ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	16WC015840
Case Name	Jeffrey A Denning v. State of Illinois - Illinois State Police District 10
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0249
Number of Pages of Decision	31
Decision Issued By	Kathryn Doerries, Commissioner, Amylee Simonovich, Commissioner

Petitioner Attorney	David Figlioli
Respondent Attorney	Thomas Bowman

DATE FILED: 9/2/2026

/s/Amylee Simonovich, Commissioner
Signature

DISSENT

/s/Kathryn Doerries, Commissioner
Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

☒ 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

JEFFREY A DENNING,

Petitioner,

vs. NO: 16 WC 15840

STATE OF ILLINOIS -
ILLINOIS STATE POLICE DISTRICT 10,

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, 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 August 11, 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.

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.

September 2, 2026
O: 07/14/26
AHS/kjj
051

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

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

DISSENT

I respectfully disagree with the majority's decision and would reverse the Decision of the Arbitrator. After a thorough review of the evidence and law, I would find that Petitioner failed to prove his accident arose out of and in the course of his employment. Specifically, I would find Petitioner's unsafe conduct while operating his patrol vehicle during an emergency response, which included driving at an excessively high rate of speed, failing to activate his siren, failing to take into account the condition of the roadway, and failing to slow down for an intersection, removed him from the protections of the Act.

Crucial to my disagreement is the legal standard required to determine whether the accident arose out of Petitioner's employment. The Arbitrator found that Petitioner's speed at the time of the accident did not rise to the level of "*willful and wanton* conduct that took him outside the sphere of employment." (Emphasis added.) (Arbitration Decision at 13) In applying this willful and wanton standard, the Arbitrator relied on *Johnson vs. Illinois Workers' Compensation Comm'n,* 2011 Ill. App. (2d)100418 WC, and *Stembridge Builders, Inc. vs. Industrial Commission,* 262 Ill. App. 3d 878, 636 N.E.2d 1088 (1994). (Arbitration Decision at 14) Citing *Stembridge*, the Arbitrator noted that "an action by an employee that would take that employee outside the course and scope of the employment, *would have to be an act done intentionally, with the knowledge that the action is likely to result in serious injury, or with a wanton disregard of probable consequences.*" (Emphasis added.) (Arbitration Decision at 14-15)

I believe Petitioner's claim should be analyzed under the law governing traveling employees. In *Jensen vs. Industrial Comm'n*, 305 Ill. App. 3d 274, 711 N.E.2d 1129 (1999), which involved a traveling employee, the Appellate Court rejected the willful and wanton standard set forth in *Stembridge* because claims involving traveling employees require the "reasonable and foreseeable analysis." *Jensen*, 305 Ill. App. 3d at 280. Recently, the Appellate Court again rejected the willful and wanton standard and reaffirmed the reasonable and foreseeable standard in *Subway vs. Illinois Workers' Compensation Comm'n*, 2026 IL App (5th) 250429WC (Opinion Filed April 13, 2026). Based on the Court's analysis in *Jensen* and *Subway*, a traveling employee's accident does not arise out of the employment if the employee's conduct was unreasonable and unforeseeable.

A traveling employee is an employee whose job duties require him or her to travel away from the employer's premises. *Allenbaugh vs. Illinois Workers' Compensation Comm'n*, 2016 IL App (3d) 150284WC, P 15. The determination whether an injury to a traveling employee arises out of and in the course of employment is governed by different rules than the rules applicable to

other employees. *Subway vs. Illinois Workers' Compensation Comm'n*, 2026 IL App (5th) 250429WC, P11. If an employee is a traveling employee, then the employee is generally considered to be "in the course of" the employment if the traveling employee is injured while traveling for work. The travel must be an "essential element" of the employment, or at least partly for their employer's purposes. *Mechanical, Inc. vs. Illinois Workers' Compensation Comm'n*, 2024 IL App (4th) 24031WC-U, P 34. A traveling employee is typically in the course of employment from the time that he leaves home until he returns; however, the injury must occur while the employee is traveling for work, and the work related travel at issue must be more than a regular commute from the employee's home to the employer's premises. *Allenbaugh,* 2016 IL App (3d) 150284WC, P 15. See also *Pryor vs. Illinois Workers' Compensation Comm'n*, 2015 IL App (2d) 130874WC, PP 21-22.

A traveling employee injured in the course of employment is not exempt from the requirement that he also prove his accident "arose out of" the employment. *Jensen*, 305 Ill. App. 3d at 278. The test for determining whether a traveling employee's accident arose out of the employment is whether the injury occurred while engaged in conduct that was reasonable and foreseeable to the employer. *Robinson vs. Industrial Comm'n*, 96 Ill. 2d 87, 92, 449 N.E.2d 106 (1983). See also, *Kertis vs. Illinois Workers' Compensation Comm'n*, 2013 IL App (2d) 120252WC, P16 ("An injury sustained by a traveling employee arises out of his employment if he was injured while engaging in conduct that was reasonable and foreseeable, *i.e.*, conduct that 'might normally be anticipated or foreseen by the employer.'")

In determining whether an employee's conduct while traveling was reasonable and foreseeable, the conduct at issue may be subdivided into two components; the nature of the activity engaged in by the employee, and the manner in which the employee performed the activity. See *Jensen vs. Industrial Comm'n*, 305 Ill. App. 3d 274, 711 N.E.2d 1129 (1999). In *Jensen*, the claimant was employed as a professional pilot by Tom Baldwin who owned a private jet. In August 1991, after flying Baldwin and his guests to Baldwin's summer retreat in Michigan, the claimant and a second pilot were permitted to lodge at the summer retreat until the group's departure for the return flight. During their stay, the two pilots were permitted to make use of Baldwin's recreational vehicles including two all-terrain vehicles (ATV). The claimant sustained serious injuries while driving an ATV. The claimant's status as a traveling employee was undisputed, and there was no disagreement that traveling employees may be compensated for injuries during recreational activities as long as those activities were reasonable and foreseeable. The Commission found the recreational activity was reasonable and foreseeable since the pilots were permitted to use the ATVs; however, in a second analytical step, the Commission found that "the *manner* in which the claimant drove the ATV was reckless and thus unreasonable" and denied benefits. (Emphasis added.) *Id*. at 279. On appeal, the Appellate Court noted that, "[w]hile we have been unable to locate any Illinois cases that directly address whether the Commission may find that the manner in which an activity is conducted is unreasonable or unforeseeable even though the activity itself is reasonable and foreseeable, we believe that such an analysis is appropriate." *Id*. In finding the claimant's conduct was reckless and unreasonable, the Commission noted the claimant drove on a county road beyond Baldwin's property line. The Commission also noted the claimant did not wear a helmet even though helmets were available for use. There was agreement that the county road was a sand and gravel roadway, which created a dusty condition while driving. The other pilot estimated that claimant was driving between 30 and 50 miles per

hour and proffered his lay opinion that the claimant drove too fast for conditions. The Court thus concluded that the Commission's determination that the claimant's injuries did not arise out of his employment was not against the manifest weight of the evidence. *Id*. at 280. In so ruling, the Court expressly rejected the claimant's reliance on *Stembridge*. *Id*.at 280.

In the case at bar, the Petitioner's decision to respond to the emergency dispatch was reasonable and foreseeable; however, the *manner* in which he responded is at issue.

After the parties filed their respective briefs on review in this matter, the Appellate Court issued its decision in *Subway vs. Illinois Workers' Compensation Comm'n*, 2026 IL App (5th) 250429WC (Opinion Filed April 13, 2026), in which the Court again rejected the willful and wanton standard for determining whether a traveling employee's conduct removes him from the protections of the Act. The Court reiterated the general rule that "[a]n injury sustained by a traveling employee arises out of her employment if she was injured while engaging in conduct that was reasonable and foreseeable, *i.e.*, conduct that "might normally be anticipated or foreseen by the employer." *Id.* at P 11. The Court then ruled the Commission erred in applying the heightened willful and wanton standard, writing:

> Thus, rather than requiring proof that decedent's actions were reasonable and foreseeable so as to be entitled to benefits under the Act as a traveling employee, the analysis conducted by the Commission below allowed claimant to establish entitlement to benefits so long as decedent was not committing actions "intentionally, with knowledge that they were likely to result in serious injury, or with a wanton disregard of the probable consequences." **The Commission's conclusion that decedent's actions did not rise to that level may well be correct, *but this conclusion does not answer the relevant question of if—as a traveling employee—her actions were merely so unreasonable and unforeseeable* as to remove her from the protections of the Act**. (Emphasis added.) *Subway*, 2026 IL App (5th) 250429WC at P16.

The Court in *Subway* therefore remanded the case to the Commission, stating, "it has been repeatedly recognized that where the Commission utilizes an *incorrect legal test* to evaluate a disputed question of fact within its purview, the matter should be remanded to the Commission for reconsideration of the issue in the first instance under the proper legal standard." (Emphasis added.) *Id*. at P18. It is thus clear that a traveling employee's conduct removes him from the protections of the Act if the conduct was *unreasonable* and *unforeseeable*.

The Commission has previously classified law enforcement personnel as traveling employees. See *Pate vs. State of Illinois, Illinois Department of Corrections*, 20 IWCC 759, 2020 Ill. Wrk. Comp. LEXIS 1180 (parole agent found to be a traveling employee), *Kraly vs. Cook County Forest Preserve*, 14 IWCC 443, 2014 Ill. Wrk. Comp. LEXIS 526 (police officer employed by Forest Preserve found to be a traveling employee). In the case at bar, Petitioner testified he was a Master Sergeant on the date of the accident, and while his duties included supervising troopers and sergeants in his capacity as shift commander, he was also required to perform patrol duties. (T. 22-23) Petitioner testified his employment included patrolling the highways and roadways looking for traffic infractions or criminal infractions, assisting disabled motorists, and responding

to vehicular accidents. (T. 24-25) Petitioner testified the division of his time spent between patrol functions and administrative work was about 50-50. (T. 25) Petitioner testified he was assigned to the "midnight shift" working from 10 p.m. to 8 a.m. (T. 30). Petitioner testified it was his choice as to how he spent his time during a shift and he chose to work in "enforcement mode" as a trooper for the first half of the shift. (T. 32). Clearly, Petitioner was a traveling employee while out on patrol. In adopting the Arbitrator's decision in the instant case, I believe the majority applied the incorrect legal standard. Furthermore, even assuming the willful and wanton standard is appropriate here, I would find Petitioner's unsafe driving met that higher standard as well.

Petitioner was operating his patrol car when he was involved in a vehicular crash while responding to an emergency call. The other motorist, age 26 and a mother of two minor children, suffered fatal injuries in the crash. The accident was the subject of a detailed investigation including accident reconstruction, and a wrongful death claim was brought against the Respondent in the Illinois Court of Claims. Petitioner was criminally charged with two counts, reckless homicide and reckless conduct, and he pled guilty to the lesser offense of reckless conduct, a Class A misdemeanor, with the State agreeing to dismiss the more serious charge. (RX12) In the subsequent Court of Claims matter, the Court determined that Petitioner breached his duty to operate his vehicle with due regard for the safety of other vehicles and that his conduct was a proximate cause of the decedent's death. (RX8) Specifically, Petitioner drove an unmarked squad car at speeds above 100 miles per hour on a roadway with a posted 35-mile per hour speed limit. Petitioner had his siren on standby mode rather than the continuous constant mode, and Petitioner failed to manually activate the siren immediately before the accident. The Court further determined that the decedent was contributorily negligent and concluded that Petitioner was 55% negligent and the decedent was 45% negligent. (RX8)

Petitioner filed an Application for Adjustment of Claim seeking compensation for his injuries and proceeded to trial on May 22, 2025. In addition to Petitioner's testimony, the record before us contains the testimony of Master Sergeant Shad Edwards (the department's accident investigator), and documentary evidence comprised of numerous exhibits including the traffic crash investigation reports, police procedure policies, the criminal court transcript memorializing Petitioner's guilty plea, and the Court of Claim's 33-page decision, which included the findings from accident reconstruction experts. The evidence before us presented the following sequence of events.

On Saturday, May 7, 2016, at approximately 11:00 p.m., Petitioner received a dispatch regarding an officer-involved shooting in Mahomet, Illinois. Petitioner was located about 35 miles away from Mahomet. (T. 85) Petitioner was patrolling in an unmarked squad car on Fairview Avenue in Decatur when he heard the transmission. (T. 35) The assailant had reportedly fled south away from Mahomet on Route 47 and was *believed* to be heading to I-72 which intersects with Route 47 just a few miles south of Mahomet. (T. 36-37) Highway I-72 runs east and west. (T. 36-37) Petitioner testified he notified dispatch he was responding to the call. Petitioner decided to head to Interstate 72, intending to drive towards Mahomet and search for the suspect's vehicle. (T. 36) Petitioner activated his lights and traveled north on Fairview which turns into North Oakland Avenue, also known as Route 48. (T. 38) Based on the information available at that time, it was unknown whether the assailant planned to go east or west on I-72 or continue further south past I-72. (T. 37) Petitioner testified he did not know which direction the suspect was traveling but the

plan was to flood the area with officers and hope someone encountered the assailant. (T. 37). Petitioner testified the radio call was a general call sent out to everyone and not specifically directed to him. (T. 86) Petitioner further testified he was not the "primary" designated police officer to respond to the call. (T. 86).

Petitioner was aware that multiple law enforcement agencies were responding to the call. (RX8 at 6) Petitioner was also aware that another Illinois State Police officer, who was also responding, was about 15 miles away. *Id*. As described in the Illinois Court of Claims' decision, Petitioner was 40 miles away and drove at a high rate of speed hoping to locate the assailant on I-72. (RX8 at 3) Petitioner drove north on Route 48 and passed the intersection of Grand Avenue, after which Route 48 merges into Oakland Avenue. The parties agreed that Oakland Avenue is a four-lane roadway (two lanes running north and two lanes running south). The parties also agreed that Oakland Avenue had a posted speed limit of 35 miles per hour. As Petitioner drove north on Oakland Avenue, he eventually approached the intersection of Oakland and West Harrison, described as a T-intersection with Harrison situated on the east side of Oakland. The parties further agreed that Harrison is a two-lane street (one lane going west and one lane going east). The intersection was located in a mixed residential and commercial area. At that time, the other motorist, Kelly Wilson, was traveling west on Harrison and reached the intersection of Harrison and Oakland. As Ms. Wilson pulled out to make a left turn onto Oakland, her vehicle was broadsided by Petitioner. Shortly before the collision, another motorist, Eric Cook, was driving south on Oakland when he observed Petitioner's flashing lights and pulled over. The witness had his window down and recalled there was no sound of a siren. The witness testified by evidence deposition in the wrongful death case that he observed Kelly Wilson stop at the intersection, and based on the movement of her hair, he was able to infer she turned to look both ways before entering the intersection.

While driving on Oakland, Petitioner had not looked at his speedometer and did not know his specific speed but the data from the Airbag Control Monitor established he was driving between 106 and 109.8 miles per hour. (RX8 at 3). Petitioner had activated his emergency lights but did not have his siren operating on continuous mode. Instead, Petitioner had the siren on standby-mode which requires the officer to manually turn on the siren for quick bursts of sound. Petitioner recalled turning on the siren on two or three occasions prior to the accident, the first time when he was about a half-mile away from the accident location. Petitioner recalled turning on the siren a second and possibly a third time; however, he was unable to say how far he was from Harrison on those occasions. Because Petitioner was patrolling in an unmarked vehicle, his emergency lights were inside the cabin rather than atop the roof of the car. Petitioner claimed he did not want his siren on continuous mode because he wanted to be able to hear the police radio without interference from the sound of the siren.

Petitioner was familiar with the area where the collision occurred because he grew up in Decatur. When traveling north on Oakland Avenue towards Harrison, the roadway dips downward into a valley and then levels off before reaching the intersection. During the hearing before the Arbitrator, Petitioner agreed Oakland Avenue slopes downward at that location. (T. 68). The accident reconstruction findings revealed that the distance between lowest point of the valley and the intersection at Harrison was measured as approximately 1,139 feet away from Harrison. The roadway levels off at approximately 770 feet away from Harrison. The witness, Mr. Cook, testified

that he first saw the flashing lights from Petitioner's vehicle *before* Petitioner entered the downward sloping valley in the roadway. Mr. Cook testified that drivers stopped at Harrison cannot see vehicles approaching from the south once those vehicles enter the valley in the roadway. Mr. Cook further testified Petitioner's vehicle was in the valley as Ms. Wilson began to make her turn. Petitioner admitted that the dip or valley in the roadway can potentially hide a car from a motorist stopped at Harrison and looking south on Oakland Avenue. (T. 68). Petitioner also admitted the valley's potential to hide a car from the vantage point of traffic stopped at Harrison could have been a factor in the collision. (T. 69). Petitioner did not slow down on his approach to Harrison until he observed Ms. Wilson's vehicle enter the intersection.

Stephen Coady, a Master Sergeant in the Department's Traffic Crash Reconstruction Unit, testified before the Illinois Court of Claims regarding his investigation. Sergeant Coady testified that Petitioner's speed at 2.5 seconds prior to impact was 108 miles per hour. (RX8 at 9) Sergeant Coady further testified that the Airbag Control Module ("ACM") in Petitioner's vehicle recorded Petitioner hard-breaking the squad car at 1.5 seconds prior to impact. Per Sergeant Cody's calculation, a motorist applying the breaks while traveling at 108 miles per hour must travel a distance of 452 feet in order to come to a complete stop. *Id*. Thomas Green, an accident reconstruction expert retained by the decedent's Estate, calculated a longer stopping distance of 520 feet. (RX8 at 13) Sergeant Coady agreed that regardless of the total stopping distance, there was not enough time for Petitioner to bring his vehicle to a stop given Petitioner's speed at the 2.5 seconds mark preceding the impact. Mr. Green testified that Petitioner would have had sufficient stopping distance to avoid the collision had he been driving below 85 miles per hour. (RX8 at 13)

I have also considered Illinois State Police Directive (OPS-081), entitled "Emergency/High Speed Response Driving" in relation to Petitioner's speed on the night of the collision. (RX9) Pursuant to OPS-081, it is the official policy that department members shall "Make every effort to ensure the safety of the public." (RX9) OPS-081 defines "Emergency Response Driving" as "the operation of an authorized emergency vehicle by a sworn officer at speeds in excess of the speed limit and/or disregard for other traffic laws as permitted by 625 ILCS 5/11-205 and while responding to an Emergency Call or a Life-Threatened Call." This policy sets forth four categories of emergencies classified by response codes as follows:

III. F. Responding Codes

Code 1: An officer responding to a non-emergency call.

Code 2: An officer responding to an Emergency Call that requires a rapid response by a law enforcement officer to reduce the seriousness of the incident.

Code 3: An officer responding to an Emergency Call in which the possibility of death, great personal injury, or the prevention of a forcible felony or the apprehension of forcible felons exists.

Code Red: An officer responding to a Life-Threatened Call.

Pursuant to OPS-081, officers are not restricted to any speed limit when responding under a Code Red. However, in order for an emergency to qualify as a Code Red, the officer must be responding to a "Life-Threatened Call." The policy includes a definition for the term "Life-Threatened Call" which provides the following:

> 111.E. Life-Threatened Call - a call in which the reported facts and circumstances known at the time of the call indicate a person is attempting or threatening to inflict death or great bodily harm to another. The incident, either an active attempt or the imminent threat of the infliction of death or great bodily harm, is in-progress at the time of the call. Response to an officer endangered call as outlined in the Emergency Procedures section of ISP directive ENF-024, "Vehicle Stops/Public Assistance," and responses to the commission of, or active attempted commission of, a forcible felony which involves the infliction or threatened infliction of great bodily harm or the attempted escape of a prisoner by the use of a deadly weapon, or otherwise indicates they will endanger human life or inflict great bodily harm unless apprehended without delay are considered a Life-Threatened Call until the status of the situation can be determined. Responding Codes will be appropriately adjusted as the situation dictates.

Andrew Scott, a police procedures expert retained by the decedent's Estate in the wrongful death case, testified via deposition that the definitions for both the Code Red response and the lesser Code 3 response are identical, except that a Code 3 response places limits on the officer's speed whereas the Code Red response has no such speed limit. (RX8 at 12) Mr. Scott further testified that OSP-081 also requires the State Police troopers to drive with due care. OSP-081 provides the following in that regard:

> III. DEFINITIONS
>
> III.A. Driving with due care or regard - driving in such a manner to avoid any predictable loss of control or collision. Driving with due care and due regard is measured by what a reasonable and prudent emergency vehicle operator would do under all circumstances, including that of an emergency. (RX9)

The Department's policy requiring its troopers to drive with due care must be read in conjunction with the definitions for the four Code responses. Per the Court of Claims' decision, Mr. Scott opined that Petitioner failed to recognize the inherent dangers associated with emergency response driving at approximately 108 miles per hour in a 35 miles per hour zone. (RX8 at 12) Mr. Scott noted that officers engaged in emergency response driving must know their speed in relationship to the speed zone and other vehicles. As speed increases, reaction time decreases. Mr. Scott also noted that Petitioner had no time to stop once he saw Ms. Wilson. (RX8 at 12) Mr. Scott opined that maximum speed in excess of the posted speed limit that Petitioner should have been driving should have been no more than 30 miles per hour above the speed limit, or 65 miles per hour. (RX8 at 12) Mr. Scott further testified that OPS-081 requires the use of lights *and* sirens to warn other drivers of their approach during emergency responses. (RX8 at 12) Mr. Scott opined that Petitioner acted recklessly in the operation of his squad car.

Master Sergeant Edwards, when testifying before the Arbitrator, opined that Petitioner responded in a reasonable manner because Petitioner's response was necessary to prevent a fleeing felon from escaping. (T. 137). When challenged on cross-examination regarding Petitioner's failure to have his siren on continuous mode, Sergeant Edwards testified that making that decision is something he has wrestled with many times in the past but he would have made the same choice as Petitioner on the night of the collision. (T. 156-157) Sergeant Edwards gave the same rationale as Petitioner, explaining his hearing would have been hampered with the siren on continuous mode and there were only a few cars on the roadway. (T. 157) Sergeant Edwards was then impeached with his prior inconsistent testimony provided during the wrongful death case. When confronted with that testimony, Edwards initially stated his prior testimony was consistent in one part of the transcript but then agreed he had given the following answer in another part of the transcript, which he read before the Arbitrator: "I think due care -- if you add in all the factors I think a reasonable, as a reasonable officer I would have the lights and siren on, yes." (T. 158-159). Additionally, per the evidence recited in the Illinois Court of Claims' decision, Master Sergeant Stephen Coady, along with another witness, Captain Louis Kink, each admitted that, when operating an emergency vehicle in excess of 100 miles per hour on a city street, activating the siren in a continuous mode would have been required in order to exercise due care. (RX8 at 19).

Based on the evidence, I would find that Petitioner drove too fast for conditions and operated his squad car in a reckless manner. Though he may have been authorized to drive with no speed limit placed upon him assuming the circumstances that night satisfied the Code Red definition, Petitioner acted recklessly and unreasonably in driving over 100 miles per hour in a posted 35 mile per hour speed zone at 11:00 p.m. on a Saturday night, without activating his siren and without slowing down on his approach to the intersection. The need to slow down for the intersection, a common precaution taken for most responses, was a greater necessity given the downward slope and valley in the roadway preceding the intersection. I would further find that Petitioner's conduct was unforeseeable to the Respondent, particularly since Petitioner was 35 to 40 miles away from Mahomet when he heard the transmission and was not the primary responding officer.

I further believe that the majority, in adopting the Arbitrator's decision, applied the wrong legal standard for determining whether Petitioner's conduct removed him from the protections of the Act. The majority affirms the award of compensation in this case based on the finding that Petitioner's conduct did not rise to the heightened level of willful and wanton misconduct. For the reasons discussed, I believe the correct legal standard was whether Petitioner's conduct was unreasonable and unforeseeable. I would further find, even under the heightened willful and wanton standard, that Petitioner's conduct met that test and would find his injuries did not arise out of his employment.

For the above reasons, I dissent from the majority's opinion and would reverse the Arbitrator's decision.

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

SEPTEMBER 2 2026

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	16WC015840
Case Name	Jeffrey A Denning v. State of Illinois - Illinois State Police District 10
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	21
Decision Issued By	Linda Cantrell, Arbitrator

Petitioner Attorney	David Figlioli
Respondent Attorney	Thomas Bowman

DATE FILED: 8/11/2025

/s/ Linda Cantrell, Arbitrator

Signature

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

AUGUST 11 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF AUGUST 5, 2025 3.98%

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

☐ 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

Jeffrey A. Denning
Employee/Petitioner

v.

State of Illinois/Illinois State Police District 10
Employer/Respondent

Case # **16** WC **015840**

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 **Linda J. Cantrell**, Arbitrator of the Commission, in the city of **Springfield**, on **May 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? Medical payments and PEDA benefits
O. ☐ Other _____

FINDINGS

On **May 7, 2016**, 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 $**125,737.50**; the average weekly wage was $**2,414.03**.

On the date of accident, Petitioner was **53** years of age, ***married*** 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 $**74,106.19** in extended benefits paid pursuant to the Illinois Public Employee Disability Act, for a total credit of $**74,106.19**.

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 $**1,398.23 (Max rate)**/week for **53** weeks, commencing **5/8/16** through **8/20/16** and **9/8/17** through **5/31/18**, as provided in Section 8(b) of the Act. Respondent shall receive a credit of $74,106.19 for extended benefits paid pursuant to the Illinois Public Employee Disability Act.

Respondent shall pay Petitioner permanent partial disability benefits of $**755.22 (Max. rate)**/week for **200** weeks, because the injuries sustained prevented Petitioner from returning to his usual and customary duties as a policer officer/Master Sergeant and caused a loss of an occupation/trade, resulting in **40%** loss of the person as a whole, as provided in Section 8(d)2 of the Act.

Respondent shall pay Petitioner compensation that has accrued from 2/6/17 through 5/28/25, and shall pay the remainder of the award, if any, in weekly payments.

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 Linda J. Cantrell

AUGUST 11, 2025

STATE OF ILLINOIS)
) SS
COUNTY OF SANGAMON)

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION

JEFFREY A. DENNING,	)	
	)	
Employee/Petitioner,	)	
	)	
v.	)	Case No.: 16-WC-015840
	)	
STATE OF ILLINOIS/ILLINOIS STATE POLICE DISTRICT 10,	)	
	)	
Employer/Respondent.	)	

FINDINGS OF FACT

This claim came before Arbitrator Linda J. Cantrell for trial in Springfield on May 28, 2025. On 5/19/16, Petitioner filed an Application for Adjustment of Claim alleging injuries to multiple body parts while employed by Respondent on 5/7/16. (AX2)

Petitioner claims all medical bills have been paid and admitted no medical bills into evidence. Respondent claims the workers' compensation insurance administrator improperly paid medical bills in the amount of $70,406.12 for which it claims a credit, which Petitioner disputes. Petitioner stipulated on the record that Respondent is entitled to a credit for any and all medical expenses paid through its group medical plan, under Section 8(j) of the Act.

Petitioner claims entitlement to temporary total disability benefits from 5/8/16 through 8/20/16 and 9/8/17 through 5/31/18, representing 53 weeks. Respondent disputes liability for TTD benefits and claims a credit in the amount of $120,575.21 for benefits paid under the Public Employee Disability Act (PEDA). Petitioner agrees that Respondent is entitled to a credit of $120,575.21.

The issues in dispute are accident, causal connection, temporary total disability benefits, whether Respondent is entitled to a credit, and the nature and extent of Petitioner's injuries.

TESTIMONY

Petitioner was 53 years old, married, with no dependent children at the time of the alleged accident. He was hired by the Illinois State Police Department in 1995 and performed the duties of an Illinois State Trooper. He became an acting Master Sergeant in October 2014 and was promoted to Master Sergeant in District 10 in April 2016. He explained that District 10 was responsible for patrolling nine counties in Central Illinois that covered 55,000 square miles. As a

Master Sergeant, Petitioner was in charge of supervising the troopers and sergeants assigned to his shift, as well as performing his patrol duties as a trooper. As a State Trooper, Petitioner patrolled roadways, responded to crashes or other incidents on roadways, and assisted other officers and departments. His work shift was equally divided between administrative and trooper duties.

Petitioner testified that he was trained in the Illinois Vehicle Code and its enforcement. He underwent annual training to stay abreast of the changing laws. Petitioner estimated he has completed one thousand traffic crash accident reports in his career. In the academy he received Emergency Vehicle Obstacle Course (EVOC) training that taught him how to drive and handle a vehicle. He became an instructor on EVOC training that involved teaching troopers how to operate and maneuver a squad car at various speeds through obstacle courses and how that operation changes as speed increases or decreases with respect to braking and accelerating. Petitioner testified that almost every shift a trooper would drive over the speed limit if they were pursuing a speeder. Petitioner testified that as a Master Sergeant and shift commander he was familiar with the policies, rules, and procedures of the State of Illinois Police Department dealing with responding to emergency calls and operating a squad car at high rates of speed. If a subordinate on his shift violated those policies, rules, or procedures, he would discipline that trooper.

Petitioner testified that he never suffered an injury or received treatment for his right leg, right hip, or right foot prior to 5/7/16. He was able to perform all the job duties required of a trooper, sergeant, and Master Sergeant without difficulty prior to 5/7/16.

Petitioner testified that on 5/7/16 he was working as a shift commander on the midnight shift in District 10. He worked 10:00 p.m. to 8:00 a.m. at that time. Petitioner testified that there was only one trooper working with him that night that covered the entire area of District 10, which was the lowest manpower they would go. He stated that typically 4 to 5 troopers staffed the midnight shift. Petitioner testified that due to only one trooper working that night he chose to be in “enforcement mode” for the first part of the shift rather than performing administrative duties.

Petitioner recalled that the weather conditions on 5/7/16 were clear and dry. He wore his standard state police uniform and drove an unmarked squad car that had emergency lights and sirens. The area that he patrolled at 11:00 p.m. that night was a commercial and residential area in Decatur, Illinois with minimal or light traffic volume. Petitioner stated he was very familiar with the area because he had lived in the city for most of his life and the high school that he attended was close to the area he was patrolling. He had also patrolled that area for 19 years and was familiar with the traffic control signals and signs.

Petitioner testified that at approximately 11:00 p.m. he was patrolling the southwest part of Decatur looking for violations. He received a broadcast over the Illinois State Police Emergency Radio Network (ISPERN) that there was an officer involved shooting in the town of Mahomet, Illinois. The officer was reported down, and the suspect fled. A description of the offender’s vehicle was provided and its direction of travel, which was south on Route 47 out of Mahomet. After hearing the broadcast, Petitioner drove toward Interstate I-72 which intersects

with Route 47 a few miles south of town. His thought was that the offender would drive onto I-72 to escape the area, and he would possibly intercept the vehicle. Petitioner also responded in that direction to "flood the area with police officers" to increase the chances of encountering the offender and to set up a perimeter in the area to begin searching for the vehicle and/or the offender.

Petitioner testified that he activated his emergency lights and began traveling northbound on Oakland Avenue (a/k/a Route 48). He intended to drive north through Decatur to get to I-72 which is on the north side of Decatur. He explained that Oakland Avenue is a four-lane roadway with a center turn lane. All the main streets that intersect Oakland Avenue are controlled by traffic lights at the main intersections. The smaller side streets have stop signs at their intersections with Oakland Avenue, so Oakland Avenue is considered a "through street." Petitioner testified that he also activated his siren in manual mode. This allowed him to activate the siren intermittently by manually pressing a button rather than having the siren on continuously while driving. When he pressed the button, the siren would sound for a few seconds and shut off, or he could hold the button in to keep the siren sounding longer. Petitioner testified that he had his siren on manual mode so he could hear the radio traffic for updates on the situation. He stated the traffic on the roadway at that time of night was very light, and having the siren on manual mode helped reduce the echo from the sound of the siren bouncing off buildings and confusing the direction it was coming from.

Petitioner testified that he accelerated quickly while traveling northbound on Oakland Avenue with his emergency equipment activated. He stated the roadway was clear and there was little distance before the crash occurred. Petitioner recalled that he passed two vehicles that were traveling in the right lane in the same direction he was travelling. He was driving in the left center lane and as he passed the second vehicle on his right, he was one or two blocks from approaching a side street called Harrison Street. Petitioner confirmed that as he approached Harrison Street he was traveling over 100 mph. The intersection of Oakland Avenue and Harrison Street was controlled by a stop sign that required vehicles traveling on Harrison Street to yield to traffic traveling on Oakland Avenue. As Petitioner approached the intersection a vehicle pulled out from Harrison Street directly in front of his vehicle. The vehicle came from his right side and was turning left to drive southbound on Oakland Avenue. Petitioner testified that he did not see the vehicle until it was directly in front of him. He immediately applied his brakes and veered left to try to avoid a collision. Petitioner struck the vehicle in the center turn lane of Oakland Avenue. At no time when Petitioner was traveling on Oakland Avenue up to the time of the collision was he using his cell phone, his vehicle computer, or distracted in any way.

Petitioner testified that there are rules and regulations in effect with the Illinois State Police that dictate the speed a trooper can drive when responding to a call for service. There are four levels: Levels 1, 2, 3, and Code Red. Code 1 is the lowest level and Code Red is the highest level that allows for any speed to respond to a crisis. Code Red calls would be an officer involved shooting or a situation where life and limb is threatened. Petitioner testified that he considered many factors when he accelerated over 100 mph in responding to the call involving the officer involved shooting that night. These factors were the seriousness of the call, the fact that it just happened and a dangerous, armed subject was fleeing the scene, he wanted to quickly reach I-72 to set up a perimeter and search for the offender, the traffic on Oakland Avenue at that

time was light, he was traveling on a through roadway with few traffic lights, the weather was clear, and the roadway was dry.

Petitioner testified that he had to be extricated from his squad car and was transported to Decatur Memorial Hospital where he was admitted for three days. He sustained injuries to his right hip and right heel. Dr. Donald Sullivan performed a right hip surgery on 5/13/16 and later performed a right total hip replacement. Petitioner sustained a right heel fracture and underwent conservative treatment with a walking boot. Petitioner returned to light duty work on 8/21/16 and performed desk work through 9/7/17, at which time Respondent no longer accommodated his light duty restrictions. He was off work from 9/8/17 until he retired on 6/1/18. Dr. Sullivan placed Petitioner at MMI in February 2017 with permanent restrictions of no police patrol work and desk/office work only. Petitioner testified that he received his full salary while off work.

Petitioner testified that the Illinois State Police Department conducted a detailed investigation of his accident because of the seriousness of his injuries and the death of the driver of the other vehicle. The investigation entailed having another Master Sergeant complete an initial crash report and further investigations resulted in supplemental reports. A Crash Reconstruction Team also performed an investigation and the Crash Review Board comprised of officers of different ranks from around the state determined the collision was non-preventable. As a result, Petitioner was not disciplined in any manner regarding his actions and conduct leading up to the accident of 5/7/16.

Petitioner testified that the Appellate Prosecutor's Office charged him with a criminal offense as a result of the accident. Petitioner plead guilty to reckless conduct, a Class A misdemeanor, and was placed on probation, completed community service, and paid a fine. Petitioner testified that he did not believe his actions were reckless, but he plead guilty to a misdemeanor in order to preserve his pension which would have been terminated had he been convicted of a felony. Petitioner testified in the Court of Claims proceedings filed by the deceased driver against the State of Illinois. He was not required to obtain legal representation at the hearing, nor was he ever advised by the attorney representing the State that he was not acting in the capacity as a state trooper at the time of the collision.

Petitioner testified that he continues to experience occasional pain, discomfort, soreness, and stiffness in his right hip that increases with weather changes. His symptoms vary from 1-4/10 depending on activity. He stated he does not have any specific restrictions, but he is careful when walking on uneven terrain and lifting objects. He cannot cross his right leg over his left leg. Petitioner denied any ongoing symptoms with respect to his right heel and foot. Since retiring from the State Police, Petitioner has been employed in various other jobs, including a car dealership, shuttle driving, and a lawn fertilizer company. He stated that some of his job duties require walking that causes some pain and stiffness in his right hip. Petitioner testified that he has not sustained any injuries to his right hip or right heel since 5/7/16.

On cross-examination, Petitioner testified that the speed limit from Krekel Road to West Harrison Avenue was 35 mph. He testified that there is a dip in the roadway to the south of the stop sign at West Harrison and Oakland Avenue that could potentially block a vehicle from view that is in the low part of the dip or valley. He agreed that the dip/valley was one of the factors

considered in the accident investigation. Petitioner was driving an unmarked sedan that had a police package at the time of the accident. His vehicle had no markings or overhead light bar, and the emergency lights were inside the cabin or in the headlights. He learned after the accident that he had been traveling at 108 mph at one point prior to the collision. Petitioner testified that he was traveling at emergency speeds and did not believe he did anything wrong prior to the accident. He was not looking at his speedometer and did not take his eyes off the roadway.

Petitioner testified that the function of police is to protect and serve the public. He took a sworn oath when was hired in 1995 to give intelligent obedience to the commands of his superiors and to follow ISP rules and regulations. Petitioner testified that ISP had an internal policy, ROC-002, titled Rules of Conduct, that was in place on the date of accident, which he was obligated to follow. Petitioner confirmed ROC-002 contained a provision that "officers will operate official vehicles in a careful and prudent manner and will obey all laws and department directives pertaining to such operation." Petitioner testified he is also familiar with ISP Directive, OPS-81, titled Emergency/High Speed Response Driving that was in place on the date of accident, a directive he was obligated to follow. Within at least two provisions of OPS-81, pertaining to Code 3 and Code Red that could apply to the events on the date of accident, the statement "the officer will operate within ISP policy and use due care" is included. Directive OPS-81 further requires responding officers to declare over the radio a code response number when responding to a call. The code declaration did not necessarily have to be made to a supervisor, but at least to the ISP dispatch operator on the radio call. Petitioner testified it was his responsibility to consider his speed in the environment he was driving, pursuant to ISP directives, ROC-002 and OPS-81. Petitioner testified he considered driving in excess of 100 mph to be safe and reasonable in the area where the collision occurred. He testified that traffic was very light at 11:00 p.m.

Petitioner testified that the location of the collision occurred approximately five miles from the access point for I-72. He was 35 miles from Mohomet, Illinois when the emergency call came through his radio. He testified that the ISPERN broadcast went out to everyone, and he was not specifically dispatched. He responded to the call to provide direct response or as the shift commander to call in SWAT, aviation, investigators, or crime scene techs. Petitioner testified that Piatt County where the officer shooting occurred is a small county and the State Police is expected to provide investigative services to the smaller counties. He agreed that Police Directive OPS-81 required officers responding to a call to call the code over the radio. He testified that he did not call in a Code Red that night because the codes are usually called into the shift commander, and he was the shift commander. He stated there was no one else to call a code in to that night. He agreed that he was required to declare the code to the person on the other end of the radio. Petitioner testified that he could have turned his siren on continuous mode and turned up his radio to hear, but he would have had to fight the sound of the siren. He stated that policy does not require the use of the siren and it was discretionary. Petitioner testified that he received contractual raises after the accident. He continues to treat with Dr. Sullivan for regular checkups.

Master Sergeant Shad Edwards testified at arbitration. Mr. Edwards was a Master Sergeant in District 10 assigned to a different shift at the time of Petitioner's accident. He had been employed by the State Police for 27 years at the time of the accident and retired on 1/1/17.

Prior to his employment with the State Police, he had been a police officer for the City of Decatur. During his career in the State Police, Mr. Edwards held various positions and assignments, including trooper, criminal investigation, drug task force, sergeant, and Master Sergeant. He estimated that he has responded to or investigated well over 1,000 traffic accidents. At one time he supervised the entire Traffic Crash Reconstruction Unit assigned to District 10 until they became a separate unit. As a supervisor he assisted officers in their investigations and reviewed all of the reports for thoroughness. He is currently the liaison for the Illinois Association of Chiefs of Police through the Illinois Department of Transportation. He also works for United Airways as a ground safety coordinator.

Mr. Edwards testified that a Master Sergeant investigating a serious traffic accident involving a state trooper was in charge of the entire crash scene. He had to identify what additional resources were needed to complete and finalize the investigation of the crash, such as use of emergency personnel, blocking the roadway so the traffic accident reconstructionist can take measurements, and assigning personnel to follow up investigations. He would also conduct interviews or direct other officers to complete interviews of witnesses. Mr. Edwards testified that he was the Master Sergeant assigned to investigate Petitioner's accident of 5/7/16. He completed a comprehensive report outlining his findings during his investigation. He confirmed that Petitioner was responding to a police officer who had been shot in Mahomet, Illinois, that Petitioner was only one of two officers on that shift to cover nearly 6,000 square miles of territory that comprised District 10, and that Petitioner as a Master Sergeant had two priorities when responding to the call that night, which was to intercept the fleeing felon and establish a command post at the site of the shooting so that other state police officers could respond and take over the investigation. According to Mr. Edwards, Petitioner as the Master Sergeant on that shift was required to respond to the call to establish a command post and to call out other assisting groups to follow up on the shooting. He testified that the radio broadcast reported the fleeing felon that shot the police officer was fleeing on Route 47 onto I-72, which goes east or west toward Champaign or Decatur. Mr. Edwards stated Petitioner did not have a choice whether to respond to the call because it was a police officer involved shooting.

Mr. Edwards confirmed that the Department has a Code Red response level defined in its rules and policies. The Code Red response level has no defined speed limitation, but it lists several factors to be considered by the operator of the vehicle to determine the proper speed to utilize when responding to such a call. These factors include weather conditions, the type of roadway you are traveling on, the type of vehicle you are driving, the officer's comfort level with the driving speed, and the nature of the call you are responding to.

Mr. Edwards confirmed that he completed his investigation report and submitted it to the Department. His report included information from his interview with Petitioner at the hospital the following day, along with other information provided by other officers investigating the accident. Mr. Edwards concluded that Petitioner's accident was not preventable, and the crash could not have been avoided. He based his opinion on the fact that the driver of the other vehicle pulled in front of Petitioner's squad car at the last second and there was no way to avoid the collision. Additionally, the Crash Review Board agreed with his assessment that this was not a preventable accident. Mr. Edwards testified that Petitioner did not specifically report the code level over the radio, but the situation would have called for a Code Red response. He stated that

the shift commander determines whether a Code Red response is authorized, and because Petitioner was the shift commander there was no one to report it to.

Mr. Edwards testified that after completing his report he was contacted by the Macon County Coroner's Office and was advised that a toxicology report had been completed on the deceased driver of the other vehicle, Kelly Wilson. He received a facsimile transmission from the coroner's office with the autopsy report and toxicology laboratory reports. The toxicology report disclosed that Ms. Wilson was under the influence of cannabis at eight nanograms, and she had two different levels of being under the influence of alcohol. Her heart blood indicated her alcohol impairment was .09 and her eye blood indicated that blood alcohol intoxication was .105. The standard under the Illinois Vehicle Code for alcohol intoxication is .08. Based upon this information, Mr. Edwards concluded that Ms. Wilson, at the time of the accident, was driving under the influence of both alcohol and cannabis.

Mr. Edwards also subpoenaed Ms. Wilson's cell phone records to determine if she was distracted in any manner at the time of the accident. The records revealed that she was conducting text-messaging conversations with four different parties at or about, or within a few minutes of when the crash occurred, which is also a violation of the Illinois Vehicle Code.

Mr. Edwards also explored whether Petitioner was performing any activity that would have distracted him while he was responding to the officer involved shooting call. Petitioner's cell phone records were subpoenaed, and he determined that Petitioner was not using his cell phone at any time just prior to the accident. He also determined that Petitioner was not using his in-vehicle computer just prior to the accident. Mr. Edwards testified that the Department policy related to responding to a Code Red call does not require that the siren of the responding vehicle be activated continually but rather states both constant and manual modes are acceptable. He testified that he would not expect an officer responding in the same manner in which Petitioner was responding to the officer involved shooting to be looking at his speedometer while driving. He believed that Petitioner's response was reasonable under the circumstances and not outside the course and scope of his job duties as a Master Sergeant.

Mr. Edwards testified that he is very familiar with the roads where Petitioner's accident occurred. He grew up in Decatur and was assigned and worked in District 10 for approximately 20 years. He confirmed that Harrison Street, the street Ms. Wilson turned from onto Oakland Avenue, was controlled by a stop sign at its intersection with Oakland Street. He testified that Ms. Wilson's failure to yield the right of way to oncoming traffic and to an emergency responding vehicle violated the Illinois Vehicle Code.

On cross-examination, Mr. Edwards testified that he was not Petitioner's supervisor at the time of the accident, but he was the Senior Master Sergeant for District 10. He was superior to Petitioner only in time and rank, but Petitioner did not answer to him. He has spoken to Petitioner once or twice a year since he retired, primarily at police officer functions. He described Oakland Avenue as a major four lane roadway through Decatur, Illinois. He stated that the area where Petitioner's accident occurred is more residential than commercial.

Mr. Edwards testified that he was in charge of the crash investigation involving Petitioner's accident. He was responsible for reviewing all documents and deciding what was forwarded to the Crash Review Board. He testified that Petitioner's speed at the time of collision did not change his opinion that the accident was not preventable. He explained that at any speed, whether it be 100 mph or 5 mph, if someone runs a stop sign or disobeys a traffic control signal and pulls in front of you, there will still be a collision. He stated Ms. Wilson was under the influence of two central nervous system depressants. She was above the medical limits for cannabis and the legal limit for alcohol, which made her reaction time very strained and caused her failure to yield the right of way and appreciate an approaching police car driving at a high rate of speed with its lights activated. He stated that all of these factors would make it difficult to say that the accident could have been prevented by Petitioner reducing his speed. Mr. Edwards testified that the accident reconstructionist concluded Ms. Wilson accelerated through the intersection at the last second and Petitioner veered to the left leaving skid marks to attempt to avoid the collision.

Mr. Edwards testified that he probably would have had his siren on manual mode as well because it was the earliest moments after the radio broadcast and his hearing would have been hampered by a continuous siren, and there were only two vehicles on the road. Respondent counsel questioned Mr. Edwards about his deposition testimony dated 9/22/17 in a civil negligence case filed with the Illinois Court of Claims related to the collision, specifically *Leo and Katherine Wilson v. The State of Illinois*, Case No. 17-CC-0302. In that case, Mr. Edwards testified that he would utilize his siren and red lights when driving at 106 to 108 mph in a city street approaching an intersection. Mr. Edwards was asked in the deposition what "due care" was and he replied, "It says yes, I think that due -- yes, I think due care -- if you add in all the factors I think a reasonable, as a reasonable officer I would have the lights and siren on, yes."

Mr. Edwards testified that having the siren on continuous may have alerted Ms. Wilson to Petitioner's approaching police car, but she did not notice the red lights that other vehicles noticed and she was under the influence of central nervous system depressants. He considered the area where the collision occurred to be the end of a residential area and the beginning of a commercial area. He agreed that Petitioner could have driven at a different rate of speed than he did.

DOCUMENTARY EVIDENCE

On 5/8/16, at 12:01 a.m., Petitioner was admitted to Decatur Memorial Hospital and was diagnosed with a fracture of the head of the right femur, dislocation of the right hip, fracture of the right calcaneus, and a laceration of the right elbow as a result of a motor vehicle accident that required extraction. (PX1, p. 200) Petitioner underwent a right hip closed reduction in the emergency room and was referred to Dr. Donald Sullivan for further care. (PX1, p. 226) Dr. Sullivan noted Petitioner sustained a severe crush injury to his right femoral head and a posterior wall fracture that would likely require a total hip replacement. Petitioner's right foot was placed in a boot for the calcaneus fracture and his right elbow laceration was sutured. Petitioner was discharged on 5/10/16.

On 5/8/16, an Employer's First Report of Injury was completed that indicated Petitioner was driving a squad car with lights and siren activated and a vehicle ran a stop sign. Petitioner t-boned it, hitting it in the driver's side door. Petitioner sustained a broken pelvis, broken hip, broken right leg, and injured his back and neck. (RX1)

On 5/11/16, Master Sergeant Shad Edwards completed an Employee's Notice of Injury on behalf of Petitioner. He indicated that Petitioner was responding with emergency lights on responding to an officer involved shooting call. A driver failed to yield the right of way and pulled out from a stop intersection in front of Petitioner's squad car with emergency lights activated. Petitioner struck offending vehicle in offenders driver's door, killing the offender. Petitioner sustained a broken pelvis, foot, dislocated hip requiring replacement surgery. (RX1)

On 5/15/16, Dr. Sullivan performed a right total hip arthroplasty and ORIF of the greater trochanter. (PX1, p. 6) Preoperative diagnosis was right hip fracture/dislocation with acetabular and femoral head fractures. Petitioner underwent physical therapy for his right hip and right heel through 8/18/16 at Shelby Memorial Hospital. (PX3)

On 8/4/16, Dr. Sullivan noted Petitioner had excellent strength and range of motion in his right hip. (PX2, p. 14) Petitioner had no pain or instability and was walking without assistive devices. Dr. Sullivan opined that Petitioner could return to work with posterior hip precautions, but he did not recommend that Petitioner return to full activity as a police officer at that time.

On 11/3/16, Dr. Sullivan recommended that workers' compensation order a functional capacity evaluation. (PX2, p. 16) He continued Petitioner's work restrictions.

On 2/6/17, Dr. Sullivan released Petitioner at MMI with permanent posterior hip precautions of no flexion of the right hip past 90 degrees with internal rotation, no patrol police work, and office work only. (PX2, p. 20, 35) Petitioner was reevaluated by Dr. Sullivan on an annual basis through 5/20/20. (PX2, 40) At that time Petitioner was four years postop and was doing very well. He had minimal pain and excellent strength and range of motion. Petitioner's permanent restrictions remained unchanged.

The Illinois State Police Department Vehicle Crash Packet Checklist was admitted into evidence. (PX4) Petitioner prepared an Office Memorandum to Captain L. Kink on 5/17/16 that provided a consistent description of the collision. (PX4, p. 2)

Master Sergeant prepared an Investigating Officer's Report that indicated Petitioner's red and blue and wigwag lights were on and his siren was off at the time of the collision. (PX4, p. 3) He summarized that Petitioner was at the corner of Grand and Illinois Route 48/Oakland Avenue in Decatur, Illinois when an ISPERN broadcast was dispatched of an officer being shot in Mahomet and the suspect was fleeing on Illinois Route 47 southbound toward I-72. Approximately 23 seconds after the broadcast, Petitioner advised Pontiac Communications Center that he would be enroute to I-72 from Decatur and head east (presumably to intercept the offender, fleeing west on I-72 or respond to Mahomet). A code response was not given, but implied due to the urgency to capture the fleeing felon who had shot the police officer. Sergeant Edwards noted that Petitioner further implied his response as he attempted to correct the

direction he would be traveling on I-72 in his attempt to capture the fleeing felon, which was taken from the audio recording. Petitioner activated his emergency lights (interior LED lights and wig wags) as he traveled north on Route 48. Petitioner could not recall when interviewed after the accident if he turned his siren on, but it was in "Manual Mode", and he used it to clear traffic prior to the collision. The siren was toggled to Stand-by, Manual Mode when the reporting officer arrived at the scene; however, the car received significant damage and fire personnel had been inside the vehicle during extrication. Two witnesses gave different accounts on the use of the siren. He noted that the airbag control module on Petitioner's squad car indicated he was driving 108 mph two seconds prior to impact and 85 mph a half a second prior to the impact. He noted that evidence suggested Petitioner was not using his laptop at the time of the accident and it was closed. Petitioner's cell phone was found crushed in his buttoned front breast shirt pocket at the hospital.

Sergeant Edwards concluded that the accident was not preventable. He stated that Petitioner was responding with an implied "Code Red" response. Petitioner was expected to respond to the officer involved shooting as he was one of only two ISP officers working that night. Petitioner activated his emergency lights and most likely used his siren in manual mode. Witnesses situated north and south of the crash observed Petitioner's car traveling well in advance and were/had actively yielded the right of way to his emergency equipment. Petitioner had slowed to 85 mph a half second before impact in a 35-mph zone. Route 48 is a roadway that was clearly capable to sustain a vehicle at that speed or greater without the vehicle causing an accident. Atmospheric conditions were such that visibility was not impaired. He concluded that the accident became a non-preventable crash once Ms. Wilson tragically failed to yield the right of way to Petitioner and pulled directly into his path at the last second. He opined that there was nothing that Petitioner could have done to prevent the crash at the moment.

Kelly Wilson's toxicology report, coroner's reports, and cell phone records were admitted into evidence. (PX5, 6, 8)

On 11/10/16, the ISP Traffic Crash Review Board determined that Petitioner's accident was "Non-preventable". (PX9)

The Oath of an Officer of the Illinois State Police signed by Petitioner on 10/20/95, and a job duty description was admitted into evidence. (RX3, 7)

Illinois State Police Directives OPS-081 – Emergency/High Speed Response Driving and ROC-002 - Rules of Conduct were admitted into evidence. (RX9, 10)

A certified copy of the State of Illinois Court of Claims Opinion in *Leo and Katherine Wilson, as Co-Independent Administrators of the Estate of Kelly Wilson, deceased v. State of Illinois,* Case Number 2017-CC-0302 was admitted into evidence. (RX8) On 8/31/16, Claimants Leo and Katherine Wilson filed a two-count Complaint alleging wrongful death and survivorship claims against Jeffrey Denning, the Illinois State Police, and the State of Illinois arising out of the fatal motor vehicle accident that occurred on 5/7/16. The Court of Claims noted Petitioner pled guilty to misdemeanor reckless conduct. The Court found no evidence that Petitioner violated any provision of the Illinois Vehicle Code. However, ISP Captain Louis Kink and

Master Sergeant Stephen Coady admitted that, when operating an emergency vehicle in excess of 100 mph on a city street, activating the siren in a continuous mode would have been required in order to exercise due care. Thus, the Court concluded Petitioner did not exercise due care and that Petitioner's speed and his failure to activate his siren in continuous mode at the time of accident constituted a breach of his duties to operate his vehicle in due regard for the safety of other vehicles. The Court found decedent Wilson 45% contributorily negligent for failing to perceive Petitioner's approaching squad car and pulling in front of him, and for driving her vehicle while exceeding the statutory limits of BAC and THC levels.

Petitioner's Partial Plea Agreement in *The People of the State of Illinois v. Jeffrey A. Denning*, filed in the Sixth Judicial Circuit Macon County, Illinois, Case No. 2018-CF-1666 was admitted into evidence. (RX12) Petitioner agreed the posted speed limit at the scene of the collision was 35 mph. He agreed that approximately two and a half seconds prior to the impact his car was operating between 107 and 109 mph, and he did not activate his siren in constant mode but operated it intermittently. Petitioner agreed his actions of speed and failure to use his siren in constant mode were contributing factors and a proximate cause for the motor collision with Kelly Wilson that led to her death.

Certified copies of ISP Directive OPS-81 (Emergency/High Speed Response Driving) and ROC-002 (Rules of Conduct) were admitted into evidence. (RX9, 10)

On 5/9/18, Petitioner acknowledged that he was paid and exhausted his 365 days of service-connected time off, for the periods 5/9/16 through 8/31/16 (114 days) and 9/8/17 through 5/16/18 (251 days). (RX5)

CONCLUSIONS OF LAW

Issue (C): Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?

"To obtain compensation under the Act, a claimant bears the burden of showing, by a preponderance of the evidence, that he has suffered a disabling injury which arose out of and in the course of his employment." *Sisbro, Inc. v. Industrial Comm'n,* 797 N.E.2d 665, 671 (2003). "In the course of employment" refers to the time, place, and circumstances surrounding the injury. *Id.* That is to say, for an injury to be compensable, it generally must occur within the time and space boundaries of the employment.

An injury "arises out of" one's employment if its origin is in a risk connected with or incidental to the employment. *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. In order to meet this burden, a claimant must prove that the risk of injury is peculiar to the work *or* that he or she is exposed to the risk of injury to a greater degree than the general public. *McAllister v. Ill. Workers' Comp. Comm'n*, 2020 IL 124848. Illinois courts recognize the following three categories of risks: "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.* A risk is distinctly associated with the employment if 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.*

It is undisputed that Petitioner was on duty as a Master Sergeant and responding to an officer involved shooting at the time of the collision on 5/7/16. Respondent alleges that Petitioner's act of driving "grossly too fast for conditions" constitutes willful and wanton conduct that took him out of the sphere of employment and his work-related injuries are therefore not compensable under the Act.

Respondent relies on *Mitchell v. Illinois State Police*, 12 IWCC 0700, 2012 Ill. Wrk. Comp. LEXIS 825 (July 6, 2012). In *Mitchell*, an Illinois State Trooper drove his police cruiser at grossly excessive speeds (126 mph) in a traffic congested area, causing a head-on collision that killed two 18-year-old girls. Petitioner was criminally charged, pled guilty, and served a probationary sentence. Petitioner filed a workers' compensation case, and the Arbitrator found that the accident did not arise out of Petitioner's employment due to his willful and wanton conduct.

The Arbitrator finds the facts in *Mitchell* distinguishable from the facts in the present case. In *Mitchell,* the state trooper was responding to an accident on the day after Thanksgiving when the highways were congested with travelers and shoppers. Evidence was presented that while the trooper was traveling to the accident scene at approximately 126 mph, he was using his in-car computer to send an e-mail to another trooper asking for directions to the accident scene, and he was speaking to his girlfriend on his cell phone for nearly four minutes. He also claimed he did not hear a message that help had already arrived at the accident scene. As he approached the accident scene, he was cut off by another vehicle and to avoid a collision he veered left, crossed the median, and struck another vehicle head-on, fatally injuring two occupants of that vehicle. The Commission affirmed the Arbitrator's decision that Petitioner's actions were "a substantial and unjustifiable risk resulting in a gross deviation in the standard of care in his duties as an Illinois State Trooper" and his conduct was egregiously outside of the scope of his employment.

In the present case, Petitioner was responding to one of the most serious calls in law enforcement, an officer involved shooting. The officer was reported down, and the suspect fled. It was undisputed that the call called for a Code Red response, which is the highest level code that allows for any speed to respond to a crisis. Upon receiving the call, Petitioner immediately drove toward Interstate I-72 to increase the chances of encountering the offender and to set up a perimeter in the area to begin searching for the vehicle and/or the offender.

Petitioner was also required to respond to the call to take command of the scene and to access what additional services were required to investigate the shooting. Master Sergeant Edwards testified that based on the nature of the call, Petitioner was responding to a Code Red and he did not have a choice whether to respond to the call because it was a police officer involved shooting.

The time of day and traffic conditions were significantly different than in the *Mitchell* case. The state trooper in *Mitchell* was responding to an accident on the day after Thanksgiving when the highways were congested with travelers and shoppers. Petitioner's accident occurred at 11:02 p.m. on a four-lane through roadway with minimal traffic or traffic lights. It is undisputed that the weather conditions on the evening of 5/7/16 were clear and the roadway was dry. Petitioner was patrolling the end of a residential area at the beginning of a commercial area with minimal traffic. He testified that he only passed two vehicles on the roadway prior to the collision, and both vehicles yielded to his oncoming squad car. Petitioner was also very familiar with the area because he had lived in the city for most of his life and he patrolled that area for 19 years prior to the accident.

Unlike the Petitioner in *Mitchell*, Petitioner in the present case was undistracted when the accident occurred. The accident investigation revealed he was not using his vehicle computer or cell phone at the time of or just prior to the collision. His testimony was unrebutted that he did not look at his speedometer or take his eyes off the roadway while responding to the emergency call. The driver that pulled out in front of Petitioner's vehicle was intoxicated and distracted. Ms. Wilson violated the Illinois Vehicle Code by driving her vehicle while exceeding the statutory limits of BAC and THC levels and for failing to yield the right of way to oncoming traffic and an emergency vehicle. Ms. Wilson's cell phone records revealed she was conducting text-messaging conversations with four different parties at or about the time of the collision.

Master Sergeant Edwards testified that officers must consider several factors in determining the proper speed to utilize when responding to a Code Red call. These factors include weather conditions, the type of roadway you are traveling on, the type of vehicle you are driving, the officer's comfort level with the driving speed, and the nature of the call you are responding to. Petitioner testified that he considered all of these factors when responding to the call and he did not believe he did anything wrong prior to the accident. Specifically, the weather was clear, the four-lane roadway was dry, there was minimal traffic as it was just before midnight, it was toward the end of a residential area and the beginning of a commercial area, he lived in and patrolled the area for two decades and was very familiar with the roads, and he was responding to an emergency situation to find an offender that just shot an officer.

Master Sergeant Edwards was in charge of investing Petitioner's accident and concluded the collision was not preventable. He opined that the crash could not have been avoided because Ms. Wilson pulled in front of Petitioner's vehicle at the last second and there was no way to avoid the collision. The Crash Review Board agreed with Mr. Edwards' assessment that it was not a preventable accident. Petitioner was not disciplined in any manner as a result of the accident, and he continued to perform his Master Sergeant duties and receive contractual pay raises following the accident.

Based on the entirety of the evidence, the Arbitrator does not find that Petitioner's speed at the time of the accident constitutes willful and wanton conduct that took him outside the sphere of employment. The Arbitrator also does not find Petitioner's failure to call in a Code Red or use his siren on continuous mode amounts to a gross deviation in the standard of care of his duties as a Master Sergeant such that his actions took him out of the sphere of employment. Petitioner testified that he did not specifically report a Code Red over the radio because the code

level is reported to the shift commander, and he was the shift commander on duty that night. Master Sergeant Edwards testified that the situation reported over the radio implied it was a Code Red response and Petitioner would have had to report the code level to himself because he was the Master Sergeant on duty.

Petitioner activated his emergency lights prior to responding to the call. He activated his siren in manual mode so he could hear the radio traffic for updates on the situation. Petitioner testified that the call just came in and he was hurrying to locate a fleeing offender that just shot an officer, and a continuous siren would interfere with him hearing crucial information at the time. Petitioner testified that he also used his siren in manual mode to reduce the echo from the sound of the siren bouncing off buildings and confusing the direction it was coming from. Petitioner testified unrebutted that policy did not require him to use his siren in continuous mode. Master Sergeant Edwards also testified that the Department policy related to responding to a Code Red call does not require that the siren of the responding vehicle be activated continually but rather states both constant and manual modes are acceptable. He believed that Petitioner's response was reasonable under the circumstances and not outside the course and scope of his job duties as a Master Sergeant. Mr. Edwards testified that he probably would have had his siren on manual mode as well because it was the earliest moments after the radio broadcast and his hearing would have been hampered by a continuous siren, and there were only two vehicles on the road. Mr. Edwards agreed he previously testified that a reasonable officer using due care would have utilized emergency lights and the siren when driving 106 to 108 mph approaching an intersection, but testified it was not required.

Petitioner testified that the Appellate Prosecutor's Office charged him with a criminal offense as a result of the accident. Petitioner testified that he did not believe his actions were reckless, but he pled guilty to reckless conduct, a Class A misdemeanor, in order to preserve his pension. He was placed on probation, completed community service, and paid a fine. In the Court of Claims proceedings filed by the deceased driver's estate against the State of Illinois, Petitioner was not required to obtain legal representation and the Court found no evidence that Petitioner violated any provision of the Illinois Vehicle Code. However, ISP Captain Louis Kink and Master Sergeant Stephen Coady admitted that, when operating an emergency vehicle in excess of 100 mph on a city street, activating the siren in a continuous mode would have been required in order to exercise due care. However, the Arbitrator does not find sufficient evidence that Petitioner's use of his siren in manual mode was a gross deviation in the standard of care of his duties, particularly with no Department policy, rule, or order requiring the use of a continuous siren when responding to a Code Red call. The Court of Claims also found Ms. Wilson 45% contributorily negligent for failing to perceive Petitioner's approaching squad car, for failing to yield the right of way and pulling in front of Petitioner's car, and for driving her vehicle while exceeding the statutory limits of BAC and THC levels.

The law is clear that excessive speeding standing alone, does not as a matter of law, disqualify an employee from coverage under applicable workers' compensation law. *David Johnson v. Illinois Workers' Compensation Comm.n,* 2011 Ill.App. (2d)100418 WC*, Stembridge Builders, Inc. v. Industrial Commission,* 262 Ill.App.3d 878, 636 N.E.2d 1088, (2nd Dist. 1994). Moreover, as cited in *Stembridge,* an action by an employee that would take that employee outside the course and scope of the employment, would have to be an act done intentionally, with

the knowledge that the action is likely to result in serious injury, or with a wanton disregard of probable consequences. "The question of whether the conduct so deviated from the employer's business that it took the employee out of the scope of employment is a question of fact."

The Arbitrator finds that the totality of the evidence does not support a conclusion that Petitioner acted intentionally or that he knew his conduct would likely cause serious injury under the circumstances. There is insufficient evidence that Petitioner took a substantial and unjustifiable risk resulting in a gross deviation in the standard of care in his duties as an Illinois State Trooper, or that his conduct was egregiously outside of the scope of his employment.

Based on the evidence as a whole, the Arbitrator finds that Petitioner sustained accidental injuries that arose out of and in the course of his employment with Respondent on 5/7/16.

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

In addition to or aside from expert medical testimony, 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 III.App.3d 92, 96-97, 631 N.E.2d 724 (1994); *International Harvester v. Indus. Comm'n*, 93 111.2d 59, 442 N.E.2d 908 (1982).

Respondent presented no medical evidence to rebut that Petitioner's current conditions of ill-being are not causally connected to the work accident of 5/7/16. It is undisputed that Petitioner sustained injuries to his right leg, right hip, and right heel as a result of the motor vehicle accident. All of Petitioner's medical records contain a consistent history of injury and that the medical treatment received directly related to those injuries. Petitioner's testimony was unrebutted that he never sustained injuries or received treatment for his right leg, hip, or heel prior to 5/7/16. He was working full duty without restrictions as a Master Sergeant prior to the accident. Petitioner testified that he did not sustain any additional injuries to his right leg, hip, or heel since the accident.

Based on the entirety of the evidence and the Arbitrator's finding as to accident, the Arbitrator finds that Petitioner's current conditions of ill-being are causally connected to the work accident of 5/7/16.

Issue (K): What temporary benefits are in dispute? (TTD)

Petitioner claims entitlement to temporary total disability benefits from 5/8/16 through 8/20/16 and 9/8/17 through 5/31/18, representing 53 weeks.

Petitioner was admitted to Decatur Memorial Hospital from 5/8/16 through 5/10/16 and underwent a right hip closed reduction, right elbow sutures, and his right foot was placed in a boot for a calcaneus fracture. On 5/15/16, Dr. Sullivan performed a right total hip arthroplasty and ORIF of the greater trochanter. On 8/4/16, Dr. Sullivan opined that Petitioner could return to

work with posterior hip precautions, but he did not recommend that Petitioner return to full activity as a police officer at that time.

Petitioner was off work from the date of accident until he returned to light duty work on 8/21/16. Petitioner testified that he performed desk work through 9/7/17, at which time Respondent no longer accommodated his light duty restrictions. He was off work again from 9/8/17 until he voluntarily retired on 6/1/18.

Based on the Arbitrator's findings as to accident and causal connection, the Arbitrator finds that Petitioner is entitled to temporary total disability benefits. Therefore, Respondent shall pay Petitioner temporary total disability benefits of $1,398.23 (Max. rate)/week for 53 weeks, commencing 5/8/16 through 8/20/16 and 9/8/17 through 5/31/18, as provided in Section 8(b) of the Act.

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 impairment rating. Therefore, the Arbitrator places no weight on this factor.

(ii) **Occupation**: Petitioner was hired by Respondent in 1995 and performed his job duties as a police officer until his work accident on 5/7/16. As a result of his work-related injuries, Petitioner has permanent restrictions of desk work only and no patrol duties. Respondent did not accommodate Petitioner's permanent work restrictions and he voluntarily retired on 6/1/18. Petitioner has held various jobs since retiring, including working at a car dealership, shuttle driving, and a lawn fertilizer company. He testified that some of his job duties require walking that causes some pain and stiffness in his right hip. The Arbitrator places significant weight on this factor.

(iii) **Age**: Petitioner was 62 years old at the time of arbitration. The Arbitrator places some weight on this factor.

(iv) **Earning Capacity**: As a result of the accident, Petitioner was unable to return to work in his pre-accident position as a Master Sergeant. He was placed on permanent work restrictions of desk/office work only and no police patrol duties. Petitioner voluntarily retired on 6/1/18 after Respondent could no longer accommodate his work restrictions. Petitioner testified that he has held various jobs since retiring, including a car dealership, shuttle driving, and a lawn fertilizer company. The Arbitrator places significant weight on this factor.

(v) **Disability**: As a result of the accident, Petitioner underwent a right total hip replacement and abductor/greater trochanter repair. He underwent conservative treatment for a right calcaneus fracture. On 2/6/17, Dr. Sullivan released Petitioner at MMI with permanent posterior hip precautions of no flexion of the right hip past 90 degrees with internal rotation, no patrol police work, and office work only.

Petitioner testified that he continues to experience occasional pain, discomfort, soreness, and stiffness in his right hip that increases with physical activity and weather changes. Petitioner is careful when walking on uneven terrain and lifting objects. He is unable to cross his right leg over his left leg. Petitioner stated he has no ongoing symptoms with respect to his right heel and foot. The Arbitrator places significant weight on this factor.

Based on Petitioner's permanent work restrictions that prevent him from returning to his usual and customary duties as a policer officer/Master Sergeant, the Arbitrator finds that the appropriate award is loss of an occupation/trade as provided in Section 8(d)2 of the Act. Based upon the foregoing evidence and factors, the Arbitrator finds that Petitioner sustained permanent partial disability to the extent of 40% loss of the person as a whole, at the maximum PPD rate of $755.22, as provided in Section 8(d)2 of the Act.

Respondent shall pay Petitioner compensation that has accrued from 2/6/17 through 5/28/25, and shall pay the remainder of the award, if any, in weekly payments.

Issue (N): Is Respondent due any credit? (Medical and PEDA payments)

Respondent alleges it improperly paid medical bills in the amount of $70,406.12 through its workers' compensation insurance administrator for which it claims a credit. Respondent admitted into evidence an itemized statement of all medical bills paid that relate to medical treatment Petitioner received as a result of injuries he sustained on 5/7/16, which totals $70,406.12. (RX6) Petitioner claims all medical bills have been paid and admitted no medical bills into evidence. Therefore, the Arbitrator having awarded no medical bills herein denies all credits for medical bills paid, specifically payments made by Respondent's workers' compensation insurer in the amount of $70,406.12, and all payments made by Respondent's group medical plan, pursuant to Section 8(j) of the Act.

Petitioner testified that he received his full salary while off work in lieu of TTD benefits pursuant to the Public Employee Disability Act (PEDA). Respondent admitted into evidence an itemization of PEDA benefits paid from 5/9/16 through 8/31/16 and 9/8/17 through 4/30/18 in the total amount of $120,575.21. (RX5) Respondent requests a credit for the full amount of PEDA benefits paid.

Section 8(j) of the Act provides for credit as such: 1. In the event the injured employee receives benefits, including medical, surgical or hospital benefits under any group plan covering non-occupational disabilities contributed to wholly or partially by the employer, which benefits should not have been payable if any rights of recovery existed under this Act, then such amounts

so paid to the employee from any such group plan as shall be consistent with, and limited to, the provisions of paragraph 2 hereof, shall be credited to or against any compensation payment for temporary total incapacity for work or any medical, surgical or hospital benefits made or to be made under this Act . . . This paragraph does not apply to payments made under any group plan which would have been payable irrespective of an accidental injury under this Act.

2. Nothing contained in this Act shall be construed to give the employer or the insurance carrier the right to credit for any benefits or payments received by the employee other than compensation payments provided by this Act, and where the employee receives payments other than compensation payments, whether as full or partial salary, group insurance benefits, bonuses, annuities or any other payments, the employer or insurance carrier shall receive credit for each such payment only to the extent of the compensation that would have been payable during the period covered by such payment. 820 ILCS 305/8(j)(1-2).

The Public Employee Disability Act (PEDA) specifically addresses workers' compensation payments and credits. PEDA provides certain benefits to full-time employees and states: "Whenever an eligible employee suffers any injury in the line of duty which causes him to be unable to perform his duties, he shall continue to be paid by the employing public entity on the same basis as he was paid before the injury . . ." 5 ILCS 345/1(b). Section (d) of PEDA further states: "Any salary compensation due the injured person from workers' compensation or any salary due him from any type of insurance which may be carried by the employing public entity shall revert to that entity during the time for which continuing compensation is paid to him under this Act." 5 ILCS 345/1(d).

Consistent with the Commission's holdings in *Puccini v. Village of Schaumburg,* 21 IWCC 0611 and *Gericke v. Lockport Fire Protection District,* 11 IWCC 1075, the Arbitrator finds that Respondent is entitled to a credit for PEDA payments made under Section (d) of PEDA up to the amount of TTD benefits that were owed for the relevant period pursuant to Section 8(j)(2) of the Act. A review of Respondent's Exhibit 5 indicates that Petitioner was paid PEDA benefits from 5/9/16 through 8/31/16 and 9/8/17 through 4/30/18 in the total amount of $120,575.21. The TTD benefits owed to Petitioner from 5/8/16 through 8/20/16 and 9/8/17 through 5/31/18 is $74,106.19, representing 53 weeks at the maximum TTD rate of $1,398.23. Thus, the Arbitrator finds that Respondent is entitled to a credit of $74,106.19 for PEDA benefits paid in lieu of TTD benefits.



Arbitrator Linda J. Cantrell

AUGUST 11, 2025

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC029874
Case Name	Lynette Turner-Scott v. Somatus, Inc.
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0250
Number of Pages of Decision	13
Decision Issued By	Maria Portela, Commissioner

Petitioner Attorney	Scott Goldstein
Respondent Attorney	Paul Berard

DATE FILED: 9/2/2026

/s/Maria Portela, 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 WILL	)	☐ Reverse	☐ Second Injury Fund (§8(e)18)
			☐ PTD/Fatal denied
		☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

LYNETTE TURNER-SCOTT,

Petitioner,

vs. NO: 23WC029874

SOMATUS, INC.,

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 nature and extent, and being advised of the facts and law, affirms and adopts, with the following change, the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Commission agrees with the Arbitrator that Petitioner failed to prove her injury occurred in the course of her employment. As such, we strike the remainder of the Arbitrator's analysis as it pertains to "arising out of" and affirm all else.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed December 18, 2025 is hereby affirmed and adopted with the change noted above.

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.

No bond for the removal of this cause to the Circuit Court by Respondent is required because no award was made. 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.

September 2, 2026 /s/ *Maria E. Portela*

SE/ /s/ *Christopher A. Harris*
O: 8/20/26
49 /s/ *Marc Parker*

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC029874
Case Name	Lynette Turner-Scott v. Somatus, Inc.
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	Scott Goldstein
Respondent Attorney	Paul Berard

DATE FILED: 12/18/2025

/s/ Gerald Granada, Arbitrator
Signature

INTEREST RATE WEEK OF DECEMBER 16 2025 3.50%

26IWCC0250

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
ARBITRATION DECISION

LYNETTE TURNER-SCOTT
Employee/Petitioner

v.

SOMATUS, INC.
Employer/Respondent

Case # **23** WC **029874**

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 24, 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 **9/12/23**, 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 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 $**53,560.00**; the average weekly wage was $**1,030.00**.

On the date of accident, Petitioner was **52** years of age, ***married*** 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 $**67,045.79** for other benefits, for a total credit of $**67,045.79**.

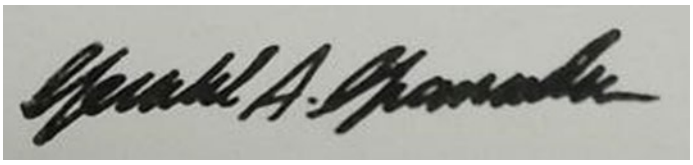
Respondent is entitled to a credit of $**0** under Section 8(j) of the Act.

ORDER

Petitioner failed to prove by a preponderance of the evidence that she sustained an accident that arose out of and in the course of her employment. Petitioner's 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.



Signature of **Arbitrator Gerald Granada**

DECEMBER 18 2025

FINDINGS OF FACT

This case involves Petitioner Lynette Turner-Scott, who alleges to have sustained injuries while working for Respondent Somatus, Inc., on September 12, 2023. Respondent disputes Petitioner's claim, with the issues being: 1) accident; 2) causation; 3) medical expenses; 4) TTD; and 5) permanency.

Petitioner testified she was employed by Respondent on September 12, 2023, as a Patient Health Advocate Lead. (Tr. 10). She worked in a hybrid position that included working from home and meeting patients at clinics, hospitals, nursing homes and their homes to discuss various benefit programs and arranging medical treatment. (Tr. 11-12).

Testimony regarding Petitioner's work accident

Petitioner testified that on September 12, 2023, she drove to the Joliet clinic for a patient visit. (Tr. 16-17). She testified that she spoke to the office manager at the Joliet clinic and was told that the patient's visit was changed to a telehealth visit. (Tr. 19). Petitioner testified that she went home from the Joliet clinic after going to get something to eat. (Tr. 21-22).

Petitioner testified that she parked in her attached garage upon arriving home after eating lunch. (Tr. 23). She exited her vehicle and proceeded into her house without her work materials. (Tr. 23). After going inside and checking her house, she turned around to go back to her car to get her work bag and laptop. (Tr. 24).

Petitioner testified she went to get her laptop so she could complete her work duties for the day. (Tr. 24). When she turned around to go back to her car, she caught her foot on the ledge of the stair and fell forward. (Tr. 26). Her leg bent backwards and she fell. (Tr. 25-26).

Petitioner testified that she was wearing her work shoes when she fell. (Tr. 37). The shoes were Crocs. (Tr. 37-38). She testified that the shoes she was wearing were the type that she wears for work. (Tr. 38). She testified they are slip resistant shoes. (Tr. 46). Petitioner testified that the tread on the shoes helps make sure that she maintains her balance. (Tr. 38).

Petitioner testified that she caught her right shoe on the threshold of the door between the house and garage. (Tr. 38-39). She indicated that the mark on the top of her right shoe is where her shoe got caught on the door threshold. (Tr. 39). There was still discoloration on the top of her right shoe. (Tr. 39).

Petitioner testified that she did not have to carry any big bags for her work. (Tr. 76). She testified that she was not carrying any bag when she went into her house and back to her car. (Tr. 81). She testified, "it wasn't that I had a bag in my hand when I went into the house…I didn't have a bag in my hand." (Tr. 81-82). Petitioner testified that she never carries her bag when she enters her house when getting back to it. (Tr. 115). Petitioner's testimony was clear that she was not carrying any work-related materials when she fell.

Testimony regarding Petitioner's medical records and treatment

On September 15, 2023, Petitioner went to her family doctor, Dr. Sonia Virparia. (Tr. 52-53). Dr. Virparia immediately sent her to see an orthopedic surgeon. (Tr. 53). She saw Dr. Beverlee Brisbin and was given sedentary work restrictions. (Tr. 53-54). She had an MRI of her right knee and followed up with Dr. Virparia and Dr. Aimee Bobko at MidAmerica Orthopaedics several times through November 21, 2023. (Tr. 55-57).

Petitioner testified that she sought a second opinion at Orland Park Orthopedics. (Tr. 57). She testified she

started treatment with Dr. Frank McCormick. (Tr. 58-59). She testified Dr. McCormick performed surgery on December 19, 2023. (Tr. 59). Petitioner testified she continued to treat with Dr. McCormick through March 7, 2025, when he released her. (Tr. 59-60). She testified she was kept off work throughout her treatment with Dr. McCormick. (Tr. 60).

Petitioner testified that she did not report to her medical provider on September 15, 2023, that she had a big bag in her hand and was blindsided to the stairs. (Tr. 79-81). She agreed that her medical record from September 15, 2023, did not contain any history of her working or carrying anything when she fell. (Tr. 83-84). Petitioner disputed the history in her medical record that she was walking into her house when she fell. (Tr. 84).

Petitioner agreed that her MidAmerica Orthopaedics medical record from September 15, 2023, stated that she was coming home from a patient care visit and was preparing to leave again when she caught her shoe on a step and fell forward. (Tr. 85-87). Petitioner testified that the history in this medical record was also not correct. (Tr. 87). She testified that both her medical records from Advocate on September 15, 2023, and MidAmerica Orthopaedics on September 15, 2023, had incorrect accident histories. (Tr. 87).

Petitioner testified that she reported to Dr. McCormick on November 7, 2023, that she slipped and fell when she was injured. (Tr. 87-88). She could not remember whether she reported to him that she was walking up and down any stairs. (Tr. 88). Petitioner could not recall reporting to Dr. McCormick anything about coming home from work or leaving for work. (Tr. 89).

Petitioner testified that she agreed her medical records from three different providers had different accident histories and that none of them were consistent with her testimony at trial. (Tr. 89). She testified that her medical providers recorded wrong histories and that her testimony at trial was what actually happened. (Tr. 89).

Testimony of Denisa Dragan

Respondent's senior vice-president of operations, Denisa Dragan, testified to Petitioner's job assignments and patient care notes in September 2023. Ms. Dragan testified that Petitioner did not have any clinic visits on September 12, 2023, and there is no documentation of Petitioner attending one. (Tr. 125, 128). Ms. Dragan testified that the only work-related task that Petitioner completed on September 12, 2023, was documenting her September 11, 2023, patient visit. (Tr. 127, 130).

Petitioner testified she had no recollection of an appointment at the Joliet clinic on September 11, 2023. (Tr. 98). She testified she sent an email to her manager on September 12, 2023, stating that she fell that day. (Tr. 98).

Ms. Dragan testified that Petitioner had no reason whatsoever to leave her home for work on September 12, 2023. (Tr. 127). She testified that there was no documentation that Petitioner attended a clinic visit or telehealth visit on September 12, 2023. (Tr. 128, 136).

Ms. Dragan testified to Respondent's Exhibits 4 and 5. Ms. Dragan testified that Respondent's Exhibit 5-6 documents Petitioner's visit to the Joliet clinic on September 11, 2023. (Tr. 132). She testified Respondent's Exhibit 5-24 is the care note from Petitioner's patient visit on September 11, 2023. (Tr. 135). Ms. Dragan testified that Respondent did not have any documentation that Petitioner had a patient visit on September 12, 2023, or any documentation that Petitioner had a work-related reason to leave her home office that day. (Tr. 136).

Ms. Dragan testified there is no reason for Petitioner to rush after a clinical visit because she had 48 hours to complete the documentation of her visits. (Tr. 137). She testified that Petitioner had 100 patients, but that was the total amount she interacted with throughout the year. (Tr. 137). Ms. Dragan testified that Petitioner's workload in September 2023 was a very low workload. (Tr. 138). She testified Petitioner completed between one to seven tasks each day in September 2023. (Tr. 138). She testified during six days in September 2023 Petitioner only completed one task which was a very low workload. (Tr. 138-139).

Medical Treatment

Petitioner first sought medical treatment at Advocate Medical Group Orland Park with Dr. Sonia Kaczor on September 15, 2023. (Rx. 7). She wanted to establish care and obtain a referral for orthopedics for leg pain after a fall. (Rx. 7, p. 466). She reported having "an accidental fall on 9/12/2023, was carrying stuff from her car in the garage, had a big bag in her hand, it blindsided her to the stairs, twisted her left ankle, heard a crackle, fell and got bruised." (Rx. 7, p. 467). Dr. Kaczor diagnosed a right knee and left ankle injury. (Rx. 7, p. 470). She prescribed x-rays and referred Petitioner to orthopedics. (Rx. 7, p. 470).

Petitioner went to Dr. Beverlee Brisbin at MidAmerica Orthopaedics on September 15, 2023, after seeing Dr. Kaczor for her right knee and left ankle injuries. (Rx. 6). Petitioner reported that on September 12, 2023, "she was coming home from a patient care visit. She states that she was preparing to leave again and in doing so she was walking towards some steps. She states she got her shoe caught on the top step. She fell forward landing onto her flexed knee." (Rx. 6, p. 13). Dr. Brisbin diagnosed left ankle ATF ligament sprain and right knee flexion injury and possible quadriceps tear. (Rx. 6, p. 14). She recommended a right knee MRI. (Rx. 6, p. 14).

Petitioner followed up with Dr. Brisbin on September 22, 2023, to review her MRI findings. (Rx. 6, pp. 11-12). Dr. Brisbin diagnosed a right gastroc strain/partial tear. (Rx. 6, p. 12). She injected Petitioner's right knee. (Rx. 6, p. 12). Dr. Brisbin recommended sedentary work restrictions and following up with Dr. Aimee Bobko. (Rx. 6, p. 12).

On September 25, 2023, Petitioner sought care with Dr. Bobko at MidAmerica Orthopaedics. (Rx. 6, pp. 8-9). Dr. Bobko diagnosed a partial anterior quadriceps tendon tear and horizontal lateral meniscus tear. (Rx. 6, p. 9). Dr. Bobko prescribed a knee brace and physical therapy. (Rx. 6, p. 9).

On October 9, 2023, Petitioner sought follow-up care with Dr. Bobko. (Rx. 6, pp. 6-7). She continued to have pain and swelling. (Rx. 6, p. 6). She had not yet started physical therapy. (Rx. 6, p. 6). Dr. Bobko reiterated her recommendation that Petitioner complete physical therapy. (Rx. 6, p. 7).

On October 31, 2023, Petitioner sought follow-up care with Dr. Bobko for her right knee pain. (Rx. 6, pp. 4-5). Dr. Bobko stated Petitioner had a high risk for developing knee stiffness due to guarding and not wanting to move her knee. (Rx. 6, p. 5). Dr. Bobko provided a new therapy order. (Rx. 6, p. 5).

On November 7, 2023, Petitioner presented to Dr. Frank McCormick at Orland Park Orthopedics for a second opinion of her right knee pain. (Px. 2, pp. 248-249). Petitioner reported working as a nurse "when she slipped and fell back at that time, she heard a tear in her knee and had significant pain." (Px. 2, p. 248). Dr. McCormick diagnosed an acute traumatic quadricep tendon tear and concomitant medial meniscus tear. (Px. 2, p. 249). Dr. McCormick recommended a right open quadricep tendon repair and possibly arthroscopic meniscus repair. (Px. 2, p. 249).

Petitioner last saw Dr. Bobko on November 21, 2023. (Rx. 6, pp. 1-3). She had only completed one physical therapy session. (Rx. 6, p. 1). Petitioner reported she and her husband had reviewed the MRI themselves and saw a complete discontinuity of her quadriceps tendon and patella baja. (Rx. 6, p. 1). Dr. Bobko noted that she

had recommended aggressive physical therapy during her last two office visits which Petitioner had not completed. (Rx. 6, p. 2). Dr. Bobko recommended Petitioner consult a second opinion within the next couple of weeks. (Rx. 6, p. 2). Petitioner stated her schedule was too busy to be able to see another physician until February 2024. (Rx. 6, pp. 2-3). Dr. Bobko agreed to keep Petitioner off work for four weeks if she sought a second opinion within the next four weeks. (Rx. 6, p. 3).

On December 19, 2023, Dr. McCormick performed an open repair of right quadriceps tendon tear, arthroscopic lateral meniscal debridement and arthroscopic medial compartment chondroplasty. (Px. 2, pp. 288-289).

Petitioner sought follow up care with Dr. McCormick monthly and completed physical therapy between December 28, 2023, and February 2025. (Px. 2, pp. 9-245).

On March 7, 2025, Petitioner sought follow-up care with Dr. McCormick 15 months post-surgery for her right knee pain. (Px. 2, p. 7-8). Petitioner complained of continued pain that impacts her daily activities. (Px. 2, p. 7). Dr. McCormick released Petitioner to full-duty work and placed her at MMI before discharging her from his care. (Px. 2, p. 257).

On May 15, 2025, Petitioner sought care with Dr. Jamil Kendall at Parkview Orthopaedic Group for right knee pain and any surgical options. (Px. 4, pp. 28-29). Dr. Kendall diagnosed severe patellofemoral arthritis in the setting of prior quad tendon rupture and repair with intact extensor. (Px. 4, p. 29). Dr. Kendall recommended a right total knee replacement due to continued pain and decreased function in the setting of end-stage, bone on bone arthritis. (Px. 4, p. 29).

On June 27, 2025, Dr. Kendall performed a right cemented total knee arthroplasty. (Px 4, pp. 49-53).

On July 17, 2025, Petitioner followed up with Dr. Kendall three weeks post-surgery. (Px. 4, pp. 15-17). She was doing well and completing physical therapy. (Px. 4, pp. 15-17). Dr. Kendall prescribed additional therapy. (Px. 4, pp. 15-17).

On August 14, 2025, Petitioner followed up with Dr. Kendall six weeks post-surgery. (Px. 4, pp. 11-13). She was still having some pain and taking tramadol and Norco. (Px. 4, pp. 11-13). Dr. Kendal prescribed additional tramadol and a steroid Dosepak. (Px. 4, pp. 11-13). He recommended Petitioner continue physical therapy and approved of her doing acupuncture. (Px. 4, pp. 11-13).

On September 18, 2025, Petitioner followed up with Dr. Kendall three months post-surgery. (Px. 4, pp. 7-9). She reported improvement with her pain. (Px. 4, pp. 7-9). Dr. Kendall found her to be progressing well and recommended she follow up one-year post-surgery. (Px. 4, pp. 7-9).

CONCLUSIONS OF LAW

With respect to disputed issue (C), did an accident occur that arose out of and in the course of Petitioner's employment by Respondent, the arbitrator finds as follows:

After considering the testimony of Petitioner, submitted records and other evidence, the Arbitrator concludes that Petitioner failed to prove that she sustained accidental injuries arising out of and in the course of her employment with Respondent.

In this case, the Petitioner's testimony lacks credibility when viewed in light of the evidence presented at trial. Petitioner testified that she fell in her own home on September 12, 2023, when she was walking from her house

back into her garage to get her work bag. Her foot allegedly was caught on the top of the stairs leading from the house into the garage and she fell forward. She testified that she was not carrying anything in her hands when this fall occurred. However, her description of her accident was rebutted by the histories contained in her own medical records. The initial medical records give different accounts of the facts surrounding Petitioner's alleged accident.

The September 15, 2023 records from Advocate Medical Group reflect that Petitioner was carrying a large bag in from her car and she was blindsided to the stairs when she twisted her ankle and she fell. (RX 7-2) That record does not mention Petitioner coming or going to work. This medical entry directly contradicts Petitioner's testimony that she was not carrying anything when she fell or that she tripped on a step.

The September 15, 2023 MidAmerica Orthopaedics record states that on September 12, 2023 Petitioner was coming home from a patient care visit and as she was preparing to leave again, she fell as she was walking toward some steps. (RX 6, p.13) This entry contradicts Petitioner's testimony that she was going to get her work bag from the car to take back inside the house.

The November 7, 2023 record from Dr. Frank McCormick states Petitioner was visiting for a work-related injury that occurred on September 21, 2023, and further notes that Petitioner slipped and fell back. (PX 2, p.248) This medical entry contradicts Petitioner's testimony regarding her date of accident being on September 12, 2023 and that she tripped and fell forward.

When asked about these discrepancies at trial, Petitioner simply dismissed these records as being wrong. These initial inconsistencies cannot be simply ignored and cast serious doubt on Petitioner's testimony regarding her accident. However, even if the Arbitrator were to ignore these factual inconsistencies surrounding the Petitioner's accident, Petitioner fails to meet her burden of proving her accident arose out of her employment.

Petitioner bears the burden of proving by a preponderance of the evidence that her injury arose out of and in the course of her employment. 820 *ILCS* 305/2. Both elements must be present in order to justify compensation. *Illinois Bell Telephone Co. v. Industrial Comm'n*, 131 Ill. 2d 478, 483, 546 N.E.2d 603, 137 Ill. Dec. 658 (1989).

A. "Arising out of" employment

To determine if an injury to arose out of the employment, it is necessary to categorize the risks to which the claimant was exposed. McAllister v. Illinois Workers' Comp. Comm'n, 2020 IL 124848, ¶ 36.

Generally, risks fall into three categories which include: "(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." McAllister at ¶ 38.

If an employee is exposed to a risk common to the general public to a greater degree than other persons, the accidental injury is also said to arise out of his employment. Caterpillar at 58, citing Orsini at 45. 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 at ¶ 40, (citing: First Cash Financial Services, 367 Ill. App. 3d 102, 106 (2006). However, if the injury results from a hazard to which the employee would have been equally exposed apart from the employment (i.e. neutral risks), or a risk personal to the employee, it is not compensable. Caterpillar at 58-59,

citing Material Services Corp. v. Industrial Comm'n (1973), 53 Ill.2d 429, 433.

"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." McAllister at ¶ 44 (citing: Springfield Urban League, 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 at ¶ 44 (citing: Metropolitan Water Reclamation District of Greater Chicago v. Illinois Workers' Compensation Comm'n, 407 Ill. App. 3d 1010, 1014, (2011)).

In the present case, Petitioner's accident falls into the neutral risk category. Falling while traversing stairs is a neutral risk, and the injuries resulting therefrom generally do not arise out of employment. *Vill. Of Villa Park v. Ill. Workers' Comp. Comm'n*, 2013 Il. App. (2d) 130038 WC, ¶ 20, 378 Ill. Dec. 320, 325, 3 N.E.3d 885, 890 (2013). The Court and the Commission have held that traversing a staircase is a neutral risk that is not compensable if Petitioner did not face a risk to a greater degree than the general public. (See Illinois Consolidated Telephone Co., 314 lll. App. 3d at 353 (Rakowski, J., specially concurring) ("In the context of falls, neutral risks include falls on level ground or while traversing stairs"); Jackson v. Loretto Hospital, 19IWCC0146, claimant was walking up stairs and stumbled coming into work with no defect associated with the staircase; Desper v. Granite City School District, 18IWCC0223, claimant did not know what caused her fall descending stairs, Haugh v. Marquette Bank, 16IWCC0840, claimant's foot failed to clear the riser of a step during an ascent of an ordinary set of stairs, and he fell and hurt himself; DeRousse v. St. Clair County, 16IWCC0443, claimant failed to provide any explanation whatsoever for her fall other than the fact that she was not paying attention to what she was doing; Duncan v. Bob White Apts., 15IWCC0990, claimant didn't know why she fell, she was simply descending a stairway). The facts in the instant case do not show that Petitioner was exposed to an increased risk of injury when walking down the stairs of her garage steps. There was no testimony or evidence indicating the stairs or the door threshold were defective. Petitioner was allegedly not carrying any work-related materials. Petitioner's footwear was also not out of the ordinary, nor even required footwear according to the testimony of Ms. Dragan. There was no testimony, that the tread on the bottom of her shoes had any impact on Petitioner falling down the stairs. Rather, Petitioner testified that it was the top of her shoe that caught the door threshold. She stated there was still a white mark on the top of her shoe from where it got caught. There was no testimony or evidence introduced that the "non-slip" tread on the Croc shoes caused her to catch the top of her shoe on the door threshold.

The Courts have upheld a finding of accident where a Petitioner was rushing down a stairway. William G. Ceas, 261 Ill.App.3d 630 (boss's last-minute preparations caused claimant stress and caused her to hurry down stairs upon which she fell). In this case, Petitioner claims that she was moving in a rapid fashion at the time of her alleged accident. However, Petitioner's testimony regarding having to move fast to complete her work duties was not credible. The evidence introduced at trial proves that Petitioner had a very low workload. Further, Ms. Dragan's testimony that there was no reason for Petitioner to rush to complete her job duties was credible and persuasive. Ms. Dragan testified Petitioner had 48 hours to complete the documentation of every patient visit. Ms. Dragan testified Petitioner's workload in September 2023 was very low. During six days in September 2023, Petitioner completed only one work task. On the day of her alleged accident, Respondent's documentation proves Petitioner only completed one task which was documenting her patient care visit from the day before. There was simply no evidence showing that Petitioner needed to rush out of her house and into the garage.

Based on the above and the, the Arbitrator concludes that the Petitioner failed to prove that she sustained an accident that arose out of her employment by Respondent.

B. "In the course of" employment

"In the course of employment" refers to the time, place and circumstances surrounding the injury, meaning that, generally, the injury must occur within the time and space boundaries of the employment. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d, 193, 203, 797 N.E.2d 665, 278 Ill. Dec. 70 (2003). The credible evidence and testimony prove that Petitioner was not in the course of her employment at the time of her accident.

Petitioner claims that she was hurt on September 12, 2023 after returning home from a scheduled clinic visit. The evidence shows that Petitioner did not have any clinic visits on September 12, 2023, and had no reason to leave her home office for a work-related reason. Ms. Dragan credibly testified that Petitioner did not have any clinic visits on September 12, 2023, and there is no documentation of Petitioner attending one. Ms. Dragan testified that Petitioner had no reason to leave her home for work on September 12, 2023. The only work-related task that Petitioner completed on September 12, 2023, was documenting her September 11, 2023, visit, which did not require Petitioner to leave her home office on September 12, 2023, to complete. Petitioner presented no credible explanation or rebuttal to the Ms. Dragan's testimony or the evidence she testified upon at trial.

Based on the above and the totality of the evidence and testimony, the arbitrator finds that Petitioner failed to prove that she sustained an accident that occurred in the course of her employment by Respondent.

For the reasons above, the Arbitrator concludes that the Petitioner failed to prove that she sustained an accident arising out and in the course of her employment with Respondent on September 12, 2023.

Accordingly, all benefits are denied and the remaining issues are moot.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	25WC003309
Case Name	Ronda Funk v. State of Illinois - Choate Mental Health Center
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0251
Number of Pages of Decision	16
Decision Issued By	Raychel Wesley, Commissioner

Petitioner Attorney	Todd Schroader, Mary Massa
Respondent Attorney	Shannon Rieckenberg

DATE FILED: 9/3/2026

/s/ Raychel Wesley, Commissioner

Signature

26IWCC0251

STATE OF ILLINOIS)
) SS.
COUNTY OF)
WILLIAMSON

☒ 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

RONDA FUNK,

Petitioner,

vs. NO: 25 WC 03309

STATE OF ILLINOIS,
CHOATE MENTAL HEALTH CENTER,

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, medical expenses, 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 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 (1980).

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed December 29, 2025 is hereby affirmed and adopted.

IT IS THEREFORE FOUND BY THE COMMISSION that Petitioner's current cervical spine condition of ill-being is causally related to the stipulated accidental injury of June 26, 2024.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall provide and pay for the three-level cervical spine surgery recommended by Dr. Taylor as provided in §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 the 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 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.

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.

SEPTEMBER 3 2026

/s/ *Raychel A. Wesley*

RAW/wde

D: 7/15/26

/s/ *Carolyn M. Doherty*

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/s/ *Frank J. Soto*

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	25WC003309
Case Name	Ronda Funk v. State of Illinois - Choate Mental Health Center
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	13
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Todd Schroader
Respondent Attorney	Shannon Rieckenberg

DATE FILED: 12/29/2025

/s/ Bradley Gillespie, Arbitrator
Signature

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

DECEMBER 29 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF DECEMBER 23 2025 3.49%

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
19(b)

RONDA FUNK
Employee/Petitioner

Case # **25** WC **03309**

v.

Consolidated cases: _____

STATE OF ILLINOIS - CHOATE MENTAL HEALTH CENTER
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 **Bradley Gillespie**, Arbitrator of the Commission, in the city of **Herrin**, on **October 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. ☒ 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, **June 26, 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 $**80,161.13**; the average weekly wage was $**1,541.56**.

On the date of accident, Petitioner was **52** years of age, ***single*** with **0** dependent children.

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

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

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

ORDER

The Arbitrator finds and concludes that Petitioner is entitled to the prospective medical treatment recommended by Dr. Brett Taylor. Respondent shall authorize and pay for the medical care recommended by Dr. Taylor.

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.

Bradley D. Gillespie
Signature of Arbitrator

DECEMBER 29 2025

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

RONDA FUNK,	)	
	)	
Petitioner,	)	
	)	**Case No.: 25 WC 002209**
	)	
v.	)	
	)	
	)	
STATE OF ILLINOIS	)	
CHOATE MENTAL HEALTH CENTER,	)	
	)	
Respondent.	)	

19(b) DECISION OF ARBITRATOR

PROCEDURAL POSTURE

On February 5, 2025, an Application for adjustment of Claim was filed by Ronda Funk [hereinafter "Petitioner"] alleging on June 26, 2024, Petitioner was hit in the face by a client and hit the wall sustaining injuries to the body as a whole while working for State of Illinois-Choate Mental Health Center [hereinafter "Respondent'] (Arb. Ex 2). This matter proceeded to arbitration on October 8, 2025, in Herrin, IL(Arb. Ex. 1)The following issue was in dispute:

Prospective Medical Treatment

FINDINGS OF FACT

TRIAL TESTIMONY

Petitioner is an employee of Respondent at a mental health facility as an STA-1 and acting as a lead worker on the date of the accident. (Tr. p. 11) Petitioner was injured on June 26, 2024, when she was assaulted by a client. *Id.* She testified that she heard a loud commotion in the dining room right after meals were served. (Tr. pp. 11-12) Petitioner described attempting halt an altercation between two patients where she was struck twice by one of the patients in the face cracking her dentures and being bumped into a door frame striking her head and left upper extremity. (Tr. pp. 11-12) She testified that she sought medical care at the emergency room. (Tr. pp. 12-13) Petitioner also sought treatment with her family doctor, Dr. Vargo

Petitioner had an opportunity to talk to Dr. Taylor about the surgeries recommended by him and the surgery recommended by Dr. Bernardi. (Tr. p. 15) Petitioner decided to go with the surgery recommended by Dr. Taylor. (Tr. p. 16)

Petitioner testified that she is still experiencing pain shooting down her arm to her two fingers. (Tr. p. 16)

Deaconess Union County Hospital

Petitioner was seen in the emergency department at Deaconess Union County Hospital on June 26, 2024. (PX 1 p. 2) Petitioner reported that she was working in a psychiatric hospital and presented with blunt trauma to her upper extremities from an assault. *Id* . Petitioner complained of bilateral jaw pain, right greater than left, pain to the right side of head, as well as pain to left anterior lateral rib area with tenderness. *Id*. A Computed Tomography (CT) of her head was performed which revealed no acute intracranial abnormality. (PX 1 p. 22) A CT of the cervical spine revealed severe degenerative changes of the atlanto-axial joint. In addition, mild degenerative disc disease was found at C4-C7. (PX 1 pp. 23-24) A CT of the maxillofacial bones revealed orbital walls are intact and facial bones are intact. The impression was no acute fracture. (PX 1 p. 26)

Dr. Adam Vargo

On July 1, 2024, Dr. Adam Vargo with SIH Harrisburg Primary Care saw Petitioner after her accident. (PX 2 p. 3) Dr. Vargo reviewed the ER records from Union County Hospital and noted Petitioner was trying to break up an altercation when she was hit in the mouth breaking her dentures, hit on the right side of the cheek, and then slung her into a door jamb striking her head. *Id*. Petitioner had pain in her face, left neck, and ribs essentially left torso.(PX 2 p. 3) Dr. Vargo diagnosed injury was left shoulder contusion of the left upper arm. (PX 2 p. 5) On July 5, 2024, Dr. Vargo noted Petitioner hurt arm at work causing really intense deep pain and current medication was not working. (PX 2 p. 6) Dr. Vargo's assessment was lateral epicondylitis of left elbow, injury to the left shoulder, and contusion of the left upper arm. (PX 2 p. 12) Dr. Vargo noted that "…despite generally an overuse condition a direct blow such as she sustained also could cause a flare to tendon attaching to lateral epicondyle. *Id.* Dr. Vargo gave Petitioner an injection to the left epicondyle. *Id*.

On July 29, 2024, Petitioner returned to Dr. Vargo's office seeking another injection but it was too soon and she was prescribed oral steroids. (PX 23 pp. 15-17) On August 9, 2024, Dr. Vargo noted "work related injury, patient hit twice in the mouth and right lower eye/cheek breaking up a fight still having problems with the left side from the shoulder blade over the left neck and down the left arm. (PX 2 p. 19) Petitioner attended therapy at RealRehab in Anna, Il. (PX 2 p. 22) On September 20, 2024, Dr. Vargo noted that Petitioner had a left shoulder injury with radicular symptoms to left fingers and now down to 2nd and 3rd fingers still with weakness and pain in the left shoulder. (PX 2 p. 34) Dr. Vargo felt it was time to order an MRI of the left shoulder. *Id.* Dr. Vargo noted the MRI of her left shoulder showed arthritic changes and a partial tear of three of the four rotator cuff muscles as well as inflammation of the biceps tendon. (PX 2 p. 42)

On October 18, 2024, the MRI impressions were as follows: moderate to severe. Rotator cuff tendinosis, degenerative fraying and partial thickness tearing of the supraspinatus/ infraspinatus and subscapularis without a full thickness rotator cuff tear or tendon retraction as detailed above. Nonspecific fluid in the subacromial subdeltoid bursa. Mild to moderate degenerative changes glenohumeral joint with prominent spurring of the inferior glenoid rim small joint effusion. Stable sclerotic lesion posteriorly in the glenoid most likely represents A benign bone island. Moderate to severe degenerative change of the acromioclavicular joint. Longhead bicep tendinosis and degenerative fraying. Question mild medial subluxation of the tendon at the bicipital groove. Capsular sprain/ scarring as described. From injury at work developed partial tears of three of four rotator cuff muscles as well as biceps long head tendonitis superimposed on underlying chronic arthritis of the shoulder joint and the AC joint. (PX 2 p. 49). Petitioner complained of weakness and pain in the left upper extremity along with paresthesia of index and middle fingers. (PX 2 p. 49) Dr. Vargo's assessment was traumatic incomplete tear of the left rotator cuff, arm paresthesia, left and biceps tendinosis of left shoulder. (PX 2 p. 53) Petitioner was referred to Dr. JT Davis, an orthopedic surgeon. *Id.*

On December 19, 2024, Petitioner was rechecked for chronic conditions from a work related injury. (PX 2 p. 64) Dr. Vargo reviewed an EMG noting a C-7 pinched nerve. *Id.* He noted that the orthopedic doctor gave Petitioner an injection into her left shoulder tendon which had helped. *Id.* She was still on restrictions at work and was scheduled to see pain management for neck injections. (PX 2 p. 64) Dr. Vargo's assessment was traumatic incomplete tear of the left rotator cuff and cervical radiculopathy. (PX 2 p. 67) Petitioner that her left shoulder was better after the shoulder injections but still reported tenderness in her neck and along her left trapezius muscle to shoulder with dull sensation to fingers two and three of the left hand unchanged. (PX 2 p. 68) On January 20, 2025, Petitioner was seen after her injection of the left shoulder and epidural injection of the cervical spine. (PX 2 p. 69) On July 1, 2024, Petitioner had x-rays of the left shoulder which revealed no visible fractures and mild degenerative changes of the AC and glenohumeral joints. (PX 2 p. 77)

On February 24, 2025, the Nerve Conduction Study showed radiculopathy at C6/7. (PX 2 p. 133) On March 24, 2025, Dr. Vargo referred Petitioner to Dr. Brett Taylor and Dr. Matthew Bradley. (PX 2 p. 138) On April 24th, 2025, Dr. Vargo's assessment was cervical radiculopathy, traumatic incomplete tear of the left rotator cuff, biceps tendinosis of left shoulder and arm paresthesia left. (PX 2 p. 147) Dr. Vargo continued to monitor Petitioner's condition and the assessment remained the same cervical radiculopathy, traumatic incomplete tear of the left rotator cuff, biceps tendinosis of left shoulder, and arm paresthesia left. (PX 2 pp. 172-173) Dr. Vargo noted that Dr. Taylor was releasing Petitioner back to his care pending surgery. (PX 2 p. 174)

Orthopedic Institute of Southern Illinois
Dr. J.T. Davis Dr. Tennyson Lee and Dr. Bryan Anderson

An MRI of the left shoulder taken on October 9, 2024, revealed moderate to severe rotator cuff tendinosis, degenerative fraying, and partial thickness tearing of the supraspinatus/infraspinatus and subscapularis without a full thickness rotator cuff tear or tendon retraction as detailed above. Nonspecific fluid in the subacromial subdeltoid bursa mild to moderate degenerative changes. Glenohumeral joint with prominent spurring of the inferior glenoid rim. Small joint effusion. Stable sclerotic lesion posteriorly in the glenoid. Most likely represents a benign bone island. Moderate to severe degenerative changes of the acromioclavicular joint. Longhead biceps tendinosis and degenerative fraying. Question, mild medial subluxation of the tendon of the bicipital groove. (PX 3 p. 59)

An MRI of the cervical spine taken on November 25, 2024, revealed an impression of multilevel spondylotic changes; most notable with superimposed large left central/foraminal disc extrusion at C6-C7 contributing to mild spinal canal and moderate to severe left foraminal narrowing. Additional mild spinal canal narrowing at C4-C5 and C5-C6. (PX 3 pp. 55-56)

On November 11, 2024, a history of Petitioner being pushed into a doorway trying to separate patients that were fighting. (PX 3 p. 36) PA-C Jeremy Palmer's assessment was left shoulder and extremity pain concerning for some cervical radiculopathy with some partial-thickness tearing and long head of the biceps tendinopathy. (PX 3 p. 40)

On November 20, 2024, an electrophysiological study was abnormal with positive findings suggestive of cervical radiculopathic process most likely involving the Left C7 and/or C6 spinal nerve. (PX 3 p. 45)

On December 3, 2024, Petitioner had a left shoulder ultrasound-guided biceps tendon sheath injection for biceps tendinopathy.(PX 3 p. 28)

On December 18, 2024, Petitioner was seen by Dr. Anderson with neck pain and left upper extremity pain. (PX 3 p. 19) Dr. Anderson's impression was Cervical Degenerative Disc Disease (C4-7), Cervical Stenosis (C4-7), Cervical Radiculopathy (C7) and Cervical HNP(C6-C7). (PX 3 p. 21) Dr. Anderson found the patient to have weakness in the left triceps and numbness over the index and long fingers of the left hand. Her MRI shows large C6-C7 HNP affecting the left C7 nerve root. (PX 3 p. 21) The NCS of the bilateral upper extremities showed positive electrophysiological findings suggestive of a cervical radiculopathy process, most likely involving the left C7 and C6 spinal. *Id.*

Dr. Anderson recommended a left C6-C7 TFESI. Dr. Anderson noted if Petitioner failed conservative management, then a C6-C7 ACDF may be considered. (PX 3 p. 22)

On December 31, 2024, Petitioner called into the doctor's office indicating the Lyrica was making her foggy and she did not like taking it. Dr. Anderson recommended switching her to gabapentin. (PX 3 p. 10)

On January 3rd, 2025, Petitioner returned for a follow up after an ultrasound guided biceps tendon sheath injection doing better with shoulder pain. (PX 3 p. 5) PA-C Jeremy Palmer assessment was strain of muscle and tendon of the rotator cuff of the left shoulder and unspecified disorder of synovium and tendon left upper arm. (PX 3 p. 8) The assessment was improved left shoulder pain with long head of the biceps, tendinopathy and partial thickness, rotator cuff tear and left cervical disc herniation of C6-7 with radiculopathy under the care of Doctor Bryan Anderson and Doctor Lee. *Id*.

On January 8, 2025, Petitioner had a left C-6 transforaminal epidural steroid injection. (PX 3 p. 14)

On January 15, 2025, Petitioner had a diagnosis of chronic pain, cervical degenerative disc disease, and cervical radiculopathy. (PX 3 p. 2) Petitioner underwent a cervical Transforaminal epidural steroid injection at C7 left. *Id.* Petitioner was given restrictions of no overhead work, no repetitive pushing or pulling 5 lb. lifting restriction. (PX 3 p. 4)

On February 3, 2025, Petitioner had increased pain with work activities with increased pain in the biceps radiating into the biceps muscle belly. (PX 3 p 78) The assessment was left shoulder pain following work injury, left shoulder traumatic partial thickness RTC tear, and left shoulder long head of biceps tendinopathy. (PX 3 p. 80) Restrictions for work were updated to include no driving for work, 5# lifting limit, no overhead work, and no repetitive pushing or pulling. *Id.*

Dr. Anderson diagnosed Petitioner with Myofascial pain, peri-cervical, cervical degenerative disc disease, cervical stenosis. (C5-C7 centrally; C5-C8 foraminally) with worsening motor deficits, cervical radiculopathy (left at C7), cervical facet arthropathy and congenital spinal stenosis. (PX 3 p. 95) Dr. Anderson recommended proceeding with a C4-C7 ACDF. (PX 3 p. 105)

On March 3, 2025, Petitioner was seen in the office of Dr. J.T. Davis. (PX 3 p. 116) It was noted that the shoulder injury was work related and she had relief with the epidural injection from Dr. Lee. *Id.* Petitioner's pain radiated over the lateral shoulder and bothers her with abduction of the reaching activities as well. *Id.* PA-C Jeremy Palmer's assessment was left shoulder pain with impingement and partial thickness RTC tear and mild long head of biceps tendinopathy with concomitant cervical spine pathology with work injury. *Id*. Petitioner received a subacromial corticosteroid injection in the left shoulder. (PX 3 p. 118)

On April 3, 2025, Petitioner did not have significant relief with the subacromial injection.(PX3 at 128). Petitioner's localized pain of the left trap and upper scapula with radiation down the extremity with numbness and tingling in the fingers.(PX3 at 128). The assessment was left upper extremity pain with work injury with predominantly cervical spine disease and radiculopathy with some minimal partial thickness, rotator cuff tearing and mild long head of biceps tendinopathy.(PX3 at 130)

EMG/Dr. Todd Silverman

On August 26, 2025, Petitioner underwent an EMG/NCV by Dr. Todd Silverman. (PX 4 p. 3) Dr. Silverman found the study to be a normal study. *Id*.

Dr. Brett Taylor

On March 11, 2025, Dr. Taylor Took a history of Petitioner being assaulted at work, being hit in the face twice and fractured her dentures. She was pushed into a wall. (PX 5 p. 19) Dr. Taylor stated that Petitioner had critical cervical stenosis. Her space available for the cord C4-7 is less than 10mm, which is determined to be critical stenosis. Her work exposure caused a dynamic permanent aggravation to pre-existing static cervical stenosis resulting in neural injury and clinical symptomatology. (PX 5 p. 26)

On April 15, 2025, Dr. Taylor Discussed with her hybrid surgery, a combination of disc replacement and fusion to decompress her neural elements and provide cervical stability. (PX 5 p. 17) The hybrid surgery approach allows for a segment specific application of either fusion or motion preservation depending on the extent of degeneration and instability. *Id.*

On May 8th, 2025. Petitioner had a CT cervical spine without contrast which revealed advanced arthritic changes C1 forward slash C2 multi-level spondylosis change is described above greatest disc herniation on the left at C6-7 which could be confirmed with MRI or CT myelography. (PX 5 p. 34) On May 8, 2025, Dr. Taylor reviewed the IME report of Dr. Bernardi on 4/22/2025. (PX 5 p. 9) Dr. Taylor testified as follows:

> She had symptoms consistent with cervical mild radiculopathy. I disagree with the findings of Dr. Bernardi, most importantly his statements regarding critical cervical stenosis. The optimal treatment in this scenario is cervical hybrid surgery C4-7. I adamantly disagree with Dr. Bernard's comments to perform a single level surgery C6-7 adjacent to existing marked symptomatic degenerative pathology C4-6. Performing a single level surgery in the setting of a known adjacent segment. Symptomatic disease is contraindicated and well described by Dr. Alan Hillebrand, who elegantly described the incidence of adjacent segment disease. Performing a single level C6-7 fusion in the setting of a marked symptomatic disease C4-6 would result in clinical failure in short order.(PX5 at 11).

On May 29, 2025, Petitioner's cervical symptoms are worsening and negatively affecting her quality of life, and she wishes to proceed with C4-7 cervical hybrid surgery. (PX 5 p. 7) Petitioner had started on phentermine for weight loss through her PCP and she had quit smoking. (PX 5 p. 8)

On June 17, 2025, Dr. Taylor noted Petitioner was having persistent neck and left arm pain with numbness and tingling in her left hand, index, and long fingers. She had increasing weakness and numbness in her hand and thumb resulting in difficulty buttoning buttons and fine motor function. (PX 5 p. 4) In this particular case, he felt that performing a single level cervical surgery in the setting of her clinical symptomology was contraindicated. In this case, Dr. Taylor noted that there was a correlation between the radiographed findings and her cervical spine disease from C4-7. There was also evidence on imaging of neural element compression from C4-7. For these reasons, Dr. Taylor opined that all involved levels should be included in the primary surgical intervention. Due to her medical comorbidities three level anterior cervical procedure would be performed at SSM at Saint Clair Hospital. (PX 5 p. 6)

On July 14, 2025, Dr. Taylor's impression was cervical spondylitic myelopathy(CSM) and cervical radiculopathy permanently aggravated by June 6, 2024, work related injury. (PX 5 p. 2). Based on a reasonable degree of medical certainty, the dynamic effects of her work exposure caused a permanent aggravation of her pre-existing static cervical stenosis resulting in clinical cervical mild radiculopathy. He felt this treatment was required to cure and relieve the effects of her work exposure. *Id.*

Deposition of Dr. Brett Taylor

Dr. Brett Taylor is a board certified orthopedic spine surgeon. (PX 6 p. 3) Doctor Taylor took a history of her complaining of primarily 50% neck, 50% arm pain, the arm pain was 100% and her left arm and her neck disability index score is 44. Her Japanese Orthopedic Association (JOA) assessment of myelopathy revealed mild myelopathy. (PX 6 p. 4) Dr. Taylor discussed that his diagnosis was that Petitioner had cervical spondylomyelopathy and cervical radiculopathy which was secondary to her work injury. *Id*.

On April 15, 2025, Dr. Taylor discussed her surgical treatment in the form of hybrid surgery combining fusion and disc replacement. He explained that:

> The procedure we've done the longest is a spine fusion where you grow bones together, but when you do a multiple level fusion, so fusing at more than one level, your risk of non-union or failed fusion goes up exponentially. There's also additional time required for the bones to fuse. When you add disc replacement and fusion, it offers, one, faster recovery and two, it lessens your risk of non-union because every level where you perform disc replacement and fusion, you don't have to worry about that area having a non-union in the future. (PX 6 p. 5)

Dr. Taylor went on to say that "continued the risk of further neurological decompression, in her case operative intervention in an urgent fashion is reasonable to halt the progression of further nerve damage." (PX 6 p. 6) He felt that her prognosis with surgery is improved

if the surgery is offered in an expedited fashion because patients with greater than one year duration of symptoms have less recovery. *Id.*

Dr. Taylor noted that he had reviewed the independent medical evaluation from Dr. Bernardi wherein he recommended a C6-7 discectomy. (PX 6 at 6). Dr. Taylor testified that:

> "Well, one, when a person has symptomatic cervical disc disease, even if for example 6-7 is the most significant or most contributing factor to their symptoms if they have adjacent levels that are also symptomatic, say C5-6. And C4-5, the spine literature, and this was determined by Dr. Alan Hillebrand, one of my mentors that trained with at Jefferson, but it is suggested that you address all the adjacent levels that are also symptomatic during primary surgery because not addressing those. Would result in them developing symptomatic adjacent Segment disease very quickly after the initial surgery. So, in this case, the because she has symptoms coming from C4-5, 5-6 and 6-7, The prudent and reasonable treatment for a condition is a three level surgery." (PX 6 p. 7)

Dr. Taylor testified that each of these levels would be related to the accident. (PX 6 p. 7) Dr. Taylor testified that, based on a reasonable degree of medical certainty, her accident at work caused a permanent aggravation of her condition resulting in her symptomatic myeloradiculopathy, and the reason she was subjected to that with her work exposure is because she had pre-existing static stenosis. The space available for spinal cord was smaller than normal, and we know that even minor trauma in that setting can result in permanent onset of neurologic compression and symptomatic disease. (PX 6 p. 8)

Dr. Taylor noted the surgery itself is normally done in two hours to three hours, at most. Dr. Taylor opined that, depending on their medical status, patients can go home the day of surgery or might have to stay a day or two depending on whether they have other medical issues. He indicated that total recovery time is three to four months depending on the levels of fusion performed. The more levels of fusion, the longer the recovery. (PX 6 p. 9) Dr. Taylor confirmed that Petitioner wished to proceed with the surgery he had recommended. (PX 6 p. 10) Dr. Taylor testified that the surgery had not been approved by worker's compensation. *Id.*

Dr. Taylor noted the surgery that he is recommending is a combination of disc replacement and fusion for the C4-5, C5-6 ,and C6-7 discs. (PX 6 p. 18) Dr. Taylor testified that which level received which surgery is typically something done based on the most up-to-date and accurate imaging test that we have to determine which levels can tolerate disc arthroplasty versus levels that would be more suitable for fusion. *Id.* Dr. Taylor felt that ideally, the optimal way is to sandwich the fusion in between the two disc replacement levels. *Id.* Dr. Taylor explained that the reason he is that her symptoms are consistent with C4-5, C5-6, and C6-7 pathology. He noted C6-7 is clearly the most severe, but her imaging studies show significant marked stenosis at C4-5 and C5-6. He felt that this lessened the potential for future adjacent segment disease. (PX 6 pp.19-2 0) Dr.

Taylor stated that he firmly believed a single level surgery in this case was a bad idea. (PX 6 p. 23)

Dr. Taylor clarified on cross examination that his working diagnosis was cervical myeloradiculopathy, which is a condition that affects the spinal cord and the nerve roots as opposed to a diagnosis of solely radiculopathy. (PX 6 p. 25) He stated that "her spinal cord is irritated because it is in an inhospitable environment because it is compressed critically from C4 to C7 so that is part of her diagnosis that leads me to offer her the surgery that we've offered. *Id.* He explained that the proposed surgery "is not a radiculopathy operation which is done for single, typically done for single level disease." *Id.* His treatment recommendation was made for a myeloradiculopathy, which is more complicated because it is a different diagnosis that is more complicated and "requires appropriate attention to detail as it relates to the reasons where her spinal cord may be compressed." (PX 6 p. 25)

Section 12 Dr. Robert Bernardi

Dr. Bernardi examined Petitioner on April 22, 2025, on behalf of the Respondent. (RX 2 p. 1) Dr. Bernardi took a history from Petitioner and reviewed medical records. (RX 2 pp. 1-4) Dr. Bernardi felt there was no truly objective findings on this Petitioner's general or neurological examination. (RX 2 p. 6) However, Dr. Bernardi went on to say:

> That being said, she describes left arm pain that follows a C7 dermatomal distribution quite closely. She has weakness in her left C7 innervated muscles. She has nerve root tension signs. These subjective findings correlate nicely with an objective finding on her MRI. Namely, the large disc herniation at C6-7 lateralized to the left. (RX 2 p. 6)

Dr. Bernardi diagnosed Petitioner with 1. multi-level degenerative disc disease. (Spondylosis.) 2. C4-5, C5-6 and C6-7 Degenerative central and foraminal stenosis. 3. Left C6-7 herniated nucleus pulposus. 4. Left C-7 foraminal stenosis and 5. Left C-7 radiculopathy. (RX 2 pp. 6-7) Dr. Bernardi stated that there was no causal connection between the 1: multi-level degenerative disc disease (Spondylosis); and 2: C4-5, C5-6 and C6-7 degenerative central and foraminal stenosis. (RX 2 p. 7) Dr. Bernardi thought Petitioner was a reasonable candidate for surgery, however, he felt that she had a left C-7 radiculopathy from a massive acute left C6-7 disc herniation and would be a candidate for a C6-7 anterior decompression and fusion. He felt she would be a reasonable candidate for a C6-7 disc replacement and would personall recommend a posterior C6-7 discectomy. (RX 2 pp. 7-8) Dr. Bernardi put restrictions on Petitioner of avoiding overhead activities, not lifting more than 20 lbs. and not having contact with individuals at Choate Mental Health and Development Center. (RX 2 p. 8) Dr. Bernardi felt Petitioner's ongoing complaints appeared to be work related. (RX 2 p. 7) Dr. Bernardi did not feel that Petitioner had myelopathy. *Id.* Dr. Bernardi felt that Petitioner needed an updated MRI. (RX 2 p. 8)

On cross examination, Dr. Bernardi agreed the one level procedure he has recommended

Petitioner may have complications which may negate a full duty release. (RX 3 p. 21) Dr. Bernardi testified that Petitioner could have issues with the level above following the procedure he endorsed which may require additional procedures on the level above. *Id.* Dr. Bernardi agreed that Petitioner's current cervical condition was caused by the accident. *Id.* Dr. Bernardi agreed that Petitioner has a problem but differs with Dr. Taylor on the treatment recommendations. (RX 3 pp. 21-22) Dr. Bernardi agreed that Petitioner's current cervical condition was caused by her work accident. (RX 3 p. 21)

CONCLUSIONS OF LAW

K. Is Petitioner entitled to any prospective medical care?

Dr. Taylor's diagnosis was cervical spondylitic myelopathy(CSM) and cervical radiculopathy permanently aggravated by June 6, 2024, work related injury. (PX 5 p. 2) Dr. Taylor clarified on cross examination that his working diagnosis is cervical myeloradiculopathy, which is a condition that affects the spinal cord and the nerve roots as opposed to a diagnosis of solely radiculopathy. (PX 6 p. 25) Dr. Taylor noted the surgery that he is recommending is a combination of disc replacement and fusion for the C4-5, C5-6, and C6-7 discs. (PX 6 p. 18) Dr. Taylor explained that the reason he is offering three level surgery is because, based on his review of her imaging studies, her physical exam, and her clinical history. He felt that her symptoms were consistent with C4-5, C5-6, and C6-7 pathology. Moreover, he agreed with Dr. Bernardi that C6-7 is clearly the most severe, but he felt that both C4-5 and C5-6 pathology contributed to her condition as her imaging studies showed significant stenosis at those levels. Dr. Taylor did not feel that involving all three levels was simply prophylactic surgery done to prevent a potential future adjacent segment condition. (PX 6 pp. 19-20) Dr. Taylor stated that he firmly believed a single level surgery in this case to be a bad idea. (PX 6 p. 23) The Arbitrator notes that Dr. Bernardi would recommend a posterior C6-7 discectomy. (RX 2 pp.7-8) Dr. Bernardi acknowledged that Petitioner could develope issues with the level above his recommended procedure which may require additional surgery to address. (RX 3 p. 21). The Arbitrator determines that Dr. Taylor's testimony to be more persuasive that that of Dr. Bernardi's testimony. Therefore, Arbitrator finds and concludes that Petitioner is entitled to the prospective medical treatment recommended by Dr. Brett Taylor. Respondent shall pay for the medical care outlined by Dr. Brett Taylor. The Arbitrator notes that Petitioner has heard recommendations from both, Dr. Bernardi and Dr. Taylor, and wishes to follow the recommendation of her treating physician, Dr. Taylor, which is reasonable.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	21WC004412
Case Name	Paula Kaesberg v. State of Illinois - Menard Correctional Center
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0252
Number of Pages of Decision	26
Decision Issued By	Kathryn Doerries, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Kenton Owens

DATE FILED: 9/3/2026

/s/Kathryn Doerries, Commissioner

Signature

26IWCC0252

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 Choose reason	☐ Second Injury Fund (§8(e)18)
WILLIAMSON		☐ PTD/Fatal denied
	☒ Modify Choose direction	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

PAULA KAESBERG,

Petitioner,

vs. NO: 21 WC 004412

STATE OF ILLINOIS, MENARD CORRECTIONAL CENTER,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petitions for Review having been filed by the Respondent and Petitioner herein and notice given to all parties, the Commission, after considering the issues of causation, medical expenses, TTD benefits, prospective medical care, and nature and extent of 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 Commission views the evidence differently on the issue of nature and extent of disability and reduces Petitioner's PPD award from 25% loss of use of the left leg to 15% loss of use of the left leg pursuant to Section 8(e)12 of the Act. The Commission strikes the Arbitrator's Conclusions of Law regarding Issue (L), replaces it with the following:

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 Commission uses the remaining factors to evaluate Petitioner's permanent partial disability.

(ii) **Occupation**: Petitioner is a Correctional Officer. Dr. Bradley's final note indicated that Petitioner should not be in an environment where she needs to restrain inmates, and that she might need reassignment, occasional time off, and periods of rest due to exacerbation. (PX6 at 48) Petitioner testified she experiences daily aches and uses an "FMLA day" when she feels she will not be able to adequately function, though there was no evidence as to the number of times she took a day off work. The Commission notes there was no evidence showing work-related exacerbations and no evidence showing prolonged periods of time off work or reassignment between the date she was released to full duty work on June 17, 2024, and the date of hearing on January 3, 2025. The Commission places moderate weight on this factor.

(iii) **Age**: Petitioner was 40 years of age at the time of her injury. She is a younger individual and must live and work with her disability for an extended period of time. The Commission places moderate weight on this factor.

(iv) **Future Earning Capacity**: Petitioner is working full duty and there is no evidence that her future earning capacity will be reduced. The Commission places some weight on this factor.

(v) **Evidence of Disability corroborated by the treating medical records**: As a result of her injuries, Petitioner underwent surgery with Dr. Bradley in the form of an arthroscopic ACL reconstruction utilizing tibialis anterior allograft, partial lateral meniscectomy of the posterior horn and lateral meniscus, and chondroplasty of the medial femoral condyle. (PX9)

Dr. Bradley released Petitioner to full duty with no restrictions on June 17, 2024. (PX6 at 45; T. 22) At that visit, Petitioner reported she was doing well aside from her knee getting stiff from time to time. (PX6 at 45) She denied instability. Petitioner reported she wore a neoprene sleeve when sleeping which helped keep her knee loose. Active range of motion was 0 to 122 degrees, demonstrating full extension and mild loss of flexion. (PX6 at 43) Examination of the ACL exhibited normal findings with anterior/posterior drawer and Lachman's testing. *Id.* Dr. Bradley also noted a normal finding with McMurray's testing. *Id.* Four months later, Petitioner returned for follow-up with Dr. Bradley on October 17, 2024, with documented complaints of occasional nighttime stiffness and pain. (PX6 at 46) Dr. Bradley noted that overall Petitioner was doing well. *Id*. Petitioner continued to deny instability. Exam findings were essentially unchanged with active range of motion of 0 to 120 degrees. (PX6 at 48) Regarding her occasional nighttime stiffness, Dr. Bradley advised Petitioner that she may have some intermittent stiffness "given the change of season *for the first couple of years* after this type of surgery." (Emphasis added.) (PX6 at 49) Dr. Bradley further commented that Petitioner "should probably not be in an environment where she would need to restrain inmates so she may need reassignment or time off from time to time, but for the most part I think she can continue to be on full, unrestricted duty." *Id*. Dr. Bradley discharged Petitioner from care at MMI. (T. 22; PX6 at 49) Dr. Bradley issued an updated work status report confirming Petitioner can work full duty but advised she may need periods of rest. (PX6 at 50) Petitioner continued working full duty through the date of hearing on January 3, 2025. (T. 22-23)

Petitioner testified her instability was gone and stated, "I have full faith in my leg to support me if I need it to." (T. 23) Despite the improvement gained from her surgery, Petitioner testified she still experiences daily pain, achiness, and soreness in her knee. (T. 23-24) Her pain level is partially improved; she has daily soreness like a deep ache. (T. 23) Petitioner testified to weather sensitivity with "massive temperature shift." (T. 24) She must be careful how she lays in bed due to her symptoms. (T. 23-24) Petitioner continues with diminished range of motion. (T. 24) Petitioner testified she walked in excess of 20,000 steps during the course of a shift before and after her accident but since returning to work following her surgery she notices pain and achiness when she reaches around 16,000 to 17,000 steps. Petitioner further testified she avoids using both hands for carrying large items when navigating stairs as her toes can occasionally catch on stairs. (T. 26) Her hobbies of Krav Maga and kickboxing have been adversely affected. (T. 25-26) Petitioner takes Aleve every morning and testified that there is no way she could function without same. (T. 24) Her testimony is corroborated by the final note from Dr. Bradley. (PX6 at 49) The Commission places significant weight on this factor.

All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $589.33 per week for a period of 12-2/7 weeks, 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 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.

IT IS FURTHER ORDERED BY THE COMMISSION that 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.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner permanent partial disability benefits of $530.40/week for 32.25 weeks, because the injuries sustained caused the 15% loss of Petitioner's left leg, as provided in Section 8(e)12 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)*.

SEPTEMBER 3 2026
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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	21WC004412
Case Name	Paula Kaesberg v. State of Illinois - Menard Correctional Center
Consolidated Cases	
Proceeding Type	
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	21
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Kenton Owens

DATE FILED: 3/5/2025

/s/Bradley Gillespie,Arbitrator
Signature

THE INTEREST RATE FOR THE WEEK OF MARCH 4, 2025 4.14%

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

March 5, 2025

/s/ Michele Kowalski
Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

26IWCC0252

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

Paula Kaesberg
Employee/Petitioner

v.

State of IL / Menard Correctional Center
Employer/Respondent

Case # **21** WC **04412**

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 **January 3, 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 **July 24, 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 $**45,968.00**; the average weekly wage was $**884.00**.

On the date of accident, Petitioner was **40** 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, $**N/A** for TPD, $**N/A** 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 Petitioner temporary total disability benefits of $589.33/week for 12 2/7 weeks, commencing May 17, 2023 through August 10, 2023, as provided in Section 8(b) of the Act.

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.

Respondent shall pay Petitioner compensation that has accrued from October 17, 2024 through January 3, 2025, and shall pay the remainder of the award, if any, in weekly payments.

Respondent shall pay Petitioner permanent partial disability benefits of $530.40/week for 53.75 weeks, because the injuries sustained caused the 25% loss of Petitioner's left leg, as provided in Section 8(e)12 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 March 5, 2025

Signature of Arbitrator

BEFORE THE ILLINOIS WORKERS COMPENSATION COMMISSION

PAULA KAESBERG,	)	
	)	
Petitioner,	)	
	)	
v.	)	**Case No.: 21WC004412**
	)	
STATE OF ILLINOIS,	)	
MENARD CORRECTIONAL CENTER,	)	
	)	
Respondent.	)	

DECISION OF ARBITRATOR

PROCEDURAL HISTORY

On September 8, 2021, Paula Kaesberg [hereinafter "Petitioner"] filed an Amended Application for Adjustment of Claim alleging an injury while running and a fall on July 24, 2019, while working for the State of Illinois/Menard Correctional Center [hereinafter "Respondent"]. (Arb. Ex. 2) This matter proceeded to trial on January 3, 2025, pursuant the Illinois Workers' Compensation Act [hereinafter "the Act"]. (Arb. Ex. 1) The issues in dispute were:

- Causal Connection;
- Medical Bills;
- Temporary Total Disability; and
- Nature and Extent of the Disability.

FINDINGS OF FACT

Medical Evidence

Petitioner presented to Springfield Clinic on July 31, 2019, where it was noted that she had developed pain over the past four weeks, and mostly noticed same during jogging and running activities she performed as part of her training program for the Illinois Department of Corrections. (PX 3 p. 9) She reported a fall approximately one week prior during which she fell on her left knee, which exacerbated her pain. *Id.* Her pain was located in the medial aspect of her knee and was worsened with quick movements and jumping. *Id.* She was using ibuprofen and Tylenol for the pain. *Id.* It was noted that she had ACL reconstruction approximately eight years prior and that she recovered well from the surgery. *Id.*

On exam, she had tenderness to palpation of the medial joint line and at the pes anserine bursa region near her surgical screw. (PX 3, p. 10) She had fairly firm endpoint testing with Lachman's maneuver, positive McMurray's testing with reproductible pain and palpable click, and positive Thessaly's testing. *Id.* X-rays taken that day showed prior ACL repair, no fracture or

dislocation, mild degeneration in the patellofemoral joint, no significant degeneration in the medial or lateral compartments, maintained joint spaces, and small joint effusion. *Id.*

The assessment was a suspected degenerative tear of the medial meniscus and mild irritation of the pes anserine bursa from the surgical screw. (PX 3 p. 10) An MRI was recommended to evaluate a medial meniscus tear. *Id.* It was noted that Petitioner could consider conservative treatment or that she might require surgical intervention, depending on the appearance of the tear. *Id.* She was instructed to use a knee brace, Tylenol, and ibuprofen. *Id.* Petitioner was given restrictions of no running, jumping or jogging. *Id.*

On September 6, 2019, Petitioner presented to Perry County Orthopedics and Sports Medicine and saw PA-C Robert Brodie, who noted that she had a new complaint of left knee pain. (PX 4, p. 2) She reported that she was at the Academy on July 24 when she felt significant pain in her knee after running a significant distance. *Id.* She tried to push through it and had symptoms of her knee giving way due to pain. *Id.* She performed combat tactics the next day and experienced the pain again. *Id.* PA Brodie noted that Petitioner's pain was better because she was no longer long distance running, however, she still had occasional pain with activity, twisting and turning. (PX 4, p. 2) He noted her prior ACL reconstruction in 2012. (PX 4, p. 3)

On exam, she had medial joint line tenderness, and positive McMurray's testing medially. (PX 4, p. 5) The assessment was a probable medial meniscus tear, and an MRI was ordered. *Id.* X-rays performed that day showed her prior ACL repair, normal alignment, and small effusion. (PX5, p. 7) PA Brodie returned Petitioner to work full duty and instructed her to return following her MRI. (PX 4, pp. 5-6)

On October 1, 2019, Petitioner underwent an MRI of the left knee without contrast at Perry County Memorial Hospital. (PX 5, pp. 9-10) The findings revealed her prior ACL reconstruction with cyst formation at the tibial tunnel. (PX 5 p. 10) There was thinning and intermediate signal involving a graft, suggesting a partial-thickness tear of the graft/sequela of graft impingement although some residual fibers were intact. *Id.* There was a chronic sprain / partial thickness tear of the MCL, intrasubstance degeneration and minimal degenerative fraying of the lateral meniscus, intrasubstance degeneration/ fibrovascular scarring of the posterior/root of the medial meniscus without a definite surfacing tear, although the radiologist noted that this was a technically limited study. *Id.* There was tricompartmental osteoarthritis in the lateral patellofemoral compartments, small joint effusion, and popliteal cyst with leakage/rupture. (PX 5 p. 10)

Petitioner returned to Perry County Orthopedics and Sports Medicine on October 16, 2019, where she saw Dr. Joseph Byrne, who noted that she had pain and catching in her knee. (PX 4, p. 7) She had been utilizing conservative treatment with medications, bracing and exercise. *Id.*

On exam, she had medial joint line tenderness, and he was unable to perform McMurray's testing due to significant guarding. (PX 4, p. 10) She had grade 1-A Lachman's testing and mild patellofemoral crepitus. *Id.* Dr. Byrne reviewed Petitioner's MRI results and noted that they showed a small partial tear of her ACL, arthritic changes most pronounced in the lateral patellofemoral compartment, chronic sprain of the MCL, artifact in the medial meniscus and questionable grade II to III tear of the posterior horn of the medial meniscus. *Id.* He stated that there was artifact present, and there was a question as to whether this she had a true meniscus tear versus artifact. *Id.* He recommended conservative treatment in the form of an injection, and

Petitioner wish to proceed; however, he noted this had to be preapproved from her workman's compensation adjuster and he stated that Petitioner would follow up once same was approved. (PX 4, p. 10)

Petitioner returned to Dr. Byrne on October 30, 2019, and reported slight improvement; however, she had catching in her knee. (PX4, p. 11) On exam, she had negative McMurray's and grade 1-A Lachman's testing. (PX 4 p. 13) Her diagnoses were left knee degenerative joint disease, possible medial meniscus tear, and partial ACL tear. (PX 4, p. 14) An injection was performed into her left knee that day. *Id.* Dr. Byrne recommended physical therapy, including quadriceps strengthening. *Id.* He indicated that she would be on the same limitations at work and instructed her to follow up in five weeks. *Id.*

On December 4, 2019, Petitioner returned to Dr. Byrne and reported that following her injection, her pain was better, however, she noticed catching and clicking medially. (PX4, p. 16) On exam, she had negative posterior drawer testing, medial joint line tenderness, pain with medial hyperflexion, and Lachman's testing was difficult to assess due to guarding. (PX 4, p. 19) Dr. Byrne noted that her pain could be from a meniscus tear or arthritic changes, and stated that she had a partial ACL tear, which could be significant or minimal. *Id.* Her treatment options were continuation of conservative treatments, or diagnostic arthroscopy with possible medial meniscectomy and possible ACL reconstruction. *Id.* He noted that they would continue to treat her conservatively and that a procedure would possibly be scheduled in January. *Id.*

On March 15, 2021, Petitioner presented to the office of Dr. Matthew Bradley and reported an onset of sudden knee pain followed by instability and catching when she fell during training at the Academy in July 2019. (PX 6, p. 2) He noted that she was training to be a correctional officer and was told that she needed to "work through the pain." *Id.* She reported that she tried to push through the pain, but eventually sought medical treatment and that Dr. Byrne had recommended surgical intervention. *Id.* She reported she was sent to a state doctor for an IME and was told she may need surgery, but she was supposed to do physical therapy first. *Id.* Dr. Bradley noted that Petitioner had a good home exercise program at the gym utilizing exercises that were given to her. (PX 6 p. 2)

Dr. Bradley noted that Petitioner had a tear in her left ACL following a motorcycle accident six or seven years prior and underwent a successful ACL reconstruction. *Id.* She reported that following same, she regained all of her strength and range of motion and was able to return to full unrestricted activity, including working out at the gym. *Id.* He stated that currently, Petitioner had symptoms of catching and giving out of her knee. *Id.*

On exam, she had mild effusion, medial pain to palpation, increased translation with AD and Lachman's testing with soft endpoint, positive pivot shift testing, and positive McMurray's testing with medial pain. (PX 6 pp. 2-3) X-rays of the left knee were performed, which showed prior ACL surgery and no fractures or significant degenerative disease. (PX 6 p. 3)

Dr. Bradley reviewed the MRI images from Petitioner's October 2019 study and indicated there was an oblique, acute-appearing large tear to the posterior horn of the medial meniscus. *Id.* He stated the ACL appeared to be mostly ruptured and non-functional, but a few fibers remained intact. *Id.* His assessment was traumatic left medial meniscus tear and ACL tear. *Id.* He noted Petitioner was currently suffering from catching and instability and that given her symptoms, she

did not wish to undergo further non-operative treatment. (PX 6 p. 3) He indicated she had been through an excellent course of therapy but was not maintaining stability. *Id.* He recommended surgical intervention including an arthroscopic partial medial meniscectomy with a revision ACL reconstruction. *Id.*

On October 22, 2021, Petitioner underwent a left knee arthrogram ordered by Dr. Bradley at MRI Partners of Chesterfield. (PX 7, pp. 2-4) It showed a complex, non-displaced tear of the meniscal root of the posterior horn of the lateral meniscus, a small non-displaced undersurface tear of the posterior horn of the lateral meniscus, a non-displaced impaction fracture of the posterior lateral tibial plateau with bone contusion of the posterior medial tibial plateau, and mild tricompartmental osteoarthritis. (PX 7, pp. 3-4)

On January 26, 2023, Petitioner returned to Dr. Bradley with continued symptoms of left knee pain and instability. (PX 6, P. 4) She reported that her pain was unchanged and mild, but her catching, clicking and instability were her greatest concern, as she reported that her knee was giving out two to three times per week. *Id.* She reported that she never walked up or down steps or stairs without one hand on a rail due to fear of her knee buckling. *Id.*

Dr. Bradley noted that when he last saw Petitioner, he had indicated potential surgical intervention; however, she was seen by a state doctor, who said all she needed was rehab, and somehow how her case "got dropped." *Id.* He noted she had been working full duty, trying to live through her symptoms, however, the instability was such that she could not get through the day without multiple episodes of feeling that her knee was going to buckle. (PX 6, p. 4)She had been involved in a rehab program at her gym to three to four times a week for many months. *Id.* She denied interval trauma. *Id.*

On exam, she had medial and lateral pain to palpation, positive anterior and posterior drawer testing, positive Lachman's testing with increased translation, and positive McMurray's testing with pain. (PX 6, p. 5) He reviewed her MRI scan and noted that her ACL was edematous and likely insufficient. *Id.* As she was a year out from her last MRI scan and she had a significant increase in instability, he recommended a repeat MRI. *Id.* He noted that her symptoms and examination were consistent with an ACL tear and recommended that she continue to work as she had been doing. *Id.* He requested that she obtain a copy of her IME and that she follow up after her MRI. (PX 6, p. 5)

On February 8, 2023, Petitioner underwent an MRI arthrogram of the left knee at MRI Partners of Chesterfield. (PX 7, pp. 5-7) The impression was contour irregularity of the anterior and posterior horn of the lateral meniscus which was suggestive of either prior partial meniscectomy or focal full-thickness non-displaced tears. (PX 7, pp. 6-7) It appeared that the medial meniscus and ACL construction were intact. *Id.* There was tricompartmental chondromalacia, most pronounced in the patellofemoral interface, but without loose intra-articular body. *Id.*

On March 23, 2023, Petitioner had a telehealth appointment with Dr. Bradley and reported that her knee was achy all the time with occasional stabbing pain in the medial aspect. (PX 6, p. 6) She reported instability with stairs. *Id.* He noted that her MRI showed possible non-displaced partial tears to the lateral meniscus. *Id.* Her ACL graft appeared to be intact; however, it was not

completely normal in appearance. (PX 6, p. 7) He recommended a steroid injection and therapy, and that she continue her work restrictions. *Id.*

On March 16, 2023, Petitioner followed up with Dr. Bradley and brought her IME report. (PX6, p. 8) She continued to have mild achiness and pain in her knee, with her greatest complaint being instability. *Id.* She had to be careful going up or down steps and had to hold the handrail. *Id.* She could not perform pivoting, twisting, or turning. *Id.* She used to enjoy line dancing but stated there was no possible way she could do that given her instability. (PX 6, p. 8) She reported that her neoprene knee sleeve was the only thing that helped her to some degree, and that she was not allowed to wear a brace with metal hinges, as she works in a prison. *Id.*

On exam, she had medial pain to palpation, positive AD, Lachman's, and pivotal shift testing with soft endpoint, as well as positive McMurray's testing with pain. (PX 6, p. 9) Dr. Bradley's assessment was left knee ACL insufficiency with small meniscus tear and underlying degenerative disease. (PX 6, p. 10) He stated that her symptoms of instability were consistent with ACL insufficiency and that her MRI scan showed an edematous ACL with the intact fibers showing significant loosening and waviness, indicative of insufficiency or incompetence. *Id.* He stated that her exam showed increased translation with a very soft endpoint. *Id.* An injection was performed that day in his, and he recommended aggressive therapy for four to five weeks to see if she could gain stability. *Id*. He stated if she was unable to gain stability, consideration would need to be given to ACL revision. (PX 6, p. 10) He stated she had underlying degenerative disease, which was likely contributing to her dull, achy pain; however, the instability was causing ongoing exacerbation and aggravations of the underlying degeneration that would continue without treating the instability. *Id.*

Petitioner participated in physical therapy for her left knee at ApexNetwork Physical Therapy from March 22, 2023, through April 28, 2023. (PX 8)

On April 20, 2023, Petitioner reported that 99 percent of her pain had gone away following the injection and stated that this made her understand the degree of instability in her knee. (PX 6, p.11) She reported difficulty with going up and down any steps or stairs without holding onto rails, and she was unable to squat without becoming unstable. *Id.* Her knee felt like it would give out on her with any small twist or turn. *Id.* She denied interval trauma. *Id.* Dr. Bradley noted that Petitioner had a good therapeutic rehabilitation program and had been able to gain good strength in her quad but she had not gained stability. (PX 6, p. 13) Given her degree of instability, he recommended surgical intervention. *Id.* He was hopeful that when she gained stability in her knee, her arthritis would calm down and would not be so painful. *Id.* He noted that her lateral meniscus tear would also be addressed at the time of surgery. *Id.*

Petitioner on May 17, 2023, Petitioner underwent surgery with Dr. Bradley in the form of an arthroscopic ACL reconstruction utilizing tibialis anterior allograft, partial lateral meniscectomy of the posterior horn and lateral meniscus, and chondroplasty of the medial femoral condyle. (PX 9) Intraoperatively, Dr. Bradley noted that Petitioner's ACL was excessively loose and incompetent. (PX 9, p. 3) There was an oblique tear to the posterior horn of the lateral meniscus without instability of the lateral meniscus root. *Id.* There was a lesion to the medial femoral condyle measuring 1 cm x 1 cm, up to a grade III thickness along the medial aspect of the medial femoral condyle within the weight-bearing portion with the knee in full extension. *Id.*

Petitioner performed postoperative physical therapy at ApexNetwork Physical Therapy in Chester, Illinois from May 19, 2023, through January 19, 2024. (PX 8)

On June 1, 2023, Petitioner returned to Dr. Bradley for a postoperative visit and reported that she was doing well and did not need pain medication except just prior to therapy. (PX 6, p. 19) She was making good gains in therapy, and Dr. Bradley recommended that she continue her rehab rehabilitation program and use Tylenol and ibuprofen as needed. *Id.* She was given work restrictions. (PX 6, p. 21)

On July 17, 2023, Petitioner returned to Dr. Bradley, who noted she had been making gains in physical therapy with range of motion and strength. (PX 6, p. 22) She lacked some extension but was working aggressively on this in therapy. (PX 6, p. 24) Dr. Bradley recommended that she continue her rehabilitation program. *Id.* He noted she should continue desk work until August 10, and that she could go back to light duty type work after that date. *Id.*

On September 25, 2023, Petitioner returned to Dr. Bradley and reported that she was experiencing some weakness and had difficulty going down steps. (PX 6, p. 25) She had been working light duty in the mail room. *Id.* She was measured for an ACL brace. (PX 6, p. 27) Dr. Bradley recommended that Petitioner continue her rehabilitation program, and he continued her light duty restrictions. *Id.*

Petitioner returned to Dr. Bradley on November 27, 2023, where she reported continued weakness when getting into full extension and felt that this was related to change of seasons. (PX 6, p. 29) Dr. Bradley recommended she continue to focus on quadriceps strengthening and finish her course of physical therapy. (PX 6, p. 31) She was kept on work restrictions for two more months. *Id.*

Petitioner returned to Dr. Bradley on February 19, 2024, and stated that with the changes in the seasons, she had lost some of her motion, particularly with extension. (PX 6, p. 34) Otherwise, her knee was stable and pain-free. *Id.* She still had problems walking on ice and slippery surfaces and had difficulty going up repetitive stairs. *Id.* He examined Petitioner and found that she could not get to full extension and had lost five degrees of flexion. (PX 6, p. 36) He felt that much of this was related to seasonal changes, and he encouraged her to participate in a stretching program. *Id.* She was kept on work restrictions of no more than two flights of stairs at a time. *Id.*

On April 15, 2024, Petitioner returned to Dr. Bradley and reported that she was doing great with her stability and had been walking over 10,000 steps per day. (PX 6, p. 38) He noted that she still lacked motion with extension in comparison with the contralateral side. (PX 6, p. 40) He recommended that she perform stretching at the gym in order to gain some of her extension back. *Id.* He noted she was working full duty and he allowed her to continue same. *Id.* He recommended a follow up appointment in two months. *Id.*

On June 17, 2024, Petitioner returned to Dr. Bradley and reported she had been working full-time in a slightly limited capacity but felt that she had recovered enough to return to full, unrestricted activity. (PX 6, p. 41) She reported that her knee still became stiff from time to time, but she was able to stretch it out with her therapy program. *Id.* She wore a copper neoprene sleeve, particularly at night. *Id.* He indicated that she had good range of motion and strength and that it

was safe for her to return to full unrestricted duty. (PX 6, p. 43) He recommended a follow up in three months. *Id.*

On October 17, 2024, Petitioner returned to Dr. Bradley and indicated that she occasionally woke up with stiffness, achiness, and pain in her knee, but she did not have instability. (PX 6, p. 46) He indicated that Petitioner was exposed to drugs at work and was seeing a psychologist in relation to this; however, this did not affect her knee. *Id.* He explained that she may have intermittent stiffness for the first few years after her surgery with change of seasons, and recommended Aleve or ibuprofen. (PX 6, p. 49) He stated she should probably not be in an environment where she needed to restrain inmates, so she might need reassignment or occasional time off; however, he felt that for the most part, she could continue full unrestricted duty. *Id.* She was placed at maximum medical improvement. *Id.* Dr. Bradley completed a work status report that day, which indicated that she had no restrictions, but that she might need periods of rest due to exacerbation. (PX 6, p. 50)

Section 12 Report and Deposition of Dr. Michael Nogalski

At Respondent's request, Petitioner submitted to a Section 12 examination with Dr. Michael Nogalski on June 3, 2020. (RX 2) He noted Petitioner's history of injury and treatment at the walk-in clinic at Springfield and with Dr. Byrne and PA Brodie. *Id.* He noted that Dr. Byrne felt she might have a torn meniscus and re-tear of her ACL. *Id.* He noted that she continued to work full duty but avoided running and high impact activities. *Id.* She reported constant stabbing pain and an occasional feeling that her knee wanted to buckle. (RX 2 p. 1) He noted that the injection and physical therapy helped her condition. *Id.* He noted she also went to the gym; however, the gym was closed due to the pandemic and Petitioner felt like she had gone backwards. *Id.* He noted that she had a previous ACL reconstruction in 2012 and that she did well after same. (RX 2 p. 2)

On exam, she had well-healed incisions and portal sites around her left knee. *Id.* There was trace effusion, generalized tenderness over the medial femoral condyle, and medial joint line tenderness and minimal lateral tenderness. *Id.* She had 5-/5 extension and flexion strength, relatively solid quadriceps function, and minimal patellofemoral crepitance. *Id.* He indicated that x-rays of her right knee showed well-preserved joint spaces and evidence of a previous ACL reconstruction. (RX 2 p. 2) He reviewed her October 1, 2019 MRI and noted that it showed mild chondrosis in the patellofemoral and medial tibiofemoral joints. *Id.* It showed her previous ACL construction with slightly inhomogenous signal, however; it appeared to be intact. *Id.* He felt that there were mild cystic changes near the tibial tunnel site, and the meniscal signals appeared to be relatively normal. *Id.* He felt that there were mild abnormalities of the distal medial collateral ligament, but they appeared to be near the screw insertion site.(RX 2, pp. 2-3)

Dr. Nogalski's impression was left knee pain with predominantly medially sided chondrosis. (RX 2, p. 4) He felt that no mechanical findings supported significant meniscal abnormalities, and stated that Petitioner had an intact exam with respect to ligaments. *Id.* He did not feel that there was causal connection between Petitioner's findings and her accident, and believed her symptoms were related to gradual, progressive degeneration that occurred over time. *Id.*

He felt there were no significant findings to support a change in pathology from her training period in Springfield; however, he recommended a gadolinium arthrogram MRI to evaluate meniscal pathology. (RX 2, pp. 4-5) He felt that she had likely reached MMI with respect to her July 24, 2019, event; however, he stated that he would "reserve judgment" until after her MRI. (RX 2, p. 5) He stated if there was a meniscus tear on the new MRI and she had "some semblance of an exam to support possible meniscal pathology," arthroscopy would be reasonable. *Id.* He felt that her treatment to date had been reasonable and necessary. (RX 2, p. 4)

Dr. Nogalski testified via deposition on October 18, 2021. (RX 3) On direct examination, he testified consistently with his report. He testified that he performs four IMEs per week, for which he charges $2,000, and that he approximately for depositions per month, for which he charges $2,000 the first hour and $500 per half hour thereafter. (RX 3, p. 8)

He testified that Petitioner was pleasant, cooperative, straightforward and honest, and that he did not detect any signs of symptom magnification or malingering. (RX 3, p. 22) He testified that the history contained in Petitioner's medical records was largely consistent with the history she provided to him. (RX 3, p. 23)

He stated that he performed x-rays of Petitioner's left knee at the time of her IME, and that the reference to right knee x-rays was a typographical error. (RX 3, p. 9)

He felt that Petitioner's findings on MRI and exam were related to gradual degeneration. (RX 3, p. 19) Although he agreed with the radiologist's MRI findings, he stated regarding Petitioner's ACL, "you could say partial thickness." (RX 3, p. 33) He agreed that her x-rays showed well preserved joint spaces in both knees. (RX 3, pp. 27-28)

When asked if the driving force behind treatment recommendations is a patient's symptoms, he admitted that it was relatable to symptoms, but went on to make flippant comments regarding Petitioner's "choice of occupation," stating that "If somebody has a bad knee… and they want to run on their knee, and they expect the doctor to make that better and treat them from a purported work injury or exacerbation…" more goes into this than "pain or no pain." (RX 3, pp. 36-37)

He noted in his report that prior to her accident, Petitioner's knee bothered her from time to time while working out; however, he admitted that did not have any indication as to how often her knee bothered her prior to her accident, the location quality of those symptoms, nor the time period when they occurred. (RX 3, pp. 25-26)

He did not review Petitioner's operative report from her prior her 2012 ACL reconstruction. (RX 3 pp. 23-24) He acknowledged that Petitioner did well following her 2012 surgery and that he was not provided with any medical records documenting knee complaints between the time of her 2012 surgery and her July 2019 work accident. (RX 3, pp. 24-25) He testified that that Petitioner described her pain as constant, sharp, and stabbing, and admitted that he did not know whether or not she had these symptoms prior to her work injury. (RX 3, p. 27)

He admitted that his examination of Petitioner did not include anterior drawer or pivot shift testing. (RX 3, pp. 26-27) He did not feel that Petitioner had ACL injury because she had good end point testing. (RX 3, p. 33)

He admitted that he had "a slight suspicion" that Petitioner had a meniscus tear and therefore, believed the additional MRI was a reasonable idea. (RX 3, pp. 32-33) He opined that if a new MRI did not show instability in her knee, she would be at MMI but if it did show meniscal pathology, he would recommend arthroscopy. (RX 3, pp. 19-20)

He admitted that arthritis can be asymptomatic, and that Petitioner's mechanism of injury could cause chondrosis to become symptomatic and might limit her from running. (RX 3, pp. 34-35) When asked about the mechanism of falling onto her knee, he felt that a fall could cause temporary aggravation of chondrosis. (RX 3, p. 35) He testified that it was possible that Petitioner's activities at work, including running, could possibly cause her chondrosis to become intermittently symptomatic. (RX 3, pp. 37-38)

When asked if someone could have an increase in symptoms without a change in their pathology, he stated, "in your simple, myopic world, from a legal argument standpoint, that might hold water in some areas…". (RX 3, p. 35) He further answered that there is pain because of microscopic and biomechanical issues, and that it is "not easy to answer yes or no to that question"; however, he admitted that a traumatic event or overuse activity could cause painful chemicals to flare up. (RX 3, p. 36)

When asked whether or not a meniscal tear on an MRI arthrogram would be related to her July 24, 2019, event, Dr. Nogalski stated that it would depend upon the shape and type of the tear, but that that was within the realm of possibilities and he would give Petitioner "every benefit of the doubt." (RX 3, pp. 38-39) He stated that the types of tears that come from mechanical injuries include radial, *oblique*, and horizontal tears, and that there are certain shapes and patterns of tears that would be traumatic as opposed to degenerative. (RX 3, pp. 38-39)

When asked what he meant by "semblance" when he stated that arthroscopy would be reasonable if Petitioner had a semblance of an exam to support meniscal pathology, he testified:

> You know, if we're playing poker, shouldn't give that one up, should I? I don't know. You know, should I answer that question or not? At the end of the day, I mean, some of the exam findings end up being subjective. In this true matter, which is being litigated or questioned, if I give you an answer, and she says it, then, you know, did you tell her? Did you not tell her? I don't know how that all works. (RX 3, pp. 39-40)

However, he admitted that there was a subjective component in physical exam findings, and that symptoms such as catching, popping and giving way can be mechanical symptoms. (RX 3, pp. 40-41) Further, he testified that these symptoms can be consistent with a meniscal tear, and admitted that Petitioner checked the boxes on her intake form indicating that she had catching, giving way and popping. (RX 3, p. 41) He was not aware if Petitioner had these symptoms prior to her work accident, had not seen Petitioner since June 3, 2020, and did not know how she was currently faring. (RX 3, pp. 41-42)

Deposition of Dr. Matthew Bradley

Dr. Bradley testified via deposition on August 10, 2021. (PX 10) He is a board-certified orthopedic surgeon who treats patients with both degenerative arthritis and acute injuries. (PX 10, pp. 5-7) He treats knee injuries on a daily basis, performs knee surgeries each week, and stated

that the knee is the most common joint that he treats. (PX 10, p. 7) On direct examination, he testified consistently with his medical records.

He opined that the catching and clicking in Petitioner's knee was consistent with her physical examination for a meniscus tear and that her instability was consistent with a tear of her ACL. (PX 10, p. 13)

He testified that Petitioner had positive pivot shift test testing and explained that this particular test looks for tears to the ACL. (PX 10, p. 11) She also had positive McMurray's testing, which looks at tears to the meniscus. *Id.* He explained that it was difficult to trace the fibers going down the length of Petitioner's ACL on MRI and opined that she had ACL pathology. (PX 10, pp. 12-13) He stated that there was some artifact from Petitioner's hardware that made evaluation of the meniscus difficult, but it appeared that she had a tear to the posterior horn of the medial meniscus. *Id.*

He agreed with Dr. Nogalski that an MRI with contrast would be beneficial to provide more insight into Petitioner's knee injury, as her initial study was performed without contrast. (_X 10, pp. 18-19) He testified that metal screws on an MRI are akin to driving at night with headlights in the windshield that create a starry effect. (PX 10, p. 32) He stated that the screw in Petitioner's knee is creating a "bright star" that goes over the entire knee and makes it difficult to see structures, but he was hopeful that with a high-powered magnet, he would be able to see the size and location of Petitioner's meniscus tear. (PX 10, pp. 31-32) He felt that an MRI arthrogram would get give a much clearer picture of Petitioner's ACL and stated that if there was a meniscus tear, the dye would show where the tear is, how large it is, and would show better views of the edges of the tear. (PX 10, p. 26)

He stated that Petitioner had mild arthritis that predated her injury but that the degree of arthritis she had was very normal for that of a 41-year-old female, and there was nothing on her MRI that indicated she was on the path to needing a knee replacement or having severe arthritis. (PX 10, pp. 28-29)

Regarding Dr. Nogalski's report, Dr. Bradley stated:

> Dr. Nogalski reviewed some radiographs, and per his documentation he did not see any, any significant arthritis within her knee. He said she has a, quote, well-preserved joint life in the medial and lateral compartments. He then towards the end, he concludes that all of her pain is due to her arthritis. It seems to me like, I don't know how you can interpret an x-ray and say there's no arthritis, and then conclude everything that's going on with her is due to arthritis. (PX 10, pp. 17-18)

Dr. Bradley also disagreed with Dr. Nogalski's interpretation of Petitioner's MRI, as Dr. Nogalski stated that he did not see an ACL or meniscus injury. *Id.* Dr. Bradley felt that Dr. Nogalski's physical examination was incomplete, as he only performed Lachman's testing for the ACL, but did not perform anterior drawer or pivot shift testing. *Id.*

With regard to causation, he testified that Petitioner recovered well from her initial ACL surgery and was able to return to an active life, feeling so well that she entered the Academy to do training to become a correctional officer. (PX 10, pp. 14-15) He stated that there were no reports of injuries or instability in the records that pre-dated her work injury, but subsequent to her work

injury, she had increased pain and instability, and therefore, he concluded that her work injury was causally related to her ACL insufficiency and meniscus tear. *Id.*

He stated that Petitioner had been through non-operative treatment, including therapy, medications, and injections but that she continued to have mechanical symptoms of catching, locking, and instability, and the only way to address same would be through surgical intervention, which he felt would be related to her work accident. (PX 10, pp. 15-17)

Documentary Evidence

A notice of injury completed by Petitioner indicated that on July 24, 2019, she was jogging for COT training on the sidewalk at the Concordia campus, that she experienced pain while jogging, and that the pain increased until her knee gave out and she fell. (RX 1)

A witness report from the date of injury, which was completed by Erica Inman, stated that the class was running as a group for training. *Id.* Ms. Inman was running next to Petitioner when Petitioner fell down and grabbed her leg in pain. *Id.*

In an incident report dated August 2, 2019, Petitioner stated that the left knee that she "fell on last week" began hurting again as she was running, and that putting too much weight or sudden impact to the ground caused a stabbing pain in her knee. *Id.* She indicated that she was seeking medical attention. (RX 1)

Petitioner's Testimony

Petitioner is currently employed as a correctional officer at Respondent's Menard Correctional Center facility. (Tr. p. 9) She testified that the week before her incident, she was at the training Academy in Concordia, and that every day she ran in formation on sidewalks on which the concrete was lifted in some places and roots were growing through. (Tr. p. 10) She stated that it was "almost an obstacle course trying to run" and that while running in formation it is difficult to see where you are running. *Id.* She stated that while running, she began having pain in her left knee, and that every time her left foot struck the ground, she experienced stabbing pain. *Id.* At the end of the morning run, she reported her knee problems to the head of training but was expected "to dig down deep and toughen up and push through." *Id.* She did as she was instructed and kept running. (Tr. p. 10)

On July 24, 2019, when her left foot struck the ground while she was running, her knee "gave up" and she ended up face down on the ground. (Tr. pp. 10-11) She experienced sharp pain, swelling, and instability in her knee after her injury. (Tr. p. 11) She explained that she did not seek medical attention at that time because she was at the Academy, did not have her own personal vehicle, and they did not send her out for treatment. *Id.* She testified that she was given ice packs and was instructed to elevate her leg. *Id.* She was excused from running the rest of the week, however, the next week she had combat tactics training and had to perform additional running. *Id.* She testified that during the extra lap, she "just started tearing up." (Tr. p. 11) She was approached by her trainer several times, and she explained that she had fallen on her knee the week prior. (Tr. pp. 11-12) She was initially allowed to stay in but was ultimately pulled and sent to the clinic in Springfield. *Id.*

She readily testified to her prior history of an ACL reconstruction that occurred around 2011. (Tr. pp. 12-13) She stated that her prior procedure was "very successful." (Tr. p. 13) She testified that although she had occasional symptoms in her knee following her initial ACL repair, these events were "very sporadic and very rare." (Tr. pp. 31-32) Regarding the condition of her knee from the time of her ACL reconstruction until July 2019 she stated, "It was fine. I functioned as normal. I didn't have any lingering symptoms. It was stable. Maybe a little bit of achiness every now and then, but it wasn't frequent enough to bother me." (Tr. p. 13) She testified that during that period, she went to the gym five days a week for several years because once her knee "was good" she wanted to get healthier. *Id.* After she was released from her physician following her 2011 ACL surgery, she did not undergo any physical therapy or injections prior to her 2019 accident. (Tr. pp. 34-35) She currently take Aleve on a daily basis, and prior to July 2019, she did not have to do so. (Tr. pp. 24-25)

She testified that when she first saw Dr. Byrne, it was around the time she got out of the Academy and that she could not schedule an appointment with him prior to that because he was in Springfield. (Tr. p. 28) She testified that Dr. Byrne recommended potential ACL surgery and "that's when they referred [her] to the state doctors." (Tr. p. 33) She was ready to undergo surgery in December 2019, but Respondent "didn't want to approve the surgery until [she] spoke to one of their doctors." (Tr. p. 15) She testified that after she saw Dr. Nogalski, she did not receive the findings from his report. (Tr. p. 16) Regarding this time period, she testified, "[W]e all know what the world was like in 2020, that you couldn't schedule doctor appointments, [and] most places were closed." *Id.* Therefore, when she did not hear anything back regarding her IME, she assumed it was a product of the times. *Id.* However, in the fall of 2020, she inquired of "workman's comp" as to the status of her surgery approval and was told her surgery was denied. (Tr. p. 17)

Following the denial, she sought a second opinion with Dr. Bradley, who recommended an MRI. (Tr. p. 18) She testified that "There was some scheduling problems with COVID still going on in 2021" [sic] and although she eventually she got the MRI, she never received a call back to reschedule an appointment or receive her MRI results. *Id.* Petitioner testified that she ultimately got in contact with Dr. Bradley's office and came in for an additional appointment and MRI in early 2023. (Tr. pp. 18-19) She testified that when Dr. Bradley also recommended ACL surgery, she waited to see what the State would say because she did not want to do surgery "until the state was on board." (Tr. pp. 33-34) She testified that during the period she was waiting for approval, she used conservative treatment to keep as much mobility and function in her knee as possible. *Id.* When asked how she was doing from the time of Dr. Nogalski's 2020 exam to the point where Dr. Bradley recommended surgery, she stated, "I powered through. I just -- I had to go to work. I needed my paycheck. So I would just slather on a bunch of Biofreeze, put on some knee braces, and power through my day." (Tr. p. 19)

Petitioner has not suffered any intervening accidents or injuries since her July 2019 work injury. (Tr. pp. 26-27)

She acknowledged that she was able to walk 20,000 steps at work following her injury but explained that she was able to have the stability to do same by way of physical therapy. (Tr. pp. 27-28) Moreover, when she would walk this number of steps, her knee was achy and painful at the end of the day, and she would "go home and pretty much not do anything else the rest of the day." (Tr. p. 33) She was unable to sustain walking this number of steps per day and explained, "as the instability kept getting worse and worse, as the pain kept getting worse, I was able to work out

less. And as I worked out less, my instability got worse because I was no longer able to keep the supporting muscles to take the place of the ACL to keep me going." (Tr. p. 33)

She testified that the injection from Dr. Bradley helped with her pain, "but as the pain was taken care of, the instability became more and more noticeable" because the frequency and speed of her movement increased, which let "the full extent of the injury be known." (Tr. p. 20)

When asked what prompted her to move forward with surgery, she testified that her knee was giving out multiple times a day, she was having difficulty with stairs at work, that she "couldn't keep up," that she was "slowing down" and that she was cutting workouts because she "just couldn't do it anymore." (Tr. pp. 20-21) She testified that her knee got too bad and she "couldn't wait on the state any longer" because at that point, it had been four years since her injury, her instability was to the point where she could not function at work any longer, and she was a risk to herself and others. (Tr. p. 34)

She testified that following the surgery, her instability was gone, and she had faith in her leg to support her. (Tr. p. 23) Her pain improved; however, she still experiences daily aching, soreness, stiffness, and pain and she sometimes uses an FMLA day due to her symptoms. *Id.* She testified that she did not have these symptoms prior to July 2019. *Id.*

Despite the improvement gained from her surgery, she still experiences daily pain and soreness in her knee, which she described as a "deep ache." (Tr. pp. 23-24) She has to be careful how she lays in bed because if she lays wrong, she cannot walk for a few minutes in the morning. *Id.* She has weather related symptoms in her knee, which causes her limp to become more pronounced. *Id.* She has some loss of range of motion which has led to her toes sometimes catching while she is walking or climbing stairs. (Tr. p. 24) Due to this, she cannot walk up or down the stairs with her hands full. (Tr. p. 26) She testified that prior to her injury, she went to the gym five days a week and engaged in Krav Maga and kickboxing; however, she no longer does so due to her injuries. (Tr. pp. 25-26) She testified that she no longer stands to shave her legs in the shower and must sit to do so. (Tr. p. 26) She takes Aleve every morning and testified that there is there no way she could function without same. (Tr. p. 24)

ARBITRATOR CREDIBILITY STATEMENT

The Arbitrator had the opportunity to observe Petitioner for a lengthy period of time at Arbitration and finds that her testimony was credible and straightforward. Furthermore, the Arbitrator notes that Respondent's examiner testified that Petitioner was pleasant, cooperative, straightforward, and honest, and that he did not detect any signs of symptom magnification or malingering. (RX 3, p. 22) Finally, the Arbitrator notes that many aspects of Petitioner's testimony indicated that she worked through her injury commendably and she is a highly motivated employee who does not easily give up. (Tr. pp. 10-12, 27-28, 33-34)

CONCLUSIONS OF LAW

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

The law holds that accidental injury need not be the sole causative factor, nor even the primary causative factor, as long as it is *a* causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003). [Emphasis

added]. Where a preexisting condition is present, Petitioner need only show that the prior condition was aggravated or the need for treatment accelerated. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003); *Schroeder v. Illinois Workers' Comp. Comm'n*, 2017 IL App (4th) 160192WC, 79 N.E.3d 833. Allowing a claimant to recover under such circumstances is a corollary of the principle that employment need not be the sole or primary cause of a claimant's condition. *Land & Lakes Co. v. Indus. Comm'n*, 359 Ill. App. 3d 582, 834 N.E.2d 583 (2005). Employers are to take their employees as they find them. *A.C.& S. v. Industrial Comm'n*, 304 Ill. App. 3d 875, 710 N.E.2d 837 (1999) citing *General Electric Co. v. Industrial Comm'n*, 89 Ill. 2d 432, 434, 433 N.E.2d 671, 672 (1982).

"Petitioner need only show that some act or phase of the employment was a causative factor of the resulting injury." *Fierke v. Industrial Commission*, 309 Ill. App. 3d 1037, 723 N.E.2d 846 (2000). The law is clear that if a preexisting condition is aggravated, exacerbated, or accelerated by an accidental injury, the employee is entitled to benefits. *Rock Road Constr. v. Indus. Comm'n*, 227 N.E.2d 65, 67-68 (Ill. 1967), 37 Ill. 2d 123; see also *Illinois Valley Irrigation, Inc. v. Indus. Comm'n*, 66 Ill. 2d 234, 362 N.E.2d 339 (1977).

A compensable aggravation occurs when a claimant's need for surgery is accelerated. Judith Wheaton v. State of Illinois/Choate Mental Health Center, 13 I.W.C.C. 0467*; Bowman v. Gateway Reg'l Med. Ctr*., 14 I.W.C.C. 1022; Clutterbuck v. UPS, 15 I.W.C.C. 0046; *Howard v. St. Clair Hwy. Dept*., 16 I.W.C.C. 0187, modified 16 MR 106.

"[I]t is for the Commission to determine which medical opinion is to be accepted, and it may attach greater weight to the treating physician's opinion." *Piasa Motor Fuels v. Industrial Comm'n*, 368 Ill. App. 3d 1197, 1206 (2006).

"The 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 *William Gordon*, the claimant did not seek treatment for some 9 months from January 29, 2004, to October 16, 2004, and thereafter again for nearly 4 months until February 7, 2005. *Gordon*, 07 I.W.C.C. 1599 (2007). The Commission agreed with the Arbitrator that it is not unreasonable for claimants to expect to "simply heal with time." *Id*. The court referred to the Supreme Court decision in *Durand*, which declined to "penalize an employee who diligently worked through progressive pain." Gordon, 07 I.W.C.C. 1599 (2007), *Durand v. Industrial Comm'n*, 862 N.E.2d 918 (2006).

In *Sharon Langorgen v. K-Mart*, 09 I.W.C.C. 1160 (2009), the Commission recognized that, although there was a gap in formal treatment between mid-2003 and September of 2005, the claimant continued to identify the accidental injury as the source of her complaints without rebuttal. *Langorgen*, 09 I.W.C.C. 1160 (2009). 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*.

In the instant case, the Arbitrator finds that the gaps in Petitioner's treatment are logically explained. When Petitioner saw Dr. Byrne in December 2019, he noted that surgery would possibly be scheduled in January 2020. (PX4, 12/4/19) Petitioner testified that upon Dr. Byrne's surgical recommendation, she was referred to Respondent's physician, and that Respondent did not want to approve her treatment until after she spoke to its physician. (Tr. pp. 15, 33)

The Arbitrator notes that Dr. Byrne's surgical recommendation took place shortly prior to the outbreak of the COVID pandemic, and Petitioner was not seen by Respondent's physician until June 2020. When Petitioner did not hear anything back from Respondent regarding the status of her surgical approval following her IME, she inquired as to same and discovered that her surgery had been denied, prompting her to seek a second opinion. (Tr. pp. 16-18) Petitioner initially saw Dr. Bradley in March 2021, and had her MRI in October 2021. (PX 6; PX 7) She logically explained the gap, testifying that there were still scheduling difficulties due to COVID at that time. (Tr. p. 18) Although she got the MRI in October 2021, she never received a call back to schedule an appointment. *Id.*

The Arbitrator again notes that these events transpired in 2020 and 2021, during the COVID pandemic. Therefore, delays in treatment and medical appointments during this time are not only logical reasons for gaps in treatment but should be expected. Although there was a gap in formal treatment from October 2021 to January 2023, Petitioner testified that she used conservative treatment to keep her knee functional while she was waiting, and that she "powered through" her symptoms because she had to go to work. (Tr. pp. 19, 33-34) As in *Langorgen*, Petitioner continued to identify her original injury as the source of her symptoms throughout her treatment, and she credibly testified that she did not suffer any intervening accidents, nor is there any evidence of same. *Langorgen, supra*. (Tr. pp. 20, 26-27, 34; PX 10, pp. 14-15) Therefore, because Petitioner's gaps in treatment are logically explained, as she continued to point to her work injury as the source of her ongoing symptoms, and as there is no evidence of any intervening accident, the Arbitrator finds that the chain of causation remains unbroken.

The Arbitrator notes that Respondent disputes causation based on the opinion of Dr. Nogalski. The Arbitrator has considered the opinions of Dr. Nogalski and Petitioner's treating physician, Dr. Bradley, and finds the opinions of Dr. Bradley more logical and persuasive than those of Dr. Nogalski.

In so finding, the Arbitrator notes that Dr. Nogalski only performed one ACL test and did not perform anterior drawer or pivot shift testing, which Dr. Bradley indicated were necessary for a thorough ACL examination. (RX 3, pp. 26-27, 33; PX 10, pp. 17-18) Intraoperative findings proved that Petitioner's ACL was excessively loose and incompetent. (PX 9)

With respect to Petitioner's meniscus tear, Dr. Nogalski felt that Petitioner had no mechanical findings to support meniscal abnormalities, yet admitted that catching, popping and giving way can be symptoms of meniscus tears, and that Petitioner indicated in writing that she had these symptoms. (RX 2; RX 3, pp. 40-41) Further, despite the fact that Petitioner's x-rays showed well-preserved joint spaces, and that there were no documented knee problems or symptoms from the time of Petitioner's prior ACL surgery until her work accident, Dr. Nogalski felt that her findings were all related to gradual degeneration. (RX 3, pp. 19, 24-25, 27-28)

In contrast, Dr. Bradley recognized that prior to her work injury, Petitioner's knee was doing so well that she entered the Academy, and that prior to her injury, there were no complaints or records of injury or instability, however, after her accident, she was symptomatic, and therefore, logically opined that her ACL insufficiency and meniscus tear were related to her accident. (PX 10, pp. 14-15)

In addition to Dr. Bradley, Dr. Byrne also recommended surgical intervention on Petitioner's left knee, as he suspected ACL and meniscal pathology. (PX4, p. 19)

Although Dr. Bradley initially felt that Petitioner's medial meniscus was torn, he opined that Petitioner's high-powered contrast MRI would show where the tear was, because her initial MRI had a "bright star" effect that made evaluation of structures difficult. (PX 10, pp. 26, 31-32) His opinions on Petitioner's initial MRI echo the sentiments of the radiologist, who referred to it as a "technically limited study" and Dr. Nogalski, who recommended the contrast MRI. (PX10, pp. 26, 31-32; PX 5; RX 2) Petitioner's contrast MRI simply confirmed that the pathology was to her lateral, rather than medial, meniscus. (PX 7)

Additionally, even Dr. Nogalski admitted that he had a "slight suspicion" that Petitioner had a meniscus tear and stated that if the new MRI showed Petitioner's meniscus was torn, he would give her the "benefit of the doubt" with respect to causation, and indicated that mechanical tears are typically radial, horizontal, or oblique. (RX 3, pp. 32-33, 38-39) Intraoperatively, Petitioner's meniscus tear was characterized as "oblique" by Dr. Bradley, indicating that Petitioner indeed suffered a mechanical tear to her lateral meniscus at the time of her work injury. (PX 9)

The Arbitrator also notes that there is no evidence in the record that Petitioner suffered from symptoms of ACL insufficiency or lateral meniscus tears from the time of her 2011 or 2012 surgery until the time of her work accident. Further, although Petitioner had gaps in formal treatment largely related to the COVID pandemic, there is no suggestion in her medical records that she was ever symptom-free or that she had returned to baseline following her injury. Rather, her records and testimony indicate that as time progressed, so did her symptoms, particularly her instability, and after working through progressive symptoms, she could no longer wait on Respondent to approve treatment. (Tr. pp. 20-21, 34)

Therefore, pursuant to the above findings and cited precedent, the Arbitrator finds and concludes that Petitioner has met her burden of proof with respect to causation, and that the current condition of ill-being with respect to her left knee is causally related to her July 24, 2019, work injury.

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).

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 testified that she underwent the recommended surgery because her symptoms became so severe that she could no longer function and was a risk to herself and others. (Tr. pp. 20-21, 34) Her intraoperative findings demonstrated that objectively, she had an insufficient ACL and lateral meniscus tear. (PX 9) Dr. Bradley opined that she would not improve without surgical intervention. (PX 10, pp. 15-17) Even Dr. Nogalski felt that if Petitioner's future MRI showed meniscal pathology, which it did, he would recommend arthroscopy. (RX 3, pp. 19-20) Lastly, Petitioner testified that she improved following the surgery and her preoperative instability is gone. (T. 23)

Therefore, pursuant to the above findings on causal connection, the Arbitrator finds and concludes that the medical treatment rendered to Petitioner was reasonable, necessary, and causally related to her work injury, and that Respondent is liable for the medical bills as outlined in Petitioner's Exhibit 1.

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, 561 N.E.2d 623 (1990). The ability to do light or restricted work does not preclude a finding of temporary total disability. *Archer Daniels Midland Co. v. Indus. Comm'n*, 138 Ill.2d 107, 561 N.E.2d 623 (1990) citing *Ford Motor Co. v. Industrial Comm'n*, 126 Ill.App.3d 739, 743, 467 N.E.2d 1018 (1984).

The evidence shows that Petitioner was either off work or on desk work restrictions during the period Petitioner claims entitlement to TTD. (PX 9; PX 6) Therefore, pursuant to the above findings on causal connection, the Arbitrator finds that Petitioner is entitled to temporary total disability benefits for a period of 12 2/7 weeks, representing the period of May 17, 2023, through August 10, 2023.

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**: Dr. Bradley's final note indicated that Petitioner should not be in an environment where she needs to restrain inmates, and that she might need reassignment, occasional time off, and periods of rest due to exacerbation. (PX6, 10/17/24) The Arbitrator notes that

Petitioner is a correctional officer, and that as outlined in Dr. Bradley's note, her injuries may pose issues with her ability to perform her duties. The Arbitrator places moderate weight on this factor.

(iii) **Age**: Petitioner was 40 years of age at the time of her injury. She is a younger individual and must live and work with her 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 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 her injuries, Petitioner underwent surgery with Dr. Bradley in the form of an arthroscopic ACL reconstruction utilizing tibialis anterior allograft, partial lateral meniscectomy of the posterior horn and lateral meniscus, and chondroplasty of the medial femoral condyle. (PX9)

Despite the improvement gained from her surgery, Petitioner still experiences daily pain, achiness, and soreness in her knee. (Tr. pp. 23-24) She has weather-related symptoms, and must be careful how she lays in bed due to her symptoms. *Id.* She has lost range of motion, which cause her toes to catch when she is walking or climbing stairs. (Tr. pp. 24, 26) Her hobbies of Krav Maga and kickboxing have been adversely affected. (Tr. pp. 25-26) She takes Aleve every morning and testified that there is no way she could function without same. (Tr. p. 24) Her testimony is corroborated by the final note from Dr. Bradley, wherein he noted that she still experienced stiffness, achiness and pain in her knee, and as a result, he did not feel that she should not be in an environment where she needed to restrain inmates. (PX 6, p. 49) He felt that she might need reassignment or occasional time off and noted on her final work status report that she might need periods of rest due to exacerbation. *Id.* He recommended that she take Aleve or ibuprofen for her symptoms. *Id.* 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 25% loss of Petitioner's left leg.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	15WC033913
Case Name	Jack Vollriede v. Metropolitan Water Reclamation District
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0253
Number of Pages of Decision	16
Decision Issued By	Maria Portela, Commissioner

Petitioner Attorney	Raymond Asher
Respondent Attorney	Michael Chalcraft II

DATE FILED: 9/4/2026

/s/Maria Portela, Commissioner

Signature

26IWCC0253

STATE OF ILLINOIS)	☐ Affirm and adopt (no changes)
) SS.	☐ Affirm with changes
COUNTY OF COOK)	☐ Reverse
	☒ Modify down
	☐ 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

JACK VOLLRIEDE,

Petitioner,

vs. NO: 15 WC 033913

METROPOLITAN WATER RECLAMATION DIST.,

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 causation, temporary disability benefits, permanent partial disability benefits and maintenance 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 as to causation, temporary total disability benefits, medical expenses, vocational rehabilitation benefits and permanent partial disability benefits but modifies the award as to maintenance benefits as set forth below.

The Act allows for payment of maintenance benefits only while a claimant is engaged in a prescribed vocational rehabilitation program, and if the claimant is not engaged in some type of "rehabilitation" such as physical rehabilitation, formal job training or a self-directed job search, there is no obligation to provide maintenance. *Greaney v. Industrial Comm'n*, 358 Ill.App.3d 1002, 1019 (2005).

The Petitioner testified that after undergoing an FCE in March 2020, he reviewed it with Dr. Wolin. Petitioner testified he did not immediately begin to look for work but eventually did so within the restrictions issued by Dr. Wolin. He used "Indeed" to look for a job, but was unable to secure employment. Although he eventually used EPS for vocational rehabilitation to assist him, Petitioner ultimately did not find a job, and formally retired from Respondent on March 27, 2024.

Petitioner was not engaged in vocational rehabilitation until February 6, 2023, and did not undergo formal job training at any point. Further, Petitioner did not present sufficient evidence that he engaged in a self-directed job search – no job logs were kept or entered into evidence, and minimal testimony was offered in support of any such search. Notwithstanding, the Arbitrator awarded maintenance benefits for the period of September 1, 2020, through March 1, 2021. The

award of maintenance benefits for this period is not credibly supported by the evidence, and is therefore vacated.

All else is affirmed.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $1,178.67 per week for a period of 36-3/7 weeks, from February 6, 2023 through October 18, 2023, that being the period of maintenance under §8(a) of the Act.

IT FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $1,178.67 per week for a period of 183-3/7 weeks, from March 14, 2016 through July 6, 2016 and June 20, 2017 through August 31, 2020,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 shall pay vocational rehabilitation services of $7,566.20, as provided in Section 8(a) 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 225 weeks, as provided in §8(d)2 of the Act, for the reason that the injuries sustained caused the 45% loss of the person as a whole.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $174.59 for medical expenses under §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.

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.

SEPTEMBER 4 2026

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

MEP/dmm
O: 072326
49

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

/s/ *Marc Parker*
Marc Parker

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	15WC033913
Case Name	Jack Vollriede v. Metropolitan Water Reclamation District
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Corrected Decision
Commission Decision Number	
Number of Pages of Decision	13
Decision Issued By	Jeffrey Huebsch, Arbitrator

Petitioner Attorney	Raymond Asher
Respondent Attorney	Michael Chalcraft II

DATE FILED: 6/4/2025

/s/ Jeffrey Huebsch, Arbitrator
Signature

INTEREST RATE WEEK OF JUNE 3 2025 4.15%

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
CORRECTED ARBITRATION DECISION

JACK VOLLRIEDE Case # **15** WC **033913**
Employee/Petitione3
v.
METROPOLITAN WATER RECLAMATION DISTRICT
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 **Jeffrey Huebsch**, Arbitrator of the Commission, in the city of **Chicago**, on **2/24/2025**. 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 **Vocational Rehabilitation Services and Charges.**

FINDINGS

On **8/12/2015**, 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 $**91,936.52**; the average weekly wage was $**1,768.01**.

On the date of accident, Petitioner was **51** years of age, ***married***, with **2** dependent children.

2
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 $**19,565.89** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**19,565.89**.

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

ORDER

Respondent shall pay Petitioner maintenance benefits of $1,178.67 per week for 62-3/7 weeks, commencing 9/1/2020 through 3/1/2021 and 2/6/2023 through 10/18/2023, as provided in Section 8(a) of the Act.

Respondent shall pay Petitioner temporary total disability benefits of $1,178.67 per week for 183-3/7 weeks, commencing 3/14/2016 through 7/6/2016 and 6/20/2017 through 8/31/2020, as provided in Section 8(b) of the Act.

Respondent shall pay reasonable and necessary medical services of $174.59, as provided in Sections 8(a) and 8.2 of the Act, and as is set forth below.

Respondent shall pay vocational rehabilitation services of $7,566.20, as provided in Section 8(a) of the Act.

Respondent shall pay Petitioner permanent partial disability benefits of $755.22 per week for 225 weeks, because the injuries sustained caused the 45% loss of the person as a whole, as provided in Section 8(d)2 of the Act.

Respondent shall pay Petitioner the compensation benefits that have accrued from 8/12/2015 through 2/24/2025, and shall pay the remainder of the award, if any, in weekly payments. 2

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.



JUNE 4 2025

Signature of Arbitrator

INTRODUCTION

This case was tried concurrently with a companion case, No. 15 WC 033912. Both cases involve claimed work injuries to Petitioner's right shoulder that occurred on August 12, 2015. The issues in dispute were the same in both cases: Did Petitioner sustain accidental injuries which arose out of and in the course of his employment by Respondent on August 12, 2015?; Causal connection; Medical expenses; Temporary total disability and maintenance; Nature and extent and Vocational rehabilitation services and charges.

Based upon the Arbitrator's findings on the issue of causation in both cases, the award of benefits for the August 12, 2015 work accidents is made in this case.

At the start of the trial, it was noted that Petitioner's name had been mistakenly docketed as "Jack Vollfiede". Petitioner's correct name and the name on the Applications for Adjustment of Claim is "Jack Vollriede". (PX 10 and PX 11). Further, Petitioner made an oral motion to amend the Application in Case No. 15 WC 033913 to change the claimed accident date from August 13, 2015 to August 12, 2015. This motion was granted. CompFile has corrected Petitioner's name.

The Findings of Fact in this case are identical to the Findings of Fact in Case No. 15 WC 033912.

FINDINGS OF FACT

Petitioner was employed by Respondent as an electrical mechanic. He had been so employed since March of 2007. (T. 16). Petitioner is right hand dominant. (T. 18). Petitioner's date of birth is March 27, 1964.

Petitioner testified that he injured his right shoulder on August 12, 2015 in 2 events that occurred while working for Respondent. (T. 17-27).

Petitioner testified that he was assigned a task of troubleshooting and repairing a Ford Sterling snowplow dump truck. He and coworkers had been working on the truck for weeks, attempting to get it to started, prior to August 12, 2015 and it was "really tricky". On August 12, 2015, in the morning, Petitioner was working with tools with his right hand on the concrete floor underneath the truck, sliding and pulling and pushing himself to get to the wiring of the truck. While pulling himself along under the truck he felt a pop in his right shoulder on the top and anterior portion of the shoulder. He was by himself at that time. He got out from under the truck, brushed himself off and went to lunch. Petitioner testified that he thought that this event occurred around 10:30 or 11:00 in the morning. (T. 27).

After lunch, Petitioner returned to trying to fix the truck, when he suffered his second injury of the day. (T. 22). After fixing the truck, he partially closed the overhead garage door to eliminate some of the glaring light. (T. 23). The door was a giant garage door, big enough for a semi to drive through. While adjusting the door and holding the chain mechanism on a pulley that controlled the opening and shutting of the door, the door began to rapidly fall, jolting Petitioner's right arm as he held the chain so the door would not slam shut. Petitioner felt severe pain in his right shoulder. (T. 26). Right after this accident, he contacted Josh, his supervisor, by phone. He told Josh he had injured his right shoulder and that his right arm was hurting. Since it was the end of the day, Petitioner and Josh decided to fill out a work injury report the next day, August 13, 2015. (T. 30–31).

The next morning, Petitioner went to the Josh's office location in Hanover Park and filled out the work injury report. (T. 28). Neither Party submitted a copy of the report into evidence.

On August 14, 2015, Petitioner was seen by his Primary Care Physician, Dr. Gopal Bhalala. (T. 32-33 and PX 3). Petitioner reported to Dr. Bhalala, amongst other things, that he had an injury to his right shoulder/arm at work two days before. (PX 3, 28-29). Dr. Bhalala's chart note indicates that Petitioner was being seen for one month follow-up and the treatment appears to be focused on Petitioner's low back.

Petitioner continued to work and was seen for medical treatment regarding his right shoulder on August 17, 2025 at Alexian Brothers Medical Center. This was Respondent's company clinic. (T. 33-34 and PX 1). He provided a history of accident(s) consistent with his testimony to a triage nurse and was seen by Dr. James of Alexian Brothers Medical Group. "Was working on a dump truck and was pulling himself up, and the next day he was manually operating a doorlift and that hurt it some more, c/o pain in the right shoulder." (PX 1, 9, 12). Physical therapy was prescribed by Dr. James. Petitioner went to physical therapy at a facility associated with Alexian Brothers, in Elk Grove Village on Biesterfield Road throughout September and October, 2015. (T. 35–36).

Petitioner testified he went back to Dr. James in October of 2015, because his shoulder was not doing any better and was more painful. He testified that his right arm would "just drop". He could not lift his arm above his head. Dr. James ordered an MRI. (T. 37).

Petitioner underwent the MRI in October 2015. The MRI showed a torn supraspinatus tendon, torn labrum and biceps tear.

Petitioner was referred to an orthopedic surgeon by Dr. James after Dr. James reviewed the MRI. He then began treatment with Dr. Preston Wolin, beginning in November 2015. (T. 39).

When Petitioner saw Dr. Wolin in November 2015, he brought the MRI films, and was told that they showed tears. Dr. Wolin administered an injection into the right shoulder at that first visit. (T. 39–40). Petitioner testified that the injection did not provide any relief. Petitioner testified that he continued to work at this time , working light duty. (T. 40).

Petitioner saw Dr. Wolin on December 8, 2015. Dr. Wolin ordered an MRI arthrogram and recommended surgery. (T. 41 Wolin Dep exhibit #4). (Dr. Wolin's records were admitted at his deposition as Wolin Deposition Exhibit #4).

On December 10, 2015, Petitioner was examined by Dr. Guido Marra for an Independent Medical Examination (IME), at Respondent's request. Petitioner testified that Dr. Marra agreed with Dr. Wolin that surgery was necessary. (T. 41 and RX 1).

Petitioner continued to work in a light duty capacity for Respondent until his surgery on March 14, 2016. (T. 43).

On March 14, 2016, Petitioner underwent surgery performed by Dr. Wolin at Weiss Memorial Hospital. The procedure was a right biceps tenodesis, arthroscopic debridement. The operative findings noted a 60% tear of the biceps tendon, with an adjacent tear of the superior labrum. (Wolin Dep exhibit #4).

After the March 14, 2016, surgery Dr. Wolin prescribed physical therapy. This physical therapy was conducted at Athletico in Schaumburg. (T. 44, PX 4).

On June 30, 2016, Petitioner was examined again by Dr. Marra (T. 44 and RX 2).

Petitioner returned to work in a light duty capacity soon after seeing Dr. Marra the second time, beginning on July 7, 2016. (T. 45).

Petitioner was seen for a third IME by Dr. Marra on September 8, 2016. (T. 46, RX 3). Dr. Marra released Petitioner to return to work at full duty at that time. (T. 47 , RX 3).

Petitioner returned to work performing full duty in September 2016. He noticed that his arm still had weakness. It was sore and had limited range of motion. His physical therapy at Athletico was stopped at that time. (T. 47).

Petitioner saw Dr. Wolin again in October 2016. Dr. Wolin ordered a Functional Capacity Evaluation (FCE). Petitioner continued to work throughout the remainder of the fall of 2016 and into the Spring of 2017, when he saw Dr. Wolin again in April 2017. (T. 48). Petitioner testified he told Dr. Wolin in April of 2017 that he was still having issues with pain, range of motion and clicking and popping of his right shoulder. (T. 48 and Wolin Dep exhibit #4).

Petitioner testified he saw Dr. Wolin again on June 13, 2017 and that he had returned to work doing overhead work. (T. 48–49 and Wolin Dep exhibit #4). On June 13, 2017 Dr. Wolin noted that Petitioner would "likely require treatment in the future", and should undergo work conditioning for further strengthening of his right arm. Dr. Wolin also ordered a FCE. (T. 50 and Wolin Dep exhibit #4).

Petitioner underwent a fourth IME, at the request of Respondent, by Dr. Ay K Balaram on July 11, 2017. (T. 50 and RX 4).

Petitioner also underwent an MRI with arthrogram prescribed by Dr. Wolin on July 11, 2017. (Wolin Dep exhibit #4).

Petitioner participated in the FCE ordered by Dr. Wolin, on July 16, 2020 at ATI. (Wolin Dep exhibit #4).

Petitioner saw Dr. Wolin after the FCE on September 1, 2020. After reviewing the FCE, Dr. Wolin placed light duty work restrictions, consistent with the valid FCE and stated Petitioner was at MMI. The FCE was said to be valid and placed Petitioner at the "Light" physical demand level, which was said to be below the demands of his occupation. (T. 52–53 and Wolin Dep exhibit #4 and exhibit #3).

PX 5 was Respondent's job description of the electrical mechanic position. (T. 54, PX 5). Petitioner testified that the exhibit does not really contain much or all of the physical requirements of his job at Respondent and that the physical requirements were "greater" and better listed on the IBEW Job Description. (T. 55).

PX 6 was the IBEW job description for an electrical mechanic. Petitioner testified that PX 6 was more accurate than Respondent's job description. (T. 55–56, (PX 5 and PX 6).

Petitioner testified that after having been given restrictions by Dr. Wolin on September 1, 2017 he began to look for work within those restrictions. He first tried placement by himself and eventually did so with the assistance of EPS Rehabilitation, Inc. and Mr. Edward Steffan. (T. 58 and PX 8). Petitioner testified that he never did secure employment through these efforts. (T. 59–60).

Petitioner testified regarding his receipt of service-connected disability benefits through the Veterans Administration. Petitioner testified that even after receiving disability benefits from the Veterans Administration he was still able to apply for employment. He that he continued to look for work and nothing precluded him from doing so or jeopardized the VA benefits. (T. 61-63).

PX 9 was a letter from the Department of Veterans Affairs Summary of Benefits indicating that Petitioner's combined service connected disability is 100%. He is considered totally and permanently disabled due solely to his service connected disabilities. The effective date was said to be March 4, 2020.

Petitioner testified that he formally retired from Respondent, when he turned 60 years old, on March 27, 2024. He testified that he is not currently looking for work. (T. 63).

Petitioner testified he is no longer seeing Dr. Wolin but he does see Dr. Bhalala. T. 64

Petitioner testified that he currently notices that his right shoulder always has dull pain. It is difficult to sleep; he cannot sleep on his right side. He cannot lift overhead. He has reduced strength in his right arm and it hurts all the time. (T. 64-65).

Petitioner testified on cross examination that in January 2019 he applied for service connected ordinary disability benefits through the Veterans Administration. (T. 76–82; RX 7). The application was for "chronic pain with radiculopathy L4-L5, July 24, 2018 surgery; 2017–2018 lumbar ESI". (T. 82 and RX 7, p. 5). The Arbitrator notes that RX 7 appears to be documents relating to an application for Ordinary Disability benefits from Respondent related to his post-surgical low back condition.

Petitioner testified that he currently is under no permanent restrictions as a result of his back condition and currently is under no physical restrictions for any part of his body other than his right arm and shoulder. Petitioner testified he is under no work restrictions related to service-connected mental disabilities. (T. 84).

Petitioner testified that he has been receiving Social Security Disability benefits since December 2019. (T.87, RX 8).

Petitioner did not understand any of the physical restrictions from his FCE to be related to his lower back condition. (T. 91).

Petitioner stated that when he turned 60 years of age on March 27, 2024 and retired, it is accurate to say he was no longer in the job market. (T. 95).

PX 2 was the evidence deposition of Dr. Preston Wolin, taken on July 18, 2023. Dr. Wolin is a Board-Certified orthopedic surgeon, with a subspecialty certification in sports medicine. (5-6), Wolin Dep exhibit #1). Dr. Wolin testified regarding his treatment of Petitioner's right shoulder.

Dr. Wolin first saw Petitioner on 11/10/2015. Petitioner gave a history of twice injuring his right shoulder at work on August 12, 2015. His right shoulder pain worsened after the door chain incident. (8). Dr. Wolin diagnosed a torn rotator cuff tendon. Petitioner was given a cortisone injection at the first visit and surgery was performed on March 14, 2016. Dr. Wolin referred Petitioner to Dr. Brian Cole for a second opinion. Petitioner was seen by Dr. Cole on March 12, 2018. Dr. Cole diagnosed an inflamed rotator cuff. Petitioner's options, per Dr. Cole, were: a further arthroscopic procedure; tolerate his current condition and try to return to work; or have permanent limitations regarding his shoulder. (24-25, Wolin Dep exhibit #2).

Dr. Wolin testified regarding an MRI arthrogram that was performed on Petitioner's right shoulder on July 11, 2017. Dr. Wolin had recommended an MRI arthrogram study in the past, but it was not approved. The July, 2017 study showed an interstitial tear of the supraspinatus tendon with extension into the infraspinatus tendon. Dr. Wolin testified that these findings were not seen on the first study, which was a standard MRI. They explain Petitioner's continued complaints of pain and weakness and his problems doing work away from his body. These findings were causally related to the original work injury. (26-28).

Dr. Wolin saw Petitioner again on September 1, 2020. The was after the July, 2020 FCE that Dr. Wolin ordered. Petitioner's job classification was medium and the FCE placed Petitioner at light. Dr. Wolin thought that Petitioner could only work within the FCE restrictions. He was uncertain if further surgery would help Petitioner. He did not think that Petitioner could return to work as an electrician. He was a candidate for vocational rehabilitation. (28-33, Wolin Dep exhibit #3).

Dr. Wolin noted that Dr. Balaram did not review the MRI arthrogram study. (33-35). Petitioner was to return as necessary, as of the September 1, 2020 visit. Dr. Wolin last saw Petitioner in September of 2022. Petitioner had continued complaints of shoulder pain. Dr. Wolin noted limited motion in right shoulder elevation. The right shoulder was weaker than the left. The examination was consistent with the September, 2020 exam. Dr. Wolin performed a shoulder injection. (35-36).

PX 8 was the records of EPS Rehabilitation, Inc. Edward Steffan provided vocational rehabilitation services to Petitioner from 2/6/2023 – 5/8/2023, per his billing, which totaled $7,566.20. Petitioner was referred to EPS by his attorney. An initial evaluation and rehab plan was done on 4/10/2023. Per Mr. Steffan, Petitioner was pleasant and cooperative. He was highly motivated. The last document in the records is Steffan's 10/18/2023 letter to Petitioner. Petitioner's resume had been completed. Petitioner was to seek employment and keep track of his contacts via job seeker forms.

Petitioner did not submit any job seeker forms into evidence.

RX 1 was Dr. Marra's 12/10/2015 report regarding his §12 examination of Petitioner. The findings were consistent with a rotator cuff tear and biceps tendon tear of the right shoulder. He recommended arthroscopic repair. He did not endorse the proposed MRI arthrogram. Dr. Marra causally related Petitioner's right shoulder condition to the work accidents.

RX 2 was Dr. Marra's 6/30/2016 §12 report. Petitioner was being seen after the surgery by Dr. Wolin. Causation was again endorsed. The treatment to date was appropriate and necessary. Petitioner could return to work with a 5 pound lifting restriction. Further PT and work conditioning was recommended. Petitioner was not at MMI.

RX 3 was Dr. Marra's 9/8/2016 §12 report. He did not concur with the proposed prednisone therapy. He did not endorse work conditioning. Petitioner was at MMI. There were no restrictions associated with Petitioner's shoulder. No further treatment was needed.

RX 4 was the §12 report of Dr. Balaram, dated 7/11/2017. This was regarding an examination of Petitioner on 7/7/2017. Dr. Balaram noted symptom magnification (pain to light touch, increased range of motion when demonstrating job tasks). He reviewed the MRI of 10/30/2015. The diagnosis was: status post arthroscopy with residual complaints and reported functional disability in the shoulder. The treatment to date was reasonable and necessary. Dr. Balaran did not endorse causation to any current rotator cuff pathology, because it was not shown in Dr. Wolin's operative report, in which the rotator cuff was said to be intact. He did appear to endorse causation as to the shoulder pathology that was appreciated in the operative report. Petitioner was at MMI and could return to work at full duty.

RX 5 was the payment log, showing that Petitioner was paid $19,565.89 in indemnity benefits.

RX 6 was attendance records for the time period of 1/1/2016 through 12/31/2019. Petitioner was on ordinary disability from 7/10/2017-12/31/2019.

RX 8 was a Social Security Benefit Verification Letter, dated 7/5/2021. Petitioner became disabled under Social Security's rules effective 12/31/2018. He was receiving monthly payments of $2,012.00 as of the date of the letter.

CONCLUSIONS OF LAW

The Arbitrator adopts the above Findings of Fact in support of the Conclusions of Law that follow.

Section 1(d) of the Act provides that, in order to obtain compensation under the Act, the employee bears the burden of showing, by a preponderance of the evidence, that he or she has sustained accidental injuries arising out of and in the course of the employment. 820 ILCS 305/1(d).

To obtain compensation under the Act, Petitioner has the burden of proving, by a preponderance of the evidence, all of the elements of his claim O'Dette v. Industrial Commission, 79 Ill. 2d 249, 253 (1980)), including that there is some causal relationship between his employment and his injury. Caterpillar Tractor Co. v. Industrial Commission, 129 Ill. 2d 52, 63 (1989).

Decisions of an arbitrator shall be based exclusively on evidence in the record of proceeding and material that has been officially noticed. 820 ILCS 305/1.1(e).

WITH RESPECT TO ISSUE (C), DID PETITIONER SUSTAIN ACCIDENTAL INJURIES WHICH AROSE OUT OF AND IN THE COURSE OF HIS EMPLOYMNENT BY RESPONDENT ON AUGUST 12, 2015?, THE ARBITRATOR FINDS:

As to the work accident that occurred the afternoon of August 12, 2015, when Petitioner was closing the overhead door and sustained a jolting injury to his right shoulder, the Arbitrator finds that Petitioner sustained accidental injuries which arose out of and in the course of his employment by Respondent by Respondent on August 12, 2015.

This finding is based on the unrebutted testimony of Petitioner and the medical records.

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

Petitioner's current condition of ill-being regarding his right shoulder, to wit: status post right shoulder biceps tenodesis and arthroscopic debridement on March 14, 2016, with permanent light duty work restrictions per the July 16, 2020 FCE and with an interstitial tear of the supraspinatus tendon with extension into the infraspinatus tendon, per the July 11, 2017 MRI arthrogram, as endorsed by Dr. Wolin, is causally related to the August 12, 2015 work accident that is the subject of this case.

This finding is based on the testimony of Petitioner, the medical records, the testimony of Dr. Wolin and the opinions of the §12 examiners.

Dr. Wolin's opinions best comport with the evidence adduced and he reviewed the MRI arthrogram that showed the rotator cuff tears. He explained how the work accidents lead to Petitioner's current right shoulder condition and deficiencies.

Drs. Marra and Balaram endorsed causation as to the initial surgery, and they did not review the July 11, 2017 MRI arthrogram, which showed the RTC pathology, which was not visualized on the prior plain MRI studies.

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:

Based upon the Arbitrator's findings above on the issues of accident and causation, above, respondent is liable for reasonable and necessary causally related medical expenses.

Petitioner claimed an unpaid bill from Dr. Wolin, in the amount of $174.59. (ArbX1, ArbX2). The Arbitrator finds Dr. Wolin's charges to be reasonable and necessary to cure or relieve the effects of the work injury.

Accordingly, Respondent shall pay $174.59 for medical services, pursuant to the Medical Fee Schedule, and in accordance with §§8(a) and 8.2 of the Act. Respondent is entitled to a credit for all awarded bills that it has paid or compromised.

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

Petitioner claimed TTD from 3/14/2016 through 7/6/2016 and from 6/20/2017 through 8/31/2020, said to be 182-1/7 weeks. The Arbitrator calculates this time period to be 183-3/7 weeks. Respondent disputed the claimed TTD based upon causation. (ArbX 1 and ArbX 2).

RX 5 shows that Respondent paid TTD for the time period of 3/14/2016 through 7/6/2016. Petitioner testified that after the surgery by Dr. Wolin, he returned to work for Respondent in July of 2016. Petitioner's testimony and the records of Dr. Wolin show that he was again taken off of work by Dr. Wolin, effective 6/20/2017. Dr. Wolin declared Petitioner to be at MMI as of September 1, 2020.

Based upon the Arbitrator's findings above, on the issues of causation and accident, Respondent shall pay Petitioner temporary total disability benefits of $1,178.67/week for 183-3/7 weeks, commencing 3/14/2016 through 7/6/2016 and 6/20/2017 through 8/31/2020, in accordance with §8(b) of the Act.

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

Pursuant to §8.1b of the Act, the following criteria and factors must be weighed in determining the level of permanent partial disability for accidental injuries occurring on or after September 1, 2011:

(a) A physician licensed to practice medicine in all of its branches preparing a permanent partial disability impairment report shall report the level of impairment in writing. The report shall include an evaluation of medically defined and professionally appropriate measurements of impairment that include, but are not limited to: loss of range of motion; loss of strength; measured atrophy of tissue mass consistent with the injury; and any other measurements that establish the nature and extent of the impairment. The most current edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be used by the physician in determining the level of impairment.

(b) In determining the level of permanent partial disability, the Commission shall base its determination on the following factors:

(i) the reported level of impairment pursuant to subsection (a);
(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.

No single enumerated factor shall be the sole determinant of disability. In determining the level of disability, the relevance and weight of any factors used in addition to the level of impairment as reported by the physician must be explained in a written order.

Petitioner suffered a serious injury to his right shoulder as a result of the August 12, 2015 work accident. The residuals of the injury have left him unable to perform his occupation as an electrical mechanic. All 5 factors required to be considered by §8.1b(b) are considered relevant because they are required to be considered.

With regard to subsection (i) of §8.1b(b), the Arbitrator notes that no permanent partial disability impairment report and/or opinion was submitted into evidence. This factor is given no weight in determining PPD.

With regard to subsection (ii) of §8.1b(b), the Arbitrator notes that Petitioner was an electrical mechanic on the date of accident. Based on the Arbitrator's finding on the issue of causation, he is not able to return to work as an electrical mechanic. The Arbitrator accords great weight to this factor in determining PPD.

With regard to subsection (iii) of §8.1b(b), the Arbitrator notes that Petitioner was 51 years old on the date of accident. He was 60 years old on the date of the trial of this case. Petitioner will likely live with the residuals of his injuries for several years. This factor is given moderate weight in determining PPD.

With regard to subsection (iv) of §8.1b(b), the Arbitrator notes that Petitioner was unable to return to his customary occupation as an electrical mechanic. Assuming the stipulated AWW of $1,768.01 is correct for 40 hours, his hourly rate of pay would be $44.20 per hour. PX 8 shows that Mr. Steffan's limited labor market survey found suitable jobs for Petitioner with hourly wages ranging from $17.00 to $22.00. Petitioner receives veteran's disability, SSDI and (assumably) retirement benefits from Respondent, because he retired on his 60th birthday, per his testimony. He is not seeking employment. This factor is given moderate weight in determining PPD.

With regard to subsection (v) of §8.1b(b), the Arbitrator notes Dr. Wolin endorsed causation and did not note any inconsistencies during his treatment of Petitioner. Dr. Wolin testified that Petitioner had permanent light duty restrictions and could not return to work as an electrical mechanic as a result of the work injury. Dr. Wolin opined that Petitioner would likely need further treatment related to his injury. This factor is given substantial weight in determining PPD.

Based on the above factors, and the Record taken as a whole, the Arbitrator finds that Petitioner sustained permanent partial disability to the extent of 45% loss of use of the person as a whole, pursuant to §8(d)2 of the Act.

WITH RESPECT TO ISSUE (O), VOCATIONAL REHABILITATION AND SERVICES, THE ARBITRATOR FINDS:

Petitioner claimed maintenance benefits from 9/1/2020 through the date of trial, 2/24/2025. Respondent disputed, based upon "Causation." (ArbX 1 and ArbX 2).

Respondent's causation dispute appears to rely on the §12 opinions that Petitioner could return to full duty work. Those opinions were not found to be persuasive, as is outlined in the Arbitrator's finding on the issue of causation, above.

Respondent submitted no vocational rehabilitation evidence.

Dr. Wolin placed Petitioner at MMI as of 9/1/2020, so TTD benefits are no longer due thereafter. Dr. Wolin opined that Petitioner would be a good candidate for vocational rehabilitation.

Maintenance benefits would be appropriate after 8/31/2020, if Petitioner was engaged in appropriate vocational rehabilitation, or a self-directed job search.

Petitioner testified that he looked for a job after being released by Dr. Wolin, using sources such as indeed. Petitioner did not submit any evidence of a job search (job seeker forms, logs, etc,), into evidence.

Petitioner testified that he participated in vocational rehabilitation with Mr. Steffan, at EPS. These services lasted from 2/6/2023 through 10/18/2023, per PX 8. In his 10/18/2023 letter to Petitioner, Mr. Steffan encouraged Petitioner to seek employment and fill out job seeker forms. No job seeker forms were tendered into evidence. The EPS services are found to be reasonable and necessary.

Petitioner retired 3/27/2024 and is not seeking employment.

The Arbitrator finds that Petitioner is entitled to maintenance benefits. He has not documented his job search after reaching MMI, so an award of maintenance to the trial date, or even Petitioner's retirement date, is not appropriate.

Given the entirety of the evidence adduced, the Arbitrator awards maintenance benefits for 6 months from the MMI date and for the time that he participated in vocational rehabilitation with EPS. If the Commission thinks that this maintenance award is incorrect, then so be it.

Accordingly, Respondent shall pay Petitioner maintenance benefits of $1,178.67/week for 62-3/7 weeks, commencing 9/1/2020 through 3/1/2021 and 2/6/2023 through 1018/2023, pursuant to §8(a) of the Act.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	22WC032305
Case Name	Esmeralda Mora v. Surge Staffing
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0254
Number of Pages of Decision	11
Decision Issued By	Marc Parker, Commissioner, Christopher Harris, Commissioner

Petitioner Attorney	Mario Encinas
Respondent Attorney	Christopher Jarchow

DATE FILED: 9/8/2026

/s/Marc Parker, Commissioner

Signature

DISSENT

/s/Christopher Harris, Commissioner

Signature

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 Accident	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

ESMERALDA MORA,

Petitioner,

vs. NO: 22 WC 32305

SURGE STAFFING,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under Section 19(b) of the Act 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 prospective medical treatment, and being advised of the facts and the law, reverses the Decision of the Arbitrator and finds that Petitioner, Esmeralda Mora, sustained an accident that arose out of and in the course of her employment on December 7, 2022. The Commission further finds that Petitioner's lumbar condition is causally related to the accident and awards unpaid medical expenses, temporary total disability, and prospective medical treatment as recommended by Dr. Robert Erickson. 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. Indus. Comm'n*, 78 Ill. 2d 327 (1980).

FINDINGS OF FACT

Petitioner, a 48-year-old factory employee, testified at Arbitration on July 31, 2025. At the time of the accident, Petitioner was married with one minor dependent. She testified through a Spanish language interpreter. Petitioner was employed with Respondent as a "picker," for household and kitchen products. She testified she would "pick" boxes of products from racks and lift them onto a conveyer system. The heavier boxes weighed approximately fifteen pounds. On December 7, 2022, Petitioner bent down to pick up a box of bowls, and when she lifted the box up, she felt a "crack" in her lower back. She described the feeling as painful and not being able

to move. Petitioner did not report the incident that day and finished her shift. The following day, Petitioner went to work but could only work for approximately two hours because of the pain. She notified her manager about the lifting incident and was sent to Physicians' Immediate Care (PIC) for treatment.

On December 8, 2022, Petitioner presented to PIC with ten out of ten pain in her low back after lifting a box at work and feeling a "crack" in her back. Petitioner was diagnosed with muscle strain and given a twenty-pound work restriction.

On December 19, 2022, Petitioner presented to Physician's Plus with low back and leg pain after lifting heavy boxes at work. She complained of low back pain radiating into the posterior right leg with numbness and tingling in her toes. Positive physical exam findings included SLR on the right, SLR on the left, FABRE, Kemps, right sitting root, minor's sign, decreased dermatomes on the right at L5-S1, pain with palpation, and antalgic gait. An MRI and physical therapy were ordered. Petitioner continued in physical therapy through February 3, 2023.

On December 22, 2022, Petitioner underwent an MRI which showed a disc protrusion at L5/S1 contacting the S1 nerve root with a small annular fissure noted and a 1mm central protrusion with mild canal stenosis and mild bilateral foraminal stenosis. Following the MRI, Petitioner presented to the emergency room with complaints of severe back pain radiating down her right leg. She indicated her pain began after a work injury on December 7, 2022. There were no neurological deficits noted. Petitioner was referred to an orthopedist and prescribed pain medication.

On December 28, 2022, Petitioner presented to River North Interventional Pain Management for a consultation. Petitioner reported progressively worsening distal lower back axial pain with associated lower extremity radiating symptoms after lifting heavy boxes at work. Petitioner's positive physical exam findings included decreased range of motion in the lumbar spine, straight leg test, braggard tests, mild focalized weakness, decreased strength in the lower extremities, and decreased strength at the inversion of the foot (L5/S1). It was noted that Petitioner suffered a previous work-related injury which resulted in considerable upper and lower axial back pain and associated radicular symptoms. It was further noted Petitioner responded well to conservative treatment as well as pain management procedures for that injury. Petitioner reported no further upper or lower axial back pain nor radicular symptoms until her recent injury. For the current injury, Petitioner was diagnosed with lumbosacral discogenic radiculopathy. It was noted Petitioner's overall physical findings correlated clearly with a discogenic radiculopathy at the L5/S1 level. Dr. Vargas recommended an EMG study and infrared treatments.

Petitioner underwent an EMG/NCS on January 12, 2023, which confirmed mild radiculopathy affecting SI bilaterally.

Petitioner returned to pain management on January 26, 2023, following the EMG study. It was noted her EMG/NCS was clearly consistent with a lumbar discogenic radiculopathy, specific to the SI level. Petitioner was currently in physical therapy along with cryotherapy and bracing. Petitioner continued to have lower axial back pain and lower extremity radicular symptoms. Petitioner's treatment recommendations included focused physical therapy, NSAIDs, oral non-

opiate analgesics, muscle relaxants, and a trial series of TFESI injections. Petitioner was kept off work.

Petitioner continued treatment with Physician's Plus for weekly conservative treatment through February 23, 2023. Her treating provider related her symptoms and injuries to her December 7, 2022 work accident.

Petitioner continued in pain management at River North. Petitioner underwent bilateral L5/S1 TFESI and selective nerve blocks on February 10, 2023. On March 23, 2023, she underwent diagnostic functional lumbar discography. She was kept off work.

Petitioner was evaluated for a Section 12 exam with Dr. Stephen Mather on February 16, 2023. Dr. Mather diagnosed Petitioner with a resolved lumbar strain related to the work accident but felt her ongoing condition was no longer related to the work accident. Regarding treatment, he felt Petitioner's initial physical therapy was reasonable, but no other treatment was warranted. On exam, he noted 5/5 positive Waddell findings, which strongly indicated a nonorganic pain disorder. Dr. Mather did not believe Petitioner required injections because she had a normal EMG, no nerve root compression on MRI, and no objective findings on physical exam related to lumbar radiculopathy. He placed Petitioner at MMI. Petitioner denied any previous problems with her low back.

Petitioner underwent an evaluation with Dr. Robert Erickson, neurologist, on March 20, 2023. Petitioner described sudden low back pain while working as a packer on December 7, 2022. She reported finishing her shift, but her pain worsened the following day. Treatment to date included physical therapy and injections, with the injection providing relief for several days. Petitioner's EMG suggested a bilateral S1 radiculopathy and her MRI showed an annular tear at L5/S1 and a 3mm protrusion to the left. She also had a smaller protrusion at L4/5 with a left lateral recess noted. Petitioner rated her pain as severe. She described painful sitting. There was no overt nerve compression noted, but there was lateral recess stenosis and annular tears. Dr. Erickson recommended a lumbar discogram and a post discogram CT. He kept Petitioner off work.

Petitioner underwent a lumbar discogram and CT on March 23, 2023, which showed a larger broad based disc herniation at L5/S1 and a smaller broad based disc bulge at L4/5.

Petitioner returned to Dr. Erickson on May 5, 2023. Since Petitioner's previous visit, she reported an increased pain in the lateral calf with aching in the sole of her foot and toes. Dr. Erickson reviewed Petitioner's discogram and noted there was confirmed pain at L5/S1, and less pain at L4/5. He also reviewed the EMG/NCS study, which confirmed a bilateral S1 radiculopathy, and correlated with the MRI and CT discogram. Given Petitioner's failed conservative treatment, Dr. Erickson felt she was a candidate for a transforaminal lumbar interbody fusion at L5-S1.

Petitioner underwent a re-evaluation with Dr. Mather on November 10, 2023. She reported working for Crate and Barrel through Surge Staffing. She redescribed the work accident from December 7, 2022. Since the previous IME, Petitioner had treated with Dr. Robert Erickson and Dr. Alex Vargas. She had undergone a discogram of her lumbar spine and EMG study. Petitioner told Dr. Mather she did not remember the discogram because she was under sedation. As part of

the re-evaluation, Dr. Mather reviewed additional medical records, but his opinions remained the same. Dr. Mather diagnosed Petitioner with a resolved lumbar strain and ongoing psychogenic pain with functional overlay. He noted age-appropriate degenerative changes on Petitioner's MRI. He did not agree with the CT discogram. In his opinion, CT discograms were controversial, unnecessary, and not beneficial in making surgical decisions. Moreover, Dr. Mather questioned the validity of Petitioner's discogram results because she was asleep. Finally, Dr. Mather felt Petitioner's medical records and symptoms were inconsistent.

Petitioner presented to Dr. Sean Salehi for an independent medical exam on January 8, 2024. Petitioner described the work accident to Dr Salehi and reported low back pain around her waist radiating down her left leg to her toes. Petitioner stated the pain was constant and increased with lying down, sitting down, and standing. Petitioner denied any history of low back or leg pain. As part of his exam, Dr. Salehi reviewed medical records including an MRI and CT discogram. Ultimately, Dr. Salehi diagnosed Petitioner with lumbar degenerative disease at L5/S1 with an annular tear and herniated disc. Dr. Salehi opined the work accident caused Petitioner's asymptomatic degenerative condition to become symptomatic. Nonetheless, Dr. Salehi recommended Petitioner undergo a neuropsych evaluation to rule out a nonorganic basis for her pai. If a nonorganic pain generator was ruled out, an L5/S1 lumbar interbody fusion would be reasonable. Dr. Salehi recommended post operative physical therapy, work conditioning, and an FCE, with MMI following the FCE. Dr. Salehi agreed Petitioner demonstrated positive Waddell signs, hence the neuropsych evaluation, but disagreed with Dr. Mather that Petitioner merely suffered a lumbar strain. Dr. Salehi believed the recommended surgery was causally related to the work accident.

Petitioner returned to Dr. Erickson on March 4, 2024 with continued symptoms and no change in pain. It was noted Petitioner's leg pain was more prominent and radiated within the S1 dermatome. Dr. Erickson disagreed with Dr. Mather that Petitioner had a simple myofascial strain because Petitioner continued to have severe back pain with an associated radicular component confirmed by her EMG/NCS, CT discogram, and MRI. Dr Erickson continued to recommend surgery.

Petitioner underwent a neuropsych evaluation with Dr. Jeremy Hertza on March 8, 2024. Dr. Hertza felt Petitioner put forth good effort and her test results were valid. He noted no evidence of malingering or symptom magnification. Nevertheless, he felt Petitioner had a serious preoccupation with her pain. Given Petitioner's response pattern, somatization, and projected treatment liabilities, Dr. Hertza diagnosed Petitioner with somatic pain disorder and insomnia. Dr. Hertza felt Petitioner may benefit from further neuropsychological testing to assess her cognitive strengths/difficulties and assist in her treatment.

Petitioner was re-evaluated for a third time by Dr. Mather on May 9, 2024. Since the previous IME, Petitioner had not undergone additional medical treatment. Dr. Mather noted Petitioner's treating provider had recommended surgery. Petitioner described continued back pain traveling down her left leg into her foot. A physical exam was completed. As part of the evaluation, Dr. Mather reviewed additional records, including neuropsych testing reports and a report by Dr. Sean Salehi. Dr. Mather noted his opinions were bolstered by Petitioner's neuropsych results, which proved Petitioner suffered from a somatoform, rather than an organic pain disorder.

Dr. Sean Salehi testified via evidence deposition on November 14, 2024. He testified consistent with his reports and the opinions contained therein. On exam, Dr. Salehi noted positive straight leg tests, reduced range of motion, weakness on the left side quadricep, dorsiflexor, and plantaflexor, antalgic gait, and positive Waddell signs. Dr. Salehi diagnosed Petitioner with mechanical back pain from an annular tear at L5/S1 and left leg pain from a disc herniation contacting the S1 nerve root. Due to Petitioner's Waddell signs, Dr. Salehi recommended a neuropsych evaluation to rule out any nonorganic pain disorders before proceeding with additional treatment. At the time of his deposition, Dr. Salehi testified Petitioner's ongoing symptoms were related to the work accident, based on a consistent mechanism of injury, a lack of preexisting conditions, and a chronology of her pain. Following this testimony, Respondents' counsel challenged Dr. Salehi's causation opinion because he was unaware of Petitioner's pre-existing work accident and lumbar treatment. In so challenging, Respondent's counsel read Dr. Salehi a hypothetical with details about Petitioner's previous work accident and asked Dr. Salehi if those facts would alter his causation opinion. Dr. Salehi responded that his causation opinion may change, but only if he was provided with additional information. Importantly, whether Petitioner's former symptoms ever resolved. Dr. Salehi was not provided with additional information by Respondent's counsel. At the time of Dr. Salehi's deposition, he had also not reviewed the neuropsych test results of Dr. Hertza. Respondent's counsel read portions of Dr. Hertza's report to Dr. Salehi, and initially, Dr Salehi testified he would not recommend additional treatment based on that portion of Dr. Hertza's report. However, on redirect, Dr. Salehi testified surgery would be warranted if all non-organic pain factors had been ruled out by Dr. Hertza.

Dr. Mather testified via evidence deposition on December 12, 2024. He testified consistent with his reports and the opinions contained therein. Dr. Mather opined Petitioner suffered a lumbar strain which would have been resolved shortly after the work accident. He testified Petitioner's pain was not physical, but psychogenic in nature, as evidenced by her positive Waddell signs and cogwheeling. He testified Petitioner had a normal physical exam and normal signs of degeneration on imaging. He felt the CT discogram was unnecessary and invalid because Petitioner was asleep. Dr. Mather did not believe surgery was warranted.

Dr. Hertza testified via evidence deposition on April 29, 2025. He testified consistent with his report and the opinions contained therein. Dr. Hertza testified Petitioner's pain was organic and not arising from a nonorganic pain generator. He did not believe Petitioner was malingering. Nonetheless, Dr. Hertza diagnosed Petitioner with somatic pain disorder because of her preoccupation/obsession with her pain and believed psychotherapy would be beneficial after her surgical procedure.

At trial, Petitioner testified she struggled with stress, sleep, household chores, and cooking because of her lumbar symptoms. Petitioner expressed feelings of frustration and feeling useless because she could no longer work.

Regarding her previous back pain, Petitioner testified she had a previous work accident on February 4, 2020 and injured her lower back. Following that accident, Petitioner underwent lumbar injections and was in the middle of treatment when she was involved in a car accident. Subsequently, she underwent additional lumbar treatment, including injections/ablations, and

was released from care on February 4, 2021. From that date until the date of the current accident, Petitioner testified she did not have symptoms and felt good. She continued to work full duty. She testified she did not report her previous lumbar condition or accidents to some of her providers because they did not ask.

The Arbitrator found Petitioner lacked credibility and failed to meet her burden of proof on the issue of accident and causation, thereby denying all compensation. Petitioner appeals and seeks reversal.

CONCLUSIONS OF LAW

The Commission is not bound by the Arbitrator's findings. Our Supreme Court has long held that it is the Commission's province "to assess the credibility of witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence and draw reasonable inferences from the evidence." *City of Springfield v. Indus. Comm'n,* 291 Ill. App. 3d 734, 740 (4th Dist. 1997) (citing *Kirkwood v. Indus. Comm'n*, 84 Ill. 2d 14, 20 (1981)). Interpretation of medical testimony is particularly within the province of the Commission. *A. O. Smith Corp. v. Indus. Comm'n,* 51 Ill. 2d 533, 536-37 (1972).

The Commission views the evidence differently than the Arbitrator and finds Petitioner credible, therefore meeting her burden of proof on the issue of accident and causal connection. Although the Commission acknowledges the presence of Petitioner's mental health issues and her alleged denial of her previous lumbar condition to Dr. Mather, Dr. Salehi, and Dr. Hertza is questionable, we do not believe her omission was willful and with purpose as indicated by the Arbitrator. In support, we find it significant, Petitioner gave a detailed report of her pre-existing lumbar condition and previous work accident to Dr. Vargas, approximately two weeks after this work accident. Therefore, we find her alleged denial does not outweigh the credible evidence as it relates to accident and causation.

To recover benefits under the Act, a claimant bears the burden of proving by a preponderance of the evidence that his or her injury "arose out of" and "in the course of" the employment. *First Cash Financial Services v. Industrial Comm'n*, 367 Ill. App. 3d 102, 105, 853 N.E.2d 799, 304 Ill. Dec. 722 (2006).

Here, the evidence supports Petitioner sustained an accident arising out of and in the course of her employment. Petitioner's unrebutted testimony was she was lifting a box at work on December 7, 2022 when she felt a sharp pain or crack in her back followed by lower axial back pain. She attempted to return to work the following day but could not withstand the pain, so she reported the incident to her manager and immediately sought medical treatment. Petitioner consistently reported the accident and her corresponding symptoms to her medical providers. Despite Petitioner's alleged denial of her previous lumbar symptoms and treatment to some of her providers, we find the detailed medical history given to Dr. Vargas on December 28, 2022, bolsters her credibility and supports her testimony. The evidence supports Petitioner sustained an accident arising out of and in the course of her employment on December 7, 2022.

It is well established that 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. Indus. Comm'n*, 207 Ill. 2d 193, 205 (2003). 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. *Id.* at 204-205. It is axiomatic that employers take their employees as they find them. *Id.* at 205. Thus, even though an employee has a preexisting 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. *Sisbro Inc.* at 205.

Further, "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 Comm'n*, 93 Ill. 2d 59, 63-64, 442 N.E.2d 908, 66 Ill. Dec. 347 (1982). If a claimant is in a certain condition, an accident occurs, and following the accident, the claimant's condition has deteriorated, it is plainly inferable that the intervening accident caused the deterioration." *Schroeder*, 2017 IL App (4th) 160192WC, ¶ 26, 414 Ill. Dec. 198, 79 N.E.3d 833. "The salient factor is not the precise previous condition; it is the resulting deterioration from whatever the previous condition had been." *Id.*

It is undisputed Petitioner suffered lumbar injuries from a previous work accident and motor vehicle accident, which resulted in treatment including injections and ablations. However, all treatment related to those accidents ceased in January, 2021 and Petitioner was able to return to work full duty without restriction through December 7, 2022. At trial, Petitioner testified she felt good when she was released from her previous accidents and there were no medical records introduced at trial showing Petitioner received any medical treatment between those dates. Following the current work injury, Petitioner sought treatment by December 8, 2022 where she reported an injury to her lower back after lifting a box at work the previous day. Subsequently, Petitioner reported injuring her low back after lifting boxes at work to multiple providers and consistently received treatment for axial low back pain and lower extremity radiculopathy. Moreover, Petitioner consistently had positive physical exam findings as noted by Dr. Vargas, Dr. Erickson, and Dr. Salehi, including weakness and decreased strength along the L5/S1 dermatome. Petitioner also had remarkable findings on MRI, CT discogram, and EMG/NCS, which correlated with her subjective complaints of pain and confirmed pathology at the L5/S1 level.

Furthermore, the Commission finds the opinions of Dr. Vargas, Dr. Erickson, and Dr. Salehi more persuasive than Dr. Mather's opinion. It was Dr. Mather's opinion Petitioner merely suffered a lumbar strain, which would have resolved after a short period of physical therapy. Dr. Mather believed Petitioner's ongoing pain was strictly psychogenic in nature, based on her cogwheeling and positive Waddell signs on exam. The Commission is not persuaded. Although we agree there may be a psychogenic component to Petitioner's pain, we find Dr. Mather's opinions to be exclusively focused on the psychogenic nature of Petitioner's pain without considering any of her objective findings, including her ongoing symptoms, ongoing positive physical exam findings, and positive diagnostic studies. Moreover, we find Dr. Mather's belief

that Petitioner's CT discogram was unreliable because Petitioner was sedated for the procedure not supported by the evidence. Per Dr. Erickson, the discogram report clearly showed Petitioner was awake during the exam and the exam was properly performed.

The Commission is more persuaded by the opinions of Dr. Salehi, Dr. Vargas, and Dr. Erickson. Like Dr. Mather, Dr. Salehi also noted positive Waddell signs on exam; however, he disagreed with Dr. Mather that Petitioner merely suffered a lumbar strain. So did Dr. Erickson. In fact, Dr. Erickson wrote "it is abundantly clear Petitioner did not suffer a simple or self-limited myofascial strain," because she continued to have severe back pain with an associated radicular component confirmed by imaging and EMG. Dr. Salehi opined Petitioner's condition was causally related to the work accident based on her mechanism of injury, her lack of preexisting conditions, and the chronology of her pain. We note Dr. Salehi's causation opinion was challenged by Respondent during Dr. Salehi's deposition because he lacked knowledge of Petitioner's previous work accident. When presented with the facts of the previous work accident, Dr. Salehi agreed his causation opinion may change if he was provided with additional information, namely, if Petitioner's symptoms ever resolved after the previous accident. The Commission further notes Petitioner's symptoms from the previous claim did resolve and she required no additional treatment until this claim; a fact Respondent chose not to disclose to Dr. Salehi during the deposition. Therefore, we find Dr. Salehi's causation opinion was not altered by Respondent's hypothetical. Dr. Salehi, Dr. Erickson, and Dr. Vargas all noted objective treatable pathology which correlated with Petitioner's subjective complaints of ongoing pain.

The Commission finds Petitioner's denial of her lumbar treatment to Dr. Mather and Dr. Salehi did not outweigh Petitioner's detailed reporting of her previous lumbar treatment to Dr. Vargas and the remainder of credible evidence, including Petitioner's consistent reports of the work accident to multiple providers; consistent complaints of axial back pain with bilateral radicular symptoms; her objective diagnostics that supported her complaints, including a new annular fissure at L5/S1; and the fact she was working full duty before the work accident.

Based on the above, the Commission finds Petitioner established that her lumbar condition is causally related to the December 7, 2022 work accident. As Petitioner established that her lumbar condition is causally related to the work accident, the Commission finds that Petitioner is entitled to all reasonable and necessary medical expenses included in Petitioner's Exhibit 2, 3, 5, 6,8, 10,11, 12, 13, and provided in Sections 8(a) and 8.2 of the Act.

Moreover, the Commission notes Petitioner was placed off work by her medical providers on December 19, 2022. During her final appointment with Dr. Erickson on March 4, 2024, it was noted he would continue to seek approval for surgery and Petitioner should remain off work. There was no evidence Petitioner was working at the time of trial. According to the request for hearing form introduced at trial, Petitioner is seeking temporary total benefits from February 16, 2023 through July 31, 2025 or the date of trial. Therefore, the Commission awards temporary total disability benefits of $453.33 per week for 128 and 1/7 weeks, commencing on February 16, 2023, through July 31, 2025, as provided in Section 8(b) of the Act.

Regarding additional treatment, Dr. Erickson and Dr. Salehi recommended lumbar surgery to address Petitioner's ongoing symptoms. Since Petitioner had positive Waddell signs during Dr.

Salehi's exam, he referred Petitioner for neuropsych testing with Dr. Hertza to rule out any nonorganic pain disorders. It was Dr. Salehi's opinion that if all nonorganic pain disorders were ruled out, additional lumbar treatment was reasonable. Although Dr. Hertza readily admitted Petitioner had an unhealthy infatuation with her pain, and diagnosed her with a somatic pain disorder, he opined Petitioner's pain was organic and not arising from any nonorganic pain generators. When Dr. Salehi was questioned about Dr. Hertza's conclusions during his deposition, Dr. Salehi agreed that the surgery recommended by Dr. Erickson was reasonable if all nonorganic pain generators were ruled out. Therefore, we award the prospective transforaminal lumbar interbody fusion at L5/S1 as recommended by Dr. Robert Erickson and provided in Section 8(a) 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 all reasonable and necessary medical expenses incurred in the treatment of Petitioner's injuries sustained on December 7, 2022, and included in Petitioner's Exhibit 2, 3, 5, 6,8, 10,11, 12, and 13, and as provided in 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 $453.33 per week for 128 and 1/7 weeks, commencing on February 16, 2023, through July 31, 2025, as provided in Section 8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall authorize and pay for the prospective transforaminal lumbar interbody fusion at L5/S1, and all reasonable and necessary attendant care, as recommended by Dr. Robert Erickson, and provided in Section 8(a) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay 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 $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.

SEPTEMBER 8 2026

/s/ *Marc Parker*
Marc Parker

o: 7/23/26
MP/ns
068

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

DISSENT

I respectfully dissent from the Majority and would affirm the Arbitrator's thorough and well-reasoned decision.

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC020424
Case Name	Brandon Dilday v. State of Illinois - Menard Correctional Center
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0255
Number of Pages of Decision	15
Decision Issued By	Stephen Mathis, Commissioner, Kathryn Doerries, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Kenton Owens

DATE FILED: 9/9/2026

/s/Stephen Mathis, Commissioner

Signature

DISSENT

/s/Kathryn Doerries, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF)
WILLIAMSON

☒ 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

Brandon Dilday,
Petitioner,

vs. NO: 24 WC 20424

State of IL/Menard CC,
Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent and Petitioner herein and notice given to all parties, the Commission, after considering the issues of accident, notice, causal connection, medical expenses 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 December 17, 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.

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.

SEPTEMBER 9 2026

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

d-7/14/26
SJM/rm
044

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

DISSENT

I respectfully dissent from the opinion of the majority and would reverse the Decision of the Arbitrator. I view the evidence differently and would find that Petitioner failed to prove he sustained a repetitive trauma arising out of and in the course of employment and failed to prove his bilateral carpal tunnel and cubital tunnel syndromes were causally related. I find the evidence insufficient in this case because the average cumulative time Petitioner used his hands and upper extremities throughout his career was not sufficiently repetitive or forceful. Prior to the initial onset of symptoms, Petitioner worked as a Correctional Officer for approximately eight and a half years; however, he was assigned to work as a writ officer during the four-year period preceding the onset of symptoms, a position which did not require intensive or repetitive use of the hands with any significant duration or frequency. Shortly after symptoms first appeared, Petitioner received a promotion to Correctional Lieutenant, where his job duties primarily involved supervising lower ranked officers and drafting reports, tickets, and overseeing the daily roster and call sheets. Petitioner testified he worked a considerable amount of extra eight-hour shifts performing the same duties as a correctional officer after his promotion to lieutenant; however, there is no documentary evidence corroborating the frequency and amount of overtime shifts or hours worked. Standing at 6'5" with a weight of 260 pounds, Petitioner was mildly obese with a BMI of 30.83, which posed a non-occupational risk factor for compressive neuropathy. Dr. Bradley testified that sleep apnea is also a risk factor; however, his medical records failed to indicate whether or not Petitioner was ever questioned regarding sleep apnea, and Petitioner was never questioned about the condition at trial. Furthermore, in repetitive trauma claims, physicians must have sufficient knowledge of the employment activities to form a credible causation opinion, and in this case Dr. Bradley was never informed of Petitioner's work assignment as a writ officer during the four-year period preceding his symptoms. As such, Dr. Bradley based his causation opinion on an incorrect understanding of Petitioner's employment history thus rendering his opinion unpersuasive.

Petitioner began working as a correctional officer in October 2010. (RX1) Petitioner worked as a correctional officer for approximately eight and a half years and was promoted to correctional lieutenant in May of 2019. (RX6) Petitioner had worked as a lieutenant for about five years when he sought treatment with Dr. Bradley on July 22, 2024. (PX3 at 1, PX8) Petitioner testified he first noticed symptoms in his hands in the latter part of 2019 while still employed as a correctional officer, shortly before his promotion. (T. 29) Petitioner testified his symptoms continued to worsen over time. (T. 29) Prior to the onset of symptoms, Petitioner worked as a writ officer. Petitioner agreed he worked as a writ officer from 2015 to 2019. (T. 43) Per the Staff Assignment History report, Petitioner worked as a writ officer from April 16, 2015 through April 29, 2019, a period of four years. (RX6) Petitioner then began working as a lieutenant in May 2019. (RX6) Petitioner testified a writ officer is the officer who transports inmates in custody to court for court hearings. (T. 43, 49) The writ officer also transports inmates to appointments. (T. 49) Essentially the writ officer is involved for any travel by an inmate to "somewhere out of the facility." (T. 49) The writ officer may occasionally help out in a cell house if the writ officer has available time owing to a "later run" in the morning. (T. 49)

Petitioner completed a "workers compensation" questionnaire when he first sought treatment with Dr. Bradley. (PX3). The questionnaire asked Petitioner to provide information relating to his employment. Regarding gross manipulation of the hands, described as grasping, twisting, and handling, Petitioner indicated he uses his hands for gross manipulation "150 plus times a day every day." (PX3) Petitioner also reported he used his hands for fine manipulation, described as typing, for "2 plus hours a day every day." (PX3) Petitioner further indicated he performed loading and unloading 100 pounds each day along with pushing/pulling and lifting hundreds of pounds each day, though he did not describe duration and frequency of the tasks he performed which required lifting, loading/unloading, and pulling/pushing. (PX3) Petitioner failed to disclose that he worked as a writ officer transporting inmates during the four-year period preceding the onset of his symptoms. (PX3)

At his attorney's request, Petitioner completed a Work History Timeline and Detailed Job Description questionnaire. (PX8) Dr. Bradley testified that Petitioner brought this document to his initial evaluation, which Dr. Bradley then reviewed. (PX9 at 12) Per the information Petitioner provided on the timeline questionnaire, he worked the past five years as a Lieutenant and before that he was a Correctional Officer for eight years and seven months. Petitioner reported his job duties as a lieutenant involved managing around 50 to 55 employees, completing daily paperwork, type reports and daily excel spreadsheets. (PX8) He also keyed doors, opened deadbolt locks, and applying handcuffs, leg irons and other restraints. (PX8) The job also required weapons training. When needed, Petitioner dealt with combative inmates. (PX8) Petitioner did not, however, provide an average time allocation summary regarding the percentage of the workday devoted to his supervisory duties compared to his other job tasks. Petitioner described his duties as a correctional officer as including standing in a tower armed with firearms, and patrolling the yards, cell houses, corridors, dormitories, and work areas. (PX8) Petitioner reported he escorted individuals and groups of inmates to work assignments. He further reported being responsible for routine cell house shakedowns, gallery checks, and keying every inmate going in and out of their cell for their work assignments, visits, and passes. (PX8) Petitioner did not disclose, however, that he worked as a writ officer for the four-year period preceding the onset of his symptoms.

The Detailed Job Description questionnaire was divided into separate categories for lifting, pushing and pulling, bending or stooping, loading and unloading, reaching above shoulder level, gross manipulation of the hands, and fine manipulation of the hands. (PX8) Petitioner described carrying property boxes and bags, boxes of copier paper, crates full of handcuffs, carrying bags with mail or trash or commissary items. He described carrying racks of trays, laundry bags, cans of ice, weapons and ammo. Occasionally he carried individual inmates who refused to cooperate or refused to walk. Petitioner reported pushing and pulling cell doors, commissary bins, trays, ice carts, trash carts, and other miscellaneous items. Petitioner reported bending or stooping as well as reaching above shoulder level during the performance of these tasks. When inmates were transferred, Petitioner moved the property boxes and bags on and off a truck. Petitioner further described using his hands to turn keys on cell doors, entry doors, and padlocks. Petitioner described pushing and pulling heavy steel doors. He also performed bar rapping and using his hands for handling bags of weapons and ammo. As a lieutenant, Petitioner typed various reports and writing with pen and pencil to manage the daily rosters and roll call sheets. In describing his job duties, Petitioner described a variety of physical tasks but failed to indicate the frequency or duration of time spent on these tasks. Petitioner also failed to mention the four-year assignment as a writ officer and omitted the day-to-day tasks associated with that position.

At trial, Petitioner's testimony covered the tasks described in this written detailed job description. Petitioner estimated he used his hands about 150 times for keying and unlocking doors per shift. (T. 17) Petitioner explained he keyed about 50 cell doors at the beginning of the day and another 50 doors at the end of the day, and then added, "Just a safe 150" to provide his best estimate. (T. 17) Petitioner testified there are locked doors every 50 or 60 yards while "going through there." (T. 17) Petitioner testified he performed bar rapping two times a shift, once at the start of every shift and once at the end of every shift. (T. 18-19) Petitioner testified he also worked in the segregation unit, which Petitioner described was the same as a cell house except in segregation every inmate would be moved one-on-one rather than the mass movement of inmates in a regular cell house. (T. 20) Petitioner later testified that that it was only in segregation when each inmate was let out one by one. Petitioner then testified that, "in the general population side, if you ran the yard, you would just crank the box, and you would let out, you know, 50 at a time." (T. 21) Petitioner later testified the facility

transitioned to one-on-one movement for everyone during the Covid pandemic shutdown. (T. 27) This suggests that Petitioner was not required to key each cell door when he was assigned to a cell house in the general population part of the facility, except during a Covid shutdown. Petitioner further testified he transferred inmates, typically performed when an inmate was being sent to restrictive housing, which he performed about two or three times a day. (T. 13) Petitioner testified he carried laundry bags twice weekly, which he retrieved from inmates and placed onto a cart. (T. 13) He carried weapons and ammo once in the morning and once in the evening. (T. 14) Petitioner described using Folger Adams keys to open and close cells and deadlocks, using crank boxes. Petitioner did not, however, testify regarding his four-year assignment as a writ officer preceding the onset of his symptoms until questioned on cross-examination.

Petitioner testified that as a lieutenant he was required to respond to problems as they arose and typically assisted with handcuffing two to three times a day. (T. 23) Since becoming a lieutenant, Petitioner spent about four hours a day working with his computer, typing zone reports and tickets. (T. 25) Petitioner testified he worked overtime hours as a lieutenant during which he worked the same duties as a correctional officer. (T. 26) Petitioner testified he performed overtime about four to five times a week in extra eight-hour shifts. As mentioned, no documentary evidence corroborating the amount extra shifts or overtime hours was offered into evidence.

On cross-examination, Petitioner agreed the inmates perform work inside the facility, including carrying the laundry, collecting trash, and transporting food trays, except during the Covid shutdown, during which the guards performed that work. (T. 41) Petitioner agreed his job duties were pretty varied. (T. 46) Petitioner agreed the lieutenant position is a supervisory position in which he supervises the correctional officers. (T. 46) Petitioner agreed that as a lieutenant he performed less bar rapping and less cell door openings than he performed as a correctional officer. (T. 46-47) Petitioner agreed that when assigned to work as a writ officer, he infrequently performed bar rapping or cell door openings since the job duties of a writ officer took up the majority of his time in that position. (T. 49) Petitioner agreed he might work a cell house if there was no one needing to be transported on a particular day or he would assist in the morning if he had a "later run."

Dr. Bradley testified regarding the history he obtained from Petitioner. Questioned about Petitioner's job duties, Dr. Bradley testified Petitioner brought in a job description form and timeline and "we went over that with him." (PX9 at 13) Dr. Bradley testified they discussed other details shared by Petitioner; however, it is clear from Dr. Bradley's testimony that he was unaware that Petitioner had worked as a writ officer from 2015 to 2019, despite the fact that Petitioner testified his symptoms began in the latter part of 2019.

Dr. Stewart credibly testified that opening cell doors accounted for a few seconds per door. (RX3 at 13) Dr. Stewart further noted that the cell doors were opened all at once for mass movement for those inmates who were not in segregation. *Id.* For those in segregation, where each cell door was opened individually, there were 50 cell doors to open which may encompass a few minutes of time. *Id.* Dr. Steward further testified that Petitioner reported he performed bar rapping at the beginning of each shift which Petitioner indicated took about 10 to 15 minutes to complete. *Id.* Dr. Stewart thus concluded that "the vast majority of the shift was not spent doing any kind of hand-intensive grasping activities." *Id.* Dr. Stewart further testified that Petitioner had a BMI of 30.83 which placed him in the obese category. (RX2 at 15) He testified that people with an elevated BMI over 30 have a higher risk for developing compression neuropathies. *Id.*

Regarding cubital tunnel syndrome, Dr. Bradley did not adequately address causation. Dr. Stewart, on the other hand, explained that cubital tunnel syndrome requires forceful gripping over a prolonged time rather than repetitive activity. (RX3 at 16) "[S]o rather than being repetitive, it's grasping something and holding it for a prolonged period of time on a regular basis throughout the workday, or hyperflexion of the elbow, keeping the elbow in a hyperflexed position." (RX3 at 16) Dr. Stewart credibly opined that none of the work activities performed by Petitioner as a correctional officer and lieutenant were related to the risk of cubital tunnel syndrome. (RX3 at 19)
Dr. Stewart further testified that over 50% of all compression neuropathies are idiopathic. (RX3 at 16-17)

In repetitive trauma cases, the issues of accident and causation are intertwined with both issues resolved together. *Boettcher vs. Spectrum Property Group*, 99 IIC 0961; 1999 Ill. Wrk. Comp. LEXIS 409; *Simpson vs. State of Illinois Department of Human Services*, 18 IWCC 255; 2018 Ill. Wrk. Comp. LEXIS 108. A claimant seeking compensation under a repetitive trauma theory "must prove that his physical structure gave way under the repetitive stresses of his usual work tasks." *Darling vs. Industrial Comm'n,* 176 Ill. App. 3d 186, 192, 530 N.E.2d 1135 (1988). The overarching question presented is whether the employment activity was "repeated sufficiently to cause the injury." *Edward Hines Precision Components v. Industrial Comm'n*, 356 Ill. App. 3d 186, 194, 825 N.E.2d 773 (2005). There must be a showing that the disabling injury or condition was related to the employment and not the result of a normal degenerative process. *Peoria County Bellwood Nursing Home vs. Industrial Commission*, 115 Ill. 2d at 530 (1987); *Williams vs. Industrial Commission*, 244 Ill. App. 3d 204, 209 (1993). There is no minimum legal requirement that a certain percentage of the workday be spent on repetitive tasks in order to establish the repetitive nature of a claimant's job duties. *Edward Hines Precision Components v. Industrial Comm'n*, 356 Ill. App. 3d 186, 194, 825 N.E.2d 773 (2005). In assessing causality, however, the Commission may consider evidence, or the lack thereof, of the manner and method of a claimant's job to determine if the employment duties were sufficiently repetitive to establish a compensable injury. *Williams vs. Industrial Comm'n*, 244 Ill. App. 3d 204, 211, 614 N.E.2d 177 (1983). The Commission may also consider the degree to which the employment activity varied. *Id*. at 209.

It is firmly established that expert medical testimony is necessary where the questions involved are within the experts' knowledge only and outside the knowledge of laypersons. *Nunn v. Industrial Com.*, 157 Ill. App. 3d 470, 510 N.E.2d 502 (1987) The Commission has recognized that compression neuropathy via repetitive trauma falls in this area requiring such expert testimony. *Jones vs. State of Illinois, Menard Correctional Center*, 19 IWCC 0521; 2019 Ill. Wrk. Comp. LEXIS 898, citing *Johnson vs. Industrial Comm'n*, 89 Ill. 2d 438 (1982). The proponent of expert testimony must lay a foundation sufficient to establish the reliability of the bases for the expert's opinion. *Gross v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100615WC. In repetitive trauma claims, physicians must have sufficient knowledge of the employment activities to form a credible opinion. Medical causation opinions may be rejected where the physician provides a causation opinion based on facts that are not in the record, or not supported by the facts. *Session vs. Industrial Comm'n*, 124 Ill. App. 3d at 718 (1984), citing *Caterpillar Tractor Co. vs. Industrial Comm'n*, 98 Ill. 2d 400, 405-06 (1983).

In the case at bar, Dr. Bradley was never informed that Petitioner worked as a writ officer during the four-year period preceding the initial onset of symptoms. Dr. Bradley acknowledged that individuals with a BMI over 30 are considered obese, but Dr. Bradley opined that Petitioner was physically fit without providing the basis for that opinion. There is no evidence in the record that Petitioner regularly exercised or lifted weights and there is no evidence that Dr. Bradley's physical

examination went beyond the hands and upper extremities. Dr. Bradley testified that sleep apnea is another risk factor for compressive neuropathy; however, the medical records are silent as to whether Dr. Bradley ever ruled out sleep apnea while obtaining Petitioner's history. In forming his causation opinion, Dr. Bradley relied in part on his having previously treated IDOC workers. Although a degree of familiarity with a particular work environment derived from treating other patients working for the same employer can be relevant and potentially helpful, this type of evidence is not a credible supporting rationale in the absence of a detailed understanding of the claimant's employment, as each claimant's work history and activities may differ and each claimant's case must be decided on a case-by-case basis. See e.g., *Dobbs vs. State of Illinois, Menard Correctional Center*, 23 IWCC 0467; 2023 Ill. Wrk. Comp. LEXIS 582. Expert opinions must be supported by facts and are only as valid as the facts underlying them. *In re Joseph S.*, 339 Ill. App. 3d 599, 607, 791 N.E.2d 80, 87 (2003).

In *Fenton vs. Graham Correctional Center*, 24 IWCC 0528, 2024 Ill. Wrk. Comp. LEXIS 593, this Commission determined the correctional officer failed to prove his bilateral carpal tunnel and cubital tunnel syndromes were causally related to his job duties where the claimant was "able to provide a list of the duties" he performed but failed to furnish testimony as to the frequency he performed those duties other than vague references to multiple times throughout the day. *Id.* We further observed in *Fenton* that "a key element to proving a repetitive trauma theory is producing clear and detailed evidence of the manner and means in which the work activities alleged to have constituted the repetitive trauma were performed." *Id.* The Commission also found that the treating surgeon in *Fenton* possessed only a vague and general description of the claimant's job duties. *Id.*

For the above reasons, I dissent from the majority's opinion and would reverse the Arbitrator's decision as I would find Petitioner failed to prove he sustained an accident arising out of and in the course of his employment, and failed to prove his bilateral carpal tunnel and cubital tunnel syndromes were causally related to his employment.

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC020424
Case Name	Brandon Dilday v. State of Illinois - Menard Correctional Center
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	8
Decision Issued By	William Gallagher, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Kenton Owens

DATE FILED: 12/17/2025

/s/ William Gallagher, Arbitrator
Signature

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

DECEMBER 17 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF DECEMBER 16 2025 3.50%

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

Brandon Dilday
Employee/Petitioner

v.

State of IL/Menard C.C.
Employer/Respondent

Case # 24 WC 20424

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 William R. Gallagher, Arbitrator of the Commission, in the city of Herrin, on November 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 July 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 $100,869.95; the average weekly wage was $1,939.81.

On the date of accident, Petitioner was 34 years of age, married with 3 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 amounts paid under Section 8(j) of the Act.

ORDER

Respondent shall pay reasonable and necessary medical services as identified in Petitioner's Exhibit 1, for medical services provided to Petitioner, as provided in Sections 8(a) and 8.2 of the Act, subject to the fee schedule. Respondent shall receive a credit for amounts paid 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 permanent partial disability benefits of $1,045.92 per week for 101.25 weeks because the injury sustained caused the 10% loss of use of the right hand, 10% loss of use of the left hand, 12 1/2% loss of use of the right arm, and 12 1/2% loss of use of the left arm, as provided in Section 8(e) 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.

William R. Gallagher, Arbitrator

DECEMBER 17 2025

Findings of Fact

Petitioner filed an Application for Adjustment of Claim which alleged he sustained a repetitive trauma injury arising out of and in the course of his employment by Respondent. The Application alleged a date of accident (manifestation) of July 22, 2024, and that as a result of "Repetitive duties" Petitioner sustained an injury to "Bilateral wrists, bilateral hands, bilateral elbows, bilateral arms" (Arbitrator's Exhibit 2). The Petitioner sought an award for payment of medical expenses as well as permanent partial disability benefits. Respondent disputed liability on the basis of accident and causal relationship (Arbitrator's Exhibit 1).

Petitioner has worked for Respondent for approximately 15 years, the first nine years as a Correctional Officer, and the following six years as a Correctional Lieutenant. At the time of trial, Petitioner continued to work as a Correctional Lieutenant.

Petitioner testified in detail regarding the repetitive use of his hands/arms. As a Correctional Officer, Petitioner had to do a significant amount of lifting which included property boxes, boxes of copy paper, crates full of handcuffs, large bags of laundry, bags of mail, trash cans, trays of food and weapons/ammunition, etc. Petitioner also had the push/pull cell doors, laundry carts, and carts full of either property or trash.

Petitioner testified he had use both of his hands for gross manipulation "all the time" to turn keys on cell doors, padlocks, and chuckholes, open/close heavy steel doors and cuff/uncuff inmates which, on occasion, would include combative ones. Petitioner used a Folger Adams key to unlock a crank and then turn the crank to release the cell doors from deadlock. Petitioner would then use a Folger Adams key to unlock the cell doors. He described the doors as being heavy and rusty and that they required a significant amount of force to open/close them. He also stated the locks would many times get stuck and required force to lock/unlock them.

Petitioner stated he would turn keys 150 times per shift excluding the gate doors. When he was assigned to the segregation unit, the amount of keying increased because each door had to be opened individually. Further, chuckholes had to be opened/closed to restrain inmates before movement or to deliver items to the cell.

At the beginning of the shift, Petitioner would do bar rapping which he described as taking a bar nine inches long and raking it back and forth on the metal bars. Petitioner stated this caused vibration to his hand/wrist and up into his arms.

Petitioner also had to engage in fine manipulation of his hands/wrists to type various reports, duty rosters, and roll call sheets. Petitioner's desk was a table without a pad for his hands. Most of the fine manipulation of Petitioner's hands/wrists has occurred since he was promoted to Correctional Lieutenant. However, Petitioner stated that, as a Correctional Lieutenant he has continued to perform many of the same duties he performed when he was a Correctional Officer. This is due, in part, to the fact that the facility has a staffing shortage. Further, the Covid pandemic caused the facility to go to lockdown which prohibited mass movement of the inmates, but caused an increase in the amount of keying.

On cross-examination, Petitioner agreed that when the facility was not on lockdown, inmate workers would assist with some of the duties such as trash collection and moving food/laundry. However, Petitioner continued to perform his duties of bar rapping, key turning, and typing.

Petitioner testified that he began to experience symptoms in both of his hands sometime in late 2019, and that, over time, the symptoms got progressively worse. Petitioner testified he was not diabetic, did not have hypothyroidism or hypertension, did not smoke, and was not engaged in any hand intensive hobbies, but that he did hunt with a compound bow.

Petitioner initially sought medical treatment on July 22, 2024 (date of manifestation alleged in the Application), when he was evaluated by Dr. Matthew Bradley, an orthopedic surgeon. At that time, Petitioner complained of bilateral hand/finger numbness, tingling and burning, right slightly worse than left. The Petitioner informed Dr. Bradley of his job duties and that he had to do a significant amount of bar rapping and using Folger Adams keys. He also advised that the amount of keying increased substantially during Covid. Dr. Bradley ordered EMG/nerve conduction studies of both of Petitioner's upper extremities (Petitioner's Exhibit 3).

Petitioner was seen by Dr. Daniel Phillips, a neurologist, on July 22, 2024, and he performed EMG/nerve conduction studies on Petitioner's upper extremities. On examination, Dr. Phillips noted Petitioner was 6'5" tall and weighed 260 pounds and his findings in respect to Petitioner's wrists/elbows were benign. The diagnostic tests were positive for mild bilateral sensory neuropathies across the carpal tunnels, and mild bilateral ulnar neuropathies across the cubital tunnels (Petitioner's Exhibit 4).

Dr. Bradley's findings on examination were consistent with bilateral carpal tunnel and cubital tunnel syndrome conditions. He noted the findings of the EMG/nerve conduction studies and diagnosed Petitioner with those conditions. Dr. Bradley recommended conservative treatment with bracing, medication, and home exercises. In respect to causality, Dr. Bradley opined that Petitioner's job duties as a Correctional Officer/Lieutenant contributed to the development of the carpal tunnel and cubital tunnel syndrome conditions he diagnosed (Petitioner's Exhibit 3).

Dr. Bradley conducted a Telehealth conference with Petitioner on August 13, 2024. At that time, Petitioner advised that the symptoms had worsened with his using the braces. Dr. Bradley opined Petitioner had failed non-operative treatment and recommended proceeding with decompression surgeries (Petitioner's Exhibit 3).

Dr. Bradley performed surgery on Petitioner's left wrist and elbow on August 30, 2024. The procedure consisted of an open left cubital tunnel release with ulnar nerve transposition and an open left carpal tunnel release (Petitioner's Exhibit 6).

Petitioner was evaluated by Dr. Bradley on September 12, 2024. At that time, Petitioner advised the symptoms in his left hand had mostly resolved and he was not experiencing any significant pain. However, Petitioner continued to complain of significant symptoms in his right hand and wanted to proceed with the decompression procedure on the right.

Dr. Bradley performed surgery on Petitioner's right wrist and elbow on September 20, 2024. The surgical procedure consisted of an open right cubital tunnel release with ulnar nerve transposition and an open right carpal tunnel release (Petitioner's Exhibit 7).

Dr. Bradley last saw Petitioner on October 3, 2024. At that time, Petitioner advised that most of his symptoms had resolved, but he still experienced a little bit of weakness on the right at the end of the shift. Dr. Bradley recommended Petitioner continue home exercises to increase his strength, released Petitioner to return to work without restrictions, and opined Petitioner was at MMI (Petitioner's Exhibit 3).

At the direction of Respondent, Petitioner was examined by Dr. Patrick Stewart, a hand surgeon, on March 11, 2025. In connection with his examination of Petitioner, Dr. Stewart reviewed medical records provided to him by Respondent. Dr. Stewart diagnosed Petitioner with post-bilateral carpal tunnel releases and post-bilateral cubital tunnel releases with transposition of the ulnar nerves. In respect to causality, Dr. Stewart opined Petitioner's upper extremity condition was not related to Petitioner's work activities. This was based primarily on his opinion that the repetitive activities of bar rapping and use of Folger Adams keys, collectively, amounted to less than one half of an hour of a given work day. He also noted there was no repetitive hyperextension for hyperflexion of the elbows for prolonged periods of time (Respondent's Exhibit 3).

Dr. Stewart also opined Petitioner had the risk factor of obesity. He noted Petitioner had a BMI of 30.8 because he was 6'5" tall and weighed 260 pounds; however, he also noted Petitioner did not appear to be obese. He characterized this fact as a "smoking gun" in respect to etiology (Respondent's Exhibit 3).

Dr. Bradley was deposed on July 30, 2025, and his deposition testimony was received into evidence at trial. On direct examination, Dr. Bradley's testimony was consistent with his medical records and he reaffirmed the opinions contained therein. Specifically, he diagnosed Petitioner with bilateral carpal tunnel and cubital tunnel syndrome conditions which he testified were related to Petitioner's "…many repetitive activities…" (Petitioner's Exhibit 9; pp 18-23).

Dr. Bradley was questioned about Petitioner's non-occupational risk factors. He noted Petitioner 6'5" tall and weighed 260 pounds, which put his BMI right about 30. While he stated this would "medically speaking" place the Petitioner near the category of obese, he testified that he "…would not ever described him as obese. He was a very physically fit gentleman." (Petitioner's Exhibit 9; p 17).

On cross-examination, Dr. Bradley was questioned about Petitioner's BMI and obesity. He described the BMI as being "worthless" and that it is not an indication of an individual's health. He noted Petitioner had no other medical conditions and would not "…in a million years consider…" Petitioner to be obese (Petitioner's Exhibit 9; pp 48-49).

Dr. Stewart was deposed on August 26, 2025, and his deposition testimony was received into evidence at trial. On direct examination, Dr. Stewart's testimony was consistent with his medical report and he reaffirmed the opinions contained therein. Specifically, he testified there was not a causal relationship between Petitioner's upper extremity conditions and his work activities. This was based primarily on his opinion that only a "…small amount of the work…" performed by Petitioner involved activities that would be considered to be contributing to the development of compression neuropathies. He also noted

Petitioner's BMI of over 30 was a risk factor for developing compression neuropathies (Respondent's Exhibit 4; pp 15, 18-19).

At trial, Petitioner testified that following the surgeries, most of his symptoms resolved; however, he still experiences a loss of strength in both of his hands. This has not impacted his ability to perform his job duties as he was able to return to work to his regular job without restrictions. Petitioner testified the lack of strength in both of his hands has caused him some difficulties when he hunts, specifically, when climbing and using his compound bow.

Conclusions of Law

In regard to disputed issues (C) and (F) the Arbitrator makes the following conclusion of law:

The Arbitrator concludes that Petitioner's current condition of ill-being in respect to his right and left hands/arms is causally related to the repetitive trauma which manifested itself on July 22, 2024.

In support of this conclusion the Arbitrator notes the following:

Petitioner's testimony regarding the repetitive work activities he performed as a Correctional Officer and Correctional Lieutenant was credible and unrebutted.

Petitioner began experiencing bilateral hand symptoms in late 2019, which, over time, got progressively worse. He initially sought medical treatment on July 22, 2024, when he was evaluated by Dr. Matthew Bradley.

Petitioner informed Dr. Bradley of the repetitive nature of his work activities and Dr. Bradley opined that they contributed to the development of Petitioner's bilateral carpal tunnel and cubital tunnel syndrome conditions.

Petitioner did not have any non-occupational risk factors which contributed to the development of his upper extremity conditions. In respect to Petitioner's alleged obesity, the Arbitrator was persuaded by Dr. Bradley's testimony that, irrespective of Petitioner's BMI, Petitioner was not obese and was physically fit. Further, the Arbitrator saw Petitioner at the time of trial and observed Petitioner was a large individual and did not appear to be obese.

Respondent's Section 12 examiner, Dr. Stewart, opined Petitioner's upper extremity conditions were not work-related basing this opinion primarily upon his belief that Petitioner's repetitive activities at work only amounted to approximately one-half an hour a day. This was contrary to Petitioner's testimony regarding the repetitive nature of his work activities which, as aforestated, the Arbitrator has found to be credible.

Dr. Stewart also based his opinion in respect to causality on Petitioner's alleged obesity exclusively using Petitioner's BMI. As noted herein, the Arbitrator was persuaded by Dr. Bradley's testimony regarding Petitioner's BMI and his own observation of Petitioner at trial.

Based upon the preceding, the Arbitrator finds the opinion of Dr. Bradley to be more persuasive than that of Dr. Stewart in respect to causality.

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

Based upon the Arbitrator's conclusion of law in disputed issues (C) and (F) the Arbitrator concludes that all of the medical treatment provided to Petitioner was reasonable and necessary and Respondent is liable for payment of the medical expenses incurred therewith.

Respondent shall pay medical expenses as identified in Petitioner's Exhibit 1, as provided in Sections 8(a) and 8.2 of the Act, subject to the fee schedule. Respondent shall receive a credit of amounts paid 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.

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

The Arbitrator concludes Petitioner has sustained permanent partial disability to the extent of 10% loss of use of the right hand, 10% loss of use of the left hand, 12 1/2% loss of use of the right arm, and 12 1/2% loss of use of the left arm.

In support of this conclusion the Arbitrator notes the following:

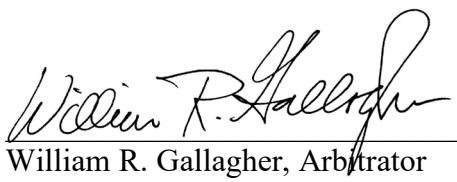
Neither Petitioner nor Respondent tendered an AMA impairment rating. The Arbitrator gives this factor no weight.

At the time of the accident, Petitioner worked for Respondent as a Correctional Lieutenant and he was able to return to work in that capacity. The Arbitrator gives this factor significant weight.

Petitioner was 34 years old at the time he sustained the accident and will have to live with the effects of the injury for the remainder of his working and natural life. The Arbitrator gives this factor significant weight.

There was no evidence the injury had any effect on Petitioner's future earning capacity. The Arbitrator gives this factor moderate weight.

As a result of the accident, Petitioner underwent bilateral carpal tunnel and cubital tunnel surgical procedures. Petitioner had a very positive surgical result and most of his symptoms resolved, but Petitioner still experiences some loss of strength in both of his hands. This has not impacted his ability to perform his job duties, but has adversely impacted his ability to engage in hunting. The Arbitrator gives this factor significant weight.



William R. Gallagher, Arbitrator

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	22WC003545
Case Name	Kellie Watson v. Silgan Container Manufacturing Corp.
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0256
Number of Pages of Decision	59
Decision Issued By	Stephen Mathis, Commissioner, Amylee Simonovich, Commissioner

Petitioner Attorney	Muriel Collison
Respondent Attorney	Stephen Klyczek

DATE FILED: 9/9/2026

/s/Stephen Mathis, Commissioner
Signature

DISSENT

/s/Amylee Simonovich, Commissioner
Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF URBANA)

☐ 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 down	☐ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Kellie Watson,

Petitioner,

vs. No. 22 WC 03545

Silgan Container Manufacturing Corp.,

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 causal connection, medical expenses, temporary total disability, temporary partial disability and permanent 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 Commission does not adopt the Arbitrator's statement of facts. The Commission modifies the Arbitrator's findings and awards of temporary total disability, temporary partial disability and permanent disability.

Petitioner's application for adjustment of claim alleges that on January 17, 2022, Petitioner sustained injuries to "[m]ultiple and diverse areas of the body" "[w]hile working for the Respondent." Petitioner testified on direct examination that she was almost 63 years old as of the date of the arbitration hearing. She worked for Respondent for 36 years. At the time of the accident, she was a storeroom attendant. She "[r]eceived and made purchase orders and requisitions, put away inventory." Petitioner entered the purchase orders into a computer. She also called or emailed vendors for quotes. Until the accident, she had no problems with her back or difficulty performing her job duties.

Petitioner described the accident on January 17, 2022, as follows: "A coworker and I were moving three unassembled bookcases and on the third one he kind of just dropped his and it jerked my back." Petitioner estimated the weight "over a hundred pounds for all three of them." The coworker was Tracy Carter, Petitioner's supervisor. Petitioner's back "got really tight, felt like something twisted in there." The accident occurred near the end of Petitioner's shift. Petitioner was able to finish her shift. At home, "[i]t got really tight and I put ice and heat on it." "The next day I could hardly get out of bed and I went to work and I stayed there for a couple hours and then I went home and iced it and heat again." On January 19, 2022, Petitioner called human resources and reported: "I can't walk, I need some help." Petitioner's boyfriend drove her to work, "and we did a Teladoc and they said to go to the doctor."

Kathy Harding, a human resources associate, drove Petitioner to the office of Dr. David Fletcher. Ms. Harding was present during Dr. Fletcher's examination of Petitioner and was against Petitioner being taken off work. Dr. Fletcher prescribed physical therapy, "but it was never approved." He also administered a Toradol injection and prescribed medication.

After that, Petitioner regularly followed up with Dr. Fletcher. Petitioner believed that Dr. Fletcher did not take her off work, but upon further questioning she agreed that he did. Petitioner went to work anyway "[b]ecause I was told if I punched in I would get paid for eight hours." Dr. Fletcher ordered an MRI, which was not approved. As of the end of January 2022, physical therapy had not been approved. Petitioner agreed that on January 28, 2022, she went to ATI and asked for a closer physical therapy location. On February 7, 2022, she went to Hoopeston Physical Therapy, which was close to her home. The physical therapist declined to treat Petitioner until she underwent an MRI. On February 10, 2022, Dr. Fletcher administered a Toradol injection and reordered the MRI.

On February 12, 2022, Petitioner underwent the MRI. Dr. Fletcher reviewed the MRI and referred Petitioner to Dr. Jesse Butler for a surgical consultation vs. consideration of epidural steroid injections. Dr. Fletcher continued to administer Toradol injections. Dr. Fletcher also recommended a HydroTrack underwater treadmill, but "[i]t was never approved."

On March 11, 2022, Petitioner saw Dr. Butler, a spine surgeon. Dr. Butler ordered a lumbar myelogram. After reviewing the results, Dr. Butler referred Petitioner to Dr. Ivan Santiago for pain management.

In May of 2022, Dr. Santiago recommended a lumbar epidural steroid injection at L5-S1. On June 1, 2022, Dr. Santiago performed the injection, which helped only briefly. "I was still the same, I couldn't sit, stand or walk. At that time I couldn't do very much at all." "[M]y leg, it was numb quite a bit, tingles and burns in my back constantly." Dr. Santiago recommended chiropractic and aquatic therapy. That treatment was not approved. On July 18, 2022, Dr. Santiago performed a left SI joint injection. Subsequently, Dr. Fletcher performed another Toradol injection. Petitioner was again referred for physical therapy, which was not approved. Petitioner tried

walking in her brother's pool as a home exercise, but it did not help. Dr. Santiago then discussed radiofrequency ablation, while Dr. Fletcher ordered electrodiagnostic studies.

Petitioner admitted that she continued to work during that time period. She explained that she would leave early and go home. Petitioner also admitted that she did have physical therapy during the summer of 2022. In September of 2022, Petitioner followed up with Dr. Fletcher and reported improvement with physical therapy. Dr. Fletcher performed another Toradol injection. Also in September of 2022, Petitioner received a TENS unit. The TENS unit helped a little bit. Petitioner testified that as of September of 2022, the electrodiagnostic studies were not approved. However, she admitted undergoing the electrodiagnostic studies on September 20, 2022. In October of 2022, Dr. Santiago performed another SI joint injection. The injection helped "[j]ust barely, for maybe an hour or two." On November 1, 2022, Dr. Fletcher recommended following up with Dr. Butler. Respondent scheduled an appointment with Dr. Butler, but as a section 12 examination. When Respondent realized Dr. Butler was Petitioner's treating physician, it canceled the appointment. Dr. Fletcher recommended additional physical therapy and injections, which Petitioner stated were not authorized.

On December 20, 2022, Dr. Joshua Alpert examined Petitioner at Respondent's request.

On December 30, 2022, Dr. Fletcher recommended a surgical consultation.

By January of 2023, Petitioner developed significant mental health issues. She had never had mental health problems before. Petitioner received mental health treatment from Grit & Grace. Petitioner stated the reason for the mental health issues was "[m]y injury and no pay." Also in January of 2023, Petitioner saw Dr. Butler using her "private" insurance "[b]ecause my work comp had been denied." Dr. Butler referred Petitioner to Dr. Dragu [*sic*] for injections. "Dr. Dragu" performed two SI joint injections in January of 2023. Also, Petitioner continued to get Toradol injections every time she saw Dr. Fletcher. On January 20, 2023, Dr. Fletcher recommended a spinal cord stimulator, which was never approved.

On February 14, 2023, Respondent terminated Petitioner's employment. Petitioner stated Respondent's reason for the termination was "because I only worked one hour a day."

On February 21, 2023, "Dr. Dragu" performed injections at L5-L6 and L6-S1.[1] The injections provided minimal relief. "Dr. Dragu" then recommended a neurosurgical consult. On February 24, 2023, Dr. Fletcher opined that Petitioner failed conservative treatment. Dr. Fletcher referred Petitioner back to Dr. Butler, but Respondent did not approve the visit.

Petitioner saw Dr. Butler through her "private" insurance. Dr. Butler recommended a repeat MRI, which Petitioner underwent through her "private" insurance on May 15, 2023. Petitioner explained the "private" insurance was a COBRA plan through Respondent. On May 17, 2023, Dr. Butler recommended a hemilaminectomy.

[1] Apparently, Petitioner had an extra vertebra.

On September 20, 2023, Dr. Timothy VanFleet examined Petitioner at Respondent's request.

On October 25, 2023, Petitioner received emergency treatment for a panic attack after she "got a phone call saying I was cut off from pay" following the section 12 examination. On October 30, 2023, Petitioner underwent a depression screen and was prescribed Zoloft. Zoloft caused side effects, so Petitioner was prescribed a different medication.

On December 18, 2023, Dr. Butler performed a left-sided laminectomy at L5. The delay was due to lack of approval. In the meantime, Petitioner followed up with Dr. Fletcher and received Toradol injections.

Petitioner felt the surgery "worked," although her gait remained abnormal and the pain stayed the same. Petitioner admitted telling Dr. Butler on January 30, 2024, that she had complete relief of her radicular complaints. Upon further questioning, Petitioner stated the pain improved on her right side and "[t]he shuffle got better, my stride." Regarding Petitioner's ability to work, Dr. Butler suggested considering employment as a teacher's aide. Petitioner did not apply for a teacher's aide position. Petitioner explained: "I can't sit, stand or walk. I can't pass the physical."

In March of 2024, Petitioner was approved for Social Security disability benefits.

A functional capacity evaluation (FCE) performed June 3, 2024, placed Petitioner at the sedentary physical demand level. On June 25, 2024, Dr. Fletcher declared Petitioner at maximum medical improvement (MMI) with permanent restrictions per the FCE. Dr. Fletcher also approved Petitioner for handicapped parking. In July of 2024, Dr. Fletcher performed a Toradol injection.

In August of 2024, Dr. Butler declared Petitioner at surgical MMI and referred her back to Dr. Fletcher for pain management.

Since then, Dr. Fletcher has prescribed physical therapy and Celebrex for flare-ups. He also continued to perform Toradol injections. In January of 2025, Dr. Fletcher prescribed Nucynta. Petitioner also underwent updated electrodiagnostic testing, following which Dr. Fletcher recommended a spinal cord stimulator. Respondent has not approved the spinal cord stimulator. Petitioner continues to actively treat with Dr. Fletcher.

Petitioner's attorney referred her to David Patsavas, a vocational counselor. Petitioner met with Mr. Patsavas. Petitioner described her computer skills as beginner and her typing as very slow.

Petitioner did not meet with Joseph Belmonte, Respondent's vocational expert. Mr. Belmonte identified five prospective employers in a labor market survey to illustrate the types of jobs available to Petitioner. Petitioner contacted the five employers, but was not offered a job.

At the time of the arbitration hearing, Petitioner was unemployed. She has not worked since February 14, 2023. Petitioner takes prescription Nucynta for pain and prescription Meloxicam for inflammation. She has side effects—"I lose my words." Asked to describe her current pain, Petitioner responded: "Burning across my back, ache down my leg, numbness all the way to my feet sometimes." She struggles daily with walking, sitting and standing. She uses a walker. Petitioner does not think she is able to work because she cannot sit, stand or walk.

On cross-examination, Petitioner agreed with the following statement: "When you were working light duty after this accident *** basically you were just working at the computer doing the purchasing orders and getting the quotes, correct?" Petitioner stated she could not do the light duty job because of the pain. Petitioner stated the surgery did not help the left-sided pain. Petitioner explained what gave rise to Dr. Butler's suggestion about working as a teacher's aide: "I told him my plan was, before I got hurt, to go to the school and be an aide in the classroom. Or a bus aide, not a teacher's aide, but that didn't happen." Group/COBRA insurance paid for much of Petitioner's treatment, including the surgery. A week or two weeks before the arbitration hearing, Petitioner saw a Dr. Ogen about a spinal cord stimulator.

Tracy Carter, a maintenance manager for Respondent, testified that he was Petitioner's supervisor. Mr. Carter agreed that Petitioner said he jerked her back/hurt her back when they were moving a box. Mr. Carter reported the accident to human resources. After the accident, Petitioner worked on light duty "some days just depended on the day, 45 minutes to a couple hours."

David Patsavas, a vocational consultant and certified rehabilitation counselor, testified that he met with Petitioner twice in person and also spoke with her about six times on the phone. Mr. Patsavas issued an initial report on October 4, 2024, and an addendum on February 5, 2025. In formulating his opinions, Mr. Patsavas gave greater weight to Petitioner's treating physicians. Mr. Patsavas testified that Petitioner graduated high school more than 40 years ago. She did not have any formal education after high school. Petitioner's computer skills did not include Microsoft Office or Oracle EnterpriseOne, other than simple data entry. Petitioner had no real keyboarding skills; she used the "hunt and peck" method of data entry.

Based on the medical records and the FCE, Mr. Patsavas opined that Petitioner could no longer perform her pre-injury job. Mr. Patsavas further opined about Petitioner's vocational prospects as follows: "Based on all the records that I reviewed, my interview with her, the limitations that I have identified in the FCE, her lack of transferable skills, lack of education over the last 40 years, the fact that she worked for one employer for 36 years and they were not able to accommodate her, the likelihood is that there's not a viable and stable labor market available to her." Mr. Patsavas further noted that because Petitioner is an older individual, "whatever is taught now is going to be very difficult for anybody to obtain for education and training and the aspect of how long is that training going to take and is it going to lead to employment." In addition to Petitioner's sedentary restriction, "[s]omebody's in pain, that's going to be harder for them to concentrate or even learn new things as far as, you know, obtaining new employment, so that is

definitely a restriction." Also, Petitioner was limited to working no more than 30 hours a week. Mr. Patsavas elaborated: "I know she was released to six hours a day. The FCE indicated a workday of three to four hours so that was a little bit different, but again, whether it was three to four hours a day or five to six hours a day it didn't change my opinion as far as having a viable stable labor market available to her."

Mr. Patsavas opined that Respondent's vocational expert, Mr. Belmonte, who did not meet with Petitioner, "definitely he would be at a disadvantage because he couldn't obtain the visual aspect of [Petitioner] definitely being uncomfortable after a period of time, having to stand, sit as far as pain behavior and things like that. ¶ Also you're not able to obtain in-person communication skills or the more detail you can get with meeting an individual other than just looking at reports, so I think it gives more credibility once you meet with an individual." Also, Mr. Belmonte's opinions were contrary to Petitioner's transferable skills, abilities and restrictions. Lastly, there are few available jobs in the East-Central Illinois area. Petitioner contacted the five potential employers identified by Mr. Belmonte, but nothing came of it. Mr. Patsavas did not perform a labor market survey.

Joseph Belmonte, a certified rehabilitation counselor, testified on direct examination that he performed a records review and rendered vocational opinions at Respondent's request. He also performed a labor market survey. He did not meet with Petitioner or speak with her on the phone. He did not have medical records from Dr. Butler. For background information, Mr. Belmonte relied on the report of Mr. Patsavas, which was thorough. Mr. Belmonte also spoke with Petitioner's supervisor, Tracy Carter, and other Respondent's employees via Zoom.

Mr. Belmonte classified Petitioner's position with Respondent as procurement clerk. From interviewing Respondent's employees, Mr. Belmonte understood that Petitioner "was using a computer, and they advised me that she was making some use of Word, Excel and Outlook." "And they also told me that she was using components of an Oracle system which was used for purchasing, and if memory serves, some aspects of the inventory management." "They verified that she was in fact using Microsoft Word, Microsoft Excel, Microsoft Outlook and Oracle EnterpiseOne." Mr. Belmonte elaborated:

> "Creation of purchase orders was identified as a multi-step function completed in Oracle. She would enter the Oracle system, select the division the order was for, enter the purchase order or purchase order change, identify the type of purchase order indicating to them whether it was ordering parts, a service request or what they referred to as a capital job, select the category, select the vendor, enter line items such as quantity, descriptions, cost, etcetera.
>
> She was also responsible for cancelling or revising requisitions and changing purchase orders as appropriate. This involved changing dollar amounts and other information.

> They told me that she would complete anywhere from three to as many as ten per day and that she had authority to purchase up to $500 worth of whatever the product was she needed.
>
> She was reported to be using Microsoft Word and was able to create documents, enter text, bold text, save documents and create signs with information such as parts identification and location identifications for use in the storeroom and that she could attach Microsoft Word documents via email.
>
> I was told she used Excel as she was required to use spreadsheets to track tools and parts. She would input data and save spreadsheets as appropriate to various directories. She did not create spreadsheets from scratch which means to me she wasn't inputting formula to design the function of a spreadsheet, and again she could attach documents to emails.
>
> They advised that she was able to use Microsoft Outlook to interact with company vendors, provide information such as purchase orders, pictures or scan documents for Outlook attachments.
>
> *** I did inquire as to her keyboard speed to see if this was something they actually measured in some fashion. They told me that no one had specifically observed her with a keyboard; however, there was no specific keyboard speed requirement to qualify for the job, which is not uncommon, and that being said she was never determined to be deficient in her productivity in this position. And one of the individuals to whom I spoke with, Mr. Bartman, reported it was improbable a worker could perform in this job with very limited keyboard skills.
>
> And it was then that they forwarded the 11 pages of documents which included purchase orders and emails. I did review those. Those indicated that she was inputting data such as order date, customer number, customer contact information, manufacturer identification, parts numbers and other data and that she was communicating with vendors via email."

Mr. Belmonte opined: "[B]ased on the opinions of Dr. Fletcher regarding her physical capacity *** it is my opinion that she could still perform in her usual and customary job and line of occupation with [Respondent] with modifications." "[Respondent's employees] also advised that they were willing to work with the physical restrictions of Ms. Watson and job modifications would have been available, hence my determination that she could still do the job with modifications."

Mr. Belmonte further opined that Petitioner was employable outside Respondent, explaining:

> "[B]ased on what the employer told me and the documents being produced she *** demonstrated capacity to use Word, Excel and Outlook and the Oracle software to perform functions consistent with the occupation of procurement clerk. Again, a low semi-skilled job. She could, based on that history of employment and performance, perform tasks similar in nature in other kinds of jobs such as a receptionist job, entry level appointment clerk, things along those lines.
>
> Also my transferable skills analysis, taking into consideration that procurement clerk job, did identify skill transferability to other entry level clerical and administrative jobs and I felt that she had requisite skills to perform such entry level work as a receptionist, appointment scheduling, purchasing clerk, concierge at a nursing home and similar kinds of jobs.
>
> Our limited labor market survey did identify that some work of this nature had been available recently and was available locally in her geography and with a six-hour workday tolerance that this would indicate capability to work 32 hours per week which is considered full-time in many organizations. Even in my own company you have to have 32 hours a week to be considered full-time for insurance purposes so, yes, I did feel that she was prospectively employable."

On cross-examination, Mr. Belmonte admitted that he was not provided any Microsoft Excel or Word documents Petitioner allegedly worked on. Respondent also stipulated that Petitioner did not create any invoice forms. Mr. Belmonte agreed the physical demands of Petitioner's job with Respondent exceeded her current restrictions. Mr. Belmonte was aware that Petitioner used a walker. Mr. Belmonte was aware that Respondent had terminated Petitioner's employment. Respondent introduced into evidence some examples of purchase orders and sales quotes Petitioner generated using a computer.

The medical records and reports in evidence show that Petitioner began treating with Dr. Fletcher/SafeWorks on January 19, 2022, two days after the accident. Dr. Fletcher noted the following history: "Patient states she was helping a coworker move a box when they jerked her body and she felt her back pop out of place." Petitioner complained of severe pain and numbness in her back. Physical examination was notable for: significant difficulty moving; distress; pain on motion; limited range of motion; tenderness in the left SI joint area; inability to heel or toe walk; positive straight leg raise test on the left; and left foot drop. Dr. Fletcher diagnosed an L5 radiculopathy, performed a Toradol injection, and prescribed medication and physical therapy at ATI. He released Petitioner to return to work as tolerated, with restrictions.

On January 21, 2022, Petitioner reported walking better, but still having intense pain. She also complained of left lower leg pain. She reported severe disability. Physical examination was unchanged. Dr. Fletcher ordered a back brace and anticipated Petitioner would require surgery. Petitioner was awaiting authorization for physical therapy. Dr. Fletcher performed a Toradol injection and ordered an MRI. He kept Petitioner's work status unchanged. On January 27, 2022,

Petitioner reported the back brace helped. Her condition was otherwise unchanged. Petitioner was awaiting authorization for physical therapy and an MRI. Dr. Fletcher performed a Toradol injection. He kept Petitioner's work status unchanged.

On February 10, 2022, Petitioner's condition was unchanged. She was still awaiting authorization for an MRI to be performed locally. "MRI lumbar spine was scheduled [in Bloomington] for 2/7/22 but [the patient] could not go due to extreme pain. She needs her MRI rescheduled STAT; future care depends on results. She is expected to need surgical intervention." "She was unable to tolerate PT at Carle. Recommend Hydrotrack underwater treadmill." Dr. Fletcher performed a Toradol injection and kept Petitioner's work status unchanged.

A lumbar MRI performed February 12, 2022, was interpreted by the radiologist as showing: "1. Variant anatomy with 6 lumbar appearing vertebral body segments. *** 2. Mild to moderate thecal sac narrowing at L2-3 secondary to age-indeterminate shallow disc protrusion with possible contact of the ventral margins of the descending L3 nerve roots without clearly defined displacement or impingement supine position. 3. Mid and lower lumbar facet arthropathy, findings which could be seen with facet mediated back pain."

On February 24, 2022, Petitioner reported no improvement. She continued to complain of severe low back pain, with left leg pain. Dr. Fletcher reviewed the MRI, disagreeing with the radiologist. Dr. Fletcher stated the radiologist under-read the images. Dr. Fletcher read the images as showing "significant stenosis at L4-L5 with some left nerve root compression, which explains her left foot drop." Dr. Fletcher performed a Toradol injection and referred Petitioner to Dr. Butler for a surgical consult. On March 10, 2022, Petitioner continued to report no improvement. Dr. Fletcher performed a Toradol injection and was awaiting Dr. Butler's recommendations.

Petitioner saw Dr. Butler on March 11, 2022. Dr. Butler stated: "The patient has significant weakness of the left leg but there is minimal pathology to explain the source of the weakness. I am concerned that there is a disc herniation on the left at L1-2 that may be causing the issues. The MRI certainly is not impressive but her nerve dysfunction is of great concern. I want her to have a myelogram and CT of the lumbar spine to assess the stenosis."

On April 1, 2022, Petitioner underwent the myelogram and CT. The radiologist found no nerve root impingement.

On April 15, 2022, Dr. Butler reviewed the results and stated: "The CT demonstrates no pathology to explain the significant left sided global sensory loss and weakness. The spinal canal is free of significant nerve compression. The disc herniation at L1-2 is small and mild compression noted. There is no surgical issue apparent in the lumbar spine." Dr. Butler referred Petitioner back to Dr. Fletcher for conservative care.

Dr. Fletcher referred Petitioner to Dr. Santiago at Christie Clinic. Dr. Santiago performed epidural steroid injections on June 1, 2022 (L5-S1) and July 18, 2022 (SI).

Petitioner returned to Dr. Fletcher on July 20, 2022. She reported worsening symptoms despite the injections, including "unbearable" pain and new pain in the hips. Dr. Fletcher noted that Petitioner was in greater distress and moved with significant difficulty. Dr. Fletcher performed a Toradol injection and recommended that "she see Dr. Butler to discuss a CT/myelogram to clarify her diagnosis." Dr. Fletcher also referred Petitioner to Pro PT/FYZICAL in Danville.

On August 9, 2022, Petitioner reported improvement with the new physical therapy. Dr. Fletcher noted: "While her exam is still consistent with L5 radiculopathy, she is not a candidate for lumbar spine surgery. She has had definitive workup including myelogram/CT that does not show any structural issue." "At this time, I am focusing on her SI joint – she still may need to have electrical studies to clarify her diagnosis." Dr. Fletcher performed a Toradol injection.

On September 2, 2022, Petitioner continued to report improvement with physical therapy. Dr. Fletcher noted: "[P]atient reports mostly (L) hip and leg pain no back pain still very tender along her left SI." Dr. Fletcher referred Petitioner to Dr. Edward Trudeau for electrodiagnostic studies. He also prescribed a TENS unit.

Electrodiagnostic studies performed September 20, 2022, showed "[l]eft L5 radiculopathy, mild to moderate ***, consistent with the quite correct clinical assessment [of] Dr. Fletcher."

On October 4, 2022, Dr. Fletcher noted the electrodiagnostic findings. On November 1, 2022, Petitioner reported some improvement. Dr. Fletcher noted that Respondent made a section 12 appointment with Dr. Butler, then canceled it after discovering that Dr. Butler was Petitioner's treating physician. "At this point, no additional treatment will be authorized." On December 2, 2022, Petitioner reported worsening symptoms. Dr. Fletcher performed a Toradol injection and stated: "Right now nothing further can be done for her without authorization." On December 30, 2022, Petitioner reported no improvement. Dr. Fletcher performed a Toradol injection.

On December 20, 2022, Dr. Alpert, who examined Petitioner at Respondent's request, issued a report and addendum. Dr. Alpert, an orthopedic surgeon, opined: "This appears to be a traumatic work-related injury at this point." Dr. Alpert qualified: "Of note, I am not a spine surgeon nor am I a pain management specialist, but given her ongoing complaints of low back pain with left leg pain, I would recommend that she is seen and evaluated for a second opinion by a spine surgeon given the EMG findings that show L5 radiculopathy or a pain management doctor to consider either facet injection or repeat epidural injection given her left-sided L5 radiculopathy."

On January 20, 2023, Petitioner continued to report no improvement. Dr. Fletcher performed a Toradol injection. Petitioner planned to use her group health insurance to get additional injections.

Petitioner went for injections to Dr. Francesco Vetri at Millenium Pain Center. Dr. Vetri performed an SI injection on January 24, 2023, and a medial branch block at L5-S1 on February 21, 2023. Petitioner reported only temporary relief.

On February 24, 2023, Petitioner reported to Dr. Fletcher the injections did not provide any relief. Dr. Fletcher performed a Toradol injection and opined that Petitioner failed conservative treatment. Dr. Fletcher referred Petitioner back to Dr. Butler.

On March 21, 2023, Petitioner continued to report no improvement. Dr. Fletcher noted: "She has been terminated by her employer. She is using COBRA benefits. She is not receiving any TTD." Dr. Fletcher performed a Toradol injection and kept Petitioner on restricted duty. On April 21, 2023, Petitioner continued to report no improvement. Dr. Fletcher performed a Toradol injection and gave Petitioner a handicapped parking placard.

A repeat lumbar MRI performed May 15, 2023, was interpreted by a radiologist as showing: "1. A congenitally small canal contributes to central stenosis at some levels. 2. L2-3 and L1-2 degenerative changes contribute to mild-moderate central stenosis. 3. L4-5 degenerative changes contribute to mild central stenosis."

On May 17, 2023, Petitioner returned to Dr. Butler. Dr. Butler reviewed the repeat MRI images, this time noting "[f]acet joint hypertrophy *** on the left side at the proximal aspect of the L5-S1 facet joint just below the L4-5 disc there is a spur noted off of the facet just over the L5 nerve root at the lower end of the L4-5 disc space that is compressive in nature." Dr. Butler re-reviewed the CT images from 2022 and noted similar findings. Dr. Butler recommended a decompression of the L5 nerve root.

On May 19, 2023, Dr. Fletcher performed another Toradol injection.

Petitioner continued to follow up with Dr. Fletcher until her surgery. During that time, she developed an adjustment disorder with depressed mood. Dr. Fletcher referred Petitioner to Two Roads and then Grit & Grace.

On October 25, 2023, Petitioner received emergency treatment at Hoopeston Regional Health Center for a panic attack she developed after speaking with Respondent/claims adjuster. There was some follow-up regarding mental health.

Also on October 25, 2023, Dr. Fletcher disagreed with the opinions of Dr. VanFleet, one of Respondent's section 12 examiners. "His physical exam findings are not consistent with my observations the past 24 visits. His conclusions are flawed and not credible." Regarding Petitioner's ability to work, Dr. Fletcher stated on October 30, 2023: "She is unable to obtain employment in her present condition."

On December 18, 2023, Dr. Butler performed a lumbar laminotomy at L5 on the left with partial medial facetectomy and foraminotomy. On January 2, 2024, Petitioner reported doing very well. She rated the back pain a 2/10 and the left thigh pain a 0/10. She had stopped taking pain medication. On January 12, 2024, Petitioner likewise reported significant improvement to Dr. Fletcher.

On January 30, 2024, Petitioner followed up with Dr. Butler. She reported occasional pain, which she rated a 3/10 with no radicular symptoms. She walked without an assistive device. "On exam, she has a straight spine with a healed midline incision. No signs of swelling or infection. Neurologic exam shows great strength in both lower extremities. Straight leg raise testing is negative. Good hip range of motion." Dr. Butler prescribed physical therapy. "The patient is cleared to go back to her workout sessions and could even start to consider employment as a teacher's aide at the local school, which she lives close by. She is doing remarkably well."

On February 15, 2024, Dr. Fletcher issued a narrative report at the request of Petitioner's attorney. Dr. Fletcher noted the opinions of three examining physicians in this matter—Dr. Alpert, Dr. VanFleet and Dr. Michael Chen who examined Petitioner at the request of the long-term disability carrier.[2] Only Dr. VanFleet provided an opinion adverse to Petitioner. Dr. Fletcher also noted that Petitioner had been approved for Social Security disability benefits.

On March 28, 2024, Dr. Fletcher noted: "Dr. Butler discharged [the patient] from his care for me to manage going forward." Regarding Petitioner's work status, Dr. Fletcher believed she should be able to look for work beginning April 1, 2024. He anticipated MMI in May/June of 2024.

On April 25, 2024, Petitioner was still symptomatic. Dr. Fletcher performed a Toradol injection and anticipated permanent restrictions.

An FCE performed June 13, 2024, placed Petitioner at the sedentary to light physical demand level, with a 3-4 hour workday. During the FCE, Petitioner demonstrated severe pain and limitations.

On June 25, 2024, Petitioner reported her pain had plateaued. She also reported increased pain for three days after an FCE. Dr. Fletcher noted the FCE placed Petitioner at the sedentary physical demand level. Dr. Fletcher declared Petitioner at MMI with permanent sedentary restrictions and recommended vocational rehabilitation. He also performed a Toradol injection.

On July 26, 2024, Dr. Fletcher prescribed Nucynta due to increased complaints. Dr. Fletcher also recommended a walker. Dr. Fletcher opined: "I do not believe she will be able to find gainful employment at her level of functionality." He issued a permanent handicapped parking sticker.

[2] Dr. Chen's report is not in evidence.

On August 1, 2024, Petitioner followed up with Dr. Butler. She complained of constant, moderate to severe symptoms, which were aggravated with any activity or movement. She also complained of decreased mobility, limping and loss of balance. She reported receiving Social Security disability benefits. Physical examination was benign, similar to that on January 30, 2024. Dr. Butler declared Petitioner at surgical MMI, with the following plan: "[H]ave her advance her exercises at home as tolerated. She needs to gradually get off of the pain medications and transition to over-the-counter anti-inflammatories. The patient's work status has been determined by Dr. Fletcher and will be handled separately."

On August 26, 2024, Petitioner reported to Dr. Fletcher her condition was unchanged, other than she was more depressed. Dr. Fletcher performed a Toradol injection and recommended getting in touch with a mental health provider.

On October 1, 2024, Dr. Fletcher agreed with the vocational report of Mr. Patsavas. On October 30, 2024, Dr. Fletcher performed a Toradol injection. On November 27, 2024, Dr. Fletcher noted additional mental health treatment. He performed another Toradol injection. On January 22, 2025, Dr. Fletcher disagreed with the vocational opinions of Mr. Belmonte. Dr. Fletcher further noted: "While she is at MMI she will need on-going medical maintenance for pain control." He performed another Toradol injection. Lastly, Dr. Fletcher referred Petitioner back to Dr. Trudeau for updated electrodiagnostic studies to objectively document ongoing lumbar radiculopathy. On February 14, 2025, Dr. Fletcher performed another Toradol injection and discussed a spinal cord stimulator.

Repeat electrodiagnostic studies performed March 5, 2025, showed "[l]eft L5 radiculopathy, mild to moderate ***; with old or chronic features electroneurophysiologically, consistent with persistent/residual lesion with a residual/recurrent component; consistent with the previous electroneurophysiologic evaluation of 09/20/2022 and timeframe therefrom; also with the quite correct clinical assessment of Dr. Fletcher."

On March 27, 2025, Dr. Fletcher noted the electrodiagnostic results. Dr. Fletcher performed a Toradol injection and referred Petitioner to Dr. Ogan for a consult regarding a spinal cord stimulator.

Dr. Fletcher, an occupational medicine specialist, testified by evidence deposition on October 11, 2024. Dr. Fletcher testified on direct examination consistently with his medical records. Dr. Fletcher felt that Petitioner was a straightforward, "compliant patient who wanted to get better." She was consistent in her complaints. There was no symptom magnification or drug-seeking behavior. Dr. Fletcher continued: "[T]he challenge in her case was getting authorization for services. It took a long time for me to get authorization for diagnostic testing, for referrals for physical therapy, for interventional pain management, and so forth." Imaging studies showed "some pathology in her lumbar spine. It was not *** significant disk herniation." Electrodiagnostic studies performed in September of 2022 confirmed Dr. Fletcher's clinical diagnosis of a left L5 radiculopathy. Further, "the operative report obviously confirmed that she

had *** an anatomical explanation for her ongoing complaints and why she would benefit from the surgery."

Dr. Fletcher provided the following causation opinion: "[T]here's a causal relationship between her work injury, which I saw her two days afterwards, and the ensuing treatment she's had, including all the injections and eventually the surgical treatment that was done by Dr. Butler." Dr. Fletcher noted that his opinions were very similar to the opinions of Respondent's first section 12 examiner, Dr. Alpert. Dr. Fletcher also agreed with a report from Dr. Chen, who had examined Petitioner at the request of the long-term disability carrier. Dr. Fletcher disagreed with the opinions of Respondent's second section 12 examiner, Dr. VanFleet, stating: "[H]e released her back to regular work, which is *** absolutely ridiculous, didn't order *** a functional capacity evaluation. A *** functional capacity evaluation obviously shows she doesn't meet the physical demands." Dr. Fletcher noted that the chain of events did not support the opinions of Dr. VanFleet. "Certainly she had a permanent aggravation of her pre-existing condition." Dr. Fletcher pointed out that he saw Petitioner almost 40 times, whereas Dr. VanFleet saw her once.

Regarding necessity of the surgery, Dr. Fletcher stated: "The proof in the pudding is that *** she finally got some relief, not perfect relief, but she was vastly improved after the surgical procedure. So I think that speaks for itself."

Turning to the FCE, Dr. Fletcher testified it was valid and placed Petitioner at the sedentary physical demand level. Dr. Fletcher imposed the permanent restrictions of: sedentary duty; alternating between sitting and standing as needed; no sitting or standing more than 30 minutes at a time; no walking more than 5,000 feet during a work shift; and working no more than six hours a day.

Regarding Petitioner's ability to work, Dr. Fletcher stated: "I believe that she could do something. Whether that's going to translate into gainful employment's a different matter." Dr. Fletcher continued: "I don't believe there is [a labor market for Petitioner]. Also the fact that she's a 60-year-old female with ongoing medical issues *** if she was going to be hired, most employers are doing post-job-offer medical exams, that she may have the difficulty of passing." "[S]he's considered *** an older worker, and it's going to make it more challenging for her to find gainful employment because of her age." Further, Dr. Fletcher noted: "She'd become more symptomatic the last couple months, so I had to start her on some medication again." Dr. Fletcher agreed with the vocational opinions of Mr. Patsavas.

On cross-examination, Dr. Fletcher testified that Petitioner was *not* medically permanently totally disabled.

Dr. VanFleet, a spine surgeon, testified by evidence deposition on June 19, 2024. Dr. VanFleet testified on direct examination that he examined Petitioner on September 20, 2023. Petitioner complained of back pain and left-sided leg pain. Dr. VanFleet diagnosed degenerative lumbar disc disease. The diagnosis was not "caused" by the work accident. "Degenerative disc

disease would not be caused by an episode that she described. That's a progressive condition." Dr. VanFleet further opined the accident did not permanently aggravate the diagnosis. "The basis for that opinion is that the aggravation would cause an underlying anatomical change. And nothing like that occurred in this situation." Regarding medical treatment, Dr. VanFleet opined: "Nothing past 4/15/2022 would have been appropriate as far as additional treatment at that point in time as that was the date that she saw Dr. Butler and he concluded, based upon the findings of the myelogram and post myelogram CT, that there was no pathology to explain her left-sided global sensory loss and weakness and that the spinal canal is free of significant nerve compression. *** So that would be the date, in my opinion, that she was at maximum medical improvement. And no additional treatment would be, in my opinion, related to the work injury." Regarding ability to work, Dr. VanFleet opined that Petitioner did not require any restrictions.

On cross-examination, Dr. VanFleet acknowledged there was no evidence of prior treatment for the back or prior problems. Dr. VanFleet also acknowledged Dr. Trudeau's electrodiagnostic findings. Dr. VanFleet did not review the MRI and CT images; he reviewed the reports. Dr. VanFleet was unaware of Petitioner's treatment after his examination, including surgery. When informed about Dr. Butler's revised opinion and Petitioner's surgery, Dr. VanFleet maintained the surgery was for a degenerative condition.

The Arbitrator found that Petitioner's condition of ill-being is causally connected to the undisputed work accident. The Arbitrator awarded: temporary total disability benefits from February 14, 2023 through April 26, 2024; temporary partial disability benefits "commencing July 10th, 2024 through present;" medical expenses of $22,081.76 pursuant to Sections 8(a) and 8.2 of the Act and subject to a credit and hold harmless; and "odd-lot" permanent total disability benefits for life, commencing April 9, 2025 (the date of the arbitration hearing). No reason was given for the temporary partial disability benefits.

We first address the award of temporary partial disability benefits. Respondent correctly asserts: "The Record is devoid of any evidence Petitioner was working in any capacity between July 10, 2024 and April 9, 2025. Therefore, there is no evidence to support the award of TPD." The Commission accordingly vacates the award of temporary partial disability benefits.

Turning to temporary total disability, the Commission finds that Petitioner reached MMI on August 1, 2024, per Dr. Butler. The Commission therefore extends temporary total disability benefits to August 1, 2024.

With respect to permanent disability, the record shows that Petitioner reported very good initial postoperative results and Dr. Butler expected her to return to the workforce. Likewise, Dr. Fletcher believed Petitioner should be able to look for work beginning April 1, 2024. In his deposition, Dr. Fletcher testified that Petitioner "was vastly improved after the surgical procedure."

In his narrative report dated February 15, 2024, Dr. Fletcher noted that Petitioner had been approved for Social Security disability benefits. Dr. Fletcher did not question the dramatic

escalation of Petitioner's complaints after March of 2024. An FCE performed June 13, 2024, placed Petitioner at the sedentary to light physical demand level, with a 3-4 hour workday. During the FCE, Petitioner demonstrated severe pain and limitations, which were not questioned. After the FCE, Dr. Fletcher imposed the permanent restrictions of: sedentary duty; alternating between sitting and standing as needed; no sitting or standing more than 30 minutes at a time; no walking more than 5,000 feet during a work shift; and working no more than six hours a day. These restrictions, based mainly on Petitioner's unexplained dramatic complaints, influenced the vocational opinion of Petitioner's vocational expert, Mr. Patsavas, that there was not a viable and stable labor market available to Petitioner. Respondent's vocational expert, Mr. Belmonte, expected Petitioner to return to the workforce.

The Commission finds that Petitioner's credibility falls short. Throughout her testimony, Petitioner complained that almost none of the recommended diagnostics and treatments were approved. However, the record shows Petitioner received timely, comprehensive diagnostic testing and treatment, especially considering the Covid-19 situation. Some delays resulted from Petitioner refusing the testing or treatment location, stating she was unable to tolerate physical therapy, or demonstrating severe symptoms that would make physical therapy dangerous. The Commission further notes that initial objective findings did not corroborate Petitioner's subjective complaints. Upon closer look, there were subtle corroborating findings, which still did not explain the severity of the complaints. Dr. Fletcher failed to explain the severity of the complaints, before or after the surgery. The nature of the surgery, a lumbar laminotomy at L5 on the left with partial medial facetectomy and foraminotomy, does not explain the severity of the complaints. Dr. Butler's physical examination of Petitioner on August 1, 2024, was benign. It is telling that Dr. Butler advised: "She needs to gradually get off of the pain medications and transition to over-the-counter anti-inflammatories."

The Commission underscores that Petitioner reported very good postoperative results until she was expected to begin looking for work. By then, she had been approved for Social Security disability benefits. The Commission finds that Petitioner failed to prove "odd-lot" permanent total disability.

> "If the claimant's disability is limited in nature so that he is not obviously unemployable, or if there is no medical evidence to support a claim of total disability, the burden is upon the claimant to prove by a preponderance of the evidence that he fits into the 'odd-lot' category—one who, though not altogether incapacitated to work, is so handicapped that he will not be employed regularly in any well-known branch of the labor market. *Valley Mould & Iron Co. v. Industrial Comm'n*, 84 Ill. 2d 538, 546-47 (1981); *Alexander v. Industrial Comm'n*, 314 Ill. App. 3d 909, 915-16 (2000). The claimant ordinarily satisfies his burden of proving that he falls into the odd-lot category in one of two ways: (1) by showing diligent but unsuccessful attempts to find work, or (2) by showing that because of his age, skills, training, and work history, he will not be regularly employed in a well-known branch of the labor market. *Alano [v. Industrial Comm'n]*, 282 Ill. App. 3d at 534-

> 35. Whether a claimant falls into the odd-lot category is a factual determination to be made by the Commission, and that determination will not be set aside unless it is against the manifest weight of the evidence. *Alano*, 282 Ill. App. 3d at 538 (Colwell, J., specially concurring). Once the claimant establishes that he falls into the 'odd-lot' category, the burden shifts to the employer to prove that the claimant is employable in a stable labor market and that such a market exists. *Waldorf Corp. v. Industrial Comm'n*, 303 Ill. App. 3d 477, 484 (1999)." *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 544 (2007).

Here, Petitioner relies on the opinions of Dr. Fletcher and Mr. Patsavas in support of her "odd-lot" permanent total disability claim. However, as discussed, Dr. Fletcher took Petitioner's escalating complaints at face value and did not address Dr. Butler's very valid concerns about overuse of prescription pain medications. Assuming *arguendo* that Petitioner's evidence is sufficient to shift the burden to Respondent, Mr. Belmonte's testimony shows there is suitable employment available to Petitioner.

The Commission instead determines permanent partial disability. The Commission considers the five factors enumerated in section 8.1b(b) of the Workers' Compensation Act (the Act): "(i) the reported level of impairment pursuant to subsection (a); (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. No single enumerated factor shall be the sole determinant of disability." 820 ILCS 305/8.1b(b).

Regarding factor (i), the Commission notes no impairment rating has been submitted into evidence. The Commission gives no weight to this factor.

Regarding factor (ii), at the time of the injury Petitioner was a procurement clerk whose duties included putting away heavy items. Mr. Belmonte opined that at present Petitioner can work as a procurement clerk or in other entry-level clerical or administrative jobs, acknowledging the physical and workday length restrictions per Dr. Fletcher. The Commission gives lesser weight to this factor, given that Petitioner has removed herself from the workforce.

Regarding factors (iii) and (iv), the parties stipulated Petitioner was 59 years old at the time of the injury and her average weekly wage was $1,026.00. Petitioner is now 64 years old and receiving Social Security disability benefits. She has removed herself from the workforce. Had she returned to the workforce, she likely would earn significantly less than before the accident because she would work reduced hours in a near-minimum wage job. On the other hand, Petitioner is only three years from retirement age. The Commission recognizes an economic loss that needs to be appropriately compensated.

Regarding factor (v), the Commission notes that Petitioner underwent a fairly minor surgery—a lumbar laminotomy at L5 on the left with partial medial facetectomy and foraminotomy. Petitioner reported very good initial postoperative results. There is no objective

medical explanation for Petitioner's escalating dramatic complaints after March of 2024. There is evidence of secondary gain. Dr. Butler's physical examination of Petitioner on August 1, 2024, was benign. Dr. Butler declared Petitioner at surgical MMI and advised: "She needs to gradually get off of the pain medications and transition to over-the-counter anti-inflammatories." Subsequent electrodiagnostic studies, which showed residual or old mild to moderate radiculopathy, do not explain the severity of Petitioner's complaints. On the other hand, there is credible evidence to support permanent restrictions, although not to the extent imposed by Dr. Fletcher. The Commission places significant weight on this factor.

The Commission finds that Petitioner sustained a 50 percent disability to the person as a whole.

All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed June 11, 2025, is hereby modified as stated herein and otherwise affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner the sum of $684.00 per week for a period of 76 3/7 weeks, from February 14, 2023 through August 1, 2024, that being the period of temporary total incapacity for work under §8(b) of the Act.

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

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay the medical expenses of $22,081.76 pursuant to Sections 8(a) and 8.2 of the Act and subject to a credit and hold harmless.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner the sum of $615.60 per week for a further period of 250 weeks, as provided in §8(d)2 of the Act, for the reason that the injuries sustained caused the permanent disability to the extent of 50 percent of the person as a whole.

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 $75,000.00. No bond is required for removal of this cause to the Circuit Court by

Petitioner. 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.

SEPTEMBER 9 2026

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

SJM/sk
o-7/14/2026
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/s/*Kathryn A. Doerries*
Kathryn A. Doerries

PARTIAL CONCURRENCE AND DISSENT

I respectfully dissent from the majority's decision to modify the award to deny permanent total disability benefits and award only partial disability benefits. In my opinion, Petitioner met her burden of proving entitlement to permanent total disability benefits in the odd-lot category, the Respondent did not rebut, and I would affirm the permanency award of the Arbitrator. I otherwise concur with the majority and would also vacate the award of temporary partial disability benefits, and would extend temporary total disability benefits to August 1, 2024, and find Petitioner reached MMI on August 1, 2024. For these reasons, I concur in part and dissent in part.

The parties stipulated at trial that Petitioner was an employee covered under the Act, who was accidentally injured in the course of her duties on January 17, 2022, and that she gave proper notice. The parties disputed the causal connection between her current condition, the need for TTD after October 2, 2023, and the nature and extent of Petitioner's injury. The case proceeded to hearing and the Arbitrator issued his Decision that there was a causal connection between the injury and the current condition, awarding temporary benefits, and finding Petitioner permanently and totally disabled in the odd-lot category.

Whether a claimant falls into the odd-lot category is a factual determination to be made by the Commission. *Alano v. Industrial Comm'n (County of Cook),* 282 Ill. App. 3d 531 at 538, 668 N.E.2d 21 (1st Dist. 1996). A claimant ordinarily satisfies their burden of proving that they fall into the odd-lot category in one of two ways: (1) by showing diligent but unsuccessful attempts to find work, or (2) by showing that because of their age, skills, training, and work history, they will not be regularly employed in a well-known branch of the labor market. Once the claimant establishes that they fall into the odd-lot category, the burden shifts to the employer to 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, 865 N.E.2d 342, 357 (1st Dist. 2007).

The Arbitrator specifically found that Petitioner fell into the second category of odd-lot disability, citing to her age, skills, training, restrictions, and his finding that she was not employable

in a well-known branch of the labor market. The Arbitrator found a rebuttal vocational opinion of Respondent's expert to be not-credible and found no evidence of a realistic stable labor market. Respondent now takes exception to the Arbitrator's finding of causal connection to the treatment and permanent medical condition, and *arguendo* to the extent of the permanent medical condition. I would find that the Respondent's rebuttal vocational expert failed to opine that a stable labor market existed, by either report or testimony, that insufficient other evidence of a stable labor market exists, and affirm the Arbitrator's award.

In addition to the recitation of facts by the majority, I highlight the following additional facts which were pertinent to my conclusion.

After an agreed accident, Petitioner treated with Dr. Fletcher and Dr. Butler. Petitioner underwent a surgery on December 18, 2023, which the Commission affirms as causally connected to the work accident.

Petitioner's first post-surgical appointment with Dr. Fletcher was January 12, 2024, and at that visit Dr. Fletcher recommended an off-work disability status. She was off work again on March 28, 2024[3], April 25, 2024, and June 25, 2024. At visits with Dr. Butler or his PA-C during this time, Petitioner was directed to perform activities as tolerated.

Petitioner underwent an FCA on June 13, 2024, at ATI. At that evaluation, she demonstrated the capability of lifting 10.4 lbs from desk to chair occasionally, a sitting period of 3 hours 35 minutes, a standing capability of 1 hour 15 minutes, walking 1 – 2 hours, and a work-day of 3 – 4 hours. The FCA deemed her efforts valid.

On July 26, 2024, Petitioner was seen by Dr. Fletcher who reviewed and summarized the FCA results and called it valid. He released her with permanent restrictions based on the FCA. She was to be allowed to change between sitting and standing as needed, and was to have a work-day with a maximum of six hours. These restrictions were permanent.

On August 1, 2024, Petitioner was seen by Dr. Butler, her surgeon, who released her at surgical MMI, and noted that her work status had been determined by Dr. Fletcher.

Dr. Fletcher's medical records repeatedly note that Petitioner never exhibited symptom magnification or drug seeking behavior. During his deposition he reiterated this statement, and described her as straightforward, up-front, consistent, and compliant. He testified that he had seen her almost 40 times, that he had a strong independent recollection of caring for her for nearly three years, and that there was: "absolutely no evidence of any symptom magnification whatsoever."

Dr. Fletcher's medical records also contain multiple references to delayed care and to unapproved recommendations. During his deposition he reiterated this conclusion, stating: "the

[3] Visits with Dr. Fletcher were numbered, and while January 12, 2024, is numbered 28, March 28, 2024, is numbered 30, and visit 29 does not appear in the record.

challenge in her case was getting authorization for services" and specified problems with authorization for diagnostic testing, physical therapy, and interventional pain management.

Petitioner hired a vocational expert, Mr. David Patsavas, who produced a report and testified before the Arbitrator. After a personal interview and reviewing her job history, medical conditions, age, and skills, Mr. Patsavas concluded to a reasonable degree of vocational certainty that there was no stable labor market for Petitioner.

Respondent's Group Exhibit 1 contains an example of a Purchase Order printed onto a form with data Petitioner inputted into a computer. The parties have stipulated that Petitioner was not capable of creating forms and the testimony showed it was her job to enter data. Petitioner testified that this 6-page Purchase Order was of a type she would prepare "maybe once a year". She also testified that she kept a notebook with each step of data entry for her reference, and that she would request assistance from her supervisor, Tracy Carter. Ms. Carter was present and heard Petitioner's testimony and agreed that Petitioner would come to her for help with issues in creating purchase orders. Ms. Carter did not dispute that this was an annual capital purchase order, and included drafting these capital purchase orders among her own duties as supervisor. The only verified example of Petitioner's typing skill introduced was page 11 of that exhibit, providing an email in which Petitioner writes a single sentence, and forwards the responsive message to another employee without comment.

Petitioner was terminated during her treatment, and Respondent did not choose to offer her an accommodating position when she reached MMI. Mr. Joseph Belmonte was hired by Respondent as a vocational expert. Testifying after consultation with Respondent to formulate his opinions, Mr. Belmonte agreed that Petitioner was not capable of performing her pre-injury job. He also testified the Respondent could have accommodated her if she had fallen into a higher weight lift category, or if she had been able to work an eight-hour day. Ms. Carter testified on behalf of Respondent that they do have part-time jobs available, but that they require lifting beyond Petitioner's current capabilities. Furthermore, I note that Respondent asserts that Petitioner's job was 80% desk work, indicating that the requirements of her original 8 hour per day, five day per week, position required 32 hours per week (8 x 80% x 5), compared to Petitioner's 30 hour capability.

Ms. Carter testified that full-time employment with Respondent is 40 hours a week. Mr. Belmonte agreed about Respondent's policies, and that he personally considers full time-employment 40 hours a week. He testified that his company's policy requires a minimum of 32 hours a week to be considered full-time for insurance purposes. Belmonte agreed during testimony that Petitioner is limited to 30 hours a week.

Mr. Belmonte's report reaches several specific conclusions in response to questions from Respondent. Mr. Belmonte opined that Petitioner could perform a modified version of her job if it were offered to her. He opined that the light duty position offered by Respondent before Petitioner reached MMI was not a sham. He concluded that Petitioner was alternatively

employable, and that Petitioner was a candidate for vocational rehabilitation interventions. If employed, Petitioner was capable of earning between $15 and $20 per hour. (Mr. Belmonte identifies $15 as the Illinois minimum wage.) Finally, Petitioner did not have any vocational impairment which would prevent her from employment in her pre-injury line of occupation.

An Addendum-Labor Market Survey then provided five positions which Mr. Belmonte had identified as potential employment for Petitioner. The first was distant to Petitioner and for a Patient Care Coordinator requiring proficiency in MS Office and paying less than minimum wage. The second was for an Administrative Assistant with experience in bookkeeping and an interest in longevity in the position. The third was a seasonal employment position which had already been filled. The fourth was a Dietary Aide position in a company that had just hired a receptionist, neither of which position was noted to be able to accommodate Petitioner's restrictions. The fifth and final position was at a company hiring a CNA or Nurse which had just hired a part-time receptionist.

Reviewing this report with Petitioner, Mr. Patsavas noted that Petitioner had contacted each of these positions, and he summarized the results of her calls. The first position was 65 miles from Petitioner's home. The second position required accounting experience. The third position was a temporary seasonal position which required physical activity beyond her restrictions. The fourth position was for a 40-hour work-week. The fifth position required physical activity beyond her restrictions.

I find Petitioner credible, and I find no evidence that she engaged in symptom magnification. To the contrary, Dr. Fletcher testified that he came to the conclusion that there had been no symptom magnification after 36 visits to his office over three years. "[A]bsolutely no evidence of any symptom magnification whatsoever". Furthermore, the repeat electrodiagnostic study of March 5, 2025, confirms that Petitioner suffered chronic features consistent with the assessment of Dr. Fletcher.

Petitioner also complained of a failure to have treatment approved by the Respondent. Prior to the 2026 changes to the Act, there was no objective timeline for approval, nor any requirement for approval. Petitioner's opinion on treatment approval delays could only have been subjective, and it is explicit in the evidence that Dr. Fletcher wrote into her medical records that treatment was delayed by a lack of approval. If Petitioner credited Dr. Fletcher's opinions, her subjective testimony on that topic is the opinion of a patient honestly repeating what their doctor has concluded again and again.

In assessing Petitioner's permanent condition, I look first to her physical condition subsequent to her causally related surgery and then through the date she reached maximum medical improvement, August 1, 2024. For purposes of her permanency under the Act, this is her baseline physical condition. I find that Dr. Fletcher released her per the FCA and to a 10lb lifting restriction, a sit-stand requirement, a 6-hour work-day, and a 30-hour work-week.

Petitioner sought the opinion of Mr. Patsavas as her vocational expert. Mr. Patsavas conducted face-to-face interviews with Petitioner, as well as a review of her medical records. According to Respondent's own expert, his report was thorough, and Mr. Patsavas is known and respected. Mr. Patsavas concluded with a reasonable degree of vocational certainty that based upon Petitioner's age, skills, training, and work history, a stable labor market does not exist for Petitioner. He repeated this conclusion upon testimony before the Arbitrator.

I find this testimony credible and sufficient to meet Petitioner's burden. Mr. Patsavas is a vocational consultant practicing in the geographic area of Petitioner's labor market with 40 years experience. Petitioner having met the burden of proof required to reach the odd-lot designation, the burden now falls on Respondent to rebut this conclusion.

Respondent introduced the opinions and testimony of Mr. Belmonte to attempt to meet their burden, but Mr. Belmonte does not testify to a reasonable degree of vocational certainty. Instead, when asked to comment on Mr. Patsavas' testimony he responds:

> "I believe, based on my analysis and the data that I got from Silgan, that there are indications to me that there is potential for her to be employed and that a thorough and diligent effort to find work could certainly -- would have a definite probability of producing a job offer."

I have also reviewed Mr. Belmonte's report. At no time does he conclude that there is a stable labor market available to Petitioner. We are left with testimony where he halts and retracts the word certainty and instead says that there is a definite probability of producing a job offer.

Mr. Belmonte is a vocational counsellor well known before the Commission. His experience and knowledge make his silence telling. His testimonial responses to questions only answer that there is employment available to Petitioner.

The Respondent appears to be conflating the availability of part-time gainful employment with the existence of a stable labor market. The Respondent now urges the Commission to award Petitioner only partial disability because they have found a few jobs in her market which might offer her part-time or seasonal employment. Case law is to the contrary: "Evidence that the employee has been or is able to earn occasional wages or to perform certain useful services neither precludes a finding of total disability nor requires a finding of partial disability." *E. R. Moore Co. v. Industrial Comm'n*, 71 Ill. 2d 353, 361, 376 N.E.2d 206, 209 (1978).

Even were I to credit Mr. Belmonte with a reasonable degree of vocational certainty, I would still find his report to be of lesser credibility than Mr. Patsavas' in this matter. The Commission has previously been affirmed when finding visual observation of a vocational counselor a factor in their credibility. See *City of Chicago v. Illinois Workers' Comp. Comm'n*, 2015 IL App (1st) 142637WC-U, ¶ 33. I would place great weight on Mr. Patsavas' personal observations of Petitioner, his observation of her limited ability to enter data in her phone, and his

familiarity with Petitioner's geographical labor market. Mr. Belmonte's labor market survey, finding four jobs within Petitioner's geographical labor market, and one outside of that market, is not credible to me. I have reviewed the positions listed and do not find them to be indicators of a stable job market for Petitioner's abilities, and Petitioner's follow-up calls to those providers serve to verify my findings.

For the above reasons, I would find Petitioner met her burden of showing that she falls into the odd-lot category of permanent total disability. I would find Respondent failed in their efforts to rebut the testimony given to a reasonable degree of vocational certainty. I would affirm the Arbitrator's decision.

AHS/ps
051

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	22WC003545
Case Name	Kellie Watson v. Silgan Container Manufacturing Corp.
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	34
Decision Issued By	Edward Lee, Arbitrator

Petitioner Attorney	Muriel Collison
Respondent Attorney	Stephen Klyczek

DATE FILED: 6/11/2025

/s/Edward Lee, Arbitrator

Signature

INTEREST RATE WEEK OF JUNE 10 2025 4.15%

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

☐ 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

Kellie Watson
Employee/Petitioner

v.

Silgan Container Manufacturing Corp.
Employer/Respondent

Case # **22** WC **003545**

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 **Urbana**, on **4/9/2025**. 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 **1/17/2022**, 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 $**53,352.00**; the average weekly wage was $**1,026.00**.

On the date of accident, Petitioner was **59** 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 $**22,572.00** for TTD and $**9,794.02** for maintenance.

ORDER

*The Arbitrator finds that the Petitioner's average weekly wage at the time of the accident is **$1,026.00.** Respondent shall pay Petitioner temporary total disability benefits of **$684.00 per week** for **59 6/7 weeks**, commencing **February 14th, 2023 through April 26th, 2024** and Respondent shall pay Petitioner temporary partial disability benefits of **$684.00 per week for 40 weeks**, commencing **July 10th, 2024** through present as provided in Section 8(b) of the Act.*

*Respondent shall pay Petitioner permanent and total disability benefits of $**684.00**/week for life, commencing **4/9/2025**, as provided in Section 8(f) of the Act.*

Commencing on the second July 15th after the entry of this award, 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 reasonable and necessary medical services of **$22,081.76**, as provided in Sections 8(a) and 8.2 of the Act.*

Respondent shall be given a credit towards the awarded medical expenses that have been paid by Respondent prior to the hearing date, either via workers compensation or a qualified group insurance provider as contemplated by Section 8(j) of the Act, 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.

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

JUNE 11 2025

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

KELLIE WATSON,	)	
	)	
PETITIONER,	)	
	)	
v.	)	No. 22WC003545
	)	D/A: 11/17/2022
SILGAN CONTAINER,	)	
	)	
RESPONDENT.	)	

MEMORANDUM OF DECISION

An Application of Adjustment of Claim has been filed in this matter and notice of hearing mailed to each party. The matter was heard by the Honorable Arbitrator Edward Lee, as Arbitrator designated by the Commission in the County of Champaign, State of Illinois, on April 9, 2025. After a hearing, examination of Petitioner Exhibits, proofs, and allegations of the parties, and having made careful inquiry in this matter, the Arbitrator concludes the following regarding the disputed issues:

1. Is Petitioner's current condition of ill-being causally related to the injury?

2. Were the medical services that were provided to the Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?

3. Is Petitioner entitled to TTD and TPD?

4. Nature and extent of injury.

STATEMENTS OF FACTS AND CONCLUSIONS OF LAW

Accident History

The Petitioner was employed as a storeroom attendant at Silgan Container Manufacturing Corporation for 36 years (Trans. Pg. 66). On January 17, 2022, she was moving unassembled bookcases (weighing approximately 100 pounds for all three) with her supervisor, Tracy Carter. (Trans. Pg. 69) While moving the third one, Tracy dropped his end while she was still holding on and Petitioner felt a jerk in her back (Trans. Pg. 68). Petitioner's back became tight, and she testified that it felt like something was twisted in her back (Trans. Pg. 69). The Petitioner worked the rest of her shift, went home and iced her back. The next morning, Petitioner tried to work for a few hours despite being in pain. She then iced her back again (Trans. Pg. 70). The following day, Petitioner called the HR department and was told by Kathy Harding to come in for a Teledoc

call (Trans. Pgs. 70-71). Petitioner was told by the Teledoc doctor that she needed to go see a physician. Kathy Harding (Head of HR for the Respondent) took Petitioner to see Dr. Fletcher in her personal vehicle and was present during office visits. Petitioner was not given a choice of her own physicians (Trans. Pgs. 71-72). The Petitioner was terminated on February 14, 2023, due to the Respondent's inability to accommodate her restrictions.

Medical Treatment

On January 19, 2022, the Petitioner was evaluated by Dr. Davis J. Fletcher at Safe Works Illinois. (Pet. Ex. A pg. 38). Respondent's agent (Kathy Harding) drove Petitioner to Safe Works and was present in the examination room. (Trans. Pgs. 72-73). She reported that she was helping a coworker move a box when they jerked her body and she felt her back "pop out of place." She complained of severe back pain accompanied by numbness. She had extreme pain when she tried to walk, stand or sit. On examination, the Petitioner had pain in the back, limited range of motion, and tenderness. She could not perform heel-walking or toe-walking. There was SI joint tenderness. Straight leg raise testing was positive on the left side. Dr. Fletcher stated that the evaluation was consistent with L5 radiculopathy with a left foot drop. The Petitioner was given a Toradol injection for pain control. She was also prescribed a Medrol Dosepak and referred to physical therapy. The Petitioner was placed off work.

On January 21, 2022, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 43). She complained of severe aches & burning pain in her back. She stated her walking was better, but she still had intense pain. She was still unable to perform heel-walking or toe-walking. Straight leg raise testing remained positive on the left side. The Petitioner's range of motion was very limited. Dr. Fletcher noted that the Petitioner continued to have severe back pain and left lower leg pain. She was unable to have a bowel movement. Dr. Fletcher stated that there was a "strong possibility that she will need a lumbar spine surgery." He ordered a back brace and gave the Petitioner a Toradol injection. It as noted that she was awaiting authorization for physical therapy. Dr. Fletcher prescribed Flexeril, a muscle relaxant. The Petitioner was kept off work.

On January 27, 2022, the Petitioner followed up with Dr. Fletcher (Pet. Ex. A pg. 47). She felt slight improvement but continued to complain of aching pain that radiated down her posterior left thigh stopping at the knee. There were no changes upon physical examination. The Petitioner was placed on light duty work restrictions and referred to physical therapy. It was recommended that she wear her back brace.

On January 28, 2022, the Petitioner started physical therapy at ATI. (Pet. Ex. C pg. 30). She reported helping a coworker lift a bookcase onto a dolly-cart, who ended up dropping his side of the bookcase causing her to strain her back. The pain got progressively worse, causing her to be unable to walk with intense back pain. She reported significant limitations with daily life. The therapist recommended continued therapy 2-3 times weekly for six weeks.

On February 1, 2022, the Petitioner was discharged from physical therapy. (Pet. Ex. C pg. 32). The reasoning was: "Patient has been discharged per patient request as she is transferring clinics."

On February 7, 2022, the Petitioner started physical therapy at Hoopeston Physical therapy, affiliated with Carle Hospital. (Pet. Ex. D pg. 31). She reported that she had consistent back pain that was not getting better. She noted that she was supposed to get an MRI, but workers' compensation had not approved it. The Petitioner reported that she injured her back while lifting a bookshelf with someone on the other end who let go before she let go. She felt her back go out. She complained of sharp pain in the center of her lower back. The pain radiated to her left knee with numbness. She felt her left lower extremity weakening. Her sleep was interrupted. She had pain with every cough and sneeze. She had difficulty walking and was unable to sit without severe pain. The Petitioner was working light duty. After examination, the therapist noted impaired gait, decreased strength, decreased range of motion, decreased endurance, impaired balance, decreased mobility, impaired transfers and pain. The recommendation was to hold physical therapy until diagnostic imaging could be performed.

On February 10, 2022, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 31). She reported that OneCall was unable to schedule her MRI locally, and it was pending to be approved and scheduled out of network. She complained of lower back pain with some aching into the left gluteal area. She stated that walking on hard surfaces, such as pavement, increased her back pain. She noted a very slow gait. It was noted that she was unable to tolerate physical therapy at Carle. Dr. Fletcher recommended a Hydrotrack underwater treadmill. The Petitioner was given a Tramadol injection, kept on work restrictions, and prescribed muscle relaxers. Furthermore, Dr. Fletcher ordered an MRI of the lumbar spine.

On February 12, 2022, the Petitioner underwent an MRI of the lumbar spine at Rayus Radiology Lafayette. (Pet. Ex. E pg. 9). The MRI showed a variant anatomy with 6 lumbar appearing vertebral segments. The most inferior lumbar appearing vertebral body segment was designated as S1 and T12 was the most inferior body segment demonstrating well-formed formal appearing bilateral rib articulations. T11 was the most superior completely imaged vertebral body segment on the sagittal series and the only inferior endplate of T10 was visualized on sagittal series. The radiologist recommended considering correlation with a total spine plain film series to determine the exact numbering and segmentation. The MRI also revealed mild to moderate thecal sac narrowing at L2-3, secondary to age-indeterminate shallow disc protrusion with possible contact of the ventral margins of the descending L3 nerve roots without clearly defined displacement or impingement, as well as mid and lower lumbar facet arthropathy, which could be seen with facet-mediated back pain.

On February 7, 2022, the Petitioner was evaluated by Dr. Ivan Santiago at Christie Clinic. (Pet. Ex. H pg. 7). She reported that she was carrying a box with a coworker on January 17, 2022, who tossed his end of the box to the left and immediately twisted her to the right while she held onto the box. She stated that she immediately experienced lower back pain and stated to her coworker that "you just through my back out." Since the incident, the Petitioner had lower back pain, predominately on the left side. She felt left-sided radiating pain through her lower extremity with numbness and tingling into the left foot. On examination, the Petitioner's sensation was decreased to light touch, mainly through the L5 dermatome. She had moderate tenderness to palpation in the lower lumbar spine, specifically at the midline and left lumbar paraspinals. Dr. Santiago believed the Petitioner's symptoms were consistent with a nerve root injury, probably at L5, but imaging

did not confirm the same. He recommended a lumbar epidural steroid injection at L5-S1 for both diagnostic and therapeutic purposes. Depending on the results of the injection, Dr. Santiago would then be determining the next steps. He noted that the Petitioner also had left sacroiliac joint dysfunction, but a nerve root injury needed to be ruled out first.

On March 10, 2022, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 57). She complained of pain in the lumbar region and left leg. She described it as severe aching and constant. She felt it was not improving. She further complained of swelling in the left foot. Dr. Fletcher noted that the Petitioner's examination was consistent with L5 radiculopathy. Dr. Fletcher reviewed the MRI, noting significant stenosis at :4-5 with some left nerve root compression, which would explain the left foot drop. Dr. Fletcher discussed the possibility of epidural steroid injections. The Petitioner preferred a more aggressive approach, so Dr. Fletcher referred her to Dr. Butler for a surgical spine consultation. Dr. Fletcher suspected that Dr. Butler would recommend a CT/myelogram to clarify the diagnosis. The Petitioner was prescribed Tramadol, Prednisone, Flexeril and Trazodone. The Petitioner was unable to tolerate physical therapy at Carle. As such, Dr. Fletcher recommended a Hydrotrack underwater treadmill.

On March 11, 2023, the Petitioner was evaluated by Dr. Jesse Butler at Spine Consultants, LLC. (Pet. Ex. F pg. 40). She reported a work incident occurring on January 17, 2022, while helping a coworker move a box weighing 55lbs. She stated she felt pain after the coworker dropped the edge of the box, and she noted that her back went out. She had left and centralized back pain with occasional radiation posteriorly on the left side down to the knee. She had some issues moving the toes of the left foot due to weakness. She described aching extending down to the knee. She denied any prior injury. The Petitioner reported working 2-4 hours per day with light duty restrictions at 10lbs. On examination, she had decreased strength in the entire left leg from the hip flexor to the feet. There was tenderness to palpation of the lumbar spine. Dr. Butler noted significant weakness of the left leg but minimal pathology to explain the source of the weakness. He was concerned about a disc herniation on the left side at L1-2 that could be causing the issues. He stated the MRI was "certainly not impressive" but her nerve dysfunction "is of great concern." Dr. Butler ordered a myelogram and CT of the lumbar spine to assess the stenosis.

On April 1, 2022, the Petitioner underwent a lumbar myelogram at Gibson Area Hospital. (Pet. Ex. G pg. 47). The study demonstrated mild central canal stenosis at the L1-L2, L2-3, and L4-5 levels due to a diffuse annular disc bulge at those levels. There was no evidence of a focal disc protrusion, significant foraminal compromise or evidence to suggest nerve root impingement. There were hypertrophic degenerative changes of the facet joints, primarily at L4-L5 and L5-S1.

On April 15, 2022, the Petitioner returned to Dr. Butler to review the myelogram of the lumbar spine. (Pet. Ex. F pg. 37). She denied any improvements. She had continued significant back and leg pain. On examination, she had tenderness and decreased range of motion. Dr. Butler noted the CT demonstrated no pathology to explain the left-sided global sensory loss and weakness. He stated the spinal canal was free of significant nerve compression and the disc herniation at L1-2 was small and mild compression was noted. Dr. Butler felt there was no surgical issue apparent in the lumbar spine. He recommended continued conservative management with Dr. Fletcher.

On May 10, 2022, the Petitioner was evaluated by Dr. Ivan Santiago at Christie Clinic. (Pet. Ex. H pg. 7). She reported that on January 17, 2022, she was carrying a box with a coworker who tossed his end of the box to the left, which immediately twisted her back to the right while holding onto her box. She immediately experienced low back pain and stated to her coworker that he "just through my back out." Since the incident, the Petitioner felt low back pain, predominantly left-sided pain radiating to the left lower extremity, with numbness and tingling to the foot. She felt weakness in the left foot. The Petitioner reported that she saw Dr. Butler through neurosurgery and had both an MRI and CT myelogram that did not show any evidence of obvious nerve impingement on the left side. The CDs of the imaging were not available for review. The Petitioner offered to bring the discs for review. She stated that her quality of life had been poor since the incident. Dr. Santiago noted that Dr. Fletcher's note indicated that he saw some foraminal stenosis at L4-L5 on the left side. The Petitioner had been working light duty. Dr. Santiago stated the Petitioner had some findings on examination consistent with a nerve root injury, probably at L5, but the imaging did not confirm the same. Dr. Santiago recommended a lumbar epidural steroid injection at L5-S1 at the left paramedian under fluoroscopic guidance for both diagnostic and therapeutic purposes. Depending on the results of the injection, he would then determine the next steps. Dr. Santiago noted the Petitioner also had left sacroiliac joint dysfunction findings on examination, but a nerve root injury needed to be ruled out first.

On June 1, 2022, Dr. Santiago performed a lumbar epidural steroid injection at Christie Clinic. (Pet. Ex. H pg. 25).

On June 16, 2022, the Petitioner returned to Dr. Santiago. (Pet. Ex. H pg. 29). She noted that she had very little low back pain prior to the January 17, 2022 incident, but did occasionally have some aches in her low back, usually after exercising. Following the incident, the Petitioner had low back pain that radiated into her left leg and across the low back. Her pain level was 8/10 and her quality of life was poor. She stated she could not do anything, including even sitting in a car for two minutes without a significant increase in pain. She could only ambulate 100 feet at a time. She felt she could not go anywhere. She noted that she was at a grocery store four days prior and started having significant pain afterwards. She could not perform any bending or lifting. She felt a constant aching pain in the posterior aspect of her thigh and calf that was unrelenting. She felt numbness and tingling as well. She could not even lie in a recliner. On examination, the Petitioner severe tenderness to palpation of the left superior iliac spine. She had positive tenderness to palpation of the low lumbar spine at the midline and left lumbar paraspinals. She had positive Patrick's and sacral compression tests. Her sensation was decreased to light touch, mainly in the L5 dermatome. Dr. Santiago stated the Petitioner was appropriate for a left sacroiliac joint injection. Unfortunately, she did not get the expected benefit from the lumbar epidural steroid injection. Dr. Santiago noted provocative measures of the sacroiliac joint. He noted that possible treatment options included chiropractic, aquatic therapy, and inversion table maneuvers.

On July 18, 2022, Dr. Santiago performed a left sacroiliac joint injection under fluoroscopy guidance. (Pet. Ex. H pg. 58).

On July 20, 2022, the Petitioner returned to Dr. Fletcher for evaluation. (Pet. Ex. A pg. 60). She reported feeling a lot of pain in the lower back into the hips that radiated down her left leg. She stated the pain was unbearable. Dr. Fletcher noted continued lumbar radicular pain and chronic

low back pain. He noted that that Dr. Santiago recommended a chiropractor, but he recommended FYSICAL Therapy in Danville. He further noted that the Petitioner had two epidural steroid injections and a left SI joint injection, but there was a strong possibility that she would need a lumbar spine surgery. The Petitioner was given a Toradol injection for pain control. Dr. Fletcher referred the Petitioner to FYZICAL in Danville for physical therapy. He noted that Dr. Butler had no surgical recommendation for the Petitioner.

On July 28, 2022, the Petitioner missed her physical therapy appointment due to a lack of authorization.

On August 2, 2022, the Petitioner returned to Dr. Santiago. (Pet. Ex. H pg. 70). She reported pain in her left buttocks that radiated to her left lower extremity. It was noted that Dr. Butler "absolutely did not see anything that was compressing her nerve and no surgery was recommended." The Petitioner failed a lumbar epidural steroid injection. She reported 70% relief following the SI injection that lasted approximately 12 hours. She was able to walk much better but was still walking slowly. Her quality of life had improved. The Petitioner reported seeing Dr. Fletcher who recommended physical therapy. She noted that she had been doing pool therapy on her own, which helped, but once out of the pool she felt worse. She was only taking Tramadol for severe pain occasionally. An x-ray of the left hip was ordered as Dr. Santiago believed the only diagnosis that made sense was sacroiliac joint disease on the left side causing the symptoms. He noted some left hip provocative maneuvers so the x-ray would rule out pathology of the hipg. Dr. Santiago noted a very good result from the SI joint injection, indicating a diagnostic injection but was unfortunately not therapeutic in giving her long-term relief. Dr. Santiago stated a future consideration included an SI joint radiofrequency ablation. Ultimately, the Petitioner was not interested in the radiofrequency ablation and opted for physical therapy.

An x-ray of the left hip was performed at Christie Clinic on August 2, 2022. (Pet. Ex. H pg. 87). The x-ray demonstrated no acute osseous abnormalities, but mild bilateral hip osteoarthritis.

On August 4, 2022, the Petitioner attended an initial physical therapy examination at Professional Physical Therapy, PC. (Pet. Ex. I pg. 33). She stated she was carrying a bookcase box, and her coworker threw their end of the box down while she was still holding her side of the bookcase box. She twisted to the right, described as a jerking motion. She then went to work, was sent for a massage, and saw Dr. Fletcher who prescribed pain medications, muscle relaxants, anti-depressants and a sleep aid. The Petitioner stated the medications did not help her pain, so she went to physical therapy and for three injections. The Petitioner noted that Dr. Santiago told her that her pain could not be a 9 out of 10, more of a 7 out of 10. She noted x-rays the previous Tuesday, where she was told that everything was fine, and she just had "a little arthritis." The Petitioner complaint of a constant burn across her lower back and down the center of her leg "through her bone." She felt as though she could not initially move her left foot, but it was now better. However, when walking, the left leg could not keep up with the right leg. On examination, the Petitioner had severe tenderness with palpation of the left greater trochanter and left iliotibial band, mainly across the left iliac crest. The therapist noted the Petitioner was very guarded and unable to move due to her pain. He noted she walked with a very slow cadence and had a decreased stride length. He noted focus on posture and isometrics.

The Petitioner attended physical therapy on August 5, 2022, and August 8, 2022. (Pet. Ex. I pgs. 44-50).

On August 9, 2022, the Petitioner followed up with Dr. Fletcher. (Pet. Ex. A pg. 67). She felt some improvement with physical therapy but still described severe aching pain that was constant in nature. She was doing a little better. The Petitioner continued to have lumbar radicular pain and chronic lower back pain. It was noted that she was not a candidate for lumbar spine surgery as she had a definitive workup with a CT myelogram/CT that did not show any structural issue even though her examination was consistent with L5 radiculopathy. Dr. Fletcher was focused on her SI joint, noting she may need electrical studies to clarify the diagnosis. He recommended continued physical therapy in the interim.

The Petitioner attended physical therapy on August 10, August 12, August 15, and August 19, 2022. (Pet. Ex. I pgs. 51-56).

A physical therapy re-certification note was prepared on August 19, 2022. (Pet. Ex. I pg. 59). She stated her pain ranged from 5-9 out of 10. She noted that her pain changed with numbness in her left leg and SI joint pain. She stated that she "feels a heartbeat." Her left knee hurt when walking. Upon examination, the Petitioner stood shifted off one leg. She stated that weight bearing on the left leg caused a burning pain down her leg through her bone. She also described pain across her lower back, but her pain was mainly below her waist. She pointed to her SI region. She was unable to raise her left hip without pain and was unable to rise on the bilateral toes or heels due to pain. The Petitioner had moderate tenderness with palpation of the left greater trochanter, left IT band, left SI joint, and along the left iliac crest. The therapist noted the Petitioner left therapy with less pain than when she arrived. She had decreased reflex on the left side and pain with left hip and knee movement. She walked with a slow cadence and had a decreased stride length.

The Petitioner attended physical therapy on August 22, August 24, August 26, and August 28, 2022. (Pet. Ex. I pgs. 71-78).

On August 31, 2022, a physical therapy progress note was prepared. (Pet. Ex. I pg. 79). The Petitioner stated that her left thigh bone hurt. She noted that weekends were bad. She stated she could not walk right and had to think about walking. It was noted that her pain shot up her left leg to the SI joint. The Petitioner had moderate tenderness with palpation of the left greater trochanter and left IT band. She noted the burning sensation was better. Her main tenderness was along the left iliac crest and left SI joint. She reported that she was 35% to 40% better.

On September 2, 2022, the Petitioner followed up with Dr. Fletcher. (Pet. Ex. A pg. 72). She continued to complain of lumbar spine and left leg pain. She stated her walking was improving and wanted to continue with physical therapy sessions. On examination, the Petitioner was moving was less difficult and less distress. Sensation in the lower extremities was normal, but heel-walking could not be performed. Straight leg raise testing sign was negative of the left side. EHR strength was improved on the left side. The Petitioner had positive SI joint maneuvers. The left foot drop had improved. Dr. Fletcher noted that she continued to have lumbar radicular pain and chronic low back pain. He noted it had been a year-and-a-half with minimal improvement. He noted that Dr. Santiago recommended a chiropractor. Dr. Fletcher recommended she start physical therapy at

FYZICAL in Danville. He noted that while her examination was consistent with L5 radiculopathy, the Petitioner was not a candidate for lumbar spine surgery. The Petitioner noted tremendous benefits with physical therapy and the plan was to continue with it. Dr. Fletcher performed a Toradol injection and ordered an EMG/NCS.

The Petitioner attended physical therapy on September 2, 2022. (Pet. Ex. I pg. 90). She noted that she received a Toradol injection that morning, which did not help her symptoms. She stated she was supposed to continue with physical therapy another month. The Petitioner did better with her walking, although her cadence was slow.

On September 12, 2022, the Petitioner received a TENS unit, which was prescribed by Dr. Fletcher. (Pet. Ex. J pg. 6).

The Petitioner attended physical therapy on September 14, September 16, and September 19, 2022. (Pet. Ex. I pgs. 92-98).

On September 20, 2022, Dr. Edward Trudeau performed an EMG/NCS at Center For Neuromuscular Sciences. (Pet. Ex. K pg. 11). The Petitioner reported that she worked for Silgan for 35 years. She noted the injury occurring on January 17, 2022, and since that time, she has had low back and left leg pain with paresthesia. It was noted that there was suspicion of radiculopathy and sciatica. Dr. Trudeau found left L5 radiculopathy, mild to moderate in electroneurophysiologic testing characterization, consistent with the quite correct clinical assessment of Dr. Fletcher. There was no evidence of other radiculopathy, entrapment neuropathy, lumbar plexopathy, mononeuritis multiplex, lumbosacral radiculoplexus neuropathy, large fiber sensory, sensorimotor neuropathy, or polyneuropathy.

The Petitioner attended physical therapy on September 21, September 26, and September 28, 2022. (Pet. Ex. I pgs. 99-105).

On September 30, 2022, a physical therapy progress note was prepared. (Pet. Ex. I pg. 106). The Petitioner reported 6 out of 10 pains after going to work and sitting in a chair. She described an aching pain across her back. Her pain was worse with driving, walking and driving, escalating to 8 out of 10 pains. She had burning in her left hip. Her stride length was better, but she could not walk long distances. She was using the TENS unit and SI belt. The therapist noted that the Petitioner was doing more in therapy. Her range of motion of the left hip and lumbar region had improved. However, she was still guarded with active movements and had a slow cadence.

On October 4, 2022, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 77). She stated that her pain was constant, but stable. She wanted a medication refill. Dr. Fletcher noted that Dr. Butler had no surgical solution for the Petitioner, but Dr. Fletcher wanted her to see him again to provide input on a future treatment plan, including a lumbar epidural steroid injection versus SI joint injection. Dr. Fletcher recommended continued physical therapy until the appointment with Dr. Fletcher was scheduled, as well as a second SI joint injection with Dr. Santiago. The Petitioner was kept on light duty work restrictions.

On November 1, 2022, the Petitioner followed up with Dr. Fletcher. (Pet. Ex. A pg. 82). She noted some improvement in her lower back pain. Dr. Fletcher noted that the EMG/NCS demonstrated mild to moderate L5 radiculopathy. Dr. Fletcher was attempting to ascertain whether the issues were related to the SI joint versus the left L5 nerve root. He noted that, as predicted, an IME was scheduled. Dr. Fletcher stated that if the Petitioner did not improve with aggressive conservative treatment, and it appeared that the SI joint was the major pain generator, he would consider an SI joint fusion. Dr. Fletcher specifically noted that there was no symptom magnification. It was noted that the appointment with Dr. Butler was scheduled on November 29, 2022, but then Respondent discovered that Dr. Butler was a treater. It appears they attempted to schedule the IME with Dr. Butler. Dr. Fletcher noted that no additional treatment would be authorized. He released the Petitioner to work 5-hour days with light duty restrictions. He recommended further physical therapy and the injection, but these were not authorized.

On December 2, 2022, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 87). She complained of lumbar pain and left pain worsened by prolonged sitting. She felt her pain getting worse. She stated that she had an adverse reaction to Tramadol, so she discontinued it. It was noted that she was scheduled for an IME. On examination, the Petitioner continued to have lumbar radicular and chronic pain. She reported significant benefits with physical therapy. Dr. Fletcher noted that the electrical studies demonstrated mild to moderate L5 radiculopathy. He noted that Dr. Butler had no surgical solution. Dr. Fletcher noted that if the Petitioner did not improve with aggressive conservative treatment, she could be a candidate for an SI joint fusion as it appeared her SI joint was her major pain generator. Dr. Fletcher noted that there was no symptom magnification. Dr. Fletcher wanted the Petitioner to see Dr. Butler again for further recommendations. Based on the IME, the appointment with Dr. Butler was not authorized. Dr. Fletcher also recommended further physical therapy, which was also not authorized. It was noted that the Petitioner would be automatically terminated on January 17, 2023 due to the company's auto-termination policy.

On December 20, 2022, Dr. Joshua Alpert performed an IME at Fox Valley Orthopedics. (Pet. Ex. O pg. 2). The Petitioner reported that she worked as a storeroom attendant. On January 17, 2022, she was working with a coworker where they were lifting bookcases, and the coworker let go causing her to feel lower back pain. This is consistent with the previous histories of the accident. The Petitioner stated she had never had a problem with her back before this incident. She immediately felt pain to her lower back and could not walk on her left leg. She noted difficulty sitting and standing. She reported undergoing two rounds of physical therapy and an SI joint injection and epidural injection with little help. The Petitioner's complaints at the time of the IME included pain in the low back, as well as numbness and tingling in the left leg between her knees and toes. She noted that no doctor had recommended surgery, but Dr. Fletcher recommended physical therapy and a different pain doctor. She did note that Dr. Butler did not recommend surgery. On examination of the lumbar spine, the Petitioner developed symptoms of left-sided lumbar radiculopathy. Dr. Alpert noted an EMG, which was positive for lumbar radiculopathy at L5 with MRI findings that showed no evidence of significant foraminal stenosis. Dr. Alpert noted ongoing complaints of low back pain and left leg pain. Dr. Alpert opined that the Petitioner appeared to have sustained a traumatic work-related injury. He stated that the injury was not caused by precipitation, aggravation or acceleration of a preexisting progressively deteriorating or degenerative condition. Dr. Alpert stated that all treatment to date was reasonable and necessary. Dr. Alpert noted that he was not a spine surgeon or pain management specialist, but given the

ongoing complaints of low back and left leg pain, he would recommend that the Petitioner was seen for a second opinion by a spine surgeon given the EMG findings that showed L5 radiculopathy and/or a pain management doctor to consider either a facet injection or repeat epidural injection. Dr. Alpert stated that the Petitioner could return to work with restrictions, including avoiding lifting more than 20lbs and avoiding bending and stooping. Dr. Alpert also recommended an FCE given the injury had occurred 10 months prior.

Dr. Alpert later supplemented his report after reviewing pictures of the Petitioner riding a 4-wheeler or golf cart. (Pet. Ex. O pg. 9). Dr. Alpert stated the pictures did not change his opinion from his original report.

On December 30, 2022, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 92). She denied any improvement in her lower back pain. There were no significant changes on examination. There was nothing that could be done without authorization. Understandably, the Petitioner was very frustrated. Dr. Fletcher continued to recommend a surgical consultation, injections with pain management, and physical therapy. Dr. Fletcher performed a Toradol injection for pain relief while they awaited the IME report.

On January 4, 2023, the Petitioner restarted physical therapy at Professional Physical Therapy, PC. Pet. Ex. I pg. 117). She reported feeling very depressed and was not performing her exercises because she did not feel like doing anything. She was using her TENS unit and SI belt. She reported constant 7 out of 10 pain. She was no longer on any pain medication. The therapist noted that the Petitioner was very guarded during evaluation. She had increased myofascial tightness at the left hip. She also had decreased lumbar and left hip range of motion. She had a slow cadence with decreased step length. It was noted that the Petitioner stated multiple times that she was depressed. It was recommended that she attend physical therapy twice weekly for four weeks.

On January 9, 2023, the Petitioner was evaluated by Kacy Standiford, PA-C at Gibson Area Hospital Orthopaedics Clinic. (Pet. Ex. G pg. 55). The Petitioner reported that she injured her lower back on January 17, 2022, when she was lifting a bookcase at work and her coworker dropped their end. She stated she “threw out her back.” She reported that she had three rounds of physical therapy with temporary relief, as well as an SI joint injection without relief. She stated she initially saw Dr. Butler but had unfortunately lost contact with workers’ compensation. As a result of losing communication, the Petitioner began using her private insurance. She complained of pain localized over the low back and radiating into the left leg. She stated it was mostly over the left lateral thigh and stopped at the level of the knee. She had numbness, tingling and achiness persistent down into her feet. She noted that when seated in a chair, she could move her big toe but not the other toes. She felt her left leg was weaker than the right. All activities were painful, specifically while walking and riding in a car. She noticed temporary relief with therapy, but not with over-the-counter medications. On examination, the Petitioner stood and ambulated with a left-sided limp with discomfort. She was unable to perform heel-walking or toe-walking. She flexed forward to touch her knees but was unable to demonstrate extension. Sensation was diminished over L3, L5 and S1 on the left side. Strength was weakened when testing the hip flexion, anterior tibialis, and gastroc on the left side. X-rays of the lumbar spine demonstrated a normal lordotic curvature without significant degeneration of the disk or instability. It was noted the MRI previously performed demonstrated disk protrusion at L1-L2 that was posterior, central

and left-sided, contributing to central canal stenosis and left-sided foraminal stenosis. Additionally, there were disk bulges at L2-L3 and L4-L5. It was noted that all these findings were also persistent on the CT myelogram previously performed. The Petitioner was referred to Dr. Dragu for consultation and consideration of ESI injections to alleviate the radicular symptoms. If there was no significant change of her symptoms, a second MRI would be ordered.

On January 18, 2023, the Petitioner was evaluated by Dr. Francesco Vetri at Millenium Pain Center. (Pet. Ex. L pg. 7). She reported an injury occurring on January 17, 2022, when she was helping a coworker move a box when they jerked her body and she felt her back pop out of place. She complained of pain in the lumbar region and left leg. She noticed her pain was worsened by prolonged sitting, standing and walking. Lying back in a recliner with heat and her TENS unit helped. The Petitioner noted her previous injections and physical therapy, which only provided minimal relief. She noted that she was very sensitive to medications, and her last dose of Tramadol was at Thanksgiving, and she had a bad reaction. She noted that muscle relaxers failed her as well. On examination, the Petitioner's range of motion was grossly limited with pain. She had decreased strength. She had positive facet-loading and straight leg raise testing on the left side. There was diminished sensation in the L5 dermatome. The SI joint was tender to palpation. Dr. Vetri reviewed the MRI. He diagnosed the Petitioner with sacroiliac pain, lumbosacral spondylosis, left trochanteric bursitis, and lumbar radiculopathy. Dr. Vetri recommended a left SI joint injection and anti-inflammatory medications.

On January 20, 2023, the Petitioner followed up with Dr. Fletcher. (Pet. Ex. A pg. 98). She felt her pain was not improving. The IME report was still unavailable. There were no changes in her symptoms. The Petitioner was planning to use her group insurance for the SI joint injection. Dr. Fletcher gave her a Toradol injection. He recommended physical therapy, a spinal cord stimulator, TENS unit and SI belt. The Petitioner was kept on her work restrictions.

On January 24, 2023, Dr. Vetri performed an intra-articular SI joint injection at Millenium Pain Center. (Pet. Ex. L pg. 16).

On February 10, 2023, the Petitioner returned to Dr. Vetri at Millenium Pain. (Pet. Ex. L pg. 20). She reported that she received significant relief from the injection, but only for two days. Her pain then returned. She continued to have grossly limited range of motion, decreased strength, and positive provocative tests. She was tender to palpation at PSIS, parasacral muscles, and left trochanteric bursa. However, she did have decreased pain since the prior visit. Dr. Vetri noted the Petitioner had positive left facet findings likely contributing to her pain. He recommended a medial branch block and radiofrequency ablation to see if improved her pain.

On February 21, 2023, Dr. Vetri performed a left L5-L6 and L6-S1 injection at Millenium Pain Center. (Pet. Ex. L pg. 24).

On February 23, 2023, the Petitioner followed up with Dr. Vetri. (Pet. Ex. L pg. 12). She reported 10% of relief only from the injection for 4 hours. She stated she cleaned her house and was in excruciating pain. She did not know if she would have insurance beginning on March 1, 2023 since she had lost her job. There were consistent symptoms on examination. Dr. Vetri believed the Petitioner would benefit from a neurosurgery consultation with Dr. Seilby to discuss surgical

options including an SI joint fusion surgery. However, since the Petitioner had lost her job, she was referred back to Dr. Fletcher for further treatment options.

On February 24, 2023, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 103). She reported that she received the nerve block, which provided no relief. There were no changes in her symptoms or her physical examination. Dr. Fletcher believed that she had failed conservative treatment and needed consideration of an SI joint fusion. He referred her back to Dr. Fletcher for surgical consideration. Dr. Fletcher continued to await the IME report.

On March 21, 2023, the Petitioner followed up with Dr. Fletcher. (Pet. Ex. A pg. 22). She felt no improvement of her symptoms. There were no changes on physical examination. Dr. Fletcher referred the Petitioner back to Dr. Butler on her group insurance. He stated she had failed aggressive conservative treatment, and it appeared her SI joint was her major pain generator. He recommended that Dr. Butler perform an SI fusion. He noted the Petitioner was using COBRA benefits as she was terminated by her employer and not receiving any TTD benefits.

On April 2, 2023, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 27). She was in a lot of pain and requested a Toradol shot. She was not taking any other pain medications. There were no changes on physical examination, except continued loss of range of motion, decreased strength, positive testing, and tenderness. Dr. Fletcher continued to recommend she see Dr. Butler to pursue the SI joint fusion. Dr. Fletcher ordered an updated MRI of the lumbar spine. The Petitioner received a Toradol injection. She was also given a Handicap parking placard.

On May 15, 2023, the Petitioner underwent an MRI of the lumbar spine at Rayus Radiology. (Pet. Ex. E pg. 13). The MRI demonstrated a congenitally small canal contributing to central stenosis at some levels, L1-2 and L3-4 degenerative changes contributing to mild-moderate central stenosis, and L4-5 degenerative changes contributing to mild central stenosis.

On May 17th, 2023, the Petitioner saw Dr. Butler. (Pet. Ex. F pg. 31). He reviewed the patient's CT scan from April 1, 2022 again which demonstrated no stenosis at the L5-S1 level but just below the L4-5 disc the medial facet does appear to encroach upon the L5 nerve root as it traverses lower aspect of the disc before exiting through the neural foramen. This appears to be the likely source of her radicular pain. Dr. Butler found the patient does not require spinal fusion. She has little to no disc degeneration present at any lumbar level. Her spine is stable. Her symptoms are exclusively on the left side in the L5 dermatome. I believe an appropriate treatment option is consideration of a left-sided L5 hemilaminectomy with extension up to the L4-5 disc space. The patient does not require a discectomy but a decompression of the L5 nerve root from its point of exit from the thecal sac out into the neuroforamen. Excision of the medial facet spur visualized on the CT scan as well as the most recent MRI will likely provide substantial benefit for her clinical radicular pain complaints. I hesitate to consider sacroiliac joint fusion as the preponderance of her subjective complaints are radicular in nature and involve the L5 nerve root. The patient wants to proceed at her earliest convenience pending insurance approval. (Pet. Ex. F, pg. 30)

On May 19, 2023, the Petitioner followed up with Dr. Fletcher to review the MRI results. (Pet. Ex. A pg. 118) Dr. Fletcher then noted that Dr. Butler recommended an L4-5 laminotomy procedure,

and that the Petitioner wanted to move forward ASAPG. Dr. Fletcher performed a Toradol injection. Dr. Fletcher noted that he reviewed the IME report that provided a causal relationship.

On June 30, 2023, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 123). She felt no improvement of her symptoms. The Petitioner was given another Toradol injection, as well as a script for Nucynta. Dr. Fletcher again noted that Dr. Butler recommended an L4-5 laminectomy, and the Petitioner wanted to move forward ASAPG. She was given continued restrictions. However, she was terminated as there was no restricted duty job available.

The Petitioner followed up with Dr. Fletcher on August 1, 2023. (Pet. Ex. A pg. 128). She felt no improvement of her symptoms. Dr. Fletcher noted that she continued to have left lumbar radicular pain and chronic low back pain consistent with chronic SI joint instability. The Petitioner continued to use her TENS unit for pain management. She wanted to proceed with surgery ASAPG. Dr. Fletcher noted that another IME was scheduled. He stated that he reviewed the IME report that provided a causal relationship, but the Petitioner was still being tasked with having to attend another IME to approve the surgery recommended by Dr. Butler.

On September 5, 2023, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 133). She again felt no improvement of her symptoms. She moved with mild to moderate difficulty. Her examination symptoms remained the same. There was a note of flank tenderness and burning on urination. Dr. Fletcher noted clinical features of a UTI. She was given a script for Bactrim-DS. It was noted that she was being forced to attend another IME that was scheduled on September 20, 2023 with Dr. Van Fleet. Due to depressed mood, from no approval, the Petitioner was referred to Two Road in Mahomet. She also underwent a drug screen and was given a script for her UTI.

Oon September 20, 2023, Dr. Timothy A. VanFleet performed an IME at Orthopedic Center of Illinois. (Resp. Ex. 2 pg. 62). The Petitioner stated she worked for Silgan Containers and was lifting a bookshelf with a coworker weighing approximately 50lbs on January 17, 2022. It was noted that she started having back pain the following morning. Dr. VanFleet noted that the medical records from Dr. Fletcher noted that she was in extreme pain across the back and range of motion was limited. Dr. VanFleet then reviewed the remainder of the medical records and imaging scans. Dr. VanFleet then performed a physical examination, which demonstrated “no palpable discomfort.” The Petitioner was apparently able to forward flex and “touch her fingers to the level of her knees.” It was noted that she had good range of motion of the hips and knees, which was “painless.” Strength testing was “5/5 throughout.” It was noted that “reflexes were unremarkable” and “there is no evidence of any tension signs today.” Dr. VanFleet answered that there were no prior injuries, comorbid conditions or preexisting conditions. Dr. VanFleet stated the Petitioner had evidence of no findings on the original MRI, was released by the original spine surgeon at that time and rendered not a good candidate for surgery due to having no evidence of a treatable pathology. He noted there were no findings on her CT/myelogram, and an EMG study which was questionable for a left-sided L5 radiculopathy. Therefore, the Petitioner did not have a condition that would have been rendered symptomatic as a result of a work injury. Dr. VanFleet stated the fact that the Petiti9oner continued to be “followed over the course of two years and renders new and not previously evident pathology is consistent only with a progressive degenerative condition and would have no relationship whatsoever to any previous injury.” Dr. VanFleet stated there was no evidence of any condition that would have been affected by the lifting of a bookcase with a

coworker. He stated the traumatic work exposure did not directly cause the condition. He stated the work exposure did not aggravate, accelerate, or precipitate the "preexisting condition beyond its ordinary progression." He stated that an appreciate period of workplace exposure was not the sole cause of the Petitioner's condition, or at least, was not a material contributing causative factor in the condition's onset or progression. He simply stated: "This did not happen." He followed upon this by stating her imaging studies were unremarkable following the incident and she continued to complain of symptoms which were not corroborative by physical examination findings. Dr. VanFleet stated this was "skewed by the fact she had epidural injections which were not helpful and then had an SI joint injection which was thought to be helpful. This is not consistent with radiculopathy." According to Dr. VanFleet, nothing past the time she was released by Dr. Butler would be appropriate nor related to the work injury. Dr. VanFleet opined that no further treatment was needed. He stated the Petitioner could return to work with no restrictions.

On October 2, 2023, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 139). She had no changes in her symptoms nor physical examination. Dr. Fletcher was awaiting the IME report from Dr. VanFLeet. It was noted that Dr. VanFleet was "apparently unable to open up the images." The Petitioner was given a Toradol injection. She had a scheduled appointment with Grit & Grace Therapy in Mahomet on October 17, 2023 for her adjustment disorder with depressed mood. She was encouraged to perform a home exercise program.

On October 25, 20223, the Petitioner presented to the emergency room at Hoopeston Regional Health Center. (Pet. Ex. D pg. 38). She reported that she had been on workers' compensation and went to see a doctor who called her that morning and told her nothing was wrong with her. The Petiti9oner presented hyperventilating and short of breath. She admitted the phone call made her upset. She denied any pain or anxiety in her past. She was diagnosed with anxiety, depression, electrolyte abnormality and anemia. Blood work and an EKG were performed, which showed some wave changes. The Petitioner began smiling and stated she felt much better. She felt comfortable to be discharged home.

On October 25, 2023, the Petitioner followed up with Dr. Fletcher. (Pet. Ex. A pg. 144). She continued to have left lumbar radicular pain and chronic low back pain consistent with chronic SI joint instability. Dr. Fletcher noted that it had been 18 months with minimal improvement. The electrical studies demonstrated mild to moderate left L5 radiculopathy. The Petitioner had two lumbar epidural steroid injections and a left SI joint injection with some modest temporary relief. Dr. Fletcher reviewed the IME report from Dr. VanFleet and respectfully disagreed with his conclusions. He noted that the physical exam findings were inconsistent with his observations over the past 24 visits. He stated his conclusions were flawed and not credible. Dr. Fletcher recommended an FCE to objectively define her work capacity after the L4-5 laminectomy procedure with Dr. Butler.

On October 30, 2023, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 148). She denied any improvement of her symptoms and physical examination proved the same. Dr. Fletcher noted that he recommended an FCE to objectively define her work capacity at Athletico. He stated it would rebut Dr. VanFleet's opinion about her work capacity. Dr. Fletcher stated the Petitioner was unable to obtain employment in her present condition. It was noted that Dr. Butler recommended the L4-

5 laminectomy procedure, which was formally denied by workers' compensation. The Petitioner wanted to move forward ASAP on her group insurance and surgery was scheduled at Gibson City.

The Petitioner was also evaluated by Kayla M. Blundy, APRN at Hoopeston on October 30, 2023. (Pet. Ex. D pg. 62). She stated she was seen in the emergency room due to hyperventilating with shortness of breath as she was called by the workers' compensation doctor who told her nothing was wrong with her. She stated she was prescribed Lorazepam, which helped somewhat. She also tried Sertaline. A depression screen was provided. The Petitioner was diagnosed with dysthymic disorder and generalized anxiety disorder. She was prescribed Zoloft.

On November 1, 2023, the Petitioner called Hoopeston due to side effects from the medications. (Pet. Ex. D pg. 103). She stated she felt like she could not eat, but was keeping fluids down and did not feel dehydrated. She wanted to try a different medication. She was then prescribed Lexapro instead of Zoloft.

On November 10, 2023, the Petitioner returned to Hoopeston for a pre-surgical evaluation. (Pet. Ex. D pg. 133). Testing was performed and it was determined that the Petitioner might have had a UTI. On November 14, 2023, there is a message that her urine culture was negative. She was cleared for surgery pending cardiac clearance.

On November 21, 20223, the Petitioner was evaluated at Hoopeston for a follow-up on prediabetes, hypertension, obesity, GERD, urinary incontinence, sacroillitis, radiculopathy of the lumbar region, dysthymic disorder, and GAD. (Pet. Ex. D pg. 166). She had lost about 20 pounds, and her blood pressure was controlled. The Petitioner was worried about her upcoming surgery.

On November 28, 2023, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 153). There were no changes in her symptoms. Dr. Fletcher noted that she was unable to obtain employment in her present condition, and she was not receiving any income or workers' compensation benefits. It was noted that the Petitioner was scheduled for an L4-5 laminotomy procedure on December 18, 2023 with Dr. Butler.

On November 30, 2023, the Petitioner returned to Dr. Butler. (Pet. Ex. G pg. 60). She complained of consistent symptoms, describing them as aching, burning, sharp and shooting. The symptoms were aggravated by ascending stairs, bending, coughing, daily activities, descending stairs, driving, exercise, extension, flexion, lifting, lying/rest, rolling over in bed, rotation, running, sitting, sneezing, standing, twisting and walking. She was experiencing decreased mobility, limping and loss of balance. Dr. Butler noted a long history of lower back pain radiating to the left leg. The symptoms radiated from the posterior thigh into the lateral calf and occasionally into the feet and toes. The Petitioner stated the Nucynta was the only medicine that really provided any reasonable relief. It was noted that this visit was critical since he had not seen her for a few months while the approval process was continuing. On examination, she had significant tenderness to palpation and decreased range of motion. Straight leg raise testing was negative bilaterally. She had good strength in both lower extremities. X-rays of the lumbar spine were performed, which showed normal disk heights without instability on flexion or extension. The MRI demonstrated left-sided L4-5 facet joint spur with lateral recess narrowing and compression on the traversing L5

nerve root. Dr. Butler recommended a left-sided L4-5 laminotomy with L5 nerve root decompression surgery.

On December 14, 2023, the Petitioner underwent a preoperative visit with Dr. Butler. (Pet. Ex. G pg. 65). She complained of low back pain radiating into the lateral aspect of the left leg, sometimes below the knees, but not on a regular basis. She also had numbness and tingling in the same distribution and weakness in the great toe on the left, which had gotten better with time, but was still prominent. On examination, she had decreased sensation over L5 and S1 on the left and weakness of the extensor hallucis longus. She was referred for lab testing for surgical clearance. This was performed on December 15, 2023.

On December 18, 2023, Dr. Butler performed a lumbar laminotomy at L5 on the left with partial medial facetectomy and foraminotomy at Gison Area Hospital. (Pet. Ex. G pg. 88).

On January 2, 2024, the Petitioner returned to Dr. Butler. (Pet. Ex. G pg. 99). She was doing very well at this point in time. She stated that her left thigh pain that had been persistent for two years was completely resolved. She denied any numbness or tingling in the bilateral lower extremities or any issues with the incision. She did have an allergy to the adhesive, which she noticed on day three post-operation, but after changing tapes, it had resolved. On examination, the incision was well-healed with no surrounding erythema. There was a mild amount of post-operative swelling bilaterally, but no drainage. Dr. Butler trimmed the tails of the proximal and distal ends of the incision and applied a new dressing. Sensation was intact to light touch from L3-S1. Strength was full in the bilateral lower extremities. Dr. Butler noted that the Petitioner was doing very well two weeks post-operative with resolution of her radicular symptoms. The Petitioner understood that she did not need to cover the incision, but it was her preference until the incision healed more like a scar, so she was allowed to do so. Therapy was to be discussed at her follow up appointment six weeks post-operative.

On January 12, 2024, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 158). She stated she was doing much better after surgery but had some pain at the incision site. Due to the improvement since surgery, the Petitioner's mental status had improved. She was also losing weight with medications. Dr. Fletcher recommended physical therapy and a home exercise program.

On January 30, 2024, the Petitioner followed up with Dr. Butler. (Pet. Ex. G pg. 102). She reported complete relief of her radicular complaints following surgery. She stated she woke up in recovery and the preoperative pain was gone and had not returned. She had been walking without an assistive device for up to a couple of blocks. She had no issues with her incision. She was tapering off pain medications. On examination, she had a straight spine with a healed midline incision. There were no signs of swelling or infection. Neurological examination showed great strength in both lower extremities. Straight leg raise testing was negative. The Petitioner had good hip range of motion. Dr. Butler ordered six weeks of physical therapy. He stated the Petitioner was cleared to go back to her workout sessions and could even start to consider employment as a teacher's aide at the local school, which she lives close by.

On February 15, 2024, Dr. Fletcher provided a narrative report. (Pet. Ex. A pg. 164). Dr. Fletcher stated that he believed the Petitioner would be a surgical candidate based on her acute presentation.

After nearly two years, the Petitioner was now vastly improved following her surgical intervention. He noted that she had two lumbar epidural steroid injections, a left SI joint injection, electrical studies demonstrated mild to moderate left L5 radiculopathy, and a lumbar MRI providing an anatomical explanation for her pain complaints. Dr. Fletcher noted the Petitioner never showed any symptom magnification or drug-seeking behavior. He noted that she was terminated by her employer and was not receiving any income or workers' compensation benefits. Dr. Fletcher stated that all of the treatment received was reasonable and necessary to the work injury. He stated the" proof was in the pudding in this case with surgical treatment that I've advocated for a long period she has reported significant subjective improvement." Dr. Fletcher noted that her mental status had improved since the surgery. Dr. Fletcher stated the Petitioner was not ready to return to work as she had not started her post-operative therapy. He noted that she was unable to obtain employment in her present condition, but by May 1, 2024, she should be able to begin looking for new employment due to her improvement since surgery. Dr. Fletcher noted that Dr. Alpert, in his IME, confirmed the diagnosis of left L5 radiculopathy, relating it to the work injury. Then, Dr. VanFleet, after having a favorable IME by Dr. Alpert, performed an IME and disagreed. Dr. Fletcher did not agree with Dr. VanFleet's conclusions. He noted that his physical exam findings were not consistent with his multiple observations over two years that showed EHL weakness consistent with her abnormal L5 radiculopathy. Dr. Fletcher noted that Dr. VanFleet was the only provider who felt the Petitioner could return to work. He further noted that Dr. VanFleet did not order an FCE to determine if she could return to work without any restrictions despite her still being symptomatic and deconditioned. Dr. Fletcher believed the Petitioner would be at MMI sometime in April or May 2024.

On March 28, 2024, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 170). She complained of constant mild to moderate pain. However, she did have improvement of her symptoms. It was noted that she had received a favorable decision from SSDI. Dr. Fletcher recommended continued physical therapy and a home exercise program. He noted the Petitioner remained disabled.

On April 25, 2024, the Petitioner followed up with Dr. Fletcher reporting continued mild to moderate pain. (Pet. Ex. A pg. 175). She denied improvement. Dr. Fletcher noted improvements on examination. He also discussed the Petitioner's case with her physical therapist. He stated that they both believed the Petitioner was nearing MMI and will need permanent restrictions. The Petitioner accepted the fact that she would have some limitations. Dr. Fletcher noted that she would need some vocational rehabilitation.

On June 3, 2024, the Petitioner underwent an FCE at ATI Physical Therapy. (Pet. Ex. C pg. 38). The Petitioner complained of significant back pain that had progressively limited her functional ability. She noted that she should have had the surgery much sooner as it was 13 months that she treated for. It was noted that the foot was forward flexed in quiet sitting with a slow, shuffling gait and a lack of step through with left lower extremity weight-bearing. She also had a lack of any lumopelvic rhythm. The Petitioner's physical demand level was determined to be HEAVY. Based on the FCE, which was determined to be valid as the Petitioner provided full effort of her safe capabilities, she was determined to be at a SEDENTARY physical demand level.

On June 25, 2024, the Petitioner followed up with Dr. Fletcher to discuss the FCE results. (Pet. Ex. A pg. 181). Dr. Fletcher noted that she had a valid FCE and was placed at a sedentary work

level. Dr. Fletcher recommended vocational rehabilitation. He did not believe the Petitioner would be able to find gainful employment at her level of functionality. The Petitioner was discharged from physical therapy as she had plateaued. Dr. Fletcher recommended a local gym membership with a personal trainer. The Petitioner remained temporarily disabled. The Petitioner was placed on permanent restrictions pursuant to the FCE.

On July 26, 2024, the Petitioner returned to Dr. Fletcher with continued pain complaints. (Pet. Ex. A pg. 187). She reported difficulty walking. Due to her limited walking, Dr. Fletcher suggested that she get a walker if she had to go into a grocery store. It was noted that the Petitioner did feel 60% better since the start of her injury. Dr. Fletcher gave the Petitioner a Toradol injection. He also issued a permanent parking sticker.

On August 1, 2024, the Petitioner followed up with Dr. Butler. (Pet. Ex. G pg. 107). She reported continued improvement with her lower extremity numbness and tingling. She stated she had very little numbness and tingling in the legs except when sitting for prolonged periods of time or crossing of her legs. She was not working and was on SSDI. She noted that her walking was slowly improving, but she still had burning pain in the back and difficulties with left-sided lower back pain with all activities of daily living. On physical examination, she had a straight lumbar spine with a healed incision. Range of motion in forward flexion was hands to the knees. Extension was at 10 degrees. She had good strength in both lower extremities. Straight leg raise test was negative. Dr. Butler recommended that she advance her exercises at home as tolerated. He noted that she needed to gradually get off the pain medications and transition to over-the-counter medications. Dr. Butler stated the Petitioner had reached surgical MMI.

On August 26, 2024, the Petitioner again followed up with Dr. Fletcher with continued complaints. (Pet. Ex. A pg. 195). She remained on restricted duty with permanent restrictions pursuant to the FCE. Dr. Fletcher again noted that the Petitioner would require vocational rehabilitation. He provided a Toradol injection and noted that he had issued a permanent parking sticker and a walker. Dr. Fletcher also suggested that the Petitioner re-access her mental health provider.

On October 1, 2024, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 202). There were no significant changes in her symptoms or examination. Dr. Fletcher noted that after nearly three years, the Petitioner had reached MMI following surgical intervention that was delayed for more than a year due to lack of approval. Dr. Fletcher reviewed Dr. Butler's report, as well as vocational rehabilitation report. He noted that it was determined that a viable and stable labor market did not exist for the Petitioner as she graduated high school in 1980 and had not undergone any additional academic or vocational training in 44 years. The Petitioner had been employed by Silgan Containers since 1987, approximately 36 years prior to her date of termination. The Petitioner was 62 years of age and is considered of advanced age according to social security standards. She lacks any computer and/or keyboarding skills required for most jobs identified. As a result, Dr. Fletcher stated there was not a viable labor market because of the permanent restrictions issued based on his three years of caring for the Petitioner and on a valid FCE.

The Petitioner returned to Dr. Fletcher on October 30, 2024. (Pet. Ex. A pg. 210). She reported a flare-up of her back symptoms. Dr. Fletcher performed a Toradol injection. Due to the flare-up of symptoms, Dr. Fletcher ordered a couple sessions of physical therapy and prescribed Celebrex.

On November 27, 2024, the Petitioner followed up with Dr. Fletcher. (Pet. Ex. A pg. 217). She stated she had gotten some benefit from the Celebrex but could not tolerate it. Dr. Fletcher discussed consideration of Meloxicam. The Petitioner received a Toradol injection. She remained on restricted duty/permanent restrictions based on the FCE.

On January 22, 2025, the Petitioner followed up with Dr. Fletcher. (Pet. Ex. A pg. 224). He had reviewed the Respondent's vocational rehabilitation report and disagreed with the conclusions. He noted the report was without a written job description or interviewing the Petitioner. While the Petitioner was at MMI, Dr. Fletcher stated she would need ongoing medical maintenance for pain control. Due to her recent pain flare-up, Dr. Fletcher prescribed Nucynta and Meloxicam for pain control. Dr. Fletcher sent the Petitioner to Dr. Trudeau for updated electrical studies.

On February 14, 2025, the Petitioner returned to Dr. Fletcher. (Pet. Ex. A pg. 231). The Petitioner continued to have a flare-up of her symptoms. As such, Dr. Fletcher referred her again to Dr. Trudeau for updated electrical studies.

On March 5, 2025, Dr. Trudeau performed an updated EMG/NCS. (Pet. Ex. K, pg. 24). The studies demonstrated left L5 radiculopathy, mild to moderate in electroneurophysiologic testing characterization, with old or chronic features, consistent with persistent/residual lesion with a residual/recurrent component, consistent with the previous evaluation and clinical assessment of Dr. Fletcher.

On March 27, 2025, the Petitioner followed up with Dr. Fletcher to review the electrical studies. (Pet. Ex. A pg. 240). Dr. Fletcher noted that the electrical studies confirmed ongoing nerve involvement. It was noted that the Petitioner had gotten additional mental health treatment. He discussed the option for her to consider a spinal cord stimulator for pain control, which the Petitioner wished to pursue.

Disputed Issues

Is Petitioner's current condition of ill-being causally related to the accident?

The Petitioner's current condition of ill-being is related to the accident on 1/17/22. All of her treating physicians and every physician she has seen aside from Respondent's IME physician, Dr. Van Fleet, believe her condition of ill-being is related to the accident on 1/17/22.

Dr. Fletcher

Kathy Harding (Head of HR for the Respondent) took Petitioner to see Dr. Fletcher in her personal vehicle following the accident and was present during office visits. Petitioner was not given a choice of physicians (Trans pgs. 71-72). Dr. Fletcher testified to the following during his deposition:

1. "She was a direct employer referral from Silgan, which is a manufacturing company in the Hoopeston area. I had seen multiple of their employees for the last several years and I saw her right after work injury on January 19th, 2022 (corrected from 2019 in following testimony). Thus, I saw her within two days of her injury. She was actually even brought to my office by the employee's HR Director because of the acuteness of her injury." (Pet. Ex. N pg. 12).

2. Dr. Fletcher was very familiar with the jobs at Silgan. "Yes, I am very familiar with the jobs at Silgan Containers. I've actually done a couple of work site evaluations." (Pet. Ex. N pg. 14).

3. "In my opinion, there's a causal relationship between her work injury , which I saw her for two days afterwards, and the ensuing treatment she's had, including all the injections and eventually the surgical treatment that was done by Dr. Butler." (Pet. Ex. N pg. 19).

4. "I am the only physician that's seen her from the start to the finish. She was consistent in her subjective complaints. Her physical exam was consistent in her subjective complaints. Her physical exam was consistent for the last three years. She has diagnostic testing that provided a basis for Dr. Butler to go ahead and do the surgery. She had electrical studies that confirmed the diagnosis. The proof in the pudding is that, you know, she finally got some relief, not perfect relief, but she was vastly improved after the surgical procedure. So I think that speaks for itself." (Pet. Ex. N pg. 23).

5. Dr. Fletcher's opinion as far as her ability to work and until an elective timeframe of February 2024, is that she was totally temporarily disabled. (Pet. Ex. N pg. 25).

6. Dr. Fletcher testified that Dr. Alpert (Respondent's IME physician) backed me up. I mean, he basically provided a history that she complained of left leg pain since the date of her injury, that she had L5 radiculopathy based on the EMGs. And he also gave the opinion that she had, in his opinion, a traumatic work-related injury. So those opinions were…were just basically backstopping what I had said as—as a treating physician. (Pet. Ex. N pg. 26-27).

Doctor Fletcher disagreed with Dr. Van Fleet (Respondent's SECOND IME physician) for the following reasons:

1. He released her back to regular work, which is, you know, absolutely ridiculous, and didn't order a functional capacity evaluation. A functional capacity evaluation obviously shows she doesn't meet the physical demands. I mean, she obviously, as a 59-year-old woman, had pre-existing degenerative changes. But she was asymptomatic, performing her job at Silgan for almost 40 years without any problems until her work injury. Certainly, she had a permanent aggravation of a pre-existing condition. So, I disagree with him on that. And I think I'm in a superior position because I've seen this lady almost 40 visits. He's seen her once. I have seen her over a three-year period. (Pet. Ex. N pg. 27-28).

Dr. Fletcher agreed with Dr. Chen (neutral opinion) for the following reasons:

1. Dr. Chen had endorsed the recommendation about doing some functional capacity testing to define her work capacity and that she was impaired from employment prior to the surgical intervention that she underwent in December of 2023. (Pet. Ex. N pg. 34).

2. The operative report obviously confirmed that she had an anatomical explanation for her ongoing complaints and why she would benefit from the surgery. (Pet. Ex. N pg. 36).

Dr. Fletcher testified that the FCE was considered a valid test. It provides some basis as far as for me to give objective opinions. Number one opinion, she could not go back to her job as a storeroom attendant, which the physical demand level is determined to be at the heavy work level. And so her work capacity that she demonstrated was at the sedentary work level with occasional lift 0 to 10 pounds. She did have some capabilities of some light work level capabilities, basically falling at the sedentary light level. And so, I utilize this test to provide an objective basis for the restrictions that I issued for her. (Pet. Ex. N pg. 44).

Dr. Fletcher issued the following permanent restrictions for the Petitioner and testified they were the result of the work accident:

She must be able to alternate sit and stand as needed

She can't walk more than 5,000 feet per work shift

She should not sit or stand for more than 30 minutes at a time.

Workday maximum of 6 hours per day

Sedentary work level with occasional 0-10 pounds lifting. (Pet. Ex. N pgs. 44, 62).

Dr. Fletcher also reviewed Dr. Butler's narrative report. He testified that the narrative confirmed why the surgery was reasonable and necessary. "I mean, he provided his-his opinion why he did so and it was not done in a cavalier fashion." Dr. Butler deferred to Fletcher about future treatment and return to work. (Pet. Ex. N pg. 51) Dr. Fletcher also testified that the proof is the pudding, Petitioner felt better after surgery she doesn't have radicular pain or foot drop following surgery. She is "much better." (Pet. Ex. N pg.69)

Dr. Fletcher opined to a reasonable degree of medical certainty, based on his experience and vast knowledge of the labor market force in the Metro East Central Illinois marketplace, there is no labor market for Ms. Watson. "Also, the fact that she's a 60-yer-old female with ongoing medical issues who would have to—if she was going to be hired, most employers are doing post-job-offer medical exams, that she may have the difficulty of passing a –a post-job-offer medical exam." (Pet. Ex. N PG. 57)

Dr. Fletcher has been the Petitioner's treating physician for over 3 years. His opinions are credible, consistent and supported by objective findings. Respondent sent (actually drove) the Petitioner to Dr. Flecher two days following the accident and then disregarded his opinions and failed to pay his bills.

Dr. Butler

Dr. Butler is Petitioner's treating physician. His medical treatment is detailed above. He is clear on the Petitioner's need for surgery. On May 17th, 2023, the Petitioner saw Dr. Butler. He reviewed the patient's CT scan from April 1, 2022, again which demonstrated no stenosis at the L5-S1 level but just below the L4-5 disc the medial facet does appear to encroach upon the L5 nerve root as it traverses lower aspect of the disc before exiting through the neural foramen. This appears to be the likely source of her radicular pain. Her symptoms are exclusively on the left side in the L5 dermatome. I believe an appropriate treatment option is consideration of a left-sided L5 hemilaminectomy with extension up to the L4-5 disc space. The patient does not require a discectomy but a decompression of the L5 nerve root from its point of exit from the thecal sac out into the neuroforamen. Excision of the medial facet spur visualized on the CT scan as well as the most recent MRI will likely provide substantial benefit for her clinical radicular pain complaints. I hesitate to consider sacroiliac joint fusion as the preponderance of her subjective complaints are radicular in nature and involve the L5 nerve root. The patient wants to proceed at her earliest convenience pending insurance approval." (Pet. Ex. F pg. 30).

Dr. Alpert

Respondent's own IME physician provided causation. On December 20, 2022, Dr. Joshua Alpert performed an IME at Fox Valley Orthopedics. (Pet. Ex. O, pg. 2). The Petitioner reported that she worked as a storeroom attendant. On January 17, 2022, she was working with a coworker where they were lifting bookcases, and the coworker let go causing her to feel lower back pain. This is consistent with the previous histories of the accident.

Dr. Alpert found on 1/17/22, Petitioner sustained low back pain and developed symptoms of left-sided lumbar radiculopathy. She had an EMG, which is positive for lumbar radiculopathy at L5 with MRI findings that shows no evidence of significant foraminal stenosis. She has ongoing complaints of low back pain and left leg pain. (Pet. Ex. O pg.4).

Dr. Alpert opined, "based on her history, she is complaining of low back pain with left leg pain since an injury that occurred at work. She has an L5 radiculopathy on EMG with an MRI that does not show any significant nerve compression. This appeared to be a traumatic work-related injury at this point." (Pet Ex. O pg. 5).

Dr. Alpert even suggested that Petitioner obtain a second opinion form another spinal surgeon given the EMG findings which show L5 radiculopathy or a pain management doctor to consider either facet injection or repeat epidural injection given her left-sided L5 radiculopathy. (Pet. Ex. O pg. 6).

Dr. Alpert later supplemented his report after reviewing pictures of the Petitioner riding a 4-wheeler or golf cart. (Pet. Ex. O, pg. 9). Dr. Alpert stated the pictures did not change his opinion from his original report.

Dr. Alpert is a Board Certified, fellowship-trained orthopedic surgeon. Of note, this is the second physician Respondent has sent Petitioner to and subsequently disregarded his opinions. Ironically, Respondent did not enter their own Section 12 examiner's report into evidence, Petitioner did.

Dr. Van Fleet

The opinions of Dr. Van Fleet, who saw Petitioner once, are not credible or persuasive for the following reasons:

1. Respondent paid Dr. Van Fleet $2,000.00 for one hour of his time. (Resp. Ex. 2 pg. 16).

2. He could not point to any records that indicate Petitioner ever had treatment for her back prior to the injury or that she ever had any issue performing her job duties prior to accident. (Resp. Ex. 2 pgs. 16-17).

3. Even though Dr. Trudeau clearly opines there is left L5 Radiculopathy, Dr. Van Fleet stated the EMG was questionable for left sided radiculopathy while simultaneously admitting he is not qualified to perform EMGS and typically relies on the doctors qualified to perform them and their interpretations. (Resp. Ex. 2 pg.18).

4. He never reviewed the actual MRI or CT films. (Resp. Ex. 2 pgs. 20-21).

5. Dr. Van Fleet did not carefully review the records he was given. He indicated in his report that Petitioner did not have any relief from epidural injections, yet Dr. Santiago's records state she received 100% relief for four days following the epidural injection. (Resp. Ex. 2 pg. 23).

6. Dr. Van Fleet never asked Petitioner what her pain was on the date of IME. (Resp. Ex. 2 pg. 24).

7. He relied on Dr. Butler records in formulating opinions and does not disagree with the following Dr. Butler opinion: He reviewed the patient's CT scan from April 1, 2022, again which demonstrated no stenosis at the L5-S1 level but just below the L4-5 disc the medial facet does appear to encroach upon the L5 nerve root as it traverses lower aspect of the disc before exiting through the neural foramen. This appears to be the likely source of her radicular pain. (Resp. Ex. 2 Pgs. 25, 28) However, he stops agreeing with Dr. Butler when Dr. Butler indicates Petitioner needs a surgery but then testifies that he doesn't have an opinion on Dr. Butler's findings regarding the surgery since he has not reviewed the records including the operative report. (Resp. Ex., 2 pgs. 31-32).

8. Dr. Van Fleet disagrees with ALL of the treating physicians and Respondent's own IME physician, Dr. Alpert and an independent physician, Dr. Chen as to causation.

9. Dr. Van Fleet found no diagnosis of radiculopathy despite every treating physician diagnosing Petitioner with radiculopathy and an EMG confirming it. (Pet. Ex. 2 pg. 46).

10. Dr. Van Fleet has no explanation as to why Petitioner was able to work unrestricted without issue, had zero treatment for her back and had zero symptoms prior to her work accident and immediately following her accident had symptoms, required extensive treatment (including surgery) and was unable to work. Dr. Van Fleet believes it is a natural progression of her underlying degenerative condition. (Resp. Ex. 2 pg. 44) It is not reasonable that this condition just coincidentally manifested symptoms and the need for treatment the very next day following the work accident.

11. Dr. Van Fleet testified, "It's called life," and bases his reasoning for this on his six sentences detailing his physical examination in his report. (Resp. Ex. 2 pgs. 45, 48).

12. Dr. Van Fleet's opinions are inconsistent, unpersuasive and are not supported by the medical records including the operative report, films and care and treatment following surgery. The Petitioner testified that her radicular complaints were completely resolved following the surgery. (Trans. pg. 103).

Respondent has cut Petitioner's benefits off claiming that her condition is pre-existing and wasn't aggravated by the accident. Respondent relies on their third physician choice, Dr. Van Fleet (while disregarding the other two physicians). When an employee with a preexisting condition is injured in the course and of their employment the Commission must decide whether there was an accidental injury which arose out of the employment. *Sisbro, Inc. v. Industrial Comm'n,* 207 Ill.2d 193, 278 Ill. Dec. 70. 797 N.E.2d 665, (2003). Even though an employee has a preexisting condition which may make them 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. *Caterpillar Tractor Co., v. Industrial Comm'n.,* 129 Ill.2d 52, 133 Ill. Dec. 454, 541 N.E.2d 665 (1989). When a chain of events which demonstrate 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 employees' injury. *Shafer v. Illinois Workers' Compensation Comm'n,* 2011 Ill.App. (4th) 100505 WC. The chain of events principles has been applied where an accident is claimed to have aggravated a preexisting condition. See *Schroeder v. Illinois Workers' Compensation Comm'n*, 2017 IL. App. (4th) 160192WC.

The Arbitrator has carefully reviewed and considered all the evidence and finds Petitioner has proven by the preponderance of the credible evidence that her current conditions are causally related to her 1/17/22 work accident, as set forth more fully below.

Prior to her work accident, Petitioner did not have any issues performing her job duties. Petitioner had not undergone any medical treatment for her lumbar spine. All of the physicians Petitioner saw for her injuries documented the same history and complaints of pain. Petitioner's treating physicians and Respondent's Section 12 examiner, Dr. Alpert, casually related Petitioner's injuries to her work accident. Respondent engaged in physician shopping. Petitioner was sent to two physicians by the Respondent, only for the Respondent to choose to disregard their opinions. Respondent sent to several doctors to opine on their own vocational expert surveillance video in an attempt to diminish Petitioner's credibility. Dr. Alpert, Dr. Van Fleet and Mr. Belmonte all found the surveillance did not alter their opinions. In fact, <u>every single physician</u> and vocational expert testified there were no signs of symptom <u>magnification or malingering.</u>

The Arbitrator finds Petitioner's current condition of ill-being is causally related to the accident on 1/17/22.

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

The Arbitrator notes that the treatment provided to the Petitioner helped her, including the surgery. (Trans Pg. 103) The Arbitrator finds that the medical services that were provided to Petitioner were reasonable and necessary, and that the liability for such treatment through the present is a result of the 1/17/22 work accident.

The Arbitrator finds the outstanding medical bills from Safeworks, Prescription Partners, ATI Physical therapy, Hoopeston Health/Carle Health Systems, Spine Consultants, Gibson Area Hospital/Orthopedics Clinic, Christie Clinic, Professional Physical Therapy, PC, Alikai Health, Memorial Medical Center and Millenium Pain Center totaling $22,081.76 are reasonable and necessary under the Act and should be paid.

Under Section 8(a) of the Illinois Workers' Compensation Act, the Employer is to pay necessary medical expenses. "The Employer shall provide and pay the negotiated rate, if applicable, or the lesser of the health care provider's actual charges or according to a fee schedule, subject to Section 8.2, in effect at the time the service was rendered for all the 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."

The Arbitrator finds the medical services that were provided to the Petitioner were reasonable and necessary.

Is Petitioner entitled to TTD and TPD?

Petitioner was placed at MMI by Dr. Fletcher on 6/25/24. He indicated she is only 60% better from the time of her injury. (Pet. Ex. A pg. 184) Petitioner testified that she had a flare up after her FCE and received additional treatment and Toradol injections. (Trans Pg. 107) In January Petitioner received a prescription for Nucynta and was sent for an updated EMG study. After the EMG, she was told she would need a spinal cord stimulator which was not approved. Her follow up appointment with Dr. Fletcher was May 2nd, 2025. (Trans Pgs. 106, 107) Petitioner testified she is in pain every day. She experiences burning across her back and struggles with walking, sitting, standing and utilizes a walker or shopping cart when she has to go places. (Trans Pgs. 113-114) When asked if she could work, Petitioner indicated she is unable to sit, stand or walk at the present time. This was observed during her hearing and at one point bringing the Petitioner to tears. (Trans Pg. 115)

Petitioner received no vocational assistance. She did contact the potential employers outlined by Respondent's vocational expert and was not able to obtain an interview due to her restrictions and/or experience. (Trans Pg. 109)

Petitioner was terminated with restrictions on 2/14/23. Petitioner's benefits were cut off by Respondent on 7/10/24. (Trans Pg. 64)

The Arbitrator finds the Petitioner is entitled to TTD of $684.00 per week for 59 6/7 weeks, commencing February 14th, 2023 through April 26th, 2024. The Arbitrator finds Petitioner is entitled to TPD of $684.00 per week for 40 weeks, commencing July 10th, 2024 through April 9th, 2025.

Nature and extent of injury

Petitioner is permanently and totally disabled. The accident on 1/17/22 is not in dispute.

Petitioner has been given permanent restrictions of:

No walking more than 5,000 feet per work shift

No sit or stand more than 30 minutes at a time.

Work day maximum of 6 hours per day

Sedentary work level with occasional 0-10 pounds lifting. (Pet. Ex. N pg. 44 and Valid FCE)

Petitioner was evaluated, at her own expense, by a certified vocational rehabilitation counselor, David Patsavas. Mr. Patsavas started Independent Vocational Rehabilitation Services 35 years ago. (Trans Pg. 8) He has worked at least a hundred cases in central Illinois. (Trans Pg. 9) Mr. Patsavas met with Petitioner in person twice and spoke to her on the phone approximately six times. (Trans. Pg. 12) Meeting in person is important, "so you can observe the individual as far as personality, eye contact, physical difficulties they may have as far as sitting, standing, attire, you know, were they able to get to the appointment themselves or did someone have to take them there, so all those things are assessed. I think it is critical to have that. (Trans Pg. 14) Mr. Patsavas testified as to the importance of the treating physician over an IME physician. " Well, the treating physician always has priority because, again, as a CRC you're ethically bound to represent the client if you're providing services to them so I think the aspect of the treating physician is the one that—usually they're working with the individual the longest. An IME may be once or twice shot, kind of a very limited snapshot of where that person is at that time and their interpretation.
Question: Oaky, so is it safe to say you give more weight to the treating physician?
Answer: yes. (Trans Pg. 18).

Mr. Patsavas believes based on a reasonable degree of vocational certainty, that Petitioner is unable to perform her pre-injury job. (Trans Pg. 28).

In regard to whether or not there is a stable labor market for the Petitioner, Mr. Patsavas testified as follows:

"Based on all the records that I reviewed, my interview with her, the limitations that I have identified in the FCE, her lack of transferable skills, lack of education over the last 40 years, the

fact that she worked for one employer for 36 years and they were not able to accommodate her, the likelihood is that there's not a viable and stable labor market available to her. (Trans Pg. 28).

Mr. Patsavas testified that Petitioner's restrictions would be difficult for any employer to accommodate. He focused on the following:

Her pain, which would take away from her activity and concentration.

Her maximum lifting restriction of 10.4 pounds. It is a fraction above sedentary but coupled with her sit/stand restriction, she is well into the sedentary category.

Petitioner's limited number of work hours. 30 hours per week.

Walk restriction. (Trans. Pg. 32).

Mr. Patsavas performed a transferable skills analysis and out of the 12,761 job titles only a handful came up. This search included full time and part-time jobs. (Trans Pg. 58).

A single job or even a few part time jobs do not make a stable labor market. (Trans Pg. 62).

Question: "Do you know of any companies in your searches that you did, whether it be full-time or part-time, that would take somebody at almost age 63, be willing to teach her a new computer program, accommodate her restrictions including sit/stand, walking restriction, lifting restriction, 30 hour workweek, no education in 40 plus years? Do you know any companies or employers in the area in which she lives and is reasonable for her to travel that would hire her?" Answer: No, I don't. (Trans. Pg. 63).

Mr. Patsavas reviewed Jospeh Belmonte's vocational report and had the following criticisms:

1. He has never heard of an employer considering 30 hours per week full time. (Trans Pg. 32)
2. Mr. Patsavas didn't understand why Mr. Belmonte never met with the Petitioner. "I mean, definitely he would be at a disadvantage because he couldn't obtain the visual aspect of Ms. Watson definitely being uncomfortable after a period of time, having to stand, sit as far as pain behavior and things like that. Also, you are not able to obtain in-person communication skills or the more detail you can get with meeting an individual other than just looking at reports, so I think it gives more credibility once you meet with an individual. (Trans Pg. 35-36).
3. Mr. Belmonte, referencing employment experience from 20 years ago, is irrelevant. Anything beyond 20 years is not a transferable skill. Some of Petitioner's job experience Mr. Belmonte relied on were performed during Petitioner's teenage years, some were part time and some were even less than one month in duration. Working at McDonalds and the concession stand at the baseball field when you are in high school is not a transferable skill. (Trans. Pg. 41).
4. Mr. Belmonte had several inaccuracies in his report:
    1. Indicated she was able to purchase up to $500 and she was not. (Trans. Pg. 42).

2. Used 15 pound lifting restriction which is above her restrictions and the valid FCE (Trans. Pg. 43).
3. Indicated she could work 32 hours per week which is above her restrictions (Resp. Ex. 3 Pg. 17).
4. Indicated that Silgan would have maintained her in her usual and customary job with existing physical restrictions had she been able to stay for the entire day yet she has restrictions that don't allow for staying the entire day and the ability to lift over 20 pounds is above her restrictions. (Trans. Pg. 45).
5. Mr. Belmonte provided data from the US department of Labor and Bureau of Labor statistics indicating 40% of people aged 55 and older were working or actively looking for work in 2014. This data is over ten years old and doesn't take into consideration how many or what percentage of persons over 55 looking for work has sedentary restrictions. (Trans Pg. 47, 48).
6. Mr. Belmonte indicated Petitioner was performing clerical administration functions using all of the Microsoft Office products and Oracle EnterpriseOne. This is inaccurate. She had no understanding of those programs. There is no evidence that other than inputting data into forms that have already been created, that Petitioner has any experience of knowledge operating software programs. (Trans. Pg. 49).
7. Mr. Belmonte's labor market survey only contained five jobs. Normally, a labor market survey has a minimum of 20 jobs. "The fact that(Belmonte) only identified could be the fact that that's all that was available within—I think they used a one-hour radius. One of the jobs was 60 miles away even though she had a 30-minute driving restriction (sit/stand). Some of the other jobs were either part-time or seasonal as far as the accounting clerk, having required skills with computers. Not one of those five I thought was a viable, stable work opportunity for her." (Trans. Pg. 50).
8. Petitioner contacted the few potential employers identified by Mr. Belmonte and no job offers or interviews came out of contacting them. (Trans. pg. 51,109).

Mr. Belmonte, Respondent's vocational expert, testified at hearing. His testimony is not credible for the following reasons:

1. Never met with Petitioner or talked over phone. (Trans. Pg. 153).
2. He actually relied on Mr. Patsavas' report for his background information. (Trans. Pg. 154). In fact, he testified, "...in this particular case I don't believe that I was flying blind because I had a competent evaluator in Mr. Patsavas who took a good history so I was relying , for her educational background, work history, things along those lines, on the assessment of Mr. Patsavas. (Trans. Pg. 176).
3. Relied only on one IME physician's records. Did not see Dr. Butler records or records from Respondent's other IME physician. Dr. Alpert. (Trans. 189-190).
4. Admits he used the wrong restriction in determining Petitioner's employability specifically, when he indicated if Petitioner had been able to work the full day and lift 20 pounds, she could have maintained her usual and customary employment. (Trans. Pg. 197).
5. Also admits Petitioner can't stay for the whole day and that he used the wrong calculation of 32 hours per week when it should have been 30. (Trans. Pg. 198).
6. Although his report indicated Petitioner's age was not a factor. Mr. Belmont admits, on cross-examination, in numerous prior reports generated by his own office, routinely, they

consider persons over 55 years of age, advanced age and they have difficulty adjusting to other forms of work. He testified on cross examination that the Petitioner being almost 63 years of age is in fact a factor in finding employment. (Trans Pg. 200).

7. Admitted on cross examination that Petitioner's, restrictions and age are significant factors. (Trans. Pg. 202).

Section 8.lb of the Illinois Workers' Compensation Act ("Act") addresses the factors that must be considered in determining the extent of permanent partial disability for accidents occurring on or after September 1, 2011. 820 ILCS 305/8.1b (LEXIS 2011). Specifically, Section 8.1b states:
For accidental injuries that occur on or after September 1, 2011, permanent partial disability shall be established using the following criteria:

A. A physician licensed to practice medicine in all of its branches preparing a permanent partial disability impairment report shall report the level of impairment in writing. The report shall include an evaluation of medically defined and professionally appropriate measurements of impairment that include but are not limited to: loss of range of motion; loss of strength; measured atrophy of tissue mass consistent with the injury; and any other measurements that establish the nature and extent of the impairment. The most current edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment" shall be used by the physician in determining the level of impairment.
B. In determining the level of permanent partial disability, the Commission shall base its determination on the following factors:
(i) the reported level of impairment pursuant to subsection (a);
(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.

No single enumerated factor shall be the sole determinant of disability. In determining the level of disability, the relevance and weight of any factors used in addition to the level of impairments reported by the physician must be explained in a written order. *Id.*

Considering these factors in light of the evidence submitted at trial, the Arbitrator addresses the factors delineated in the Act for determining permanent partial disability.

With regard to subsection (i) of §8.1b(b), the Arbitrator notes that no permanent partial disability impairment report was submitted into evidence and, therefore, the Arbitrator gives no weight to this factor in determining permanent partial disability.

With regard to subsection (ii) of §8.lb(b), the occupation of the employee. Petitioner was employed as a Storeroom attendant. Petitioner was unable to return to her prior occupation due to her work restrictions. As such, the Arbitrator gives significant weight to this factor in determining permanent partial disability.

With regard to subsection (iii) of §8.1b(b), the Arbitrator notes that Petitioner was 59 years old at the time of the accident. The Arbitrator views Petitioner as an older individual near the end of her work life. Based upon her advanced age, it will be difficult for Petitioner to secure subsequent employment and her ability to work. This factor was identified as a factor making it difficult for Petitioner to find work. As such, the Arbitrator gives significant weight to this factor in determining permanent partial disability.

With regard to subsection (iv) of §8.1b(b), Petitioner's future earnings capacity. Petitioner is unable to return to work as a Storeroom attendant. Respondent's vocational expert could only identify five jobs, none of which would even interview Petitioner. Petitioner has significant work restrictions and barriers to reentering the workforce. As such, the Arbitrator gives significant weight to these factors in determining permanent partial disability.

With regard to subsection (v) of §8.lb(b), evidence of disability corroborated by the treating medical records, the Arbitrator notes that Petitioner underwent a valid FCE which identified Petitioner's various restrictions. Dr. Butler released Petitioner to Dr. Fletcher to determine restrictions. Dr. Fletcher prescribed significant restrictions to include:

> She must be able to alternate sit and stand as needed;
> Limited walking per work shift;
> She should not sit or stand more than 30 minutes at a time;
> Work day maximum of 6 hours per day; and
> Sedentary work level with occasional 0-10 pounds lifting.

As such, the Arbitrator gives significant weight to this factor in determining permanent partial disability.

Petitioner believes she is permanently and totally disabled under the "Odd-lot" category because of her work accident. "An employee is totally and permanently disabled when he is unable to make some contribution to the work force to justify the payment of wages. *Ceco Corp. v. Industrial Comm'n,* 447 N.E. 2d 842, 845 (Ill. 1985). A person is totally disabled when he or she is incapable of performing services except those for which there is no reasonable stable market. *Id*. If the disability is limited but not obvious, they may still be entitled to PTD benefits by proving they fit into the "odd-lot" category if they can demonstrate they will not be employed regularly in any well-known branch of the labor market. *Id*.; *Valley Mound & Iron Co. v. Industrial Comm'n*, 419 N.E.2d 1159 (Ill. 1981). An employee can prove they fall into the odd-lot category by either (1) showing a diligent but unsuccessful job search or (2) demonstrating that their disability coupled with their age, training, education and experience does not permit the employee to find gainful employment. *ABB C-E Serv. V. Industrial Comm'n*, 737 N.E.2d 682 (5th Dist. 2000). Once the employee makes this showing, the burden shifts to the employer. The employer must show more than a theoretical possibility of an available job and cannot rely on speculative testimony that the employee has the potential for employment. *Walliser v. Waste Mgmt. East,* 12 ILWC 2451 (Sept. 29, 2017).

The Arbitrator finds Petitioner has proven by the preponderance of the evidence that Petitioner is entitled to permanent total disability benefits within the "odd lot" category (2) because of her age,

skills, training, restrictions, and that Petitioner is not regularly employable in a well-known branch of the labor market. *See* also *Westin Hotel v IC*, 372 Ill.Appg.3d 527, 544 (2007). Once Petitioner made her *prima facia* showing, the burden shifted to Respondent to show that Petitioner could be regularly employed in a well-known branch of the labor market. The Arbitrator finds that Respondent failed to sustain its burden. In fact, Respondent's vocational expert could not identify even one realistic employment opportunity.

Given the facts and circumstances at hand, including the numerous physicians finding treatment reasonable and necessary, as well as the fact that Respondent produced no credible expert opinion as to a realistic stable labor market, the Petitioner should be found permanently and totally disabled.

The Arbitrator finds Petitioner permanently and totally disabled.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC012713
Case Name	Joshua Kozak v. State of Illinois - Graham Correctional Center
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0257
Number of Pages of Decision	12
Decision Issued By	Amylee Simonovich, Commissioner, Kathryn Doerries, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Joseph L. Moore

DATE FILED: 9/14/2026

/s/Kathryn Doerries, Commissioner
Signature

DISSENT

/s/Amylee Simonovich, Commissioner
Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF)
SANGAMON

☐ 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

JOSHUA KOZAK,

Petitioner,

vs. NO: 23 WC 012713

STATE OF ILLINOIS,
GRAHAM CORRECTIONAL CENTER,

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, causation, notice, medical expenses, and prospective medical care, and being advised of the facts and law, reverses the Decision of the Arbitrator, and denies Petitioner's claim for compensation, for the reasons stated below.

The Arbitrator found that Petitioner gave timely notice and proved a repetitive trauma injury to the hands and arms arising out of and in the course of his employment which manifested on April 24, 2023. The Arbitrator further found Petitioner's current condition of ill-being was causally related to the accident and awarded medical expenses and prospective medical care as recommended by Dr. Bradley. TTD was not an issue as no lost time from work was alleged. The Commission views the evidence differently and finds Petitioner failed to prove by the preponderance of the evidence that his bilateral carpal tunnel and cubital tunnel syndromes arose out of and in the course of his employment and were causally related to his employment activities.

Factual Background

Petitioner brought this claim alleging he developed bilateral hand and elbow injuries resulting from repetitive trauma while performing his job duties as a correctional officer. Petitioner's employment commenced in August of 2014 and he had been employed as a correctional officer for nine years when he first sought treatment with Dr. Bradley on April 24, 2023. Petitioner had retained legal representation before seeking treatment and received a referral to see Dr. Bradley. Petitioner reported having symptoms in his hands and arms for the past "four plus years" which placed the initial onset of symptoms sometime in early 2019 or 2018. (PX3 at 2) Petitioner further reported his symptoms had worsened during the Covid pandemic due to increased keying during that time frame. *Id.* Petitioner reported he hoped the symptoms would improve after the shutdown ended but his symptoms persisted. Dr. Bradley noted positive exam findings consistent for bilateral cubital tunnel and bilateral carpal tunnel syndromes. Dr. Bradley ordered EMG/NVC testing, which was performed on April 24, 2023, and confirmed the diagnoses. Petitioner returned to Dr. Bradley on May 1, 2023, after the nerve testing and received an injection into the right carpal tunnel. The injection provided relief for two to three days. On July 3, 2023, Dr. Bradley recommended surgery.

At Respondent's request, Dr. Crandall performed an IME on July 26, 2023. He opined that the employment was not a cause of Petitioner's conditions. Dr. Crandall's opinion was based in part on his personal tour of the facility. Dr. Crandall personally opened cell doors, chuckholes, and tested handcuffs and padlocks. Dr. Crandall opined that the work activities did not have the intensity, repetition, severity, awkward positioning, or vibration to cause compression neuropathy. (RX2)

Petitioner brought the matter to trial seeking compensation for medical expenses and prospective medical care for bilateral cubital tunnel and bilateral carpal tunnel releases. Petitioner's trial motion was noticed as a regular request for hearing. At the commencement of proceedings, the matter was converted to a hearing under section 19(b). In addition to accident and causation, Respondent also disputed notice. The Arbitrator found both Petitioner and Dr. Bradley testified credibly.

Petitioner testified he is currently employed as a Correctional Sergeant and Tac Team member at Graham Correctional Center. (T. 9) He began working as a correctional officer at Graham on August 4, 2014. Petitioner testified he worked the day shift from 7 a.m. to 3 p.m. at Graham. (T. 11) Petitioner agreed his job duties there included property box searches, cuffing and uncuffing inmates, opening and closing of chuckholes, and shakedowns. (T. 12) Petitioner testified his job duties increased during the Covid pandemic due to the institution being on lockdown, during which they had no help from the inmate workers. Petitioner agreed that all services to the inmates were performed using the chuckholes in the doors which were padlocked and opened to pass food. (T. 13) Petitioner testified that a lot of the locks would catch and did not function properly like they should. Likewise, the chuckholes were very rusty and were hard to open and close. Petitioner further testified he is a member of the Tac Team. (T. 18) "One of our main duties

is to do calculated use of force with cell extractions or handle combative individuals in custody." Petitioner testified he exercised five times a week. (T. 19) Per the medical records, Petitioner is 6'1" in height and weighed 270 pounds when he first presented to Dr. Bradley. (PX3 at 2)

Petitioner testified he started getting numbness and tingling in his arms and hands. (T. 14) Petitioner did not state when he first noticed symptoms but over time he started to drop things and would awaken at night due to his symptoms. (T. 15) Petitioner agreed his symptoms have persisted to the present day. Petitioner denied having diabetes, gout, hypothyroidism, and rheumatoid arthritis. (T. 14) Petitioner agreed his height and weight have been consistent.

On cross-examination, Petitioner testified he is presently working with no restrictions from a doctor. (T. 23) Petitioner testified he was recently diagnosed with sleep apnea (T.22) Petitioner gave no indication as to how long he had the condition prior to receiving the diagnosis. Petitioner testified that Dr. Bradley advised him that sleep apnea can cause symptoms of carpal tunnel and cubital tunnel syndrome. (T. 22) Petitioner testified his symptoms worsened during the Covid pandemic during which the facility went into lockdown. (T. 23-24) As a result of the lockdown, the correctional officers had to open every door multiple times a day to either let the inmates out to use the phone, take showers, and the correctional officer also delivered and collected the food trays. (T. 24) They also performed wellness checks on the inmates. Petitioner testified it was the opening and closing of the doors in particular that brought about his symptoms. (T. 25) Petitioner testified that sometimes his right hand numbness and tingling would get so bad he would have to switch to using his left hand to open and close the doors. (T. 25) Petitioner testified that opening the food ports caused symptoms. (T. 26) After the Covid lockdown restrictions ended, the inmates returned to their work duties and Petitioner did not have to key the locks as much. (T. 27) For the wellness checks, Petitioner testified he had approximately 100 cell doors to open and close. (T. 26) Petitioner testified his job duties changed after the Covid lockdown ended, as the inmates went back to work inside the facility and there was not as much keying required. Petitioner agreed that operations inside the facility went back to how it was pre-March 2020. (T. 27)

Petitioner completed a questionnaire entitled "Work History Timeline for Repetitive Trauma Claims." (PX5) Petitioner reported he worked as a correctional officer for eight years and seven months. He described having to lock and unlock doors as needed but during the pandemic he opened as many as 100 doors multiple times a day. (PX5) Petitioner also described having to write or type reports and disciplinary tickets. Petitioner mentioned he used handcuffs and a flashlight and was involved in the tac team when activated as needed. Before working as a correctional officer, Petitioner worked as a laborer for Livingston Pipe and Tube where he cut pipe and tubing and stacked orders into specific bundles. Petitioner's employment history also included working as a self-employed residential construction contractor and working as a laborer and carpenter for Kansas City Ceiling and Wall Care.

Petitioner also completed a "Detailed Job Description" questionnaire. (PX5) The questionnaire was divided into separate categories for lifting, pushing and pulling, bending or stooping, reaching above shoulder level, gross manipulation of the hands, fine manipulation of the

hands, loading and unloading, and other job duties not listed above. Under the category of lifting, Petitioner reported he packed and transported 50-pound property boxes containing the inmates' property, and assisted inmates entering into transport vehicles. Petitioner reported those tasks were required several times a month. Under the category of pushing and pulling, Petitioner reported he pushed and pulled heavy doors for entrances, wings, and exits "multiple times a day." He also performed pulling and pushing when opening cell doors. Petitioner reported he had to physically restrain combative inmates and indicated those "occurrences varied." Under the category for bending and stooping, Petitioner reported that those motions were involved while performing cell shakedowns on a daily basis or when dealing with a combative inmate. Under the category for overhead reaching, Petitioner described "placing ID tags on cell doors and demographic sheets clipboard in the seg unit." Under the category for gross hand manipulation, Petitioner reported using his hands to hold onto restrained or combative inmates, twisting Folger Adams keys, and twisting padlock keys every half hour to sign wellness logs on four wings. Petitioner also used his hands for gripping firearms during qualification. Under the category for fine hand manipulation, Petitioner reported he used his hands for writing and typing reports or disciplinary tickets along with sending emails. He also signed the wellness books and tool logs. Under the category for loading and unloading, Petitioner reiterated he lifts property boxes into storage or onto a transport cart. Under the category for other job duties not listed above, Petitioner reported the job requires standing and moving or running for certain assignments.

Dr. Bradley testified there are non-occupational risk factors for carpal tunnel and cubital tunnel syndrome, some of which include being female with advancing age, thyroid conditions, smoking and sleep apnea. (PX7 at 9) Dr. Bradley identified occupational risk factors as repetitive use of the hands or elbows, repetitive use of vibratory instruments, and repetitive microtrauma. (PX7 at 9-10) On the issue of causation, Dr. Bradley opined that Petitioner's nine years as a correctional officer involved significant repetitive use of his hands and elbows, along with vibratory use of the hands for bar-rapping, was a contributing cause for the development of those diseases. (PX7 at 21-22) Regarding non-occupational risk factors. Dr. Bradley testified Petitioner was a large man weighing 270 pounds, and noted Petitioner had a BMI over 30, probably around 35, which met the definition for obesity. (PX7 at 22-23) Nevertheless, Dr. Bradley testified he would not characterize Petitioner as being an unhealthy obese person. (PX7 at 23) Aside from that, Petitioner did not have diabetes or hyperthyroid disease. (PX7 at 23) "So outside of, you know, being slightly overweight, I don't find any other major risk factors." As mentioned, Petitioner testified he was recently diagnosed with sleep apnea; however, Dr. Bradley was not aware that Petitioner had been diagnosed with sleep apnea.

On cross-examination, Dr. Bradley agreed that carpal tunnel syndrome and cubital tunnel syndrome can develop idiopathically. (PX7 at 47) Dr. Bradley testified that aside from his BMI, Petitioner does not have any other risk factors. (PX7 at 47-48) Dr. Bradley testified that Petitioner did not mention having sleep apnea. (PX7 at 48) Dr. Bradley was questioned about his understanding of Petitioner's job duties. Dr. Bradley testified the job requires locking and unlocking, handcuffing and recuffing, bar-rapping, inspecting property boxes, and pushing and pulling of heavy doors, entrance doors, and exit doors multiple times in the day. (PX7 at 36)

Petitioner also performed writing and some typing and training with handguns. Dr. Bradley testified his understanding of the job was based on what the Petitioner described and the job description he was provided along with what was described to him by his other patients. (PX7 at 36-37) It was also Dr. Bradley's understanding that the amount of keying locks increased over a period of months during the pandemic. (PX7 at 39) Dr. Bradley was unable to say the exact amount of time Petitioner spent doing any one activity during a given day. Asked about bar rapping, Dr. Bradley testified Petitioner performed that task every single day for three years when he was assigned to the segregation team. (PX7 at 43) After that he didn't have to do it on a daily basis but he still did it depending on the shift or unit he was assigned. Asked which hand Petitioner used to lock and unlock the doors, Dr. Bradley replied could not answer that for this particular Petitioner but most correctional officers have reported using both hands. (PX7 at 44) Dr. Bradley testified that Petitioner also used Folger Adams keys. Dr. Bradley testified the amount of property boxes inspected varied depending on the day and how many inmates were moving. "These guys tell me sometimes they do it a couple of times per day, sometimes they don't do it in a week's time." (PX7 at 45) Dr. Bradley was unable to say the number of locks Petitioner opened every day. Dr. Bradley believed the majority of the locks do not require Folger Adams keys but he does not know the breakdown. (PX7 at 46) Dr. Bradley testified the number of inmates Petitioner had to cuff and uncuff depended on the number of inmates who became combative and other factors.

Dr. Crandall testified that during his tour of the facility he "did one floor" and opened around 30 locks in a row, including reclosing and relocking them. (RX3 at 25) Dr. Crandall testified that working the locks was not repetitive in the sense that the employment was not the kind of job where there were no rest periods. *Id*. Dr. Crandall opined that the total amount of time when use of the hand was required would have been less than one percent of the whole day. *Id*. Dr. Crandall further opined that the employment did not involve degree of repetition, force, intensity, vibration, or awkward positioning to cause carpal tunnel and ulnar neuropathy. Dr. Crandall further opined that the employment had no comparison to true hand-intensive occupations. *Id*.

Conclusions of Law

In repetitive trauma cases, the issues of accident and causation are intertwined with both issues resolved together. *Boettcher vs. Spectrum Property Group*, 99 IIC 0961; 1999 Ill. Wrk. Comp. LEXIS 409; *Simpson vs. State of Illinois Department of Human Services*, 18 IWCC 255; 2018 Ill. Wrk. Comp. LEXIS 108. A claimant seeking compensation under a repetitive trauma theory "must prove that his physical structure gave way under the repetitive stresses of his usual work tasks." *Darling vs. Industrial Comm'n,* 176 Ill. App. 3d 186, 192, 530 N.E.2d 1135 (1988). Claimants alleging injury based on repetitive trauma must still meet the same standard of proof as in claims involving a single traumatic accident. *Peoria County Bellwood Nursing Home v. Industrial Comm'n*, 115 Ill. 2d 524, 530, 505 N.E.2d 1026 (1987); *Williams vs. Industrial Commission*, 244 Ill. App. 3d 204, 209, 614 N.E. 177 (1993). There must be a showing that the disabling injury or condition was related to the employment and not the result of a normal

degenerative process. *Peoria County Bellwood Nursing Home vs. Industrial Commission*, 115 Ill. 2d at 530 (1987); *Williams vs. Industrial Commission*, 244 Ill. App. 3d 204, 209 (1993). There is no minimum legal requirement that a certain percentage of the workday be spent on repetitive tasks in order to establish the repetitive nature of a claimant's job duties. *Edward Hines Precision Components v. Industrial Comm'n*, 356 Ill. App. 3d 186, 194, 825 N.E.2d 773 (2005). In assessing causality, however, the Commission may consider evidence, or the lack thereof, of the manner and method of a claimant's job to determine if the employment duties were sufficiently repetitive to establish a compensable injury. *Williams vs. Industrial Comm'n*, 244 Ill. App. 3d 204, 211, 614 N.E.2d 177 (1993). The Commission may also consider the degree to which the employment activity varied. *Id*. at 209. Evidence of variability of the employment activity does not necessarily negate causation if the employment activities taken as a whole are repetitive in nature. *City of Springfield vs. Ill. Workers' Comp. Comm'n*, 388 Ill. App. 3d 297, 901 N.E.2d 1066 (2009). That said, while there is no such minimum requirement, evidence of the frequency, force, duration, and the percentage of the workday devoted to such tasks may be certainly relevant. In an unpublished Rule 23 decision issued many years after *Edward Hines Precision Components,* the Appellate Court reaffirmed that quantitative evidence remains relevant. See *Fisher vs. Ill. Workers' Comp. Comm'n*, 2017 IL App (4th) 160929WC-U. In *Fisher*, the Court indicated that while there is no requirement that a certain percentage of time be spent on a task in order for the duties to meet a legal definition of repetitive, a claimant needed to present some evidence he engaged in repetitive activities. *Fisher,* 2017 IL App (4th) 160929WC-U, P 20. The Court then raised the rhetorical question – "*How many times per day did these activities occur?" Id.*

It is firmly established that expert medical testimony is necessary where the questions involved are within the experts' knowledge only and outside the knowledge of laypersons. *Nunn v. Industrial Com.*, 157 Ill. App. 3d 470, 510 N.E.2d 502 (1987) The Commission has previously recognized that compression neuropathy via repetitive trauma falls under this category requiring such expert testimony. *Jones vs. State of Illinois, Menard Correctional Center*, 19 IWCC 0521; 2019 Ill. Wrk. Comp. LEXIS 898, citing *Johnson vs. Industrial Comm'n*, 89 Ill. 2d 438 (1982). Expert testimony must be weighed like other evidence with 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 Comm'n*, 309 Ill. 91, 138 N.E. 211 (1923). The proponent of expert testimony must lay a foundation sufficient to establish the reliability of the bases for the expert's opinion. *Gross v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100615WC. "The Commission has determined that a claimant fails to prove causation from repetitive trauma when the treating physician testified repetitive motions caused the injuries but failed to detail what repetitive motions the petitioner engaged in and the frequency of the motions." See *Rutherford vs. State of Illinois, Pinckneyville Correctional Center*, 15 IWCC 119; 2015 Ill. Wrk. Comp. LEXIS 118, and *Jones vs. State of Illinois, Menard Correctional Center*, supra, both citing *Gambrel vs. Mulay Plastics*, 97 IIC 238. Additionally, if the basis of an expert's opinion is grounded in guess or surmise, it is too speculative to be reliable. A finder of fact is not bound by an expert opinion on an ultimate issue and may look "behind" the opinion to examine the underlying facts. *In re Joseph S.*, 339 Ill. App. 3d 599, 607, 791 N.E.2d 80 (2003).

In *Fenton vs. Graham Correctional Center*, 24 IWCC 0528, 2024 Ill. Wrk. Comp. LEXIS 593, the Commission determined that a correctional officer failed to prove his bilateral carpal tunnel and cubital tunnel syndromes were causally related to his job duties where the claimant was "able to provide a list of the duties" he performed but failed to furnish testimony as to the frequency he performed those duties other than vague references to multiple times throughout the day. *Id.* We further observed in *Fenton* that "a key element to proving a repetitive trauma theory is producing clear and detailed evidence of the manner and means in which the work activities alleged to have constituted the repetitive trauma were performed." *Id.* The Commission also found that the treating surgeon in *Fenton* possessed only a vague and general description of the claimant's job duties. *Id.*

In the present matter, we find Petitioner failed to prove a compensable repetitive trauma injury. Like the claimant in *Fenton*, supra, Petitioner described a variety of hand-related tasks, some of which he performed multiple times a day, some which he performed on a daily basis, and others which he performed on an occasional or as-needed basis. From the totality of the evidence, we are unable to discern how much of the workday Petitioner was exposed to strenuous and repetitive activities versus the amount of time spent standing guard and observing the inmates or other tasks. Dr. Bradley acknowledged that Petitioner's employment-related tasks varied from day to day depending on the needs of the facility. (PX7 at 13-14) Dr. Bradley predicated his causation opinion on his assessment that the employment duties possessed "certain common things that would occur" such as locking and unlocking multiple doors, cuffing and uncuffing prisoners, using Folger Adams keys, and bar rapping on a daily basis for a period three years; however, unlike Dr. Crandall, Dr. Bradley was unable to provide any testimony as to the amount of time or exposure to those hand-related tasks over the course of a workday. Dr. Bradley testified he reviewed and took into consideration a 250-page job site analysis for Graham Correctional Center which was purportedly completed a year or two ago; however, this job analysis was not offered into evidence. (PX7 at 31) When focusing on those activities which required some degree of force and repetition, we find a lack of credible evidence to show that those activities were performed over a significant part of the workday after deducting time spent at rest or time spent during which the hands were not utilized. Furthermore, Dr. Bradley was unaware that Petitioner had been diagnosed with sleep apnea, which Dr. Bradley indicated was a non-occupational risk factor for carpal tunnel and cubital tunnel syndromes, and Dr. Bradley testified Petitioner's weight corresponded with a probable BMI of 35, which also represented a potential non-occupational risk factor.

Therefore, after considering the totality of the evidence adduced at trial, the Commission finds that Petitioner failed to prove by a preponderance of the evidence that he sustained an accidental injury arising out of and in the course of his employment on April 24, 2023. All other issues are rendered moot. Accordingly, the Arbitrator's decision is hereby reversed and Petitioner's claim for compensation is denied.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Arbitrator's award dated September 24, 2025, is vacated and Petitioner's claim for compensation is hereby denied.

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)*.

SEPTEMBER 14 2026

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

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

DISSENT

I respectfully dissent from the opinion of the majority and would affirm the Decision of the Arbitrator. After carefully considering the totality of the evidence, I find that Petitioner has met his burden of proving he sustained a repetitive trauma of bilateral carpal and cubital tunnel as a result of his activities at work.

The long-established threshold for a compensable injury is that the work-related accident need not be the sole or principal causative factor, as long as it was **a** causative factor in the resulting condition of ill-being. (*Emphasis added*) *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205 (2003).

Further, it is axiomatic that employers take their employees as they find them. *Baggett v. Indus. Comm'n*, 201 Ill.2d 187, 199 (2002). "When workers' physical structures, diseased or not, give way under the stress of their usual tasks, the law views it as an accident arising out of and in the course of employment." *General Electric Co. v. Indus. Comm'n*, 89 Ill.2d 432, 434 (1982). Thus, even though an employee has a preexisting 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. *Caterpillar Tractor Co. v. Indus. Comm'n*, 92 Ill.2d 30, 36 (1982); *Williams v. Indus. Comm'n*, 85 Ill.2d 117, 122 (1981); *County of Cook v. Indus. Comm'n*, 69 Ill.2d 10, 18 (1977); *Town of Cicero v. Indus. Comm'n*, 404 Ill. 487 (1949) (It is a well-settled rule that where an employee, in the performance of his duties and as a result thereof, is suddenly disabled, an accidental injury is sustained even though the result would not have obtained had the employee been in normal health).

Petitioner testified he was employed as a correctional sergeant and Tac Team member at Graham Correctional Center on August 4, 2014. T.9. Petitioner had worked at Graham Correctional Center for nine years, starting his employment there as a correctional officer.

The caselaw supports a contemplation of the whole of Petitioner's job duties with Respondent when assessing whether a claimant has sustained a work-related repetitive trauma injury. See *PPG Indus. V. Illinois Workers' Comp. Comm'n*, 2014 IL App (4th) 130698 WC, ¶ 19, *Kishwaukee Community Hospital v. Indus. Comm'n,* 356 Ill.App.3d 915, 917–18, 293 Ill.Dec. 313, 828 N.E.2d 283, 287 (2005) (over 30 years); *Oscar Mayer,* 176 Ill.App.3d at 608, 126 Ill.Dec. 41, 531 N.E.2d at 174–75 (15 years); *City of Springfield, Illinois v. Illinois Workers' Comp. Comm'n,* 388 Ill.App.3d 297, 300–01, 327 Ill.Dec. 333, 901 N.E.2d 1066, 1069–70 (2009) (approximately 8 years); *Peoria County Belwood Nursing Home v. Indus. Comm'n,* 115 Ill.2d 524, 527, 106 Ill.Dec. 235, 505 N.E.2d at 1027 (6 years).

The majority relies upon *Fenton v. Graham Correctional Center*, wherein the Commission determined a correctional officer failed to prove his compression neuropathies were causally related to his job duties, when he did not provide the exact frequency he performed his job duties. *Fenton vs. Graham Correctional Center*, 24 IWCC 0528, 2024 Ill. Wrk. Comp. LEXIS 593. However, the majority fails to note that it was not a unanimous decision and I dissented from that Decision, for nearly the exact reasons I dissent from the majority decision at hand.

Petitioner credibly testified to hand intensive activities, including property box searches, cuffing/uncuffing inmates, opening/closing chuckholes, and shakedowns at the facility. T.12. Petitioner also completed a detailed questionnaire, wherein he described the type of job duties he performed which included lifting, pushing/pulling, bending/stooping, reaching above shoulder level, using his hands for gross and fine manipulation. PX7. He did not provide a breakdown of exactly how often the tasks were performed, however, he is not required to do so. The Appellate Court in *Darling v. Indus. Comm'n* found that quantitative evidence of the exact nature of repetitive work duties was not required to establish a repetitive trauma injury. *Darling*, 176 Ill.App.3d 186 (1988). The Appellate Court refused to expand the proof necessary to include specific quantitative evidence of amount, time, duration, exposure or dosage. *Darling* at 196. Similarly, we should not require it in the present case.

This is particularly true, as the unique nature of Petitioner's job means that his duties would likely vary from day to day depending upon the number of inmates, the disposition of the inmates, and the staff at the prison on any given day. The quantity of Petitioner's performance of duties would have also changed drastically from the pre-pandemic schedule to the lockdown due to COVID. The variation in his day-to-day experiences would have made it almost impossible for Petitioner to accurately quantify his individual duties and the courts have frowned upon imposing this hurdle onto claimants. Petitioner's work may be "varied" but still be "repetitive" pursuant to the findings in *City of Springfield v. Ill. Workers'. Comp. Comm'n*, 388 Ill.App.3d 297 (2009). The Appellate Court goes on to say that "while [claimant's] duties may not have been 'repetitive' in a sense that the same thing was done over and over again as on an assembly line, the Commission

finds that his duties required an intensive use of his hands and arms and his injuries were certainly cumulative." *Id*. While the frequency of Petitioner's duties may have varied in terms of numerical quantification, Petitioner was very clear as to the actual duties he performed, as detailed above and in Petitioner's Exhibit 5.

As a board-certified orthopedic surgeon and Petitioner's treating physician, I find Dr. Bradley was most familiar with Petitioner overall and the development of his conditions and is, therefore, best suited to provide a medical opinion as to the relation of Petitioner's compression neuropathies and his work duties. Dr. Bradley had the opportunity to consider both Petitioner's oral description of his job duties and the previously mentioned written job description. PX7, p.12-13. The combination of the Petitioner's oral and written description of his duties provides a solid basis for Dr. Bradley's opinion that Petitioner's job duties were a contributing factor in his development of compression neuropathies.

Overall, I agree with the Arbitrator and find Petitioner was successful in showing that his job duties were **a** contributing factor in the development of his condition of ill-being, and more than just a degenerative condition. Petitioner may have had a higher BMI and sleep apnea which may have made him more prone to develop his compression neuropathies, but the existence of those conditions is irrelevant, as long as Petitioner's job duties are also a contributing factor. Petitioner provided credible testimony and a medical expert's opinion to show the repetitive nature of his activities and an increase of his symptoms following an increase in his activities due to the COVID lockdowns at Graham.

I would also note that since the COVID lockdowns at Graham there are a number of Commission decisions holding the correctional staff's duties of using their hands/arms to lock/unlock cells, open doors, perform inspections and complete reports at Graham Correctional Center aggravated or contributed to compression neuropathies, such as carpal tunnel and cubital tunnel syndromes. See *Brian Caver v. State of Illinois/Graham C.C., 24 IWCC 0222; Michael Dunn v. State of Illinois/Graham C.C., 24 IWCC 0353; Shane Walters v. State of Illinois/Graham C.C., 24 IWCC 0352.*

Even prior to the pandemic the Commission found compensable compression neuropathy injuries to have developed as a result of similar repetitive activities of a Correctional Officer at Graham Correctional Center. *See Scott Honnies v. State of Illinois/Graham C.C., 20 IWCC 0643; Jerry Miller v. State of Illinois/Graham C.C., 20 IWCC 0279.*

In *James Wines v. State of Illinois/Graham C.C.*, at Arbitration the Respondent even stipulated to accident and causation for bilateral carpal and cubital tunnel conditions based upon the claimant's duties of a Correctional Officer at Graham. *James Wines v. State of Illinois/Graham C.C., 23 IWCC 0180 (21 WC 019033).*

To the extent the majority relies upon the opinion of Dr. Crandall in his finding that Petitioner's job did not cause or contribute to his carpal tunnel syndromes (RX3, P.21), I find Dr.

Crandall's opinions to be lacking a sufficient basis. Dr. Crandall's report and testimony both support a narrow consideration of Petitioner's overall job duties.

The Arbitrator found that, "Dr. Crandall's sweeping allegations and extreme bias represents a reckless disregard for the truth and facts of each and every case in which he is retained." Arb. Dec, p.11. The Arbitrator further stated Dr. Crandall's testimony "irreversibly damaged his credibility" resulting in the Arbitrator providing no weight to his opinion. *Id*. I agree with the Arbitrator and found numerous discrepancies in the basis for Dr. Crandall's opinions, despite the enthusiasm with which Dr. Crandall expressed them. Firstly, Dr. Crandall fails to comprehend the increase of work for Petitioner during the months of COVID lockdowns. He acknowledged that he did not discuss the period of the COVID lockdown with Petitioner at the time of his examination, instead he based his opinion on his "discussions with other persons", noting "they did not think it changed anything either way". RX3, p.39. Further, while Dr. Crandall heavily based his causation opinions on his personal experiences at the Respondent's work site, there was no evidence he had been given any information regarding which doors and/or locks *Petitioner* would have been manipulating. There is also no evidence that the locks he had the opportunity to use during his tour of the facility were in the same or similar condition as they would have been during the nine years Petitioner was operating them. Dr. Crandall opined that the actions of the Petitioner cannot be considered to be repetitive, as there are sufficient rest periods between his actions. However, his three-hour visit of turning locks and viewing the buildings is not informative as to how Petitioner actually performed his job, as those actions were not performed under the same circumstances. In a way, Dr. Crandall himself makes the point as to the differences of the performance of an action in a slow and methodical way versus performing the same task under pressure, when he discusses the differences between performing the act of fishing as a hobby versus performing the same actions in a competitive environment when they are trying to perform the action really fast. RX3, p.18. In this comparison, he found that the hobby action would not be a causative factor, and that for the action to be a causative factor, it would need to be a competitive fishing contest environment. In the same way, Dr. Crandall's leisurely tour of the Graham facilities is an entirely different causative consideration than the performance of Petitioner's actual job while in a potentially dangerous condition, particularly while the inmates were under lockdown. Overall, I find Dr. Crandall did not have sufficient understanding or consideration of Petitioner's onset of symptoms, his actual job duties or the frequency with which they were performed, and this negatively impacted his credibility.

For the foregoing reasons, I would affirm the Decision of the Arbitrator.

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC021947
Case Name	Zachary McClanahan v. State of Illinois - Menard Correctional Center
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0258
Number of Pages of Decision	25
Decision Issued By	Christopher Harris, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Kenton Owens

DATE FILED: 9/14/2026

/s/Christopher Harris, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF WILLIAMSON)

☐ 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

ZACHARY MCCLANAHAN,

Petitioner,

vs. NO: 23 WC 21947

STATE OF ILLINOIS –
MENARD CORRECTIONAL CENTER,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petitions for Review having been filed by the Respondent and Petitioner herein and notice given to all parties, the Commission, after considering the issues of accident, notice, causal connection, medical expenses, and permanent partial disability (PPD) benefits, and being advised of the facts and applicable law, affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof. The Commission only clarifies that the awarded PPD benefits total 118.65 weeks, or 12.5% loss of use of the right hand (23.75 weeks), 10% loss of use of the left hand (19 weeks), 15% loss of use of the right arm (37.95 weeks) and 15% loss of use of the left arm (37.95 weeks).

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed December 16, 2025 is hereby corrected as stated but otherwise 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.

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.

SEPTEMBER 14 2026

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

CAH/pm
O: 9/10/26
052

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

/s/ *Marc Parker*
Marc Parker

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC021947
Case Name	Zachary McClanahan v. State of Illinois - Menard Correctional Center
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	22
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Kenton Owens

DATE FILED: 12/16/2025

/s/ Bradley Gillespie, Arbitrator
Signature

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

DECEMBER 16 2025

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF DECEMBER 16 2025 3.50%

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

Zachary McClanahan
Employee/Petitioner

v.

State of IL / Menard C.C.
Employer/Respondent

Case # **23** WC **21947**

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 **October 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 **August 3, 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 $**94,094.94**; the average weekly wage was $**1,809.52**.

On the date of accident, Petitioner was **36** years of age, ***married*** with **1** 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, $**if any** for nonoccupational indemnity disability benefits, and $**if any** for other benefits, for a total credit of $**if any**.

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.

Respondent shall pay Petitioner compensation that has accrued from June 27, 2024 through October 8, 2025, and shall pay the remainder of the award, if any, in weekly payments.

Respondent shall pay Petitioner permanent partial disability benefits of $1,024.87/week for 134.075 weeks, because the injuries sustained caused the 12.5% loss of Petitioner's right hand, the 10% loss of Petitioner's left hand, the 15% loss of Petitioner's right arm, and the 15% loss of Petitioner's left arm, as provided in Section(s) 8(e)9 and 8(e)10 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 16 2025

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

ZACHARY MCCLANAHAN,	)	
	)	
Petitioner,	)	
	)	
v.	)	**Case No.: 23WC021947**
	)	
STATE OF ILLINOIS – MENARD CORRECTIONAL CENTER,	)	
	)	
	)	
Respondent.	)	

FINDINGS OF FACT

BACKGROUND

This matter came before an Arbitrator appointed by the Commission pursuant to Petitioner's Motion for a hearing on all issues. Issues in dispute were causation, notice of accident as to causation, medical bills, and the nature and extent of Petitioner's injuries. (Arb. Ex. 1; Tr. pp. 6-7)

On August 23, 2023, Petitioner filed an Application for Adjustment of Claim alleging a date of injury of August 3, 2023, wherein he injured his bilateral wrists, elbows and arms while performing repetitive duties. (Arb. Ex. 2)

PETITIONER'S TESTIMONY

Petitioner works as a super shift supervisor for Respondent at its Menard Correctional Center facility. (Tr. p. 12) Petitioner testified that he prepared a work history timeline and detailed job description regarding his positions with Respondent. *Id.* He testified that when he first began working for Respondent, he was a correctional officer at Menard for four-and-a-half years and that he engaged in the duties as outlined in Petitioner's exhibits 11 through 14. (Tr. p. 13; PX 11; PX 12; PX 13; PX 14) He testified that these exhibits were correct and accurate descriptions of the duties of a correctional officer. *Id.*

Petitioner testified that he was promoted to a correctional lieutenant on July 1, 2018, and that he held this position for four years, including when the COVID pandemic occurred. (Tr. pp. 13-14, 32) As to his timesheets and staff assignment history (RX 4, RX 5), he testified that he was occasionally assigned elsewhere than what is noted on the sheet; however, changes in assignment happened more frequently during the pandemic. (Tr. p. 25) He testified that he was assigned to the restricted housing unit as a lieutenant and explained:

> We had two lieutenants assigned in there. One was basically a shift supervisor, which she was a lieutenant, and then there was one that was on the floor that would go out and help key, cuff. I was out there five days a week doing it. (Tr. pp. 29-30)

He testified that during the pandemic, his job duties increased because staff were lost due to COVID infections and being quarantined. (Tr. p. 14) He testified that individuals were not allowed to be "cranked out" in groups and that they all had to be "keyed out." *Id.* He indicated that working significant overtime, increased keying and making significant use of his hands were activities which a lieutenant would perform due to the COVID pandemic. (Tr. p. 15) He testified that his job activities increased and that he "pretty much did what a correctional officer would do" during that time. (Tr. p. 14)

Petitioner testified that at that time, he noticed numbness and tingling in both of his hands, which would wake him at night. (Tr. pp. 15-16) He testified that after keying doors many times, his hands would go numb. *Id.*

In his current position as a shift supervisor, he prepares multiple reports throughout the day, oversees operations at the facility, and trains staff on handguns and how to correctly key, cuff, and bar rap. (Tr. pp. 17-18) He estimated that he uses his hands to type or handwrite reports for approximately seven hours per day. (Tr. p. 18)

Petitioner testified that he is 39 years old, that he does not have gout, diabetes, hypothyroidism, rheumatoid arthritis, or hypertension, that his weight has not changed in the past 25 years, that he does not have hobbies that involve forceful repetitive use of his hands and arms, and that he does not ride a motorcycle. (Tr. pp. 16-17)

MEDICAL EVIDENCE

On August 3, 2023, Petitioner presented to the office of Dr. Matthew Bradley with symptoms of right-worse-than-left pain, numbness and tingling in his bilateral elbows, wrists, and hands. (PX 3 p. 2) Dr. Bradley noted that Petitioner was a major at Menard Correctional Center and had been working for the Department of Corrections for nine years and eight months. *Id*. He noted that Petitioner frequently used Folger Adams keys and performed bar rapping, although not as significantly as he had previously. *Id*. He noted that Petitioner wrote reports by hand on an almost daily basis and that he performed daily typing. *Id*. Petitioner reported that the desk he typed at was without any ergonomics or padding, and that he often had to stand up and type due to his position and the severity of his symptoms. (PX 3 p. 2) Petitioner reported that he began noticing symptoms three years prior, during the COVID pandemic, at which time he was working a significant amount of overtime, which increased his keying activities. *Id*. It was noted that Petitioner had also worked a significant amount of time in the segregation unit. *Id*. Dr. Bradley noted that a detailed job description was completed and scanned into Petitioner's chart. *Id*.

Petitioner indicated that he saw his primary care physician, who ordered an EMG and nerve conduction test, which "did not show anything severe" and that Petitioner's symptoms continued to progress over the next few years. (PX 3 p. 2) Petitioner had "really noticed the symptoms in the last six months." *Id*. He had difficulty holding onto and grasping objects and was fearful of holding his daughter due to numbness and tingling in his hands. *Id*. He had tried a home exercise program and took ibuprofen every night. (PX 3 p. 2)

On exam of the elbows, there was tingling along the ulnar nerve distribution and over the small finger bilaterally, as well as bilateral positive Tinel's sign. (PX 3 p. 3) On exam of the hands and wrists, Petitioner had bilateral numbness and tingling over the median nerve distribution, decreased sensation to light touch over the ulnar nerve distributions, and positive Phalen's and Tinel's testing. *Id*. X-rays of the hands, wrist and elbows showed no acute fractures, dislocations, or significant degenerative changes. (PX 3 pp. 3-4) Dr. Bradley's assessment was bilateral carpal and cubital tunnel, and he noted that on the right hand, Petitioner's symptoms were more severe with carpal tunnel and that on the left hand, symptoms were more severe with cubital tunnel. (PX 3 p. 4) He recommended that Petitioner continue his home exercise program and utilization of ibuprofen. *Id*. Petitioner was fitted and placed into a volar wrist splint on the right to be utilized at night and during repetitive activity. *Id*. Dr. Bradley ordered an EMG and nerve conduction study. *Id*. He noted that Petitioner could continue to work full duty, as he could safely perform his job requirements; however, Dr. Bradley noted that Petitioner did develop symptoms with repetitive use of the hands. (PX 3 p. 4)

Dr. Bradley opined that Petitioner's work for the Department of Corrections over the past nine years and eight months had at least contributed to the development of his bilateral carpal and cubital tunnel syndrome. *Id*. He noted that Petitioner had no other significant no risk factors for the development of same. *Id*.

That same day, Petitioner under when an EMG and nerve conduction study with Dr. Ravi Yadava, and the findings revealed moderate carpal tunnel of the left wrist and mild Guyon's canal syndrome at the left wrist. (PX 4) There were no significant findings in the right upper extremity. *Id*.

Petitioner returned to Dr. Bradley on August 10, 2023, and reported continued symptoms. (PX 3 p. 6) Petitioner had been wearing night braces, which he did not feel were helpful. *Id*. He had been utilizing anti-inflammatories and reported that when he did not use same, his pain was significantly worse. *Id*. Dr. Bradley's assessment was right carpal tunnel syndrome and left carpal and cubital tunnel syndrome. (PX 3 p. 8) He reviewed Petitioner's EMG and nerve conduction study and noted that although same did not show significant electrophysiological findings on the right, Petitioner's physical exam and symptoms were very consistent – "classic" – with carpal tunnel. *Id*. He noted that Petitioner's exam also showed carpal tunnel and Guyon's tunnel on the left. *Id*. He noted that Petitioner was mostly concerned with his right upper extremity and performed an injection into the right carpal tunnel. *Id*.

On April 15, 2024, Petitioner returned to Dr. Bradley and reported that the injection gave him two or three weeks of excellent improvement in his thumb, index, and long finger; however, all his numbness and tingling had recurred. (PX 3 p. 10) He reported that he was taking ibuprofen to help him sleep at night, but that he had developed a stomach ulcer and had to stop taking same. *Id*. When he stopped the ibuprofen, his symptoms worsened to a significant degree. *Id.* Dr. Bradley noted that Petitioner had been utilizing braces, pillows for his antecubital fascia, and a home exercise program in addition to the anti-inflammatories. *Id.* He stated that the EMG findings did not completely match his symptoms and exam; however, this was not overly uncommon. (PX 3 p. 12) Dr. Bradley noted that Petitioner had tried significant nonoperative treatment, including a steroid injection without sustained relief. *Id.* Treatment options were discussed, and Petitioner indicated he would like to move forward with decompression surgery. *Id.*

On May 24, 2024, Petitioner underwent surgery with Dr. Matthew Bradley in the form of an open right carpal and cubital tunnel releases with ulnar nerve transposition. (PX 6) Intraoperatively, Dr. Bradley noted that the cubital tunnel was very thickened, causing a significant amount of underlying compression and adhesions to the nerve. (PX 6 p. 4) The nerve was decreased over 50 percent in diameter as it went into the carpal tunnel and was slightly discolored and pale. *Id.* Upon release of the cubital tunnel, the nerve was unstable, and transposition was necessitated. *Id*. At the carpal tunnel, the transverse carpal ligament was released all the way proximally and distally and opened up in excess of one centimeter.*Id.* Dr. Bradley noted that it was extremely thickened, causing significant flattening and compression of the underlying median nerve. (PX 6 p. 4)

Petitioner returned to Dr. Bradley on June 6, 2024, for a postoperative visit and reported that reported that he was doing great and that his preoperative symptoms had resolved. (PX 3 p. 19) He reported that he felt "wonderful" and that he had gained such benefit that he wished to move forward with his left, as his left hand continued to have symptoms. *Id*.

With respect to the right side, Petitioner was returned to full duty work without restriction. (PX 3 p. 22) On the left, Dr. Bradley noted that Petitioner had significant symptoms which were unchanged, and that the non-operative treatment was not helpful. *Id*. Surgery on the left was planned. (PX 3 p. 21)

Petitioner underwent surgery with Dr. Bradley on June 12, 2024, in the form of left open carpal and cubital tunnel releases with ulnar nerve transposition. (PX 7) Intraoperatively, Dr. Bradley noted that the transverse carpal ligament was thickened, causing flattening to the underlying median nerve at the cubital tunnel.(PX 7 p. 2) . He noted that the transverse carpal ligament opened up in excess of one centimeter upon complete release. (PX 7 p. 3) Upon release of the cubital tunnel, the nerve was decreased in diameter by approximately 50 percent. *Id.* Because there was significant instability of the nerve after release, cubital tunnel transposition was necessitated. *Id*.

Petitioner followed up with Dr. Bradley on June 27, 2024, and reported that he was doing "great "and that his preoperative symptoms had resolved. (PX 3 p. 29) And that his incisions had healed. (PX 3 p. 31) He noted that Petitioner had no complications and that he had returned to work full duty. *Id.* He placed Petitioner at maximum medical improvement. *Id.*

SECTION 12 REPORT AND DEPOSITION OF DR. STEWART

At Respondent's request, Petitioner submitted to a Section 12 examination with Dr. Patrick Stewart on March 4, 2025. (RX 2) He noted that Petitioner had symptoms approximately three years prior to seeing Dr. Bradley, and that during the time he noticed symptoms he was working as a lieutenant on the segregation unit performing more overtime. (RX 2 p. 1) He stated that Petitioner "began working for the corrections department in January 2014. (RX 2 p. 4) He worked as an officer until July of that year. *Id.* He was then advanced to lieutenant. *Id.* He remained a lieutenant from July 2018 to July 2022. *Id.* He noted Petitioner was assigned to segregation in January 2019. (RX 2 p. 4)

He indicated that the segregation floor has approximately 54 cells with two lieutenants on each floor and that one assisted officers which involved cuffing inmates through chuck doors prior to opening the door, pulling doors open after they were unlocked or vice versa, and padlocking or cuffing prisoner's feet. (RX 2 p. 5) He noted that the main door locks required Folger Adams keys, and the chuck door locks were padlocks. *Id*. He indicated that bar rapping was performed for approximately 300 feet in total length once per shift. *Id*. He indicated that during the time Petitioner's symptoms significantly increased, he was working as a major where he primarily performed typing and writing reports. *Id*.

On exam, Petitioner was asked to replicate the position in which he performed data entry. (RX 2 p. 5) Measurements were taken which indicated right elbow flexion of 46 degrees and left elbow flexion of 42 degrees. *Id*. Dr. Stewart's assessment was status-post bilateral carpal and cubital tunnel releases with transpositions. (RX 2 p. 6) His behavioral observations were that Petitioner was very direct and forthright during the entire examination. (RX 2 p. 7)

With respect to causation, he opined that there was not a causal relationship. (RX 2 p. 7) He stated that Petitioner had mentioned his symptoms to his physician three years prior and that a EMG and nerve conduction study was performed but the symptoms were not the primary driver for Petitioner being seen and that the study was negative. *Id*. He indicated that at the time Petitioner's symptoms worsened when he saw Dr. Bradley, Petitioner was primarily performing data entry. *Id*. He indicated that data entry did not place an individual at an increased risk of development of compression neuropathies. *Id*.

With respect to Petitioner's other work activities as an officer and lieutenant, he stated that opening cell and chuck hole doors was repetitive, but the time spent performing same represented a small portion of the day in comparison to the recovery time. (RX 2 p. 7) He opined that pathologic conditions occurred when there was inadequate time for recovery. *Id*. He opined that vibratory

exposure placed individuals at an increased risk, but he did not believe the time Petitioner spent performing same was sufficient to cause his condition. *Id.*

With respect to cubital tunnel, he indicated that forceful, prolonged grasp was not a job requirement or activity that Petitioner performed, and that repetitive extension and hyperflexion of the elbow did not occur with Petitioner's job activities. (RX 2 p. 7)

He stated that a significant portion of compression neuropathies are idiopathic. (RX 2 pp. 7-8) He admitted that Petitioner had an elevated BMI of 33 but otherwise did not have any other medical conditions or comorbidities that placed him at an increased risk. (RX 2 p. 8)

He did not feel that the x-rays performed by Dr. Bradley were indicated. (RX 2 p. 8) He stated that there had been no pillows or splints applied to Petitioner's elbows for conservative treatment of his cubital tunnel and felt that conservative treatment might have alleviated his symptoms. *Id*. With respect to the carpal tunnel, he believed that Petitioner's care in the form of a confirmatory carpal tunnel injection on the right was appropriate. *Id*. Regarding the left, he stated that conservative treatment was "self-driven" but that the splint Petitioner tried was not helpful. *Id*.

Dr. Stewart testified via deposition on July 15, 2025. (RX 3) On direct examination Dr. Stewart testified consistently with his report. He testified that he charges $2,500 for an IME and $1,200 for depositions. (RX 3 p. 24)

Dr. Stewart did not believe Petitioner's work activities were related to his condition, and when explaining the basis for his opinion, stated that Petitioner "had worked as an officer for a relatively short period of time. And then was advanced to Lieutenant. Was maintained as a lieutenant." (RX 3 pp. 18-19)

He agreed that Petitioner had carpal tunnel syndrome and that his initial symptoms began in 2019 or 2020. (RX 3 p. 28) Regardless of causation, he agreed that the carpal tunnel surgeries were reasonable and necessary. *Id*. With respect to the cubital tunnel, he believed that Petitioner likely had mild cubital tunnel syndrome. (RX 3 pp. 28-29) He believed that Petitioner had no conservative treatment on his elbows and felt that there was a "fair likelihood" Petitioner's elbow symptoms would have resolved with conservative treatment; however, he admitted that the intraoperative findings indicated that the ulnar nerve was decreased by approximately 50 percent and that Petitioner's symptoms resolved with surgery. (RX 3 pp. 28-29; 33-34)

He was unaware as to specific alterations at Menard with respect to inmate staff assisting officers during the pandemic and indicated that without knowing what alterations and regulatory/segregation changes occurred during the pandemic, he could not answer whether Petitioner had a tremendous increase in the use of his hands during that time. (RX 3 p. 31) However, he stated that the threshold for injury would be 50 percent of the day spent performing an activity. (RX 3 pp. 31-32)

He opined that none of Petitioner's work activities during his years at Menard were even at least a contributing factor in his condition. (RX 3 p. 34) He opined that the use of Folger Adam's keys places an individual at less risk for carpal tunnel than using a normal key. (RX 3 p. 22) He indicated that he would not relate carpal tunnel to a person's employment several years prior, even if the prior employment was high risk for the development of compression neuropathy such as a meatpacker. (RX 3 p. 20)

He indicated that he found a vocational officer who ran power tools every day to have compensable injury but testified that he has never found the activities of a correctional officer at any state facility to be compensable. (RX 3 pp. 25-27)

DEPOSITION OF DR. MATTHEW BRADLEY

Dr. Bradley testified via deposition on April 25, 2025. (PX 8) He is a board-certified orthopedic surgeon. (PX 8 p. 4) Dr. Bradley testified that he reviewed a job description, job duties posted by CorVel, and a video of the duties of a correctional officer at Menard Correctional Center, and that he reviewed a detailed job description from Petitioner. (PX 8 p. 6)

Dr. Bradley explained that he took elbow x-rays of Petitioner's elbows and hands because this is the standard of care, as there are multiple conditions detectable by x-ray that could have been causing Petitioner's symptoms. (PX 8 pp. 7-8)

Dr. Bradley testified that he does not hold an added certificate of qualification in hand surgery, as such certification is not required for orthopedic surgeons. (PX 8 pp. 29-30) He explained that, as an orthopedic surgeon, he completed six years of training in musculoskeletal conditions, including carpal and cubital tunnel syndromes, underwent three levels of testing and peer review, and was granted privileges to perform carpal and cubital tunnel surgeries by the Academy of Orthopedic Surgeons. *Id*. He further stated that general surgeons, such as Dr. Stewart, who do not study musculoskeletal conditions, cannot obtain privileges to perform hand surgeries without an added qualification, whereas orthopedic surgeons are already trained in the hand and therefore do not require one. *Id*.

He testified that Petitioner did not have gout, hypothyroidism, or rheumatoid arthritis. (PX 8 pp. 8-9) He testified that Petitioner's BMI was slightly elevated at 32 or 33 but he indicated that Petitioner was not considered morbidly obese. *Id.*

Dr. Bradley testified that he offered Petitioner ways of blocking his elbows from flexing at night by putting a pillow or towel in his elbow. (PX 8 p. 11)

He testified as to the changes in correctional institutions during the pandemic and stated:

> As it relates to the correctional facilities, particularly Menard, 100 or so-plus employees they had there all tell me the story, that the inmates were no longer able to help with a lot of the daily tasks. So the correctional officers and the employees

> ended up picking up a lot of the tasks that the inmates were able to help with beforehand. Also, the facilities went on lockdown, so instead of being able to let all of the inmates out at a single, time they often had to be individually cuffed, uncuffed, led in and out of their cells. All of the chuck holes had to be individually opened and closed, food trays put in and out. So there was a significant amount of increase in keying locks, move -- in order to move the inmates. Also, there was a significant more mandatory overtime. With the COVID pandemic, a lot of the officers were out due to exposure, illness, and so there was a lot of mandatory overtime. So not only more repetitive activities being done on an hourly basis, but more hours that they were required to do these activities. (PX 8 pp. 17-18)

He testified that Petitioner did not have any other significant contributing factors and therefore, he opined that Petitioner's work activities were a major contributing factor to his condition. (PX 8 p. 19)

DOCUMENTARY EVIDENCE

A notice of injury completed by Petitioner on August 15, 2023, indicated an injury date of August 3, 2023, wherein Petitioner indicated "repetitive use trauma" of his bilateral hands and elbows. (PX 1)

The staff assignment history provided by Respondent indicated that Petitioner worked on a gallery from August 2014 and through June 2018. (RX 5) It indicated that he worked as a detail lieutenant from June 2018 through January 2019, as a movement lieutenant from March 2019 through February 2020, as a dietary and "north two" lieutenant from March 2019 through July 2020, and that he worked in segregation from August 1, 2020, through June 30, 2022, after which he was a major/shift commander from July 2022 forward. *Id*.

Petitioner's work history timeline indicated that he worked at Menard Correctional Center as a correctional officer and described that he would "key out" roughly 200 individuals per day, that he performed cuffing and uncuffing and daily bar rapping, that he would "crank out" lines, shake down cells, write reports, and key gallery doors. (PX 9) He spent four years as a correctional lieutenant and his duties included training new staff on key procedures, teaching how to bar rap, assisting keying out individuals, cranking out lines and cuffing and uncuffing individuals. *Id*. He indicated that as a shift supervisor, he supervises staff, trains on key and bar rapping procedures, types out incident reports, and writes out incident reports and shift rosters. *Id.*

Petitioner's detailed job description was completed for his role as a shift supervisor. (PX 9 3-7) He indicated that he performs pushing and pulling of doors, pushing meal and property carts, shaking down up to 10 cells per day, picking up trash off the gallery two times per day, opening cell doors with a heavy key ring, grabs to open cell doors, fills out shift rosters for more than 125 staff, and performing these tasks up to 200 times daily. (PX 9 pp. 1-2) His reports and evaluations are typed and the shift rosters he completes are handwritten. *Id*.

Petitioner offered a job site analysis commissioned by Respondent and conducted in 2008 by Tracy Maras into evidence. (PX 11) The purpose of the evaluation was to "identify the presence of risk factors" for disorders such as carpal tunnel syndrome based on reports that officers had been claiming repetitive injury from operating locks at the facility. *Id.* One officer interviewed reported operating locks thousands of times per day, while a Major reported escort numbers to be closer to 200 trips resulting in approximately 400 repetitions of unlocking doors. (PX 11 p. 2)The analysis noted that in the event an entire unit is released at once, the doors are opened with a hand crank that requires six to eight revolutions counterclockwise, followed by an inmate count and then six to eight revolutions clockwise to close. *Id.* A "full grip position [is] maintained" with force to operate the crank. *Id.* Depending on the circumstances, the crank could be operated up to 16 times per day. *Id.* After the inmates return, two officers walk the length of the unit and pull each door to ensure proper closure.(PX 11 p. 2) While doors having bars require 16 pounds of pulling force, full metal doors like those in the segregation unit require an average of 68 pounds of force. *Id.*

Room checks/inspections are conducted, which include lifting and moving mattresses for inspection and carrying them through a metal detector. (PX 11 p. 3) Other manual duties are triggered by lockdowns. *Id.* It was estimated that five to six times per year, the facility enters a lockdown that could last up to two weeks, during which time inmates cannot leave their cells for meals. *Id.* Food must be delivered on food carts, which contain up to 15 Styrofoam containers of consumables that must be carried up three to four flights of stairs. *Id.* Depending on the unit, 375-400 trays of food are delivered by hand via four to six officers. (PX 11 p. 3) After meals are complete, the containers and trash are collected in bags and carried to a dumpster. *Id.* Clerical duties are also noted. *Id.* During each shift, inmate counts are performed and logged two to three times. *Id.* The report also notes that correctional staff are responsible for paperwork such as disciplinary reports and accountability logs. (PX 11 p. 3)

During the analysis, it was acknowledged that some of the work activities at the facility were "monotonous"; however, the analyst believed that there was sufficient rest between activity to mitigate risk. (PX 11 p. 4) She concluded that total duration of force applied did not exceed 2 hours per day. *Id.* She gave a strain index score of 1.5, which was low risk. *Id.* She stated scores less than 3 are "considered safe". *Id.*

Petitioner offered a second Job Site Analysis commissioned by Respondent and conducted by Melanie Welch of CorVel in February of 2011. (PX 12) Ms. Welch provided a narrative description of the job duties of a Correctional Officer at Menard. She classified the strength demand of the job as frequent lifting and/or carrying up to (25) twenty-five pounds. (PX 12 p. 13) Ms. Welch categorized Petitioner as being required to frequently pull open doors from 2 ½ hours to 5 ½ a day, up to 66% of the time, or up to 200 times per day. (PX 12 p. 14) This included pulling open chuckhole doors as needed during lockdowns for dining and cuffing and uncuffing residents. *Id.* Wrist turning was categorized at 34-66% of the time, 2 ½ to 5 hours per day, or 33 to 300 times per day. (PX 12 p. 14)

Petitioner also introduced a Post Description for Cellhouse Officers that was prepared by Respondent. (PX 13). It describes duties including pulling cell doors twice to ensure that cells are securely locked, random checking of all locks on the gallery, checking cell locks prior to moving inmates into respective cells, performing actual body (skin) counts by looking in or opening the cells, removing inmates from cells for escort, monitoring all movement, searching cells prior to placement of inmates, checking all locks, doors and restraints to ensure they are in proper operational order and secured, shaking down workers and inmates, keying in and out inmates from cells for all movement that is not a mass line movement, searching inmates entering and leaving the gallery, and securing grill and front doors. *Id.*

Petitioner's final exhibit is a video produced at Respondent's direction which depicts the duties of a Correctional Officer at Menard Correctional Center. (PX 14). The video depicts various job tasks, assignments, areas, equipment, and mechanisms demonstrated by a variety of Correctional Officers. *Id.* Depictions included the armory, shakedown officer, bar rapping, double gate door, double gate walkway, opening cell doors, turning gallery cranks, receiving control house, control room, receiving door, shower door segregation, shower door, segregation unit, segregation door, chuckholes, double gate, and tower. *Id.* Each area requires opening and closing multiple doors and using multiple keys, mostly Folger Adams keys. *Id.* These tasks were briefly shown. (PX 14)

Bar rapping was simulated in the DVD and the officer explained that, depending upon the shift, all open bars will be rapped for security purposes. *Id.* Officers are to listen to the sound to ensure that the bar is solid and that the inmates have not tampered with the cell doors. *Id.* The officer held the bar with his right hand and struck the bars approximately 60 times to demonstrate bar rapping on 1 cell (5 to 6 bars vertically in 12 separate sections, each bar struck 1 time). *Id.* Bar rapping is conducted on the 7-3 and 3-11 shifts. *Id.* Officers perform bar rapping at the beginning of each shift on the gallery where they are assigned. *Id.* There are 55 cells per gallery. *Id.* While some galleries have half solid doors and half open bars, Correctional Officers will also be assigned more than one gallery shift per day. *Id.*

The Correctional Officers demonstrating these areas and job duties on the DVD used both hands to complete tasks. In fact, when the videographer asked a Correctional Officer if he always turned keys with his left hand, the officer switched hands and stated, "You learn to use both hands in here because you need about four of them." *Id.* On another occasion, when the videographer requested a Correctional Officer to demonstrate the unlocking maneuver in slow motion, the officer tried to do so, and the lock stuck. *Id.* He had to turn it multiple times to get it to work and explained that the locks were difficult to turn in slow motion. *Id.* The DVD was stopped when a Correctional Officer struggled to open a cell door and yanked on it repeatedly with both hands. *Id.* There appeared to be a mechanical problem. *Id.*

The Arbitrator notes that Assistant Warden Tonya Knust was present for Respondent at Arbitration but was not called as a witness. (Tr. pp. 5, 34)

PETITIONER'S TESTIMONY – CONTINUED

Petitioner testified that in 2022, he saw a provider for left foot drop and that the provider asked if he had numbness and tingling anywhere else, and Petitioner reported that his right arm and hand would go numb. (Tr. pp. 18-19) The provider checked his right arm and hand at that time; however, the results were negative, and Petitioner was not diagnosed with carpal or cubital tunnel/compression neuropathy at that time. (Tr. pp. 18-19, 27) He was not given a diagnosis of carpal and cubital tunnel syndrome until he saw Dr. Bradley in August 2023. (Tr. pp. 18-19) He testified that August 3, 2023, was the date he realized that his condition was work-related. (Tr. p. 19)

Petitioner testified that he tried conservative treatment in the form of wrist splints, pillows for his elbows, and a cortisone shot in his hand, but same did not provide sustained relief. (Tr. pp. 19-20) He testified that the surgery helped his symptoms dramatically and he is glad he underwent same. (Tr. pp. 22, 23) Despite the improvement, he still has some numbness and tingling in the tips of his fingers and has trouble using his fingers when typing or diapering his child. (Tr. pp. 23-24) He testified that he used to golf but quit golfing when he began having symptoms and losing his strength. (Tr. p. 24) He used to work out but quit because the pressure it put on his palms caused pain. (Tr. p. 24)

CONCLUSIONS OF LAW

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

The claimant in a worker's compensation proceeding has the burden of proving by a preponderance of the credible evidence that the injury arose out of and in the course of employment, and that involves as an element a causal connection between the accident and the condition of claimant. *Cassens Transp. Co. v. Industrial Comm'n*, 262 Ill. App. 3d 324, 330, 633 N.E.2d 1344, 199 Ill. Dec. 353 (2nd Dist. 1994) An injury is considered "accidental" even though it develops gradually over a period of time as a result of repetitive trauma, without requiring complete dysfunction, if it is caused by the performance of claimant's job. *Id*. Compensation may be allowed where a workman's existing physical structure, whatever it may be, gives way under the stress of his usual labor. *Laclede Steel Co. v. Indus. Comm'n*., 6 Ill.2d 296 at 300, 128 N.E.2d 718, 720 (Ill. 1955)

Under Illinois law an injury need not be the sole factor, or even the primary factor of an injury, as long as it is *a* causative factor. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill.2d 193, 205 (Ill. 2003) [Emphasis ours]. Even when other non-occupational factors contribute to the condition of ill-being, "[A] Petitioner need only show that some act or phase of the employment was a causative factor of the resulting injury." *Fierke v. Indus. Comm'n*, 309 Ill.App.3d 1037 (3rd Dist. 2000). Allowing a claimant to recover under such circumstances is a corollary of the principle that employment need not be the sole or primary cause of a claimant's condition. *Land & Lakes Co. v.*

Indus. Comm'n, 834 N.E.2d 583 (2d Dist. 2005). Employers are to take their employees as they find them. *A.C.& S. v. Industrial Comm'n*, 710 N.E.2d 837 (Ill. App. 1st Dist. 1999) citing *General Electric Co. v. Industrial Comm'n*, 433 N.E.2d 671, 672 (1982). The Supreme Court in *Durand v. Indus. Comm'n* noted that the purpose of the Illinois Workers' Compensation Act is best served by allowing compensation where an injury is gradual but linked to the employee's work. *Durand v. Indus. Comm'n*, 862 N.E.2d 918, 925 (Ill. 2006).

In a repetitive trauma case, issues of accident and causation are intertwined. *Elizabeth Boettcher v. Spectrum Property Group and First Merit Venture*, 99 I.I.C. 0961. In order to better define "repetitive trauma" the Commission has stated:

> The term "repetitive trauma" should not be measured by the frequency and duration of a single work activity, but by the totality of work activity that requires a specific movement that is associated with the development of a condition. Thus, the *variance in job duties* is not as important as the specific force, flexion and vibratory movements requisite in Petitioner's job. *Craig Briley v. Pinckneyville Corr. Ctr.*, 13 I.W.C.C. 0519 (2013). [emphasis ours]

A Petitioner's job duties need not be repetitive in the sense that the same task is done over and over again as on an assembly line to result in a compensable injury. *City of Springfield v. Illinois Workers' Comp. Comm'n*, 388 Ill.App.3d 297, 901 N.E.2d 1066, 327 Ill.Dec. 333 (4th Dist., 2009). Intensive use of hands and arms can result in cumulative injuries that are compensable. *Id*. "[I]n no way can quantitative proof be held as the sine qua non of a repetitive trauma case." *Christopher Parker v. IDOT*, 15 I.W.C.C. 0302 (2015).

The Appellate Court's decision in *Edward Hines Precision Components v. Indus. Comm'n* further highlights that there is *no standard threshold* which a claimant must meet in order for his or her job to classify as sufficiently "repetitive" to establish causal connection. [emphasis ours] *Edward Hines*, 365 Ill.App.3d 186, 825 N.E.2d 773, 292 Ill.Dec. 185 (Ill.App.2d Dist. 2005). In fact, the Court expressly stated, "There is no legal requirement that a *certain percentage* of the workday be spent on a task in order to support a finding of repetitive trauma." [emphasis ours] *Id.* at N.E.2d 780. Similarly, the Commission noted in *Dorhesca Randell v. St. Alexius Medical Center*, 13 I.W.C.C. 0135 (2013), a repetitive trauma claim, that a claimant must show that work activities are a cause of his or her condition; the claimant does not have to establish that the work activities are the sole or primary cause, and there is no requirement that a claimant must spend a certain amount of time each day on a specific task before a finding of repetitive trauma can be made. *Randell* citing *All Steel, Inc. v. Indus. Comm'n*, 582 N.E.2d 240 (1991) and *Edward Hines*, supra.

The Appellate Court in *Darling v. Indus. Comm'n* even stipulated that quantitative evidence of the exact nature of repetitive work duties is not required to establish repetitive trauma injury in reversing a denial of benefits, stating that demanding such evidence was improper. *Darling v. Industrial Comm'n*, 530 N.E.2d 1135, 1142 (1st Dist. 1988). The Appellate Court found

that requiring specific quantitative evidence of amount, time, duration, exposure or "dosage" would expand the requirements for proving causal connection by demanding more specific proof requirements, and the Appellate Court refused to do so. *Id*., at 1143. The Court further noted, "To demand proof of 'the effort required' or the 'exertion needed' . . . would be meaningless" in a case where such evidence is neither dispositive nor the basis of the claim of repetitive trauma." *Id*. at 1142. Additionally, the Court noted that such information "may" carry great weight "only where the work duty complained of is a common movement made by the general public." *Id*. at 1142.

Illinois law further makes it clear that a claimant's entire work history is relevant, as it is a well-known general fact that repetitive trauma injuries are cumulative and occur gradually over time. As the Commission noted in *Rachel Vasquez v. Menard Correctional Center*, the repetitive duties performed inflict "multiple micro-traumas" that are sustained on a daily over the course of a claimant's career. *Rachel Vasquez v. Menard Correctional Center*, 10 I.W.C.C. 0826 (2010). This Honorable Commission has consistently recognized the aforementioned principle by (1) allowing recovery against the current employer with which the claimant was employed on the manifestation date, even when more than one employer may have been responsible for the repetitive injuries; and (2) by recognizing that compensable repetitive injuries manifest, persist, and even worsen in cases where the claimant has retired or switched employers. *See Lemes v. Peko Tile, Inc.*, 07 I.W.C.C. 1545 (2007) (holding the current employer with which the injury manifested itself liable for the entire claim when both employers contributed to the development of the resulting injury); *See Rachel Vasquez v. Menard Correctional Center*, 10 I.W.C.C. 0826 (2010) (where claimant's condition did not improve after she switched to a non-repetitive job and the Commission held the previous employer liable after the termination of the employer/employee relationship); *Mastrangeli v. Illinois State Toll Highway Authority*, 12 I.W.C.C. 1371 (2012) (wherein claimant's condition worsened after retiring); *See also A.C.& S. v. Industrial Comm'n*, 710 N.E.2d 837 (Ill. App. 1st Dist., 1999); and *White v. Illinois Workers' Compensation Comm'n*, 873 N.E.2d 388 (Ill. App. 4th Dist. 2007) (holding that repetitive injuries can manifest after the termination of the employer/employee relationship).

Commission precedent holding that the repetitive duties of a Menard correctional officer in both maximum and medium security units cause and/or contribute to the development of compression neuropathy is plentiful. *See Rachel Morgan v. SOI/Menard Corr. Ctr.*, 25 I.W.C.C. 0031; *James Lloyd v. SOI/Menard Corr. Ctr.*, 24 I.W.C.C. 0597; *Edwin Gladney v. SOI/Menard Corr. Ctr.*, 23 I.W.C.C. 0201; *Josh Mileur v. SOI/Menard Corr. Ctr.*, 17 I.W.C.C. 0673; *Kent Brookman v. SOI / Menard Corr. Ctr.*, 15 I.W.C.C. 0707; *Timothy Knop v. SOI/Menard Corr. Ctr.*, 14 I.W.C.C. 0303; *Timothy Veath v. SOI / Menard Corr. Ctr.,* 14 I.W.C.C. 0896; *Nick E Sullivan v. State of Illinois/Menard Corr. Ctr.*, 15 I.W.C.C. 0104; *Jeff Broshears v. State of Illinois/Menard Corr. Ctr.*, 13 I.W.C.C. 0063; *Beau Purtle v. SOI/Menard Corr. Ctr.*, 11 IL.W.C. 3604 (2013); *Jacqueline Lashbrook v. SOI / Menard Corr. Ctr.*, 12 I.W.C.C. 1146; *Minh Scott v. SOI/Menard Corr. Ctr.*, 12 I.W.C.C. 0888; *Charles Parnell v. SOI/Menard Corr. Ctr.*, 12 I.W.C.C. 0797; *Virgil Taylor v. SOI/Menard Corr. Ctr.*, 11WC004798 (2012); *James Ryan v. State of Illinois/Menard*,

13 I.W.C.C. 0705; *Larry Hale v. State of Illinois/Menard Corr. Ctr.*, 13 I.W.C.C. 0201; *Jimmie Smith v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0959; *Renee Veath v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 1347; *Misti Langston v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 1161; *Sean Wolters v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 1159; *Timothy Roy v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 1114; *Virgil Smith v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0786; *Matthew Lavender v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0663; *Andrea Pasquino v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0809; *Darl Prange v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0629; *Minh Scott v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0888; *Jason Lane v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0146; *Shane Lair v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0115; *Javelins Lewis v. Menard Corr. Ctr.*, 12 I.W.C.C. 0173; *Frederick Scott Carter v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0342; *Lucas Mennerich v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0272; *James Bauersachs v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0411; *David Couty v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0531; *Michael Danley v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0434; *Troy Rushing v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0456; *Travis Lindsey v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0706; *Billy Rose v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0459; *Scott Montroy v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0576; *Leroy Sumnicht v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 0338; *Jeremy Colvin v. State of Illinois/Menard Corr. Ctr.*, 12 I.W.C.C. 1158; *James Wingerter v. State of Illinois/Menard Corr. Ctr.*, 11 I.W.C.C. 0669; *Sean Starkweather v. State of Illinois/Menard Corr. Ctr.*, 11 I.W.C.C. 0670; *Greg Mayhugh v. State of Illinois/Menard Corr. Ctr.*, 11 I.W.C.C. 0970; *Cynthia Pickering v. State of Illinois/Menard Corr. Ctr.*, 11 I.W.C.C. 0671; *Rachel Vasquez v. State of Illinois/Menard Corr. Ctr.*, 10 I.W.C.C. 0826; *Robert Walker v. State of Illinois/Menard Corr. Ctr.*, 10 I.W.C.C. 0233; *Virgil Taylor v. State of Illinois/Menard Corr. Ctr.*, 11 IL. WC 004798 (2012).

Respondent disputes causation but not the preliminary issue of accident. (Arb. Ex. 1; Tr. pp. 6-7) In its causation dispute, Respondent relies on the opinion of its expert, Dr. Stewart. After examining the evidence, the Arbitrator finds the opinions of Dr. Bradley to be more logical and persuasive than those of Dr. Stewart. Specifically, the Arbitrator notes that both Dr. Stewart's report and testimony indicate that he believed Petitioner was a correctional officer for a short period of time – from January 2014 to July 2014. (RX 2; RX 3 pp. 18-19) However, both Petitioner's testimony at Respondent's own work assignment sheets show that Petitioner was a correctional officer from 2014 through 2018, and therefore it appears that Dr. Stewart's understanding of Petitioner's work history is inaccurate. (RX 5; Tr. pp. 13-14, 32)

Further, Dr. Stewart's testimony demonstrates that he has never found in favor of a correctional officer in any case – no matter how many years they served in that position. (RX 3 pp. 25-27) The Arbitrator notes that his opinion is directly contrary to existing Illinois law in that he maintains that the threshold for repetitive injury is 50 percent of the day spent performing a

repetitive activity. (RX 3 pp. 31-32) See *Edward Hines Precision Components, Darling* and *Dorhesca Randell, supra.*

Additionally, Dr. Stewart openly admitted that he does not consider an individual's entire work history when determining causation – even if that history includes high-risk duties – and the Arbitrator notes while Dr. Stewart is entitled to his opinions, same are again wholly inharmonious with current Illinois precedent. (RX 3 p. 20) See *Vasquez and Lemes, supra.*

Further, Dr. Stewart was unaware as to details regarding alterations in operations with inmate staff and regulatory/segregation changes during the pandemic. (RX 3 p. 31) Dr. Bradley, on the other hand, has a detailed understanding of how the duties of the correctional employees changed to include not only more repetitive activities during the day but also more hours they were required to perform these activities due to mandatory overtime. (PX 8 pp. 17-18)

The Arbitrator notes that Respondent's analyses – and even Dr. Stewart – acknowledged that Petitioner's employment is repetitive. (PX 11; PX 12; RX 2) The aforementioned precedent repeatedly held that the activities detailed in the CorVel analysis, post description, and video form an increased risk of repetitive injury and contribute to the development of compression neuropathies. (PX 11; PX 12; PX 13; PX 14)

The Arbitrator notes that Petitioner was a correctional officer for approximately four years, and his work assignment sheet shows that he worked on a gallery during this period. (Tr. pp. 13-14, 32; RX 5) The Arbitrator notes that as a lieutenant, Petitioner was assigned to segregation for nearly two years – during the height of the COVID pandemic – and that during this time his job activities increased and he "pretty much did what a correctional officer would do." (RX 5; Tr. pp. 13-15, 32) Notably, Respondent's representative, Warden Knust, was present but was not called by Respondent to rebut any of Petitioner's testimony regarding his increase in duties. (Tr. pp. 5, 34)

The Arbitrator further notes that there is an abundance of cases where the Commission has awarded benefits to officers who have been promoted. See *James Lloyd v. SOI/Menard Corr. Ctr.*, 24 I.W.C.C. 0597; *Josh Mileur v. SOI/Menard Corr. Ctr.*, 17 I.W.C.C. 0673; *Kent Brookman v. SOI / Menard Corr. Ctr.*, 15 I.W.C.C. 0707; *Timothy Knop v. SOI/Menard Corr. Ctr.*, 14 I.W.C.C. 0303; *Timothy Veath v. SOI / Menard Corr. Ctr.,* 14 I.W.C.C. 0896; *Jeff Broshears v. SOI/ Menard C.C.,* 13 I.W.C.C. 0063; *Beau Purtle v. SOI/Menard Corr. Ctr.*, 11 IL.W.C. 3604 (2013); *Jacqueline Lashbrook v. SOI / Menard Corr. Ctr.*, 12 I.W.C.C. 1146; *Minh Scott v. SOI/Menard Corr. Ctr.*, 12 I.W.C.C. 0888; *Charles Parnell v. SOI/Menard Corr. Ctr.*, 12 I.W.C.C. 0797; *Virgil Taylor v. SOI/Menard Corr. Ctr.*, 11 WC. 004798 (2012).

The Arbitrator finds the Commission's assessment in the matter of *Josh Mileur*, which referred to a number of the above cases and quoted Commission's decision in *Kent Brookman*, to be particularly instructive:

> While it appears that the activities that could have contributed to his upper extremity conditions have been reduced as Petitioner has been promoted through the ranks of correctional officer, it also appears that the Petitioner has continued to work for a significant number of years with symptoms. As stated in the seminal case of *Peoria Belwood Nursing Home v. Industrial Commission*, 115 Ill.2d 524, 505 N.E.2d 1026, 106 Ill. Dec. 235 (1987): "We believe the purpose behind the Workers' Compensation Act is best served by allowing compensation in a case like the instant one where an injury has been shown to be caused by the performance of the claimant's job and has developed gradually over a period of time, without requiring complete dysfunction." The Court also noted in *Durand v. Industrial Commission*, 224 IU.2d 53, 862 N.E.2d 918, 930, 308 Ill.Dec. 715 (2006): "We decline to penalize an employee who diligently worked through progressive pain until it affected (his) ability to work and required medical treatment." *Kent Brookman v. SOI / Menard C.C.*, 15 I.W.C.C. 0707, citing *Peoria Belwood Nursing Home v. Industrial Commission*, 115 Ill.2d 524, 505 N.E.2d 1026, 106 Ill.Dec. 235 (1987) and *Durand v. Industrial Commission*, 862 N.E.2d 918, 930, 308 Ill.Dec. 715 (2006).

The Arbitrator places significant weight on the fact that Dr. Bradley's records and Petitioner's testimony both indicate that it was during the pandemic – approximately three years before he saw Dr. Bradley – that Petitioner began to notice symptoms. (Tr. pp. 15-16; PX 3 p. 2)

Additionally, Dr. Stewart admitted that other than Petitioner's BMI – which Dr. Bradley noted was only slightly elevated and not near morbid obesity – he did not have any other conditions or comorbidities that placed him at increased risk. (RX 2; PX 8, pp. 8-9) The Arbitrator assigns significant weight to Petitioner's lack of significant comorbid risk factors or contributing hobbies.

Consequently, the Arbitrator finds and concludes that Petitioner met his burden in proving that he suffered accidental repetitive injuries that arose out of and in the course of his employment with Respondent that are causally connected to his current condition of ill-being.

Issue (E): Was timely notice of the accident given to Respondent?

In repetitive trauma cases, courts have employed a flexible-but-fair standard that allows claimants to choose the manifestation date. The manifestation date can be set as: (a) the date the employee actually became aware of the physical condition and its relation to work through medical consultation; (b) the date the employee requires medical treatment; (c) the date on which the employee can no longer perform work activities; or (d) when a reasonable person would have plainly recognized the injury and its relation to work. *Durand v. Industrial Commission*, 224 Ill.2d 53, 862 N.E.2d 918 (Ill. 2007), see also *Peoria County Belwood Nursing Home v. Industrial Commission*, 115 Ill.2d 524, 505 N.E.2d 1026 (Ill. 1987); *Oscar Mayer & Co. v. Industrial Commission*, 176 Ill.App.3d 607, 531 N.E.2d 174 (3rd Dist. 1988); *Three "D" Discount Store v. Industrial Commission*, 198 Ill.App.3d 43, 556 N.E.2d 261 (4th Dist. 1989).

Although a claimant is aware of symptoms and carries a suspicion that these are work-related, the Supreme Court has stated, "The 'fact of injury' is not synonymous with the 'fact of discovery'" *Durand*, N.E.2d at 927. In short, claimants are not charged with filing a claim as soon as they believe they may have a work-related condition, nor are they penalized for failing to realize a condition is work-related when the employer feels that he or she should have. In fact, the Supreme Court stated that to rely solely on a claimant's testimony concerning symptoms, without accurate knowledge of the cause of those symptoms, would essentially be asking them to "rely on 'expert' medical testimony from a layperson." *Id*. at 929. The Court likewise noted that the claimants would have had difficulty proving injury with a sketchy and equivocal understanding of same. *Id*. at 930. The standard that "the 'fact of injury' is not synonymous with the 'fact of discovery'" has since become a safety measure employed by all Courts to ensure that the employers do "penalize an employee who diligently worked through" his or her symptoms. *Durand v. Indus. Comm'n*, 862 N.E.2d at 927, 930.

Respondent disputes notice as to causation. (Tr. pp. 6-7) Petitioner testified without rebuttal that although he had symptoms three years prior to seeing Dr. Bradley, he was not diagnosed with compression neuropathy until August 2023. (Tr. pp. 18-19, 27) Further, he testified that August 3, 2023, was the date he realized his condition was work-related. (Tr. p. 19) Respondent produced no witnesses or evidence to refute Petitioner's testimony.

After his initial diagnosis on August 3, 2023, Petitioner reported his work-related injuries to Respondent in writing on August 15, 2023 – well within the limits outlined in the Act. Therefore, the Arbitrator finds and concludes that Petitioner provided timely notice of his repetitive injuries to Respondent.

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).

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).

The Arbitrator finds that the x-rays performed by Dr. Bradley are an accepted and commonplace standard of care when investigating the source of upper extremity symptoms such as Petitioner's. (PX 8 pp. 7-8)

The Arbitrator notes that although Respondent's expert denied causation, he agreed that Petitioner's bilateral carpal tunnel surgeries were reasonable and necessary. (RX 3 p. 28)

With respect to Petitioner's elbows, Dr. Stewart agreed that Petitioner suffered from cubital tunnel bilaterally. (RX3 pp. 28-29) While he believed that Petitioner had no conservative treatment on his elbows and that same might have alleviated his symptoms prior to surgery, Dr. Bradley's notes and testimony and Petitioner's testimony indicate that Petitioner used antecubital pillows at night as a form of conservative treatment for his elbows, but that same did not provide sustained relief. (RX 2; PX 3 p. 10; PX 8 p. 11; Tr. pp. 19-20) Further, Dr. Stewart admitted that intraoperatively, the ulnar nerves were decreased by 50 percent, and he admitted that Petitioner's symptoms were resolved with surgery. (PX 3 pp. 28-29, 33-34)

Dr. Bradley's notes indicate that Petitioner had been managing his symptoms with anti-inflammatories but that when he stopped taking same due to ulcers, his symptoms became such that surgical intervention was necessitated. (PX 3 p. 10) Dr. Bradley's records and Petitioner's testimony demonstrate that there was marked improvement of Petitioner's symptoms following his surgeries. (PX 3 p. 29; Tr. pp. 22-23)

Therefore, the Arbitrator finds and concludes that the medical treatment rendered to Petitioner, including surgery, was reasonable, necessary, and causally related to his work-related repetitive injuries. Further, the Arbitrator finds that Respondent is liable for payment of the medical expenses as outlined in Petitioner's Exhibit 1.

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 shift supervisor for Respondent. (Tr. p. 12) He testified that he performs either writing or typing for approximately seven hours per day as part of his job duties. (Tr. p. 18) He testified that he has trouble using his fingers when typing. (Tr. pp. 23-24) The Arbitrator places moderate weight on this factor.

(iii) **Age**: Petitioner was 36 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**: 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 repetitive injuries, Petitioner underwent bilateral carpal and cubital tunnel releases with ulnar nerve transpositions. (PX 3) Despite the improvement he gained from the surgeries, Petitioner testified that he still has some numbness and tingling in the tips of his fingers and that he has trouble using his fingers when typing or diapering his child. (Tr. pp. 23-24) His hobbies of golfing and working out have been adversely affected due to his injuries. (Tr. p. 24) 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 12.5% loss of Petitioner's right hand, the 10% loss of Petitioner's left hand, the 15% loss of Petitioner's right arm, and the 15% loss of Petitioner's left arm.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC029402
Case Name	Maria Guadalupe Navarro v. Labor Personnel, LLC.-Loaning employer
Consolidated Cases	23WC033832
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0259
Number of Pages of Decision	28
Decision Issued By	Maria Portela, Commissioner

Petitioner Attorney	Damian Flores
Respondent Attorney	Michael J. Danielewicz

DATE FILED: 9/15/2026

/s/Maria Portela, Commissioner

Signature

26IWCC0259

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 down	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

MARIA GUADALUPE NAVARRO,

Petitioner,

vs. NO: 23WC029402

LABOR PERSONNEL; FACTOR 75,

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, temporary total disability, penalties and fees, and "Rejection of Addendum Report," and being advised of the facts and law, modifies the Corrected Decision of the Arbitrator as stated below and otherwise affirms and adopts the Corrected Decision of the Arbitrator, which is attached hereto and made a part hereof.

Initially, the Commission finds that Dr. Balaram's addendum report, dated January 10, 2025, should have been admitted into evidence. To comply with Section 12 of the Act, a physician's report must be provided to the opposing party "not later than 48 hours before the time the case is set for hearing." *820 ILCS 305/12; See also Ghere v. IC* (Howell Asphalt), 278 Ill. App. 3d 840, 845, 215 Ill. Dec. 532, 536, 663 N.E.2d 1046, 1050 (1996). The appellate court has clarified that §12 "dictates that the proponent of medical testimony provide the other party with the required medical reports 48 hours before evidence is presented on the first day of the arbitration hearing." *Mulligan v. IWCC*, 408 Ill. App. 3d 205, 219, 349 Ill. Dec. 227, 239, 946 N.E.2d 421, 433 (2011).

In the case at bar, although February 26, 2025 had been the date "set for hearing," no substantive evidence was heard on that date. *Px46.* Rather, the transcript reflects that an on the record discussion was had regarding whether a continuance should be granted because Respondent wanted to take the deposition of its §12 physician, Dr. Balaram, with respect to the addendum report, and Respondent also wanted to subpoena wage records from Petitioner's subsequent employers "to get accurate records of earnings for calculation of temporary, partial, and/or wage differential." *Id. at 3-4, T.1248-9*. The Arbitrator granted the continuance and stated, "I'm not going to make somebody have a trial if they're not ready to go." *Id at 4*. Therefore, it does not seem as though the Arbitrator

believed the trial/hearing had begun that day.

The only "argument' presented on February 26, 2025 was that Petitioner had a *Ghere* objection to Dr. Balaram's addendum report because he had not received it until the day prior on February 25, 2025. *Id. at 5*. Although Petitioner may have had a valid *Ghere* objection had the trial proceeded that day, it did not. Instead, the trial was continued to March 11, 2025. The Arbitrator also indicated that if the case didn't proceed on that date, it would be tried "at the latest in April." *Id. at 4*.

The Commission finds that the hearing did not begin on February 26, 2025. Rather, a record was made regarding the reasons for a continuance. No arguments were made about the substantive issues in this case and no evidence was presented. Therefore, pursuant to the rationale in *Mulligan,* the hearing had not actually begun and Respondent's tender of Dr. Balaram's addendum report to Petitioner's attorney on February 25, 2025 did not violate the 48-hour rule in §12 of the Act. We note that, although Petitioner's attorney objected to the report based on *Ghere*, he waived any hearsay or foundation objections. *T.97*. Thus, Dr. Balaram's addendum should have been admitted into evidence.

Despite our consideration of Dr. Balaram's addendum report and the opinions contained therein, we affirm the Arbitrator's findings regarding causation and temporary total disability (TTD). Regarding temporary partial disability (TPD), we affirm the award but correct the Order section at #2 to strike the word "total" and replace with "partial." We also strike "9/16/23 – 1/8/24" to be consistent with the Arbitrator's Conclusions of Law on page 13 because Petitioner did not introduce any evidence for that period. This correction does not affect the amount of the TPD award.

Regarding medical expenses, the Commission notes that the Arbitrator awarded $78,185.23, as shown in *Px38* and which was already adjusted based on Petitioner's calculations of the medical fee schedule in §8.2 of the Act. However, this amount includes charges from both of Petitioner's consolidated cases: 23WC029402 and 23WC033832. It also appears that this summary includes some charges which, according to the medical bill exhibits, had already been paid by Respondent. *Px38* also does not separate between medical expenses related to the right shoulder accident on September 15, 2023, which is the subject of the current Corrected Decision, from those related to her lumbar injury on December 13, 2023, which is the subject of the Corrected Decision in case number 23WC033832. We find that Petitioner is entitled to all medical expenses contained in the exhibits related to her right shoulder, adjusted pursuant to the fee schedule in §8.2 of the Act, with Respondent receiving credit for amounts paid prior to the hearing. Petitioner shall not receive double payment for any medical bills.

Next, we affirm the Arbitrator's findings and wage differential award under §8(d)1 beginning October 26, 2024, but correct a clerical error in the Order section at #4 to strike the number "65" and replace with "67" to be consistent with the Arbitrator's findings in the Conclusions of Law section on page 15. We clarify that §8(d)1 of the Act provides that for accidents occurring on or after September 1, 2011, a wage differential is awarded until the age of 67 or 5 years from the date the award becomes final, which is later.

Regarding penalties and attorney's fees, we affirm the award of $9,420.00 in §19(l) penalties. However, we modify the awards under §19(k) and §16. We find that Respondent's conduct and failure to pay the medical bills was unreasonable and vexatious under both of these sections, and award §19(k) penalties equal to 50% of the amount of unpaid medical expenses relating to the right shoulder, adjusted pursuant to the fee schedule in §8.2 and adjusted for amounts paid by Respondent

prior to the hearing. Similarly, we award §16 attorney's fees equal to 20% of the amount of unpaid medical expenses relating to the right shoulder, adjusted pursuant to the fee schedule in §8.2 and adjusted for amounts paid by Respondent prior to the hearing.

We also modify the Arbitrator's awards under §19(k) and §16 for Respondent's unreasonable and vexatious nonpayment of TPD benefits. The Commission finds that Respondent did have a reasonable basis to dispute Petitioner's entitlement to TTD/TPD after August 30, 2024, when Dr. Poepping initially released Petitioner from care with no restrictions. This release date seems consistent with the June 21, 2024 (report date) §12 opinion of Dr. Balaram that Petitioner should continue with physical therapy for six (6) weeks "with a transition to unrestricted duty thereafter, MMI expected in 2 months." *Px24, T.1079*. Although Petitioner continued to work at her accommodated, light duty job, Respondent's attorney emailed Petitioner's attorney on October 21, 2024 that Petitioner's work assignment was being "ended based on Dr. Balaram's IME report." *Px26, T.1085*. As the Arbitrator determined, after deducting Respondent's credit for overpayment of TTD, the remaining balance of unpaid TPD is $1,868.52. However, the TPD period awarded by the Arbitrator also included 6-6/7 weeks from September 4, 2024 through October 21, 2024. This period is after the August 30, 2024 initial release date by Dr. Poepping, which Respondent claims it is relying upon in denying additional TTD/TPD.

The Commission agrees with the Arbitrator that Petitioner is entitled to the TTD/TPD periods he awarded and that Petitioner's permanent restrictions make her eligible for a wage differential. However, as it relates to penalties, Respondent obtained the opinion and testimony of Joe Castronovo, PT, DPT, MTC, that the October 15, 2024 Functional Capacity Assessment (FCA), showing Petitioner had restrictions, was not valid. Respondent also obtained the January 10, 2025 records-review addendum from Dr. Balaram which, as discussed previously, the Commission has found should have been admitted into evidence. Dr. Balaram opined that the FCA was not valid because it was based on Petitioner's comorbidities and not Petitioner's shoulder specifically. Although the Commission does not find Mr. Castronovo's or Dr. Balaram's opinions persuasive, we do believe it was not unreasonable or vexatious for Respondent to have relied upon them to support its position that Petitioner was not entitled to TTD and TPD benefits after the August 30, 2024 release by Dr. Poepping.

We next calculate the amount of unpaid TPD benefits and associated penalties/fees. Respondent argues it "fully paid TTD through August 30, 2024 in the amount of $13,516.91 and is…entitled to an additional credit towards any awarded PPD for overpayment of TTD paid after August 30, 2024 for [sic] $1,639.28." *29402 R-brief at 9*. However, even though Respondent had a reasonable basis to not pay TTD/TPD after August 30, 2024, Petitioner had been working from June 5, 2024 through (and after) August 30, 2024 at the Aurora Food Pantry, which was an accommodated job provided by Respondent. Respondent is clearly responsible for TPD during this period, but Respondent's brief does not address Petitioner's entitlement to TPD.

Respondent agrees with the Arbitrator's calculation that it overpaid TTD by $1,639.28 so we must determine how much, if any, Respondent unreasonably and vexatiously failed to pay for undisputed TPD benefits through August 30, 2024. The Arbitrator appropriately calculated Petitioner's TPD benefits based on a cumulative total of her gross earnings (from 6/5/24 – 8/29/24 and 9/4/24 – 10/21/24) compared to what Petitioner would have earned during those periods at her previous job at Respondent. *Px33*. The Arbitrator concluded that Petitioner was entitled to $3,507.80 in TPD benefits for 19 weeks. *29402 Dec. at 13*. Although the Arbitrator did not convert that to a weekly TPD rate, the average TPD rate during those periods equals $184.62 ($3,507.80 / 19 weeks).

For the period from June 5, 2024 through August 29, 2024, which is the first period of TPD the Arbitrator awarded, Petitioner was entitled to $2,268.19 in TPD benefits ($184.62 per week x 12-2/7 weeks). After deducting Respondent's $1,639.28 credit for the overpayment of TTD, there remains a balance of unpaid TPD of $628.91. Based on Respondent's own admissions and arguments, it owed this amount of TPD through August 29, 2024, which remained unpaid through the date of hearing. Therefore, for the unpaid TPD through August 29, 2024, we find Petitioner is entitled to §19(k) penalties of $314.46 ($628.91 x 50%) and §16 fees of $125.78 ($628.91 x 20%).

All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $561.78 per week for a period of 21-1/7 weeks, 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 $3,507.80 for the period of temporary partial disability under §8(a) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall receive credit of $13,516.91 for temporary total disability and temporary partial disability benefits that have been paid.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner, pursuant to §8(d)1 of the Act, $14,062.00 in accrued wage differential benefits from October 26, 2024 through the date of arbitration on September 23, 2025. Beginning September 24, 2025, Respondent shall pay to Petitioner wage differential benefits of $261.85 until the date she reaches the age of 67.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner, under §8(a) of the Act, all medical expenses contained in the exhibits related to her right shoulder, adjusted pursuant to the fee schedule in §8.2 of the Act, with Respondent receiving credit for amounts paid prior to the hearing.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $9,420.00 for penalties as provided in §19(l) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $314.46 in penalties for unpaid temporary partial disability benefits as provided in §19(k) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner, as penalties under §19(k) of the Act, an amount equal to 50% of the unpaid medical expenses relating to the right shoulder, adjusted pursuant to the fee schedule in §8.2 and adjusted for amounts Respondent paid prior to the hearing.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of 125.78 in attorney's fees for unpaid temporary partial disability benefits as provided in §16 of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner, as attorney's fees under §16 of the Act, an amount equal to 20% of the unpaid medical expenses relating to the right shoulder, adjusted pursuant to the fee schedule in §8.2 and adjusted for amounts

Respondent paid prior to the hearing.

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 $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.

SEPTEMBER 15 2026

/s/ *Maria E. Portela*

SE/
O: 7/23/26
49

/s/ *Marc Parker*

/s/ *Christopher A. Harris*

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC029402
Case Name	Maria Guadalupe Navarro v. Labor Personnel, LLC.-Loaning employer
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Corrected Decision
Commission Decision Number	
Number of Pages of Decision	21
Decision Issued By	Paul Seal, Arbitrator

Petitioner Attorney	Damian Flores
Respondent Attorney	Daniel J Levato

DATE FILED: 11/18/2025

/s/ Paul Seal, Arbitrator

Signature

INTEREST RATE WEEK OF NOVEMBER 18 2025 3.71%

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
CORRECTED ARBITRATION DECISION

Maria Guadalupe Navarro
Employee/Petitioner

v.

LABOR PERSONNEL; FACTOR 75;
Employers/Respondents

Case # **23** WC **29402**

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 **Arbitrator Paul Seal**, Arbitrator of the Commission, in the city of **Geneva, IL**, on **9/23/25** 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 **Admission of the addendum report**

FINDINGS

On **9/15/23**, 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 $**42,976.16**; the average weekly wage was $**842.67**.

On the date of accident, Petitioner was **44** 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 $**13,516.91** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**13,516.91**.

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

ORDER

1. Respondent shall pay Petitioner temporary total disability benefits of **$561.78**/week commencing 1/9/24 – 6/4/24 and 10/22/24-10/25/24 for a total of for **21 & 1/7th** weeks for a total of $11,877.63. Taking into account a credit of $13,516.91 for TTD paid, the Arbitrator notes a TTD overpayment of $1,639.28.

2. Respondent shall pay Petitioner temporary total disability benefits amounting to $3,507.80 for the weeks of 9/16/23 – 1/8/24; 6/5/24 – 8/29/24 and 9/4/24 – 10/21/24. After taking into account the TTD overpayment of $1,639.28, Petitioner is awarded $1,868.52 in TPD benefits.

3. Respondent shall pay reasonable and necessary medical services, pursuant to the medical fee schedule, of $78,185.23, as provided in Sections 8(a) and 8.2 of the Act and submitted into evidence as PX 7 through PX 19.

4. Pursuant to Section 8(d)1 Respondent shall pay Petitioner wage differential benefits starting on 10/26/24. Through the date of arbitration, Petitioner is awarded $14,062.00 in accrued wage differential benefits through the date of arbitration. Moving forward, Pursuant to Section 8(d)1, the Arbitrator also awards Petitioner a wage differential of $261.85 until the date she reaches the age of 65.

5. Respondent shall pay to Petitioner penalties of $**16,009.86**, as provided in Section 16 of the Act; $**40,956.69**, as provided in Section 19(k) of the Act; and $**9,420.00**, 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

NOVEMBER 18 2025

FINDINGS OF FACT

Proofs were closed on 9/23/25 in Wheaton, Illinois, before Arbitrator Paul Seal. Issues in dispute at arbitration were admission of exhibits, causal connection, medical expenses, TTD, TPD, Penalties and attorney's fees, and permanency.

As of 9/15/23, Petitioner had been employed by Respondent, a staffing agency, for approximately 3.5 years (T. at 24). Throughout her employment, Respondent sent Petitioner to work at Factor 75 as a general laborer (T. at 24). In order to complete her work duties, Petitioner engaged in the lifting of objects weighing from 10-100 pounds (T. at 24). Petitioner had no prior history of injury to her right shoulder or lumbar spine (T. at 25). Throughout her employment, she worked 6 days per week and was able to complete her work duties without issue.

On 9/15/23, Petitioner reported to work in the same state of sound health (T. at 26). That day, at approximately 7 AM, Petitioner walked towards the restroom, slipped on liquid, landed on her right hand and felt a pop in her right shoulder (T. at 26). Petitioner immediately reported the incident to a representative from the staffing agency and was sent for care at Advocate Occupational Health that same day.

The initial treatment notes from Advocate Occupational Health document that Petitioner slipped on a wet patch as her coworker cleaned the floor (PX 1 at 9). Petitioner underwent x rays of the right shoulder and right elbow (PX 1 at 15-16). She was initially diagnosed with a sprain of the right shoulder and sent back to work with restrictions (PX 1 at 10). Petitioner continued working for Respondent while also following up at Advocate Occupational Health up through 10/23/23 (T. at 28). Due to the lack of improvement, Petitioner sought a second opinion at Grandview Health Partners on 11/2/23 where she reported ongoing cervical, right shoulder, right elbow and right wrist pain due to the 9/15/23 work accident (PX 2A at 3). Petitioner was prescribed PT, asked to undergo an MRI of the right shoulder, and again sent back to work with restrictions (PX 2A at 10-2). The 11/11/23 right shoulder MRI demonstrated a focal full thickness rotator cuff tear (PX 2A at 402). Petitioner was then referred to Dr. Poepping who ordered surgery to address the rotator cuff tear (PX 3 at 3). Pending surgery, Dr. Poepping recommended that Petitioner continue working with restrictions. Petitioner testified that she continued performing her normal work duties with the use of her left, uninjured, arm (T. at 29).

On 12/13/23, while still working with restrictions for Respondent, Petitioner sustained a second work accident. On this date, Petitioner was pushing racks of condiments when she slipped on ice and landed flat on her back (T. at 30). Petitioner noted immediate pain in her back and right shoulder (T. at 31). That same day, she followed up at Grandview Health Partners to whom she reported slipping on ice and landing onto her right hip thus resulting in lumbar/hip/abdomen pain (PX 2B at 3). Dr. Gavin ordered a CT scan of the abdomen, a lumbar MRI, an MRI of the right hip and, again, sent her back to work with restrictions (PX 2B at 79). Radiologist, Dr. Kuritza, read the 12/21/23 lumbar MRI scan to show a 2-3 mm posterior disk protrusion at L4/5 indenting the thecal sac with generalized bilateral neuroforaminal narrowing and a 4-5 mm posterior disk protrusion at L5/S1 indenting the thecal sac with generalized bilateral neuroforaminal narrowing (PX 2A at 410). Petitioner was then instructed to follow up with pain management for the lumbar injury.

On 12/27/23, Liza Perez, Respondent's claims adjuster, emailed Lakeshore Surgery Center to advise that the proposed surgery was authorized (PX 22). Petitioner continued working with restrictions until 1/8/24, the date prior to the approved surgery (T. at 32). On 1/9/24, Dr. Poepping performed the approved right shoulder arthroscopic rotator cuff repair, subacromial decompression, debridement and open tenodesis at Lakeshore Surgery Center (PX 3 at 4). Post surgery, on 1/12/23, Dr. Poepping instructed Petitioner to remain off work and commence PT (PX 3 at 9).

During a lumbar examination on 2/6/24, Dr. Gavin documented improved low back pain with an ongoing burning sensation from her low back down Petitioner's bilateral posterior thighs and into her knees (PX 2B at 34). On 3/8/24, Petitioner was seen by Dr. Anis Mekhail to address the ongoing lumbar pain (PX 4 at 3). During the initial date of service, Dr. Mekhail documented ongoing low back pain with radiation down the bilateral lower extremities as a result of the 12/13/23 work accident (PX 4 at 3). Dr. Mekhail reviewed the MRI scan and diagnosed herniated discs at L4/5 and L5/S1; he recommended cortisone injections to address the lumbar radiculopathy (PX 4 at 3-4). On 3/15/24, Dr. Poepping kept Petitioner off work and recommended a shoulder strengthening program.

On 4/12/24, at Dr. Mekhail's recommendation, Petitioner was seen at the Pain and Spine Institute at which time Petitioner reported 8/10 low back pain traveling down the right leg (T. at 32 and PX 5 at 4). Petitioner was diagnosed with lumbar radiculopathy and prescribed right

transforaminal steroid injections from L4 to S1 which she underwent with Dr. Patel on 5/6/24 (PX 5 at 5 & 7). Subsequent to the injection, on 5/21/24, Petitioner reported to Dr. Patel that she was 100% better and was thereby discharged without restrictions for the lumbar injury (PX 5 at 10). On 5/24/24, Dr. Poepping recommended ongoing therapy while allowing Petitioner to return to work with 5-pound lifting restrictions (PX 3 at 13 & 60).

Respondent then provided Petitioner with a temporary alternative light duty assignment working at the Aurora Food Pantry starting on 6/5/24 (PT. at 35 and PX 23). At Respondent's request, on 6/11/24, Petitioner underwent a Section 12 examination with Dr. Ajay Balaram (PX 24). Dr. Balaram determined there was no evidence of symptom magnification; diagnosed Petitioner as being 5 months post right shoulder arthroscopic rotator cuff repair/subpectoral biceps tenodesis. Respondent's expert opined Petitioner had undergone appropriate surgical intervention and recommended 6 more weeks of physical therapy 2-3 times per week (PX 24). Moving forward, Dr. Balaram agreed with the work restrictions imposed by Dr. Poepping and agreed that Petitioner's need for work restrictions was causally related to the work accident (PX 24). Dr. Balaram further opined Petitioner would be at MMI in 8 weeks from the IME exam (PX 24).

On 7/17/24, Petitioner's counsel emailed Respondent's counsel requesting confirmation of the average weekly wage, an overview of the TTD paid to date and also requested ongoing payment of TPD benefits starting on 6/5/24 (PX 25). On 7/19/25, Dr. Poepping documented Petitioner had slight improvement but still had ongoing difficulty with overhead activity (PX 3 at 15). In light of these symptoms, Dr. Poepping recommended that Petitioner complete her scheduled PT and move forward with an FCE (PX 3 at 15). Petitioner followed up with Dr. Poepping on 8/30/24 without having undergone the recommended FCE. Petitioner testified that despite her symptoms, she asked that Dr. Poepping release her back to work without restrictions because she was earning less money and wanted to get back to work full time so that she could earn her full wages (T. at 38-39). Dr. Poepping's dictation from 8/30/24 documents that Petitioner felt she could work her normal activities; thus, she was discharged from care and told to follow up as needed (PX 3 at 16).

Upon reporting back to work at full duty at the Aurora Food Pantry, Petitioner noted increased back/shoulder pain and further noted that she was not able to lift objects above her head (T. at 40). In light of the symptoms, just 5 days later, Petitioner saw Dr. Poepping again on

9/4/24 at which time he documented that Petitioner was having difficulty with regular work activities (PX 3 at 17). Dr Poepping again recommended a functional capacity evaluation and sent her back to work with restrictions (PX 3 at 17).

Petitioner underwent a valid FCA at ATI Physical Therapy on 10/15/24 which found her capable of lifting 14.8 pounds occasionally above the shoulder, 28 pounds occasionally from desk to chair; 25.8 pounds occasionally from chair to floor (PX 6 at 5). Petitioner returned back to work at the Aurora Food Pantry pending her follow-up with Dr. Poepping to review the FCA (T. at 41). On Monday, 10/21/24, while at the food pantry, Petitioner received notice from her supervisor that her work assignment at the food pantry had ended (T. at 43). That same morning, at 10:02 AM, Respondent's counsel emailed Petitioner's counsel advising that the work assignment had ended and that Petitioner should return home (PX 26). Petitioner's counsel responded and requested payment of TTD benefits. Despite being told that she would not be paid for her services, Petitioner asked the supervisor for permission to complete the shift. Petitioner testified she completed her shift that day, without pay, because she knew the food pantry needed the help (T. at 44).

On 10/25/24, Dr. Poepping saw Petitioner for the last time. On this date, Dr. Poepping reviewed the valid FCE and discharged Petitioner based upon the FCE recommendations (PX 3 at18). That same day, Petitioner personally requested light duty work from Respondent but was not provided a job offer (T at 44). On 10/25/24 at 12:39 PM, Petitioner's counsel emailed Respondent requesting light duty work (PX 26). In light of Respondent's refusal to provide light duty work, Petitioner immediately sought alternative employment while keeping a job diary of each employer she contacted (PX 31). From 10/25/24 through 11/14/24, Petitioner contacted 16 potential employers (See PX 31). Eventually, she found work with Aurora Fresh market working approximately 30 hours per week at $16.00 per hour (T. at 47).

On 11/14/24, Petitioner's counsel sent an email to Respondent's counsel demanding payment of $199,260.13 in unpaid medical bills stating, "This seems like a significant amount of unpaid bills for an approved surgery. Is there a reason why the adjuster is not paying the bill (PX 27)?" Included within the unpaid medical forwarded to Respondent were the pre-fee schedule balances with Lakeshore Open MRI ($7,960.91); G&T Orthopaedics ($32,540.00); Western Touhy Anesthesia ($908.14); Lakeshore DME ($13,000.00); and Lakeshore Surgery Center ($88,120.51) (PX 27).

Petitioner continued looking and eventually found alternative employment with Unistaff. Petitioner testified that she continued her job search, despite already securing employment, because she wanted to work more hours and earn more money (T. at 47 & 49). The wage records submitted into evidence demonstrate Petitioner earned a total of $1,250.48 with Aurora Fresh Market from 11/11/24 through 12/8/24 (PX 34).

Petitioner began working with Unistaff, a staffing agency, on 12/9/24 and was initially sent to work at a used book warehouse for an employer named Sell Back Your Books (T. 49 & PX 35). Petitioner's work duties included picking orders which required lifting books from the floor up to above her head (T. at 50). Petitioner noted increased pain while performing the work duties. After approximately two months, on 2/5/25, Unistaff transferred Petitioner to work at MSI Express Packaging (T. at 51). Petitioner's work duties at MSI required that she stand at her workstation while repetitively packing condiments (T. at 53). Throughout her 8-hour shift, Petitioner repetitively lifted 6-pound boxes and stacked them onto a pallet while reaching above her head in height (T. at 54). Petitioner, again, described increased pain while performing the work duties at MSI. Petitioner testified that she had never felt this type of pain before, nevertheless, she kept working because she wanted to work and finish the job (T. at 54).

This matter was set for arbitration in Geneva on 2/26/25. One day prior to the scheduled hearing, on 2/25/25 at 11:38 AM, Respondent's counsel emailed Petitioner's counsel stating, "Sorry for the delay-had some stuff going on that I had to take care of" and then proceeded to provide copies of Respondent's exhibits which included the wage statement and TTD payment overview (which had previously been requested by Petitioner on 7/17/24) and a 1/10/25 IME addendum report by Dr. Balaram (See PX 25 & 39). At 11:51 AM, Petitioner's counsel responded, **"The addendum report was never provided to me. I am objecting to the report (PX 40)."** Upon reviewing the wage statement and the TTD overview, Petitioner's counsel responded at 1:15 PM acknowledging a TTD overpayment ($1,6343.72) and, once the credit was taken into account, requested payment of $1,864.08 in TPD benefits (PX 39 & PX 33).

The parties went on the record on 2/26/25. According to the transcript, Petitioner was ready to proceed on all issues. Respondent requested a continuance in order to schedule the deposition of the Section 12 expert (despite Petitioner's agreement to waive hearsay) and also to subpoena wage records from Petitioner's subsequent employers (PX 46 at 4). Over Petitioner's objection, the matter was continued until 3/11/25 (PX 46 at 4). Subsequent to going on the

record, Petitioner's counsel emailed respondent the following, "After taking into account the overpayment of TTD ($1,643.72), it is undisputable that my client is still owed $1,864.08 in TPD. If you disagree with this, I ask that you look at the file and provide a basis for said dispute. We ask that you forward $1,864.08 to my office immediately (PX 39)." Respondent's counsel, via email, acknowledged receipt of the demand for payment of TPD on 2/26/25 at 12:15 PM (PX 41).

Respondent issued subpoenas to Unistaff and Aurora Fresh Market on 2/27/25 (RX 6 & 7). On Monday, 3/3/25, Unistaff forwarded a subpoena response for the requested wage records (RX 6). Petitioner continued working for Unistaff until Friday, 3/7/25 when she was abruptly advised the employer no longer needed her services (T. at 55). That same day, Petitioner's counsel advised Respondent that she had been terminated (PX 41). The wage records submitted into evidence demonstrate Petitioner earned a total of $7,507.88 with Unistaff (PX 35 & PX 37). On 3/7/25, via email, the parties confirmed with the Arbitrator that Respondent still did not have a subpoena response from the employers and the matter was again continued for arbitration until 4/21/25 (See PX 41 & 42).

Upon losing her job with Unistaff, Petitioner started looking for work with another employer. From 3/11/25 through 4/3/25, Petitioner contacted 15 potential employers (RX 31). On 3/11/25, Petitioner spoke to Irma from Supermarket (Carneceria) El Paso and was told there was no work available (PX 31 and T. at 57). Despite being turned away, Petitioner followed up with Irma and secured employment with Super Market El Paso starting on 4/14/25 (T. at 58 & PX 36).

On Monday, 4/14/25, Petitioner's counsel emailed the arbitrator advising that Petitioner was ready to proceed to hearing. Subsequently, on 4/18/25, Petitioner's counsel emailed the arbitrator advising that Respondent had just provided an FCE review report the day prior (4/17/25) and that Petitioner was objecting to the report (PX 42). On 4/18/25, Petitioner's counsel emailed Respondent advising that hearsay would not be waived for the new FCE review report (PX 43). The parties spoke to the arbitrator via Webex again on 5/2/25. That same day, at 9:40 AM, Petitioner's counsel confirmed the pretrial conversation regarding Petitioner's objections to Respondent's reports (PX 44).

Petitioner filed a motion to request a hearing on 7/10/25 (PX 45). The arbitrator takes judicial notice that during the pretrial, on 7/17/25, Petitioner asked that the matter be set for

arbitration during the next month's cycle. Respondent's counsel requested additional time to schedule the deposition of Respondent's FCE review expert as they had not received responses to the request for deposition dates. In light of Respondent's assertions that the inquiries for deposition dates had been unsuccessful, the arbitrator gave Respondent an additional month and set this matter for arbitration on 9/23/25. The arbitrator did not give the parties an August date as requested by Petitioner (See T. at 14-15).

On 8/6/25, the parties proceeded with deposition Joe Castronovo, a licensed physical therapist hired by Respondent to review the ATI FCA report (RX 8). Mr. Castronovo testified that the FCA (functional capacity assessment) is similar to an FCE (functional capacity evaluation); however, each study uses a different criteria (RX 8 at 9). Mr. Castronovo noted ATI Physical therapy used the FCA program (RX 8 at 9). He opined, however, that the FCA is not a complete examination and lacks many components of a true FCE; thereby concluding the FCA is not a reliable measurement of someone's work ability as it lacks content validity, objective measurements and there's no scientific basis for the conclusions stated therein (RX 8 at 19). Despite the similarities between the FCE and the FCA, Mr. Castronovo acknowledged, on direct examination, that he was not certified to perform an FCA (RX 8 at 9).

Mr. Castronovo opined Petitioner's FCA provided no objective evidence that she provided a maximum effort during the exam (RX 8 at 32). Mr. Castronovo essentially questioned the reliability of every FCA performed by ATI Physical Therapy; concluding that Petitioner's FCA report should not be relied upon for future vocational planning due to the inherent fallacies of the FCA program utilized by ATI in administering all functional capacity assessments (RX 8 at 42). Respondent's expert further questioned the reliability of the FCA because it was administered by Tom Werner, an athletic trainer and not a licensed physical therapist (RX 8 at 17). According to Mr. Castronovo's review of the practice Acts, in the state of Illinois, Mr. Werner, as an athletic trainer, was not certified to perform an FCA (RX 8 at 17). Based upon his observations, Mr. Castronovo concluded Petitioner could return to her prior employment without restrictions (RX 8 at 42).

On cross examination, regarding his opinion that athletic trainers were not permitted to perform an FCA/FCE in the state of Illinois, Mr. Castronovo acknowledged he was not a lawyer and that he was not familiar with any specific case law, IWCC decision, or legal entity which supported his position (RX 8 at 46). Mr. Castronovo testified he was first contacted by

Respondent to review Petitioner's report on 3/14/25 (RX 8 at 52). **Regarding the deposition at hand, Mr. Castronovo reviewed his emails and confirmed that he was first contacted by Respondent on 7/17/25 to schedule the 8/6/25 deposition (RX 8 at 59).** Despite testifying that he was of the opinion that Petitioner could return to her normal work duties, Mr. Castronovo acknowledged on cross examination that he did not have a job description, and his opinion was based upon an assumption, not a specific understanding as to Petitioner's work duties (RX 8 at 60). Accordingly, Mr. Castronovo admitted that his opinion that Petitioner could return to her prior job was not "within a reasonable degree of medical certainty" (RX 8 at 61). Finally, although he disagreed with the methodology used by ATI for the FCA, Mr. Castronovo acknowledged that there was no governing body in the state of Illinois which determines the proper FCA/FCE methodology (RX 8 at 61). Furthermore, although he cited the standards set forth by the American Physical Therapy Association as a basis for his opinions, Mr. Castronovo acknowledged that neither the state of Illinois nor the IWCC had adopted the standard set for by the American Physical Therapy Association (RX 8 at 62).

On cross, Mr. Castronovo acknowledged that he previously testified, under oath for another matter, that "the majority of FCE reports are unreliable (RX 8 at 56)." In fact, Mr. Castronovo admitted that he had never determined an ATI FCA was reliable and further acknowledged having testified that "every FCE from ATI is not good" (RX 8 at 69). In reviewing his business model, Mr. Castronovo charges $1,350.00 per FCE report, performs 6-8 reports per month and charges $400.00 per hour for his deposition (RX 8 at 45). Mr. Castronovo testified he was self-employed and 65% of his business consisted of FCE review reports (RX 8 at 43 & 44). Respondent's hired expert acknowledged that if he reviewed an FCE/FCA and found its study to be valid, Mr. Castronovo would not author a report and he would, therefore, generate less income (RX 8 at 51-52 & 55). Mr. Castronovo, ultimately, agreed that it was bad for business if he determined an FCE was valid (RX 8 at 55).

As of the date of arbitration, 9/23/25, Petitioner continued working at Supermarket El Paso and had not sought alternate employment (T. at 58 & 70). From her date of hire through 9/7/25, Petitioner earned $15.00 per hour, worked 6 hours per day, 24-36 hours per week and earned a total of $9,642.90 (PX 36 & T. at 58). Petitioner's duties at Supermarket El Paso included the stocking of products, cleaning of work areas, and assisting customers (T. at 59). Despite the light nature of her work duties, Petitioner noticed increased right shoulder and low

back pain rated a 5-6/10 after working a shift or repetitive shoulder activity (T. at 60-61). Petitioner made clear that she had no such symptoms prior to sustaining the work accidents on 9/15/23 & 12/13/23 (T. at 60). Petitioner also reported back pain going up to a 6/10 with prolonged sitting (T. at 62). Petitioner is right-handed and the right shoulder injury has also negatively impacted her activities of daily living (T. at 63). For example, she is unable to reach to the back of head to wash her hair and is unable to reach back with her right hand to properly clean herself after using the restroom (T. at 64). The pain and limitations from the injuries have taken an emotional toll on Petitioner (T. at 64)

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 his evidence worthy of belief. The Arbitrator, whose province is to evaluate witness credibility, evaluate the demeanor of the witness and any external inconsistencies with his/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, 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). The Arbitrator took into account Petitioner's testimony and demeanor at arbitration and deemed her to be a hard-working credible witness.

With respect to the admission of Dr. Balaram's Addendum Report dated 1/10/25, the Arbitrator finds as follows:

Respondent sought to admit Dr. Balaram's addendum report in evidence as RX #1; this exhibit is rejected.

Section 12 of the Act indicates that a physicians' report must be provided no later than 48 hours before the start of a hearing and that, if the report is not disclosed, the examining physician will not be allowed to testify. *City of Chicago v. Workers' Compensation Commission*, 2008 WL 5382001 (Ill.App. 1 Dist.). Within the concurring opinion, Justice Gordon stated, "given its plain and ordinary meaning, a hearing begins when the parties start to present their arguments and evidence to the arbitrator." Id.

In the case at hand, this matter was scheduled for arbitration on 2/26/25. The record as a whole supports the conclusion that Respondent did not provide Petitioner the addendum report until 2/25/25 (See PX 40; PX 46 at 5; T. at 12). Respondent has provided no evidence to show that the addendum report was provided to Petitioner at any time prior. The parties appeared before the arbitrator, went on the record, and presented their arguments on 2/26/25. It is undisputable that Respondent failed to provide the addendum report within 48 hours of the scheduled arbitration. In any event, the arbitrator finds that this report in question is of very little probative value. In fact, this entire issue's relevance goes to the issue of penalties and fees.

With respect to causal connection, the Arbitrator finds as follows:

There is no dispute within the record as it pertains to causal connection between the work accident and Petitioner's right shoulder condition of ill being. Accordingly, the Arbitrator finds Petitioner's right shoulder condition is causally related to the work accident.

It is well-established law that proof of prior sound health and change immediately following and continuing after an injury may demonstrate that an impaired condition was due to the injury. Navistar International Transportation Corporation, 315 Ill. App. 3d 1197, 1206 (2000). The Court specifically stated that a causal connection between work duties and a condition may be established by a chain of events. This includes the Petitioner's ability to perform duties before the date of the accident and inability to perform the same duties following that date. Id.

In the case at hand, the Petitioner's testimony regarding the chain of events is documented within the treating medical records and is undisputed. Prior to the work accident, Petitioner was 44 years old with no prior history of right shoulder pain (T. at 225). Petitioner

slipped and fell onto her right hand; immediately noting right shoulder pain (T. at 26). Petitioner immediately sought care for right shoulder pain (PX 1 at 9) and eventually underwent the right shoulder MRI which revealed a focal full thickness rotator cuff tear (PX 2A at 402). Both the treater, Dr. Poepping, and the IME expert, Dr. Balaram, agree that the rotator cuff tear was causally related to the work accident (See PX 3 at 3 & RX 3)

Despite the care received, including an approved right shoulder surgery, as of the date of arbitration, Petitioner continued experiencing ongoing right shoulder pain with diminished range of motion. Every medical provider agrees that Petitioner's right shoulder condition of ill-being was caused by the undisputed work accident. Furthermore, the chain of events supports a finding of causal connection. As was the case in Navistar, the chain of events in the case at hand demonstrate that Petitioner's health deteriorated from a state which allowed her to work without issue pre-accident, to a state of disability immediately following the undisputed work accident. For the aforementioned reasons, the Arbitrator finds Petitioner satisfied her burden of proof and established causal connection between the 9/15/23 work accident and her right shoulder condition of ill-being.

With respect to the reasonableness and necessity of accrued medical, the Arbitrator finds as follows:

The Arbitrator finds the record as a whole to support a finding that all care rendered through the date of Arbitration was reasonable, necessary, and causally related to the work accident.

Pursuant to Section 8.7(i)(3) of the Act, once the utilization review process is invoked by Respondent, "An employer may only deny payment of or refuse to authorize payment of medical services rendered or proposed to be rendered on the grounds that the extent and scope of medical treatment is excessive and unnecessary in compliance with an accredited utilization review program under this Section."

Respondent did not offer a single UR report into evidence to deny the necessity of any of the care rendered. Respondent's only expert, Dr. Balaram agreed with the necessity of the preoperative physical therapy, agreed with the need for surgery, agreed with the need for post operative therapy and further agreed an additional 6 weeks of therapy starting on 6/14/24.

Taking into account the reliable opinions of Petitioner's medical providers, Respondent's preauthorization of surgery, Dr. Balaram's agreement with treatment rendered, and the lack of utilization reviews submitted into evidence by Respondent, the arbitrator finds no basis for the denial of any of the outstanding medical bills submitted into evidence. The arbitrator acknowledges an overlap between the care for treatment related to Petitioner's right shoulder due to the 9/15/23 work accident and the treatment related for Petitioner's lumbar injury due to the 12/13/23 work accident. Ultimately, the arbitrator finds all care to be reasonable, necessary and causally related to each work accident. Accordingly, the arbitrator awards all medical bills submitted into evidence as PX 7 through PX19 and reduced per the fee schedule as PX 38. Accordingly, the arbitrator awards Petitioner $78,185.23 in reasonable, necessary and causally related medical.

With respect to TTD benefits, the Arbitrator finds as follows:

The Arbitrator finds Petitioner satisfied her burden of proof and is awarded TTD benefits from 1/9/24 – 6/4/24 and 10/22/24- 10/25/24.

There is no dispute within the record as to whether Petitioner is entitled to TTD from 1/9/24 – 6/4/24. Petitioner underwent the approved surgery on 1/9/24; moving forward, Dr. Poepping recommended that Petitioner remain off work through 5/23/24 (PX 3 at 4 & 56-60). Moving forward, Dr. Poepping recommended light duty work. Subsequently, Respondent offered Petitioner light duty work starting on 6/5/24 (PX 23). Respondent's expert, Dr. Balaram, opined that as of 6/11/24, Petitioner could return to work with restrictions for 6 weeks (RX 3). After six weeks, Dr. Balaram stated consideration of full duty work would be warranted. The arbitrator notes that Dr. Balaram did not specifically address Petitioner's work status prior to 6/11/24. In light of the lack of dispute, the arbitrator awards TTD from 1/9/24 – 6/4/24.

As of 10/21/24, Petitioner was working with restrictions per the recommendations of Dr. Poepping (PX 3 at 65). On this date, Petitioner was advised by Respondent that light duty work would no longer be provided at the Aurora Food Pantry. Respondent's only possible basis for the denial of TTD from 10/22/24 – 10/25/24 is Dr. Balaram's opinion that consideration of full duty work was warranted on or about 7/23/24 (RX 3). Petitioner testified that she, in fact, attempted to work without restrictions after the 8/30/24 appointment with Dr. Poepping and noted an immediate increase in pain (T. at 40). In light of the increased symptoms, Dr. Poepping again

provided light duty restrictions on 9/4/24 (RX 3 at 65). The Arbitrator finds the implementation of light duty restrictions to be reasonable. In light of this and Respondent's refusal to provide light duty work, the arbitrator awards TTD From 10/22/24 – 10/25/24.

Due to the forementioned reasons, the Arbitrator finds Petitioner has satisfied her burden of proof and is entitled to TTD benefits from 1/9/24 – 6/4/24 and 10/22/24- 10/25/24 for a total of 21 & 1/7th weeks. Using the TTD rate of $561.78, Petitioner should have been paid $11,877.63 in TTD benefits. Taking into account a credit of $13,516.91 for TTD paid (RX 2), the Arbitrator calculates a TTD overpayment of $1,639.28.

With respect to TPD benefits, the Arbitrator finds as follows:

Petitioner seeks TPD from 9/16/23 – 1/8/24; 6/5/24 – 8/29/24 and 9/4/24 – 10/21/24. The Arbitrator finds Petitioner satisfied her burden of proof and is awarded TPD benefits from 6/5/24 – 8/29/24 and 9/4/24 – 10/21/24.

Throughout the period of claimed TPD Petitioner worked light duty for Respondent directly or at the Aurora Food Pantry, a location set up by Respondent. The light duty restrictions during the claimed TPD periods were assigned by Advocate Occupational Health, Grandview Health Partners and Dr. Poepping. Respondent's expert, Dr. Balaram, does not dispute the necessity of light duty restrictions throughout this period of time.

Petitioner provided no evidence to show she earned less while working from 9/16/23 – 1/8/24; accordingly, TPD benefits are not awarded for this initial period of time. Petitioner submitted into evidence her checks stubs covering the periods of claimed TPD from 6/5/24 – 8/29/24 and 9/4/24 – 10/21/24 along with a chart which provides an overview of her earnings (PX 33). Throughout the 19 weeks worked, Petitioner has demonstrated that she earned a gross total of $10,748.98. Prior to the work accident, during these 19 weeks, Petitioner would have earned $16,010.73. This is a difference of $5,261.75 and TPD amount owed amounting to $3,507.80. After taking into account the TTD overpayment of $1,639.28, Petitioner is awarded $1,868.52 back due TPD benefits.

With respect to nature and extent of the injury, the Arbitrator finds as follows:

As noted previously, there is no dispute within the record as it pertains to causal connection between the work accident and Petitioner's right shoulder injury, the dispute at hand

when discussing permanency is whether Petitioner needs restrictions. The Arbitrator finds that Petitioner satisfied her burden of proof in establishing that she needs permanent restrictions due the right shoulder injury sustained on 9/15/23 and, as a result of said restrictions, she now has a limited earning capacity.

The arbitrator notes that Petitioner had no prior history of right shoulder pain. Subsequent to the work accident, she noted immediate right shoulder symptoms and was diagnosed with a right focal full thickness rotator cuff tear which required surgery. Subsequent to the surgery, Petitioner unsuccessfully attempted to return to work without restrictions in August of 2024. Due to the increased pain, on 9/4/24, Dr. Poepping prescribed an FCE which took place at ATI on 10/15/24 and found her capable of lifting 14.8 pounds occasionally above the shoulder, 28 pounds occasionally from desk to chair; 25.8 pounds occasionally from chair to floor (PX 3 at 17 and PX 6 at 5).

Respondent relies upon the 6/21/24 Section 12 report of Dr. Balarm and the testimony of Joe Castronovo to question the reliability of the FCE and deny the permanent restrictions claimed by Petitioner. The Arbitrator finds Dr. Balaram's 6/21/24 Section 12 report does not offer a basis for the denial of permanent restrictions. Within his report, Dr. Balaram simply stated that full duty work should be considered within 6 weeks (i.e. approximately 7/23/24) (RX 3). Petitioner's testimony and the medical records show that she attempted to work at full duty but immediately noted increased pain. The arbitrator finds Petitioner to be a credible witness who never refused to work and made every effort to return to work without restrictions. After reporting the increased pain to Dr. Poepping, it was determined that an FCE was necessary to outline her work restrictions. The Arbitrator finds the recommendation of an FCE to be reasonable. In light of the fact that Dr. Poepping examined Petitioner after the failed return to work at full duty while Dr. Balaram never saw her after 6/21/24, the arbitrator finds the opinions of Dr. Poepping to be more credible.

Next, the arbitrator considers the opinion of Joe Castronovo and finds Respondent's expert to not be reliable. It is clear to the arbitrator that Mr. Castronovo has an inherent monetary interest in finding FCE/FCA reports to be invalid. The arbitrator finds the medical records as a whole (including the ATI FCA report and the opinions of Dr. Poepping) along with Petitioner's credible testimony to support the need for permanent restrictions.

According, to Section 8(d)1, "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, except in cases compensated under the specific schedule set forth in paragraph (e) of this Section, 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."

Due to the accident in question and the resulting permanent restrictions, Petitioner has been unable to pursue her customary line of employment. Since the date she was discharged at MMI, she has found part time employment and has been earning less than she did prior to the work accident. From the date of MMI, 10/26/24, through the period ending on 9/7/25 (45 & 2/7th weeks), Petitioner earned a total of $17,965.67 with Aurora Fresh Market, Unistaff and El Paso Supermarket (See PX 34, 35, 36 & 37). Using the agreed AWW of $842.67, Petitioner would have earned $38,160.91 during this period of time. This results in a difference of $20,195.24 and a wage differential of $13,463.49 for the period through 9/7/25 which the Arbitrator awards to Petitioner.

Moving forward, the Arbitrator calculates the wage differential based upon Petitioner's average earnings with Supermarket El Paso. During the 21 weeks of earnings at Supermarket El Paso submitted into evidence as PX 36, Petitioner earned a total of $9,342.90 and had an AWW of $449.90. Using the agreed AWW of $842.67 with Respondent, this results in a difference of $392.77 and wage differential of $261.85. Petitioner is therefore awarded $598.51 in wage differential accumulated from 9/8/25 through the date of arbitration on 9/23/25.

In total, through the date of arbitration (9/23/25), Petitioner is awarded $14,062.00 in accrued wage differential benefits. Moving forward, Pursuant to Section 8(d)1, the Arbitrator also awards Petitioner a wage differential of $261.85 until the date she reaches the age of 67.

With respect to penalties and attorney's fees, the Arbitrator finds as follows:

The Arbitrator finds that the undisputed facts demonstrate penalties and attorneys' fees pursuant to Section 16, 19(l) and 19(k) of the Act are warranted.

Section 19(l) penalties should be awarded if the Respondent fails, neglects, refuses, or unreasonably delays payment of benefits due. An employer withholding benefits has the burden of proving that its delay was reasonable. Jacobo v. Illinois Workers' Comp. Comm'n, 959 N.E.2d 772 (2011). In McMahan v. Indus. Comm'n, the Supreme Court held Section 19(l) penalties are "**mandatory** if the payment is late, for whatever reason, and the employer or its carrier cannot show an adequate justification for the delay." 183 Ill. 2d 499 at 515. When the Respondent fails to meet its burden, the Petitioner is to be awarded thirty dollars ($30) per day, with a maximum award of ten thousand dollars ($10,000.00).

Under a more stringent standard, penalties under Section 19(k) and Section 16 are appropriate if Respondent is guilty of delay or unfairness towards the employee in the payment of benefits, is unreasonable or vexatious in delaying payment of benefits, or engages in frivolous defenses which do not present real controversy. Unlike Section 19(l) penalties, these penalties are not mandatory, they are discretionary and "intended to address situations where there is not only delay, but the delay is deliberate or the result of bad faith or improper purpose." Mech. Devices v. Indus. Comm'n, 344 Ill. App. 3d 752.

In the case at hand, on 12/27/23, Respondent preauthorized the right shoulder surgery which took place on 1/9/24 (PX 22 and PX 3 at 4). On 7/17/24, while working with undisputed work restrictions, Petitioner made a demand for payment of TPD (PX 25). Subsequently, on 11/14/24, Petitioner made a demand for payment of the preauthorized medical care (PX 27 & 28). Included within the unpaid medical forwarded to Respondent were the pre-fee schedule balances with Lakeshore Open MRI ($7,960.91); G&T Orthopaedics ($32,540.00); Western Touhy Anesthesia ($908.14); Lakeshore DME ($13,000.00); and Lakeshore Surgery Center ($88,120.51) (PX 27). Next, on 2/26/25, Petitioner's counsel again requested payment of TPD stating, "After taking into account the overpayment of TTD ($1,643.72), it is undisputable that my client is still owed $1,864.08 in TPD. If you disagree with this, I ask that you look at the file and provide a basis for said dispute. We ask that you forward $1,864.08 to my office immediately (PX 39)."

The parties have an agreed AWW and it is undisputable that Petitioner is owed TPD for the period of time she worked at the food pantry. Despite the lack of dispute, as of the date of arbitration, Respondent has failed to pay the requested TPD and has provided no basis for the failure to do so. As of the date of arbitration, for both pending claims, Respondent had failed to

pay $78,185.23 in undisputed outstanding medical pursuant to the fee schedule (PX 38). Despite the notice of the pending balances on 11/14/24, as of the date of arbitration, Respondent has offered no basis for the failure to pay.

Finally, it is clear from the record that the Respondent has needlessly sought to delay the matter at hand. On 2/26/25, Respondent requested to continue the arbitration under the guise that Respondent wanted to depose the IME doctor and subpoena wage records. This matter was then continued until 3/11/25. Prior to the scheduled 3/11/25 hearing, Respondent asked that matter be continued again until 4/21/25 as Respondent still sought subpoena responses from Cermak Produce and Supermarket El Paso (PX 42). Instead of seeking to enforce the missing subpoena response, on 3/14/25 Respondent hired an expert to review the FCE (RX 8 at 52). Despite the FCE review report being completed on 4/3/25, Respondent again waited until the last moment to provide Petitioner a copy of the report, thus, resulting in the continuance of the rescheduled 4/21/25 hearing (PX 42). On 4/18/25, Petitioner's counsel made it clear to Respondent that hearsay would not be waived for the new FCE review report and that a deposition was necessary (PX 43). After speaking to the arbitrator on 5/2/25, Petitioner again advised Respondent that the deposition of Mr. Castronovo was necessary (PX 44). The arbitrator takes judicial notice that on 7/17/25, the parties appeared before the Arbitrator at which time Petitioner asked for a hearing date in August, meanwhile, Respondent's counsel requested an additional month to schedule depositions as Respondent had not received response from Mr. Castronovo regarding the deposition dates. Based upon Respondent's assertions, this matter was set for hearing on 9/23/25.

The parties moved forward with the deposition of Mr. Castronovo on 8/6/25 (RX 8). During his deposition, Mr. Castronovo reviewed his personal emails and **confirmed that he was first contacted by Respondent on 7/17/25 to schedule the deposition (RX 8 at 59)**. It is clear from Mr. Castronovo's sworn testimony that one of the following statements holds true: 1) Respondent was not truthful with the arbitrator on 7/17/25; or 2) Mr. Castronovo, Respondent's hired expert, lied under oath regarding when he was first contacted to schedule the deposition.

This matter finally proceeded to hearing on 9/23/25, almost 7 months after the parties went on the record on 2/26/25. During this extended period of time, Respondent never deposed the IME doctor despite requesting a continuance in order to do so and Petitioner agreeing to waive hearsay. Despite the 7-month delay, Respondent only received a single subpoena

response from one of the employers and made no effort to enforce the missing subpoena response from Cermak Produce.

Respondent has failed to offer a reasonable basis for the failure to pay TPD and medical benefits which Respondent undoubtedly knew were owed. Pursuant to McMahan, the Respondent has the burden to show that the withholding of benefits was reasonable; that burden has clearly not been met in the case at hand. 959 N.E.2d. 772 (2011). Penalties pursuant to Section 19(l) are therefore mandatory. Petitioner originally requested payment of TPD on 7/17/24 but failed to provide a specific dollar amount requested. On 11/14/24, Petitioner did make a specific demand for payment of medical bills followed by a specific demand for payment of TPD on 2/26/25 (PX 27, 28 & 39). Since 11/14/24, Respondent's unreasonable denial of medical/TPD benefits lasted 314 days; as such, the Arbitrator awards $9,420.00 in Section 19(l) penalties.

The Arbitrator also finds Respondent's overall handling of this claim including the refusal to pay undisputed medical care and undisputed TPD to be in bad faith and therefore warranting penalties pursuant to Section 19(k). Penalties are also warranted due to Respondent's unreasonable or vexatious requests for continuances; especially, the events during the pretrial on 7/17/25. A failure to assess penalties rewards Respondent for its vexatious behavior. Accordingly, the Arbitrator awards the Petitioner 50% of the $78,185.23 owed for undisputed medical care; to wit $39,092.61 and 50% of the $1,864.08 in past due TPD benefits, to wit, $932.04. Pursuant to Section 16, the Arbitrator awards Petitioner's attorneys 20% of the aforementioned unpaid medical bills, to wit $15,637.04 and 20% of the past due TPD benefits, to wit, $372.82

This case was continued more than once at the respondent's request over the petitioner's objection – to subpoena records which never were subpoenaed and to schedule deposition that was not scheduled for two more months so the case was continued again. The arbitrator does not award penalties and fees lightly. But the respondent's actions in this case fall squarely within the very definition of vexatious and dilatory and in bad faith. It is this very behavior which penalties and fees under sections 19 and 16 of the Act is intended to discourage.

It is for all of these reasons and based on the entirety of the evidence of record that the above penalties and fees are imposed.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC033832
Case Name	Maria Guadalupe Navarro v. Labor Personnel, LLC, loaning employer and Factor75, LLC, borrowing employer
Consolidated Cases	23WC029402
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0260
Number of Pages of Decision	22
Decision Issued By	Maria Portela, Commissioner

Petitioner Attorney	Damian Flores
Respondent Attorney	Michael J. Danielewicz

DATE FILED: 9/15/2026

/s/Maria Portela, Commissioner

Signature

26IWCC0260

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

MARIA GUADALUPE NAVARRO,

Petitioner,

vs. NO: 23WC033832

LABOR PERSONNEL; FACTOR 75,

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, temporary total disability, penalties and fees, and "Rejection of Addendum Report," and being advised of the facts and law, modifies the Corrected Decision of the Arbitrator as stated below and otherwise affirms and adopts the Corrected Decision of the Arbitrator, which is attached hereto and made a part hereof.

Initially, the Commission finds that Dr. Balaram's addendum report, dated January 10, 2025, should have been admitted into evidence. To comply with Section 12 of the Act, a physician's report must be provided to the opposing party "not later than 48 hours before the time the case is set for hearing." *820 ILCS 305/12; See also Ghere v. IC* (Howell Asphalt), 278 Ill. App. 3d 840, 845, 215 Ill. Dec. 532, 536, 663 N.E.2d 1046, 1050 (1996). The appellate court has clarified that §12 "dictates that the proponent of medical testimony provide the other party with the required medical reports 48 hours before evidence is presented on the first day of the arbitration hearing." *Mulligan v. IWCC*, 408 Ill. App. 3d 205, 219, 349 Ill. Dec. 227, 239, 946 N.E.2d 421, 433 (2011).

In the case at bar, although February 26, 2025 had been the date "set for hearing," no substantive evidence was heard on that date. *Px46.* Rather, the transcript reflects that an on the record discussion was had regarding whether a continuance should be granted because Respondent wanted to take the deposition of its §12 physician, Dr. Balaram, with respect to the addendum

report, and Respondent also wanted to subpoena wage records from Petitioner's subsequent employers "to get accurate records of earnings for calculation of temporary, partial, and/or wage differential." *Id. at 3-4, T.1248-9*. The Arbitrator granted the continuance and stated, "I'm not going to make somebody have a trial if they're not ready to go." *Id at 4*. Therefore, it does not seem as though the Arbitrator believed the trial/hearing had begun that day.

The only "argument' presented on February 26, 2025 was that Petitioner had a *Ghere* objection to Dr. Balaram's addendum report because he had not received it until the day prior on February 25, 2025. *Id. at 5*. Although Petitioner may have had a valid *Ghere* objection had the trial proceeded that day, it did not. Instead, the trial was continued to March 11, 2025. The Arbitrator also indicated that if the case didn't proceed on that date, it would be tried "at the latest in April." *Id. at 4*.

The Commission finds that the hearing did not begin on February 26, 2025. Rather, a record was made regarding the reasons for a continuance. No arguments were made about the substantive issues in this case and no evidence was presented. Therefore, pursuant to the rationale in *Mulligan,* the hearing had not actually begun and Respondent's tender of Dr. Balaram's addendum report to Petitioner's attorney on February 25, 2025 did not violate the 48-hour rule in §12 of the Act. We note that, although Petitioner's attorney objected to the report based on *Ghere*, he waived any hearsay or foundation objections. *T.97*. Thus, Dr. Balaram's addendum should have been admitted into evidence.

Regarding medical expenses, the Commission notes the Arbitrator awarded $78,185.23, as shown in *Px38* and which was already adjusted based on Petitioner's calculations of the medical fee schedule in §8.2 of the Act. However, this amount includes charges from both of Petitioner's consolidated cases: 23WC029402 and 23WC033832. It also appears that this summary includes some charges which, according to the medical bill exhibits, had already been paid by Respondent. *Px38* also does not separate between medical expenses related to the lumbar injury on December 13, 2023, which is the subject of the current Corrected Decision, from those related to her right shoulder accident on September 15, 2023, which is the subject of the Corrected Decision in case number 23WC029402. We find that Petitioner is entitled to all medical expenses contained in the exhibits related to her lumbar treatment, adjusted pursuant to the fee schedule in §8.2 of the Act, with Respondent receiving credit for amounts paid prior to the hearing. Petitioner shall not receive double payment for any medical bills.

We note the Arbitrator awarded all penalties and attorney's fees related to this case in the Corrected Decision in the companion case (23WC029402). We find this was improper and they should have been separated by case number.

On November 14, 2024, Petitioner's attorney sent Respondent's attorney an email demanding payment of outstanding medical bills, including those related to the lumbar condition which is the subject of this case. *Px27, T.1087*. One of the bills included in this demand was from Lakeshore Open MRI, which included the December 21, 2023 charges for a lumbar MRI, right hip MRI and pelvis CT scan. *Id*., *T.1094.* There is no evidence in the record to indicate that these charges were paid. Other charges related to Petitioner's lumbar injury also remained unpaid at the time of trial. Since November 14, 2024, when the demand for payment of medical expenses was

made, Respondent's unreasonable denial of medical benefits lasted 314 days. Therefore, the Commission awards $9,420.00 in Section 19(l) penalties (314 days x $30 per day). We note that this amount was also awarded in the companion case (23WC029402) for Respondent's unreasonable delay in payment of medical expenses for the right shoulder and temporary partial disability benefits in that case. This does not result in a double award because the medical expenses unreasonably delayed in the current case are related to Petitioner's lumbar injury. We find separate §19(l) penalties are appropriate in each of the cases.

We find that Respondent's conduct and failure to pay the medical bills was unreasonable and vexatious under both §19(k) and §16 of the Act, and award §19(k) penalties equal to 50% of the amount of unpaid medical expenses relating to the lumbar injury, adjusted pursuant to the fee schedule in §8.2 and adjusted for amounts paid by Respondent prior to the hearing. Similarly, we award §16 attorney's fees equal to 20% of the amount of unpaid medical expenses relating to the lumbar injury, adjusted pursuant to the fee schedule in §8.2 and adjusted for amounts paid by Respondent prior to the hearing.

Regarding the nature and extent of Petitioner's injury, we affirm the Arbitrator's analysis of the five factors in §8.1b(b) of the Act. However, we note a discrepancy between the Conclusions of Law section, in which the Arbitrator awarded 12.5% of the person as a whole and the Order section, in which he awarded 37.5 weeks and which would equal 7.5% of the person as a whole. The Commission finds that Petitioner is entitled to 37.5 weeks PPD for the loss of use of 7.5% of the person as a whole and modify the Corrected Decision accordingly.

Finally, we correct two clerical errors. In the Findings section, we change "12/15/23" to "12/13/23." On page 11, in the fourth line, we add the number "1" to "L5/S".

All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $505.60 per week for a period of 37.5 weeks, as provided in §8(d)2 of the Act, for the reason that the injuries sustained caused the 7.5% loss of use of the person as a whole.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner, under §8(a) of the Act, all medical expenses contained in the exhibits related to her lumbar injury, adjusted pursuant to the fee schedule in §8.2 of the Act, with Respondent receiving credit for amounts paid prior to the hearing.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $9,420.00 for penalties as provided in §19(l) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner, as penalties under §19(k) of the Act, an amount equal to 50% of the unpaid medical expenses relating to the lumbar injury, adjusted pursuant to the fee schedule in §8.2 and adjusted for amounts Respondent paid prior to the hearing.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner,

as attorney's fees under §16 of the Act, an amount equal to 20% of the unpaid medical expenses relating to the lumbar injury, adjusted pursuant to the fee schedule in §8.2 and adjusted for amounts Respondent paid prior to the hearing.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner, under §8(a) of the Act, all medical expenses contained in the exhibits related to her lumbar treatment, adjusted pursuant to the fee schedule in §8.2 of the Act, with Respondent receiving credit for amounts paid prior to the hearing.

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 $30,000.00.

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.

SEPTEMBER 15 2026

/s/ *Maria E. Portela*

SE/
O: 7/23/26
49

/s/ *Marc Parker*

/s/ *Christopher A. Harris*

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC033832
Case Name	Maria Guadalupe Navarro v. Labor Personnel, LLC, loaning employer and Factor75, LLC, borrowing employer
Consolidated Cases	23WC029402
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	17
Decision Issued By	Paul Seal, Arbitrator

Petitioner Attorney	Damian Flores
Respondent Attorney	Daniel J Levato

DATE FILED: 11/4/2025

/s/ Paul Seal, Arbitrator
Signature

INTEREST RATE WEEK OF NOVEMBER 4 2025 3.70%

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
ARBITRATION DECISION

Maria Guadalupe Navarro Case # **23** WC **33832**

Employee/Petitioner

v. Consolidated cases

Solo Cup/Dart Container Corp.
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 **Arbitrator Paul Seal**, Arbitrator of the Commission, in the city of **Geneva, IL**, on **9/23/25** 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 **Admission of the addendum report**

FINDINGS

On **12/15/23**, 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 $**42,976.16**; the average weekly wage was $**842.67**.

On the date of accident, Petitioner was **44** 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 $**13,516.91** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**13,516.91**.

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

ORDER

1. The arbitrator does not award TTD benefits in relation to the 12/13/23 (23 WC 33832) work accident. The arbitrator has already awarded TTD benefits in relation to the 9/15/23 (23 WC 29402) work accident; thus, the issue is moot.

2. The arbitrator does not award TPD benefits in relation to the 12/13/23 (23 WC 33832) work accident. The arbitrator has already awarded TPD benefits in relation to the 9/15/23 (23 WC 29402) work accident; thus, the issue is moot.

3. Respondent shall pay reasonable and necessary medical services, pursuant to the medical fee schedule, of $78,185.23, as provided in Sections 8(a) and 8.2 of the Act and submitted into evidence as PX 7 through PX 19.

4. Respondent shall pay Petitioner permanent partial disability benefits of **$505.60/week for 37.5 weeks**, because the injuries sustained caused the **12.5% loss** of the MAW, as provided in Section 8(d) (2) of the Act.

5. The arbitrator does not award additional penalties and attorney's fees in relation to the 12/13/23 (23 WC 33832) work accident. The arbitrator has already awarded Section 16, 19(l) and 19(k) penalties and fees in relation to the 9/15/23 (23 WC 29402) work accident; thus, the issue is 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

NOVEMBER 4 2025

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Maria Guadalupe Navarro,	)	
	)	
Petitioner,	)	
	)	
v.	)	**No.: 23WC33832**
	)	**No.: 23WC29402**
Labor Personnel, LLC.-Loaning employer,	)	
	)	
Respondent.	)	

FINDINGS OF FACT

Proofs were closed on 9/23/25 in Wheaton, Illinois, before Arbitrator Paul Seal. Issues in dispute at arbitration were admission of exhibits, causal connection, medical expenses, TTD, TPD, Penalties and attorney's fees, and permanency.

As of 9/15/23, Petitioner had been employed by Respondent, a staffing agency, for approximately 3.5 years (T. at 24). Throughout her employment, Respondent sent Petitioner to work at Factor 75 as a general laborer (T. at 24). In order to complete her work duties, Petitioner engaged in the lifting of objects weighing from 10-100 pounds (T. at 24). Petitioner had no prior history of injury to her right shoulder or lumbar spine (T. at 25). Throughout her employment, she worked 6 days per week and was able to complete her work duties without issue.

On 9/15/23, Petitioner reported to work in the same state of sound health (T. at 26). That day, at approximately 7 AM, Petitioner walked towards the restroom, slipped on liquid, landed on her right hand and felt a pop in her right shoulder (T. at 26). Petitioner immediately reported the incident to a representative from the staffing agency and was sent for care at Advocate Occupational Health that same day.

The initial treatment notes from Advocate Occupational Health document that Petitioner slipped on a wet patch as her coworker cleaned the floor (PX 1 at 9). Petitioner underwent x rays of the right shoulder and right elbow (PX 1 at 15-16). She was initially diagnosed with a sprain of the right shoulder and sent back to work with restrictions (PX 1 at 10). Petitioner continued working for Respondent while also following up at Advocate Occupational Health up through 10/23/23 (T. at 28). Due to the lack of improvement, Petitioner sought a second opinion at Grandview Health Partners on 11/2/23 where she reported ongoing cervical, right shoulder, right

elbow and right wrist pain due to the 9/15/23 work accident (PX 2A at 3). Petitioner was prescribed PT, asked to undergo an MRI of the right shoulder, and again sent back to work with restrictions (PX 2A at 10-2). The 11/11/23 right shoulder MRI demonstrated a focal full thickness rotator cuff tear (PX 2A at 402). Petitioner was then referred to Dr. Poepping who ordered surgery to address the rotator cuff tear (PX 3 at 3). Pending surgery, Dr. Poepping recommended that Petitioner continue working with restrictions. Petitioner testified that she continued performing her normal work duties with the use of her left, uninjured, arm (T. at 29).

On 12/13/23, while still working with restrictions for Respondent, Petitioner sustained a second work accident. On this date, Petitioner was pushing racks of condiments when she slipped on ice and landed flat on her back (T. at 30). Petitioner noted immediate pain in her back and right shoulder (T. at 31). That same day, she followed up at Grandview Health Partners to whom she reported slipping on ice and landing onto her right hip thus resulting in lumbar/hip/abdomen pain (PX 2B at 3). Dr. Gavin ordered a CT scan of the abdomen, a lumbar MRI, an MRI of the right hip and, again, sent her back to work with restrictions (PX 2B at 79). Radiologist, Dr. Kuritza, read the 12/21/23 lumbar MRI scan to show a 2-3 mm posterior disk protrusion at L4/5 indenting the thecal sac with generalized bilateral neuroforaminal narrowing and a 4-5 mm posterior disk protrusion at L5/S1 indenting the thecal sac with generalized bilateral neuroforaminal narrowing (PX 2A at 410). Petitioner was then instructed to follow up with pain management for the lumbar injury.

On 12/27/23, Liza Perez, Respondent's claims adjuster, emailed Lakeshore Surgery Center to advise that the proposed surgery was authorized (PX 22). Petitioner continued working with restrictions until 1/8/24, the date prior to the approved surgery (T. at 32). On 1/9/24, Dr. Poepping performed the approved right shoulder arthroscopic rotator cuff repair, subacromial decompression, debridement and open tenodesis at Lakeshore Surgery Center (PX 3 at 4). Post surgery, on 1/12/23, Dr. Poepping instructed Petitioner to remain off work and commence PT (PX 3 at 9).

During a lumbar examination on 2/6/24, Dr. Gavin documented improved low back pain with an ongoing burning sensation from her low back down Petitioner's bilateral posterior thighs and into her knees (PX 2B at 34). On 3/8/24, Petitioner was seen by Dr. Anis Mekhail to address the ongoing lumbar pain (PX 4 at 3). During the initial date of service, Dr. Mekhail documented ongoing low back pain with radiation down the bilateral lower extremities as a result of the

12/13/23 work accident (PX 4 at 3). Dr. Mekhail reviewed the MRI scan and diagnosed herniated discs at L4/5 and L5/S1; he recommended cortisone injections to address the lumbar radiculopathy (PX 4 at 3-4). On 3/15/24, Dr. Poepping kept Petitioner off work and recommended a shoulder strengthening program.

On 4/12/24, at Dr. Mekhail's recommendation, Petitioner was seen at the Pain and Spine Institute at which time Petitioner reported 8/10 low back pain traveling down the right leg (T. at 32 and PX 5 at 4). Petitioner was diagnosed with lumbar radiculopathy and prescribed right transforaminal steroid injections from L4 to S1 which she underwent with Dr. Patel on 5/6/24 (PX 5 at 5 & 7). Subsequent to the injection, on 5/21/24, Petitioner reported to Dr. Patel that she was 100% better and was thereby discharged without restrictions for the lumbar injury (PX 5 at 10). On 5/24/24, Dr. Poepping recommended ongoing therapy while allowing Petitioner to return to work with 5-pound lifting restrictions (PX 3 at 13 & 60).

Respondent then provided Petitioner with a temporary alternative light duty assignment working at the Aurora Food Pantry starting on 6/5/24 (PT. at 35 and PX 23). At Respondent's request, on 6/11/24, Petitioner underwent a Section 12 examination with Dr. Ajay Balaram (PX 24). Dr. Balaram determined there was no evidence of symptom magnification; diagnosed Petitioner as being 5 months post right shoulder arthroscopic rotator cuff repair/subpectoral biceps tenodesis. Respondent's expert opined Petitioner had undergone appropriate surgical intervention and recommended 6 more weeks of physical therapy 2-3 times per week (PX 24). Moving forward, Dr. Balaram agreed with the work restrictions imposed by Dr. Poepping and agreed that Petitioner's need for work restrictions was causally related to the work accident (PX 24). Dr. Balaram further opined Petitioner would be at MMI in 8 weeks from the IME exam (PX 24).

On 7/17/24, Petitioner's counsel emailed Respondent's counsel requesting confirmation of the average weekly wage, an overview of the TTD paid to date and also requested ongoing payment of TPD benefits starting on 6/5/24 (PX 25). On 7/19/25, Dr. Poepping documented Petitioner had slight improvement but still had ongoing difficulty with overhead activity (PX 3 at 15). In light of these symptoms, Dr. Poepping recommended that Petitioner complete her scheduled PT and move forward with an FCE (PX 3 at 15). Petitioner followed up with Dr. Poepping on 8/30/24 without having undergone the recommended FCE. Petitioner testified that despite her symptoms, she asked that Dr. Poepping release her back to work without restrictions

because she was earning less money and wanted to get back to work full time so that she could earn her full wages (T. at 38-39). Dr. Poepping's dictation from 8/30/24 documents that Petitioner felt she could work her normal activities; thus, she was discharged from care and told to follow up as needed (PX 3 at 16).

Upon reporting back to work at full duty at the Aurora Food Pantry, Petitioner noted increased back/shoulder pain and further noted that she was not able to lift objects above her head (T. at 40). In light of the symptoms, just 5 days later, Petitioner saw Dr. Poepping again on 9/4/24 at which time he documented that Petitioner was having difficulty with regular work activities (PX 3 at 17). In light of the difficulty, Dr Poepping again recommended a functional capacity evaluation and sent her back to work with restrictions (PX 3 at 17).

Petitioner underwent a valid FCA at ATI Physical Therapy on 10/15/24 which found her capable of lifting 14.8 pounds occasionally above the shoulder, 28 pounds occasionally from desk to chair; 25.8 pounds occasionally from chair to floor (PX 6 at 5). Petitioner returned back to work at the Aurora Food Pantry pending her follow-up with Dr. Poepping to review the FCA (T. at 41). On Monday, 10/21/24, while at the food pantry, Petitioner received notice from her supervisor that her work assignment at the food pantry had ended (T. at 43). That same morning, at 10:02 AM, Respondent's counsel emailed Petitioner's counsel advising that the work assignment had ended and that Petitioner should return home (PX 26). Petitioner's counsel responded and requested payment of TTD benefits. Despite being told that she would not be paid for her services, Petitioner asked the supervisor for permission to complete the shift that day. Petitioner testified she completed her shift that day, without pay, because she knew the food pantry needed the help (T. at 44).

On 10/25/24, Dr. Poepping saw Petitioner for the last time. On this date, Dr. Poepping reviewed the valid FCE and discharged Petitioner based upon the FCE recommendations (PX 3 at18). That same day, Petitioner personally requested light duty work from Respondent but was not provided a job offer (T at 44). On 10/25/24 at 12:39 PM, Petitioner's counsel emailed Respondent requesting light duty work (PX 26). In light of Respondent's refusal to provide light duty work, Petitioner immediately sought alternative employment while keeping a job diary of each employer she contacted (PX 31). From 10/25/24 through 11/14/24, Petitioner contacted 16 potential employers (See PX 31). Eventually, she found work with Aurora Fresh market working approximately 30 hours per week at $16.00 per hour (T. at 47).

On 11/14/24, Petitioner's counsel sent an email to Respondent's counsel demanding payment of $199,260.13 in unpaid medical bills stating, "This seems like a significant amount of unpaid bills for an approved surgery. Is there a reason why the adjuster is not paying the bill (PX 27)?" Included within the unpaid medical forwarded to Respondent were the pre-fee schedule balances with Lakeshore Open MRI ($7,960.91); G&T Orthopaedics ($32,540.00); Western Touhy Anesthesia ($908.14); Lakeshore DME ($13,000.00); and Lakeshore Surgery Center ($88,120.51) (PX 27).

Petitioner continued looking and eventually found alternative employment with Unistaff. Petitioner testified that she continued her job search, despite already securing employment, because she wanted to work more hours and earn more money (T. at 47 & 49). The wage records submitted into evidence demonstrate Petitioner earned a total of $1,250.48 with Aurora Fresh Market from 11/11/24 through 12/8/24 (PX 34).

Petitioner began working with Unistaff, a staffing agency, on 12/9/24 and was initially sent to work at a used book warehouse for an employer named Sell Back Your Books (T. 49 & PX 35). Petitioner's work duties included picking orders which required lifting books from the floor up to above her head (T. at 50). Petitioner noted increased pain while performing the work duties. After approximately two months, on 2/5/25, Unistaff transferred Petitioner to work at MSI Express Packaging (T. at 51). Petitioner's work duties at MSI required that she stand at her workstation while repetitively packing condiments (T. at 53). Throughout her 8-hour shift, Petitioner repetitively lifted 6-pound boxes and stacked them onto a pallet while reaching above her head in height (T. at 54). Petitioner, again, described increased pain while performing the work duties at MSI. Petitioner testified that she had never felt this type of pain before, nevertheless, she kept working because she wanted to work and finish the job (T. at 54).

This matter was set for arbitration in Geneva on 2/26/25. One day prior to the scheduled hearing, on 2/25/25 at 11:38 AM, Respondent's counsel emailed Petitioner's counsel stating, "Sorry for the delay-had some stuff going on that I had to take care of" and then proceeded to provide copies of Respondent's exhibits which included the wage statement and TTD payment overview (which had previously been requested by Petitioner on 7/17/24) and a 1/10/25 IME addendum report by Dr. Balaram (See PX 25 & 39). At 11:51 AM, Petitioner's counsel responded, **"<u>The addendum report was never provided to me. I am objecting to the report</u> (PX 40)."** Upon reviewing the wage statement and the TTD overview, Petitioner's counsel

responded at 1:15 PM acknowledging a TTD overpayment ($1,6343.72) and, once the credit was taken into account, requested payment of $1,864.08 in TPD benefits (PX 39 & PX 33).

The parties went on the record on 2/26/25. According to the transcript, Petitioner was ready to proceed on all issues. Respondent requested a continuance in order to schedule the deposition of the Section 12 expert (despite Petitioner's agreement to waive hearsay) and also to subpoena wage records from Petitioner's subsequent employers (PX 46 at 4). Over Petitioner's objection, the matter was continued until 3/11/25 (PX 46 at 4). Subsequent to going on the record, Petitioner's counsel emailed respondent the following, "After taking into account the overpayment of TTD ($1,643.72), it is undisputable that my client is still owed $1,864.08 in TPD. If you disagree with this, I ask that you look at the file and provide a basis for said dispute. We ask that you forward $1,864.08 to my office immediately (PX 39)." Respondent's counsel, via email, acknowledged receipt of the demand for payment of TPD on 2/26/25 at 12:15 PM (PX 41).

Respondent issued subpoenas to Unistaff and Aurora Fresh Market on 2/27/25 (RX 6 & 7). On Monday, 3/3/25, Unistaff forwarded a subpoena response for the requested wage records (RX 6). Petitioner continued working for Unistaff until Friday, 3/7/25 when she was abruptly advised the employer no longer needed her services (T. at 55). That same day, Petitioner's counsel advised Respondent that she had been terminated (PX 41). The wage records submitted into evidence demonstrate Petitioner earned a total of $7,507.88 with Unistaff (PX 35 & PX 37). On 3/7/25, via email, the parties confirmed with the Arbitrator that Respondent still did not have a subpoena response from the employers and the matter was again continued for arbitration until 4/21/25 (See PX 41 & 42).

Upon losing her job with Unistaff, Petitioner started looking for work with another employer. From 3/11/25 through 4/3/25, Petitioner contacted 15 potential employers (RX 31). On 3/11/25, Petitioner spoke to Irma from Supermarket (Carneceria) El Paso and was told there was no work available (PX 31 and T. at 57). Despite being turned away, Petitioner followed up with Irma and secured employment with Super Market El Paso starting on 4/14/25 (T. at 58 & PX 36).

On Monday, 4/14/25, Petitioner's counsel emailed the arbitrator advising that Petitioner was ready to proceed to hearing. Subsequently, on 4/18/25, Petitioner's counsel emailed the arbitrator advising that Respondent had just provided an FCE review report the day prior

(4/17/25) and that Petitioner was objecting to the report (PX 42). On 4/18/25, Petitioner's counsel emailed Respondent advising that hearsay would not be waived for the new FCE review report (PX 43). The parties spoke to the arbitrator via Webex again on 5/2/25. That same day, at 9:40 AM, Petitioner's counsel confirmed the pretrial conversation regarding Petitioner's objections to Respondent's reports (PX 44).

Petitioner filed a motion to request a hearing on 7/10/25 (PX 45). The arbitrator takes judicial notice that during the pretrial, on 7/17/25, Petitioner asked that the matter be set for arbitration during the next month's cycle. Respondent's counsel requested additional time to schedule the deposition of Respondent's FCE review expert as they had not received responses to the request for deposition dates. In light of Respondent's assertions that the inquiries for deposition dates had been unsuccessful, the arbitrator gave Respondent an additional month and set this matter for arbitration on 9/23/25. The arbitrator did not give the parties an August date as requested by Petitioner (See T. at 14-15).

On 8/6/25, the parties proceeded with deposition Joe Castronovo, a licensed physical therapist hired by Respondent to review the ATI FCA report (RX 8). Mr. Castronovo testified that the FCA (functional capacity assessment) is similar to an FCE (functional capacity evaluation); however, each study uses a different criteria (RX 8 at 9). Mr. Castronovo noted ATI Physical therapy used the FCA program (RX 8 at 9). He opined, however, that the FCA is not a complete examination and lacks many components of a true FCE; thereby concluding the FCA is not a reliable measurement of someone's work ability as it lacks content validity, objective measurements and there's no scientific basis for the conclusions stated therein (RX 8 at 19). Despite the similarities between the FCE and the FCA, Mr. Castronovo acknowledged, on direct examination, that he was not certified to perform an FCA (RX 8 at 9).

Mr. Castronovo opined Petitioner's FCA provided no objective evidence that she provided a maximum effort during the exam (RX 8 at 32). Mr. Castronovo essentially questioned the reliability of every FCA performed by ATI Physical Therapy; concluding that Petitioner's FCA report should not be relied upon for future vocational planning due to the inherent fallacies of the FCA program utilized by ATI in administering all functional capacity assessments (RX 8 at 42). Respondent's expert further questioned the reliability of the FCA because it was administered by Tom Werner, an athletic trainer and not a licensed physical therapist (RX 8 at 17). According to Mr. Castronovo's review of the practice Acts, in the state of

Illinois, Mr. Werner, as an athletic trainer, was not certified to perform an FCA (RX 8 at 17). Based upon his observations, Mr. Castronovo concluded Petitioner could return to her prior employment without restrictions (RX 8 at 42).

On cross examination, regarding his opinion that athletic trainers were not permitted to perform an FCA/FCE in the state of Illinois, Mr. Castronovo acknowledged he was not a lawyer and that he was not familiar with any specific case law, IWCC decision, or legal entity which supported his position (RX 8 at 46). Mr. Castronovo testified he was first contacted by Respondent to review Petitioner's report on 3/14/25 (RX 8 at 52). **Regarding the deposition at hand, Mr. Castronovo reviewed his emails and confirmed that he was first contacted by Respondent on 7/17/25 to schedule the 8/6/25 deposition (RX 8 at 59).** Despite testifying that he was of the opinion that Petitioner could return to her normal work duties, Mr. Castronovo acknowledged on cross examination that he did not have a job description, and his opinion was based upon an assumption, not a specific understanding as to Petitioner's work duties (RX 8 at 60). Accordingly, Mr. Castronovo admitted that his opinion that Petitioner could return to her prior job was not "within a reasonable degree of medical certainty" (RX 8 at 61). Finally, although he disagreed with the methodology used by ATI for the FCA, Mr. Castronovo acknowledged that there was no governing body in the state of Illinois which determines the proper FCA/FCE methodology (RX 8 at 61). Furthermore, although he cited the standards set forth by the American Physical Therapy Association as a basis for his opinions, Mr. Castronovo acknowledged that neither the state of Illinois nor the IWCC had adopted the standard set for by the American Physical Therapy Association (RX 8 at 62).

On cross, Mr. Castronovo acknowledged that he previously testified, under oath for another matter, that "the majority of FCE reports are unreliable (RX 8 at 56)." In fact, Mr. Castronovo admitted that he had never determined an ATI FCA was reliable and further acknowledged having testified that "every FCE from ATI is not good" (RX 8 at 69). In reviewing his business model, Mr. Castronovo charges $1,350.00 per FCE report, performs 6-8 reports per month and charges $400.00 per hour for his deposition (RX 8 at 45). Mr. Castronovo testified he was self-employed and 65% of his business consisted of FCE review reports (RX 8 at 43 & 44). Respondent's hired expert acknowledged that if he reviewed an FCE/FCA and found its study to be valid, Mr. Castronovo would not author a report and he would, therefore, generate

less income (RX 8 at 51-52 & 55). Mr. Castronovo, ultimately, agreed that it was bad for business if he determined an FCE was valid (RX 8 at 55).

As of the date of arbitration, 9/23/25, Petitioner continued working at Supermarket El Paso and had not sought alternate employment (T. at 58 & 70). From her date of hire through 9/7/25, Petitioner earned $15.00 per hour, worked 6 hours per day, 24-36 hours per week and earned a total of $9,642.90 (PX 36 & T. at 58). Petitioner's duties at Supermarket El Paso included the stocking of products, cleaning of work areas, and assisting customers (T. at 59). Despite the light nature of her work duties, Petitioner noticed increased right shoulder and low back pain rated a 5-6/10 after working a shift or repetitive shoulder activity (T. at 60-61). Petitioner made clear that she had no such symptoms prior to sustaining the work accidents on 9/15/23 & 12/13/23 (T. at 60). Petitioner also reported back pain going up to a 6/10 with prolonged sitting (T. at 62). Petitioner is right-handed and the right shoulder injury has also negatively impacted her activities of daily living (T. at 63). For example, she is unable to reach to the back of head to wash her hair and is unable to reach back with her right hand to properly clean herself after using the restroom (T. at 64). The pain and limitations from the injuries have taken an emotional toll on Petitioner (T. at 64)

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 his evidence worthy of belief. The Arbitrator, whose province is to evaluate witness credibility, evaluate the demeanor of the witness and any external inconsistencies with his/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, 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). The Arbitrator took into account Petitioner's testimony and demeanor at arbitration and deemed her to be a hard-working credible witness.

With respect to the admission of Dr. Balaram's Addendum Report dated 1/10/25, the Arbitrator finds as follows:

Respondent sought to admit Dr. Balaram's addendum report in evidence as RX #1; this exhibit is rejected.

Section 12 of the Act indicates that a physicians' report must be provided no later than 48 hours before the start of a hearing and that, if the report is not disclosed, the examining physician will not be allowed to testify. *City of Chicago v. Workers' Compensation Commission*, 2008 WL 5382001 (Ill.App. 1 Dist.). Within the concurring opinion, Justice Gordon stated, "given its plain and ordinary meaning, a hearing begins when the parties start to present their arguments and evidence to the arbitrator." Id.

In the case at hand, this matter was scheduled for arbitration on 2/26/25. The record as a whole supports the conclusion that Respondent did not provide Petitioner the addendum report until 2/25/25 (See PX 40; PX 46 at 5; T. at 12). Respondent has provided no evidence to show that the addendum report was provided to Petitioner at any time prior. The parties appeared before the arbitrator, went on the record, and presented their arguments on 2/26/25. It is undisputable that Respondent failed to provide the addendum report within 48 hours of the scheduled arbitration. In any event, the arbitrator finds that this report in question is of very little probative value. In fact, this entire issue's relevance goes to the issue of penalties and fees.

With respect to causal connection, the Arbitrator finds as follows:

There is no dispute within the record as it pertains to causal connection between the work accident and Petitioner's lumbar condition of ill being. Accordingly, the Arbitrator finds Petitioner's lumbar condition is causally related to the work accident.

It is well-established law that proof of prior sound health and change immediately following and continuing after an injury may demonstrate that an impaired condition was due to the injury. Navistar International Transportation Corporation, 315 Ill. App. 3d 1197, 1206

(2000). The Court specifically stated that a causal connection between work duties and a condition may be established by a chain of events. This includes the Petitioner's ability to perform duties before the date of the accident and inability to perform the same duties following that date. Id.

In the case at hand, the Petitioner's testimony regarding the chain of events is documented within the treating medical records and is undisputed. Prior to the 12/13/23 work accident, Petitioner was 44 years old with no prior history of lumbar pain (T. at 225). Petitioner slipped and fell onto her back and immediately noted lumbar pain (T. at 30). Petitioner immediately sought care for lumbar injury (PX 2B at 3) and eventually underwent the lumbar MRI which showed a 2-3 mm posterior disk protrusion at L4/5 indenting the thecal sac with generalized bilateral neuroforaminal narrowing and a 4-5 mm posterior disk protrusion at L5/S indenting the thecal sac with generalized bilateral neuroforaminal narrowing (PX 2A at 410). Causal connection is supported as both Dr. Mekhail and Dr. Patel noted Petitioner's symptoms started immediately following the work accident and diagnosed lumbar radiculopathy (PX 4 at 3).

Petitioner eventually underwent an ESI which provided significant relief. Despite the care received, as of the date of arbitration, Petitioner continued experiencing ongoing lumbar pain with increased work and extended seating.

Respondent's IME expert, Dr. Balaram did not review the lumbar MRI and did not address the 12/13/23 lumbar injury. As was the case in Navistar, the chain of events in the case at hand demonstrate that Petitioner's health deteriorated from a state which allowed her to work without issue pre-accident, to a state of disability immediately following the undisputed work accident. For the aforementioned reasons, the Arbitrator finds Petitioner satisfied her burden of proof and established causal connection between the 12/13/23 work accident and her lumbar conditional of ill being.

With respect to the reasonableness and necessity of accrued medical, the Arbitrator finds as follows:

The Arbitrator finds the record as a whole to support a finding that all care rendered through the date of Arbitration was reasonable, necessary, and causally related to the work accident.

Pursuant to Section 8.7(i)(3) of the Act, once the utilization review process is invoked by Respondent, "An employer may only deny payment of or refuse to authorize payment of medical services rendered or proposed to be rendered on the grounds that the extent and scope of medical treatment is excessive and unnecessary in compliance with an accredited utilization review program under this Section."

Respondent did not offer a Section 12 report or a UR report into evidence to deny the necessity of any of the lumbar care rendered. Taking into account the reliable opinions of Petitioner's medical providers, Respondent's lack of defense, and the success of the lumbar care rendered, the arbitrator finds no basis for the denial of any of the outstanding medical bills submitted into evidence which relate to Petitioner's lumbar injury. The arbitrator acknowledges an overlap between the care for treatment related to Petitioner's right shoulder due to the 9/15/23 work accident and the treatment related for Petitioner's lumbar injury due to the 12/13/23 work accident. Ultimately, the arbitrator finds all care to be reasonable, necessary and causally related to each work accident. Accordingly, the arbitrator awards all medical bills submitted into evidence as PX 7 through PX19 and reduced per the fee schedule as PX 38. Accordingly, the arbitrator awards Petitioner $78,185.23 in reasonable, necessary and causally related medical.

With respect to TTD benefits, the Arbitrator finds as follows:

The arbitrator does not award TTD benefits in relation to the 12/13/23 work accident. The arbitrator has already awarded TTD benefits in relation to the 9/15/23 work accident; thus, the issue is moot.

With respect to TPD benefits, the Arbitrator finds as follows:

The arbitrator does not award TPD benefits in relation to the 12/13/23 work accident. The arbitrator has already awarded TPD benefits in relation to the 9/15/23 work accident; thus, the issue is moot.

With Respect to permanency, the Arbitrator finds as follows:

The Arbitrator concludes that as a result of the 12/13/23 work accident, Petitioner sustained a 2-3 mm posterior disk protrusion at L4/5 indenting the thecal sac with generalized bilateral neuroforaminal narrowing and a 4-5 mm posterior disk protrusion at L5/S1 indenting

the thecal sac with generalized bilateral neuroforaminal narrowing; causing lumbar radiculopathy (PX 2A at 410). Petitioner underwent an epidural steroid injection on 5/6/24 and was discharged, without restrictions, for the lumbar spine on 5/21/24 (PX 5 at 5, 7 10). As of the date of arbitration, 9/23/25, Petitioner acknowledged improvement with the care but still reported ongoing lumbar pain after working a full shift or after extended periods of time in a seated position (T. at 62). The Arbitrator thus concludes Petitioner suffered a 12.5% loss MAW under Section 8(d)2 of the Act.

Section 8.1(b) of the Act lays out the 5 criteria which must be weighed in determining the level of permeant partial disability to be awarded in accidents occurring after 9/1/11.

First, no impairment rating was offered by either party. Therefore, the Arbitrator gives no weight to Subsection i of Sec. 8.1b (b) of the Act.

Concerning subsection (ii) of Section 8.1b (b), the occupation of the employee, the record as a whole shows that Petitioner worked for Respondent as a food prepper/laborer. Upon undergoing the injection, Petitioner was returned to work at full duty for the lumbar injury. Although Petitioner was never provided her job back, the Arbitrator notes the lumbar injury did not prevent Petitioner from returning back to her prior occupation.

With regards to subsection (iii) of Section 8.1b (b), the Arbitrator notes that the Petitioner was 44 years old when the accident happened and was 46 years old at the time of arbitration.

Under subsection (iv) of Section 8.1b (b), Petitioner's future earning capacity, the Arbitrator notes Petitioner did not have restrictions and was technically capable of returning to her prior occupation. Although she reported ongoing pain, Petitioner was still capable of earning the same amount she did prior to the work accident.

In regard to subsection (v) of Section 8.1b (b), evidence of disability corroborated by the treating medical records, the Arbitrator notes that there is no dispute within the records that the work accident caused a lumbar injury with lumbar radiculopathy. This is a significant injury which is not disputed by Respondent. Petitioner also reports ongoing symptoms as of the date of arbitration. The Arbitrator gives greater weight to this factor.

Based on the above factors and the record taken as a whole, the Arbitrator finds that the Petitioner sustained permanent partial disability to the extent of a 12.5% loss MAW under Section 8(d)2 of the Act.

With respect to penalties and attorney's fees, the Arbitrator finds as follows:

The arbitrator does not award additional penalties and attorney's fees in relation to the 12/13/23 work accident. The arbitrator has already awarded Section 16, 19(l) and 19(k) penalties and fees in relation to the 9/15/23 work accident; thus, the issue is moot.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC028388
Case Name	Shannon Jeters v. Energy Police Department
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0261
Number of Pages of Decision	20
Decision Issued By	Marc Parker, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Andrew Keefe

DATE FILED: 9/16/2026

/s/Marc Parker, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF WILLIAMSON)

☒ 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

Shannon Jeters,

Petitioner,

vs. No. 24 WC 28388

Energy Police Department,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by both Petitioner and Respondent herein and notice given to all parties, the Commission, after considering the issues of accident, notice, causal connection, medical expenses, 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 April 14, 2026, 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.

Under Section 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. 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.

September 16, 2026

/s/ *Marc Parker*
Marc Parker

MP/mcp
o-09/10/26
068

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

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC028388
Case Name	Shannon Jeters v. Energy Police Department
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	17
Decision Issued By	Jeanne AuBuchon, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Andrew Keefe

DATE FILED: 4/14/2026

/s/ Jeanne AuBuchon, Arbitrator
Signature

INTEREST RATE WEEK OF APRIL 14 2026 3.61%

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

SHANNON JETERS
Employee/Petitioner

v.

ENERGY POLICE DEPARTMENT
Employer/Respondent

Case # **24WC028388**

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 **Herrin**, on **March 3, 2026**. 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 **April 19, 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 $**86,508.00**; the average weekly wage was $**1,802.25**.

On the date of accident, Petitioner was **50** 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 **any benefits paid** for TTD, $**-** for TPD, $**-** for maintenance, and - for other benefits, for a total credit of **any benefits paid**.

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 as outlined in Petitioner's Exhibit 1, 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 in § 8(j) of the Act.

Temporary total disability benefits are denied.

Respondent shall pay Petitioner permanent partial disability benefits of $**1,024.87**/week for **88.6** weeks, because the injuries sustained caused the **10% loss of the right hand, 10% loss of the left hand, 10% loss of the right arm and 10% loss of the left arm**, as provided in § 8(e) 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.

Jeanne L. AuBuchon

Signature of Arbitrator

APRIL 14 2026

PROCEDURAL HISTORY

This matter proceeded to trial on March 3, 2026, 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) the date of the accident; 3) notice; 4) the causal connection between the accident and the Petitioner's bilateral wrist and arm conditions; 5) payment of medical bills; 6) entitlement to temporary total disability (TTD) benefits and 7) the nature and extent of the Petitioner's injuries.

FINDINGS OF FACT

At the time of the accident, the Petitioner was 50 years old and employed with the Respondent as a police sergeant. (AX1, T. 10) He has worked for the Respondent for 31 years. (T. 11) He testified that throughout the course of his employment he began to develop symptoms in his hands, such as tingling and numbness in his hands that were worse when he went to bed. (T. 12-13) He said that on a couple of occasions, he developed numbness in his fingers after restraining people. (T. 38)

He said the worst thing that he has done over his career that caused symptoms while on the job was writing reports and tickets and using handheld radar guns. (T. 13) He said he used handheld radar guns during the first 10 years of his career before they went to radars in the car. (Id.) He said he still used handheld radars when he would sit on certain side streets of the town because he can't turn his car to use the on-board radar, so he uses the handheld radar out the window . (T. 13-14, 22) He said he used the radar guns for hours at a time and would have to switch hands depending on which direction the car was traveling. (T. 14) He said he also would have to move the radar gun to his other hand when one hand became fatigued. (Id.) He said how often he is out on patrol varies on different days and weeks and that he could be using the radar

gun an hour or sometimes eight hours in a day. (T. 21-22, 38-39) He said that during the week, only he and the chief are on duty, and he works 40-plus hours a week. (T. 24, 32) He said that early in his career, he averaged 50 written warnings and 20 citations per month, and as he moved up in seniority, it has gone down to 5-10 citations a month. (T. 24-25) He said he also performs a lot of computer work – correcting reports, writing reports and logging in citations – 4-5 hours a day. (T. 28-29) He said he handwrites his notes and types his reports. (T. 29)

The Petitioner identified a Job Description and Work History Timeline outlining what he does at work. (T. 12, PX9) In the Job Description, he wrote that his job requires: lifting of office files, boxes, furniture, victims and suspects; pushing and pulling in the arrest of suspects, pushing cars and using handheld radar; and use of hands for gross manipulation in those activities and lots of computer keyboard work, handcuffing and PPCT defense. (PX9) Regarding lifting files and boxes, he explained that at the beginning of each year, they transfer files from different years to different places. (Id. 30)

The Petitioner testified that he also has secondary employment as a security officer at Dillards, for which he mainly walked around, deterring people from committing theft. (T. 18-19) He said that work did not involve using a radar gun or handcuffs, wrestling people to the ground or writing detailed reports. (T. 19-20) He also works as a security officer at a hospital. (T. 33) He said he works an additional 20-24 hours per week at these jobs. (T. 34)

The Petitioner denied having diabetes, gout, hypothyroidism or rheumatoid arthritis. (T. 11) He said his weight has been consistent over the past 30 years, and he has no hobbies or recreational activities involving repetitive use of his hands and arms. (Id.) He does smoke cigarettes. (T. 36)

Upon referral from his primary care physician, the Petitioner underwent electromyography and nerve conduction studies (EMG/NCS) on April 19, 2024, at SI Neurology & Sleep Medicine. (T. 14-15, PX4) Neurologist Dr. Fakhre Alam diagnosed mild-to-moderate bilateral ulnar neuropathy/cubital tunnel syndrome right worse than left and mild right carpal tunnel syndrome. (Id.)

On May 13, 2024, the Petitioner filled out an accident report stating that he was diagnosed with carpal tunnel that was due to computer keyboard and interaction with suspects. (PX8) He testified that his family doctor referred him to The Orthopaedic Institute of Southern Illinois

The Petitioner presented to The Orthopaedic Institute of Southern Illinois on May 30, 2024, and reported numbness and tingling in his upper extremities, right worse than left, for more than a year. (PX5) After review of the EMG/NCS, Physician Assistant David Mason diagnosed right carpal tunnel syndrome and bilateral cubital tunnel syndrome and recommended surgery, which was to be scheduled with orthopedic surgeon Dr. Steven Young. (Id.) A request for authorization of the surgery was sent to the Respondent's insurer. (Id.) The Petitioner testified that authorization never came. (T. 16) He said that five months later, he called his attorney, who sent him to Dr. Matthew Bradley, an orthopedic surgeon at Metro East Orthopedics. (Id.)

The Petitioner saw Dr. Bradley on October 21, 2024, and complained of bilateral hand numbness and tingling that started more than two years ago. (PX6) He reported that his doctor ordered an EMG, and he was told he had a mild disease. (Id.) He said he was treated with some anti-inflammatories and a strengthening program, but the symptoms continued to worsen until four or five months ago when they became so severe that they began waking him up at night. (Id.) He said it was difficult for him to hold onto his radar detector during his job. (Id.) He said his doctor

again ordered EMG and a nerve conduction study (NCS) with findings that were significantly worse. (Id.)

Dr. Bradley reported that he has worked as a police officer for about 30 years, and his day is spent doing multiple activities that all require repetitive use of his hands and elbow, such as typing reports, restraining individuals, placement of cuffs and holding his radar detector. (Id.) He said his current radar detector is better, but the old ones weighed 5-6 pounds and required him to hold them out at about shoulder level, grip tightly and pull the trigger to lock in on passing cars. (Id.) He said he was unable to do this with the same hand and had to rotate. (Id.) He said he also does a significant amount of gun training. (Id.) The Petitioner gave the Job Description and Work History Timeline to Dr. Bradley. (T. 39)

Dr. Bradley performed an examination, took X-rays and reviewed the EMG/NCS from April 19, 2024. (PX6) He diagnosed bilateral carpal and cubital tunnel syndromes and initiated non-operative treatment, including right wrist and elbow bracing. (Id.) He opined that the more than 30 years the Petitioner worked as a police officer doing multiple repetitive actives that use his hands and elbows has at least contributed to, and is therefore noted to be causally related to, his current diagnoses and need for further work up, evaluation and potential intervention. (Id.)

On November 12, 2024, the Petitioner underwent a Section 12 examination performed by Dr. Nathan Mall, an orthopedic surgeon at Motion Orthopaedics. (RX1 Deposition Exhibit 2) Dr. Mall reported that the Petitioner had worked for the Respondent since 1994 and that his job is now administrative, working at a desk and on rare occasions arresting individuals and handcuffing them. (Id.) Dr. Mall said the Petitioner described an ergonomic workspace with an adjustable chair. (Id.) The Petitioner filled out a questionnaire in which he listed job duties using his hands

and arms as citation writing and typing, arrest and handling of suspects, handheld radar, PPCT and shooting gun. (Id.)

After reviewing medical records and examining the Petitioner, Dr. Mall agreed that the Petitioner had bilateral carpal and cubital tunnel syndrome. (Id.) He believed surgical treatment would be reasonable but did not see any causal connection between the Petitioner's condition and the job duties he described. (Id.) He noted that the Petitioner's obesity was a significant risk factor for the development of carpal and cubital tunnel syndromes. (Id.) He said typing activities have not been shown in medical literature to be a risk factor for the development of those conditions, and the risk associated with typing and administrative type work is the same as the general public. (Id.)

A telehealth visit with Dr. Bradley occurred on November 26, 2024, and the Petitioner reported that his symptoms had gotten worse despite the nonoperative treatment. (Id.) He felt that his right-sided symptoms had gotten really bad, worse on the small and ring fingers. (Id.) Dr. Bradley discussed further nonoperative treatment versus operative intervention to include surgical decompression, and the Petitioner wished to proceed with surgery. (Id.)

Right carpal and cubital tunnel releases and ulnar nerve transposition were performed on December 20, 2024, by Dr. Bradley. (PX6, PX7) Dr. Bradley took the Petitioner off work until December 26, 2024, and gave further work restrictions of desk work only and no use of the upper right extremity. (PX6)

The Petitioner followed up with Dr. Bradley on January 9, 2025, and reported that he had absolutely no symptoms of numbness, tingling or burning on the right. (Id.) He continued to have symptoms on the left, and Dr. Bradley planned surgery for the left side and continued work restrictions. (Id.)

Dr. Bradley performed left carpal and cubital tunnel releases and ulnar nerve transposition on January 31, 2025. (PX6, PX7) He took the Petitioner off work until February 5, 2025, and gave further work restrictions of desk work only and no use of the left upper extremity. (PX6)

The Petitioner testified that before the surgeries, his fingers hurt so bad that he wanted to cut them off because he couldn't go to sleep and was constantly waking up. (T. 17)

On February 5, 2025, Dr. Bradley testified consistently with his records at a deposition. (PX10) He explained that carpal and cubital tunnel syndromes occur when the tunnels become tight and nerves inside the tunnels are squeezed. (Id.) He said that occupational risk factors for these conditions are repetitive opening and closing of hands – particularly if it involves grasping – as well as repetitive pushing or pulling, keeping the elbow flexed greater than 90 degrees for prolonged periods of time and use of vibratory instruments or tools. (Id.) He said carpal and cubital syndromes are multi-modal, meaning that two, three or four things added together bring about symptoms. (Id.) He thought the Petitioner's case was pretty typical in that multiple things led to the development of his conditions. (Id.) Dr. Bradley said that in his career, he has seen many police officers with job duties similar to those of the Petitioner. (Id.)

Dr. Bradley noted that the Petitioner told him that a couple of times after restraining people, he had a significant amount of numbness and tingling in fingers that did tend to resolve after time. (Id.) He said that as he found during surgery, the Petitioner had an unstable nerve that was moving around, which he thought was acute trauma that probably occurred during one of the times when he forcefully restrained a person. (Id.) He also noted the repetitiveness of sitting in a car five, six or seven hours a day with his elbow flexed holding up radar detectors – the older ones being fairly heavy with a trigger that was difficult to pull. (Id.) Dr. Bradley said holding up radar guns, squeezing them and pulling the trigger was forceful, repetitive grasping for the many years that he

did that. (Id.) He said the Petitioner transitioned more to handwriting and 4-5 hours a day of typing, which in and of themselves may or may not have contributed, but he thought that when you add them all together and look at them as a whole over the 30 years, they "certainly" did contribute. (Id.) He said the Petitioner's obesity also probably contributed. (Id.)

Dr. Bradley compared the development of carpal tunnel syndrome to an oyster making a pearl, putting layer after layer of calcium on a piece of sand that irritates the oyster. (Id.) He said that one or two small, little traumatic events – such as handcuffing – are not going to lead to carpal tunnel syndrome, but years and years of microtraumas or mini-traumas to the area causes the body to lay down scar tissue after scar tissue. (Id.)

Regarding his intra-operative findings, Dr. Bradley stated the Petitioner's carpal tunnel ligament was thickened and had a lot of scar tissue, which meant it had been undergoing years of inflammation. (Id.) He said the cubital tunnel also had scar tissue and adhesions, and the nerve was very unstable. (Id.)

Dr. Mall testified consistently with his report at a deposition on February 24, 2025. (RX1) He explained that any type of gripping and grasping activities performed on a daily basis for more than 30 percent of the day has been shown to be the significant risk factor for carpal tunnel. (Id.) He said there is not as much data on cubital tunnel syndrome, so doctors extrapolate the research on carpal tunnel to cubital tunnel. (Id.) He said the Petitioner didn't report forceful gripping activities, and, upon being asked a couple of times, the Petitioner said there was nothing really that he does that requires any forceful gripping. (Id.)

Dr. Mall acknowledged that he did not see Dr. Bradley's records. (Id.)

On cross-examination, Dr. Mall agreed that there is a cumulative element to the development of carpal and cubital tunnel syndromes. (Id.) He acknowledged that there was

nothing in his report about restraining inmates, using a handheld radar gun or moving office files or furniture. (Id.)

At a follow-up with Dr. Bradley on February 17, 2025, the Petitioner reported that his symptoms had resolved. (PX6) Dr. Bradley had him focus on a strengthening program over the next three to four weeks and continued light duty work restrictions, with a release to unrestricted duty on March 17, 2025. (Id.) The Petitioner had a telehealth visit with Dr. Bradley on April 10, 2025, at which time Dr. Bradley released him at maximum medical improvement. (Id.)

The Petitioner testified that despite the improvement from the surgeries, his palms still hurt at times, and his accuracy in shooting a gun went down. (T. 18) He said his grip strength is not like it used to be. (Id.) He said he takes Aleve for his symptoms. (Id.) He said he still has some soreness in his elbows from such activities as shooting at the range. (T. 20) He said that when he's on patrol, he has to rest his right elbow on the center console. (T. 20-21)

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

The claimant in a worker's compensation proceeding has the burden of proving by a preponderance of the credible evidence that the injury arose out of and in the course of employment, and that involves as an element a causal connection between the accident and the condition of claimant. *Cassens Transp. Co. v. Industrial Comm'n*, 262 Ill. App. 3d 324, 330, 633 N.E.2d 1344, 199 Ill. Dec. 353 (2nd Dist. 1994) An injury is considered "accidental" even though

it develops gradually over a period of time as a result of repetitive trauma, without requiring complete dysfunction, if it is caused by the performance of claimant's job. *Id.* Compensation may be allowed where a workman's existing physical structure, whatever it may be, gives way under the stress of his usual labor. *Laclede Steel Co. v. Indus. Comm'n.*, 6 Ill.2d 296 at 300, 128 N.E.2d 718, 720 (Ill. 1955)

Further, a Petitioner's job duties need not be repetitive in the sense that the same task is done over and over again as on an assembly line to result in a compensable injury. *City of Springfield v. Illinois Workers' Comp. Comm'n*, 388 Ill.App.3d 297, 901 N.E.2d 1066, 327 Ill.Dec. 333 (4th Dist., 2009). Intensive use of hands and arms can result in cumulative injuries that are compensable. *Id*. There is no legal requirement that a certain percentage of the workday be spent on a task in order to support a finding of repetitive trauma. *Edward Hines Precision Components v. Indus. Comm'n*, 365 Ill.App.3d 186, 192, 825 N.E.2d 773, 292 Ill.Dec. 185 (2nd Dist. 2005) See also *Darling v. Indus. Comm'n*, 176 Ill.App.3d 186, 530 N.E.2d 1135, 1142 (1st Dist. 1988). Proof of effort required or exertion needed may carry great weight only where the work duty complained of is a common movement made by the general public. *Darling*, 176 Ill.App3d. at 1142.

As to whether the Petitioner's work duties complained of were common movements made by the general public, the Arbitrator finds that his duties were not common movements made by the general public. Therefore, proof of effort or exertion is not required.

The Appellate Court has held that work history extending years before a claimant's alleged manifestation date is relevant because a repetitive-trauma injury is one which has been shown to be caused by the performance of the claimant's job and has developed gradually over a period of

time, without requiring complete dysfunction. *PPG Indus. v. Illinois Workers' Comp. Comm'n*, 2014 IL App (4th) 130698WC, ¶ 19, 22 N.E.3d 48.

Dr. Mall and Dr. Bradley had contrary views of the Petitioner's work activities and their impact on his conditions. Dr. Mall emphasized that the Petitioner's work was administrative. The Arbitrator finds that Dr. Mall's opinions were based on incomplete information, looking only at typing as a risk factor. Although the Petitioner wrote on Dr. Mall's questionnaire that his job duties included arrest and handling of suspects, handheld radar, PPCT and shooting guns, Dr. Mall did not ask the Petitioner for details about these activities specifically and did not mention them in his report. Dr. Mall did testify that he asked the Petitioner about forceful gripping, but the Petitioner said there was nothing really that he did that requires any forceful gripping. Dr. Mall also did not review Dr. Bradley's records, which also contained more details about his job duties other than typing. He did not consider the possibility that the Petitioner's unstable ulnar nerves in his elbows were caused by forcefully restraining subjects.

On the other hand, Dr. Bradley looked at all of the Petitioner's job duties, including long-term use of a handheld radar gun and forcefully restraining subjects. He also considered the Petitioner's work history extending years before his manifestation date. Dr. Bradley testified that the microtraumas from the Petitioner's job activities combined to contribute to his conditions.

The Arbitrator gives greater weight to Dr. Bradley's opinions for these reasons and the fact that as the Petitioner's treating physician, he had more opportunities to be familiar with the Petitioner and his conditions. He also used his experience in treating police officers throughout his career in forming his opinions.

The claimant's injury need not be the sole factor that aggravates a preexisting condition, so long as it is a factor that contributes to the disability. *Cassens Transp. Co.*, 262 Ill. App. 3d at 331.

The appropriate question is whether the evidence can support an inference that the accident aggravated the condition or accelerated the processes which led to the claimant's current condition of ill-being. *Id*. The Commission may find a causal relationship based on a medical expert's opinion that the injury "could have" or "might have" been caused by the accident. *Id*. at 332.

The Petitioner had risk factors for developing carpal or cubital tunnel syndrome, specifically his obesity and smoking. Dr. Bradley explained the multi-factorial nature of carpal and cubital syndromes and how the Petitioner's work activities played into the development of these conditions. The Arbitrator notes that the Petitioner's symptoms appeared to worsen while working – circumstantial evidence that his work activities contributed to his symptomatic carpal and cubital tunnel syndromes.

Therefore, the Arbitrator finds that the Petitioner has proved by a preponderance of the evidence that his injuries arose out of and in the course of his employment, and that employment was a contributing factor to his carpal and cubital tunnel syndromes.

Issue (D): What was the date of the accident?

In repetitive trauma cases the date of accident – or manifestation date – can be set as: (a) the date the employee actually became aware of the physical condition and its relation to work through medical consultation; (b) the date the employee requires medical treatment; (c) the date on which the employee can no longer perform work activities; or (d) when a reasonable person would have plainly recognized the injury and its relation to work. *Durand v. Industrial Commission*, 224 Ill.2d 53, 862 N.E.2d 918 (2007)

Although it appears that the Petitioner was tested for carpal and cubital tunnel syndrome prior to his most recent treatment, these records were not produced at arbitration. The Arbitrator

finds that the manifestation date in this case is April 19, 2024, when the EMG/NCS were positive for carpal and cubital tunnel syndrome and caused him to undergo treatment.

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)

On May 13, 2024, the Petitioner filled out an accident report – a little more than one month after the manifestation date. Therefore, the Arbitrator finds that the Petitioner provided timely notice under the Act.

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).

Despite his causation opinion, Dr. Mall found the Petitioner's treatment, including surgery, to be reasonable and necessary. Therefore, the Arbitrator finds that the medical services were reasonable and necessary and orders the Respondent to pay the medical expenses contained in Petitioner's Exhibit 1. 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).

Dr. Bradley had the Petitioner off work or on light duty from December 20, 2024, through March 17, 2025. The Respondent produced a payroll report showing that the Petitioner was paid regular wages during this time. The Petitioner did not testify that these payments were not his ordinary wages. Therefore, TTD is denied.

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.** There was no AMA impairment rating produced. Therefore, the Arbitrator gives this factor no weight.

(ii) **Occupation.** The Petitioner is working the same job with the same activities that led to his injuries. The Arbitrator places significant weight on this factor.

(iii) **Age.** The Petitioner was 50 years old at the time of the injuries. He has several work years left during which time he 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.** The Petitioner's achieved a good result from his surgeries. Despite his improvement therefrom, he testified that despite the improvement from the surgeries, his palms still hurt at times, his grip strength is not what it used to be, and he has some soreness in his elbows. The Arbitrator puts some weight on this factor.

Therefore, the Arbitrator finds the Petitioner's permanent partial disability to be 10 percent of the left arm, 10 percent of the left hand, 10 percent of the right arm and 10 percent of the right hand.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC032824
Case Name	William Tatum v. State of Illinois - Menard Correctional Center
Consolidated Cases	24WC014868 25WC004635
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0262
Number of Pages of Decision	17
Decision Issued By	Marc Parker, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Aaron Wright

DATE FILED: 9/17/2026

/s/Marc Parker, 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 down	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

William Tatum,

Petitioner,

vs. No. 23 WC 032824

State of Illinois – Menard Correctional Center,

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 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 Commission,* 78 Ill.2d 327, 399 N.E.2d 1322, 35 Ill.Dec. 794 (1980).

At arbitration, three of Petitioner's claims were tried together: 23 WC 32824 (this claim), 24 WC 14868, and 25 WC 4635. Petitioner combined the medical expenses he sought from all three of his claims into one exhibit: Petitioner's Group Exhibit 1.

The Arbitrator awarded Petitioner all of the medical expenses contained in Petitioner's Group Exhibit 1, in each of his three claims. The Commission, however, modifies the award of medical expenses in this case, 23 WC 32824, to include only those expenses contained in Petitioner's Group Exhibit 1 which were related to treating the injuries Petitioner sustained in this accident of November 14, 2023, as provided in §8(a) and §8.2 of the Act.

Because the Commission is not awarding Respondent any §8(j) credit in this claim, Respondent is not required to indemnify and hold Petitioner harmless from claims made by any health providers arising from the expenses for which it claims credit or has paid. Accordingly, we strike that that requirement from the Arbitration Decision.

Finally, The Commission corrects a clerical error in the Arbitration Decision. On page two of that Decision under Findings, the Arbitrator reported the date of accident in this case to be May 21, 2024. In fact, the date of accident in this claim is November 14, 2023. We correct this error and reflect the date of accident for this claim to be November 14, 2023. All else in the Arbitration Decision is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed February 10, 2026, is modified as stated above, and is otherwise 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.

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.

SEPTEMBER 17 2026

/s/ *Marc Parker*
Marc Parker

MP/mcp
o-09/10/26
068

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

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	23WC032824
Case Name	William Tatum v. State of Illinois - Menard Correctional Center
Consolidated Cases	24WC014868 25WC004635
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	14
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Aaron Wright

DATE FILED: 2/10/2026

/s/ Bradley Gillespie, 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 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)

WILLIAM TATUM
Employee/Petitioner

v.

SOI/MENARD CORRECTIONAL CENTER
Employer/Respondent

Case # **23WC032824**

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 **Collinsville,** on **November 25, 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 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 $**61,766.03**; the average weekly wage was $**1,187.80**.

On the date of accident, Petitioner was **45** years of age, ***married*** with **5** 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 $- for TTD, $- for TPD, $- for maintenance, and $- for other benefits, for a total credit of $-.

Respondent is entitled to a credit of $- 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 § 8(a) and § 8.2 of the Act.

Respondent shall have credit for any amounts previously paid and shall indemnify and hold Petitioner harmless from claims made by any health providers arising from the expenses for which it claims credit.

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.

Bradley D. Gillespie
Signature of Arbitrator

FEBRUARY 10 2026

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

WILLIAM TATUM,	)	
	)	
Employee/Petitioner,	)	
	)	
v.	)	**Case No.: 23WC032824**
	)	**24WC014868**
STATE OF ILLINOIS/MENARD CORR. CTR.	)	**25WC004635**
	)	
Employer/Respondent.	)	

DECISION OF ARBITRATOR

FINDINGS OF FACT

Background

Petitioner filed three Applications for Adjustment of Claim for three separate disputed injuries, and the matters were consolidated for hearing on Petitioner's § 19(b) Petition. Petitioner offered incident reports for his injuries into evidence as his Exhibit 17. (PX 17) In claim 23WC032824, Petitioner alleged that on November 14, 2023, he suffered injury to his chin, jaw, face, and neck/body as a whole when he was struck by an inmate. (Arb. Ex. 2) Respondent disputes liability for unpaid medical expenses. (Arb. Ex. 1) In claim 24WC014868, Petitioner alleged that on May 21, 2024, he suffered injury to his right knee/leg, left shoulder, and neck/body as a whole when he was assaulted again by an inmate. (Arb. Ex. 2) Respondent disputes causal connection for the right knee injury and liability for past and prospective right knee medical expenses. (Ar.b. Ex. 1) In claim 25WC004635, Petitioner alleged that on January 27, 2025, he injured his right knee when he slipped on loose gravel. (Arb. Ex. 2) Respondent disputes causal connection, liability for past and prospective medical benefits, and liability for temporary total disability benefits. (Arb. Ex. 1) He also acknowledged his previous workers' compensation claims. (Arb. Ex. 2)

Arbitration Testimony

Petitioner is currently employed at Respondent's Vienna Correctional Center. (Tr. p. 12) On the above dates of injury, he was employed at Menard Correctional Center as a correctional officer for 5 years. (Tr. pp. 12-13) He testified that on November 14, 2023, he was "blindsided" and punched in the face by an innate while walking to his assigned gallery. (Tr. p. 13) He stated that the incident "escalated from there." *Id.* He testified that his most significant injury was to his neck, which ultimately required surgery. (Tr. pp. 13-14)

Petitioner testified that his second injury occurred on May 21, 2024, when he injured his right knee, left shoulder, and neck while he assisted a fellow officer who was being assaulted by an inmate. (Tr. pp. 14-15) He stated that the incident resulted in a pileup as more parties arrived to

gain control of the situation. *Id.* He came under the care of Dr. Matthew Bradley, who has recommended right knee surgery. (Tr. pp. 16-17) He candidly acknowledged suffering a prior right knee injury, which required ACL and meniscus reconstruction in 2015. (Tr. p. 18) He stated that he recovered well following the procedure and was able to still participate in sports. *Id.* Petitioner testified that he tore his ACL and meniscus again in 2021 while restraining a combative inmate. *Id.* He then received a reconstruction, returned to full-duty work, and resumed all his sports and fitness activities. (Tr. p. 19) He testified that he had no issues from the time of his release up to the May 2024 accident. *Id.* Following his May 2024 accident, however, he never stabilized until after Dr. Bradley performed a partial knee replacement on January 3, 2025. (Tr. pp. 19-20) After Dr. Bradley's partial knee replacement and post-operative therapy, his pain and function again improved. (Tr. pp. 20-21)

Petitioner testified that his final injury occurred on January 27, 2025, when he slipped on loose gravel on a recently graded incline of Respondent's parking lot and hyperextended his right knee. (Tr. p. 21) He iced his knee in the facility for approximately 20 minutes without relief before advising his shift supervisor of the injury. (Tr. p. 22) After the incident, Petitioner's work restrictions were modified to include no walking on uneven ground. *Id.* Petitioner testified that this was difficult, because there was no flat surface on which to park. (Tr. p. 23) The Arbitrator has visited the facility and takes judicial notice of the condition of the parking lot. *Id.* Counsel for Respondent also took notice of the parking lot conditions. *Id.* With additional care, Petitioner progressed to where he was allowed to return to full-duty work. *Id.* However, he had persistent trouble climbing stairs, kneeling, and squatting, and eventually even walking on flat surfaces. (Tr. pp. 24-26) Additional imaging showed a re-tear for which Dr. Bradley is currently recommending a total knee replacement. (Tr. p. 26)

Petitioner testified that he currently is still having issues using stairs and engaging in normal activities of daily living. (Tr. p. 27) He stated that while he was able to resume sports and running after his 2021 surgery, he has not done so since his recent injuries and he currently can do little without his right knee giving out. *Id.* He wishes to have the surgery recommended by Dr. Bradley to recover and return to normalcy. (Tr. pp. 28-29)

23WC032824 (D/A November 14, 2023)

Medical Treatment

Petitioner presented to Chester Memorial Hospital on November 14, 2023, and reported constant facial pain and headache with additional forehead, jaw, and neck pain following a direct blow to the left side of his face at work. (PX 3 p. 2) CT scans of Petitioner's head, maxillofacial, and cervical spine were unremarkable. (PX 3 pp. 4-7) Petitioner's assessment was cervical sprain and facial or scalp contusion, and he was advised to follow up with his physician. (PX 3 p. 7)

On December 14, 2023, Petitioner presented to Dr. Matthew Gornet, who took the history of the injury and noted Petitioner's symptoms of headaches, neck pain, bilateral trapezial pain, and bilateral upper extremity tingling. (PX 4 p. 2) He noted that Petitioner had no prior significant headache or neck issues. *Id.* Dr. Gornet's examination was positive for bilateral neck and trapezial pain, decreased range of motion with greater loss in right rotation, mild decrease in left biceps, and decreased sensation in the C6 dermatome on the right side to light touch in a fingertip distribution bilaterally. (PX 4 p. 3) He recommended an MRI scan, which showed midline C3-4 and C5-6 and left paracentral C4-5 annular tears/fissures and protrusions, each resulting in dural displacement, and C3-4 and C5-6 foraminal stenosis bilaterally. (PX 5 p. 2) Based on clear evidence of disc injuries from C3 through C6, Dr. Gornet recommended physical therapy and injection and prescribed anti-inflammatory and muscle relaxing medications. (PX 4 pp. 3-4) He opined that Petitioner's current symptoms and need for treatment were causally related to the November 2023 work accident. (PX 4 p. 4)

Petitioner began physical therapy at Joyner Therapy Services on December 21st (PX 6) and presented to Dr. Helen Blake on January 2, 2024, for a right C5-6 injection. (PX 7; PX 8) Although Petitioner reported temporary improvement in his right upper extremity symptoms and mobility to his therapist on January 3, 2024, he reported persistent headaches. (PX 6 p. 23) He reported increased symptoms again during the therapy session on January 10, 2024, and forward. (PX 6 pp. 3-20) Petitioner reported modest improvement in his symptoms during the final visit on February 2, 2024. (PX 6 p. 3)

Petitioner returned to Dr. Gornet on March 14, 2024, with substantial persistent symptoms despite injection and physical therapy. (PX 4 p. 5) Petitioner advised that his headaches were his biggest issue, but he still suffered from neck pain with bilateral upper extremity paresthesia. *Id.* Dr. Gornet recommended a three-level disc replacement at C3-4, C4-5, and C5-6. (PX 4 p. 5) When Dr. Gornet verified Petitioner's bone density scan from CT Partners (PX 9) was normal on April 29, 2024, he scheduled surgery and refilled Petitioner's medication in the meantime on July 15, 2024. (PX 4 p. 6-7) No new complaints or recommendations were made on account of Petitioner second May 2024 work injury. *Id.* Petitioner obtained preoperative clearance from his family physician on May 29, 2024. (PX 11; PX 12; PX 13)

On August 9, 2024, Dr. Gornet performed disc replacements at C3-4, C4-5, and C5-6. (PX 15 pp. 4-6) He took an intraoperative video of the nerve hook in the tear across the entire disc at C5-6 along with the right-sided and central tears at C4-5 and the central annulus avulsion at C3-4. (PX 15 p. 5) Petitioner reported he was doing extremely well with dramatic improvement in his headaches and neck pain during his follow-up visits in August and October. (PX 4 pp. 13-15) Petitioner reported some achiness in his bilateral trapezii, but Dr. Gornet noted this was typical during recovery. (PX 4 p. 14) After the CT scan on November 21, 2024, showed proper placement of the prostheses with no new stenosis (PX 9), Dr. Gornet prescribed physical therapy which Petitioner completed in December (PX 14), allowed Petitioner to resume full-duty work on March 4, 2025, and prescribed meloxicam for the ongoing residual achiness. (PX 4 pp. 19-21) During the

visit on August 7, 2025, Petitioner continued to do well overall but reported popping with prolonged forward flexion moving up to extension. (PX 4 p. 22) Dr. Gornet obtained a new CT which showed no evidence of lucency or heterotopic bone. (PX 4 p. 23; PX 9) He advised Petitioner to follow-up as needed with a long-term follow-up in one year. (PX 4 p. 23)

Opinion of Dr. Michael Chabot

On August 15, 2025, Respondent had Petitioner examined by Dr. Michael Chabot regarding his neck injury on November 14, 2023. (RX 3) He noted a consistent history of the injury and Petitioner's symptoms and summarized Petitioner's care and treatment. (RX 3 pp. 1-7) His impression was history of facial/cranial contusion and status post cervical total disc replacement from C3 to C6. (RX 3 p. 9) He agreed that the medical records established that Petitioner's neck pain and radicular symptoms were caused by the November 2023 work injury. (RX 3 p. 10) He also noted that Petitioner's complaints were relieved by the surgical intervention performed by Dr. Gornet. *Id.* He agreed that that the treatment rendered to date was reasonable and necessary. *Id.* He believed Petitioner was at maximum medical improvement and required no further care. *Id.*

24WC014868 (D/A May 21, 2024)

Medical Treatment

On May 21, 2024, Petitioner presented to Chester Memorial Hospital with complaints of neck pain, left shoulder pain, and right knee pain after a fall while trying to restrain an inmate. (PX 3 p. 13) X-rays and CT scans were negative for acute bony pathology. (PX 3 pp. 16-17)

On May 23, 2024, Petitioner presented to Dr. Matthew Bradley with complaints of left shoulder and right knee pain. (PX 10 p. 2) Petitioner described the injury occurred when he twisted and fell while responding to a workplace altercation. *Id.* Dr. Bradley noted that Petitioner had a prior history of rotator cuff injury in 2015 and two prior knee surgeries, with the most recent being in 2022, but Petitioner recovered from all his prior injuries and was working without incident up until his work accident. *Id.* Petitioner also reported neck pain, but Dr. Bradley noted that Dr. Gornet was already treating Petitioner for neck injury. *Id.*

Physical examination revealed positive impingement signs with Neer's, Jobe's, and Hawkins' orthopedic tests of the left shoulder and effusion with a markedly positive McMurrray's test of the right knee. (PX 10 pp. 2-3) Dr. Bradley reviewed Petitioner's pre-accident right knee MRI and recommended new MRIs of the left shoulder and right knee. (PX 10 p. 3) Based on the history of accident and clinical findings, Dr. Bradley's clinical assessment was left shoulder traumatic impingement and right knee medial meniscus tear. *Id.* He stated that the May 21, 2024, altercation was a contributing causal factor in Petitioner's left shoulder and right knee complaints and need for treatment. *Id.*

The MRI taken June 3, 2024, showed ACL reconstruction changes without recurrent tear, medial meniscal body and posterior horn partial resection changes with free edge and undersurface scarring, and central weightbearing medial condylar Grade III chondral thinning with probable Grade IV chondral fissuring/fibrillation through the posterior weightbearing surface. (PX 5) The MRI of Petitioner's right shoulder showed supraspinatus repair without evidence for definite recurrent tear, posterior superior labral fraying/Type-1 tearing, and subacromial decompression changes. (PX 5 p. 4)

On June 18, 2024, Petitioner returned to Dr. Bradley, who noted Petitioner's complaints were progressively worsening without any new trauma. (PX 10 p. 7) He reviewed the results of the MRIs, recommended physical therapy and anti-inflammatory medication, and administered an intraarticular corticosteroid injection in the right knee. (PX 10 pp. 8-9) Petitioner subsequently began rehab at Athletico Physical Therapy on July 3, 2024. (PX 14) Although Petitioner's left shoulder condition improved, Petitioner's right knee remained painful, rated 7/10 at worst, at the medial compartment, and he reported persistent pain and difficulty with squatting, climbing stairs, and prolonged standing. (PX 14 p. 14)

Petitioner returned to Dr. Bradley on August 26, 2024, and Dr. Bradley noted the ongoing right knee complaints. (PX 10 p. 14) Petitioner noted that his neck was doing very well with Dr. Gornet's treatment, but he reported just one day of right knee relief following the injection. *Id.* Dr. Bradley's assessment was ongoing exacerbation of underlying degenerative right knee disease. (PX 10 p. 15) Given the recent cervical spine surgery, Dr. Bradley noted it was not safe to repeat his injection and recommended that Petitioner just use anti-inflammatory medication allowed by Dr. Gornet and work light duty for the time being with restrictions of no lifting greater than 20 pounds, no pushing/pulling greater than 30 pounds, no inmate contact, no prolonged sitting or standing, and no repetitive bending, twisting, or squatting. (PX 10 pp. 15-16)

On October 1, 2024, Dr. Bradley noted that Petitioner's right knee continued to be painful with a lot of catching, clicking, and grinding. (PX 10 p. 19) No interval trauma occurred. *Id.* Physical examination continued to demonstrate significant medial-sided knee pain with a positive McMurray test. (PX 10 p. 20) Dr. Bradley administered a viscoelastic supplement injection with GelOne, Depo-Medrol, and lidocaine, and he kept Petitioner under light-duty restrictions.(PX 10 pp. 21-22) However, Petitioner returned on November 21, 2024, with persistent and severe medial femoral condyle pain. (PX 10 p. 25) With just seven to ten days of relief after the injection, Dr. Bradley noted that Petitioner had failed conservative treatment and recommended a media unicompartmental/partial knee replacement. (PX 10 p. 27) Petitioner had a preoperative evaluation with his family physician on December 16, 2024, and received clearance after testing. (PX 11; PX 16)

After a preoperative CT scan on December 19, 2024, showed knee arthrosis in all three compartments (PX 9), Dr. Bradley performed right medial unicompartmental arthroplasty on January 3, 2025. (PX 16 pp. 52-54; PX 10 pp. 32-34) Significant Grade IV chondrosis was noted

intraoperatively, and a portion of the medial aspect of the inferior patellar fat pad was removed to improve visualization during hardware placement. (PX 16 p. 53) Petitioner was given a referral for post-op therapy. (PX 16 p. 111)

During the post-operative follow-up on January 16, 2025, Petitioner reported improvement in his pre-operative symptoms. (PX 10 p. 38) Dr. Bradley recommended rehab and anti-inflammatory exercises and allowed Petitioner to work with restriction to light desk work only and no inmate contact. (PX 10 p. 40)

Opinion and Testimony of Dr. Timothy Farley

Respondent had Petitioner examined by Dr. Timothy Farley on February 11, 2025. (RX 4) Dr. Farley recorded a history of Petitioner's right knee injury noting that it occurred on May 21, 2024, while responding to an altercation. (RX 4 p. 2) Upon physical examination, Dr. Farley observed well-healed incision in the anterior aspect of the right knee, moderate effusion, lack of five degrees in extension and flexion to 105 degrees and loose Lachman's. (RX 4 p. 5) He noted that Petitioner was pleasant, did not seem to be evasive and did not show signs of symptom magnification during the evaluation. (PX 4 p. 6) Dr. Farley acknowledged Petitioner's complaints of pain, but he did not believe there was a causal relationship between the work accident and Petitioner's current complaints. (RX 4 pp. 6-7) Regardless of his views on causation, Dr. Farley felt that Petitioner's right partial/unicompartmental knee replacement was reasonable and necessary to treat his physical condition. (RX 4 p. 7) He believed that Petitioner would reach maximum medical improvement approximately three months following his procedure, and he deemed it reasonable for a one-year follow-up visit "to make sure that all is well and there is no progressive degenerative change or loss of fixation of the arthroplasty." *Id.* He noted that it was "not uncommon for people to have setbacks" such as Petitioner's recent incident; but he stated that these "usually go away," and he believed that Petitioner's prognosis was good for getting back to full activity without restrictions. *Id.* At the time of the Section 12 Examination, he agreed that Petitioner "should be in non-combative situations, performing predominantly seated-type activities." (RX 4 pp. 7-8)

Dr. Farley testified by way of deposition on May 6, 2025. (RX 5) His testimony on direct examination was consistent with his opinions in his report. *Id.* He acknowledged that Petitioner reported immediate right knee pain after the inmate altercation on May 21, 2024. (RX 5 p. 7) However, he did not believe Petitioner's condition was related to the work accident because the accident did not cause the development of his arthritis, which predated the work accident. (RX 5 pp. 11-12)

On cross-examination, Dr. Farley testified that he gives on average one to two depositions per month, but he acknowledged that he had recently given three depositions within three weeks. (RX 5 pp.13-14) Dr. Farley acknowledged that Petitioner had no documented issues following the ACL reconstruction in 2022 and the work injury of May 2024 and that Petitioner was working full

duty before the accident. (RX 5 pp. 15-16) He acknowledged that Petitioner's knee had not returned to his preinjury baseline following the May 21, 2024, work incident. (RX 5 p. 16)

Opinion and Testimony of Dr. Dr. Matthew Bradley

Dr. Bradley also testified by way of deposition on May 14, 2025. (PX 19) On direct examination, he described his clinical findings and discussed the pertinent findings from his review of Petitioner's accident history and medical records. (PX 19 pp. 6-16) He noted that he previously treated and surgically repaired Petitioner's right knee in 2021 and 2022 for an ACL tear and had fully released him without restrictions in October 2022. (PX 19 pp. 6-7) He noted that Petitioner was not seen and did not require care from the date of his release in 2022 until the May 2024 work accident. (PX 19 pp. 6-8)

Dr. Bradley testified that based on the history of injury, the MRI findings, and his clinical examination, Petitioner's work accident worsened his underlying degenerative condition in his knee. (PX 19 p. 10) He explained, "The accident he discussed where he actually sustained a twisting injury and a fall certainly could exacerbate some underlying arthritis or chondrosis in his knee. The gentleman had been back to work full duty, working in his full capacity as a correctional officer for two years without any significant pain or loss of jobs, days of work, going to the doctor or anything." (PX 19 pp. 10-11) "It wasn't until somebody kicked the pit bull and kind of woke up that chondrosis that he began developing the pain." (PX 19 pp. 15-16) He stated that since Petitioner suffered cartilage loss on both the thigh and shin bones and failed conservative care, he required a partial knee replacement. (PX 19 p. 12) He stated that there was no other explanation for Petitioner's decline. (PX 19 p. 16)

25WC04635 (D/A January 27, 2025)

Petitioner contacted Dr. Bradley on January 31, 2025, and reported that he suffered a new injury when he slipped while walking on uneven gravel at work. (PX 10) Dr. Bradley updated Petitioner's work restrictions to no walking on uneven ground. (PX 10 p. 44) Petitioner presented in-office on February 24, 2025, at which time Dr. Bradley noted an in-depth history of accident and Petitioner's persistent aggravation of his symptoms since the accident with no relief despite using oxycodone and Celebrex. (PX 10 p. 45) Dr. Bradley noted that Petitioner's right knee was significantly tender with mild-to-moderate effusion. (PX 10 p. 47) Consequently, he gave Petitioner a Depo-Medrol injection and kept his restrictions in place for the time being. *Id.*

On March 17, 2025, Dr. Bradley updated Petitioner's work status and allowed him to return to work without restrictions. (PX 10 p. 52) However, on June 2, 2025, Dr. Bradley noted that Petitioner's symptoms were not improving. (PX 10 p. 59) Petitioner described tightness with full extension or flexion. *Id.* Dr. Bradley felt that Petitioner was developing scar tissue and adhesions, but continued him on full duty work. (PX 10 p. 61) Dr. Bradley recommended that Petitioner wean off tramadol and lyrica, finish therapy, and continue his home exercise program with scheduled

anti-inflammatory medication to try and break down some of his residual scar tissue and adhesions within his knee. *Id.* He hoped that Petitioner would improve and reach maximum medical improvement within two months. *Id.*

On August 7, 2025, Petitioner returned to Dr. Bradley and reported that using steps and stairs caused him pain, particularly in the lateral aspect just distal to the fibular head. (PX 10 p. 65) Petitioner denied any interval trauma. *Id.* Dr. Bradley found Petitioner's lateral lower leg pain unusual with steps/stairs and noted that at present he had nothing further to offer. (PX 10 p. 67) However, when Petitioner returned on September 15, 2025, with significantly worsening right knee pain, Dr. Bradley reassessed Petitioner's condition. (PX 10 p. 71) Petitioner reported that after slipping on gravel and hyperextending his knee, his knee progressively worsened to the point that he was having difficulty walking on not just stairs, but also flat surfaces. *Id.* Dr. Bradley noted, "Just prior to returning to work he was able to climb three flights of stairs without difficulty. Now he cannot climb three steps without significant pain. No other trauma reported." *Id.*

Dr. Bradley reviewed Petitioner's x-rays and noted a significant progression of his lateral compartment disease following the injury:

> I discussed with William the findings on physical examination and x-ray. His x-rays prior to January 27 show a good joint space laterally without any signs of osteophytes or subchondral sclerosis. Since the January 27 hyperextension, his lateral compartment has significantly progressed to the point he is now bone on bone disease. He has lateral marginal osteophytes as well as subchondral sclerosis indicative of the severity of the bone on bone and the inflammatory processes. . . (PX 10 p. 73)

Based on the severity of Petitioner's pain and the significant x-ray findings, Dr. Bradley recommended a total knee replacement. *Id.*

CONCLUSIONS OF LAW

23WC032824
(November 14, 2023)

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?

Respondent stipulated that Petitioner suffered an accident that is causally connected to his current condition of ill-being in his cervical spine. (Arb. Ex. 1) Respondent's examiner, Dr. Chabot, agreed that Petitioner's condition of ill-being was causally related to his November 14, 2023, accident. (RX 3 p. 10) Dr. Chabot agreed that Petitioner's care and treatment was reasonable and necessary. *Id.* The Arbitrator notes that all tendered expenses were related to the diagnosis and treatment of the spine and/or pre-operative testing for surgical clearance. *Id.* Respondent shall

therefore pay all submitted expenses contained in Petitioner's group exhibit pertaining to 23WC032824. Respondent shall have credit for expenses paid provided that it agrees to indemnify and hold Petitioner harmless from any disputes regarding the expenses for which it claims credit.

24WC014868
(May 21, 2024)

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

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 workers' compensation claimant's injury. *Shafer v. Illinois Workers' Comp. Comm'n*, 2011 IL App (4th) 100505WC, 976 N.E.2d 1 (2011).

Accidental injury need not be the sole causative factor, nor even the primary causative factor, as long as it is a causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003). [Emphasis added]. Employers are to take their employees as they find them. *A.C. & S. v. Industrial Comm'n*, 304 Ill. App. 3d 875, 710 N.E.2d 837 (1999) citing *General Electric Co. v. Indus. Comm'n*, 89 Ill. 2d 432, 434, 433 N.E.2d 671, 672 (1982).

Where a preexisting condition is present, Petitioner need only show that the prior condition was aggravated or the need for treatment accelerated. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003); *Schroeder v. Illinois Workers' Comp. Comm'n*, 2017 IL App (4th) 160192WC, 79 N.E.3d 833, 839-40; *Judith Wheaton v. State of Illinois/Choate Mental Health Center*, 13 I.W.C.C. 0467; *Bowman v. Gateway Reg'l Med. Ctr*., 14 I.W.C.C. 1022; *Clutterbuck v. UPS*, 15 I.W.C.C. 0046; *Howard v. St. Clair Hwy. Dept*., 16 I.W.C.C. 0187, modified 16 MR 106.

The Appellate Court has found that where an accident results in pain, that the pain, in and of itself, is a compensable aggravation of a claimant's preexisting condition. *Tazewell County v. Illinois Workers' Compensation Commission*, 2025 IL App (4th) 230754WC. Specifically, the Court found that when a preexisting condition is asymptomatic and then becomes painful as the result of work-related activity, that symptomatic condition is compensable under the Act as an aggravation of the preexisting condition even in the absence of an organic or structural change in the preexisting condition. *Id.* When a preexisting asymptomatic condition becomes painful for reasons other than an organic or structural change or natural progression, it follows that the preexisting condition was aggravated by something. Id. The Court held that if the aggravation was work-related and caused solely pain, that the pain suffered by a claimant, in and of itself, was a compensable aggravation of the preexisting condition. *Id.*

The Arbitrator finds and concludes that the chain of events and the law establishes that Petitioner's condition of ill-being up until the accident on January 27, 2025, is causally connected to his undisputed accident on May 21, 2024. It is undisputed that Petitioner had recovered from his prior injury and was working full duty without issue prior to the May 2024 accident. It is likewise undisputed that Petitioner had preexisting pathology. Consequently, the appropriate inquiry is whether Petitioner's preexisting condition was aggravated, not whether Petitioner's condition was caused by the work accident.

Respondent's examiner, Dr. Farley, opined that Petitioner's condition was unrelated to the work accident, because his conditions predated the injury. (RX 5 pp. 11-12) Yet, he admitted that Petitioner had no documented treatment from the date Dr. Bradley released Petitioner following his ACL reconstruction in 2022 and the work injury of May 2024 and that Petitioner was working full duty before the accident. (RX 5 pp.15-16. To that extent, the Arbitrator notes the opinion of Dr. Farley is inconsistent with the above law and evidence and affords it little weight.

Dr. Bradley credibly and persuasively explained how the May 2024 accident aggravated Petitioner's preexisting chondrosis and caused it to be symptomatic. The Arbitrator finds Dr. Bradley's opinion persuasive, as it comports with the law, the circumstantial evidence, and medical evidence in the record. The Arbitrator therefore concludes that Petitioner met his burden in proving that his right knee condition for the period specified was causally related to the undisputed May 2024 work 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?

Issue (K): Is Petitioner entitled to any prospective medical care?

Upon establishing causal connection and the reasonableness and necessity of recommended medical treatment, employers are responsible for necessary medical care required by their employees. *Plantation Mfg. Co. v. Indus. Comm'n,* 294 Ill.App.3d 705, 691 N.E.2d 13 (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*, 325 Ill.App.3d 527, 758 N.E.2d 18 (1st Dist. 2001).

Although he disagreed about causation, Dr. Farley agreed that Petitioner's medical treatment, including the partial knee replacement and appropriate post-operative care, was reasonable and necessary. (RX 4) Respondent shall therefore pay the reasonable and necessary expenses contained in Petitioner's group exhibit pertaining to the May 2024 accident. Respondent shall have credit for any expenses paid provided that it agrees to indemnify and hold Petitioner harmless.

25WC04635
(January 27, 2025)

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

As noted above, Petitioner need only show that the prior condition was aggravated or the need for treatment accelerated. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003); *Schroeder v. Illinois Workers' Comp. Comm'n*, 2017 IL App (4th) 160192WC, 79 N.E.3d 833, 839-40. The Arbitrator finds that the unrebutted evidence shows that Petitioner's condition of ill-being was again aggravated and accelerated by the January 2025 accidental injury. Dr. Bradley credibly explained in his treatment note on September 15, 2025, that x-rays showed a significant progression in right knee inflammatory degenerative disease since the January 2025 accident that led to his current bone-on-bone condition. (PX 10) His unrebutted opinion is supported by the objective medical and circumstantial evidence. The Arbitrator therefore finds and concludes that Petitioner's current condition of ill-being in his right knee following the January 2025 accident is causally connected to said 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?

Issue (K): Is Petitioner entitled to any prospective medical care?

Petitioner tried and failed to resolve his symptoms with additional conservative care following the January 2025 accident. Based on the credible and unrebutted opinion of Dr. Bradley, Respondent shall pay the reasonable and necessary expenses contained in Petitioner's group exhibit. Respondent shall have credit for any expenses paid provided that it agrees to indemnify and hold Petitioner harmless. Respondent shall further authorize and pay for the treatment recommended by Dr. Bradley.

Issue (L): What temporary benefits are in dispute? (TTD)

As Petitioner's condition worsened following the January 2025 injury, Dr. Bradley restricted Petitioner from walking on uneven surfaces. (PX 10) Petitioner testified that there was no even surface on Respondent's lot, a fact which the Arbitrator and Respondent's counsel took notice. (Tr. p. 23) Consequently, the Arbitrator awards the claimed 1 week period of TTD benefits from March 11, 2025, through March 17, 2025, claimed on the Request for Hearing.

This award shall in no instance be a bar to further hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC014868
Case Name	William Tatum v. State of Illinois - Menard Correctional Center
Consolidated Cases	23WC032824 25WC004635
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0263
Number of Pages of Decision	17
Decision Issued By	Marc Parker, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Aaron Wright

DATE FILED: 9/17/2026

/s/Marc Parker, 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 down	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

William Tatum,

Petitioner,

vs. No. 24 WC 14868

State of Illinois – Menard Correctional Center,

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 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 Commission,* 78 Ill.2d 327, 399 N.E.2d 1322, 35 Ill.Dec. 794 (1980).

At arbitration, three of Petitioner's claims were tried together: 23 WC 32824, 24 WC 14868 (this claim), and 25 WC 4635. Petitioner combined the medical expenses he sought from all three of his claims into one exhibit: Petitioner's Group Exhibit 1.

The Arbitrator awarded Petitioner all of the medical expenses contained in Petitioner's Group Exhibit 1, in each of his three claims. The Commission, however, modifies the award of medical expenses in this case, 24 WC 14868, to include only those expenses contained in Petitioner's Group Exhibit 1 which were related to treating the injuries Petitioner sustained in this accident of May 21, 2024 – from that date, until January 26, 2025, as provided in §8(a) and §8.2

of the Act. The Commission finds that the medical expenses in Petitioner's Group Exhibit 1 which Petitioner incurred after his January 27, 2025 accident, are causally related to that January 27, 2025 accident, and awards them to Petitioner in that claim, 25 WC 4635.

Because the Commission is not awarding Respondent any §8(j) credit in this claim, Respondent is not required to indemnify and hold Petitioner harmless from claims made by any health providers arising from the expenses for which it claims credit or has paid. Accordingly, we strike that that requirement from the Arbitration Decision. All else in the Arbitration Decision is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed February 10, 2026, is modified as stated above, and is otherwise 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.

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.

SEPTEMBER 17 2026

/s/ *Marc Parker*
Marc Parker

MP/mcp
o-09/10/26
068

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

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC014868
Case Name	William Tatum v. State of Illinois - Menard Correctional Center
Consolidated Cases	23WC032824 25WC004635
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	14
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Aaron Wright

DATE FILED: 2/10/2026

/s/ Bradley Gillespie, 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 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)

WILLIAM TATUM
Employee/Petitioner

v.

SOI/MENARD CORRECTIONAL CENTER
Employer/Respondent

Case # **24WC014868**

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 **Collinsville,** on **November 25, 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 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 $**64,245.36**; the average weekly wage was $**1,235.48**.

On the date of accident, Petitioner was **45** years of age, ***married*** with **5** 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 $- for TTD, $- for TPD, $- for maintenance, and $- for other benefits, for a total credit of $-.

Respondent is entitled to a credit of $- 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 § 8(a) and § 8.2 of the Act.

Respondent shall have credit for any amounts previously paid and shall indemnify and hold Petitioner harmless from claims made by any health providers arising from the expenses for which it claims credit.

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.

Bradley D. Gillespie
Signature of Arbitrator

FEBRUARY 10 2026

ICArbDec19(b)

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

WILLIAM TATUM,	)	
	)	
Employee/Petitioner,	)	
	)	
v.	)	**Case No.: 23WC032824**
	)	**24WC014868**
STATE OF ILLINOIS/MENARD CORR. CTR.	)	**25WC004635**
	)	
Employer/Respondent.	)	

DECISION OF ARBITRATOR

FINDINGS OF FACT

Background

Petitioner filed three Applications for Adjustment of Claim for three separate disputed injuries, and the matters were consolidated for hearing on Petitioner's § 19(b) Petition. Petitioner offered incident reports for his injuries into evidence as his Exhibit 17. (PX 17) In claim 23WC032824, Petitioner alleged that on November 14, 2023, he suffered injury to his chin, jaw, face, and neck/body as a whole when he was struck by an inmate. (Arb. Ex. 2) Respondent disputes liability for unpaid medical expenses. (Arb. Ex. 1) In claim 24WC014868, Petitioner alleged that on May 21, 2024, he suffered injury to his right knee/leg, left shoulder, and neck/body as a whole when he was assaulted again by an inmate. (Arb. Ex. 2) Respondent disputes causal connection for the right knee injury and liability for past and prospective right knee medical expenses. (Ar.b. Ex. 1) In claim 25WC004635, Petitioner alleged that on January 27, 2025, he injured his right knee when he slipped on loose gravel. (Arb. Ex. 2) Respondent disputes causal connection, liability for past and prospective medical benefits, and liability for temporary total disability benefits. (Arb. Ex. 1) He also acknowledged his previous workers' compensation claims. (Arb. Ex. 2)

Arbitration Testimony

Petitioner is currently employed at Respondent's Vienna Correctional Center. (Tr. p. 12) On the above dates of injury, he was employed at Menard Correctional Center as a correctional officer for 5 years. (Tr. pp. 12-13) He testified that on November 14, 2023, he was "blindsided" and punched in the face by an innate while walking to his assigned gallery. (Tr. p. 13) He stated that the incident "escalated from there." *Id.* He testified that his most significant injury was to his neck, which ultimately required surgery. (Tr. pp. 13-14)

Petitioner testified that his second injury occurred on May 21, 2024, when he injured his right knee, left shoulder, and neck while he assisted a fellow officer who was being assaulted by an inmate. (Tr. pp. 14-15) He stated that the incident resulted in a pileup as more parties arrived to

gain control of the situation. *Id.* He came under the care of Dr. Matthew Bradley, who has recommended right knee surgery. (Tr. pp. 16-17) He candidly acknowledged suffering a prior right knee injury, which required ACL and meniscus reconstruction in 2015. (Tr. p. 18) He stated that he recovered well following the procedure and was able to still participate in sports. *Id.* Petitioner testified that he tore his ACL and meniscus again in 2021 while restraining a combative inmate. *Id.* He then received a reconstruction, returned to full-duty work, and resumed all his sports and fitness activities. (Tr. p. 19) He testified that he had no issues from the time of his release up to the May 2024 accident. *Id.* Following his May 2024 accident, however, he never stabilized until after Dr. Bradley performed a partial knee replacement on January 3, 2025. (Tr. pp. 19-20) After Dr. Bradley's partial knee replacement and post-operative therapy, his pain and function again improved. (Tr. pp. 20-21)

Petitioner testified that his final injury occurred on January 27, 2025, when he slipped on loose gravel on a recently graded incline of Respondent's parking lot and hyperextended his right knee. (Tr. p. 21) He iced his knee in the facility for approximately 20 minutes without relief before advising his shift supervisor of the injury. (Tr. p. 22) After the incident, Petitioner's work restrictions were modified to include no walking on uneven ground. *Id.* Petitioner testified that this was difficult, because there was no flat surface on which to park. (Tr. p. 23) The Arbitrator has visited the facility and takes judicial notice of the condition of the parking lot. *Id.* Counsel for Respondent also took notice of the parking lot conditions. *Id.* With additional care, Petitioner progressed to where he was allowed to return to full-duty work. *Id.* However, he had persistent trouble climbing stairs, kneeling, and squatting, and eventually even walking on flat surfaces. (Tr. pp. 24-26) Additional imaging showed a re-tear for which Dr. Bradley is currently recommending a total knee replacement. (Tr. p. 26)

Petitioner testified that he currently is still having issues using stairs and engaging in normal activities of daily living. (Tr. p. 27) He stated that while he was able to resume sports and running after his 2021 surgery, he has not done so since his recent injuries and he currently can do little without his right knee giving out. *Id.* He wishes to have the surgery recommended by Dr. Bradley to recover and return to normalcy. (Tr. pp. 28-29)

23WC032824 (D/A November 14, 2023)

Medical Treatment

Petitioner presented to Chester Memorial Hospital on November 14, 2023, and reported constant facial pain and headache with additional forehead, jaw, and neck pain following a direct blow to the left side of his face at work. (PX 3 p. 2) CT scans of Petitioner's head, maxillofacial, and cervical spine were unremarkable. (PX 3 pp. 4-7) Petitioner's assessment was cervical sprain and facial or scalp contusion, and he was advised to follow up with his physician. (PX 3 p. 7)

On December 14, 2023, Petitioner presented to Dr. Matthew Gornet, who took the history of the injury and noted Petitioner's symptoms of headaches, neck pain, bilateral trapezial pain, and bilateral upper extremity tingling. (PX 4 p. 2) He noted that Petitioner had no prior significant headache or neck issues. *Id.* Dr. Gornet's examination was positive for bilateral neck and trapezial pain, decreased range of motion with greater loss in right rotation, mild decrease in left biceps, and decreased sensation in the C6 dermatome on the right side to light touch in a fingertip distribution bilaterally. (PX 4 p. 3) He recommended an MRI scan, which showed midline C3-4 and C5-6 and left paracentral C4-5 annular tears/fissures and protrusions, each resulting in dural displacement, and C3-4 and C5-6 foraminal stenosis bilaterally. (PX 5 p. 2) Based on clear evidence of disc injuries from C3 through C6, Dr. Gornet recommended physical therapy and injection and prescribed anti-inflammatory and muscle relaxing medications. (PX 4 pp. 3-4) He opined that Petitioner's current symptoms and need for treatment were causally related to the November 2023 work accident. (PX 4 p. 4)

Petitioner began physical therapy at Joyner Therapy Services on December 21st (PX 6) and presented to Dr. Helen Blake on January 2, 2024, for a right C5-6 injection. (PX 7; PX 8) Although Petitioner reported temporary improvement in his right upper extremity symptoms and mobility to his therapist on January 3, 2024, he reported persistent headaches. (PX 6 p. 23) He reported increased symptoms again during the therapy session on January 10, 2024, and forward. (PX 6 pp. 3-20) Petitioner reported modest improvement in his symptoms during the final visit on February 2, 2024. (PX 6 p. 3)

Petitioner returned to Dr. Gornet on March 14, 2024, with substantial persistent symptoms despite injection and physical therapy. (PX 4 p. 5) Petitioner advised that his headaches were his biggest issue, but he still suffered from neck pain with bilateral upper extremity paresthesia. *Id.* Dr. Gornet recommended a three-level disc replacement at C3-4, C4-5, and C5-6. (PX 4 p. 5) When Dr. Gornet verified Petitioner's bone density scan from CT Partners (PX 9) was normal on April 29, 2024, he scheduled surgery and refilled Petitioner's medication in the meantime on July 15, 2024. (PX 4 p. 6-7) No new complaints or recommendations were made on account of Petitioner second May 2024 work injury. *Id.* Petitioner obtained preoperative clearance from his family physician on May 29, 2024. (PX 11; PX 12; PX 13)

On August 9, 2024, Dr. Gornet performed disc replacements at C3-4, C4-5, and C5-6. (PX 15 pp. 4-6) He took an intraoperative video of the nerve hook in the tear across the entire disc at C5-6 along with the right-sided and central tears at C4-5 and the central annulus avulsion at C3-4. (PX 15 p. 5) Petitioner reported he was doing extremely well with dramatic improvement in his headaches and neck pain during his follow-up visits in August and October. (PX 4 pp. 13-15) Petitioner reported some achiness in his bilateral trapezii, but Dr. Gornet noted this was typical during recovery. (PX 4 p. 14) After the CT scan on November 21, 2024, showed proper placement of the prostheses with no new stenosis (PX 9), Dr. Gornet prescribed physical therapy which Petitioner completed in December (PX 14), allowed Petitioner to resume full-duty work on March 4, 2025, and prescribed meloxicam for the ongoing residual achiness. (PX 4 pp. 19-21) During the

visit on August 7, 2025, Petitioner continued to do well overall but reported popping with prolonged forward flexion moving up to extension. (PX 4 p. 22) Dr. Gornet obtained a new CT which showed no evidence of lucency or heterotopic bone. (PX 4 p. 23; PX 9) He advised Petitioner to follow-up as needed with a long-term follow-up in one year. (PX 4 p. 23)

Opinion of Dr. Michael Chabot

On August 15, 2025, Respondent had Petitioner examined by Dr. Michael Chabot regarding his neck injury on November 14, 2023. (RX 3) He noted a consistent history of the injury and Petitioner's symptoms and summarized Petitioner's care and treatment. (RX 3 pp. 1-7) His impression was history of facial/cranial contusion and status post cervical total disc replacement from C3 to C6. (RX 3 p. 9) He agreed that the medical records established that Petitioner's neck pain and radicular symptoms were caused by the November 2023 work injury. (RX 3 p. 10) He also noted that Petitioner's complaints were relieved by the surgical intervention performed by Dr. Gornet. *Id.* He agreed that that the treatment rendered to date was reasonable and necessary. *Id.* He believed Petitioner was at maximum medical improvement and required no further care. *Id.*

24WC014868 (D/A May 21, 2024)

Medical Treatment

On May 21, 2024, Petitioner presented to Chester Memorial Hospital with complaints of neck pain, left shoulder pain, and right knee pain after a fall while trying to restrain an inmate. (PX 3 p. 13) X-rays and CT scans were negative for acute bony pathology. (PX 3 pp. 16-17)

On May 23, 2024, Petitioner presented to Dr. Matthew Bradley with complaints of left shoulder and right knee pain. (PX 10 p. 2) Petitioner described the injury occurred when he twisted and fell while responding to a workplace altercation. *Id.* Dr. Bradley noted that Petitioner had a prior history of rotator cuff injury in 2015 and two prior knee surgeries, with the most recent being in 2022, but Petitioner recovered from all his prior injuries and was working without incident up until his work accident. *Id.* Petitioner also reported neck pain, but Dr. Bradley noted that Dr. Gornet was already treating Petitioner for neck injury. *Id.*

Physical examination revealed positive impingement signs with Neer's, Jobe's, and Hawkins' orthopedic tests of the left shoulder and effusion with a markedly positive McMurrray's test of the right knee. (PX 10 pp. 2-3) Dr. Bradley reviewed Petitioner's pre-accident right knee MRI and recommended new MRIs of the left shoulder and right knee. (PX 10 p. 3) Based on the history of accident and clinical findings, Dr. Bradley's clinical assessment was left shoulder traumatic impingement and right knee medial meniscus tear. *Id.* He stated that the May 21, 2024, altercation was a contributing causal factor in Petitioner's left shoulder and right knee complaints and need for treatment. *Id.*

The MRI taken June 3, 2024, showed ACL reconstruction changes without recurrent tear, medial meniscal body and posterior horn partial resection changes with free edge and undersurface scarring, and central weightbearing medial condylar Grade III chondral thinning with probable Grade IV chondral fissuring/fibrillation through the posterior weightbearing surface. (PX 5) The MRI of Petitioner's right shoulder showed supraspinatus repair without evidence for definite recurrent tear, posterior superior labral fraying/Type-1 tearing, and subacromial decompression changes. (PX 5 p. 4)

On June 18, 2024, Petitioner returned to Dr. Bradley, who noted Petitioner's complaints were progressively worsening without any new trauma. (PX 10 p. 7) He reviewed the results of the MRIs, recommended physical therapy and anti-inflammatory medication, and administered an intraarticular corticosteroid injection in the right knee. (PX 10 pp. 8-9) Petitioner subsequently began rehab at Athletico Physical Therapy on July 3, 2024. (PX 14) Although Petitioner's left shoulder condition improved, Petitioner's right knee remained painful, rated 7/10 at worst, at the medial compartment, and he reported persistent pain and difficulty with squatting, climbing stairs, and prolonged standing. (PX 14 p. 14)

Petitioner returned to Dr. Bradley on August 26, 2024, and Dr. Bradley noted the ongoing right knee complaints. (PX 10 p. 14) Petitioner noted that his neck was doing very well with Dr. Gornet's treatment, but he reported just one day of right knee relief following the injection. *Id.* Dr. Bradley's assessment was ongoing exacerbation of underlying degenerative right knee disease. (PX 10 p. 15) Given the recent cervical spine surgery, Dr. Bradley noted it was not safe to repeat his injection and recommended that Petitioner just use anti-inflammatory medication allowed by Dr. Gornet and work light duty for the time being with restrictions of no lifting greater than 20 pounds, no pushing/pulling greater than 30 pounds, no inmate contact, no prolonged sitting or standing, and no repetitive bending, twisting, or squatting. (PX 10 pp. 15-16)

On October 1, 2024, Dr. Bradley noted that Petitioner's right knee continued to be painful with a lot of catching, clicking, and grinding. (PX 10 p. 19) No interval trauma occurred. *Id.* Physical examination continued to demonstrate significant medial-sided knee pain with a positive McMurray test. (PX 10 p. 20) Dr. Bradley administered a viscoelastic supplement injection with GelOne, Depo-Medrol, and lidocaine, and he kept Petitioner under light-duty restrictions.(PX 10 pp. 21-22) However, Petitioner returned on November 21, 2024, with persistent and severe medial femoral condyle pain. (PX 10 p. 25) With just seven to ten days of relief after the injection, Dr. Bradley noted that Petitioner had failed conservative treatment and recommended a media unicompartmental/partial knee replacement. (PX 10 p. 27) Petitioner had a preoperative evaluation with his family physician on December 16, 2024, and received clearance after testing. (PX 11; PX 16)

After a preoperative CT scan on December 19, 2024, showed knee arthrosis in all three compartments (PX 9), Dr. Bradley performed right medial unicompartmental arthroplasty on January 3, 2025. (PX 16 pp. 52-54; PX 10 pp. 32-34) Significant Grade IV chondrosis was noted

intraoperatively, and a portion of the medial aspect of the inferior patellar fat pad was removed to improve visualization during hardware placement. (PX 16 p. 53) Petitioner was given a referral for post-op therapy. (PX 16 p. 111)

During the post-operative follow-up on January 16, 2025, Petitioner reported improvement in his pre-operative symptoms. (PX 10 p. 38) Dr. Bradley recommended rehab and anti-inflammatory exercises and allowed Petitioner to work with restriction to light desk work only and no inmate contact. (PX 10 p. 40)

Opinion and Testimony of Dr. Timothy Farley

Respondent had Petitioner examined by Dr. Timothy Farley on February 11, 2025. (RX 4) Dr. Farley recorded a history of Petitioner's right knee injury noting that it occurred on May 21, 2024, while responding to an altercation. (RX 4 p. 2) Upon physical examination, Dr. Farley observed well-healed incision in the anterior aspect of the right knee, moderate effusion, lack of five degrees in extension and flexion to 105 degrees and loose Lachman's. (RX 4 p. 5) He noted that Petitioner was pleasant, did not seem to be evasive and did not show signs of symptom magnification during the evaluation. (PX 4 p. 6) Dr. Farley acknowledged Petitioner's complaints of pain, but he did not believe there was a causal relationship between the work accident and Petitioner's current complaints. (RX 4 pp. 6-7) Regardless of his views on causation, Dr. Farley felt that Petitioner's right partial/unicompartmental knee replacement was reasonable and necessary to treat his physical condition. (RX 4 p. 7) He believed that Petitioner would reach maximum medical improvement approximately three months following his procedure, and he deemed it reasonable for a one-year follow-up visit "to make sure that all is well and there is no progressive degenerative change or loss of fixation of the arthroplasty." *Id.* He noted that it was "not uncommon for people to have setbacks" such as Petitioner's recent incident; but he stated that these "usually go away," and he believed that Petitioner's prognosis was good for getting back to full activity without restrictions. *Id.* At the time of the Section 12 Examination, he agreed that Petitioner "should be in non-combative situations, performing predominantly seated-type activities." (RX 4 pp. 7-8)

Dr. Farley testified by way of deposition on May 6, 2025. (RX 5) His testimony on direct examination was consistent with his opinions in his report. *Id.* He acknowledged that Petitioner reported immediate right knee pain after the inmate altercation on May 21, 2024. (RX 5 p. 7) However, he did not believe Petitioner's condition was related to the work accident because the accident did not cause the development of his arthritis, which predated the work accident. (RX 5 pp. 11-12)

On cross-examination, Dr. Farley testified that he gives on average one to two depositions per month, but he acknowledged that he had recently given three depositions within three weeks. (RX 5 pp.13-14) Dr. Farley acknowledged that Petitioner had no documented issues following the ACL reconstruction in 2022 and the work injury of May 2024 and that Petitioner was working full

duty before the accident. (RX 5 pp. 15-16) He acknowledged that Petitioner's knee had not returned to his preinjury baseline following the May 21, 2024, work incident. (RX 5 p. 16)

Opinion and Testimony of Dr. Dr. Matthew Bradley

Dr. Bradley also testified by way of deposition on May 14, 2025. (PX 19) On direct examination, he described his clinical findings and discussed the pertinent findings from his review of Petitioner's accident history and medical records. (PX 19 pp. 6-16) He noted that he previously treated and surgically repaired Petitioner's right knee in 2021 and 2022 for an ACL tear and had fully released him without restrictions in October 2022. (PX 19 pp. 6-7) He noted that Petitioner was not seen and did not require care from the date of his release in 2022 until the May 2024 work accident. (PX 19 pp. 6-8)

Dr. Bradley testified that based on the history of injury, the MRI findings, and his clinical examination, Petitioner's work accident worsened his underlying degenerative condition in his knee. (PX 19 p. 10) He explained, "The accident he discussed where he actually sustained a twisting injury and a fall certainly could exacerbate some underlying arthritis or chondrosis in his knee. The gentleman had been back to work full duty, working in his full capacity as a correctional officer for two years without any significant pain or loss of jobs, days of work, going to the doctor or anything." (PX 19 pp. 10-11) "It wasn't until somebody kicked the pit bull and kind of woke up that chondrosis that he began developing the pain." (PX 19 pp. 15-16) He stated that since Petitioner suffered cartilage loss on both the thigh and shin bones and failed conservative care, he required a partial knee replacement. (PX 19 p. 12) He stated that there was no other explanation for Petitioner's decline. (PX 19 p. 16)

25WC04635 (D/A January 27, 2025)

Petitioner contacted Dr. Bradley on January 31, 2025, and reported that he suffered a new injury when he slipped while walking on uneven gravel at work. (PX 10) Dr. Bradley updated Petitioner's work restrictions to no walking on uneven ground. (PX 10 p. 44) Petitioner presented in-office on February 24, 2025, at which time Dr. Bradley noted an in-depth history of accident and Petitioner's persistent aggravation of his symptoms since the accident with no relief despite using oxycodone and Celebrex. (PX 10 p. 45) Dr. Bradley noted that Petitioner's right knee was significantly tender with mild-to-moderate effusion. (PX 10 p. 47) Consequently, he gave Petitioner a Depo-Medrol injection and kept his restrictions in place for the time being. *Id.*

On March 17, 2025, Dr. Bradley updated Petitioner's work status and allowed him to return to work without restrictions. (PX 10 p. 52) However, on June 2, 2025, Dr. Bradley noted that Petitioner's symptoms were not improving. (PX 10 p. 59) Petitioner described tightness with full extension or flexion. *Id.* Dr. Bradley felt that Petitioner was developing scar tissue and adhesions, but continued him on full duty work. (PX 10 p. 61) Dr. Bradley recommended that Petitioner wean off tramadol and lyrica, finish therapy, and continue his home exercise program with scheduled

anti-inflammatory medication to try and break down some of his residual scar tissue and adhesions within his knee. *Id.* He hoped that Petitioner would improve and reach maximum medical improvement within two months. *Id.*

On August 7, 2025, Petitioner returned to Dr. Bradley and reported that using steps and stairs caused him pain, particularly in the lateral aspect just distal to the fibular head. (PX 10 p. 65) Petitioner denied any interval trauma. *Id.* Dr. Bradley found Petitioner's lateral lower leg pain unusual with steps/stairs and noted that at present he had nothing further to offer. (PX 10 p. 67) However, when Petitioner returned on September 15, 2025, with significantly worsening right knee pain, Dr. Bradley reassessed Petitioner's condition. (PX 10 p. 71) Petitioner reported that after slipping on gravel and hyperextending his knee, his knee progressively worsened to the point that he was having difficulty walking on not just stairs, but also flat surfaces. *Id.* Dr. Bradley noted, "Just prior to returning to work he was able to climb three flights of stairs without difficulty. Now he cannot climb three steps without significant pain. No other trauma reported." *Id.*

Dr. Bradley reviewed Petitioner's x-rays and noted a significant progression of his lateral compartment disease following the injury:

> I discussed with William the findings on physical examination and x-ray. His x-rays prior to January 27 show a good joint space laterally without any signs of osteophytes or subchondral sclerosis. Since the January 27 hyperextension, his lateral compartment has significantly progressed to the point he is now bone on bone disease. He has lateral marginal osteophytes as well as subchondral sclerosis indicative of the severity of the bone on bone and the inflammatory processes. . . (PX 10 p. 73)

Based on the severity of Petitioner's pain and the significant x-ray findings, Dr. Bradley recommended a total knee replacement. *Id.*

CONCLUSIONS OF LAW

23WC032824
(November 14, 2023)

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?

Respondent stipulated that Petitioner suffered an accident that is causally connected to his current condition of ill-being in his cervical spine. (Arb. Ex. 1) Respondent's examiner, Dr. Chabot, agreed that Petitioner's condition of ill-being was causally related to his November 14, 2023, accident. (RX 3 p. 10) Dr. Chabot agreed that Petitioner's care and treatment was reasonable and necessary. *Id.* The Arbitrator notes that all tendered expenses were related to the diagnosis and treatment of the spine and/or pre-operative testing for surgical clearance. *Id.* Respondent shall

therefore pay all submitted expenses contained in Petitioner's group exhibit pertaining to 23WC032824. Respondent shall have credit for expenses paid provided that it agrees to indemnify and hold Petitioner harmless from any disputes regarding the expenses for which it claims credit.

24WC014868
(May 21, 2024)

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

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 workers' compensation claimant's injury. *Shafer v. Illinois Workers' Comp. Comm'n*, 2011 IL App (4th) 100505WC, 976 N.E.2d 1 (2011).

Accidental injury need not be the sole causative factor, nor even the primary causative factor, as long as it is a causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003). [Emphasis added]. Employers are to take their employees as they find them. *A.C. & S. v. Industrial Comm'n*, 304 Ill. App. 3d 875, 710 N.E.2d 837 (1999) citing *General Electric Co. v. Indus. Comm'n*, 89 Ill. 2d 432, 434, 433 N.E.2d 671, 672 (1982).

Where a preexisting condition is present, Petitioner need only show that the prior condition was aggravated or the need for treatment accelerated. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003); *Schroeder v. Illinois Workers' Comp. Comm'n*, 2017 IL App (4th) 160192WC, 79 N.E.3d 833, 839-40; *Judith Wheaton v. State of Illinois/Choate Mental Health Center*, 13 I.W.C.C. 0467; *Bowman v. Gateway Reg'l Med. Ctr*., 14 I.W.C.C. 1022; *Clutterbuck v. UPS*, 15 I.W.C.C. 0046; *Howard v. St. Clair Hwy. Dept*., 16 I.W.C.C. 0187, modified 16 MR 106.

The Appellate Court has found that where an accident results in pain, that the pain, in and of itself, is a compensable aggravation of a claimant's preexisting condition. *Tazewell County v. Illinois Workers' Compensation Commission*, 2025 IL App (4th) 230754WC. Specifically, the Court found that when a preexisting condition is asymptomatic and then becomes painful as the result of work-related activity, that symptomatic condition is compensable under the Act as an aggravation of the preexisting condition even in the absence of an organic or structural change in the preexisting condition. *Id.* When a preexisting asymptomatic condition becomes painful for reasons other than an organic or structural change or natural progression, it follows that the preexisting condition was aggravated by something. Id. The Court held that if the aggravation was work-related and caused solely pain, that the pain suffered by a claimant, in and of itself, was a compensable aggravation of the preexisting condition. *Id.*

The Arbitrator finds and concludes that the chain of events and the law establishes that Petitioner's condition of ill-being up until the accident on January 27, 2025, is causally connected to his undisputed accident on May 21, 2024. It is undisputed that Petitioner had recovered from his prior injury and was working full duty without issue prior to the May 2024 accident. It is likewise undisputed that Petitioner had preexisting pathology. Consequently, the appropriate inquiry is whether Petitioner's preexisting condition was aggravated, not whether Petitioner's condition was caused by the work accident.

Respondent's examiner, Dr. Farley, opined that Petitioner's condition was unrelated to the work accident, because his conditions predated the injury. (RX 5 pp. 11-12) Yet, he admitted that Petitioner had no documented treatment from the date Dr. Bradley released Petitioner following his ACL reconstruction in 2022 and the work injury of May 2024 and that Petitioner was working full duty before the accident. (RX 5 pp.15-16. To that extent, the Arbitrator notes the opinion of Dr. Farley is inconsistent with the above law and evidence and affords it little weight.

Dr. Bradley credibly and persuasively explained how the May 2024 accident aggravated Petitioner's preexisting chondrosis and caused it to be symptomatic. The Arbitrator finds Dr. Bradley's opinion persuasive, as it comports with the law, the circumstantial evidence, and medical evidence in the record. The Arbitrator therefore concludes that Petitioner met his burden in proving that his right knee condition for the period specified was causally related to the undisputed May 2024 work 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?

Issue (K): Is Petitioner entitled to any prospective medical care?

Upon establishing causal connection and the reasonableness and necessity of recommended medical treatment, employers are responsible for necessary medical care required by their employees. *Plantation Mfg. Co. v. Indus. Comm'n,* 294 Ill.App.3d 705, 691 N.E.2d 13 (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*, 325 Ill.App.3d 527, 758 N.E.2d 18 (1st Dist. 2001).

Although he disagreed about causation, Dr. Farley agreed that Petitioner's medical treatment, including the partial knee replacement and appropriate post-operative care, was reasonable and necessary. (RX 4) Respondent shall therefore pay the reasonable and necessary expenses contained in Petitioner's group exhibit pertaining to the May 2024 accident. Respondent shall have credit for any expenses paid provided that it agrees to indemnify and hold Petitioner harmless.

25WC04635
(January 27, 2025)

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

As noted above, Petitioner need only show that the prior condition was aggravated or the need for treatment accelerated. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003); *Schroeder v. Illinois Workers' Comp. Comm'n*, 2017 IL App (4th) 160192WC, 79 N.E.3d 833, 839-40. The Arbitrator finds that the unrebutted evidence shows that Petitioner's condition of ill-being was again aggravated and accelerated by the January 2025 accidental injury. Dr. Bradley credibly explained in his treatment note on September 15, 2025, that x-rays showed a significant progression in right knee inflammatory degenerative disease since the January 2025 accident that led to his current bone-on-bone condition. (PX 10) His unrebutted opinion is supported by the objective medical and circumstantial evidence. The Arbitrator therefore finds and concludes that Petitioner's current condition of ill-being in his right knee following the January 2025 accident is causally connected to said 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?

Issue (K): Is Petitioner entitled to any prospective medical care?

Petitioner tried and failed to resolve his symptoms with additional conservative care following the January 2025 accident. Based on the credible and unrebutted opinion of Dr. Bradley, Respondent shall pay the reasonable and necessary expenses contained in Petitioner's group exhibit. Respondent shall have credit for any expenses paid provided that it agrees to indemnify and hold Petitioner harmless. Respondent shall further authorize and pay for the treatment recommended by Dr. Bradley.

Issue (L): What temporary benefits are in dispute? (TTD)

As Petitioner's condition worsened following the January 2025 injury, Dr. Bradley restricted Petitioner from walking on uneven surfaces. (PX 10) Petitioner testified that there was no even surface on Respondent's lot, a fact which the Arbitrator and Respondent's counsel took notice. (Tr. p. 23) Consequently, the Arbitrator awards the claimed 1 week period of TTD benefits from March 11, 2025, through March 17, 2025, claimed on the Request for Hearing.

This award shall in no instance be a bar to further hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	25WC004635
Case Name	William Tatum v. State of Illinois - Menard Correctional Center
Consolidated Cases	23WC032824 24WC014868
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0264
Number of Pages of Decision	17
Decision Issued By	Marc Parker, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Aaron Wright

DATE FILED: 9/17/2026

/s/Marc Parker, 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 down	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

William Tatum,

Petitioner,

vs. No. 25 WC 4635

State of Illinois – Menard Correctional Center,

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 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 Commission,* 78 Ill.2d 327, 399 N.E.2d 1322, 35 Ill.Dec. 794 (1980).

At arbitration, three of Petitioner's claims were tried together: 23 WC 32824, 24 WC 14868, and 25 WC 4635 (this claim). Petitioner combined the medical expenses he sought from all three of his claims into one exhibit: Petitioner's Group Exhibit 1.

The Arbitrator awarded Petitioner all of the medical expenses contained in Petitioner's Group Exhibit 1, in each of his three claims. The Commission, however, modifies the award of medical expenses in this case, 25 WC 4635, to include only those expenses contained in Petitioner's Group Exhibit 1 which were related to treating the injuries Petitioner sustained in this accident of January 27, 1015, as provided in §8(a) and §8.2 of the Act.

Because the Commission is not awarding Respondent any §8(j) credit in this claim, Respondent is not required to indemnify and hold Petitioner harmless from claims made by any health providers arising from the expenses for which it claims credit or has paid. Accordingly, we strike that that requirement from the Arbitration Decision. All else in the Arbitration Decision is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed February 10, 2026, is modified as stated above, and is otherwise 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.

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.

SEPTEMBER 17 2026

/s/ *Marc Parker*
Marc Parker

MP/mcp
o-09/10/26
068

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

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	25WC004635
Case Name	William Tatum v. State of Illinois - Menard Correctional Center
Consolidated Cases	23WC032824 24WC014868
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	14
Decision Issued By	Bradley Gillespie, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Aaron Wright

DATE FILED: 2/10/2026

/s/ Bradley Gillespie, 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 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)

WILLIAM TATUM
Employee/Petitioner

v.

SOI/MENARD CORRECTIONAL CENTER
Employer/Respondent

Case # **25WC004635**

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 **Collinsville,** on **November 25, 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, **January 27, 2025**, 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 $**64,000.04**; the average weekly wage was $**1,230.77**.

On the date of accident, Petitioner was **47** years of age, ***married*** with **5** 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 $**-** for TTD, $**-** for TPD, $**-** for maintenance, and $**-** for other benefits, for a total credit of $**-**.

Respondent is entitled to a credit of $**-** 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 § 8(a) and § 8.2 of the Act.

Respondent shall have credit for any amounts previously paid and shall indemnify and hold Petitioner harmless from claims made by any health providers arising from the expenses for which it claims credit. Respondent shall authorize and pay for the treatment recommended by Dr. Bradley, including surgery.

Respondent shall pay Petitioner temporary total disability benefits of $**820.51**/week for **1** weeks, as provided in Section 8(b) 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.

Bradley D. Gillespie
Signature of Arbitrator

FEBRUARY 10 2026

ICArbDec19(b)

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

WILLIAM TATUM,	)	
	)	
Employee/Petitioner,	)	
	)	
v.	)	**Case No.: 23WC032824**
	)	**24WC014868**
STATE OF ILLINOIS/MENARD CORR. CTR.	)	**25WC004635**
	)	
Employer/Respondent.	)	

DECISION OF ARBITRATOR

FINDINGS OF FACT

Background

Petitioner filed three Applications for Adjustment of Claim for three separate disputed injuries, and the matters were consolidated for hearing on Petitioner's § 19(b) Petition. Petitioner offered incident reports for his injuries into evidence as his Exhibit 17. (PX 17) In claim 23WC032824, Petitioner alleged that on November 14, 2023, he suffered injury to his chin, jaw, face, and neck/body as a whole when he was struck by an inmate. (Arb. Ex. 2) Respondent disputes liability for unpaid medical expenses. (Arb. Ex. 1) In claim 24WC014868, Petitioner alleged that on May 21, 2024, he suffered injury to his right knee/leg, left shoulder, and neck/body as a whole when he was assaulted again by an inmate. (Arb. Ex. 2) Respondent disputes causal connection for the right knee injury and liability for past and prospective right knee medical expenses. (Ar.b. Ex. 1) In claim 25WC004635, Petitioner alleged that on January 27, 2025, he injured his right knee when he slipped on loose gravel. (Arb. Ex. 2) Respondent disputes causal connection, liability for past and prospective medical benefits, and liability for temporary total disability benefits. (Arb. Ex. 1) He also acknowledged his previous workers' compensation claims. (Arb. Ex. 2)

Arbitration Testimony

Petitioner is currently employed at Respondent's Vienna Correctional Center. (Tr. p. 12) On the above dates of injury, he was employed at Menard Correctional Center as a correctional officer for 5 years. (Tr. pp. 12-13) He testified that on November 14, 2023, he was "blindsided" and punched in the face by an innate while walking to his assigned gallery. (Tr. p. 13) He stated that the incident "escalated from there." *Id.* He testified that his most significant injury was to his neck, which ultimately required surgery. (Tr. pp. 13-14)

Petitioner testified that his second injury occurred on May 21, 2024, when he injured his right knee, left shoulder, and neck while he assisted a fellow officer who was being assaulted by an inmate. (Tr. pp. 14-15) He stated that the incident resulted in a pileup as more parties arrived to

gain control of the situation. *Id.* He came under the care of Dr. Matthew Bradley, who has recommended right knee surgery. (Tr. pp. 16-17) He candidly acknowledged suffering a prior right knee injury, which required ACL and meniscus reconstruction in 2015. (Tr. p. 18) He stated that he recovered well following the procedure and was able to still participate in sports. *Id.* Petitioner testified that he tore his ACL and meniscus again in 2021 while restraining a combative inmate. *Id.* He then received a reconstruction, returned to full-duty work, and resumed all his sports and fitness activities. (Tr. p. 19) He testified that he had no issues from the time of his release up to the May 2024 accident. *Id.* Following his May 2024 accident, however, he never stabilized until after Dr. Bradley performed a partial knee replacement on January 3, 2025. (Tr. pp. 19-20) After Dr. Bradley's partial knee replacement and post-operative therapy, his pain and function again improved. (Tr. pp. 20-21)

Petitioner testified that his final injury occurred on January 27, 2025, when he slipped on loose gravel on a recently graded incline of Respondent's parking lot and hyperextended his right knee. (Tr. p. 21) He iced his knee in the facility for approximately 20 minutes without relief before advising his shift supervisor of the injury. (Tr. p. 22) After the incident, Petitioner's work restrictions were modified to include no walking on uneven ground. *Id.* Petitioner testified that this was difficult, because there was no flat surface on which to park. (Tr. p. 23) The Arbitrator has visited the facility and takes judicial notice of the condition of the parking lot. *Id.* Counsel for Respondent also took notice of the parking lot conditions. *Id.* With additional care, Petitioner progressed to where he was allowed to return to full-duty work. *Id.* However, he had persistent trouble climbing stairs, kneeling, and squatting, and eventually even walking on flat surfaces. (Tr. pp. 24-26) Additional imaging showed a re-tear for which Dr. Bradley is currently recommending a total knee replacement. (Tr. p. 26)

Petitioner testified that he currently is still having issues using stairs and engaging in normal activities of daily living. (Tr. p. 27) He stated that while he was able to resume sports and running after his 2021 surgery, he has not done so since his recent injuries and he currently can do little without his right knee giving out. *Id.* He wishes to have the surgery recommended by Dr. Bradley to recover and return to normalcy. (Tr. pp. 28-29)

23WC032824 (D/A November 14, 2023)

Medical Treatment

Petitioner presented to Chester Memorial Hospital on November 14, 2023, and reported constant facial pain and headache with additional forehead, jaw, and neck pain following a direct blow to the left side of his face at work. (PX 3 p. 2) CT scans of Petitioner's head, maxillofacial, and cervical spine were unremarkable. (PX 3 pp. 4-7) Petitioner's assessment was cervical sprain and facial or scalp contusion, and he was advised to follow up with his physician. (PX 3 p. 7)

On December 14, 2023, Petitioner presented to Dr. Matthew Gornet, who took the history of the injury and noted Petitioner's symptoms of headaches, neck pain, bilateral trapezial pain, and bilateral upper extremity tingling. (PX 4 p. 2) He noted that Petitioner had no prior significant headache or neck issues. *Id.* Dr. Gornet's examination was positive for bilateral neck and trapezial pain, decreased range of motion with greater loss in right rotation, mild decrease in left biceps, and decreased sensation in the C6 dermatome on the right side to light touch in a fingertip distribution bilaterally. (PX 4 p. 3) He recommended an MRI scan, which showed midline C3-4 and C5-6 and left paracentral C4-5 annular tears/fissures and protrusions, each resulting in dural displacement, and C3-4 and C5-6 foraminal stenosis bilaterally. (PX 5 p. 2) Based on clear evidence of disc injuries from C3 through C6, Dr. Gornet recommended physical therapy and injection and prescribed anti-inflammatory and muscle relaxing medications. (PX 4 pp. 3-4) He opined that Petitioner's current symptoms and need for treatment were causally related to the November 2023 work accident. (PX 4 p. 4)

Petitioner began physical therapy at Joyner Therapy Services on December 21st (PX 6) and presented to Dr. Helen Blake on January 2, 2024, for a right C5-6 injection. (PX 7; PX 8) Although Petitioner reported temporary improvement in his right upper extremity symptoms and mobility to his therapist on January 3, 2024, he reported persistent headaches. (PX 6 p. 23) He reported increased symptoms again during the therapy session on January 10, 2024, and forward. (PX 6 pp. 3-20) Petitioner reported modest improvement in his symptoms during the final visit on February 2, 2024. (PX 6 p. 3)

Petitioner returned to Dr. Gornet on March 14, 2024, with substantial persistent symptoms despite injection and physical therapy. (PX 4 p. 5) Petitioner advised that his headaches were his biggest issue, but he still suffered from neck pain with bilateral upper extremity paresthesia. *Id.* Dr. Gornet recommended a three-level disc replacement at C3-4, C4-5, and C5-6. (PX 4 p. 5) When Dr. Gornet verified Petitioner's bone density scan from CT Partners (PX 9) was normal on April 29, 2024, he scheduled surgery and refilled Petitioner's medication in the meantime on July 15, 2024. (PX 4 p. 6-7) No new complaints or recommendations were made on account of Petitioner second May 2024 work injury. *Id.* Petitioner obtained preoperative clearance from his family physician on May 29, 2024. (PX 11; PX 12; PX 13)

On August 9, 2024, Dr. Gornet performed disc replacements at C3-4, C4-5, and C5-6. (PX 15 pp. 4-6) He took an intraoperative video of the nerve hook in the tear across the entire disc at C5-6 along with the right-sided and central tears at C4-5 and the central annulus avulsion at C3-4. (PX 15 p. 5) Petitioner reported he was doing extremely well with dramatic improvement in his headaches and neck pain during his follow-up visits in August and October. (PX 4 pp. 13-15) Petitioner reported some achiness in his bilateral trapezii, but Dr. Gornet noted this was typical during recovery. (PX 4 p. 14) After the CT scan on November 21, 2024, showed proper placement of the prostheses with no new stenosis (PX 9), Dr. Gornet prescribed physical therapy which Petitioner completed in December (PX 14), allowed Petitioner to resume full-duty work on March 4, 2025, and prescribed meloxicam for the ongoing residual achiness. (PX 4 pp. 19-21) During the

visit on August 7, 2025, Petitioner continued to do well overall but reported popping with prolonged forward flexion moving up to extension. (PX 4 p. 22) Dr. Gornet obtained a new CT which showed no evidence of lucency or heterotopic bone. (PX 4 p. 23; PX 9) He advised Petitioner to follow-up as needed with a long-term follow-up in one year. (PX 4 p. 23)

Opinion of Dr. Michael Chabot

On August 15, 2025, Respondent had Petitioner examined by Dr. Michael Chabot regarding his neck injury on November 14, 2023. (RX 3) He noted a consistent history of the injury and Petitioner's symptoms and summarized Petitioner's care and treatment. (RX 3 pp. 1-7) His impression was history of facial/cranial contusion and status post cervical total disc replacement from C3 to C6. (RX 3 p. 9) He agreed that the medical records established that Petitioner's neck pain and radicular symptoms were caused by the November 2023 work injury. (RX 3 p. 10) He also noted that Petitioner's complaints were relieved by the surgical intervention performed by Dr. Gornet. *Id.* He agreed that that the treatment rendered to date was reasonable and necessary. *Id.* He believed Petitioner was at maximum medical improvement and required no further care. *Id.*

24WC014868 (D/A May 21, 2024)

Medical Treatment

On May 21, 2024, Petitioner presented to Chester Memorial Hospital with complaints of neck pain, left shoulder pain, and right knee pain after a fall while trying to restrain an inmate. (PX 3 p. 13) X-rays and CT scans were negative for acute bony pathology. (PX 3 pp. 16-17)

On May 23, 2024, Petitioner presented to Dr. Matthew Bradley with complaints of left shoulder and right knee pain. (PX 10 p. 2) Petitioner described the injury occurred when he twisted and fell while responding to a workplace altercation. *Id.* Dr. Bradley noted that Petitioner had a prior history of rotator cuff injury in 2015 and two prior knee surgeries, with the most recent being in 2022, but Petitioner recovered from all his prior injuries and was working without incident up until his work accident. *Id.* Petitioner also reported neck pain, but Dr. Bradley noted that Dr. Gornet was already treating Petitioner for neck injury. *Id.*

Physical examination revealed positive impingement signs with Neer's, Jobe's, and Hawkins' orthopedic tests of the left shoulder and effusion with a markedly positive McMurrray's test of the right knee. (PX 10 pp. 2-3) Dr. Bradley reviewed Petitioner's pre-accident right knee MRI and recommended new MRIs of the left shoulder and right knee. (PX 10 p. 3) Based on the history of accident and clinical findings, Dr. Bradley's clinical assessment was left shoulder traumatic impingement and right knee medial meniscus tear. *Id.* He stated that the May 21, 2024, altercation was a contributing causal factor in Petitioner's left shoulder and right knee complaints and need for treatment. *Id.*

The MRI taken June 3, 2024, showed ACL reconstruction changes without recurrent tear, medial meniscal body and posterior horn partial resection changes with free edge and undersurface scarring, and central weightbearing medial condylar Grade III chondral thinning with probable Grade IV chondral fissuring/fibrillation through the posterior weightbearing surface. (PX 5) The MRI of Petitioner's right shoulder showed supraspinatus repair without evidence for definite recurrent tear, posterior superior labral fraying/Type-1 tearing, and subacromial decompression changes. (PX 5 p. 4)

On June 18, 2024, Petitioner returned to Dr. Bradley, who noted Petitioner's complaints were progressively worsening without any new trauma. (PX 10 p. 7) He reviewed the results of the MRIs, recommended physical therapy and anti-inflammatory medication, and administered an intraarticular corticosteroid injection in the right knee. (PX 10 pp. 8-9) Petitioner subsequently began rehab at Athletico Physical Therapy on July 3, 2024. (PX 14) Although Petitioner's left shoulder condition improved, Petitioner's right knee remained painful, rated 7/10 at worst, at the medial compartment, and he reported persistent pain and difficulty with squatting, climbing stairs, and prolonged standing. (PX 14 p. 14)

Petitioner returned to Dr. Bradley on August 26, 2024, and Dr. Bradley noted the ongoing right knee complaints. (PX 10 p. 14) Petitioner noted that his neck was doing very well with Dr. Gornet's treatment, but he reported just one day of right knee relief following the injection. *Id.* Dr. Bradley's assessment was ongoing exacerbation of underlying degenerative right knee disease. (PX 10 p. 15) Given the recent cervical spine surgery, Dr. Bradley noted it was not safe to repeat his injection and recommended that Petitioner just use anti-inflammatory medication allowed by Dr. Gornet and work light duty for the time being with restrictions of no lifting greater than 20 pounds, no pushing/pulling greater than 30 pounds, no inmate contact, no prolonged sitting or standing, and no repetitive bending, twisting, or squatting. (PX 10 pp. 15-16)

On October 1, 2024, Dr. Bradley noted that Petitioner's right knee continued to be painful with a lot of catching, clicking, and grinding. (PX 10 p. 19) No interval trauma occurred. *Id.* Physical examination continued to demonstrate significant medial-sided knee pain with a positive McMurray test. (PX 10 p. 20) Dr. Bradley administered a viscoelastic supplement injection with GelOne, Depo-Medrol, and lidocaine, and he kept Petitioner under light-duty restrictions.(PX 10 pp. 21-22) However, Petitioner returned on November 21, 2024, with persistent and severe medial femoral condyle pain. (PX 10 p. 25) With just seven to ten days of relief after the injection, Dr. Bradley noted that Petitioner had failed conservative treatment and recommended a media unicompartmental/partial knee replacement. (PX 10 p. 27) Petitioner had a preoperative evaluation with his family physician on December 16, 2024, and received clearance after testing. (PX 11; PX 16)

After a preoperative CT scan on December 19, 2024, showed knee arthrosis in all three compartments (PX 9), Dr. Bradley performed right medial unicompartmental arthroplasty on January 3, 2025. (PX 16 pp. 52-54; PX 10 pp. 32-34) Significant Grade IV chondrosis was noted

intraoperatively, and a portion of the medial aspect of the inferior patellar fat pad was removed to improve visualization during hardware placement. (PX 16 p. 53) Petitioner was given a referral for post-op therapy. (PX 16 p. 111)

During the post-operative follow-up on January 16, 2025, Petitioner reported improvement in his pre-operative symptoms. (PX 10 p. 38) Dr. Bradley recommended rehab and anti-inflammatory exercises and allowed Petitioner to work with restriction to light desk work only and no inmate contact. (PX 10 p. 40)

Opinion and Testimony of Dr. Timothy Farley

Respondent had Petitioner examined by Dr. Timothy Farley on February 11, 2025. (RX 4) Dr. Farley recorded a history of Petitioner's right knee injury noting that it occurred on May 21, 2024, while responding to an altercation. (RX 4 p. 2) Upon physical examination, Dr. Farley observed well-healed incision in the anterior aspect of the right knee, moderate effusion, lack of five degrees in extension and flexion to 105 degrees and loose Lachman's. (RX 4 p. 5) He noted that Petitioner was pleasant, did not seem to be evasive and did not show signs of symptom magnification during the evaluation. (PX 4 p. 6) Dr. Farley acknowledged Petitioner's complaints of pain, but he did not believe there was a causal relationship between the work accident and Petitioner's current complaints. (RX 4 pp. 6-7) Regardless of his views on causation, Dr. Farley felt that Petitioner's right partial/unicompartmental knee replacement was reasonable and necessary to treat his physical condition. (RX 4 p. 7) He believed that Petitioner would reach maximum medical improvement approximately three months following his procedure, and he deemed it reasonable for a one-year follow-up visit "to make sure that all is well and there is no progressive degenerative change or loss of fixation of the arthroplasty." *Id.* He noted that it was "not uncommon for people to have setbacks" such as Petitioner's recent incident; but he stated that these "usually go away," and he believed that Petitioner's prognosis was good for getting back to full activity without restrictions. *Id.* At the time of the Section 12 Examination, he agreed that Petitioner "should be in non-combative situations, performing predominantly seated-type activities." (RX 4 pp. 7-8)

Dr. Farley testified by way of deposition on May 6, 2025. (RX 5) His testimony on direct examination was consistent with his opinions in his report. *Id.* He acknowledged that Petitioner reported immediate right knee pain after the inmate altercation on May 21, 2024. (RX 5 p. 7) However, he did not believe Petitioner's condition was related to the work accident because the accident did not cause the development of his arthritis, which predated the work accident. (RX 5 pp. 11-12)

On cross-examination, Dr. Farley testified that he gives on average one to two depositions per month, but he acknowledged that he had recently given three depositions within three weeks. (RX 5 pp.13-14) Dr. Farley acknowledged that Petitioner had no documented issues following the ACL reconstruction in 2022 and the work injury of May 2024 and that Petitioner was working full

duty before the accident. (RX 5 pp. 15-16) He acknowledged that Petitioner's knee had not returned to his preinjury baseline following the May 21, 2024, work incident. (RX 5 p. 16)

Opinion and Testimony of Dr. Dr. Matthew Bradley

Dr. Bradley also testified by way of deposition on May 14, 2025. (PX 19) On direct examination, he described his clinical findings and discussed the pertinent findings from his review of Petitioner's accident history and medical records. (PX 19 pp. 6-16) He noted that he previously treated and surgically repaired Petitioner's right knee in 2021 and 2022 for an ACL tear and had fully released him without restrictions in October 2022. (PX 19 pp. 6-7) He noted that Petitioner was not seen and did not require care from the date of his release in 2022 until the May 2024 work accident. (PX 19 pp. 6-8)

Dr. Bradley testified that based on the history of injury, the MRI findings, and his clinical examination, Petitioner's work accident worsened his underlying degenerative condition in his knee. (PX 19 p. 10) He explained, "The accident he discussed where he actually sustained a twisting injury and a fall certainly could exacerbate some underlying arthritis or chondrosis in his knee. The gentleman had been back to work full duty, working in his full capacity as a correctional officer for two years without any significant pain or loss of jobs, days of work, going to the doctor or anything." (PX 19 pp. 10-11) "It wasn't until somebody kicked the pit bull and kind of woke up that chondrosis that he began developing the pain." (PX 19 pp. 15-16) He stated that since Petitioner suffered cartilage loss on both the thigh and shin bones and failed conservative care, he required a partial knee replacement. (PX 19 p. 12) He stated that there was no other explanation for Petitioner's decline. (PX 19 p. 16)

25WC04635 (D/A January 27, 2025)

Petitioner contacted Dr. Bradley on January 31, 2025, and reported that he suffered a new injury when he slipped while walking on uneven gravel at work. (PX 10) Dr. Bradley updated Petitioner's work restrictions to no walking on uneven ground. (PX 10 p. 44) Petitioner presented in-office on February 24, 2025, at which time Dr. Bradley noted an in-depth history of accident and Petitioner's persistent aggravation of his symptoms since the accident with no relief despite using oxycodone and Celebrex. (PX 10 p. 45) Dr. Bradley noted that Petitioner's right knee was significantly tender with mild-to-moderate effusion. (PX 10 p. 47) Consequently, he gave Petitioner a Depo-Medrol injection and kept his restrictions in place for the time being. *Id.*

On March 17, 2025, Dr. Bradley updated Petitioner's work status and allowed him to return to work without restrictions. (PX 10 p. 52) However, on June 2, 2025, Dr. Bradley noted that Petitioner's symptoms were not improving. (PX 10 p. 59) Petitioner described tightness with full extension or flexion. *Id.* Dr. Bradley felt that Petitioner was developing scar tissue and adhesions, but continued him on full duty work. (PX 10 p. 61) Dr. Bradley recommended that Petitioner wean off tramadol and lyrica, finish therapy, and continue his home exercise program with scheduled

anti-inflammatory medication to try and break down some of his residual scar tissue and adhesions within his knee. *Id.* He hoped that Petitioner would improve and reach maximum medical improvement within two months. *Id.*

On August 7, 2025, Petitioner returned to Dr. Bradley and reported that using steps and stairs caused him pain, particularly in the lateral aspect just distal to the fibular head. (PX 10 p. 65) Petitioner denied any interval trauma. *Id.* Dr. Bradley found Petitioner's lateral lower leg pain unusual with steps/stairs and noted that at present he had nothing further to offer. (PX 10 p. 67) However, when Petitioner returned on September 15, 2025, with significantly worsening right knee pain, Dr. Bradley reassessed Petitioner's condition. (PX 10 p. 71) Petitioner reported that after slipping on gravel and hyperextending his knee, his knee progressively worsened to the point that he was having difficulty walking on not just stairs, but also flat surfaces. *Id.* Dr. Bradley noted, "Just prior to returning to work he was able to climb three flights of stairs without difficulty. Now he cannot climb three steps without significant pain. No other trauma reported." *Id.*

Dr. Bradley reviewed Petitioner's x-rays and noted a significant progression of his lateral compartment disease following the injury:

> I discussed with William the findings on physical examination and x-ray. His x-rays prior to January 27 show a good joint space laterally without any signs of osteophytes or subchondral sclerosis. Since the January 27 hyperextension, his lateral compartment has significantly progressed to the point he is now bone on bone disease. He has lateral marginal osteophytes as well as subchondral sclerosis indicative of the severity of the bone on bone and the inflammatory processes. . . (PX 10 p. 73)

Based on the severity of Petitioner's pain and the significant x-ray findings, Dr. Bradley recommended a total knee replacement. *Id.*

CONCLUSIONS OF LAW

23WC032824
(November 14, 2023)

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?

Respondent stipulated that Petitioner suffered an accident that is causally connected to his current condition of ill-being in his cervical spine. (Arb. Ex. 1) Respondent's examiner, Dr. Chabot, agreed that Petitioner's condition of ill-being was causally related to his November 14, 2023, accident. (RX 3 p. 10) Dr. Chabot agreed that Petitioner's care and treatment was reasonable and necessary. *Id.* The Arbitrator notes that all tendered expenses were related to the diagnosis and treatment of the spine and/or pre-operative testing for surgical clearance. *Id.* Respondent shall

therefore pay all submitted expenses contained in Petitioner's group exhibit pertaining to 23WC032824. Respondent shall have credit for expenses paid provided that it agrees to indemnify and hold Petitioner harmless from any disputes regarding the expenses for which it claims credit.

24WC014868
(May 21, 2024)

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

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 workers' compensation claimant's injury. *Shafer v. Illinois Workers' Comp. Comm'n*, 2011 IL App (4th) 100505WC, 976 N.E.2d 1 (2011).

Accidental injury need not be the sole causative factor, nor even the primary causative factor, as long as it is a causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003). [Emphasis added]. Employers are to take their employees as they find them. *A.C. & S. v. Industrial Comm'n*, 304 Ill. App. 3d 875, 710 N.E.2d 837 (1999) citing *General Electric Co. v. Indus. Comm'n*, 89 Ill. 2d 432, 434, 433 N.E.2d 671, 672 (1982).

Where a preexisting condition is present, Petitioner need only show that the prior condition was aggravated or the need for treatment accelerated. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003); *Schroeder v. Illinois Workers' Comp. Comm'n*, 2017 IL App (4th) 160192WC, 79 N.E.3d 833, 839-40; *Judith Wheaton v. State of Illinois/Choate Mental Health Center*, 13 I.W.C.C. 0467; *Bowman v. Gateway Reg'l Med. Ctr*., 14 I.W.C.C. 1022; *Clutterbuck v. UPS*, 15 I.W.C.C. 0046; *Howard v. St. Clair Hwy. Dept*., 16 I.W.C.C. 0187, modified 16 MR 106.

The Appellate Court has found that where an accident results in pain, that the pain, in and of itself, is a compensable aggravation of a claimant's preexisting condition. *Tazewell County v. Illinois Workers' Compensation Commission*, 2025 IL App (4th) 230754WC. Specifically, the Court found that when a preexisting condition is asymptomatic and then becomes painful as the result of work-related activity, that symptomatic condition is compensable under the Act as an aggravation of the preexisting condition even in the absence of an organic or structural change in the preexisting condition. *Id.* When a preexisting asymptomatic condition becomes painful for reasons other than an organic or structural change or natural progression, it follows that the preexisting condition was aggravated by something. Id. The Court held that if the aggravation was work-related and caused solely pain, that the pain suffered by a claimant, in and of itself, was a compensable aggravation of the preexisting condition. *Id.*

The Arbitrator finds and concludes that the chain of events and the law establishes that Petitioner's condition of ill-being up until the accident on January 27, 2025, is causally connected to his undisputed accident on May 21, 2024. It is undisputed that Petitioner had recovered from his prior injury and was working full duty without issue prior to the May 2024 accident. It is likewise undisputed that Petitioner had preexisting pathology. Consequently, the appropriate inquiry is whether Petitioner's preexisting condition was aggravated, not whether Petitioner's condition was caused by the work accident.

Respondent's examiner, Dr. Farley, opined that Petitioner's condition was unrelated to the work accident, because his conditions predated the injury. (RX 5 pp. 11-12) Yet, he admitted that Petitioner had no documented treatment from the date Dr. Bradley released Petitioner following his ACL reconstruction in 2022 and the work injury of May 2024 and that Petitioner was working full duty before the accident. (RX 5 pp.15-16. To that extent, the Arbitrator notes the opinion of Dr. Farley is inconsistent with the above law and evidence and affords it little weight.

Dr. Bradley credibly and persuasively explained how the May 2024 accident aggravated Petitioner's preexisting chondrosis and caused it to be symptomatic. The Arbitrator finds Dr. Bradley's opinion persuasive, as it comports with the law, the circumstantial evidence, and medical evidence in the record. The Arbitrator therefore concludes that Petitioner met his burden in proving that his right knee condition for the period specified was causally related to the undisputed May 2024 work 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?

Issue (K): Is Petitioner entitled to any prospective medical care?

Upon establishing causal connection and the reasonableness and necessity of recommended medical treatment, employers are responsible for necessary medical care required by their employees. *Plantation Mfg. Co. v. Indus. Comm'n,* 294 Ill.App.3d 705, 691 N.E.2d 13 (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*, 325 Ill.App.3d 527, 758 N.E.2d 18 (1st Dist. 2001).

Although he disagreed about causation, Dr. Farley agreed that Petitioner's medical treatment, including the partial knee replacement and appropriate post-operative care, was reasonable and necessary. (RX 4) Respondent shall therefore pay the reasonable and necessary expenses contained in Petitioner's group exhibit pertaining to the May 2024 accident. Respondent shall have credit for any expenses paid provided that it agrees to indemnify and hold Petitioner harmless.

25WC04635
(January 27, 2025)

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

As noted above, Petitioner need only show that the prior condition was aggravated or the need for treatment accelerated. *Sisbro, Inc. v. Indus. Comm'n*, 207 Ill. 2d 193, 205, 797 N.E.2d 665, 672-673 (2003); *Schroeder v. Illinois Workers' Comp. Comm'n*, 2017 IL App (4th) 160192WC, 79 N.E.3d 833, 839-40. The Arbitrator finds that the unrebutted evidence shows that Petitioner's condition of ill-being was again aggravated and accelerated by the January 2025 accidental injury. Dr. Bradley credibly explained in his treatment note on September 15, 2025, that x-rays showed a significant progression in right knee inflammatory degenerative disease since the January 2025 accident that led to his current bone-on-bone condition. (PX 10) His unrebutted opinion is supported by the objective medical and circumstantial evidence. The Arbitrator therefore finds and concludes that Petitioner's current condition of ill-being in his right knee following the January 2025 accident is causally connected to said 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?

Issue (K): Is Petitioner entitled to any prospective medical care?

Petitioner tried and failed to resolve his symptoms with additional conservative care following the January 2025 accident. Based on the credible and unrebutted opinion of Dr. Bradley, Respondent shall pay the reasonable and necessary expenses contained in Petitioner's group exhibit. Respondent shall have credit for any expenses paid provided that it agrees to indemnify and hold Petitioner harmless. Respondent shall further authorize and pay for the treatment recommended by Dr. Bradley.

Issue (L): What temporary benefits are in dispute? (TTD)

As Petitioner's condition worsened following the January 2025 injury, Dr. Bradley restricted Petitioner from walking on uneven surfaces. (PX 10) Petitioner testified that there was no even surface on Respondent's lot, a fact which the Arbitrator and Respondent's counsel took notice. (Tr. p. 23) Consequently, the Arbitrator awards the claimed 1 week period of TTD benefits from March 11, 2025, through March 17, 2025, claimed on the Request for Hearing.

This award shall in no instance be a bar to further hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC017795
Case Name	Maria Sotelo v. Aldi
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0265
Number of Pages of Decision	31
Decision Issued By	Stephen Mathis, Commissioner

Petitioner Attorney	Matthew Novak
Respondent Attorney	Lisa Azoory-Keller

DATE FILED: 9/18/2026

/s/Stephen Mathis, 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 Sotelo,

Petitioner,

vs. NO. 24WC017795

Aldi,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19b having been filed by the Petitioner herein and notice given to all parties, the Commission, after considering the issues of medical expenses, prospective medical care, causal connection, and temporary 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 January 9, 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 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 $5,400.00. 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.

SEPTEMBER 18 2026

O: 8/25/26
SJM/sj
44

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

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

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC017795
Case Name	Maria Sotelo v. Aldi
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	28
Decision Issued By	James Byrnes, Arbitrator

Petitioner Attorney	Matthew Novak
Respondent Attorney	Lisa Azoory-Keller

DATE FILED: 1/9/2026

/s/James Byrnes, Arbitrator
Signature

INTEREST RATE WEEK OF JANUARY 6 2026 3.48%

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)

MARIA SOTELO
Employee/Petitioner

v.

ALDI
Employer/Respondent

Case # **24** WC **017795**

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 **James Byrnes**, Arbitrator of the Commission, in the city of **Chicago**, on **October 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. ☒ 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, **February 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 not*** causally related to the accident (after 10/16/2024).

In the year preceding the injury, Petitioner earned **$28,860.00**; the average weekly wage was $**550.00**.

On the date of accident, Petitioner was **43** 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.

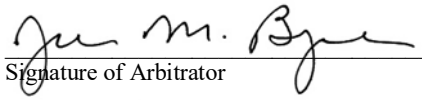
ORDER

Respondent shall pay reasonable and necessary medical services, pursuant to the medical fee schedule, of $**4,790.95** to **AMITA Health St. Mary of Nazareth Hosp.**, $**387.00** to **UI Health (Dr. Moore)**, and $**3,700.00** to **Bright Light Medical Imaging**, as provided in Sections 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.



Signature of Arbitrator

JANUARY 9 2026

ICArbDec19(b)

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

MARIA SOTELO,	)	
	)	
Petitioner,	)	
	)	
v.	)	
	)	Case No. 24WC017795
ALDI,	)	
	)	
Respondent.	)	

MEMORANDUM OF DECISION OF ARBITRATOR

PROCEDURAL HISTORY

This matter proceeded to hearing in Chicago, Illinois before Arbitrator James Byrnes on October 8, 2025. Attorney Michael Mahay of Leonard Law Group appeared on behalf of the Petitioner. Attorney Lisa Azoory-Keller of Nyhan, Bambrick, Kinzie & Lowry, P.C. appeared on behalf of Respondent. The matter proceeded to hearing pursuant to Sections 19(b) and 8(a) of the Act, on the basis of a Petition for Immediate Hearing filed by Petitioner.

The Parties stipulated to all issues other than accident, causal connection, medical bills, TTD benefits, and prospective medical treatment. (AX 1) Petitioner's Exhibits 1 through 8, and Respondent's Exhibits 1 through 11, were admitted into evidence. After considering the testimony and reviewing the evidence presented, the Arbitrator makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

Job Duties

Petitioner, a 45-year-old former Store Associate, began working for Aldi on February 5, 2024. At the time of the alleged accident of February 28, 2024, petitioner testified that she was in a period of training. Petitioner stated that her job duties included stocking various kinds of merchandise, keeping the store clean for customers and working as a cashier. (Tr. 12-13)

Accident

Testimony of Petitioner

Petitioner testified that on February 28, 2024, she was working the closing shift and performing the task of "edging," which involved mopping and cleaning outer areas of the cooler and throughout the store. (Tr.13-14) After performing this task, Petitioner stated that she walked into the back room to dispense the dirty water, empty the bucket, and rinse it for the next person to use. (Tr. 14) Petitioner testified that water spilled from the mop bucket and her hands and feet were wet. (Tr. 15)

The manager-on-duty then showed Petitioner the process of charging a pallet jack. (Tr. 15-16) Petitioner testified that she used her left hand to plug in the pallet jack machine and that she "just started sizzling." (Tr. 16) Petitioner stated that the "entrance" was with her left hand, but that somehow, her foot was hot. She described the feeling as "Fourth of July fireworks." She then stated that, "I was stuck. I was stuck." (Tr. 16) Petitioner stated that she was able to let go, and that the plug bounced off her left hand. (Tr. 17)

Petitioner testified that two of her co-workers were present at the time of the incident - her manager and another co-worker (Tr. 17) She stated that her co-worker and manager did not do anything because they were trying to react to what had happened. (Tr. 18) After the incident, Petitioner went to the bathroom and took her shoe off because she felt so much heat. When she took off her shoe, she noticed it was hot. Petitioner stated that she didn't feel ok and that her heart was beating extremely fast. (Tr. 18) After exiting the bathroom, petitioner testified that she walked to the office where two workers came to check on her, and she filled out an incident report. (Tr. 19)

Petitioner testified that she went to the emergency room at Saint Mary and Elizabeth Medical Center on February 29, 2024, where she provided a history of the accident, and thereafter saw her primary care physician at Erie Family Health. (Tr. 21-22)

Testimony of Silvia Naja

Silvia Naja testified on behalf of Respondent at trial. Naja testified that she had been working for Aldi for approximately three years and that her job title was assistant manager. (Tr. 71-72) Ms. Naja testified that at the time of the February 28, 2024, she was working at the same store as the Petitioner, Batavia Store 6. Ms. Naja testified that she was the store supervisor on the date of incident, that Petitioner had only worked for a few weeks before the incident, and that she would see Petitioner often on a day-to-day basis. (Tr. 72)

Ms. Naja testified that she did not witness petitioner inserting a plug into a socket on February 28, 2024, and did not witness Petitioner get an electric shock. (Tr. 73) She knew that Petitioner got injured because Petitioner shouted at the time of the incident. (*Id.*), Ms. Naja stated that at the time of the incident, she was in the backroom with Petitioner, connecting a "different machine." (Tr. 73-74)

Ms. Naja testified that on the date of the incident, she was in the back room with Petitioner, instructing her how to plug a machine in; she described that process on direct examination. (Tr. 74) Ms. Naja testified that she did not know exactly what Petitioner was doing before inserting the plug, but that she should have been somewhere in the front of the store, mopping the restroom or around the registers ("what we call 'edging'").

Ms. Naja was approximately two feet away from the Petitioner when she heard her shout. (Tr. 76-77) When she heard Petitioner shout, she asked her if she was ok, and Petitioner responded that she was not, so Ms. Naja told her to come with her to the office to fill out an incident report. (Tr. 77)

Ms. Naja testified the plug of the pallet jack resembled a blender plug or a microwave plug, one that had two flats and a little circle. (Tr. 77) Ms. Naja stated that Petitioner never told her that her feet were wet at the time of the accident, nor did she tell her about water splashing from the mop bucket onto her hands. (Tr. 77-78) Ms. Naja did not notice any water on Petitioner's hands or around her feet. (Tr. 78)

Ms. Naja testified the machine in question was plugged in every night and estimated that an employee may plug in the machine once per week (there was no specific employee assigned to that duty). There was nothing found to be wrong with the plug or machine after the incident. (Tr. 79)

In the months following the alleged incident, Petitioner was working full time and that she never reported pain to Ms. Naja after the accident. (Tr. 79-80) If Petitioner did report to someone that she was in pain, Ms. Naja would have come to know about it. (Tr. 80). In the months following the incident, Petitioner worked as a cashier. (Tr. 81) Ms. Naja described the job duties of a cashier to include ringing out customers, collecting garbage from small bins near the register, restocking the small coolers near the register, and stated that Petitioner did not report any problems completing the tasks of her cashiering job in the months following the accident. (Tr. 81)

On cross-examination, Naja confirmed the machine she testified about plugging in on direct examination was an electric pallet jack. (Tr. 83) She also agreed that while she did not notice water on the Petitioner's hands or shoes, she did not specifically look for water or dampness on her hands or shoes or ask her to take her shoes off. (Tr. 83-84)

Testimony of Pilar Perez

Pilar Perez testified on behalf of Respondent at trial, pursuant to subpoena. (Tr. 89) Ms. Perez testified that she was employed by Aldi for the past two years as a full-time associate. (Tr. 85), Ms. Perez stated that she was working at the same store as the Petitioner on February 28, 2024, and that Petitioner was a new hire. (Tr. 86)

Ms. Perez testified that she did not witness Petitioner inserting a plug into an electrical socket on the date of incident but that she heard Petitioner yell. (Tr. 86) Ms. Perez testified that at the time of the incident, she was bagging up trash in the backroom. (Tr. 87) Ms. Perez stated

that the backroom never gets mopped, that she did not notice Petitioner's hands or feet being wet at the time of the incident. (*Id.*)

Ms. Perez testified that Petitioner worked full time in the months following the incident, and she had no conversations with Petitioner during that period regarding her being in pain. (Tr. 87) Regarding the appearance of the plug, Perez testified that the plug looked like a laptop charger with three prongs and that she was not aware of any issues with that particular plug after the alleged incident. (Tr. 88)

On cross-examination, Perez agreed she did not specifically look at Petitioner's hands or feet to see if they were wet. (Tr. 89)

Prior Medical Condition

The Petitioner was diagnosed with Type II diabetes in 2008 but denied being diagnosed with diabetic neuropathy prior to the incident on February 29, 2024. (Tr. 39) She agreed her diabetes has been uncontrolled for years but also testified that she is in compliance with her treatment for the condition, including taking her medication and going to her doctor's visits. (Tr. 41)

Regarding her legs, Petitioner testified that prior to the work incident, she had minor numbness and tingling in both legs and feet, more a tingling than numbness. (Tr. 43-45) According to Petitioner, the condition in her legs is worse since the work accident, as she was able to walk normally before the incident but currently "I can't walk anymore the way I'm supposed to like a normal person." (Tr. 45) The Petitioner did admit that she felt decreased sensation in her feet during her last pregnancy. (Tr. 46)

The Petitioner also admitted that she treated for other conditions prior to the work incident, including for visual difficulties (Tr. 46), anxiety and depression (Tr. 47), behavioral health issues (Tr. 48), dizziness (Tr. 49), and a post-pregnancy seizure disorder, for which she was hospitalized in a coma for five days and prescribed medication (Keppra) (Tr. 51), and was referred to a neurologist (Tr. 53).

The medical treatment records from Erie Family Health Center (RX 8) set forth a history of Petitioner's pre-accident treatment for diabetes from 2019 through 2021, with several references to the condition being uncontrolled and Petitioner failing to take medications or check blood sugar levels. (*E.g.*, RX 8, pp. 233, 239, 353, 397, 405, 505, 520, 532, 538, 555, 566). The records also refer to Petitioner being diagnosed with neuropathy with decreased monofilament sensation in both feet on October 30, 2020, (*Id.*, p. 463), and neuropathy in both feet with numbness and tingling on January 26, 2024 (*Id.*, p. 92).

On August 31, 2020, the Petitioner complained of "ants" over her bilateral lower extremities, with a history of poorly controlled diabetes mellitus, and she was assessed with neuropathy. (RX 8, p. 481) On May 20, 2021, Dr. Nordstrom of Erie Family Health Center noted that "many ache/pain likely related to her uncontrolled DM" and "some of her physical complaints may be due to the uncontrolled DM…." (*Id.*, p. 241) On August 3, 2022, Dr. McGee performed a

diabetic foot exam, with the results showing normal pedal pulses, no trophic changes or ulcerative lesions, but abnormal monofilament exam [with] decreased sensation to bilateral heels. (*Id.*, p. 146) At a post-partum visit on March 10, 2023, Dr. McGee noted Petitioner was reporting more tingling in her legs. (*Id.*, p. 116) On April 11, 2023, the Petitioner was complaining of pain in the back and legs with activity, for which Dr. McGee commented "[s]ome is related to nerve pain." (*Id.*, p. 112) At an office visit on January 26, 2024, the Petitioner complained of numbness and tingling in both feet, and she was assessed with neuropathy. (*Id.*, p. 92)

Summary of Medical Records

On February 29, 2024, prior to going to the emergency room, Petitioner called Erie Family Health Center, stating that she was prescribed 20 ml. of insulin but was given 32 ml. Petitioner stated that she was not feeling well and was going to the emergency room. The patient care manager told Petitioner she could come to the clinic. Petitioner stated that she would be taking her daughters home and would return. The time of the phone log is noted to be 12:34 p.m. (RX 8, p. 88)

On February 29, 2024, Petitioner was seen in the Emergency Room at AMITA Health St. Mary of Nazareth Hospital. The time of admission was noted to be 1:21 p.m. (PX 1, p. 283) The history of present illness indicates that "She states she was mopping floors yesterday when another staff member turned on a machine. Patient states she felt electricity go through her left foot through her steel-toed boots and through her left hand. She is unsure of the voltage." Petitioner reported tingling through her left foot and left hand as well as occasional pain. (*Id.*, p. 288)

The physical examination of the left hand demonstrated no evidence of lesions, burns or abnormalities. Sensation was intact to light touch throughout. The physical examination of the left lower extremity demonstrated no burns or lesions on the skin. Sensation was intact to light touch throughout. Petitioner was neurovascularly intact throughout the rest of the lower extremity without any overlying skin changes. (PX1, p. 290) The differential diagnosis was electrocution, electrolyte abnormality, arrhythmia and rhabdomyolysis. Petitioner underwent an EKG, which did not show any abnormalities. The physician recommended pain medication as needed and follow up with neurology. (PX 1, pp. 292-293)

On April 4, 2024, Petitioner was evaluated by Dr. O'Neal at Erie Family Health Center. Petitioner reported an electrocution incident at work. Petitioner was unable to walk properly, and she was numb from her left leg. Petitioner stated that she needed paperwork filled out for work. (RX 8, p. 80) The physical examination revealed diminished or absent sensation in both feet, with altered sensation in left foot and leg. (*Id.*, pp. 81-82) Petitioner was assessed with injury of unknown intent by electrocution, with altered sensation to the left foot and left leg and she was referred to neurology. (*Id.*, p. 82) Dr. O'Neal indicated the Petitioner's diabetes was uncontrolled and that she had some neuropathy. (*Id.*, p. 83)

On April 26, 2024, Petitioner returned to Dr. O'Neal for the purpose of having forms filled out for workers compensation. Petitioner reported tingling throughout her left leg and foot and stated that she needed another letter for her job. Dr. O'Neal recommended an EMG of the left

lower extremity and prescribed Gabapentin. It was noted an appointment with neurology was scheduled for August 16, 2024, which the doctor hoped to have pushed up. (RX 8, p. 74)

The Petitioner was seen by Dr. Kenneth Moore of the UI Health Outpatient Care Center - Neurology Clinic on July 26, 2024. The Petitioner reported that she sustained an electrical injury while working on February 28, 2024, specifically while attempting to insert a plug into an outlet, resulting in an electrical shock to her left hand and left foot. (PX 3, p. 59) The health questionnaire revealed a history of diabetes mellitus, dizziness, recurrent migraine headaches, hypertension, numbness and pain in the left hand and foot, eclampsia with seizures (including a coma/unresponsive for 5 days in 2023), and PTSD symptoms. (*Id.*) The history also related there was no loss of consciousness, no secondary physical trauma and no cutaneous scars/burns. (*Id*., p. 60) The assessment by Dr. Moore was persistent paresthetic discomfort in the left lower extremity, greater than in the left upper extremity, with no evidence of central nervous system injury, and PTSD. (*Id*., p. 70) The visit diagnoses included paresthesias (primary), complex regional pain syndrome of the left lower limb, and headache disorder. (*Id.*, p. 50) Dr. Moore prescribed medications, physical therapy and an EMG/NCS test. (*Id*., pp. 72-73)

The EMG/NCS test took place at Bright Light Medical Imaging on October 2, 2024, with the results deemed abnormal and consistent with a moderate to severe left sciatic neuropathy primarily affecting peroneal nerve fibers. (PX 3, p. 5) The findings were also consistent with mild to moderate mixed demyelinating and axonal peripheral sensory-motor neuropathy. There was no evidence of left lumbosacral radiculopathy. (*Id*.)

The Petitioner followed up with Dr. Moore on October 16, 2024, with complaints of numbness and leg pain. (PX 3, p. 26) The progress note from that date states that Petitioner had an abnormal gait, which was slow and with the left foot everted laterally. Petitioner's voluntary movement was "dramatically diminished," she reported no feeling "vibration sense" in bilateral lower extremities, and the doctor noted "effort and motivation appear to be major problem." (*Id*., p. 27) Dr. Moore also noted "[t]here is no medical reason patient cannot resume normal job duties." (*Id.*)

A note from UI Health OCC-Neurology Clinic, dated October 17, 2024, sets forth the results of the EMG/NCS test, followed by a comment that "[l]ack of effort is the most likely cause of decreased recruitment without evidence of denervation." (PX 3, p. 16) Further notes from Dr. Moore, dated October 17, 2024, indicate that "Patient walked to clinic room 32 from lobby. She did not/would not make any movement of LE once seated in the room." (*Id.*, p. 23) Dr. Moore lists diagnoses of "sciatic neuropathy" (*Id.*, p. 22) and "diabetic mononeuropathy associated with diabetes mellitus due to underlying condition." (*Id.*, p. 19) Dr. Moore continued to prescribe medications and physical therapy. (*Id.*, pp. 22-23)

A note from October 22, 2024, referring to a telephone conversation with Petitioner on October 17, 2024, indicates that Petitioner was seen by Dr. Moore on October 16, 2024, and that Dr. Moore had ordered physical therapy in July, but Petitioner did not start therapy at that time and wished to now start at an outside facility. (PX 3, p. 6) In response to a request for work restrictions, it is noted: "Patient knows the plan is to complete physical therapy and that if there is to be any restrictions it will be determined by physical therapy, not Dr. Moore. Patient is not in

agreement with this plan, becoming argumentative, then hanging up abruptly." (*Id.*) It is noted "[t]here is no further follow up of this matter at this time," (*Id.*, p. 7) and there is no evidence Petitioner was seen by Dr. Moore after the October 16, 2024, appointment.

In a letter dated October 29, 2024, Dr. O'Neal of Erie Family Health Center deemed Petitioner capable of working with accommodations. Dr. O'Neal noted the Petitioner was electrocuted at work and has decreased/altered sensation in her left leg and has been diagnosed by neurology with sensory and motor neuropathy in the left leg, which makes it difficult for Petitioner to walk efficiently or carry heavy objects. As such, Dr. O'Neal recommended lifting restrictions of less that 10-15 pounds and allowing Petitioner a 5–10-minute break every 2-3 hours. (PX 6, p. 139)

The Petitioner participated in physical therapy from October 31, 2024, through December 12, 2024, at Physical Therapy 360. (PX 4) At the initial therapy evaluation on October 31, 2024, she reported suffering an electric shock at work while plugging in the cord for a cleaning machine, feeling a current from her left hand to the left foot through her steel-toed shoes, and feeling heat. (*Id.*, p. 14) The Petitioner reported constant tingling, burning pain, vibration and numbness in her left lower leg, as well as a feeling of compression and coldness, bumps on the leg and painful to the touch. (*Id.*) She also reported tingling and numbness in the left hand, and cramping in her left thumb, index and middle fingers. (*Id.*) The physical examination showed that Petitioner held her left lower extremity in an external rotation position and she moved with an antalgic gait. She exhibited decreased sensation, clamminess, bumps and atrophy in the left lower leg. The range of motion of both upper and lower extremities was within normal limits. (*Id.*) It was recommended Petitioner participate in 12 weeks of physical therapy, and would also benefit from pain management, a physical medicine rehabilitation consultation and a neurology consultation, as well as an evaluation by a psychologist due to depression and anxiety. (*Id.*, p. 15)

By the time of her discharge from physical therapy on December 12, 2024, the Petitioner was complaining of constant pain, weakness, swelling and heaviness in the left leg. (PX 4, p. 11) The Petitioner was assessed as having demonstrated mild progress with an improved gait using a straight cane, although she continued to present with increased tone (spasticity), abnormal gait function with left foot drop, weakness in the left lower extremity, persistent constant pain, numbness, and tingling in the left lower leg, edema with prolonged standing and walking, and dystonic type of upper body movements with sit-supine activities. (*Id.*, p. 12) It was again recommended she consult with physical medicine rehabilitation, pain management, neurology and psychology experts. (*Id.*)

The Petitioner was seen by Dr. O'Neal of Erie Family Health Center on November 25, 2024, stating that she "still needs to go to rehab and pain management," and was having a hard time at her job. (RX 8, p. 60) The neurological exam showed decreased sensation and motor function throughout the left lower extremity. (*Id.*, p. 61) Dr. O'Neal assessed Type II diabetes mellitus without complication, with long-term current use of insulin, and noted Petitioner was asymptomatic other than some fatigue and neuropathy. (*Id*., p. 62)

On December 17, 2024, Petitioner was seen by Dr. O'Neal for vomiting and diabetes mellitus. Her blood glucose was noted to be greater than 400. She appeared ill and diaphoretic. She was assessed with Type II diabetes mellitus as well as nausea and vomiting. (RX 8, p. 52)

On January 10, 2025, Petitioner was evaluated at Erie Family Health Center for various issues, including Type 2 diabetes, major depressive disorder, neuropathy of the left lower extremity, hypertension and hyperlipidemia. Petitioner presented with significant neuropathic pain and depressive symptoms. (RX 8, p. 43) Petitioner was assessed with poorly controlled diabetes mellitus ("Suspect med compliance is an issue…. Suspect neuropathic pain and depression significantly contributing to uncontrolled DM"). (*Id.*, p. 45) The physician advised Petitioner that uncontrolled diabetes would worsen her neuropathy. (*Id.*, p. 46) Petitioner was referred to behavioral health for mood and medical compliance issues. (*Id.*, p. 45)

On January 13, 2025, the Petitioner participated in a telehealth visit with the Behavioral Health Clinic ("BHC") of Erie Family Health Center. At that time, she advised the counselor her main stressor was coping with a left leg injury, noting she was "electrocuted at work through a steel toed boot." (RX 8, p. 40) She described the incident as a "very traumatizing experience" and shared "challenges with receiving the correct medical treatment to better heal the injury," and expressed frustration in "not being able to walk normally, not being able to function like a normal person to complete tasks and expressed anger that she can't participate in hobbies and interests." (*Id.*) The Petitioner requested a letter "to assist her current physical limitations in the workplace," and was told BHC could not provide such a letter and that she should contact her primary care physician. (*Id.*, p. 42) The plan was to continue with therapy, but Petitioner expressed confusion regarding the outreach by BHC, noting "she did not request to connect to therapy services in previous medical visit." (*Id*., p. 42) She declined the offer of services from BHC and was advised to participate in a behavioral health assessment by July 13, 2025. (*Id*., p. 40)

The Petitioner presented to Midwest Anesthesia & Pain Specialists ("MAPS") on January 29, 2025, where she was seen by William Hayduk, PA-C. She gave a history of the work accident on February 28, 2024, wherein she sustained an electric shock when a colleague plugged in an electric pallet jack and Petitioner's hands were damp and the floor was wet. She reported feeling a "sparkling" sensation in her left foot and noticed that her foot felt extremely hot. The Petitioner also reported ongoing coldness in her left leg compared to the right, intermittent swelling, muscle weakness, and changes in skin color. She reported pain in her left leg at a level of 10. (PX 6, p. 25) The Petitioner provided a pre-accident history of Type 2 diabetes mellitus but denied having issues "with any type of neuropathic symptoms such as she is now having prior to this accident." (*Id*., p. 26)

The physical examination of the left leg on that date showed marbling on the outside of the left foot, left foot/leg darker than the right foot, no hypersensitivity (Petitioner could not feel her foot), mild edema, left foot colder than the right foot, and sensory deficits on the left as compared to the right. She also used a cane to walk and had practically no range of motion through the left foot/ankle and strength was largely dissipated. (PX 6, p. 27)

PA Hayduk assessed chronic regional pain syndrome ("CRPS") of the left leg, noting: "An electrocution can potentially cause Complex Regional Pain Syndrome (CRPS) although it is a rare

cause. CRPS is typically triggered by nerve injuries, trauma or surgery and electrical injuries can damage both peripheral and central nerves, leading to the development of CRPS. At this point, given her history and physical, she does meet the Budapest criteria." Hayduk recommended a lumbar sympathetic ganglion block one to three times depending on how she responded. Although Petitioner had a history of diabetes, the note indicates that Petitioner's symptoms were because of electrocution. "Diabetic neuropathy does not cause the magnitude of symptoms Ms. Sotelo presents with today." (PX 6, pp. 27-28)

On February 13, 2025, the Petitioner presented to Erie Family Health Center, requesting another letter for her job. (RX 8, p. 32) She also advised that she had been seen by retina specialist, who saw blood behind the lens bilaterally due to her diabetes. (*Id*., p. 33) The Petitioner reported moderate relief due to physical therapy but was still experiencing pain and decreased mobility. (*Id.*, p. 34) Another referral was written for physical therapy and medications, and she was advised to continue with pain management. (*Id.*)

The Petitioner was next seen by Quadri Hassan, MSN, FNP, at MAPS on February 26, 2025, reporting that her left foot pain was "bothersome," and worse with ambulation, standing, lifting heavy objects and activity. (PX 6, p. 30) It was noted the lumbar sympathetic ganglion block had been denied, and she rated her pain at 10/10 VAS. (*Id.*) The Petitioner also reported she was currently working full time with restrictions indicated by her PCP, but this was still painful. (*Id.*)

The balance of the February 26, 2025, treatment note was essentially the same as the treatment note from January 29, 2025, and Nurse Hassan also recommended a lumbar sympathetic block, one to three times, depending on how the Petitioner responded. (PX 6, pp. 30-35)

The Petitioner was seen at Erie Family Health Center on April 25, 2025, for treatment regarding her diabetes, at which time her blood glucose level was over 200. (RX 8, p. 18) At the next visit on June 2, 2025, her blood glucose level was over 300. (*Id.*, p. 12)

The Petitioner was seen by Daniel Juarez, PA-C, of MAPS on June 9, 2025, reporting that the pain in her left foot was "very bothersome and life changing." (PX 6, p. 36) Pain was worse with ambulation, standing, lifting heavy objects and activity and her pain level was at 10/10 VAS. (*Id*.) It is noted the "unresolved pain generator" was affecting her personal life, and the burden of not being able to perform her duties as a mother has led to thoughts of depression and anxiety. (*Id*.) She was continuing to work full time with restrictions, despite her pain. (*Id.*)

The balance of the June 9, 2025, treatment note was essentially the same as the prior treatment notes, with the same treatment recommendations, other than the addition of a prescription for Pregablin 75 mg for nerve pain. (PX 6, pp. 36-40) The Petitioner was released to return to cashier work duties only with no heavy lifting. (*Id.*, p. 134)

The Petitioner was seen by Dr. Thomas Pontinen of MAPS on June 18, 2025, and reported that her pain involved her entire left foot and calf, up to her knee. (PX 6, p. 41) She reported the leg being very sensitive to touch, the left leg at times colder and darker in color than the right, and also noted occasional swelling of the left foot and leg. (*Id.*) The Petitioner also reported staying in

bed for two days due to the pain, and that she could barely walk or put weight on her left leg. (*Id.*) She also reported taking a leave of absence from work in April "because they wanted her to work without restrictions and because she couldn't they put her on leave." (*Id*.)

The physical examination by Dr. Pontinen showed marbling on the outside of the left foot, the left foot/leg was darker than the right foot, and the Petitioner was hypersensitive to light touch on her lateral leg and calf. No edema was noted at that time, but the left foot was colder than the right, with a lack of hair growth, and practically no range of motion of the left foot/ankle, with dissipated strength. (PX 6, p. 43)

Based on the Petitioner's symptoms and physical examination, Dr. Pontinen diagnosed CRPS of the left leg and again recommended the lumbar sympathetic ganglion block, with a possible spinal cord stimulator trial, depending on the results of the sympathetic block, and he also prescribed Norco in addition to other medications. (PX 6, p. 44) He also indicated the Petitioner could return to work with restrictions. (*Id.*)

At the next office visit at MAPS on July 2, 2025, in addition to the medications, Dr. Pontinen prescribed the use of a Sam Pro 2.0, a wearable ultrasound device, as well as a Light Therapy Device. (PX 6, p. 52) He continued to recommend up to three left lumbar sympathetic ganglion blocks and possible a spinal cord stimulator trial, pending the results of the sympathetic block. (*Id.*, p. 51) He noted the Petitioner could continue to work with restrictions and offered the opinion that Petitioner's condition as reported were causally related to the injuries she sustained during the work accident. (*Id.*, pp. 52-53)

The Petitioner continued to treat at MAPS through September 22, 2025, at which time she was evaluated by nurse practitioner Jaenelle Ignacio. Petitioner reported her pain as 10/10, and a spinal cord stimulator was again recommended. She was advised to remain off work as of that date. (PX 6, pp. 74, 92)

Testimony of Jacqueline Kalbfell-Kolp

Jacqueline Kalbfell-Kolp testified on behalf of Respondent at trial, pursuant to subpoena. Kalbfell-Kolp stated that she was employed with Broadspire and that she provided nurse case management services to petitioner beginning on June 10, 2024. (Tr. 91) Each time she either met or spoke with petitioner, the encounter was documented. Kalbfell-Kolp stated that when she was assigned to the file, she was told that Petitioner needed a neurology appointment and that she was in the process of helping her get it scheduled. (Tr. 92)

On September 30, 2024, Petitioner told Kalbfell-Kolp that her right leg was shutting down and swollen, and that she needed to go to the emergency room. Kalbfell-Kolp's understanding was that the ER visit was for the right leg. (Tr. 97-98). On October 11, 2024, Kalbfell-Kolp had another conversation with petitioner about the EMG performed on October 2, 2024. In this conversation, petitioner told Kalbfell-Kolp that she felt the electrical shocks all over her body again and that her right foot was now numb. At the time of the October 11, 2024, conversation, it was Kalbfell-Kolp's understanding that Petitioner was having bilateral leg pain.

Kalbfell-Kolp stated that she attended the October 16, 2024, visit with petitioner and Dr. Moore and that at that time, Petitioner was reporting bilateral leg pain. (Tr. 99-100) Kalbfell-Kolp read her comments from that date, which stated that Dr. Moore noted a strong disconnect between Petitioner's reported symptoms and his physical exam findings and that there was no evidence of a neurological injury. Dr. Moore was unable to provide an explanation that made any sense. (Tr. 101)

Expert Reports

Dr. Thomas Pontinen – MAPS

On June 25, 2025, Dr. Pontinen wrote a narrative report to appeal for the denial of care. He reiterated his diagnosis of CRPS Type I as a result of the February 28, 2024, work injury, set forth his objective findings for that condition per the Budapest Criteria, and noted that the findings confirmed a focal peripheral nerve injury, and that "the asymmetry and severity are not consistent with diabetic neuropathy alone and further support a post-traumatic etiology." (PX 8, pp. 136-137)

Dr. Pontinen also wrote that the medical literature supports the occurrence of CRPS after low-voltage electrical injuries, even in the absence of visible burns or entry/exit wounds. He also stated that "[w]hile diabetes may predispose Ms. Sotello to neuropathy, it does not explain the acute, asymmetric, and functionally debilitating syndrome she presents with." (PX 8, p. 137) Dr. Pontinen requested authorization for a lumbar sympathetic block, one to three trial injections with consideration for spinal cord stimulation based on her response, noting the importance of early intervention in order to improve long-term outcomes and avoid permanent disability. (*Id.*)

Dr. Arthur Itkin – Section 12 Examination

On December 4, 2024, Dr. Arthur Itkin of Neurologic and Headaches Clinic, examined the Petitioner at the request of Respondent, pursuant to Section 12 of the Act. Petitioner reported an electrocution injury at work, wherein she was trying to put in a plug into a normal wall electrical unit when she felt an unusual sensation and a shock in the left hand. She felt pain going through her body all the way to the left leg, but did not go to the right leg. She denied any skin changes in the hand or palm. (RX 1, p. 1)

Petitioner reported burning pain in the left leg, foot and hand. She also reported due to excruciating pain in the left leg, she had difficulty walking. She was working as a cashier and at the end of the day, her leg gets swollen. (RX 1, p. 1) She also noted discoloration on the dorsolateral aspect of her left foot, which she did hot have before, as well as lumps in both legs and swelling that would occur if she stood for a long time. (*Id.*, p. 2)

On physical examination, Petitioner exhibited distal sensory deficit and vibration bilaterally with superimposed numbness without any anatomic distribution in the left leg all the way to the knee. Dr. Itkin looked for autonomic signs, which he could not find. Of significance, the left leg, specifically at the bottom of the foot, was colder than the right and he could not palpate Petitioner's popliteal or pedal pulses bilaterally. Dr. Itkin noted that Petitioner's gait was antalgic and was non-physiologic. Petitioner was limping without any particular fashion when she was

going forward and then limping back in a different way. There was no obvious weakness, fasciculation, autonomic dysfunction, skin discoloration or burning. (RX 1, p. 2)

After reviewing the medical records (except those from AMITA Health St. Mary of Nazareth Hospital) and completing a physical examination, Dr. Itkin made two assumptions. First, he stated that Petitioner most likely did not have a burn or entry injury into the left hand or exit injury in the left hand and left foot. The skin discoloration that Petitioner described was very nonspecific and did not look like a burn. Second, Dr. Itkin assumed that the plug that caused the electrical sensation was a normal household type plug and not an industrial plug of high voltage/ amperage. Based on the totality of records, any form of electrical injury that petitioner sustained should have been self-limited and Petitioner's present complaints represent symptom amplification as well as clear evidence of sensorimotor polyneuropathy, which was not uncommon in diabetic patients. (RX1, p. 3)

Dr. Itkin opined that if Petitioner electrocuted herself through the left arm, she would have more problems in the brachial plexus and in order to go to the legs, the electrical impulse would need to go through the body and many times to the spinal cord. He stated there was clearly no cord pathology present in Petitioner's case. (RX 1, p. 3)

Dr. Itkin concluded that Petitioner most likely suffered from sensory motor polyneuropathy related to her diabetes. Dr. Itkin explained that Petitioner may have a peripheral arterial vascular disease which could be related to hypertension and diabetes, but these issues were in no way related to or exacerbated by the alleged incident on February 28, 2024. Even if Petitioner did have any electrical shock injury, it should have resolved by the date of his examination and would be much less likely than a more common and very plausible explanation of peripheral neuropathy. (RX 1, p. 3)

Dr. Itkin stated that Petitioner reached MMI as it related to any February 28, 2024, work-related neurological injury, that she could return to work without any restrictions and that no further treatment was necessary. Dr. Itkin requested to review the records of the ER at AMITA Health and St. Mary of Nazareth Hospital. (RX 1, p. 3)

On February 26, 2025, Dr. Itkin authored an addendum report after being provided with the initial emergency department records from AMITA Health St. Mary of Nazareth Hospital. After reviewing the emergency department records, Dr. Itkin concluded that there was no objective neurologic injury, and his opinions and recommendations did not change. Moreover, he concluded that Petitioner did not suffer from complex regional pain syndrome as documented in his initial examination. (RX 2)

Dr. Joseph Belmonte, Section 12 Examination

On July 23, 2025, Dr. Joseph Belmonte, a board-certified anesthesiologist and pain medicine physician, examined Petitioner at the request of Respondent, pursuant to Section 12 of the Act. Dr. Belmonte's report sets forth a summary of the medical records he reviewed in conjunction with his examination of Petitioner, including those from AMITA Health St. Mary of Nazareth Hospital, UIC-Department of Neurolgy, Physical Therapy 360, Neurologic & Headache

Clinic, S.C., Midwest Anesthesia & Pain Specialists, and Erie Humboldt Park Health Center. (RX 5, pp. 3-5)

Dr. Belmonte also took a history from Petitioner, including the incident on February 28, 2024, wherein she felt a jolt in her left arm that traveled through her entire body and into her left lower extremity that felt like "hot fire," as a result of inserting the plug of a pallet jack into an electrical socket with her left hand. (RX 5, p. 6) Currently, Petitioner reported pain at 10/10, which is located in the top and bottom of her left foot and travels up to her knee, and was reported as constant, burning, sharp, aching and throbbing. (*Id.*, p. 8) She also reported frequent shakes and twitches in the left leg and a "sizzling" sensation, paralysis in the left foot, coldness and color changes with bumps on the left leg, swelling in the leg with indentations, and tingling and numbness in both legs with spasms in her left calf. (*Id.*, pp. 8-9) Dr. Belmonte noted a past medical history of left leg pain, Type II diabetes, hypertension and pre-eclampsia/eclampsia. (*Id.,* p. 9)

Regarding Petitioner's left leg, Dr. Belmonte found no visible edema of the ankle or foot, no color changes of the skin, no erythema, no visible sweating and no increased hair growth when compared to the right foot and ankle. There were no signs of tenderness to touch, allodynia or hypersensitivity. Multiple dilated venous varicosities and small darkened skin lesions were present only in the dependent position over the lateral ankle, lateral dorsal foot and ventral leg, which disappear when the leg is elevated. Dr. Belmonte's report does not colder skin temperatures on the left as compared to the right. (RX 5, p. 11)

After performing a physical examination, Dr. Belmonte made diagnoses that included (1) pain of the left ankle; (2) pain of the left foot; (3) left lower extremity venous insufficiency/peripheral arterial disease and (4) likely diabetic neuropathy. (RX 5, p. 12)

Dr. Belmonte agreed that if Petitioner in fact suffered an electrocution injury, this could cause pain in the left foot and ankle, but he concluded that an electrocution injury was unlikely. He noted that the emergency department visit was completely normal, there were no signs of skin burns in any extremity, and lab testing was normal. Dr. Belmonte concluded that the neuropathy noted on EMG could be related to her uncontrolled diabetes. Additionally, Petitioner's eclampsia had a high correlation with underlying peripheral, coronary and cerebrovascular disease which would support her symptoms and objective findings. In his opinion, the Petitioner does not suffer from CRPS. (RX 5, pp. 13-14)

Regarding work, Dr. Belmonte stated that Petitioner could return to work with no restrictions. Petitioner's symptoms were consistent with the effects of poorly controlled diabetes and likely peripheral vascular disease. From a pain management standpoint, Petitioner had reached maximum medical improvement. (RX 5, pp. 14-15)

Deposition Testimony

Testimony of Dr. Thomas Pontinen

On August 18, 2025, the parties took the evidence deposition of Dr. Thomas Pontinen. Dr. Pontinen testified that he is board certified in anesthesiology and interventional pain

management. (PX 8, p. 9) The physician stated that he had more of a team approach to treating patients and that Petitioner was seen by a variety of providers, including physician's assistants and nurse practitioners who get involved in patient care. Regarding his team approach to treatment, the physician testified that a physician's assistant will "physically see the patient first, get the history, you know, write a good portion of the note, examine them, etc." (*Id.*, p. 14) Dr. Pontinen testified that he would at least introduce himself to a new patient during the initial office visit. (*Id.*)

Based on the history and examination of Petitioner, Dr. Pontinen diagnosed CRPS of the left lower limb. Dr. Pontinen described CRPS as a neurological condition which affects the sympathetic nervous system, and that a traumatic event can cause direct or indirect injury, and abnormal symptoms in the sympathetic nervous system can continue even after the initial injury heals. (PX 8, p. 19) Such symptoms include swelling, discoloration, hair growth pattern changes, sweating changes and pain, as well as deconditioning of the muscles, affecting strength, movement and range of motion. (*Id.*, pp. 19-20) The Budapest criteria is a combination of subjective and objective findings that are used to diagnose the condition. (*Id.*, p. 20-21)

According to Dr. Pontinen, the Petitioner qualified for a diagnosis of CRPS because of her subjective findings (pain out of proportion, complaints of intermittent swelling, subjective weakness, temperature changes) and objective findings (observed color changes in comparison to the right leg, observed swelling, loss of range of motion of the left ankle). (PX 8, p. 21)

Throughout his deposition, Dr. Pontinen discussed various treatment interventions that might help Petitioner such as stellate ganglion blocks, spinal cord stimulation, creams and patches, a SAM Pro 2.0, light therapy devices and a SmartWaves device. (PX 8, pp. 22-25; 42-49).

Dr. Pontinen testified that Petitioner's symptoms could not stem from diabetic neuropathy because the development of diabetic neuropathy would be a slow onset and happen as a result of years of poorly controlled blood sugars, and diabetic neuropathy does not cause color changes. (PX 8, p. 58) In addition, he testified that "you can't have diabetic neuropathy in just one – – one foot and have it be this severe and that where – – and it doesn't impact your other leg." (*Id.*)

Dr. Pontinen stated that he agreed with Dr. Itkin that CRPS is very unlikely to develop from an electrocution, but "not impossible" and cited to some articles regarding patients who developed CRPS after electrocution. (PX 8, p. 54) Just like a lightning strike or winning the lottery, Dr. Pontinen agreed that CRPS from the plugging incident was statistically unlikely, "but it happens." (*Id.*, p. 58-59)

In sum, it was Dr. Pontinen's opinion that Petitioner's CRPS condition was causally related to the electrocution injury that occurred on February 28, 2024, and that all the treatment he rendered to her was related to that accident and was medically necessary to treat the CRPS condition. He also testified the future treatment that he has recommended is also related to the work accident, as is the need for Petitioner to remain off work. (Tr. 61-62)

On cross-examination, Dr. Pontinen agreed that Physician's Assistant Hayduk completed the physical examination on the first office visit or January 29, 2025 (PX 8, p. 63), Nurse Practitioner Hassan examined the Petitioner in February 2025 (*Id.* p. 64), and Physician's Assistant

Juarez examined the Petitioner on June 9, 2025 (*Id.*). Dr. Pontinen agreed that the physical examination results on January 29, 2025, February 26, 2025, and June 9, 2025, regarding the left lower extremity were identical and that the physical examinations are "imported from the previous note." (*Id.*, pp. 64-66)

Dr. Pontinen could not recall if he reviewed the emergency department records or if he had reviewed the records of Dr. Moore. (PX 8, p. 67) He agreed that information concerning Petitioner's medical treatment prior to her first office visit with his office could have a bearing on his causation opinions. (*Id.*, p. 68)

Regarding the articles Dr. Pontinen referenced in his report of June 25, 2025, he agreed that the patient in the first article (Kim & Bryant (2001)) *did* have evidence of entry/exit wounds, fell to the floor and couldn't return to work. (PX 8, pp. 71-72) He also agreed the second article he cited (Ahmed & Kumar (2105)) involved an infantry soldier who touched a live electrical wire with his dominant hand. (*Id.*, p. 77)

Dr. Pontinen agreed he was not aware whether Petitioner had a pre-existing vascular condition, as he did not review any medical notes from providers that she treated with prior to the accident. (PX 8, p. 82) He was not aware of her pre-eclampsia and eclamptic seizures that she was diagnosed with prior to the accident. (*Id.*, p. 83) He agreed that if Petitioner does have a vascular condition (such as peripheral vascular disease or insufficiency), that can cause darkening of the skin of the feet. (*Id.*, p. 84)

Finally, Dr. Pontinen testified that with regard to causation, "for sure it's not the diabetic neuropathy," stating that "I – it's –it's just – it's so obvious." (PX 8, p. 90-91)

Testimony of Dr. Arthur Itkin

On May 19, 2025, the parties took the evidence deposition of Dr. Arthur Itkin. Dr. Itkin is a board-certified neurologist with fellowship training in clinical neurophysiology and electromyography (RX 4, p. 5) Dr. Itkin testified that he interprets EMGs frequently as part of his practice and has occasionally treated patients who have sustained electrocution. (*Id.*, pp. 6-7) The physician stated that he evaluates patients with sensorimotor polyneuropathy probably every day. (*Id.,* p. 7)

Dr. Itkin testified consistently with his reports, concluding that Petitioner did not suffer any neurological injury as a result of the February 28, 2024, event. (RX 4, p. 13) In his opinion, the Petitioner is a diabetic woman who most likely suffers from diabetic neuropathy. (*Id.*, p. 14) He also testified that patients with long-standing diabetes may have vascular insufficiency, which was supported by his inability to feel her popliteal and pedal pulses. (*Id.*) This would explain her cold left limb, as well as pain with walking. (*Id.*)

Dr. Itkin stated that there was no evidence to suggest that an electrical injury had been significant enough to cause any kind of peripheral neuropathic injury. (RX 4, p. 15) Some of Petitioner's complaints were non-physiologic, he could not explain them at all, and he had not seen anybody try to explain them. (*Id.*)

Dr. Itkin explained the significance of entry and exit points on direct examination. Electrical injury is a spectrum and is a function of duration of the voltage or amperage and the ability for the current to transfer through the body using different resistance processes. (RX 4, p. 16) Skin is the first level of protection, and some people will have what appear to be little bites on their skin in the entry zone, and those with very significant electrical industrial injury will have a larger aberrant burn. (*Id.*) The more visible burns were on the skin, the more evidence to suggest that the current that went through the body was significant, which is not this case. (*Id.*, p. 17) In his opinion, the electric current involved in Petitioner's injury was not strong enough to enter the nerve plexus, and not significant enough to cause a neurologic injury. (*Id.*, p. 19) If Petitioner was exposed to a very high voltage, such as through a commercial plug, you would expect to see evidence of such at the entry point during a physical examination; "there should be some burning if it's really, really significant." (*Id.,* p. 20)

If a person is electrocuted through a limb and the nervous system is involved, the electricity will go through the nerve, such as the ulnar and median nerve if through the hand, into the plexus and then into the spinal cord. In Petitioner's case, Dr. Itkin found no clinical findings which would correlate to a spinal cord injury. (RX 4 p. 21)

Dr. Itkin also explained that if one assumes the left and right foot have the same resistance, and one assumes the floor is wet, and both feet are on the wet floor, if a current were to go through the body, it would exit in both feet, and you would have neurologic injury in both the left and right legs. (RX 4, p. 28)

Dr. Itkin explained that, over time, diabetes causes sensory and motor metabolic injury to the nerves. Petitioner suffered from diabetic neuropathy, which was the most common form of neuropathy. The EMG, physical exam and objective portions of the physical exam were consistent with a length–dependent bilateral sensory motor polyneuropathy (RX 4, pp. 31-32) Dr. Itkin stated that he agreed with Dr. Moore regarding petitioner's ability to work as it related to any neurologic injury. (*Id.*, pp. 36-37)

In addition to assessing the Petitioner's neurological condition, Dr. Itkin stated that he also considered whether Petitioner suffered from CRPS, and that he was qualified to identify and diagnose CRPS. (RX 4, p. 46) Dr. Itkin opined that there was no objective evidence of CRPS based on the Budapest criteria, as well as his own criteria from his clinical practice. (*Id.*, pp. 46-47)

On cross-examination, Dr. Itkin agreed that the peripheral nerves could be injured or damaged from an electrocution event. (RX 4, p. 54) It would depend on the circumstances and how the current has been applied. (*Id.,* p. 56) He also testified that Petitioner's EMG findings were unlikely to be caused by an electrical injury, as the test results showed a classic form of peroneal injury, which is a sign of mononeuropathy of diabetes, 99 out of 100 times in diabetic patients with insulin. (*Id.*, p. 57)

It is Dr. Itkin's opinion that Petitioner's symptoms are most likely related to the peroneal nerve, not the sciatic nerve. (RX 4, p. 60) On redirect examination, he testified there was no

evidence the Petitioner's sciatic nerve was injured as a result of plugging in a regular household plug. (*Id.*, p. 65)

Dr. Itkin testified that Petitioner has peripheral neuropathy, presumed to be secondary to her diabetic condition, with clear evidence of chronic findings. He also testified that asymmetry in the involvement of one nerve, in this case the peroneal nerve, is more commonly seen in patients with diabetic neuropathy, especially those with a longstanding history. (RX 4, p. 69)

Testimony of Dr. Joseph Belmonte

On September 8, 2025, the parties took the evidence deposition Dr. Joseph Belmonte, who examined Petitioner at Respondent's request pursuant to Section 12 of the Act. Dr. Belmonte is board-certified in both anesthesiology and pain management. (RX 7, p. 4) As part of his training, Dr. Belmonte completed a three-year residency in anesthesiology at Rush University Medical Center. Dr. Belmonte also completed a pain management fellowship at Rush. (*Id.*, pp. 5-6) Dr. Belmonte stated that he considered himself an expert at identifying and treating CRPS from his experience in his clinical practice, as well as his residency and fellowship training. (*Id.*, pp. 6-7)

Dr. Belmonte testified that his examination of Petitioner took over an hour and a half. (RX 7, p. 9) In addition to conducting a physical examination of Petitioner, he also reviewed medical records of St. Mary of Nazareth Hospital, UIC Department of Neurology, physical therapy notes, the reports from Neurologic and Headache Clinic, the treatment notes from Midwest Anesthesia & Pain Specialists and a note from Erie Humboldt Park Health Center. (*Id.*)

According to Dr. Belmonte, in diagnosing a patient and assessing causation, it is important to have a complete, full medical history to help guide a physician in determining incidence of a certain condition and to avoid treatment that may be deleterious or medications that might not be safe. (RX 7, p. 10)

During his physical examination of the Petitioner, he did not see any visible swelling of the left foot or ankle, there were no color changes of the skin, no visible sweating, no increase in hair growth as compared to the right foot or ankle, and the nails of both feet appeared equal. (RX 7, p. 13) The Petitioner had very weak pulses on her left dorsalis pedis pulse, which was concerning, and minimal strength in the plantar flexion of the left foot. (*Id.*) There was no allodynia in the left foot with light touch using a fine filament and alcohol wipe, no increased sensitivity in the left leg, and not tenderness to palpation of the left foot, calf or ankle. (*Id.*) There was a reduction in sensory response to cold and wet over the inside of the left calf and left dorsal foot. (*Id.*) She also had a reduction in temperature in the left lower extremity when compared to the right overall. (*Id.*, p. 14)

According to Dr. Belmonte, with Petitioner's left extremity placed down and her foot on the floor, there was a development of multiple dilated venous varicosities and small darkened skin lesions over the ankle, foot and leg. (RX 7, p. 14)

Based on his physical examination, the history he took from Petitioner, and review of the medical records, Dr. Belmonte diagnosed left ankle and foot pain, left lower extremity venous

insufficiency or likely peripheral arterial disease and likely diabetic neuropathy. (RX 7, pp. 14-15) In his opinion, Petitioner's symptoms were not causally related to the alleged work injury, and she did not suffer from CRPS. (*Id.,* p. 19)

In support of his conclusion that Petitioner did not suffer from CRPS, Dr. Belmonte testified that he implemented the Budapest criteria, which was the gold standard for diagnosis. (RX 7, p. 20)

One of the subcategories of CRPS, Dr. Belmonte explained, was subsection four, which requires the examining physician to consider other conditions that could better explain the patient's symptoms. He testified that considering Petitioner's "whole picture and history," it appears her condition would be more related to peripheral vascular disease and possibly diabetic neuropathy than it would be to CRPS, as she did not have the classic symptoms and findings that were associated with CRPS. (RX 7, p. 21) As part of his deposition testimony, Dr. Belmonte explained the Budapest criteria in detail. (*Id.*, pp. 21-23)

Dr. Belmonte stated that he was extremely confident that petitioner did not have a diagnosis of CRPS. (RX 7, p. 27) Regarding color changes in the left leg, Dr. Belmonte explained that the venous dilations disappeared with the leg elevated. When petitioner's leg was down and her foot was flat on the floor, the color changes grew bigger, and the venous dilations enlarged. That suggested that there was a peripheral vascular or arterial disease in which the autonomic system or the veins could possibly be damaged from some other condition, and the blood is not flowing back up towards the heart because of the insufficiency. By contrast, with CRPS, patients would have persistent color changes whether their foot was elevated or not. (*Id.*, p. 28)

Dr. Belmonte explained in detail how Petitioner's preeclampsia suggested a very advanced peripheral vascular disease and that patients who experienced such a condition have a much higher increase in the incidence of heart disease, vascular disease, heart failure and cerebrovascular accidents. (RX 7, p. 30) Dr. Belmonte did not believe that Dr. Pontinen explored the possibility of vascular disease or diabetic neuropathy as an explanation for Petitioner's symptoms. (*Id.*, pp. 31-32). Dr. Belmonte testified that if Petitioner developed CRPS as a result of an electrocution, symptoms of CRPS would present immediately or within one or two weeks following the incident, and the symptoms and objective findings would be progressive over time. (*Id.*, p. 32) In Petitioner's case, she returned to work without difficulty and did not present for a CRPS evaluation until much later in her care. (*Id.*, pp. 32-33)

Dr. Belmonte further testified that patients with elevations in sugars and poor control of their glucose levels are more likely than not to develop diabetic neuropathy. (RX 7, p. 33-34) He also opined it would be highly unlikely that a patient with CRPS would be able to work for approximately a year after the inciting event, as the condition would present almost immediately and progressively worsen over time. (*Id.*, p. 34)

Dr. Belmonte testified that he did not believe Petitioner sustained an electrical injury, due to the lack of a burn entry or exit point noted in the emergency department records, her normal laboratory test results (i.e. there was no elevation of enzymes, typically seen following an electrocution injury), and no heart and vascular changes on EKG. (RX 7, p. 36)

Dr. Belmonte disagreed with Dr. Pontinen's recommendation for a spinal cord stimulator, as he does not believe Petitioner has CRPS and other medical findings and conditions need to be further investigated. (RX 7, pp. 49-50) He testified as to the various risks involved with prescribing medications, performing interventional procedures such as sympathetic blocks or stellate ganglion blocks, and the trial and placement of a spinal cord stimulator, especially in patients who do not have CRPS. (*Id.*, p. 54)

On cross-examination, Dr. Belmonte agreed that Petitioner's left leg was colder than her right leg and reported muscle weakness in her left leg (RX 7, p. 59), that her pain was disproportionate to the to the initial injury (*Id.*, p. 61), and that there was only color change in the left leg when it was placed down (*Id.*). He also agreed that a delay in treatment can have more long-term consequences regarding patients who have CRPS. (*Id.*, p. 64) He also agreed CRPS can have an effect on the blood flow through an affected extremity. (*Id.*, p. 66)

On redirect examination, Dr. Belmonte testified that his opinion remained the same and didn't change as a result of the cross-examination by Petitioner's attorney. (RX 7, p. 82)

Petitioner's Current Condition

The Petitioner testified that she has difficulty with activities of daily living, due to the fact she can "barely walk." (Tr. 31) This impacts her ability to walk with her 2-year-old child, do grocery shopping and do laundry. "It takes a very long time to do my daily things even if it's just going to the store." (*Id.*) Her left leg is numb and she feels no "power" in it; sometimes her hand cramps, but she is not concerned about her hand as much as she is concerned about her leg. (Tr. 32)

The numbness Petitioner feels in her left leg begins on the bottom of her foot and goes all the way to the top of her knee. (Tr. 32) The doctor prescribed Norco, which is strong and makes her sleepy, so she does not take them all the time because she needs to watch her child. (Tr. 33)

Prior to the incident on February 28, 2024, she never injured her left hand or leg, and she has not sustained any injuries to her left hand or leg since the accident. (Tr. 34-35)

The Petitioner last saw Dr. Pontinen for treatment on September 22, 2025, and he has prescribed medication and a spinal cord stimulator. (Tr. 29-30) She is willing to abide by Dr. Pontinen's treatment recommendations and undergo any treatment he recommends, if such is awarded. (Tr. 30-31)

The Petitioner agreed that she continued to work full time for Respondent after the incident on February 28, 2024, through April of 2025, was able to complete the tasks of her job and come to work every day and barely missed any time from work during that timeframe. (Tr. 56-57; *See also* RX 11) She did state that she did what she could do, but her leg would be swollen every day, and she felt the need to see a specialist. (Tr. 56)

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).

A decision by the Commission cannot be based upon speculation or conjecture. *Deere and Company v. Industrial Commission,* 47 Ill.2d 144, (1970). A Petitioner seeking an award before the Commission must prove by a preponderance of credible evidence each element of the claim. *Illinois Institute of Technology v. Industrial Commission,* 68 Ill.2d 236, (1977).

Regarding Issue (C), did an accident occur that arose out of and in the course of Petitioner's employment by Respondent, the Arbitrator finds as follows:

Section 1(b)3(d) of the Act provides that, in order to obtain compensation under the Act, the employee bears the burden of showing, by a preponderance of the evidence, that he or she has sustained accidental injuries arising out of and in the course of the employment. *820 ILCS 305/1(b)3(d)*. It is well established that the Petitioner bears the burden of proof by a preponderance of the evidence that his injury arose out of and in the course of his employment. *First Cash Financial Services v. Industrial Commission*, 367 Ill. App.3d 102, 105, 853 N.E. 2d 799, 803 (1st Dist. 2006). Whether the claimant sustained an accidental injury that arose out of and in the course of his employment is a question of fact. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009).

Arising out of the employment refers to the origin or cause of the claimant's injury. *Cox v. Illinois Workers' Compensation Comm'n*, 406 Ill. App.3d 541, 544 (2010). For an injury to arise out of the employment, its origin must be in some risk connected with, or incidental to, the employment so as to create a causal connection between the employment and the accidental injury. *Caterpillar Tractor Co. v. Industrial Comm'n*, 129 Ill. 2d 52, 58 (1989). An injury arises out of one's employment if, at the time of the occurrence, the employee was performing acts he was instructed to perform by his employer, acts which he had a common law or statutory duty to perform, or acts which the employee might reasonably be expected to perform incident to his assigned duties. *Id.*

The phrase "in the course of employment" refers to the time, place, and circumstances of the injury. *McAllister v. Illinois Workers' Compensation Comm'n*, 2020 IL 124848, ¶ 34. A compensable injury occurs "in the course of" employment when it is sustained while a claimant is at work or while he performs reasonable activities in conjunction with his employment. *Id.* Injuries sustained at a place where the claimant might reasonably have been while performing his duties, and while a claimant is at work, or within a reasonable time before and after work, are generally deemed to have been received in the course of the employment. *Id.*; *Caterpillar Tractor Co.*, 129 Ill. 2d at 57 (1989).

The Petitioner testified that on February 28, 2024, she was working for Respondent in her role as a store associate and was being trained on how to charge an electric pallet jack, which

involved plugging the machine into a wall socket. She also testified that as she performed that activity, her hands and shoes were wet after emptying a mop bucket into a drain.

She testified that as she plugged the machine into the socket, she felt a "sizzling" sensation in her left hand and left foot, and she was unable to move for a period of time. She immediately felt a hot sensation in her left foot. She subsequently reported the incident to her manager, who had her fill out an incident report.

The Petitioner gave a similar history of the accident to the staff and doctors at the emergency department of AMITA Health St. Mary of Nazareth Hospital, to Erie Family Health, to UI Health OCC-Neurology Clinic, to the providers at MAPS, and to both Dr. Itkin and Dr. Belmonte.

The witnesses for Respondent, Silvia Naja and Pilar Perez, denied that they witnessed the incident or noticed that Petitioner's hands and feet were wet (although they admitted they did not specifically look at her hands and feet at the time). They testified the floor of the back room was dry but did confirm, however, that Petitioner would have been performing a mopping activity ("edging") shortly before the incident occurred. They also testified to an awareness of the incident due to Petitioner shouting (Naja) or yelling (Perez). Ms. Naja, the Petitioner's manager, admitted she asked Petitioner if she was ok and walked her back to the office to fill out an incident report.

Ms. Naja also testified that the task of plugging in the electric pallet jack is not assigned to any particular employee, and an employee would likely perform such a task at least once a week.

The Petitioner's testimony, as confirmed by the Respondent's witnesses (and as corroborated by the medical histories), establish that on February 28, 2024, she was performing an activity that she may reasonably be expected to perform as part of her regular work duties, while she was at work.

Based on the above and the evidence presented, the Arbitrator finds Petitioner proved by a preponderance of the evidence that she sustained an accident arising out of and in the course of her employment on February 28, 2024.

Regarding Issue (F), is Petitioner's current condition of ill-being 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. *Land & Lakes Co. v. Industrial Comm'n (Dawson)*, 359 Ill. App. 3d 582, 592 (2nd Dist. 2005). "In a [workers'] compensation proceeding, the claimant has the burden of showing by a preponderance of credible evidence that his injury arose out of and in the course of employment, which requires a showing of causal connection." *Horath v. Industrial Com.*, 96 Ill. 2d 349, 356 (1983), citing *Rosenbaum v. Industrial Com.*, 93 Ill. 2d 381, 386 (1982).

The medical records prior to the work accident establish that Petitioner had a pre-existing diabetic condition for which she was under active treatment at the time of the February 28, 2024,

accident. The records also contain numerous comments by the medical providers to the effect that Petitioner was not consistently complying with her treatment for that condition and the diabetes was often noted to be uncontrolled.

The Petitioner admitted to experiencing numbness and tingling in her legs and feet prior to the accident. The pre-accident medical records also establish that Petitioner complained of numbness and tingling in both feet prior to the accident and was diagnosed with neuropathy with decreased monofilament sensation in both feet from at least October 30, 2020, up to and including January 26, 2024, about a month prior to the work accident.

The Petitioner's treating neurologist, Dr. Moore, initially assessed Petitioner's condition on July 26, 2024, as persistent paresthetic discomfort in the left lower extremity, greater than in the left upper extremity, with no evidence of central nervous system injury, and PTSD. His diagnoses included paresthesias (primary), CRPS of the left lower limb, and headache disorder.

By the last office with Dr. Moore on October 16, 2024, his diagnoses were "sciatic neuropathy" and "diabetic mononeuropathy associated with diabetes mellitus due to underlying condition." Dr. Moore also noted that Petitioner's voluntary movement was "dramatically diminished," and her "effort and motivation appear to be major problem." Dr. Moore also noted "[t]here is no medical reason patient cannot resume normal job duties."

A note from UI Health OCC-Neurology Clinic, dated October 17, 2024, sets forth the results of the EMG/NCS test of October 2, 2024, followed by a comment that "[l]ack of effort is the most likely cause of decreased recruitment without evidence of denervation." Further notes from Dr. Moore, dated October 17, 2024, indicate that "Patient walked to clinic room 32 from lobby. She did not/would not make any movement of LE once seated in the room."

Based on his examination of his patient, as well as his review of the EMG/NCS test results, Dr. Moore appears to be questioning Petitioner's effort and motivation, and his diagnosis no longer included CRPS, but rather sciatic and diabetic mononeuropathy due to her underlying diabetic condition.

The Petitioner began her treatment at MAPS in January of 2025, almost a year after the work accident, and the diagnosis of the providers at that clinic included CRPS from the start. Dr. Pontinen testified that in his opinion, the electric shock Petitioner experienced on February 28, 2024, caused Petitioner's CRPS condition, even though he had never personally seen CRPS caused by an electrocution.

In his opinion, the Petitioner's condition regarding her left leg was not due to diabetic neuropathy, because the development of diabetic neuropathy would be a slow onset and happen as a result of years of poorly controlled blood sugars. In addition, he testified that "you can't have diabetic neuropathy in just one – – one foot and have it be this severe and that where – – and it doesn't impact your other leg." Notably, he does not opine the Petitioner's underlying diabetic condition was aggravated by the work accident; rather, it is his opinion the condition of Petitioner's left leg condition is related to CRPS, a completely separate condition.

Conversely, it is the opinion of Dr. Itkin and Dr. Belmonte that the condition of Petitioner's left leg and foot is related to her underlying diabetic condition, specifically diabetic neuropathy, and is not related to the work accident of February 28, 2024.

Dr. Itkin, a neurologist who specializes in the analysis of EMG/NCS test results, testified that asymmetry in the involvement of one nerve, in this case the peroneal nerve, is more commonly seen in patients with diabetic neuropathy, especially those with a longstanding history. Dr. Itkin also applied the Budapest criteria and his own clinical experience in treating patients with CRPS and opined that Petitioner did not suffer from that condition. He also testified that while he was not present on the date of the accident, the fact the emergency room records specifically state there were no signs of entry or exit wounds or burns on Petitioner's left hand or foot, is an indication Petitioner was not exposed to a significant electric shock on the date of accident.

Dr. Belmonte, an anesthesiologist and pain management specialist, also implemented the Budapest criteria and came to the conclusion Petitioner does not suffer from CRPS. Dr. Belmonte explained that in diagnosing CRPS, the examining physician needs to consider other conditions that could better explain the patient's symptoms. He testified that considering Petitioner's "whole picture and history," it appears her condition would be more related to peripheral vascular disease and possibly diabetic neuropathy than it would be to CRPS, as she did not have the classic symptoms and findings that were associated with CRPS.

Dr. Belmonte further testified that patients with elevations in sugars and poor control of their glucose levels are more likely than not to develop diabetic neuropathy. He also opined it would be highly unlikely that a patient with CRPS would be able to work for approximately a year after the inciting event, as the condition would present almost immediately and progressively worsen over time.

Dr. Belmonte testified that he did not believe Petitioner sustained an electrical injury, due to the lack of a burn entry or exit point noted in the emergency department records, her normal laboratory test results (i.e. there was no elevation of enzymes, typically seen following an electrocution injury), and no heart and vascular changes on EKG.

After considering the opinions of all the medical experts, the Arbitrator finds the opinions of Drs. Itkin and Belmonte to be more persuasive than that of Dr. Pontinen, for the following reasons.

As noted above, the Petitioner has a long history of uncontrolled (or inconsistently controlled) diabetes, as well as a history of diabetic neuropathy in both legs. Dr. Pontinen (or his assistants) took a history from Petitioner and based his diagnosis on that history and his physical examination, but it does not appear he considered Petitioner's pre-existing diabetic condition and pre-accident diagnosis of diabetic neuropathy. By his own admission, he did not review any medical records (pre- or post-accident) regarding Petitioner's treatment before she came to his clinic. In addition, his statement that diabetic neuropathy only presents bilaterally is rebutted by Dr. Itkin and Dr. Belmonte. The proponent of expert testimony must lay a foundation sufficient to establish the reliability of the bases for the expert's opinion. *Gross v. Illinois Worker's Compensation Commission,* 2011 Ill. App. 4th, 100615WC. "Expert opinions must be supported

by facts, and are only as valid as the facts underlying them." *People v. Joseph S. (In re Joseph S.),* 339 Ill. App. 3d 599, 607 (2003).

In addition, Drs. Itkin and Belmonte credibly testify that the lack of any physical signs of electrocution in the emergency room records to the Petitioner's left hand or feet indicate Petitioner was not exposed to significantly high voltage on February 28, 2024. Dr. Pontinen testified that CRPS can be caused by low voltage exposure (although he has never personally seen such a case), and pointed to two studies which he claimed supported his position. These studies, however, do not appear to support his opinion, as in one study the patient did in fact have evidence of entry/exit wounds and the second study he cited involved an infantry soldier who touched a live electrical wire with his dominant hand.

Petitioner did not testify that she touched a live wire, rather that she plugged in an electric pallet jack, which both Respondent's witnesses testified utilize a plug similar to a microwave oven or a laptop charger, and which had no signs of damage after the accident.

The Arbitrator also finds it significant that Petitioner was able to work on a full time basis from the date of accident on February 28, 2024, through April 5, 2025, more than a year after the accident, and according to Respondent's witnesses, did not complain to them regarding the pain and difficulty with walking that she reported to MAPS in January 2025.

Finally, by October 16, 2024, Petitioner's first treating neurologist, Dr. Moore, was no longer including CRPS as one of his diagnoses, but rather diagnosed Petitioner with sciatic neuropathy and diabetic mononeuropathy associated with diabetes mellitus due to underlying condition. He also stated there was no medical reason why the Petitioner could not perform her regular job duties, which she in fact performed from the date of accident through April of 2005, more than a year after the accident. The diagnoses of Dr. Moore and his opinion regarding her ability to work is consistent with the opinions offered by Dr. Itkin and Dr. Belmonte.

The Arbitrator therefore finds Petitioner reached maximum medical improvement from the effects of the February 28, 2024, work accident by October 16, 2024, her last date of treatment with Dr. Moore.

Based on the above and the evidence presented, the Arbitrator finds Petitioner has failed to prove by a preponderance of the evidence that her current condition of ill-being is causally related to the work accident of February 28, 2024.

Regarding 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…" 820 ILCS 305/8(a) (West 2012). A claimant has the burden of proving

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).

The Arbitrator has found that Petitioner reached maximum medical improvement from the results of the work accident on October 16, 2024. Therefore, the Arbitrator finds charges for treatment rendered to Petitioner after October 16, 2024, are not causally related to the work accident, and Respondent is not responsible for billing for any treatment after that date. The Arbitrator finds the treatment rendered to Petitioner from February 28, 2024, through October 16, 2024, to be reasonable, necessary and causally related to the work accident.

The Arbitrator finds the following treatment to be reasonable, necessary and causally related to the work accident of February 28, 2024, and awards medical bills as follows to be paid pursuant to Sections 8 and 8.2 of the Act:

Provider	Dates of Service	Charges
• AMITA Health St. Mary of Nazareth Hosp.	2/29/24	$4,790.95
• UI Health (Dr. Moore)	7/26/24 – 10/16/24	$ 387.00
• Bright Light Medical Imaging	10/2/24	$3,700.00
• Total:		$8,796.95

Regarding Issue (K), is Petitioner entitled to any prospective medical care, the Arbitrator finds as follows:

Having found that Petitioner reached maximum medical improvement on October 16, 2024, the Arbitrator finds the Petitioner is not entitled to prospective medical care.

Regarding Issue (L), whether Petitioner is entitled to temporary total disability benefits, the Arbitrator finds as follows:

The Petitioner is seeking an award of temporary total disability ("TTD") benefits for the period of April 5, 2025, through the date of hearing on October 8, 2025, representing 26-5/7 weeks. (AX 1)

Having found that Petitioner reached maximum medical improvement on October 16, 2024, the Arbitrator finds the Petitioner is not entitled to TTD benefits for the period sought.

IT IS SO ORDERED:

James M. Byrnes, Arbitrator

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	21WC034749
Case Name	Diana Morter v. Carnivore & The Queen/Chris Matus/Kelli Lodico Matus & IWBF
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0266
Number of Pages of Decision	5
Decision Issued By	Maria Portela, Commissioner

Petitioner Attorney	Francis Discipio
Respondent Attorney	Allison Sulouff

DATE FILED: 9/18/2026

/s/Maria Portela, Commissioner

Signature

26IWCC0266

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 Notice	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify	☐ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

DIANA MORTER,

Petitioner,

vs. NO: 21 WC 34749

CARNIVORE & THE QUEEN, CHRIS MATUS,
KELLI LODICO MATUS and
INJURED WORKERS' BENEFIT FUND,

Respondents.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent Illinois State Treasurer as ex-officio custodian of the Injured Workers' Benefit Fund (IWBF) and notice given to the Petitioner and the IWBF, the Commission, after considering the issues and being advised of the facts and law, vacates the Decision of the Arbitrator as stated below and remands the claim to the Arbitrator.

Procedural Background

On December 22, 2021, Petitioner filed this matter against Respondent, The Carnivore & The Queen. On April 12, 2023, the Petitioner filed an Amended Application adding the State Treasurer and *ex officio* custodian of The Injured Workers' Benefit Fund. On January 22, 2025, the Application was amended further to add Respondents Chris Matus and Kelli Lodico Matus. Certificates of service of these amendments were sent to the various Respondents but returned undeliverable for Respondents Chris Matus and Kelli Lodico Matus.

On March 10, 2022, counsel appeared on behalf of The Carnivore & The Queen. Counsel withdrew on December 20, 2023. On August 21, 2024, new counsel appeared on behalf of The Carnivore & The Queen. Said counsel withdrew on October 18, 2024. At no point were Respondents Chris Matus or Kelli Lodico Matus represented by counsel, and The Carnivore and The Queen has been unrepresented since late 2024.

On April 14, 2025, Petitioner filed a Request for Hearing and Notice of Motion set for June 6, 2025, with a Certificate of Service being filed as to all named Respondents. The case did not proceed to hearing on that date but was set for hearing on July 1, 2025. When this matter proceeded to Hearing on Arbitration on July 1, 2025, counsel appeared on behalf of Petitioner and on behalf of the IWBF, but neither The Carnivore & The Queen, Chris Matus nor Kelli Lodico Matus appeared nor were they represented by counsel. There is no evidence in the trial transcript to corroborate that notice of the July 1, 2025, trial date was given to any of the Respondents other than the IWBF via CompFile.

The Arbitrator issued a Decision on March 2, 2026, finding that the Respondent failed to present any evidence to rebut the testimony of the Petitioner. The Arbitrator found Petitioner was entitled to receive temporary total disability benefits, medical expenses, permanent partial disability benefits, and also found that although penalties and fees could not be awarded against the IWBF, The Carnivore & The Queen, Chris Matus and Kelli Lodico Matus were liable for penalties and fees. The only reference to notice is contained in the body of the Decision, under Section A on the first page after the Order section of the Decision. The Arbitrator stated: "At the time the Petitioner testified the Respondents The Carnivore & The Queen, Chris Matus, and Kelli Lodico Matus were not present after being duly notified to be present for trial and presented no evidence contrary to the Petitioner's testimony of July 1, 2025." The Decision was issued to the Petitioner and the IWBF.

On March 18, 2026, Respondent IWBF filed a Petition for Review of the Arbitrator's Decision on the sole issue of nature and extent.

Legal Analysis

The Rules Governing Practice Before the Illinois Workers' Compensation Commission provides for procedures to request a trial date certain. Specifically, Section 9030.20 in effect at the time in question states in relevant part:

a) A written request for a date certain for trial may be made at the monthly status call on which the case appears. A request for a trial date in a case which does not appear on the monthly status call may only be made in accordance with Section 9020.60(b)(2)(B).

***

c) The motions for trial dates shall be filed and heard pursuant to 50 Ill.Adm. Code 9020.70 and 9020.60.

***

2) If any party fails, without good cause, to appear, the Arbitrator will hear the motion for trial date ex parte and, if the Arbitrator determines the matter is ready for trial, will set a trial date convenient to the Arbitrator and the party that appeared. ***The party that appeared shall notify the opposing party of the trial date.***

50 Illinois Administrative Code 9030.20 (*emphasis added*)

The Workers' Compensation Act is a purely statutory remedy. See *Elles v. Industrial Comm'n*, 375 Ill. 107, 113 (1940). The Code and Supreme Court Rules do not apply to workers'

compensation proceedings where the Act or the Commission's rules regulate the area or topic. *Illinois Institute of Technology Research Institute v. Industrial Comm'n*, 314 Ill.App.3d 149, 154 (2000) However, they may be relied on for guidance without finding that they are applicable to workers' compensation proceedings. *Mora v. Industrial Comm'n*, 312 Ill.App.3d 266, 274 (2000) (discussing amendment of an application for adjustment of claim).

Due process in an administrative proceeding is satisfied by a '"procedure that is suitable and proper to the nature of the determination to be made and conforms to fundamental principles of justice.'" *Comito v. Police Board*, 317 Ill.App.3d 677, 687 (2000) (quoting *Telcser v. Holzman*, 31 Ill.2d 332, 339 (1964)). At minimum, due process requires notice and a meaningful opportunity to be heard. *Snow v. Chicago Transit Authority*, 2022 IL App (1st) 201217, ¶54. In administrative proceedings, the notice required does not need to be as precise or detailed as in normal court proceedings, but it must be reasonably calculated to apprise a party of the action contemplated. *Id.*

Although the provisions of the Code of Civil Procedure and the supreme court rules are inapplicable to procedures regulated by Section 19 of the Workers' Compensation Act Section 19 does not authorize the entry of a decision by the Industrial Commission in violation of the principles of due process. *Chambers v. Industrial Comm'n*, 132 Ill.App.3d (1st. Dist. 1985); *Interstate Contractors v. Industrial Comm'n*, 81 Ill,2d 434, 438 (1980). In *Interstate Contractors,* the arbitration hearing was held *ex parte* because the employer did not receive notice of the hearing. There, the claimant failed to specify correctly the address of the employer in his application for adjustment of claim and therefore failed to effect service upon the employer. Our Supreme Court held that since the employer did not appear and had received no notice of the hearing, the arbitrator's award would be set aside for lack of jurisdiction over the parties.

As the Supreme Court noted in *Interstate Contractors v. Indus. Comm'n*, 81 Ill. 2d 434, 438, 410 N.E.2d 837 (1980), "the Industrial Commission and the circuit court are vested with the power to examine the validity of the decisions entered in the proceedings below and empowered to determine whether they are void for lack of jurisdictions over the parties." The purpose of providing notice and requiring a notice procedure to be followed is to allow all parties an equal opportunity to be made aware of an impending trial date so they may be able to present their respective side of the case on said date prior to a determination by the arbitrator. Further, the Commission finds requiring notice ensures due process under the law.

Although the Arbitrator assigned the matter a trial date, there is no evidence in the record that Petitioner notified the Respondents The Carnivore & The Queen, Chris Matus or Kelli Lodico Matus of the hearing date pursuant to 50 Ill.Adm. 9030.20(c)2. As the Commission lacks jurisdiction to address Respondent's Petition for Review, the Decision of the Arbitrator is vacated and the case is remanded.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed March 2, 2026, is hereby vacated.

IT IS FURTHER ORDERED BY THE COMMISSION that this case is remanded to arbitration for a hearing on the merits with proper notice of same.

Pursuant to the holding of *Supreme Catering v. Ill. Workers' Comp. Comm'n*, 2012 IL App (1st) 111220WC, 364 Ill. Dec. 484, 976 N.E.2d 1047, this remand decision requires further administrative proceedings, and is not a final, appealable order.

SEPTEMBER 18 2026

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

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

/s/ *Marc Parker*
Marc Parker

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	25WC004812
Case Name	Cheryl Kasper v. Amazon
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0267
Number of Pages of Decision	4
Decision Issued By	Kathryn Doerries, Commissioner

Petitioner Attorney	Pro Se - Cheryl Kasper
Respondent Attorney	Ian Fuller

DATE FILED: 9/22/2026

/s/Kathryn Doerries, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF MCHENRY)

☐ 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)
Other: No jurisdiction to hear merits of case after interlocutory order	☐ PTD/Fatal denied
☐ Modify Choose direction	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

CHERYL KASPER,

Petitioner,

vs. NO: 25 WC 004812

AMAZON,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b) having been filed by the Petitioner herein and notice given to all parties, the Commission, after considering the issues of dismissal of Petitioner's petition for hearing under §19(b), due process, bias, and evidentiary issues, and being advised of the facts and law, finds that the Order entered by Arbitrator Francis Brady on November 18, 2025 is interlocutory, and therefore, the Commission lacks jurisdiction to review said Order. For this reason, the Commission dismisses Petitioner's Petition for Review. The Commission further remands this case to the Arbitrator for further proceedings for a determination of compensability and compensation, if any, pursuant to *Thomas v. Industrial Commission*, 78 Ill.2d 327, 399 N.E.2d 1322 (1980).

This matter comes before the Commission following the entry of a decision striking Petitioner's Request for Immediate Hearing under §19(b). The case was initially allowed to proceed to hearing on November 4, 2025. At that time, Petitioner testified and both parties admitted their exhibits into evidence and proofs were closed. The Arbitrator then issued a decision in which he concluded that Petitioner failed to adhere to the statute and rules regarding §19(b) filings. He ordered "the entirety of her claims herein are thus stricken." The Arbitrator went on to declare "This issue is moot" for each of the disputed issues raised in the parties' Request for Hearing form.

Those issues were accident, causation, earnings, medical expenses, prospective medical care, TTD, penalties, and credits. Per the findings, the Arbitrator found Respondent entitled to a credit for paid benefits; however, there was no Order granting a credit. Because none of the disputed issues were adjudicated, the Arbitrator's decision was an interlocutory Order.

Prior to the hearing, Petitioner had filed two §19(b) petitions in CompFile. The first §19(b) petition was filed by Petitioner's former attorney on June 27, 2025. Petitioner's attorney later filed a motion to withdraw on July 14, 2025, and that motion was granted on August 6, 2025. Petitioner, representing herself, then filed a written motion captioned, "§19(b) Petitioner's Emergency Motion for Ruling on the Record and for New Trial." Petitioner typed a 5-page motion instead of using Form IC07. Arbitrator Brady found defects with both §19(b) petitions in arriving at his decision.

The Arbitrator noted that Respondent had filed a §19(b) response objecting to the second §19(b) petition on the grounds that: (1) Petitioner failed to use the proper form, (2) the petition raised improper issues outside the purview of the Act, and (3) the petition failed to properly identify the issues in dispute. After outlining the procedural history, the Arbitrator commenced his analysis with the statutory language, noting that §19(b) provides that "the employee may at any time petition for an expedited hearing by an Arbitrator on the issue of whether or not he or she is entitled to receive payment of the services or compensation" and *shall attach a copy* of the Application for Adjustment of Claim to the notice. 820 ILCS 305/19(b). The Arbitrator further noted that §9020.80 of the Commission's Rules provides that employees may file a petition for immediate hearing "on an appropriate form provided by the Commission." 50 Ill. Adm. Code 9020.80(a)(1). The Arbitrator further noted that a petition for immediate hearing must describe the attempts aimed at resolving the dispute including the name of the employer's representative with whom Petitioner or counsel conferred. 50 Ill. Adm. Code 9020.80(a)(1)(A). The Arbitrator also noted that a petition for immediate hearing must set forth either a statement by Petitioner verifying a physician's statement relating to the claimant's inability to work was delivered to the Respondent, or verification that other evidence of temporary total disability was delivered to the Respondent. 50 Admin Code 9020.80(1)(B). Arbitrator Brady found that both §19(b) petitions failed to "match these guidelines." Arbitrator Brady found the first petition filed by Petitioner's former attorney was "blank" regarding evidence of inability to work. The second petition filed by Petitioner did not use the proper form and failed to provide evidence regarding inability to work.

Petitioner filed a Petition for Review on November 25, 2025. The Commission does not have jurisdiction to determine substantiative issues on the merits in a case absent a final adjudication of all issues, subject to the one exception where an award for TTD and/or medical benefits is entered as provided under §19(b) of the Act, which provides:

> The Arbitrator may find that the disabling condition is temporary and has not yet reached a permanent condition and **may order the payment of compensation up to the date of the hearing**, ***which award shall be reviewable and enforceable in the same manner as other awards***, and 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, but shall be conclusive as to all other

questions except the nature and extent of said disability. (Emphasis added.) 820 ILCS 305/19(b).

As no findings of fact were made, and no compensation was awarded, and the only action taken was the striking of the Petitioner's §19(b) petition, the Commission is presented with a non-final, non-appealable procedural ruling, the propriety of which the Commission lacks jurisdiction to decide on review. See e.g., *Danley vs. City of Chicago*, 22 IWCC 0368, 2022 Ill. Wrk. Comp. LEXIS 344, *Vega vs. SBCI*, 6 IWCC 121, 2006 Ill. Wrk. Comp. LEXIS 210, *Borreson vs. USF Holland, Inc*., 5 IWCC 595, 2005 Ill. Wrk. Comp. LEXIS 558, holding interlocutory Orders are not reviewable by the Commission. Therefore, Petitioner's Petition for Review of the Order entered on November 18, 2025, is dismissed for lack of jurisdiction. Due to the interlocutory nature of the Order, it is premature to address Petitioner's claimed evidentiary objections and claimed bias on the part of the Arbitrator at this stage of the proceedings.

The transcript of the hearing held on November 4, 2025, shall remain part of the evidentiary record on remand. See *Andrade vs. City of Chicago Heights*, 7 IWCC 10742007 Ill. Wrk. Comp. LEXIS 1167. See also *Centeno vs. Illinois Workers' Compensation Comm'n*, 2020 IL App (2d) 180815WC, PP37-39 (judicial notice of transcript from hearing in different case). The parties may present additional testimony and medical evidence, if needed, regarding the period of time that has elapsed since the hearing held on November 4, 2025. Petitioner may claim additional TTD benefits, if applicable, given the time that has elapsed since the hearing on November 4, 2025. This matter will need to be decided on the merits by the Arbitrator once the procedural requirements are satisfied.

IT IS THEREFORE ORDERED BY THE COMMISSION that Petitioner's Petition for Review is hereby dismissed, as the Commission lacks jurisdiction to review the interlocutory order at issue.

IT IS FURTHER ORDERED BY THE COMMISSION that this case be remanded to the Arbitrator for further proceedings consistent with this Decision.

SEPTEMBER 22 2026

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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	25WC002714
Case Name	Mary Kass v. Federal Reserve Bank of Chicago
Consolidated Cases	
Proceeding Type	Petition for Review under 19(b)
Decision Type	Commission Decision
Commission Decision Number	26IWCC0268
Number of Pages of Decision	21
Decision Issued By	Stephen Mathis, Commissioner

Petitioner Attorney	Jack Cannon
Respondent Attorney	Scott Webber

DATE FILED: 9/22/2026

/s/Stephen Mathis, 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 Choose reason	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify Choose direction	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Mary Kass,

Petitioner,

vs. No. 25 WC 02714

Federal Reserve Bank of Chicago,

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, prospective medical care and temporary disability, and being advised of the facts and law, corrects 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, medical benefits or of compensation for permanent disability, if any, pursuant to *Thomas v. Industrial Commission*, 78 Ill.2d 327 (1980).

The Commission corrects a typographical error on p. 7, ¶ 6, which should start with "Dr. Deutsch," not "Dr. Mekhail."

All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator filed January 26, 2026, is hereby corrected, 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 $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.

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

SEPTEMBER 22 2026

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

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	25WC002714
Case Name	Mary Kass v. Federal Reserve Bank of Chicago
Consolidated Cases	
Proceeding Type	19(b) Petition
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	18
Decision Issued By	James Byrnes, Arbitrator

Petitioner Attorney	Jack Cannon
Respondent Attorney	Scott Webber

DATE FILED: 1/21/2026

/s/ James Byrnes, 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
19(b)

MARY KASS
Employee/Petitioner

v.

FEDERAL RESERVE BANK OF CHICAGO
Employer/Respondent

Case # **25** WC **002714**

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 **James Byrnes**, Arbitrator of the Commission, in the city of **Chicago**, on **November 10, 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, **1/22/2025**, 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 $**98,941.32**; the average weekly wage was $**1,902.72**.

On the date of accident, Petitioner was **54** years of age, ***single*** 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 $**22,056.22** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $**22,056.22**, for the stipulated TTD period of 3/21/2022 through 4/27/2022.

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, of $**197.00** to **Parkview Orthopaedic Group**, and $**1,279.00** to **Northwestern Medicine**, as provided in Sections 8(a) and 8.2 of the Act.

Respondent shall be given credit for all medical payments made prior to trial, as reflected in both the billing records of Parkview Orthopaedic Group and Northwestern Medicine, as well as in the medical payment ledger submitted by Respondent.

Respondent is ordered to provide and pay for the C5-6 and C6-7 anterior cervical decompression discectomy and total disc replacement, as prescribed by Dr. Mekhail, and for reasonable and necessary post-operative care.

Respondent shall pay Petitioner temporary total disability benefits of $**1,268.48**/week for **41-5/7** weeks, commencing **1/23/2025** through **11/10/2025**, as provided in Section 8(a) of the Act.

Respondent shall be given a credit of $**22,056.22** for temporary total disability benefits that have been paid.

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 21 2026

ICArbDec19(b)

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

MARY KASS,	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 25WC002714
	)	
FEDERAL RESERVE BANK OF CHICAGO,	)	
	)	
Respondent.	)	

MEMORANDUM OF DECISION OF ARBITRATOR

PROCEDURAL HISTORY

This matter proceeded to hearing in Chicago, Illinois before Arbitrator James Byrnes on November 10, 2025, pursuant to a Section 19(b) Petition for Immediate Hearing filed by the Petitioner. Attorney Jack Cannon of Cannon Law appeared on behalf of the Petitioner. Attorney Scott A. Webber of Rusin & Maciorowski appeared on behalf of Respondent.

The parties stipulated to all issues other than causal connection, average weekly wage, medical bills, TTD benefits, and prospective medical treatment. (AX 1) Petitioner's Exhibits 1 through 3 and Respondent's Exhibits 1 through 8 were admitted into evidence. After considering the testimony and reviewing the evidence presented, the Arbitrator makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

Job Duties

Mary Kass (hereinafter referred to as "Petitioner") testified that she has been an employee of the Federal Reserve Bank of Chicago (hereinafter referred to as "Respondent") for 19 years. (T 10) Petitioner testified that she is employed as a stationary engineer, an occupation she has had for the past 24 years. (T 11) She operates and maintains building equipment such as heating, air conditioning, ventilation, and plumbing. (T 11) Petitioner's job requirements include climbing ladders to reach equipment (e.g., to repair or replace motors), crawling in tight spaces (e.g., to repair boilers), lifting equipment and manholes overhead, and moving equipment and barrels weighing from 25 pounds to 100 pounds. (T 12-13) Petitioner testified to generally being able to perform her work related duties until January 22, 2025. (T 14) Petitioner stated her highest level of education is a high school degree. (T 11)

Petitioner testified to earning $46.27 per hour from January to August 2024 and later receiving a retro pay raise to $48.02 per hour. (T 52) Per the union contract, she received a raise in May 2024, after which her hourly rate increased to $48.02. (*Id.*) She testified to regularly working more than 48 hours per week. (T 22)

Accident

On January 22, 2025, Petitioner was looking for a part in the storage room when an eight-foot wooden ladder fell on top of her, pushing her into a table, and trapping her underneath it. (T 14) Petitioner testified the ladder struck her neck and back, causing pain in those areas. (T 15-16) Petitioner did not finish her shift and sought medical treatment at Northwestern Hospital in Palos Park the same day, complaining of neck and back pain, headache, dizziness, and nausea. (T 15) The hospital performed diagnostic tests (MRI and CAT scans, including of her neck and back), and gave her a pill for the nausea. (T 15-16) The hospital also recommended that she follow up with her primary care physician, which she did on January 30, 2025. (T 18)

Prior Medical Condition

The Petitioner testified that she sought and received treatment for her neck prior to the work accident of January 22, 2025. (T 16) This included treatment at Parkview Orthopaedic Group ("Parkview") with Dr. Mekhail, with whom she had treated from time to time, and he offered various treatment options for her neck, including surgery. (T 17) She declined to proceed with surgery prior to the work accident because her pain was manageable, and she was able to work without taking time off. (*Id*.)

Petitioner testified that she had begun treatment with Dr. Mekhail for her previous neck condition on April 29, 2019. (T 42) Petitioner testified that she reported suffering from right arm numbness, tingling, and radiating pain to Dr. Mekhail. (T 43) Petitioner testified that she returned to Dr. Mekhail in 2021 and complained of radiating pain from the neck into the right upper extremity and right fingers. (T 43-44) She underwent a course of physical therapy at Parkview in 2021. (T 44)

Petitioner returned to Dr. Mekhail in May of 2022, complaining of bilateral hand and finger numbness, and she underwent an MRI scan on May 16, 2022, at the referral of Dr. Mekhail. (T 45) Petitioner testified that Dr. Mekhail had suggested surgical intervention as an option, and she chose not to pursue due to her previous neck condition improving and not interfering with her ability to work. (T 46)

The Petitioner testified to going to the emergency department at Northwestern in Palos Park on May 8, 2023, complaining of numbness and neck pain. (T 47) She was also seen by Dr. Mekhail on that date, who diagnosed her with protrusions at C4-5 and C5-6, and who again advised that surgery may be necessary, but she elected to forego such treatment because the symptoms would come and go, and she was able to work. (T 47-48)

The medical records confirm the Petitioner's testimony regarding her pre-accident medical condition and treatment regarding her cervical spine. On April 29, 2019, the Petitioner reported to

Dr. Anis Mekhail of Parkview that she was experiencing neck pain, right shoulder blade pain, right arm numbness and tingling, as well as right elbow pain, and that the condition "has been going on for over a year." (PX 1, p. 141) Dr. Mekhail recommended an MRI scan for her neck. (*Id.*)

The Petitioner was next seen by Dr. Mekhail on November 18, 2021, complaining of neck pain that radiated down the right shoulder blade, as well as numbness in the right hand in the radial aspect of the hand, which wakes her up at night. (PX 1, p. 136) She advised the doctor that she never proceeded with the MRI scan of her neck. (*Id*.) X-rays on that date revealed reversal of cervical lordosis, especially at the level C5-6. (*Id*.) Dr. Mekhail prescribed physical therapy for the neck and the use of diclofenac lotion. (*Id.*) The Petitioner participated in physical therapy at Parkview from February 10, 2022, through March 7, 2022. (*Id.*, pp. 127-131)

The Petitioner returned to Dr. Mekhail on May 2, 2022, complaining of bilateral hand numbness. (PX 1, p. 126) Dr. Mekhail noted the Petitioner was neurologically intact but had limited range of motion of her neck. (*Id.*) The Petitioner reported the physical therapy had helped but she was still bothered by the symptoms, and so he again recommended an MRI scan of the neck. (*Id.*)

The MRI scan of Petitioner's cervical spine was performed at Parkview on May 16, 2022, and the results showed disc bulging at C5-6 with moderate left and mild-to-moderate right foraminal narrowing, and shallow central protrusion of the C4-5 disc with mild-to-moderate central canal narrowing and mild bilateral foraminal narrowing. (PX 1, p. 188)

At the follow up office visit with Dr. Mekhail on June 6, 2022, the doctor reviewed the results of the MRI scan, noting a central disc protrusion at C4-5 without neural compression and disc protrusion and disc osteophytic complex at C5-6, causing more foraminal stenosis on the left than on the right. (PX 1, p. 124) He advised that if she could live with her condition and it was not affecting her quality of life, she should avoid intervention and continue with home exercises learned during physical therapy. (*Id.*) Otherwise, the next step would be an injection, and the last resort would be surgery, possibly involving a disc replacement. (*Id*.)

On May 8, 2023, the Petitioner presented to the emergency department of Northwestern Medicine in Palos Heights, complaining of tingling in the first three fingers of her right hand, which would come and go depending on certain neck movements. (RX 4, p. 123) She reported a prior history of treatment with Dr. Mekhail for neck problems. (*Id.*) The Petitioner was provided with pain medication, which improved her symptoms, and she was to follow up with her orthopedic surgeon. (*Id.*, p. 124)

The Petitioner saw Dr. Mekhail on May 8, 2023, following her visit to the emergency room, complaining of neck pain and right radiculopathy, which was getting progressively worse. (PX 1, p. 123) Dr. Mekhail prescribed a new MRI scan to determine conservative (PT, medicine, injections) versus surgical (anterior cervical decompression and fusion) options. (*Id*.)

On February 21, 2024, the Petitioner was seen by her primary care physician, Dr. Thota of Northwestern Medicine Primary Care, for various issues, including headaches and neck

discomfort. (RX 3, p. 156) Dr. Thota assessed neck pain and recommended a cervical x-ray to determine if Petitioner's headaches were related to a cervical condition. (*Id*., p. 158)

The Petitioner was seen by Dr. Thota for her annual physical examination on January 20, 2025, at which time she complained of some pain in her left buttocks which radiated down her leg, but there is no indication of complaints of neck pain or radiation. (RX 3, p. 48) The examination of the back revealed some discomfort in the SI joint; the examination of the neck was negative. (*Id*., p. 46) Dr. Thota diagnosed sciatica of the left side and prescribed medication. (*Id.*, p. 47)

Summary of Post-Accident Medical Records

The Petitioner presented to Northwestern Medicine Emergency Medicine in Palos Heights on January 22, 2025, complaining of pain in her lower back on the right, as well as nausea. She reported being at work and a ladder falling on top of her. She was uncertain if she suffered any head injury or loss of consciousness. (PX 2, p. 372) The Petitioner reported to the triage nurse that "a ladder fell on her and ended up hitting her and knocking her into a table." (*Id.*, p. 378) The Petitioner endorsed mid back and left shoulder pain after it fell on her, as well as a headache with dizziness. (*Id.*) The physical examination revealed diffuse tenderness of the upper lumbar spine, with right sided paraspinal tenderness. (*Id.*, p. 373)

A CT scan of the brain was performed and showed no acute intracranial abnormality. (PX 2, p. 375) A CT scan of the cervical spine was performed and showed multilevel degenerative changes, most prominent at C5-6. (*Id.*, p. 375-376) An MRI scan of the cervical spine was negative for fractures, but did show endplate degeneration and mild disc space narrowing at C5-6, with a central and left paramedian disc/osteophyte complex measuring 3 to 4 mm, effacing the ventral CSF space, a right posterolateral disc protrusion measuring 2 mm at C6-7, and a 3 mm central to left paramedian disc extrusion at T1-2. (*Id.*, p. 374) X-rays of the lumbar spine showed mild spondylosis, levoscoliosis and fact joint arthritis. (*Id.*, p. 376)

The Petitioner was diagnosed with a head injury and contusion of the right side of her back and was advised to follow up with her doctor in 1 to 2 days or return to the emergency department if her condition worsens. (PX 2, p. 408)

The Petitioner followed up with Dr. Sulo of Northwestern Medicine Primary Care on January 30, 2025, and reported that on January 22, 2025, while at work, she was hit in the back by a falling wooden ladder, hitting her mainly on the right side of her upper back between the scapula. Since that time, she has been experiencing pain mainly over both scapulas and in her low back, as well as occasional numbness in the fingers of both hands, as well as stiffness in her neck. (PX 2, p. 320) The physical examination showed discomfort with palpation over both scapulas, right greater than left, and tenderness with percussion over the lumbar spine. (*Id.*) Dr. Sulo diagnosed upper back pain and acute bilateral low back pain without sciatica, and prescribed medication and physical therapy. (*Id.*, pp. 316, 323) He also ordered her to remain off work while participating in physical therapy. (*Id.*, p. 334)

On February 5, 2025, the Petitioner presented to Athletico Physical Therapy for an initial evaluation regarding her upper and lower back pain. On that date, she complained of bilateral mid and lower back pain, tingling in both hands, and palpable symptoms in the upper trapezius and cervical muscles. (PX 3, p. 25) She was to participate in physical therapy 3 times per week for the next 6 weeks.

The Petitioner was seen by Dr. Thota of Northwestern Medicine Primary Care on February 19, 2025, reporting that a ladder fell on her at work, causing her to be pushed forward into a table. (PX 2, p. 267) She complained of lightheadedness and dizziness if the moved her head too quickly, as well as a significant amount of posterior thoracic pain, mostly in between her shoulder blades, which would radiate into her shoulders. (*Id.*) The physical examination did reveal a significant amount of muscle tightness in the trapezius area bilaterally, along with muscle spasm into the scapular area. (*Id*., p. 268) Dr. Thota advised her to continue with physical therapy for the muscle spasms and prescribed vestibular therapy for the dizziness. (*Id*.) She was to remain off work until reevaluation on March 7, 2025. (*Id*., p. 277)

At the next office visit on March 7, 2025, the Petitioner advised Dr. Thota that despite physical therapy, she was experiencing a lot of neck discomfort and decreased range of motion. (PX 2, p. 213) The physical examination continued to show muscle spasm and tightness in the trapezius area bilaterally with decreased range of motion of the neck, along with reproduceable discomfort in the posterior upper thoracic area. (*Id.*, p. 213) Dr. Thota diagnosed cervical paraspinous muscle spasm and advised Petitioner to continue with physical therapy and to try diclofenac gel and medication to treat the pain and spasm in her upper cervical and thoracic spine. (*Id.*, p. 214) The Petitioner was to remain off work until reevaluation on March 17, 2025. (*Id*., p. 222)

On March 11, 2025, the Petitioner participated in an initial vestibular therapy evaluation at Athletico Physical Therapy, to treat dizziness with movement and getting into and out of bed. (PX 3, p. 15) She was to participate in this therapy 1 time per week for the next 4 weeks. (*Id*., p. 17)

On March 17, 2025, the Petitioner advised Dr. Thota that she was improving with physical therapy and her motion was slowly improving, and that the vestibular therapy was helping with the dizziness. (PX 2, p. 196) Dr. Thota diagnosed upper back pain, cervical paraspinous muscle spasm and dizziness, advised the Petitioner to continue with therapy, and kept her off work until reevaluation on April 1, 2025. (*Id*., pp. 197, 204)

On April 1, 2025, the Petitioner advised Dr. Thota that she continued to have issues with neck and back pain since the injury and felt that she was about 60-65% better but was not able to lift heavy items because it caused neck and back pain. (PX 2, p. 159) She also continued to have dizziness and was participating in vestibular therapy. (*Id.*) The Petitioner still exhibited muscle tightness in the trapezius area, improved since the last visit. (*Id*., p. 160) Dr. Thota continued to prescribe physical and vestibular therapies, referred the Petitioner to an orthopedic spine specialist for neck and back pain since therapy and medication was not helping her, and referred her to a neurologist for the dizziness. She was also to remain off work. (*Id*., p. 168)

According to a functional status report from Athletico Physical Therapy, dated March 31, 2025, the Petitioner reported that her lower back was doing better, "but the upper part of my back is still pretty bad." (PX 3, p. 111) The assessment by the therapist on that date noted the Petitioner had participated in 22 sessions of therapy for her neck, thoracic and lumbar regions, and that she was able to perform lifts of up to 24 pounds to waist level, with greater limitations at shoulder level and above. (*Id*., p. 113) She had not yet demonstrated the ability to meet her job requirements, and so it was recommended that she continue with physical therapy. (*Id.*) The Petitioner was last seen for physical therapy regarding her neck and back on April 3, 2025, at which time she continued to complain of pain in the thoracic region. (*Id.*, p. 123)

The Petitioner was discharged from vestibular therapy at Athletico Physical Therapy on April 7, 2025, at which time she reported that her primary care doctor had referred her to a neurologist for ongoing symptoms. (PX 3, p. 5)

On April 14, 2025, the Petitioner attended an office visit with Dr. Mekhail of Parkview, at which time she reported experiencing neck pain radiating down the right arm to the right index and long fingers with numbness and tingling. (PX 1, p. 5) She reported being at work on January 22, 2025, when a ladder fell on her neck, and denied any neck problems prior to that injury. (*Id*.) She also reported back pain that for the most part had resolved. (*Id*.) Dr. Mekhail noted that he had previously treated the patient for neck pain and C4-5 disc herniation. (*Id*.)

The physical examination by Dr. Mekhail revealed decreased range of motion of the cervical spine, secondary to pain. (PX 1, p. 6) Dr. Mekhail noted the MRI scan of the cervical spine, taken on January 22, 2025, showed a right C5-6 disc osteophytic complex and right C6-7 herniated disc, causing significant neural compression, and he diagnosed right cervical radiculopathy that is causally related to the work injury, with C5-6 and C6-7 disc herniations. (*Id*.) Due to the failure of conservative treatment, the Petitioner expressed an interest in a surgical solution, and Dr. Mekhail recommended C5-6 and C6-7 anterior cervical decompression discectomy and total disc replacement. (*Id*.)

The Petitioner followed up with Dr. Thota on April 15, 2025, and advised the doctor that Dr. Mekhail was recommending cervical discectomy. Dr. Thota reminded Petitioner to address the thoracic abnormality at T1-2 with Dr. Mekhail at the next office visit. The Petitioner reported ongoing discomfort despite physical therapy. (PX 2, p. 111) Dr. Thota advised Petitioner to continue with physical therapy and to follow up with Dr. Mekhail for treatment of her cervical and thoracic spine. (*Id*., p. 112)

The Petitioner returned to see Dr. Mekhail at Parkview on June 26, 2025, continuing to complain of neck pain and radiculopathy. (PX 1, p. 2) The physical examination revealed a positive Spurling's test, but Petitioner was neurologically intact. (*Id.*) Dr. Mekhail continued to recommend surgery, and in the meantime advised her to continue with home exercises and to take medication sparingly. (*Id.*)

Expert Reports

Dr. Harel Deutsch, Section 12 Examination

On May 16, 2025, Dr. Harel Deutsch of Rush University Medical Center examined the Petitioner at the request of Respondent, pursuant to Section 12 of the Act. The Petitioner reported to Dr. Deutsch that she was at work on January 22, 2025, when a ladder fell on her, which did not cause her to fall to the ground but caused pain in her whole spine. (RX 1, p. 1) She did not recall whether the ladder hit her in the head. (*Id.*) She also reported driving herself to the emergency room later that evening and then following up with her primary care doctor and Dr. Mekhail at Parkview. (*Id*.)

Dr. Deutsch's report sets forth a summary of the medical records he reviewed, including those concerning pre-accident treatment from November 18, 2021, through January 20, 2025 (RX 1, pp. 2-4), and post-accident treatment from January 22, 2025, through April 14, 2025. (*Id.*, pp. 4-7)

The Petitioner's complaints on that date included neck pain of 8-9/10 with bilateral shoulder soreness but no pain down the arms. (RX 1, p. 7) She reported tingling in both hands and some right shoulder pain and felt that her condition was getting worse. (*Id.*) She admitted to experiencing neck problems before the accident but denied any other work injuries. She also advised that Dr. Mekhail had recommended cervical fusion surgery and state that, "I don't want to stay like this the rest of my life." (*Id*.)

The examination of the cervical spine revealed no pain to light palpation, no muscle spasm and normal range of motion, with some right trapezius tenderness. (RX 1, p. 8) The thoracic examination revealed pain to light palpation with bilateral shoulder tenderness. (*Id*., p. 9)

Based on the Petitioner's clinical presentation, the physical examination and review of medical records, Dr. Deutsch diagnosed a thoracic-lumbar contusion as a result of the work accident. (RX 1, p. 10) Dr. Deutsch notes that it was not until Petitioner was seen by Dr. Mekhail on April 14, 2025, that Petitioner complains of neck pain radiating down the right arm, and in his opinion, there was no documentation of any cervical spine injury causally related to the work injury. (*Id*.)

Dr. Mekhail also notes that prior to the work accident, Petitioner had a significant history of pre-existing neck pain, and surgery was recommended several times for C4-5 and C5-6 disc protrusion and radiculopathy. (RX 1, p. 10)

Regarding medical treatment, Dr. Deutsch expressed the opinion that treatment for a thoraco-lumbar contusion was reasonable and related to the work accident up until February 19, 2025, and no treatment for the cervical spine was related to the January 22, 2025, work accident. (RX 1, p. 10)

Regarding the ability to work, Dr. Deutsch expressed the opinion that Petitioner had no work restrictions related to the January 22, 2025, work accident, and currently had no restrictions related to the cervical, thoracic or lumbar spine. (RX 1, p. 11)

Regarding further medical treatment, Dr. Deutsch stated that Petitioner would not benefit from any further treatment for the thoracic or lumbar spine. (RX 1, p. 11) Dr. Deutsch did agree

that Petitioner would benefit from a cervical fusion or disc replacement at the C5-6 level, but such surgery would not be related to the work accident because it was recommended before the work accident and the January 22, 2025, cervical CT shows osteophytes at C5-6 consistent with a chronic pre-existing condition rather than an acute cervical disc herniation. Dr. Deutsch further stated there are no finding at C6-7 that would necessitate any spine surgery. (*Id.*)

Regarding whether Petitioner has reached maximum medical improvement, Dr. Deutsch stated that such is not applicable regarding the cervical spine, as there was no cervical spine injury as a result of the January 22, 2025, work accident. As for the thoracic and lumbar spine, Dr. Deutsch opined Petitioner reached maximum medical improvement on February 22, 2025. (RX 1, pp. 11-12)

Dr. Anis Mekhail, Parkview Orthopaedics Group

In his treatment report of June 26, 2025, Dr. Mekhail stated that he had reviewed the Section 12 examination report drafted by Dr. Deutsch. (PX 1, p. 2) When asked, the Petitioner reported to Dr. Mekhail that she told Dr. Deutsch that she had radiculopathy and not just hand numbness. (*Id.*) According to Dr. Mekhail, he treated the Petitioner before the work accident for a C4-5 disc herniation, as evidenced on the 2022 MRI scan, but that disc had subsided per the 2025 MRI scan. (*Id.*) According to Dr. Mekhail, the MRI scan of January 22, 2025, showed disc protrusions at both the C5-6 and C6-7 levels on the right side (and he questioned whether Dr. Deutsch reviewed the actual films or simply relied on the report). (*Id.*) Dr. Mekhail also stated that he confirmed with Petitioner that she was pain-free leading into the work injury. (*Id.*)

In sum, Dr. Mekhail is of the opinion Petitioner has C5-6 and C6-7 disc protrusions on the right side which explain her radiculopathy and that her symptoms stem from the work injury of January 22, 2025 ("Hence, I believe that the work injury is the culprit for her radiculopathy"). (PX 1, p. 2) Since the Petitioner was still interested in surgery, he still recommends the same surgery (C5-6 and C6-7 anterior cervical decompression discectomy and total disc replacement).

Petitioner's Current Condition

Prior to the work accident, the Petitioner's neck pain was manageable, and she was able to work and didn't lose any time from work. Since the accident, the pain has been much worse, is intense and is constant. (T 20) The physical therapy she underwent at Athletico Physical Therapy did not help to alleviate her pain. (T 23) The Petitioner would like to undergo the surgery prescribed by Dr. Mekhail. (T 20)

Petitioner's Wage Records

According to the wage records for the 52-week period prior to the work accident, specifically January 16, 2024, through January 15, 2025, the Petitioner earned a total of $98,941.38. Specifically, for the periods of January 16, 2024, through August 15, 2024, she was paid $4,027.40 on a semi-monthly basis, totaling $56,383.60. For the period of August 16, 2024, through August 31, 2024, she was paid $5,102.12. For the periods of September 1, 2024, through January 15, 2025, she was paid $4,161.74 on a semi-monthly basis, totaling $37,455.66. (RX 7)

The records also indicate that Petitioner worked overtime during 16 of the 24 pay periods, with the hours worked varying from 0.75 per pay period up to 18.5. (RX 7) She testified that she worked over 40 hours per week "a couple times a month," due to shift coverage or projects they were working on. (T 22)

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). A decision by the Commission cannot be based upon speculation or conjecture. *Deere and Company v. Industrial Commission,* 47 Ill.2d 144, (1970). A Petitioner seeking an award before the Commission must prove by a preponderance of credible evidence each element of the claim. *Illinois Institute of Technology v. Industrial Commission,* 68 Ill.2d 236, (1977).

Regarding Issue (F), is Petitioner's current condition of ill-being 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. *Land & Lakes Co. v. Industrial Comm'n (Dawson)*, 359 Ill. App. 3d 582, 592 (2nd Dist. 2005). "In a [workers'] compensation proceeding, the claimant has the burden of showing by a preponderance of credible evidence that his injury arose out of and in the course of employment, which requires a showing of causal connection." *Horath v. Industrial Com.*, 96 Ill. 2d 349, 356 (1983), citing *Rosenbaum v. Industrial Com.*, 93 Ill. 2d 381, 386 (1982).

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 (2003). "'[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).

The Petitioner does not deny, and the medical records establish, that prior to the work accident on January 22, 2025, she experienced neck pain and radiculopathy, and that she had sought and received treatment for that condition prior to the work accident. The question is whether the accident aggravated or accelerated the condition such that Petitioner now requires surgery as recommended by Dr. Mekhail.

It is the opinion of Dr. Mekhail, Petitioner's treating physician, that the accident at work on January 22, 2025, is the "culprit" of Petitioner's current cervical condition, which include disc protrusions at C5-6 and C6-7 on the right side, causing Petitioner's radiculopathy, such that an anterior cervical decompression discectomy and total disc replacement is now necessary.

Conversely, it is the opinion of Dr. Deutsch, Respondent's expert physician, that the work accident on January 22, 2025, at most caused a thoraco-lumbar contusion, from which Petitioner reached maximum medical improvement by February 22, 2025. While he agrees that Petitioner would benefit from a cervical fusion or disc replacement at the C5-6 level, such surgery would not be related to the work but rather to a chronic pre-existing condition rather than an acute cervical disc herniation. Dr. Deutsch is also of the opinion that there are no findings at C6-7 that would require spine surgery.

After considering the opinions of both physicians, the Arbitrator finds the opinion of Dr. Mekhail to be more persuasive than that of Dr. Deutsch, for the following reasons.

First, Petitioner testified that the symptoms in her neck are much worse following the work accident, as compared to the condition prior to the accident. Prior to the accident, the pain was manageable, and she was able to perform her regular work duties. It was only after the accident that her symptoms became consistently more intense and interfering with her ability to work.

This testimony is supported by the fact that during the approximately 6 years prior to the work accident (April 2019 to January 2025), the medical records reflect that Petitioner sought treatment for and/or expressed symptoms in her cervical spine on six occasions. In the approximately 6 *months* following the work accident (January 2025 to June 2025), the medical records reflect that Petitioner sought treatment and/or expressed symptoms in her cervical spine on ten occasions. At no point during the treatment prior to the work accident did either Petitioner's primary care physician (Dr. Thota) or orthopaedic surgeon (Dr. Mekhail) restrict or take Petitioner off work, whereas she has been kept off work by those physicians since the work accident.

The Arbitrator also finds it notable that during her annual physical examination on January 20, 2025, two days before the accident, Petitioner complained of some pain in her left buttocks which radiated down her leg, but there is no indication of complaints of neck pain or upper extremity radiculopathy. The examination of the back revealed some discomfort in the SI joint; the examination of the neck was negative. Prior to the work accident, the most recent indication of neck discomfort was when Petitioner was seen by Dr. Thota in February 2024, nearly a year before the work accident.

Second, Dr. Mekhail refers to a change in the MRI findings in comparing the pre- and post-accident cervical MRI scans, specifically that the findings at C4-5 for which he had been treating Petitioner prior to the work accident did not appear on the post-accident MRI scan (or "subsided," in his words). The cervical MRI scan of May 16, 2022, showed disc bulging at C5-6 with moderate left and mild-to-moderate right foraminal narrowing, and shallow central protrusion of the C4-5 disc with mild-to-moderate central canal narrowing and mild bilateral foraminal narrowing. Dr. Mekhail interpreted the MRI scan as showing a central disc protrusion at C4-5 without neural

compression and disc protrusion and disc osteophytic complex at C5-6, causing more foraminal stenosis on the left than on the right.

The MRI scan of the cervical spine conducted on the date of the accident showed endplate degeneration and mild disc space narrowing at C5-6, with a central and left paramedian disc/osteophyte complex measuring 3 to 4 mm, effacing the ventral CSF space, a right posterolateral disc protrusion measuring 2 mm at C6-7, and a 3 mm central to left paramedian disc extrusion at T1-2. There are no findings at the C4-5 level noted on the MRI report.

A comparison of the pre- and post-accident MRI findings show that Petitioner's cervical condition had improved at C4-5 and was worse at C5-6 and C6-7; this further supports the opinion of Dr. Mekhail.

Third, Dr. Deutsch states, in support of his opinion, that the cervical surgery currently prescribed by Dr. Mekhail had in fact been prescribed by him on several occasions prior to the work accident. A review of Dr. Mekhail's records shows, however, that while surgery was discussed with Petitioner prior to the work accident, such was discussed in the manner of a treatment option of last resort, rather than a procedure that was required as soon as possible. For example, at the office visit on June 6, 2022, Dr. Mekhail advised Petitioner that if she could live with her condition and it was not affecting her quality of life, she should avoid intervention and continue with home exercises learned during physical therapy. At the office visit on May 8, 2023, Dr. Mekhail prescribed a new MRI scan to determine conservative (PT, medicine, injections) versus surgical (anterior cervical decompression and fusion) options. It was only after an unsuccessful course of physical therapy at Athletico that Dr. Mekhail recommended C5-6 and C6-7 anterior cervical decompression discectomy and total disc replacement to treat Petitioner's condition.

Finally, Dr. Mekhail has been Petitioner's treating orthopaedic physician since 2019 and thus is personally aware of the condition of Petitioner's cervical spine both before and after the work accident on January 22, 2025. Conversely, Dr. Deutsch examined the Petitioner on one occasion in 2025. The Arbitrator finds the pre- and post-accident treatment relationship with Dr. Mekhail to be a factor in finding his opinion to be more persuasive on the question of causal connection. "It is for the Commission to decide which medical view is to be accepted, and it may attach greater weight to the opinion of the treating physician." *International Vermiculite Co. v. Industrial Comm'n.* (1970), 77 Ill. 2d 1,4; See also *Caterpillar Tractor Co. v. Industrial Com.* (1983), 97 Ill. 2d 35, 43; *Compass Group v. Ill. Workers' Comp. Comm'n*, 2014 IL App (2d) 121283WC, ¶ 20.

Based on the above and the evidence as presented, the Arbitrator finds the Petitioner has proven by a preponderance of the evidence that her current condition of ill-being is causally related to the work accident of January 22, 2025.

Regarding Issue (G), what were Petitioner's earnings, the Arbitrator finds as follows:

Section 10 of the Act provides the basis for computing the compensation provided for in Section 7 and 8 of the Act. Specifically, Section 10 states:

> "The compensation shall be computed on the basis of the 'Average weekly wage' which shall mean the actual earnings of the employee in the employment in which he was working at the time of the injury during the 52 weeks ending with the last day of the employee's last full pay period immediately preceding the date of injury, illness or disablement excluding overtime, and bonus divided by 52; …" 820 ILCS 305/10 (West 2012)

The claimant has the burden of establishing his average weekly wage. *Edward Don Co. v. Industrial Comm'n*, 344 Ill. App. 3d 643, 655 (2003).

According to the wage records for the 52-week period prior to the work accident, ending with the Petitioner's last full pay period immediately preceding the date of accident (January 16, 2024, through January 15, 2025), the Petitioner earned a total of $98,941.38. Specifically, for the periods of January 16, 2024, through August 15, 2024 (14 pay periods), she was paid $4,027.40 on a semi-monthly basis, totaling $56,383.60. For the period of August 16, 2024, through August 31, 2024 (1 pay period), she was paid $5,102.12. For the periods of September 1, 2024, through January 15, 2025 (9 pay periods), she was paid $4,161.74 on a semi-monthly basis, totaling $37,455.66. (RX 7)

The wage records also set forth overtime hours worked by Petitioner, but these hours were not regular and continuous and varied from week-to-week. Petitioner did not offer testimony as to whether such hours were mandatory, and the "amount paid" column on the wage document does not delineate as to whether said amount was for regular or overtime pay (or both). The Arbitrator therefore finds the best evidence of Petitioner's earnings during the year preceding her accident of January 22, 2025, was the "amount paid" from January 16, 2024, through January 15, 2025, which totaled $98,941.38.

Dividing the total of $98,941.32 by 52 weeks results in an average weekly wage of $1,902.72, resulting in a TTD rate of $1,268.48 and a PPD rate of $1,405.92, the statutory maximum rate in effect at the time of the January 22, 2025, accident.

The Arbitrator therefore finds that based on the above and the preponderance of the evidence presented, Petitioner has proved that her average weekly wage during the 52-week period prior to the work accident of January 22, 2025, was $1,902.72.

Regarding 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…" 820 ILCS 305/8(a) (West 2012). A claimant has the burden of proving 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).

The Petitioner alleges on the Request for Hearing stipulation form submitted at trial that Respondent is liable for unpaid medical bills from Parkview Orthopaedic Group in the amount of $197.00, and from Northwestern Medicine in the amount of $1,279.00. (AX 1)

The Petitioner was seen on two occasions by Dr. Mekhail at Parkview following the work accident: on April 14, 2025, and on June 26, 2025. Parkview charged $465.00 for the April 14, 2025, office visit, and the documentation shows a workers' compensation adjustment and payment was made, leaving a zero balance. (PX 1, p. 115) Parkview charged $207.00 for the June 26, 2025, office visit, and no adjustment or payment was made (*Id.*), but Petitioner is bound by her stipulation that $197.00 remains unpaid.

She treated at Northwestern Medicine Primary Care for her work-related injury from January 30, 2025, through April 15, 2025 (PX 2, pp. 111-333), and incurred $1,279.00 in charges. The billing records reflect payments and write-offs, leaving a zero balance. (*Id.*)

The Petitioner treated at Northwestern Medicine Emergency Medicine Palos Heights on January 22, 2025 (PX 2, pp. 372-408) and incurred a total of $21,101.75 in charges. (*Id.*, pp. 432-436) The billing records reflect payments and write-offs, leaving a zero balance. (*Id.*) The Petitioner did not allege such bills are unpaid on the Request for Hearing stipulation form submitted at trial. (AX 1)

The Petitioner also incurred charges for physical therapy services rendered by Athletico Physical Therapy from February 5, 2025, through April 3, 2025 (PX 3, pp. 140-141), but Petitioner did not allege such bills are unpaid on the Request for Hearing stipulation form submitted at trial. (AX 1)

The Arbitrator has found that Petitioner's current condition of ill-being is causally related to the work accident of January 22, 2025. The Arbitrator also finds that Petitioner has proved by a preponderance of the evidence that the treatment rendered by the providers listed above, during the periods set forth above, as set forth in the Findings of Fact and as reflected in the medical exhibits entered into evidence, has been reasonable, necessary, and causally related to the work accident of January 22, 2025.

The Arbitrator therefore awards medical bills of $197.00 for treatment at Parkview Orthopaedic Group and $1,279.00 for treatment at Northwestern Medicine, to be paid pursuant to Sections 8 and 8.2 of the Act.

Respondent shall be given credit for all medical payments made prior to trial, as reflected in both the billing records of Parkview Orthopaedic Group and Northwestern Medicine, as well as in the medical payment ledger submitted by Respondent. (RX 5)

Regarding Issue (K), is Petitioner entitled to any prospective medical care, the Arbitrator finds as follows:

Specific medical procedures or treatments that have been prescribed by a medical service provider have been "incurred" within the meaning of the statute, even if they have not yet been

paid for. To limit the scope of section 8(a) to treatments already performed or paid for would be contrary to the remedial purpose of the Act and the mandate to interpret the Act liberally so as to affect that purpose. *Plantation Mfg. Co. v. Industrial Comm'n (Razo)*, 294 Ill. App. 3d 705, 710 (2nd Dist. 1997), citing to *Hardin Sign Co. v. Industrial Comm'n*, 154 Ill. App. 3d 386 (3rd Dist. 1987).

The Arbitrator adopts the above Findings of Fact and Conclusions of Law and incorporates them by reference as though fully set forth herein. The Arbitrator finds that Petitioner has not reached maximum medical improvement and requires medical care to cure and relieve her from her current condition of ill-being.

Dr. Mekhail has recommended surgery, specifically a C5-6 and C6-7 anterior cervical decompression discectomy and total disc replacement. Dr. Deutsch agrees that such treatment would be appropriate for Petitioner's C5-6 condition but denies that such surgery would be related to the work accident of January 22, 2025; he finds no reason for surgery at C6-7.

For the reasons set forth *supra*, the Arbitrator finds the opinion of Dr. Mekhail regarding prospective medical treatment to be more persuasive and agrees his proposed course of treatment is a reasonable plan at this time, as Petitioner has exhausted conservative treatment for her cervical spine condition. She has expressed a desire to undergo the surgery proposed by Dr. Mekhail.

As such, the Arbitrator finds that Petitioner has proved by a preponderance of the evidence that Dr. Mekhail's prescription for C5-6 and C6-7 anterior cervical decompression discectomy and total disc replacement is a reasonable and necessary course of treatment which is causally related to the work accident of January 22, 2025.

Respondent is therefore ordered to provide and pay for the C5-6 and C6-7 anterior cervical decompression discectomy and total disc replacement, as prescribed by Dr. Mekhail, and for reasonable and necessary post-operative care.

Regarding Issue (L), whether Petitioner is entitled to temporary total disability benefits, the Arbitrator finds as follows:

The Petitioner is seeking an award of temporary total disability ("TTD") benefits for the period of January 23, 2025, through the date of hearing on November 10, 2025, representing 41-5/7 weeks. (AX 1) Respondent claims Petitioner is only entitled to TTD benefits from January 23, 2025, through February 22, 2025, a period of 4-3/7 weeks. (*Id.*)

In determining ongoing eligibility for TTD, the dispositive question is whether the claimant's condition has stabilized, including whether further curative measures are prescribed. *Interstate Scaffolding v. IWCC*, 236 Ill. 2d 132 (2010); *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 542 (2007) ("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"). The factors to consider in deciding whether a claimant's condition has stabilized include: (1) a release to return to work, (2) the medical

testimony about the claimant's injury, and (3) the extent of the injury. *Land & Lakes Co. v. Indus. Comm'n* (Dawson), 359 Ill. App. 3d 582, 585 (2005).

The medical treatment records establish that Petitioner has been kept off work from January 23, 2025, through the date of hearing on November 10, 2025, pending cervical surgery. Dr. Mekhail has prescribed further treatment (surgery), while Dr. Deutsch opined that Petitioner had reached maximum medical improvement by February 22, 2025, and deemed Petitioner capable of returning to full duty work without restriction.

Having found the opinion of Dr. Mekhail to be more persuasive than that of Dr. Deutsch on the issues of causal connection and prospective medical treatment, the Arbitrator also finds Dr. Mekhail to be more persuasive on the issue of whether Petitioner's condition has stabilized and whether she can return to work, for the same reasons as set forth *supra*.

Finding that Petitioner's condition has not stabilized and based on the medical treatment records noted above and the evidence as presented, the Arbitrator awards TTD benefits in the amount of $1,268.48 per week, for the period of January 23, 2025, through November 10, 2025, representing a total of 41-5/7 weeks.

Respondent is awarded credit for the $22,056.22 in TTD benefits it paid prior to the hearing, per the stipulation of the parties (AX 1) and per Respondent's TTD payment ledger (RX 6).

IT IS SO ORDERED:

James M. Byrnes, Arbitrator

January 21 2026

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26IWCC0270

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ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC016234
Case Name	Gannon Wilson v. State of Illinois - Menard Correctional Center
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0271
Number of Pages of Decision	12
Decision Issued By	Marc Parker, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Aaron Wright

DATE FILED: 9/25/2026

/s/Marc Parker, Commissioner

Signature

STATE OF ILLINOIS)
) SS.
COUNTY OF)
WILLIAMSON

☐ 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: Medical Payment	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

GANNON WILSON
Petitioner,

vs. NO: 24 WC 16234

SOI/MENARD,
Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by Respondent and Petitioner herein and notice given to all parties, the Commission, after considering the issues of accident, notice, causation, medical expenses, and permanent partial disability, and being advised of the facts of 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 thereof.

The Commission modifies the Decision of the Arbitrator with respect to the award of medical expenses related to Petitioner's right trigger finger, including but not limited to, the open right small finger trigger release. Although the Arbitrator did not specifically award medical expenses for Petitioner's right trigger finger, he did award all reasonable and necessary medical services as identified in Petitioner' Exhibit 1, for medical services provided to Petitioner, as provided in Section 8(a) and 8.2 of the Act. The Commission notes that Petitioner's Exhibit 1 includes charges for the care and treatment of the right trigger finger with Dr. Matthew Bradley.

The operative note dated September 11, 2024, indicates that on the morning of Petitioner's scheduled right carpal and cubital tunnel release with Dr. Matthew Bradley, Petitioner presented with his small finger in a locked flexed position at the proximal interphalangeal joint. It was noted that Petitioner's finger became stuck every time he flexed it, and the diagnosis of trigger finger was made. Given the severity of the trigger finger and the fact Petitioner was already having surgery, Dr. Bradley added an open trigger finger release with Petitioner's consent. The operative note contained no opinion linking the right trigger finger to Petitioner's job duties. Outside of the operative note, there was no testimony or other medical evidence relating the right trigger finger to Petitioner's job duties. Therefore, the Commission modifies and strikes any portion of the medical award for the care and treatment of Petitioner's right trigger finger.

All else is affirmed and adopted.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision of the Arbitrator dated March 2, 2026, is modified as stated herein.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay all reasonable and necessary medical services as identified in Petitioner's Exhibit 1, for medical services provided to Petitioner, and as provided in Section 8(a) and 8.2 of the Act, with the exception of any medical services provided to Petitioner for the care and treatment of his right trigger finger. The Commission strikes the portion of the medical award for the care and treatment of Petitioner's right trigger finger.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner permanent partial disability benefits of $901.27 per week for 110.75 weeks because the injury sustained caused the 12.5% loss of use of the right hand, 12.5% loss of use of the left hand, 12.5% loss of use of the right arm, and 12.5% loss of use of the left arm, as provided in Section 8(e) of the Act.

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.

SEPTEMBER 25 2026

/s/ *Marc Parker*
Marc Parker

MP:ns
o 9/10/26
68

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

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

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC016234
Case Name	Gannon Wilson v. State of Illinois - Menard Correctional Center
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	Thomas C Rich
Respondent Attorney	Aaron Wright

DATE FILED: 3/2/2026

/s/ William Gallagher, Arbitrator
Signature

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

MARCH 2 2026

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF FEBRUARY 24 2026 3.53%

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

Gannon Wilson
Employee/Petitioner

v.

State of IL/Menard C.C.
Employer/Respondent

Case # 24 WC 16234

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 William R. Gallagher, Arbitrator of the Commission, in the city of Herrin, on February 2, 2026. 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 June 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 causally related to the accident.

In the year preceding the injury, Petitioner earned $78,110.24; the average weekly wage was $1,502.12.

On the date of accident, Petitioner was 33 years of age, single 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 amounts paid under Section 8(j) of the Act.

ORDER

Respondent shall pay reasonable and necessary medical services as identified in Petitioner's Exhibit 1, for medical services provided to Petitioner, as provided in Sections 8(a) and 8.2 of the Act, subject to the fee schedule. Respondent shall receive a credit for amounts paid 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 permanent partial disability benefits of $901.27 per week for 110.75 weeks because the injury sustained caused the 12 1/2% loss of use of the right hand, 12 1/2% loss of use of the left hand, 12 1/2% loss of use of the right arm, and 12 1/2% loss of use of the left arm, as provided in Section 8(e) of the Act.

Respondent shall pay Petitioner compensation that has accrued from October 21, 2024, through February 2, 2026, and shall pay the remainder of the award, if any, in weekly payments.

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, Arbitrator
ICArbDec p. 2

MARCH 2 2026

Findings of Fact

Petitioner filed an Application for Adjustment of Claim which alleged he sustained a repetitive trauma injury arising out of and in the course of his employment by Respondent. The Application alleged a date of accident (manifestation) of June 13, 2024, and that Petitioner sustained an injury to "Bilateral wrists, bilateral hands, bilateral elbows, bilateral arms" as a result of "Repetitive duties" (Arbitrator's Exhibit 2). The case was tried for a final award and Petitioner sought an order for payment of medical bills and permanent partial disability benefits. Respondent disputed liability on the basis of accident, notice, and causal relationship (Arbitrator's Exhibit 1).

Petitioner was employed by Respondent as a Correctional Officer. At the time of the accident (manifestation) he had worked for Respondent in that capacity for approximately 10 years. Petitioner continues to be employed by Respondent in that same capacity. Prior to being employed by Respondent, Petitioner worked as a welder. Before working as a welder, Petitioner was a logger where he used chainsaws, ran heavy equipment, and cut down/trimmed trees.

While working for Respondent, Petitioner experienced symptoms in both of his hands and arms. These included numbness, tingling, pain, and difficulties picking up and holding objects. Petitioner also had sleep disruption. Petitioner denied having been diagnosed with diabetes, gout, hypothyroidism, and rheumatoid arthritis. Further, he stated he had been at the same weight since he was in high school.

Petitioner completed a Detailed Job Description in which he described the duties he performed while working for Respondent. These included carrying/lifting boxes, opening/closing cell doors, cuffing inmates, locking/unlocking cell doors with Folger Adams keys, writing reports, and taking trays to inmates (Petitioner's Exhibit 9).

Petitioner tendered into evidence a Job Analysis of a Correctional Officer at Menard prepared by Corvel which was performed on February 8, 2011, at the request of Respondent. The Job Analysis stated that an officer was required to lift/carry 25 to 50 pounds, push carts, open doors two and one-half to five and one-half hours per day, open/close chuckhole doors, cuff/uncuff inmates, and key turning two and one-half to five hours per day. The report also described bar rapping activities performed by officers which would vary depending on whether the officer was working in the galleries or in the segregation unit (Petitioner's Exhibit 11).

Petitioner tendered into evidence a Post Description for Cellhouse Officers prepared by Respondent which described the officers' job duties. The duties described in the report included pulling/securing cell doors, checking locks, removing inmates from cells, searching cells, keying cell door locks, shaking down workers/inmates, and monitoring/supervising inmate movement (Petitioner's Exhibit 13).

At trial, Petitioner testified he had reviewed both the Job Analysis and Post Description for Cellhouse Officers. When questioned whether they were accurate, he stated they were "spot on."

Petitioner tendered into evidence a video which depicted the duties of a Correctional Officer at Menard which was dated January 13, 2011. The video was prepared by Respondent. The video showed various duties performed by Correctional Officers which included bar rapping, opening/closing doors, turning galley cranks, and locking/unlocking various doors with keys, many of which were Folger Adams keys.

In the video, while using a Folger Adams key, one of the officers used his left hand and stated you needed to use both hands. Later in the video, while another officer was using a Folger Adams key, the lock stuck which required repeated attempts with both hands to get it to work properly (Petitioner's Exhibit 12).

At trial, Petitioner testified he was not certain when he first started having arm/hand symptoms, but it had been a few years prior. Petitioner initially sought medical treatment from Dr. Dale Blaise, his family physician, on February 29, 2024. At that time, Petitioner complained primarily of numbness/pain in his left hand/arm. Dr. Blaise opined Petitioner had paresthesias in both hands and ordered EMG/nerve conduction studies. There was no reference in Dr. Blaise's record of that date regarding Petitioner's work activities (Petitioner's Exhibit 3).

Petitioner was seen by Dr. Fakhre Alam, a neurologist, who saw him on May 31, 2024. At that time, Petitioner complained of numbness in both hands. Dr. Alam performed EMG/nerve conduction studies which were positive for moderately severe bilateral carpal tunnel syndrome, left greater than right, and moderately severe left ulnar neuropathy. Dr. Alam's record of that date did not contain any reference to Petitioner's work activities (Petitioner's Exhibit 4).

Petitioner was subsequently evaluated by Dr. Matthew Bradley, an orthopedic surgeon, on June 13, 2024 (the alleged date of accident/manifestation). At that time, Petitioner informed Dr. Bradley he had worked as a Correctional Officer at Menard for 10 years, used Folger Adams keys and performed bar rapping. Petitioner also prepared a job description which was reviewed by Dr. Bradley (Petitioner's Exhibit 5).

Dr. Bradley reviewed the EMG/nerve conduction studies and opined they revealed moderate left worse than right carpal tunnel syndrome, and moderate left cubital tunnel syndrome. Dr. Bradley's findings on examination were consistent with bilateral carpal tunnel syndrome and cubital tunnel syndrome. Because of the severity of the symptoms, Dr. Bradley doubted Petitioner would respond to non-operative treatment, but that it should be tried. He prescribed a left wrist splint and directed Petitioner to do home exercises. In respect to causality, Dr. Bradley opined Petitioner's bilateral carpal tunnel syndrome and cubital tunnel syndrome conditions were causally related to Petitioner's job duties at Menard (Petitioner's Exhibit 5).

A First Report of Injury was prepared on July 23, 2024, which noted the date of accident was June 13, 2024, and Petitioner had sustained "accumuliative injuries." An Employee's Notice of Injury was completed and signed by Petitioner on July 23, 2024, which described an injury to the left and right hands/elbows and referenced Petitioner's various working activities. A Supervisor's Report of Injury was completed and signed by Lt. Lynch on June 14, 2024, which noted Petitioner had sustained an injury to his left and right hands/elbows as a result of Petitioner's work activities (Petitioner's Exhibit 10).

On July 18, 2024, Petitioner had a telephone conference with Dr. Bradley. At that time, Petitioner advised he had been wearing the brace and doing the exercises, but there was no change in his symptoms. Dr. Bradley opined non-operative treatment had failed and recommended Petitioner proceed with surgery (Petitioner's Exhibit 5).

Dr. Bradley performed surgery on Petitioner's left hand/elbow on July 24, 2024. The procedure consisted of a left open carpal tunnel release and a left open cubital tunnel release and nerve transposition (Petitioner's Exhibit 7).

When Dr. Bradley saw Petitioner on August 8, 2024, most of Petitioner's left hand/elbow symptoms had resolved, but he continued to have right hand/elbow symptoms. Dr. Bradley recommended Petitioner proceed with surgery on his right hand/elbow (Petitioner's Exhibit 5).

Dr. Bradley performed surgery on Petitioner's right hand/elbow on September 11, 2024. The procedure consisted of a right open carpal tunnel release, a right open cubital tunnel release and nerve transposition, and a right little finger trigger release (Petitioner's Exhibit 7).

Dr. Bradley saw Petitioner on September 26, 2024, and Petitioner advised he was doing well, but still experienced some tenderness around the medial epicondyle. Dr. Bradley last saw Petitioner on October 21, 2024. At that time, Petitioner advised he had returned to work at full duty, but still experienced occasional pain/discomfort. Dr. Bradley opined Petitioner was at MMI (Petitioner's Exhibit 5).

At the direction of Respondent, Petitioner was examined by Dr. Patrick Stewart, an orthopedic surgeon, on August 12, 2025. In connection with his examination of Petitioner, Dr. Stewart reviewed medical treatment records and information regarding Petitioner's job duties which were provided to him by Respondent. He noted Petitioner had undergone bilateral carpal tunnel and cubital tunnel surgeries as well as a pulley release on the right small finger. In respect to causality, Dr. Stewart opined Petitioner's hand/arm conditions were not related to Petitioner's work activities. He stated many of the locks used by Petitioner were padlocks which only required a normal key. In respect to the Folger Adams keys, he noted they were held across the palm of the hand and very little force was required over the carpal tunnel and forearm when used. Dr. Stewart also opined the bar rapping did not cause any vibration exposure. Finally, Dr. Stewart further opined that up to 50% of compression neuropathies were idiopathic (Respondent's Exhibit 2).

Dr. Stewart also expressed concern about the medical treatment provided to Petitioner and that there was no conservative treatment in respect to the cubital tunnel condition because Petitioner was not ever given an antecubital pillow. He also questioned Dr. Bradley ordering x-rays where there was not a specific injury or swelling as well as the manner in which the ulnar nerve was released (Respondent's Exhibit 2).

Dr. Bradley was deposed on October 29, 2025, and his deposition testimony was received into evidence at trial. On direct examination, Dr. Bradley's testimony was consistent with his medical records and he reaffirmed the opinions contained therein. Specifically, Dr. Bradley testified Petitioner's work activities contributed to the diagnosis of carpal tunnel and cubital tunnel syndrome conditions in Petitioner's left and right arms. In explaining his opinion, Dr. Bradley stated that the conditions are multifactorial, but that there were no other factors which would have caused or contributed to the conditions. He stated Petitioner did not suffer from any other medical conditions such as diabetes, hypothyroidism, or sleep apnea which can contribute to the development of carpal tunnel and cubital tunnel syndrome conditions (Petitioner's Exhibit 14; pp 9-14).

In respect to the treatment he provided to Petitioner, Dr. Bradley testified that the diagnostic studies revealed severe conditions and that non-operative treatment was likely to fail. He stated Petitioner had attempted conservative treatment, but it was not successful and any further non-operative treatment would have been a waste of time and money (Petitioner's Exhibit 14; pp 12-14).

At trial, Petitioner testified he was able to return to work to his regular job and perform all of his job duties. He agreed his conditions were substantially improved over what they had been prior to undergoing the surgeries. He stated he still has decreased strength and tingling in both of his hands. At work, using the Folger Adams keys, opening doors, and bar rapping still causes them to experience some discomfort including a little bit of numbness in his hands.

Conclusions of Law

In regard to disputed issues (C) and (F) the Arbitrator makes the following conclusion of law:

The Arbitrator concludes Petitioner sustained a repetitive trauma injury arising out of and in the course of his employment by Respondent which manifested itself on June 13, 2024, and his current condition of ill-being is causally related to his work activities.

In support of this conclusion the Arbitrator notes the following:

There was no dispute Petitioner's job duties required the forceful and repetitive use of both of his hands/arms for extended periods of time. The Job Analysis of a Correctional Officer, the Post Description for Cellhouse Officers, and the video of the duties of a Correctional Officer at Menard were tendered into evidence by Petitioner; however, they were all obtained/prepared by or at the direction of Respondent. All of them confirmed Correctional Officers repetitively used both hands/arms in the performance of their job duties.

Petitioner informed his primary treating physician, Dr. Bradley, of his job duties and Dr. Bradley also reviewed a written job description. He opined Petitioner's hand/arm conditions were causally related to Petitioner's work activities.

Petitioner did not have any other medical conditions which could have either caused or contributed to his hand/arm conditions.

The Arbitrator was not persuaded by Dr. Stewart's opinion that Petitioner's job duties did not cause Petitioner's hand/arm conditions or that 50% of compression neuropathies are idiopathic.

Based on the preceding, the Arbitrator finds the opinion of Dr. Bradley to be more persuasive than that of Dr. Stewart in respect to causality.

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

The Arbitrator concludes Petitioner gave notice to Respondent within the time required by the Act.

In support of this conclusion the Arbitrator notes following:

When Petitioner first sought medical treatment on February 29, 2024, and then again on May 31, 2024, he complained of bilateral hand/arm symptoms; however, the medical records of those dates did not contain any reference to Petitioner's work activities.

It was when Petitioner was evaluated by Dr. Bradley on June 13, 2024, that Petitioner informed Dr. Bradley of his work activities and Dr. Bradley reviewed a job description. It was at that time that Dr. Bradley opined Petitioner's bilateral hand/arm conditions were work-related. Accordingly, June 13, 2024, was the appropriate date of accident (manifestation).

The First Report of Injury and Employee's Notice of Injury were prepared on July 23, 2024. The Supervisor's Report of Injury was prepared on June 14, 2024. Both dates were within the time prescribed by the Act for Petitioner to give notice to Respondent of having sustained a work-related accident.

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

The Arbitrator concludes that all of the medical treatment provided to Petitioner was reasonable and necessary and Respondent is liable for payment of the medical bills incurred therewith.

Respondent shall pay reasonable and necessary medical services as identified in Petitioner's Exhibit 1, as provided in Sections 8(a) and 8.2 of the Act, subject to the fee schedule. Respondent shall be given a credit of amounts paid 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.

In support of this conclusion the Arbitrator notes the following:

Dr. Bradley diagnosed Petitioner with bilateral carpal tunnel and cubital tunnel syndrome conditions, and attempted conservative treatment, but ultimately had to perform surgeries.

The Arbitrator was not persuaded by Dr. Stewart's opinion regarding the conservative treatment provided to Petitioner as being inadequate or his questioning of the surgery performed by Dr. Bradley.

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

The Arbitrator concludes Petitioner has sustained permanent partial disability to the extent of 12 1/2% loss of use of the right hand, 12 1/2% loss of use of the left hand, 12 1/2% loss of use of the right arm, and 12 1/2% loss of use of the left arm.

In support of this conclusion the Arbitrator notes following:

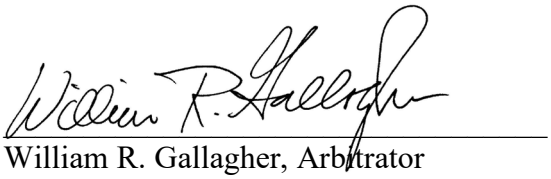
Neither Petitioner nor Respondent tendered an AMA impairment rating. The Arbitrator gives this factor no weight.

Petitioner worked for Respondent as a Correctional Officer and he was able to return to work in that capacity. Petitioner's job duties require the forceful and repetitive use of both hands/arms. The Arbitrator gives this factor moderate weight.

Petitioner was 33 years old at the time he sustained the accident. He will have to live with the effects of the injury for the remainder of his working and natural life. The Arbitrator gives this factor significant weight.

There was no evidence the injury had any effect on Petitioner's future earning capacity. The Arbitrator gives this factor moderate weight.

As a result of the accident, Petitioner sustained an injury to both of his hands/arms which required bilateral carpal tunnel and cubital tunnel surgeries. Petitioner's conditions improved following the surgeries, but he continues to experience symptoms consistent with the injuries he sustained, which occur while he is performing his job duties. The Arbitrator gives this factor significant weight.



William R. Gallagher, Arbitrator

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	20WC003130
Case Name	Julie Bulow v. AIM National Lease
Consolidated Cases	
Proceeding Type	Remand
Decision Type	Commission Decision
Commission Decision Number	26IWCC0272
Number of Pages of Decision	4
Decision Issued By	Raychel Wesley, Commissioner

Petitioner Attorney	Lindsey Strom
Respondent Attorney	Daniel Egan

DATE FILED: 9/25/2026

/s/ Raychel Wesley, Commissioner

Signature

26IWCC0272

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
☒ Remand from Appellate Court	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

JULIE BULOW,

Petitioner,

vs. NO: 20 WC 03130

AIM NATIONAL LEASE,

Respondent.

DECISION AND OPINION ON REMAND

This matter comes before the Commission on remand from the First District Appellate Court, Workers' Compensation Division. The case originally proceeded to trial pursuant to §19(b)/8(a) on November 21, 2022 and April 19, 2023. In his May 23, 2023 decision, the Arbitrator found Petitioner's left lower extremity conditions of ill-being remain causally related to her undisputed August 13, 2019 work accident. The Arbitrator awarded incurred medical expenses as well as prospective medical care; Petitioner's request for penalties and attorney's fees was denied.

Respondent filed a Petition for Review, raising arguments concerning causal connection, the awarded medical benefits, evidentiary rulings, and the Arbitrator's pre-trial recommendation concerning Respondent's attempt to obtain a repeat §12 examination in June 2020. In its June 12, 2024 Decision and Opinion on Review, the Commission found no error with the Arbitrator providing a recommendation when expressly invited to do so, nor with the Arbitrator's evidentiary rulings, but modified the award of medical expenses, disallowing specific charges for which there were no corresponding treatment records, and otherwise affirmed and adopted the Decision of the Arbitrator.

Respondent subsequently appealed to the circuit court and thereafter the Appellate Court. On February 13, 2026, the Appellate Court entered an Order affirming the Commission's findings that (1) Petitioner's left foot, left ankle and left leg conditions were causally related to her work accident, (2) the medical treatments Petitioner received for those conditions and the prospective medical treatments ordered by her treating physicians were reasonable and necessary, (3) the medical expenses paid by Blue Cross Blue Shield of Illinois ("BCBS") may be awarded to Petitioner even though some of the providers' bills are not in evidence, and (4) the Arbitrator did

not violate Respondent's right to conduct a fourth §12 examination. However, the Appellate Court reversed the Commission's award of medical expenses for treatments to Petitioner's left shoulder as well as the Commission's determination of the total amount that BCBS paid to Petitioner's healthcare providers, and remanded the matter with instructions.

The matter is now before the Commission pursuant to the Appellate Court's Order to "disallow any charges for treatments to the claimant's left shoulder, to determine the amount that BCBS paid the claimant's healthcare providers for medical services relating to the claimant's work-related injuries, and to award the claimant that amount." *AIM National Lease v. Illinois Workers' Compensation Commission*, 2026 IL App (1st) 250494WC-U, ¶ 93. The Commission, being advised of the facts and law, and in accordance with the instruction of the Appellate Court issues this Decision and Opinion on Remand. The Commission 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 (1980).

I. Left Shoulder Treatment Expenses

Petitioner submitted into evidence treatment records and bills from Athletico as Petitioner's Exhibit 8. Included within the exhibit are records and charges incurred for unrelated left shoulder treatment from November 13, 2019 through December 30, 2019. PX8. The record reflects, however, that Petitioner also underwent related left ankle modalities on December 30, 2019; the treatment note details the CPT coding for the ankle treatment that was provided: 97110 x 1 unit; 97112 x 2 units; 97140 x 1 unit; and 97530 x 1 unit. PX8, p. 187. The Commission finds Respondent is not liable for the left shoulder treatment charges incurred from November 13, 2019 through December 30, 2019. Respondent remains liable for the left lower extremity treatment charges detailed in Petitioner's Exhibit 8, including those incurred on December 30, 2019.

II. Blue Cross Blue Shield Payments

The Commission's remit under the Appellate Court remand order is to "determine what BCBS actually paid for the medical services at issue." *AIM National Lease*, ¶ 87. The Commission observes the BCBS spreadsheet admitted into evidence as Respondent's Exhibit 31 is 41-pages long and details BCBS payments made for the 10-year period from October 6, 2012 through October 6, 2022; each entry includes, *inter alia*, the Service Date, CPT, Provider, Billed Amount, Allowed Amount, and Net Paid Amount. The Commission finds the Net Paid figure constitutes the amount "BCBS actually paid." The next step in our analysis is to extricate which of the decade's worth of payments listed are related to the August 13, 2019 work injury. The Commission's review of Respondent's Exhibit 31 reveals BCBS made the following payments for related treatment:

Service Date	Provider	Net Paid
October 6, 2020	Community Hospital	$179.40
October 6, 2020	Munster Radiology Group	$156.63
January 18, 2021	Athletico	$107.72
May 12, 2021	Community Hospital	$593.41
January 3, 2022	University Pain Physicians	$61.24
January 6, 2022	University Pain Physicians	$37.92

January 11, 2022	University Pain Physicians	$120.57
March 10, 2022	University Pain Physicians	$83.91
March 10, 2022	Rush Oak Park Hospital	$11,319.94
March 10, 2022	University Anesthesiologists	$676.00
March 23, 2022	Rush Surgicenter	$49,466.14
March 23, 2022	University Anesthesiologists	$1,040.00
March 23, 2022	University Pain Physicians	$1,318.51
April 7, 2022	University Pain Physicians	$97.92
May 12, 2022	University Pain Physicians	$97.92
August 29, 2022	University Pain Physicians	$100.36

These payments total $65,457.59. Pursuant to the directive of the Appellate Court, the Commission awards Petitioner $65,457.59 for payments made by BCBS.

IT IS THEREFORE ORDERED BY THE COMMISSION that any charges related to treatment of Petitioner's left shoulder are disallowed.

IT IS FURTHER ORDERED BY THE COMMISSION that Petitioner is awarded $65,457.49, that being the amount BCBS paid Petitioner's healthcare providers for medical services relating to her work-related injuries.

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.

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 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 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.

SEPTEMBER 25 2026

/s/ *Raychel A. Wesley*

RAW/mck

O: 8/19/26

/s/ *Carolyn M. Doherty*

43

/s/ *Frank J. Soto*

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	25WC001271
Case Name	Ronald Guetersloh v. State of Illinois - Menard Correctional Center
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0273
Number of Pages of Decision	9
Decision Issued By	Carolyn Doherty, Commissioner

Petitioner Attorney	Aaron Chappell
Respondent Attorney	Kenton Owens

DATE FILED: 9/28/2026

/s/Carolyn Doherty, Commissioner

Signature

25 WC 001271
Page 1

STATE OF ILLINOIS)
) SS.
COUNTY OF)
WILLIAMSON

☒ 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

RONALD GUETERSLOH,

Petitioner,

vs. NO: 25 WC 001271

STATE OF ILLINOIS/
MENDARD CORRECTIONAL CENTER,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petitions for Review having been filed by the Petitioner and Respondent herein and notice given to all parties, the Commission, after considering the issues of nature and extent and "other: shoulder strain arm/MAW," 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 April 14, 2026 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 §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.

SEPTEMBER 28 2026

/s/ *Carolyn M. Doherty*
Carolyn M. Doherty

O: 09/23/26
CMD/jjm
045

/s/ *Raychel A. Wesley*
Raychel A. Wesley

/s/ *Frank J. Soto*
Frank J. Soto

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	25WC001271
Case Name	Ronald Guetersloh v. State of Illinois - Menard Correctional Center
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	6
Decision Issued By	Jeanne AuBuchon, Arbitrator

Petitioner Attorney	Thomas C Rich
Respondent Attorney	Kenton Owens

DATE FILED: 4/14/2026

/s/ Jeanne AuBuchon, Arbitrator
Signature

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

APRIL 14 2026

/s/ Michele Kowalski

Michele Kowalski, Secretary
Illinois Workers' Compensation Commission

INTEREST RATE WEEK OF APRIL 14 2026 3.61%

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

Ronald Guetersloh
Employee/Petitioner

v.

Menard Correctional Center
Employer/Respondent

Case # **25** WC **01271**

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 **Jeanne L. AuBuchon**, Arbitrator of the Commission, in the city of **Herrin**, on **March 3, 2026**. By stipulation, the parties agree:

On the date of accident, **1/9/25**, 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 $**94,927.15**, and the average weekly wage was $**1,825.52**.

At the time of injury, Petitioner was **62** years of age, ***married*** with **0** dependent children.

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

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

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 $**1,045.92**/week for a further period of **30.12** weeks, as provided in Sections **8(d)2** and **8(e)10** of of the Act, because the injuries sustained caused **4% loss use of the body as a whole as to the left shoulder and 4% loss of use of the left arm**.

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.

Jeanne L. AuBuchon
Signature of Arbitrator

APRIL 14 2026

PROCEDURAL HISTORY

This matter proceeded to trial on March 3, 2026, on all disputed issues. The sole issue in dispute is the nature and extent of the Petitioner's injury. The parties stipulated that medical bills will be paid directly to the providers.

FINDINGS OF FACT

On the date of the accident, the Petitioner was 62 years old and employed by the Respondent as a correctional sergeant. (AX1, T. 11) On January 9, 2025, he fell on ice, injuring his left shoulder, wrist and elbow. (T. 11-12) He is left-handed. (T. 14)

After the accident, the Petitioner went to the emergency department at Chester Memorial Hospital, where he was diagnosed with strains of the left elbow and wrist and a sprain of the left shoulder. (PX3)

On January 16, 2025, the Petitioner sought treatment from Dr. Matthew Bradley, an orthopedic surgeon at Metro East Orthopedics, who noted that the Petitioner had undergone bilateral carpal and cubital tunnel releases and ulnar nerve transpositions in September and October 2024. (PX4) Dr. Bradley diagnosed the Petitioner with a left wrist sprain, left medial elbow pain and traumatic shoulder bursitis. (Id.) He recommended a home exercise program, performed a corticosteroid injection to the left shoulder and ordered an MRI of the left elbow to confirm there was not an occult fracture or tear. (Id.)

The MRI was performed on January 21, 2025, and the Petitioner followed up with Dr. Bradley that day. (PX5, PX4) The Petitioner reported that his symptoms were unchanged. (PX4) Dr. Bradley reviewed the MRI and saw inflammation and fluid around the medial epicondyle. (Id.) He diagnosed medial epicondylitis without tearing and performed a corticosteroid injection. (Id.)

The Petitioner followed up with Dr. Bradley on March 3, 2025, and reported some tenderness over his anterior transposed ulnar nerve and some residual tingling in the tip of his small finger, but otherwise he was doing quite well. (Id.) Dr. Bradley anticipated the Petitioner's symptoms would improve over time. (Id.) He recommended the Petitioner continue using anti-inflammatories as needed and continue his home exercise program. (Id.) He placed the Petitioner at maximum medical improvement. (Id.)

The Petitioner testified that despite improvement from the injections, he has occasional pain in his left shoulder performing activities at work such as pulling on bars and keying. (T. 14) He said weather changes cause it to flare up. (Id.) He said he does not fish and hunt as much as he used to, and he "can't lift anything hardly, hold anything." (T. 14-15) He said he takes ibuprofen and Tylenol when he experiences a flare-up. (T. 18)

CONCLUSION

Issue 10: 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 continues to work as a correctional sergeant with the same physical demands as before the accident. The Arbitrator places significant weight on this factor.

(iii) **Age.** The Petitioner was 62 years old at the time of the injury. He has several work years left, during which time he will need to deal with the residual effects of the injury. The Arbitrator places some weight on this factor.

(iv) **Earning Capacity.** There was no evidence of limitation of the Petitioner's earning capacity. The Arbitrator places some weight on this factor.

(v) **Disability.** The medical records reflect that the Petitioner was doing quite well after the injections. The Petitioner testified that despite this improvement, he has occasional pain in his left shoulder performing activities at work such as pulling on bars and keying, and weather changes cause flare-ups. He said his hobbies of fishing and hunting have been affected. He said he takes ibuprofen and Tylenol for flare-ups. 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 4 percent loss of the person as a whole as to the left shoulder and 4 percent loss of the left arm.

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	24WC002834
Case Name	Brandon Yates v. Liberty Tire Recycling
Consolidated Cases	
Proceeding Type	Petition for Review
Decision Type	Commission Decision
Commission Decision Number	26IWCC0274
Number of Pages of Decision	8
Decision Issued By	Carolyn Doherty, Commissioner

Petitioner Attorney	Holly Marcum
Respondent Attorney	Daniel Farroll

DATE FILED: 9/28/2026

/s/Carolyn Doherty, 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

Brandon Yates,
Petitioner,

vs. No: 24 WC 2834

Liberty Tire Recycling,
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 of 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 17, 2026, is hereby affirmed and adopted.

IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent pay to Petitioner interest under Section 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 $61,600.00. 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.

SEPTEMBER 28 2026

O: 9/23/26
CMD/kcb
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	24WC002834
Case Name	Brandon Yates v. Liberty Tire Recycling
Consolidated Cases	
Proceeding Type	Request for Hearing
Decision Type	Arbitration Decision
Commission Decision Number	
Number of Pages of Decision	6
Decision Issued By	Jeanne AuBuchon, Arbitrator

Petitioner Attorney	Holly Marcum
Respondent Attorney	Daniel Farroll

DATE FILED: 3/17/2026

/s/ Jeanne AuBuchon, Arbitrator
Signature

INTEREST RATE WEEK OF MARCH 17 2026 3.57%

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
NATURE AND EXTENT ONLY

BRANDON YATES
Employee/Petitioner

v.

LIBERTY TIRE RECYCLING.
Employer/Respondent

Case # **24** WC **002834**

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 **Jeanne L. AuBuchon**, Arbitrator of the Commission, in the city of **Collinsville**, on **January 27, 2026**. By stipulation, the parties agree:

On the date of accident, **1/04/2024**, 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 $**44,753.28**, and the average weekly wage was $**860.64**.

At the time of injury, Petitioner was **38** years of age and ***single*** with **5** dependent children.

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

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**.

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

Per stipulation of the parties, medical bills for Alton Memorial Hospital on February 7, 2024, and St. Luke's Hospital on April 5, 2024, and May 23, 2024, are denied, and Respondent shall pay all other medical expenses listed in Petitioner's Exhibits 8-14 pursuant to Sections 8(a) and 8.2 of the Act. 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 the sum of **$516.38**/week for a further period of **41** weeks, as provided in Section **8(e)** of the Act, because the injuries sustained caused **20% loss of use of the left hand**.

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.

Jeanne L. AuBuchon
Signature of Arbitrator

MARCH 17 2026

ICArbDecN&E p2

PROCEDURAL HISTORY

This matter proceeded to trial on January 27, 2026, on all disputed issues. The sole issue in dispute is the nature and extent of the Petitioner's injury. The parties stipulated that medical bills for Alton Memorial Hospital on February 7, 2024, and St. Luke's Hospital on April 5, 2024, and May 23, 2024, are unrelated to the accident and will not be paid by the Respondent. (T. 9)

FINDINGS OF FACT

At the time of the accident, the Petitioner was 38 years old and employed by the Respondent as a leadman, giving breaks to other employees and pulling pavers made of recycled tires. (AX1, T. 11) On January 4, 2024, the Petitioner was pulling pavers out of a mold when he noticed numbness and swelling in his left wrist. (T. 11)

After four visits to the emergency room at Alton Memorial Hospital, the Petitioner was referred to Dr. Shawn Kutnik, an orthopedic surgeon at Archway Orthopedics. (T. 12-13, PX1, PX2, RXA, RXB) He saw Dr. Kutnik on May 13, 2024, and described a four-month history of severe pain in the radial border of the left wrist. (PX2, RXB) Dr. Kutnik believed the Petitioner was suffering from de Quervain's tenosynovitis and performed a cortisone injection. (Id.)

The Petitioner returned to Dr. Kutnik on May 29, 2024, and reported little benefit from the injection. (Id.) An MRI performed on June 4, 2024, showed a dorsal radial wrist ganglion cyst. (PX3, RXC) On June 12, 2024, Dr. Kutnik stated that the MRI confirmed his suspicions of a left wrist ganglion cyst and that the Petitioner's physical examination remained suggestive of left wrist de Quervain's tenosynovitis. (Id.) He recommended surgery. (Id.)

On January 2, 2025, Dr. Kutnik performed a left de Quervain's release and cyst excision. (PX4, RXD) The Petitioner underwent physical therapy and had several follow-up visits with Dr.

Kutnik, during which he continued to have pain, particularly around the metacarpophalangeal (MP) joint. (PX2, RXB) Dr. Kutnik performed a cortisone injection on February 10, 2025. (Id.)

At a follow-up visit on February 24, 2025, the Petitioner reported that the injection provided only a couple days of relief and that his symptoms were otherwise ongoing. (Id.) After another MRI, Dr. Kutnik diagnosed a chronic sprain of the collateral ligament and discussed options of a repeat injection or surgery to include ligament takedown or reconstruction. (Id.) The Petitioner wished to avoid surgery and opted for another injection, which was performed that day. (Id.)

On April 21, 2025, the Petitioner reported that the injection did not provide significant relief. (Id.) Dr. Kutnik advised that his only additional recommendation would be surgery. (Id.) The Petitioner declined, and Dr. Kutnik released him to full duty. (Id.)

At subsequent follow-ups, Dr. Kutnik continued to recommend surgery, which the Petitioner declined. (Id.) On May 14, 2025, Dr. Kutnik found the Petitioner to be at maximum medical improvement and released him from care with no restrictions. (Id.)

At the time of arbitration, the Petitioner complained of "bulginess," swelling and tingling. (T. 16-17) He said he has some issues, such as dropping things and experiencing pops and clicks when he grasps. (T. 17) The Petitioner was not working due to issues unrelated to his left wrist. (T. 17-18)

CONCLUSION

Issue 10: 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.** Although the Petitioner is not working due to unrelated issues, he was released to return to his job as a lead man with the same duties and physical activities as before the accident. The Arbitrator places moderate weight on this factor.

(iii) **Age.** The Petitioner was 38 years old at the time of the injury. He has many work years left during which time he will need to deal with the effects of his injury. The Arbitrator places significant 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 the Petitioner was released to work full duty with no restrictions, he continues to experience "bulginess," swelling, tingling, popping and clicking as well as issues with dropping things. The Arbitrator puts moderate 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 of his left hand.