could be considered a non-traditional work station.

In weighing the evidence, the Commission finds that Petitioner's physicians and Dr. Wysocki each conveyed sufficient understanding of the principal activity that Petitioner alleged to have caused or was a cause in her bilateral carpal tunnel syndrome (*i.e.*, "constant typing," "typ[ing] all day," "precipitated by repetitive motion from typing," and "six to 10 hours of computer-based documentation"). Nevertheless, Dr. Wysocki maintained that Petitioner's condition was the result of other non-work-related causes. The Commission finds his testimony and opinions in this regard were either equivocal or undercut by the preponderance of the evidence, and otherwise failed to rule out Petitioner's typing activities as contributory to her bilateral carpal

tunnel syndrome. *Sisbro Inc. v. Indus. Comm'n,* 207 Ill. 2d 193, 205 (2003). For these reasons, the Commission reverses the Arbitrator's decision and finds that Petitioner's bilateral carpal tunnel syndrome is causally related to her repetitive job duties as an investigator for Respondent. Based on the Commission's findings related to accident and causal connection, the Commission awards Petitioner the following workers' compensation benefits:

Petitioner's Exhibits 4 through 6 documented medical charges from 2021-2025. Some of the charges either pertained to unrelated treatment or were for dates of services without corresponding medical records from the providers. There were no medical records past the August 26, 2022 occupational therapy note from the University of Illinois at Chicago Health. Without further supporting records, the Commission is unable to determine whether any of the medical charges after August 26, 2022 were related to the November 18, 2021 work accident, and whether the charges were necessary and reasonably required to cure or relieve Petitioner from the effects of the accidental injury. *See 820 ILCS 305/8(a)*. Therefore, Petitioner's award of medical expenses is limited to the reasonable and necessary medical treatment related to her bilateral carpal tunnel syndrome, as documented in Petitioner's Exhibits 4-6, and only through August 26, 2022.

The Commission next awards Petitioner TTD benefits from November 19, 2021 through June 30, 2022. Petitioner stipulated to this date range on the Request for Hearing form and also confirmed at arbitration that she was prescribed off work by her physicians during this period. The Commission finds that the record supports Petitioner's claim.

Finally, as to PPD benefits, the Commission weighs the five factors under Section 8.1b(b) of the Act as follows:

(i) Impairment Rating: The parties did not offer any impairment rating into evidence. The Commission gives this factor no weight.

(ii) Occupation of Injured Employee: Prior to seeking treatment for her bilateral carpal tunnel syndrome, Petitioner was working without restriction as an investigator for Respondent. She testified that her physicians took her off work from November 19, 2021 through June 30, 2022, and as of the date of arbitration, she was still employed by Respondent but was on an unpaid medical leave of absence. The last medical record that mentioned Petitioner's ability to work was a CMS Physician's Statement/Authorization for Disability Leave and Return to Work that stated that Petitioner would be able to resume work on March 20, 2024. Other than this information, there is no testimony or evidence discussing Petitioner's present ability to work given her current condition of ill-being as it relates to bilateral carpal tunnel syndrome, and in particular, no information as to Petitioner's ability to return to her regular duties as an investigator. The Commission gives this factor little weight.

(iii) Petitioner's Age: According to the Application for Adjustment of Claim, Petitioner was 36 years old on the accident date; neither party submitted evidence into the record which would indicate the impact of Petitioner's age on any permanent disability resulting from the November 18, 2021 work accident. The Commission gives this factor little weight.

(iv) Petitioner's Future Earning Capacity: Petitioner provided no evidence regarding this factor. The Commission gives this factor no weight.

(v) Evidence of Disability: Evidence of Petitioner's disability, as corroborated by the treating medical records, demonstrated that Petitioner's repetitive job duties were a causative factor in her bilateral carpal tunnel syndrome. Her treatment comprised of prescription medication, bilateral wrist splints, steroid injections in both carpal tunnels, a right carpal tunnel release in her dominant hand and physical/occupational therapy.

As of the date of arbitration, Petitioner continued to feel tingling and tenderness in her right hand. She also could not open a jar or cook like she used to. Petitioner additionally had difficulty writing and bathing herself and her child. Her hand would swell after vacuuming. The Commission gives this factor significant weight.

In light of the foregoing, with no single enumerated factor being the sole determinant of disability, the Commission finds that Petitioner is entitled to 7.5% loss of use of the left hand and 10% loss of use of the right hand in PPD benefits pursuant to Section 8(e) of the Act.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed on November 24, 2025 is hereby reversed for the reasons stated above.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay the reasonable and necessary medical treatment related to Petitioner's bilateral carpal tunnel syndrome, as documented in Petitioner's Exhibits 4-6, only through August 26, 2022, and pursuant to Sections 8(a) and 8.2 of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner temporary total disability benefits of $763.47 per week (based on the $1,145.20 average weekly wage as stipulated by the parties (T.4-5)), for 32 weeks, from November 19, 2021 through June 30, 2022, that being the period of temporary total incapacity for work under Section 8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner permanent partial disability benefits of $687.12 per week (based on the $1,145.20 average weekly wage as stipulated by the parties (T.4-5)), for 33.25 weeks, because the injuries sustained caused 7.5% loss of use of the left hand (14.25 weeks) and 10% loss of use of the right hand (19 weeks) pursuant to Section 8(e) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all other amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Pursuant to §19(f)(1) of the Act, claims against the State of Illinois are not subject to judicial review. Therefore, no appeal bond is set in this case.

AUGUST 27 2026

/s/ *Christopher A. Harris*
Christopher A. Harris

CAH/pm
7/23/26
052

/s/ *Maria E. Portela*
Maria E. Portela

/s/ *Marc Parker*
Marc Parker

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	20WC018942
Case Name	Myron Sandiford v. Petco Petroleum Corporation
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0248
Number of Pages of Decision	24
Decision Issued By	Frank Soto, Commissioner

Petitioner Attorney	Rodney Smith
Respondent Attorney	Toney Tomaso

DATE FILED: 8/28/2026

DISSENT

/s/Frank Soto, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF JEFFERSON)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☒ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse Choose reason	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify Choose direction	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

MYRON SANDIFORD,

Petitioner,

vs. NO: 20 WC 18942

PETCO PETROLEUM CORPORATION,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by Respondent herein and notice given to all parties, the Commission, after considering the issues of accident, causal connection, notice, medical expenses, temporary total disability benefits, and nature and extent, and being advised of the facts and law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof, with the following changes incorporated as stated herein.

In the Order section of the Decision of the Arbitrator, the Arbitrator awarded temporary total disability benefits from July 28, 2020 through February 25, 2021. However, the end date of February 25, 2021 is inconsistent with the award of temporary total disability benefits made on page 15 of the Decision of the Arbitrator as well as the evidence presented at the hearing, both of which establish that Petitioner was entitled to temporary total disability benefits through September 13, 2021. The Commission thus corrects this clerical error by changing the award of temporary total disability benefits made on page 2 of the Order section to read as follows: "Respondent shall pay Petitioner temporary total disability benefits of $618.33/week for 58 6/7 weeks, commencing July 28, 2020 through September 13, 2021, as provided in §8(b) of the Act."

IT IS THEREFORE ORDERD BY THE COMMISSION that the Decision of the Arbitrator filed July 23, 2025, is modified as stated herein. In all other respects, the Commission affirms and adopts the Decision of the Arbitrator.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Illinois Workers' Compensation Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $75,000.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

AUGUST 28 2026

/s/ *Carolyn M. Doherty*
Carolyn M. Doherty

O: 7/15/26
FJS/mek
046

/s/ *Raychel A. Wesley*
Raychel A. Wesley

DISSENT

I respectfully dissent from the majority's decision to affirm and adopt the Decision of the Arbitrator and would have reversed the Arbitrator's findings of notice, accident, and causal connection for the reasons stated herein.

First, the credible evidence establishes that timely notice of the alleged accident was not provided to Respondent. Pursuant to the Illinois Workers' Compensation Act, notice must be given to the employer as soon as practicable, but not later than 45 days after the accident. 820 ILCS 305/6(c). Section 6(c) further provides: "No defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings on arbitration or otherwise by the employee unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy." *Id.* In the case at bar, the testimony provided by Jeffery Keathley and the memo written by Derek Sarver establish that Petitioner provided no notice of his May 28, 2020 accident to Respondent until July 26, 2020, which falls outside of the Act's 45-day requirement. Petitioner also never filled out an accident report with Respondent for his alleged injury. Petitioner's lack of notice unduly prejudiced Respondent because, had an accidental injury occurred at work, Respondent was denied the opportunity to investigate the accident and have Petitioner examined

which would have likely confirmed whether or not the T5 vertebrae sustained a facture at that time.

Not only was no notice provided to Respondent, but the credible evidence further establishes that no work accident even occurred. Petitioner alleges that he suffered a sudden onset of thoracic pain while bending to pick up a 600-pound pipe on May 28, 2020. However, Petitioner continued working full duty in his physically demanding rig operator job for two months after the incident, did not tell Respondent about his injury until late July 2020, and did not seek any medical treatment until June 23, 2020. When he finally presented for treatment close to a month after the incident, Petitioner still did not describe the alleged work accident to his treating doctor. It was not until July 28, 2020 that Petitioner told a medical provider, NP Penny Attaway, that he had injured his back at work on May 28, 2020. Moreover, in between the accident date and his first treatment date on June 23, 2020, Petitioner embarked on a multi-state road trip and complained of worsening and different thoracic pain thereafter.

Petitioner testified that after the alleged work accident occurred on a Thursday, he worked in his regular job on Friday and then took the road trip on Saturday where he picked up his son's girlfriend in Tennessee and drove her to Kentucky. Petitioner testified that although his back hurt some as he drove to Kentucky, the pain did not actually bother him until late Sunday night. Petitioner testified that he did not know whether he had turned the wrong way in bed, but he felt a different kind of pain on Sunday than he had on the accident date. Given Petitioner's delay in seeking treatment, failure to provide notice to Respondent, failure to describe any work accident at his initial treatment date, and ability to continue working until late July 2020, the evidence shows that no work accident occurred on May 28, 2020, and if anything, Petitioner's worsening and different thoracic pain was attributable to turning the wrong way in bed during his road trip.

Petitioner's credibility was further compromised by his description of the mechanism of injury itself, which conflicts with what he told to his treating physician. Petitioner testified that he hurt his back while bending over to pick a pump up off the ground. If Petitioner had in fact severely injured himself in the process of bending down for the pump, then he would not have been physically able to immediately thereafter continue lifting up the 600-pound pump and keep working in his regular job for two additional months. The undisputed evidence shows that immediately after the alleged accident, Petitioner was physically able to continue working at his full duty job before taking a multi-state road trip. If Petitioner had fractured his vertebra at T5, given the extent of damage to his spinal column due to his cancer, it is unlikely that Petitioner would have agreed to proceed on such a road trip. It was not until after Petitioner testified that he had possibly turned the wrong way in bed during the road trip that he even scheduled an appointment to see a doctor.

After undergoing an MRI, the cancer in Petitioner's spinal column was discovered and Petitioner's emergency surgery was scheduled. The cancer was so pervasive that Dr. Dy feared Petitioner risked paralysis due to the destruction of his thoracic vertebrae. Petitioner would not

have been physically able to keep working for two months post-accident if the remaining portion of his thoracic vertebra at T5 had fractured on the accident date. The Arbitrator's reliance upon Dr. Dy's testimony that he was not surprised Petitioner did not stop working until his pain became unbearable is nothing more than speculation. Dr. Dy proffered no opinion that Petitioner would have been physically able to work full duty with his severely compromised thoracic spinal column from his cancer if he had sustained a work-related fractured vertebra at T5 on top of it. It is more likely that Petitioner's vertebrae fractured when he turned in bed, causing him to schedule an appointment to see a doctor due to his significant pain.

Even assuming in arguendo that an accident had occurred as Petitioner claimed, it would have constituted a non-compensable personal risk. Personal risks include nonoccupational diseases, injuries caused by personal infirmities such as a trick knee, and injuries caused by personal enemies. McAllister v. Ill. Workers' Comp. Comm'n, 2020 IL 124848. Injuries resulting from personal risks are generally non-compensable and do not arise out of employment. *Id.* at ¶42. An exception to this rule exists when the work place conditions significantly contribute to the injury or expose the employee to an added or increased risk of injury. *Id.* In Petitioner's case, the injury was caused by a personal infirmity, specifically the cancerous tumor that was infringing on his spinal canal and destroying his thoracic vertebrae. Petitioner failed to show how the act of bending down significantly contributed to the destruction of his thoracic spine or increased his risk of injury.

Petitioner's thoracic condition was wholly related to the aggressive deterioration of his spine from the cancerous tumor and would have progressed to the same point of requiring emergency surgery whether or not any accident had occurred. Dr. Dy opined that although Petitioner's T5 fracture was pathologic and caused mainly by his cancer, it was exacerbated by the work accident. Dr. Dy believed that Petitioner likely had old compression fractures from a prior injury in 2002 but then developed a new fracture on top of the old fractures. The core of Dr. Dy's opinion is the development of new fractures on top of old fractures; however, without reviewing Petitioner's prior MRIs, his opinion is based upon pure speculation. Dr. Dy did not review any of Petitioner's pre-accident diagnostic studies in order to compare them to his post-accident condition and properly evaluate the progression of the preexisting fractures. Additionally, Petitioner provided Dr. Dy with a different mechanism of injury than what he testified to at the hearing. Specifically, Petitioner told Dr. Dy that his injury occurred while he was lifting something extremely heavy, whereas he testified that his thoracic pain began as he was bending down before picking up the pump. The forces on the spinal column are completely different bending down preparing to lift something than lifting a significant amount of weight. Liability for workers' compensation cannot rest on imagination, speculation or conjecture, but must be based solely upon the facts contained in the record. Caterpillar Tractor Co. v. Indus. Comm'n, 129 Ill. 2d 52, 61 (1989). Dr. Dy's opinion was further speculative, because Petitioner had not informed him of any other activities he performed in the two months prior to their first meeting on August 6, 2020 that were relevant to his back pain. Dr. Dy was thus unaware that Petitioner had taken a multi-state road trip and noted worsening and different pain thereafter. Dr. Dy's speculation renders his opinion unreliable.

Dr. Chabot instead provided the more reliable opinion that appropriately considered the progressive nature of Petitioner's cancer. Dr. Chabot opined that Petitioner's pathologic injury at T5 and subsequent surgery were not work-related, and instead, Petitioner had an aggressive, destructive tumor involving T5 associated with lymphoma that would have progressed regardless of what activities Petitioner performed. Dr. Chabot explained that the extent of the tumorous involvement strongly suggested that this condition had been present for some time and gradually resulted in the destruction of the vertebral body at T5 with extension of the tumorous lesion into the spinal canal. Dr. Dy even acknowledged that with such a pathologic fracture, the disease had weakened the bone so much so that even the slightest forces could cause the fracture. As soon as Dr. Dy reviewed the August 2020 MRI, he told Petitioner to immediately stop walking, use a wheelchair, and not carry anything heavy. Dr. Dy explained that Petitioner had progressive lymphoma that had destroyed his T5 vertebra and put him at an imminent risk of paralysis. As such, the evidence establishes that the emergency surgery Petitioner underwent was entirely cancer-related, and given the aggressive and progressive nature of the cancerous tumor, it would have been necessary regardless of whether or not any accident had occurred.

The totality of evidence establishes that Petitioner's condition and surgery was cancer-related and not work-related. The employer should not bear the burden of paying for unrelated cancer treatment that would have been the same no matter what accident occurred. For the reasons stated herein, I respectfully dissent and would have reversed the Arbitrator's findings of notice, accident, and causal connection accordingly.

/s/ *Frank J. Soto*
Frank J. Soto

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	20WC018942
Case Name	Myron Sandiford v. Petco Petroleum Corporation
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	19
Decision Issued By	Jeanne AuBuchon, Arbitrator

Petitioner Attorney	Rodney Smith
Respondent Attorney	Amber Cameron

DATE FILED: 7/23/2025

/s/ Jeanne AuBuchon, Arbitrator

Signature

INTEREST RATE WEEK OF JULY 22, 2025 4.12%

STATE OF ILLINOIS)
)SS.
COUNTY OF **JEFFERSON**)

☐ Injured Workers' Benefit Fund (§4(d))
☐ Rate Adjustment Fund (§8(g))
☐ Second Injury Fund (§8(e)18)
☒ None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

MYRON SANDIFORD
Employee/Petitioner

v.

PETCO PETROLEUM CORPORATION
Employer/Respondent

Case # **20** WC **018942**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Jeanne L. AuBuchon**, Arbitrator of the Commission, in the city of **MT. VERNON**, on **MAY 21, 2025**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. ☐ Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?
B. ☐ Was there an employee-employer relationship?
C. ☒ Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?
D. ☐ What was the date of the accident?
E. ☒ Was timely notice of the accident given to Respondent?
F. ☒ Is Petitioner's current condition of ill-being causally related to the injury?
G. ☐ What were Petitioner's earnings?
H. ☐ What was Petitioner's age at the time of the accident?
I. ☐ What was Petitioner's marital status at the time of the accident?
J. ☒ Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?
K. ☒ What temporary benefits are in dispute?
☐ TPD ☐ Maintenance ☒ TTD
L. ☒ What is the nature and extent of the injury?
M. ☐ Should penalties or fees be imposed upon Respondent?
N. ☐ Is Respondent due any credit?
O. ☐ Other _____

FINDINGS

On **May 28, 2020**, Respondent ***was*** operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship ***did*** exist between Petitioner and Respondent.

On this date, Petitioner ***did*** sustain an accident that arose out of and in the course of employment.

Timely notice of this accident ***was*** given to Respondent.

Petitioner's current condition of ill-being ***is*** causally related to the accident.

In the year preceding the injury, Petitioner earned $**48,230.00**; the average weekly wage was $**927.50**.

On the date of accident, Petitioner was **59** years of age, ***married*** with **0** dependent children.

Petitioner ***has*** received all reasonable and necessary medical services.

Respondent ***has not*** paid all appropriate charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $**0** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**0**.

Respondent is entitled to a credit of $**0** under Section 8(j) of the Act.

ORDER

Respondent shall pay medical expenses listed in Petitioner's Exhibits 9-13, as provided in Sections 8(a) of the Act. Respondent shall be given a credit for medical benefits that have been paid.

Respondent shall pay Petitioner temporary total disability benefits of $618.33/week for 30 3/7 weeks, commencing July 28, 2020, through February 25, 2021, as provided in Section 8(b) of the Act.

Respondent shall pay Petitioner the sum of $556.50/week for a further period of 125 weeks, as provided in Section 8(d)2 of the Act, because the injuries sustained caused the 25% loss of use of Petitioner's person as a whole.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Jeanne L. PuBuchon
Signature of Arbitrator

jJULY 23, 2025

PROCEDURAL HISTORY

This matter proceeded to trial on May 21, 2025, on all disputed issues. The issues in dispute are: 1) whether the Petitioner sustained accidental injuries that arose out of and in the course of his employment; 2) notice; 3) the causal connection between the accident and the Petitioner's thoracic spine conditions; 4) payment of medical bills based on liability alone; 5) entitlement to temporary total disability (TTD) benefits and 6) the nature and extent of the Petitioner's injury.

FINDINGS OF FACT

At the time of the accident, the Petitioner was 59 years old and employed by the Respondent as a rig operator setting up oil rigs in the field. (T. 12-13) On May 28, 2020, he and two rig hands were replacing a 600-pound pump, that they lifted over their heads and put on a truck. (T. 14-18) The Petitioner testified that normally he would have been using an electric lift, but the power was out that day. (T. 20-21) He said that when they picked the pump off the ground, he hurt his back. (T. 18) He said he told his foreman, Derek Sarwer, that he hurt his back loading the pump. (T. 19-20) He said that when they got to the location, they had to manhandle it off of the truck. (T. 21) He said he was having problems but did it because he "had to." (Id.)

The Petitioner testified that for the week prior to the accident, he was not having any trouble with his back at work and was able to do his general job duties, including lifting. (T. 22) He acknowledged that in 2002, he had a bad accident when a pipe hit him in the left shoulder and slammed him to the ground on concrete. (T. 23) He broke his shoulder, back and some ribs. (Id.) He said he had fractures in his T5 and T7 vertebrae but did not have surgery. (T. 24, 54) He went back to work with restrictions of no lifting 25 pounds. (T. 24-25) He said he did lift more than 25 pounds, but no one stopped him from doing so. (T. 25) He settled the claim for injuries to his left clavicle and thoracic spine for 35 percent of the body as a whole. (RX4) The contract was

approved on October 4, 2006. (Id.) The Petitioner testified that he also had knee surgery in 2012. (T. 52) He said that during the year prior to May 28, 2020, he had not been on any medication for pain, muscle relaxers of anti-inflammatories. (T. 32)

After the accident on May 28, 2020, the Petitioner did not seek medical treatment but went home, showered and went to bed. (T. 25) He did not know if a written accident report was filled out. (T. 26) He said that as an employee of the Respondent, he had to report an injuries to his supervisor. (T. 61-62) He said he did not fill out any paperwork, that he knew of, for his prior injuries on the job. (T. 62) When confronted with accident reports regarding a cut on his right arm and the knee injury in 2012, he acknowledged having signed those reports. (T. 64-65, RX7) There was no report for the 2002 accident. (RX7)

Jeff Keathley, field superintendent for the Respondent testified that that when there is a work accident, the employee will fill out an accident form along with his immediate supervisor. (T. 96) He said that if an employee got hurt, they would be offered medical attention. (T. 97) He said he was unaware of the Petitioner or any management filling out an accident report for the May 28, 2020 accident. (T. 99) He said he was first made aware of the injury in the last part of July from Mr. Sarver. (T. 99-100) He identified a document written by Mr. Sarver stating that the Petitioner came to Mr. Sarver's house on July 26, 2020, and said he hurt his back at work but never reported it. (T. 103, RX8) He said Mr. Sarver still works for the Respondent. (T. 106) Mr. Sarver did not testify at arbitration.

The Petitioner testified that he worked the day after the accident, which was a Friday, and was having problems with his back. (T. 28, RX6) He did not know why he didn't go to a doctor. (T. 29) The day after that, he took a trip with his son to Kentucky. (T. 27-28) He said his back was hurting during the trip and he experienced "a lot of pain" that Sunday night. (T. 29-30)

On June 23, 2020, the Petitioner sought treatment from his primary care physician Nurse Practitioner Penny Attaway at Medical Services Unlimited. (PX5, RX5) He complained of pain to her thoracic spine to the right that started a couple of weeks ago that comes and goes. (Id.) He also complained of numbness to the tips of his fingers on his right hand. (Id.) He mentioned the prior injury to his thoracic spine and neck. (Id.) PA Attaway diagnosed thoracic back pain, rib pain on the right and numbness to the fingers. (Id.) She prescribed a muscle relaxant and Tylenol and ordered an electrocardiogram and X-rays. (Id.) The next day, she prescribed opioid pain medication and nerve pain medication. (Id.) The Petitioner testified that they didn't help. (T. 31)

The thoracic spine X-rays were taken on June 23, 2020, and showed multiple mild compression deformities of midthoracic vertebra with one being moderate in severity. (PX5, PX8, RX5) When compared with chest X-rays from March 10, 2018, radiologist Heath Laughlin visualized no obvious acute fractures. (Id.) The March 10, 2018, chest X-ray report noted diffuse demineralization throughout the thoracic spine and multilevel compression deformities that appeared chronic. (RX5)

The Petitioner complained of continued pain to NP Attaway on July 20, 2020, with continued pain, and she ordered a CT scan and prescribed more pain medication. (PX5, RX5) A chest CT scan was performed on July 21, 2020, at Fayette County Hospital that showed a moderate to severe compression fracture at T5 and mild compression deformity that were old and already seen on a chest X-ray from March 10, 2018. (PX8)

According to the Petitioner's work logs, he took vacation time during the third week of July. (RX6) He testified that he did not remember taking off for a vacation at that time. (T. 70-71)

On July 24, 2020, the Petitioner contacted NP Attaway and requested a release to return to work on Monday, stating that he had missed work that entire week. (PX5, RX5) On July 28, 2020, the Petitioner returned to NP Attaway and said he tried to go to work the day before and was sent home after an hour because of pain. (Id.) He described the work accident of May 28, 2020, and said that two day later he took a road trip that was 1,400 miles round trip in a small car and had severe pain on the first day of the trip. (Id.) He said he notified his employer and had an appointment scheduled for an MRI. (Id.) NP Attaway gave light duty work restrictions of no lifting more than 10 pounds, twisting, bending, squatting of stooping. (Id.) At arbitration, the Petitioner did not remember telling NP Attaway that he had just taken a 1,400-mile road trip in a small car and had severe thoracic pain in the first day of the trip. (T. 77-78) He did not remember taking any vacation other than the trip to Kentucky. (T. 90)

The Petitioner underwent spinal MRIs on August 4, 2020, performed by radiologist Frank Eaton at St. Anthony's Memorial Hospital that showed: 1) findings consistent with pathologic fracture of T5 with bony retropulsion associated with right-sided soft tissue mass invading the spinal canal and right side paraspinous soft tissue mass, both of which were invading the canal, causing severe central stenosis with impingement on the cord at T5; 2) benign chronic superior endplate compression deformity at T7. (PX5, PX7).

The Petitioner returned to NP Attaway that day, seeking a referral to an oncologist. (PX5, RX5) He told her the last time he was able to work an entire day was July 17, 2020, and was unable to get out of bed the next day due to pain. (Id.) PA Attaway referred the Petitioner to Dr. Philip Dy, an oncologist at Cancer Care Specialists of Illinois, whom the Petitioner saw that day. (PX5, PX16) The Petitioner told Dr. Dy about his prior back injury, the work accident on May

28, 2020, with onset of pain that worsened by mid-July and the Petitioner requesting to be off work. (PX16) He described his treatment. (Id.)

After reviewing the imaging, Dr. Dy diagnosed: acute pathological fracture of T5 with impending cord compression, etiology unclear; severe upper- to mid-thoracic spine pain due to pathological fracture; bone metastases; and T5 paraspinal mass. (Id.) He was very concerned that the mass was malignant and probably causing the bone to become weaker. (Id.) He stated that during the recent heavy lifting the Petitioner described, it triggered a fracture. (Id.) Dr. Dy discussed the case with Dr. Wilson Ray, a neurosurgeon with Washington University Physicians at BJC, who indicated he would see the Petitioner that day. (Id.)

The Petitioner presented to Dr. Benjamin Plog, a resident at Dr. Ray's office, with an approximately two-month history of mid-thoracic back pain radiating into the right ribcage with an MRI notable for a T5 lesion resulting in severe canal stenosis. (PX3) The Petitioner told Dr. Plog that on May 30, 2020 he was working in an oil field and lifted something over his head when he had the sudden onset of mid thoracic back pain located between his shoulder blades. (Id.)

The Petitioner underwent a CT scan of the thoracic spine on August 7, 2020, that showed pathologic fractures of T5 and T7 and a soft tissue component of the T5 lesion causing severe spinal canal stenosis. (RX3) That day, Dr. Ray performed a T2-T8 pedicle screw fixation and posterior arthrodesis, T4-6 interbody fusion, discectomies at T4-5 and T5-6, T5 complete corpectomy vertebral body resection, resection of extradural extramedullary epidural spinal lesion at T4-6, laminectomies and compressions of T4-6 and open reduction and internal fixation of pathologic T5 fracture. (PX2, PX3) He was discharged from BJC Hospital on August 12, 2020. (PX3)

The Petitioner underwent in-patient rehabilitation at The Rehabilitation Institute of St. Louis from August 12-20, 2020. (PX6) He was given off-work orders. (Id.) He also underwent physical therapy, chemotherapy and radiation. (T. 37-38, 55) The Petitioner testified that prior to May 28, 2020, he did not know that he had a mass in his back and had not been diagnosed with cancer. (T. 40)

On September 23, 2020, the Petitioner followed up with Dr. Charise Garber, a neurosurgeon in Dr. Ray's office. (PX4) He continued to experience pain in the upper thoracic region that was being controlled with oral pain medications. (Id.) Off-work orders were continued. (PX4, PX15) At a follow-up on November 19, 2020, Nurse Practitioner Ellen Claire found that everything was stable from the standpoint of the Petitioner's surgery and had no ongoing restrictions for him at that time. (PX4) Off-work orders were continued. (PX15) On February 25, 2021, the Petitioner reported to Nurse Practitioner Ellen Carlson that he was still having back pain. (PX4) The Petitioner was going to discuss pain management with Dr. Dy and would recheck with Dr. Ray's office for a referral to pain management. (Id.) There were no records submitted that reflected this occurred.

The Petitioner acknowledged that he was involved in a motor vehicle accident on June 21, 2021. (T. 48) He said he "broke every bone" on his left side – femur in three places, ribs, collarbone, ball of his shoulder and left arm. (Id.) He said the accident did not affect his back, nor did he need to have treatment for his back. (Id.) He said he was hospitalized for more than a week but did not have any work restrictions from those injuries. (T. 57-58) The Petitioner testified that he has a rod down his left leg and a bolt in his hip from the motor vehicle accident. (T. 59) He said the bolt came loose, the rod fell down and the pins above his knee are broken but the doctors

won't replace them. (Id.) He said the only pain he has from those injuries is knee pain. (T. 59-60)

On September 13, 2021, NP Carlson released the Petitioner from neurologic care without restrictions. (Id.) She encouraged him to work with physical therapy and Dr. Dy for ongoing pain management. (PX4) The Petitioner also continued to see NP Attaway at Medical Services Unlimited for various health issues, during which time he also occasionally complained of back pain. (RX5)

The Petitioner testified that he applied for Social Security disability benefits in October 2021 due to his cancer. (T. 82-85)

Dr. Dy testified consistently with his records at a deposition on September 6, 2023. (PX1) He said he has had specialized training in treating cancers that go into the spine. (Id.) He explained that the term "pathological fracture" meant that it was from cancer. (Id.) He said he sees pathological fractures in patients weekly, and in a lot of his patients the fractures could be precipitated by something else – most of the time with lifting or even with something like sneezing. (Id.) He agreed that it was possible that riding in a car and hitting a bump could cause a pathological fracture. (Id.)

Regarding the Petitioner's spine, Dr. Dy said there was a big mass destroying the T5 bone, which is rare. (Id.) He believed the main cause of the fracture was the cancer itself, which was exacerbated by lifting the heavy pump. (Id.) He said there was no doubt that the lifting contributed to the fracture, adding that there was probably no bone hardly left there or maybe a bit of bone left from the cancer and thought "lifting that heavy pump just destroyed it." (Id.) He said both the fracture and the mass were compressing against the spinal cord, noting that there were bone fragments pushing the spinal cord outside of the mass, which is called retropulsion. (Id.)

When asked about the imaging reports that reference old, chronic compression fractures in the thoracic spine, Dr. Dy said the Petitioner probably already had old compression fractures from his injury in 2002 and developed a new one on top of that. (Id.) As to the Petitioner not seeking immediate treatment after the accident, Dr. Dy said: "from my recollection, knowing him, he just felt it would get better on its own…" (Id.) He added that the Petitioner's wife had to "literally drag him in." (Id.) He said he was not surprised the Petitioner didn't stop working until his pain just got so bad that he couldn't do it anymore. (Id.)

As to the surgical intervention including fixation from T2 through T8, Dr. Dy testified that Dr. Ray described the damage at T5 being so bad that he needed the other vertebrae to be fixated, otherwise, they wouldn't hold. (Id.) He said it was hard for him to tell, but he assumed that the other vertebrae were deteriorating from the cancer. (Id.) He said that without the lifting incident, the Petitioner's condition could have become symptomatic around the same time but probably not until later. (Id.)

At the request of the Respondent, a records review was performed on November 27, 2024, by Dr. Michael Chabot, an orthopedic spine surgeon at Orthopedic Specialists. (RX1) He diagnosed: history of pathologic fracture with spinal cord compression; status post T5 corpectomy with posterior thoracic decompression, strut grating R4-6 and posterior instrumentation T2-8; history of chronic vertebral compression fractures T5 and T7 from injury in 2002; and history of large B-cell lymphoma with spinal cord compression. (Id.) Dr. Chabot was unable to complete his report because he did not have the imaging studies. (Id.)

Dr. Chabot issued another report on December 26, 2024, after reviewing additional records and some of the imaging studies but not the August 4, 2020, thoracic spine MRI. (RX2) He reiterated his diagnoses and concluded that the Petitioner's pathologic injury at T5 was not related

to his work injury. (Id.) He said the Petitioner's aggressive, destructive tumor involving T5 associated with lymphoma would have progressed regardless of what activities the Petitioner performed. (Id.) He said the compression deformity at T5 would have been predictable based on the degree of involvement of the vertebral body. (Id.) He said the need for surgical intervention at the T5 level is associated with the underlying lymphoma and bony destruction of T5 secondary to the cancer and was not related to the alleged work injury. (Id.)

Dr. Chabot issued another report on May 12, 2025, after reviewing additional imaging. (RX3) He reiterated his opinions. (Id.) Dr. Chabot did not testify.

The Petitioner testified that he never went back to work for the Respondent and had other medical issues. (T. 41) He said the rods, screws and cage were still in his back, and to his knowledge will not be removed. (T. 42) He said he currently has a lot of pain that he rates at 8/10. (Id.) He said it is sharp pain that from the shoulders down feels like it's pulling in his waist. (T. 43) He said that when he gets out of bed in the morning, he goes to the couch, and that's where he stays. (T. 44) He said he can't work and doesn't do a lot of yard work. (T. 45) He said that the only thing that takes away the pain is lying down. (Id.)

The Petitioner testified that the medical expenses contained in Petitioner's Exhibits 9, 10, 11, 12 and 13 were pared down to include only those related to his thoracic spine and not his cancer treatment. (T. 46)

CONCLUSIONS OF LAW

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law as set forth below.

As a preliminary issue, the Arbitrator considers the credibility of the Petitioner. Although he was a poor historian at arbitration – there being many facts that he did not remember – his testimony was consistent with his reports to the medical providers.

Issue (C): Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?

If an accident occurred how the Petitioner said it did, it would meet the criteria for arising out of an in the course of employment as set forth in *McAllister v. Ill. Workers' Comp. Com'n*, 2020 IL 12484.

The Petitioner's description of the incident to numerous medical providers was consistent with his testimony. Because of the lapses in the Petitioner's memory at arbitration, the Arbitrator relies on the Petitioner's reports about the accident to the medical providers. By looking at the medical reports, the Arbitrator is able to find that on May 28, 2020, the Petitioner was working in the oil fields when he picked up a heavy pump and experienced discomfort in his thoracic spine. He finished the workday and worked the following day. That weekend, he took a trip to Kentucky. There was no evidence that there were any incidents during that trip that would have caused an injury. Although the Petitioner took vacation time in mid to late July 2010, it appears from the medical records that he took off because of his back symptoms. He told NP Attaway that he missed work that entire week because of his back. NP Attaway gave the Petitioner a release to return to work but was unable to complete the workday because of pain. It was after that when the MRI was performed, and the doctors determined he needed immediate surgery. From all of this evidence, the Arbitrator finds that an accident occurred on May 28, 2020.

The Arbitrator notes that in addition to the Petitioner's supervisor, neither of the two rigs hands with whom he was working testified at Arbitration.

There also is the issue of whether the Petitioner's delay in seeking treatment leads to the conclusion that the accident did not occur as he said it did. Again, the Petitioner's reports to the medical providers consistently pointed to a lifting accident occurring on May 28, 2020. From observing the Petitioner during his testimony and his remark about continuing to work because he felt he had to, the Arbitrator agrees with Dr. Dy's characterization of the Petitioner being a person who wouldn't stop working until his pain just got so bad that he couldn't do it anymore.

Therefore, the Arbitrator finds that the Petitioner has proved by a preponderance of the evidence that an accident occurred in the course of and arose out of the Petitioner's employment.

Issue (E): **Was timely notice of the accident given to Respondent?**

Section 6(c) of the Act provides that notice of an accident shall be given to an employer as soon as practicable, but not later than 45 days after the accident. This section also provides that no defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings on arbitration or otherwise by the employee unless the employer proves that he is unduly prejudiced in such proceedings by such defect or inaccuracy. The legislature has mandated a liberal construction on the issue of notice. *S&H Floor Covering, Inc. v. Workers' Comp. Comm'n*, 373 Ill. App. 3d 259, 265, 870 N.E.2d 821, 312 Ill. Dec. 377 (4th Dist. 2007) The court therein found that because some notice was given to employer, it was then incumbent upon employer to show that it was unduly prejudiced. *Id*. at 266.

The Request for Hearing form claimed that the Petitioner provided notice to his supervisor, Derek Sawer, on day of the accident. The Petitioner testified to this. His testimony was unrebutted, as Mr. Sawer did not testify. Field superintendent Jeff Keathley, said he was unaware of the Petitioner or any management filling out an accident report for the May 28, 2020 accident and was first made aware of the injury in the last part of July from Mr. Sarver. Mr. Sarver wrote

a note saying the Petitioner came to his house on July 26, 2020, and said he hurt his back at work but never reported it. Although this conflicts with the Petitioner's testimony, Mr. Sawer did not appear to set the record straight.

Even if one were to believe that the Respondent did not have notice until July 26, 2020, the Respondent provided no evidence to show that it was unduly prejudiced by late notice.

Therefore, the Arbitrator finds that the Petitioner provided timely notice.

Issue (F): Is Petitioner's current condition of ill-being causally related to the accident?

An accident need not be the sole or primary cause as long as employment is a cause of a claimant's condition. *Sisbro, Inc. v. Indus. Comm'n,* 207 Ill. 2d 193, 205, 797 N.E.2d 665, 278 Ill.Dec. 70 (2003). An employer takes its employees as it finds them. *St. Elizabeth's Hosp. v. Workers' Comp. Comm'n,* 371 Ill.App.3d 882, 888, 864 N.E.2d 266, 309 Ill.Dec. 400 (5th Dist. 2007). A claimant with a preexisting condition may recover where employment aggravates or accelerates that condition. *Caterpillar Tractor Co. v. Industrial Comm.,* 92 Ill. 2d 30, 36, 440 N.E.2d 861, 65 Ill.Dec. 6 (1982).

When a preexisting condition is present, a claimant must show that "a work-related accidental injury aggravated or accelerated the preexisting [condition] such that the employee's current condition of ill-being can be said to have been causally connected to the work-related injury and not simply the result of a normal degenerative process of the preexisting condition." *St. Elizabeth's Hospital*, 371 Ill.App.3d at 888.

Even though an employee has a pre-existing condition which may make him more vulnerable to injury, recovery for an accidental injury will not be denied as long as it can be shown that the employment was also a causative factor. *Cronk v. Ill. Workers' Comp. Comm'n*, 2024 Ill.App. (1st) 221878WC, ¶26, 253 N.E.3rd 451, 480 Ill. Dec. 661. Accidental injury need not be

the sole causative factor, nor even the primary causative factor, as long as it was *a* causative factor in the resulting condition of ill-being. (Emphasis in original.) *Id*.

There is no dispute that the Petitioner had pre-existing thoracic vertebrae fractures from the accident that occurred in 2002. He was able to work his physically demanding job for another 18 years. He also had a cancerous tumor on his thoracic vertebrae that predated the accident.

Dr. Chabot opined that the Petitioner's spinal fracture was not causally related to the work accident because the Petitioner's aggressive, destructive tumor involving T5 would have progressed regardless of what activities the Petitioner performed.

Dr. Dy, who has specialized training in treating cancers that go into the spine, explained that the mass was destroying the T5 bone and was "the main cause of the fracture," but the fracture was exacerbated by lifting the heavy pump. He said there was "no doubt" that the lifting contributed to the fracture, adding that there was probably no bone hardly left there or maybe a bit of bone left from the cancer and thought "lifting that heavy pump just destroyed it." He acknowledged that the imaging reports referenced old, chronic compression fractures in the thoracic spine, Dr. Dy said the Petitioner developed a new fracture on top of the old one.

Because he is an expert in these kinds of cancers and fully explained how the lifting accident would have accelerated the condition of the Petitioner's vertebrae, the Arbitrator gives greater weight to the opinions of Dr. Dy. In addition, as the Petitioner's treating physician, he had more opportunities to become familiar with the Petitioner and his condition. Dr. Chabot did not see the Petitioner to ask him questions to delve into the genesis and progression of his condition.

Although the Petitioner's old spinal fractures and the cancerous tumor made him more vulnerable, the Arbitrator finds that the work accident, at a minimum, accelerated the condition of the Petitioner's thoracic spine and was a causative factor of the Petitioner's condition.

The Arbitrator also finds the gap in the Petitioner's treatment does not break the causal connection between the accident and his spinal condition. Where a gap in treatment exists, "(t)he ultimate issue is not whether there was a gap in treatment but rather, whether the initial accident was a causative factor in the condition of ill-being which was produced." *William Gordon v. State of Illinois DOT Joliet Yard*, 07 I.W.C.C. 1599 (2007). The important issue is whether the symptoms and findings later in the treatment match up to the symptoms immediately following the accident, and whether the gap was logically explained. *Id.* In that case, the claimant did not seek treatment for almost nine months at one point and four months after that. *Id.* The Commission agreed with the Arbitrator that it is not unreasonable for claimants to expect to "simply heal with time" and would not penalize an employee who works through pain. *Id.* See also *Sharon Langorgen v. K-Mart*, 09 I.W.C.C. 1160 (2009), where the Commission recognized that, although there was a gap in formal treatment for two years, the claimant continued to identify the accidental injury as the source of her complaints without rebuttal. *Id.* The Commission relied on her credible testimony and the circumstantial evidence, which showed an absence of any intervening accident, in holding that causal chain remained unbroken and awarding benefits. *Id*.

Based on all the above, the Arbitrator finds that the Petitioner's T5 spinal fracture was causally related to the work accident on May 28, 2020.

Issue (J): Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?

The right to be compensated for medical costs associated with work-related injuries is at the very heart of the Workers' Compensation Act. *Hagene v. Derek Polling Const.*, 388 Ill. App. 3d 380, 383, 902 N.E.2d 1269, 1273 (2009).

As to the surgical intervention including fixation from T2 through T8, Dr. Dy testified that Dr. Ray described the damage at T5 being so bad that he needed the other vertebrae to be fixated, otherwise, they wouldn't hold. (Id.) He said it was hard for him to tell, but he assumed that the other vertebrae were deteriorating from the cancer. (Id.) He said that without the lifting incident, the Petitioner's condition could have become symptomatic around the same time but probably not until later. (Id.)

Based on this and the findings above, the Arbitrator finds that the medical services provided were reasonable and necessary and finds they have not been paid. Therefore, the Arbitrator orders the Respondent to pay the medical expenses contained in Petitioner's Exhibits 9-13.

Issue K: What temporary benefits are in dispute? (TTD)

An employee is temporarily totally incapacitated from the time an injury incapacitates him for work until such time as he is as far recovered or restored as the permanent character of his injury will permit. *Archer Daniels Midland Co. v. Indus. Comm'n*, 138 Ill.2d 107, 118 (1990).

The Petitioner was either off work or under work restrictions that the Respondent did not accommodate from July 28, 2020, through his release from neurologic care without restrictions on September 13, 2021. Based on this and the findings above regarding causation, the Arbitrator finds that the Petitioner was entitled to TTD benefits from July 28, 2020, through September 13, 2021.

Issue (L): What is the nature and extent of the Petitioner's injury?

Pursuant to Section 8.1b of the Act, permanent partial disability from injuries that occur after September 1, 2011, is to be established using the following criteria: (i) the reported level of impairment pursuant to subsection (a) of Section 8.1; (ii) the occupation of the injured employee;

(iii) the age of the employee at the time of the injury; (iv) the employee's future earning capacity; and (v) evidence of disability corroborated by the treating medical records. 820 ILCS 305/8.1b. The Act provides that, "No single enumerated factor shall be the sole determinant of disability." *Id.*

(i) **Level of Impairment.** No AMA impairment ratings were produced, therefore the Arbitrator gives this factor no weight.

(ii) **Occupation.** The Petitioner is no longer working and is receiving Social Security disability benefits. The Arbitrator places little weight on this factor.

(iii) **Age.** The Petitioner was 59 years old at the time of the injury. But for his other health conditions, he would have had several work years left during which he would deal with the residual effects of the injuries. The Arbitrator places some weight on this factor.

(iv) **Earning Capacity.** There was no evidence of limitation of the Petitioner's earning capacity due to the work injury. Therefore, the Arbitrator places no weight on this factor.

(v) **Disability.** The Petitioner was released without restrictions from a neurosurgical standpoint. He had discectomies, laminectomies and fusion from T4-6 and still has rods, screws and a cage in his back. He still experiences pain. The Arbitrator puts significant weight on this factor.

Therefore, the Arbitrator finds the Petitioner's permanent partial disability to be 25 percent of the person as a whole pursuant to Section 8(e) of the Act.