

11WC19002  
14IWCC0437

Page 1

STATE OF ILLINOIS     )  
                                  )SS  
COUNTY OF McLEAN    )

BEFORE THE ILLINOIS WORKERS'  
COMPENSATION COMMISSION

Deborah Denney,  
                  Petitioner

vs.

No. 11WC19002  
14IWCC0437

Heritage Manor,  
                  Respondent.

ORDER

The Commission on its own Motion recalls the Decision and Opinion on Review issued in the above-captioned case.

Oral Arguments were presented on June 3, 2014 before Panel A. A Decision and Opinion on Review was issued thereafter. It has come to the attention of the Commission that the Decision and Opinion on Review was not dated. The Commission hereby recalls the Decision and Opinion on Review so that a Corrected Decision and Opinion on Review can be dated and reissued.

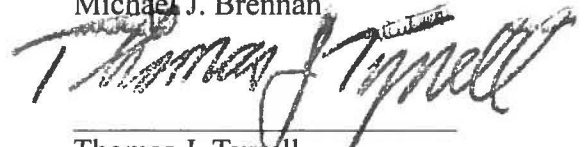
IT IS THEREFORE ORDERED BY THE COMMISSION that the Commission's Decision and Opinion on Review in the above-captioned case is hereby recalled. The parties should return their previously issued Decision and Opinion on Review to Commissioner Michael J. Brennan.

IT IS FURTHER ORDERED BY THE COMMISSION that a Corrected Decision and Opinion on Review shall be issued simultaneously with this Order.

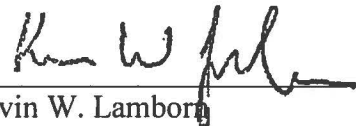
Dated:     **JUN 19 2014**



Michael J. Brennan



Thomas J. Tyrrell



Kevin W. Lamborn

MJB:bjg  
52

STATE OF ILLINOIS )  
) SS.  
COUNTY OF McLEAN )

<input checked="" type="checkbox"/> Affirm and adopt (no changes)	<input type="checkbox"/> Injured Workers' Benefit Fund (§4(d))
<input type="checkbox"/> Affirm with changes	<input type="checkbox"/> Rate Adjustment Fund (§8(g))
<input type="checkbox"/> Reverse	<input type="checkbox"/> Second Injury Fund (§8(e)18)
<input type="checkbox"/> Modify	<input type="checkbox"/> PTD/Fatal denied
	<input checked="" type="checkbox"/> None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Deborah Denney,  
Petitioner,

vs.

NO: 11 WC 19002  
14IWCC0437

Heritage Manor ,  
Respondent.

CORRECTED 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 causal connection, temporary total disability, medical expenses, prospective medical care, permanent disability, and Sections 19(k) and 19(l) penalties and Section 16 attorney fees, 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 11, 2013 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.

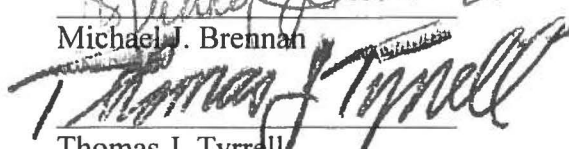
IT IS FURTHER ORDERED BY THE COMMISSION that the Respondent shall have credit for all amounts paid, if any, to or on behalf of the Petitioner on account of said accidental injury.

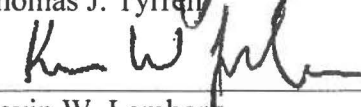
No bond is required for removal of this cause to the Circuit Court by Respondent. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

DATED: JUN 19 2014

MJB:bjg  
0-6/3/2014  
052

  
\_\_\_\_\_  
Michael J. Brennan

  
\_\_\_\_\_  
Thomas J. Tyrrell

  
\_\_\_\_\_  
Kevin W. Lamborn

ILLINOIS WORKERS' COMPENSATION COMMISSION  
NOTICE OF ARBITRATOR DECISION

**14IWCC0437**

Case# 11WC019002

**DENNEY, DEBORAH**

Employee/Petitioner

**HERITAGE MANOR**

Employer/Respondent

On 12/11/2013, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 0.09% shall accrue from the date listed above 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.

A copy of this decision is mailed to the following parties:

4251 KELLY LAW OFFICES  
DONALD A BEHLE  
121 N MAIN ST 3RD FL  
BLOOMINGTON, IL 61701

2912 HANSON & DONAHUE LLC  
PETER DONAHUE  
900 WARREN AVE SUITE 3  
DOWNERS GROVE, IL 60515

STATE OF ILLINOIS )  
 )SS.  
COUNTY OF McLean )

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

ILLINOIS WORKERS' COMPENSATION COMMISSION  
ARBITRATION DECISION

**Deborah Denney**  
Employee/Petitioner

Case # **11 WC 19002**

v.

Consolidated cases: \_\_\_\_\_

**Heritage Manor**  
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 **Stephen Mathis**, Arbitrator of the Commission, in the city of **Bloomington**, on **August 14, 2013**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

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

FINDINGS

On **September 2, 2010**, Respondent *was* operating under and subject to the provisions of the Act.

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

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

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

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

In the year preceding the injury, Petitioner earned **\$30,680.00**; the average weekly wage was **\$590.00**.

On the date of accident, Petitioner was **50** years of age, *single* with **0** dependent children.

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

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

Respondent shall be given a credit of **\$29,859.40** for TTD, **\$685.48** for TPD, **\$0** for maintenance, and **\$0** for other benefits, for a total credit of **\$30,544.88**.

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

ORDER

Based upon the Petitioner's testimony and the corresponding medical records, the Arbitrator finds a causal connection between the Petitioner's accident of September 2, 2010 and her left leg and ankle. The Arbitrator finds that the Petitioner failed to prove a causal connection between her accident of September 2, 2010 and her conditions after October 28, 2011, based upon a lack of supporting medical documentation.

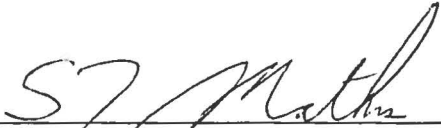
Respondent shall pay Petitioner temporary total disability benefits of \$393.33 per week for 30-3/7 weeks commencing March 29, 2011 through October 28, 2011, as provided in Section 8(b) of the Act.

Respondent shall pay Petitioner permanent partial disability benefits of \$354.00 per week for 53.75 weeks, because the injury sustained caused 25% loss of the left leg, as provided in Section 8(e)(12) of the Act.

Respondent shall pay to Petitioner penalties of \$-0- as provided in Section 16 of the Act; \$-0- as provided in Section 19(k) of the Act; and \$-0- 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

11-25-2013  
Date

DEC 11 2013

FINDINGS OF FACT

In support of the Arbitrator's decision in the above-referenced matter, the Arbitrator makes the following findings of fact. On September 2, 2010, the Petitioner was working as an Assistant Dietary Manager at Heritage Manor in Bloomington, Illinois. At that time, she slipped in oatmeal and fell injuring her left ankle, left elbow and left leg. The Petitioner testified that directly after the injury she had pain from head to toe and could hardly walk. However, she finished her shift and sought no medical treatment on that day or any day prior to September 7, 2010. In fact, the Petitioner continued to work regular duty until September 7, 2010, including 10.6 hours on September 4, 2010.

The Petitioner testified that she had medial and lateral knee pain constantly from the time of the accident until her testimony. However, this is contradicted by medical records of AMG Urgent Care, Dr. Zehr, Dr. Hanson and Dr. Ritchie. The Arbitrator notes that much of the Petitioner's complaints were subjective, without objective support.

On September 7, 2010, the Petitioner saw Dr. Zehr complaining of left leg pain from her knee down to her ankle and her foot. She complained of tenderness with no apparent deformity, instability or effusion with a negative McMurray and Lachman test. She was diagnosed with a knee contusion and ankle sprain. She was put on light duty of sedentary work with minimal kneeling and stooping with the knees. X-rays of the left ankle and knee at that time were negative.

On September 13, 2010 Dr. Zehr noted that both her left knee and ankle were sore but improving. She had a negative Drawers, Lachman's and McMurray test. He diagnosed a knee contusion and ankle sprain and restricted work to alternate sit to stand and walk up to 15 minutes each hour.

On September 20, 2010, the Petitioner's left ankle was doing much better with hardly any discomfort. Because of tenderness over the lateral aspect of the knee an MRI of the knee was recommended to rule out possible lateral meniscus tear. On September 22, 2010, the MRI showed a bone bruise on the lateral femoral condyle and the infralateral aspect of the bony patella. There was also a "suggestion of an occult hairline fracture in the lateral tibial plateau."

The Petitioner treated on October 4, 2010 and October 25, 2010 with Dr. Zehr with no complaints to the medial side of her knee. Dr. Zehr placed the Petitioner on physical therapy and continued her sedentary work restrictions. On November 2, 2010 the Petitioner was seen by Dr. Hanson. At that time she complained of lateral ankle pain and lateral knee pain. She had no complaints or physical findings to the medial side of her knee. Dr. Hanson diagnosed an occult tibial plateau fracture. He anticipated full resolution in three months in regard to the knee. He recommended physical therapy and continued work restrictions.

On November 15, 2010, Dr. Zehr noted continued improvement and that her ankle sprain was resolved. He kept her on sedentary work because of her knee complaints. X-rays still demonstrated that the knee was in proper anatomic alignment.

On December 20, 2010, the Petitioner indicated to Dr. Hanson that she did not feel she was able to do full duty work. X-rays showed good position of the fracture site as such that it was hard to even see the fracture and Dr. Hanson noted that the fracture was healed with minor patellofemoral changes. He continued the Petitioner on the same restrictions for another month. On December 28, 2010, Dr. Zehr noted that the Petitioner's knee had only a trace amount of swelling and her ankle was non-tender with no significant swelling. He noted that she was doing very well in regard to the ankle sprain. He continued her sedentary work with physical therapy and home exercise.

On January 17, 2011, the Petitioner again indicated to Dr. Hanson that she did not feel she was ready for full duty work. Dr. Hanson noted that he hoped she would be ready for full duty work in one month. On January 18, 2011, Dr. Zehr noted the Petitioner was doing much better and she stated she was 85% better after the last physical therapy visit. At this time she complained of patellar tracking issues and was first noted to have a limp.

On February 14, 2011, Dr. Hanson noted continued pain mostly anteriorly and medially with no significant lateral pain. The Arbitrator notes that this is a significant change in the area of the Petitioner's pain complaints. She was given a new diagnosis of pes bursitis and patellofemoral pain status post tibial plateau fracture. Dr. Hanson recommended an injection for the pes bursitis and hoped for full duty release to work in one month. On February 16, 2011, Dr. Zehr saw the Petitioner and stated she was doing well with physical therapy and doing well at work walking up to 30 minutes per hour. He noted that her gait was nearly back to normal and the left knee was stable. He recommended continued exercises and work hardening.

The Petitioner continued to work full-time light duty until February 22, 2011. Thereafter, the Petitioner worked half days until March 29, 2011, for which she was paid temporary partial disability. After March 29, 2011, her employment was terminated and she received temporary total disability benefits until September 23, 2012.

On March 8, 2011, Dr. Hanson noted only medial-sided pain. The Petitioner stated that she could not do 30 minutes on her feet and wanted to decrease it to 15 minutes per hour. She complained of pes bursa and pain with restricted patellar tracking. Her examination was otherwise negative, especially on the area of the lateral tibial plateau. Dr. Hanson stated that she was at maximum medical improvement in regard to the tibial plateau fracture and her complaints were from patellofemoral pain and pes bursitis.

On March 16, 2011, Dr. Zehr noted that the Petitioner had been through a number of treatment modalities but still had complaints. The Petitioner had difficulty with a straight leg raise and described an area of numbness over the distribution of the superficial peroneal nerve where she had TENS treatments. Dr. Zehr stated that it was difficult to understand why the Petitioner was progressing so slowly since Dr. Hanson's treatment and physical therapy was appropriate. He noted that the Petitioner was not improving as quickly as what normally would be expected.



On April 5, 2011, the Petitioner again treated with Dr. Hanson for pes bursitis and patellofemoral pain and he recommended an updated MRI. The Petitioner did not treat again until September 22, 2011, with Dr. Zehr. (Rx. 4) Dr. Zehr noticed indentations around her left knee, which he could not explain. He would have expected the fracture related symptoms to have resolved by that time, and noted that the Petitioner should follow-up with Dr. Hanson.

On October 28, 2011, the Petitioner was seen for an independent medical examination with Dr. Ritchie. (Rx. 1, Ex. 2) She complained of numbness down the lateral aspect of her leg, along with giving out. She complained of continued pain with a lot of everyday activities, including cooking and fishing. She complained of a lot of pain with work, even though she had not worked since March 29, 2011. The Petitioner could not lift her right leg off of the table more than six inches and had difficulty with straight leg raise. The Petitioner had no medial complaints with little lateral tenderness, along with full range of motion and normal alignment. Dr. Ritchie noted that the difficulty with straight leg raise was unusual and not related to her knee and her original MRI was negative. He thought that her symptoms were possibly from a peroneal nerve irritation, so he recommended an MRI arthrogram and an EMG/NCV to rule out possible peroneal neuritis.

On November 16, 2011, Dr. Hanson noted that Petitioner's pain was mostly anterior and with resisted tracking. She had good range of motion, strength, stability and was neurologically intact. On January 11, 2012, an EMG/NCV of the Petitioner's left leg was completely negative. Dr. Carmichael, the provider, gave specific attention to the peroneal nerve during the EMG study.

On January 12, 2012, an MR arthrogram of the knee suggested a small focal lineal tear of the superior articular surface of the outer one-third of the medial meniscus; along with mild chondromalacia of the medial compartment; and probable small enchondroma of the posterior proximal tibia.

On January 19, 2012, the Petitioner complained to Dr. Hanson of continued pain to the lateral tibial plateau along with medial pain and occasional mechanical symptoms. The Petitioner did not feel she could work full duty. Dr. Hanson explained to the Petitioner that arthroscopy would deal with the medial meniscus, but not the other pain and may make her better but not perfect. He continued her on permanent restrictions of ten minutes per hour on her feet.

On September 7, 2012, Dr. Ritchie reviewed the EMG and the MR arthrogram. He stated that the medial meniscus tear and chondromalacia were not present at the time of his IME. She had no medial complaints at the time of his IME. He stated that her unexplained findings for the straight leg were not anatomically consistent or explained through the EMG. He stated that the MR arthrogram did not show a through-through type of meniscal tear and he thought the MR arthrogram findings were not significant. He did not think that the medial meniscus was related to her accident and stated that no further treatment was necessary. He stated that she was at maximum medical improvement and could return to full duty work as before. On October 22, 2012, Dr. Ritchie gave another report indicating that as the physical examination and diagnostic tests could not explain the Petitioner's condition and the EMG and MRI were negative except for



early arthritis in the medial compartment, that she was at maximum medical improvement with no need for treatment and full return to work.

Dr. Mark Hanson testified that the original MRI showed no evidence of meniscal or ligament injury in the knee. He testified that the Petitioner's ankle issue had resolved and was not a problem as of January 23, 2013, the date of his testimony. Dr. Hanson testified that as of March 8, 2011, the Petitioner's x-rays looked good and her knee fracture was healed with no significant arthritis. (Px. 8, p. 15) He stated by that time her main problem was patellofemoral tracking and also pes bursitis. Dr. Hanson testified that he recommended a second MRI as a last resort to explain the Petitioner's continued complaints. He stated that by November 16, 2011, her bursal pain had resolved.

Dr. Hanson testified that the medial meniscus tear should cause very specific medial pain, but that Petitioner's presentation was not exactly classic. (Px. 8, p. 22) Regarding her work restrictions, he stated: "It is not even so much that we did not lift them, it looked like we kind of stopped talking about them, so I think we stopped addressing them really." (Px. 8, p. 24) Dr. Hanson testified that medial meniscal tears cause medial-sided pain and her sometime lack of medial pain may mean that the MRI is a false positive. (Px. 8, p. 27) Dr. Hanson stated that there is a possibility that an arthroscopy would show no tear to the medial meniscus and that an arthroscopy would not give much help to her chondromalacia and/or patellar tracking issues. (Px. 8, p. 30)

Dr. Hanson agreed that fractures usually heal within three months. (Px. 8, p. 39) He testified that the bursitis resolved after the injection on November 16, 2011 and is not part of her current problem. (Px. 8, p. 39) Dr. Hanson testified that a healed non-displaced fracture should not cause any pain. (Px. 8, p. 40) He testified that the Petitioner's bursitis and chondromalacia were the types of condition that can develop on their own without any trauma. (Px. 8, p. 37, 40) He stated that these were common in a woman around 50 years old. (Px. 8, p. 41) He stated that the Petitioner's tibial plateau fracture had healed by December 20, 2010. (Px. 8, p. 41)

Dr. Hanson stated that most people go back to full duty without restriction with this type of injury and that he anticipated she would have returned to regular duty in March of 2011. (Px. 8, p. 42) He stated that thereafter her complaints of not being able to stand on her feet were subjective. (Px. 8, p. 43)

Dr. Hanson testified that he could not state within a reasonable degree of medical certainty that the Petitioner's medial meniscus was a result of the accident on September 2, 2010. He also testified that it is possible that the MRI could be wrong and she does not even have a medial meniscus tear. (Px. 8, p. 50) Dr. Hanson testified that the Petitioner's subjective complaints were a large factor in her permanent restriction of no standing more than 15 minutes. (Px. 8, p. 51) The Petitioner is at MMI with no restrictions for the ankle sprain. (Px. 8, p. 54)

Dr. Ritchie testified that after his initial examination of the Petitioner, he recommended an EMG and MR arthrogram because of the Petitioner's strange complaints of numbness around the lateral side of her leg and around her peroneal nerve as well as her difficulty with straight leg raising. Dr. Ritchie was trying to rule out the possible peroneal neuritis or a possible lateral

cartilage/chondral injury. (Rx. 1, p. 14) In his supplemental report, Dr. Ritchie noted the negative EMG and what he described as a negative MR arthrogram. (Rx. 1, p. 15-16) Based on the negative EMG, negative MR arthrogram and negative clinical examination, he stated that the Petitioner could return to work at maximum medical improvement, and full duty with no further treatment as of his IME on October 28, 2011. (Rx. 1, p. 17-18) He explained that he recommended the MR arthrogram originally because he could not see any objective explanation for the Petitioner's complaints. (Rx. 1, p. 30)

Dr. Ritchie explained that the Petitioner's difficulty doing straight leg raise and the numbness down her leg were not anatomically explainable and an indication of possible symptom magnification pursuant to the Waddell's test. He explained that the MR arthrogram represented a pooling of the dye on the top of the meniscus as is normal in many people. He stated that if there was a tear, the dye would have gone through the meniscus space. This is equivalent to a false positive on the MR arthrogram. Dr. Ritchie testified that the Petitioner's complaints were subjective and could not be correlated with objective findings, clinical diagnostic tests or clinical examinations. (Rx. 1, p. 17) He stated that the original MRI showed a contusion and that condition had long resolved by the time he examined the Petitioner in October 2011.

Dr. Ritchie testified that the Petitioner's contusion to her knee was causally related to her original accident but resolved. He stated that the Petitioner's pes bursitis was not causally related to her original accident because there was no significant medial sided discomfort during the initial treatment and the pes bursitis was on the medial side of her knee. He stated that the tracking problem that the Petitioner alleged was not causally related to the original injury because there was no maltracking during her original treatment or at the time of the IME and that the fracture was not displaced significantly enough to cause any type of maltracking issues. He also stated that there was no objective evidence of maltracking on either MRI. Dr. Ritchie testified that any tracking problem the Petitioner had should have easily resolved during the long period of physical therapy and home exercise program that she had. (Rx. 1, p. 26)

Dr. Ritchie testified that a meniscus tear, even if present, is not causally related to the Petitioner's original accident. He agreed with Dr. Hanson that the Petitioner's symptoms and complaints do not fit a "classic" description of a meniscus tear. He stated that during her initial treatment and during his examination, there were no complaints of medial-sided pain which would rule out causation for the medial meniscus tear to her original injury. Finally, Dr. Ritchie testified that there was no causal connection to the Petitioner's chondromalacia because it was not present on the original MRI or her original treatment, due to her lack of medial-sided complaints. He stated that the chondromalacia which was identified by the very specific MR arthrogram, was identified as typical wear and tear suggestive of early arthritis.

Dr. Ritchie testified that the Petitioner was in no need of further surgery for this work condition or treatment after his examination on October 28, 2011. He stated that Dr. Hanson's permanent restriction of ten minutes per hour on her feet was ridiculous given the lack of objective findings and the severe limitation that this would put on the Petitioner's normal lifestyle.

**In support of the Arbitrator's decision relating to (F) Is Petitioner's current condition of ill-being causally related to the injury?, the Arbitrator finds as follows:**

The Petitioner's original accident of September 2, 2010 was compensable, but amounted to a contusion with suggestion of an occult /non-displaced hairline fracture of the left tibial plateau along with a left ankle sprain. She received appropriate treatment from Dr. Zehr and Dr. Hanson through the end of 2010.

The Arbitrator notes that the Petitioner's testimony regarding her complaints was severe contradicted by the records of Dr. Zehr, Dr. Hanson and Dr. Ritchie. Specifically, the Petitioner testified that she had medial and lateral sided pain from the time of her accident throughout her treatment to the present, which is directly contradicted by the medical records. There were several other instances in her testimony that are contradicted by the medical records. The Petitioner's complaints as reflected in the medical records, as opposed to her testimony are largely subjective, protracted and severe given her limited clinical, objective and diagnostic findings. The Arbitrator notes that the Petitioner's treatment was largely driven by her own subjective complaints. The Arbitrator finds that the Petitioner was less than persuasive.

The Arbitrator notes the Petitioner's negative diagnostic studies including the initial x-ray and MRI as well as subsequent x-rays and the EMG of her left leg. By the end of 2010, the Petitioner's complaints changed from the lateral side of her left knee to the medial side. As early as November 2, 2010, Dr. Hanson was anticipating the Petitioner's return to regular duty. On January 17, 2011, Dr. Hanson anticipated return to regular duty in one month. Around that time, the Petitioner stated she was 85% better but told her doctors that she could not be on her feet even 30 minutes per hour. This severe complaint is not supported by her diagnostic tests or other objective medical records.

Both Dr. Hanson and Dr. Zehr agreed that the tibial plateau fracture was resolved by January 18, 2011. Dr. Ritchie ordered an EMG and MR arthrogram based upon the Petitioner's irregular and subjective complaints. He testified that, after reviewing these tests, the Petitioner could have returned to work without restrictions as of his IME on October 28, 2011. He stated that she was at maximum medical improvement at that point with no need for further treatment and that the medial side complaints to her knee were not related to the original accident.

Based on the Petitioner's testimony and review of the medical records, the Arbitrator accepts the opinion of Dr. Ritchie. The Arbitrator finds that the Petitioner reached maximum medical improvement by October 28, 2011 with no need for further treatment or work restrictions. The Arbitrator finds that the Petitioner's knee condition and treatment after October 28, 2011, is not causally related to her accident of September 2, 2010, since those conditions were located on the opposite side of her knee from the fracture.

**In support of the Arbitrator's decision relating to (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 Arbitrator finds as follows:**

Based on the above findings, the Arbitrator finds that all treatment after October 28, 2011 is not causally related to the original accident. The Arbitrator further finds that the Respondent has paid for all medical treatment prior to October 28, 2011. Therefore, the Petitioner's claim for additional medical benefits is hereby denied.

**In support of the Arbitrator's decision relating to (K): What temporary benefits are in dispute?, the Arbitrator finds as follows:**

Based on the above findings, the Arbitrator finds that any temporary total disability after October 28, 2011 is not causally related to the Petitioner's original accident. The Arbitrator bases his report on the opinion and reports of Dr. Ritchie. Therefore, the Petitioner's claim for temporary total disability benefits after October 28, 2011 is hereby denied.

**In support of the Arbitrator's decision relating to (L): What is the nature and extent of the injury?, the Arbitrator finds as follows:**

The Arbitrator finds that as a result of an accidental injury on September 2, 2010, the Petitioner sustained permanent partial disability to the extent of 25% loss of use of the left leg. This finding is based on the diagnostic evidence of a fracture of the lateral tibial plateau .

**In support of the Arbitrator's decision relating to (M): Should penalties or fees be imposed upon Respondent?, the Arbitrator finds as follows:**

The Arbitrator finds that as a result of the Petitioner's initial injury, the Respondent accommodated her work restrictions. In February of 2011, the Respondent complied with the Petitioner's time restrictions and provided temporary partial disability benefits until March 29, 2011. After March 29, 2011, the Respondent paid temporary total disability benefits until September 23, 2012. The Respondent terminated TTD benefits based not only on the opinion of Dr. Ritchie, dating to October 28, 2011, but also on additional diagnostic studies including an EMG and MR arthrogram.

Given the facts of this case, the Arbitrator finds that the Respondent's reliance upon the opinion of Dr. Ritchie in conjunction with the negative EMG study and MR arthrogram findings, was reasonable. The Arbitrator hereby denies the Petitioner's petition for penalties in this matter.