STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

Before the Illinois Workers' Compensation Commission

NANCY TAYLOR,
Petitioner,

vs.

Nos. 14 WC 010957
21 IWCC 0501

CITY OF CHICAGO,
Respondent.

ORDER

The Commission on the Motion of Respondent recalls the Corrected Decision and Opinion on Review of the Illinois Workers' Compensation Commission dated October 21, 2021, pursuant to Section 19(f) of the Act due to a clerical error.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Corrected Decision and Opinion on Review dated October 21, 2021 is hereby recalled and a Second Corrected Decision and Opinion on Review is hereby issued simultaneously.

November 16, 2021

SM/msb
44

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

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

NANCY TAYLOR,

Petitioner,

vs. NO: 14WC 10957

CITY OF CHICAGO,

Respondent.

SECOND CORRECTED DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b) having been filed by the Petitioner and Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection, medical expenses, prospective medical care,temporary total disability, penalties pursuant to Sections 19(k), 19(l), and attorneys' fees pursuant to Section 16, and being advised of the facts and law, corrects and 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).

The Commission hereby corrects the Decision of the Arbitrator to award maintenance benefits commencing October 25, 2018 through November 19, 2019.

The Commission, after reviewing the issue of penalties pursuant to Section 19(l) and 19(k), and attorneys' fees under Section 16 of the Act views the evidence differently. Petitioner sustained serious injuries in a work-related accident on March 7, 2014. She was employed by Respondent as a tree trimmer when a large, heavy tree trunk fell on her causing a comminuted,

displaced pelvic fracture, spinal injuries, and injury to her right knee and right shoulder. Her pelvic fracture was unstable and required surgical reduction which was performed by Dr. Chandler. Petitioner underwent multiple surgeries and her rehabilitation was complicated by the combination of upper and lower extremity injuries, and pelvic and spinal instability. She was treated by a team of physicians that included specialists in orthopedics, physical medicine, and pain management.

Petitioner was confined to a wheelchair for a period and then progressed to a walker and finally relied upon a cane when ambulating outside her home. She underwent extensive physical therapy to treat severe back pain and regain as much function as possible. In 2016 she underwent a spinal fusion and a spinal cord stimulator was installed in November 2016 for intractable back pain.

On April 25, 2017 Dr. Chandler, Petitioner's treating orthopedic surgeon placed permanent restrictions that included a 10 lb. lifting limitation, no overhead lifting, limited standing and walking, no stairs or climbing, and no use of heavy equipment. Petitioner underwent a Section 12 evaluation by Dr. Candido at the request of Respondent on September 26, 2017. Dr. Candido opined that she was able to return to light duty work with a 25 lb. lifting restriction and limitations on walking and no overhead lifting.

Petitioner underwent a Functional Capacity Evaluation on April 11, 2018 which was suspended due to concerns about exertional blood pressure elevation. A second FCE was performed on April 26, 2018 following medical clearance, which the evaluator determined to be not valid and not representative of Petitioner's functional performance.

Respondent terminated Petitioner's temporary total disability benefits on May 12, 2018 without explanation. Petitioner filed a Petition seeking penalties and fees. Respondent did not file a response to the Petition. On June 12, 2018 Dr. Chandler commented on the invalid FCE in his clinical note attributing the "submaximal performance" to a misinterpretation of Petitioner's baseline threshold of pain by the evaluator. TTD benefits were not restored until August 12, 2018.

Respondent City of Chicago sent a letter dated August 2, 2018 stating that the suspension of TTD benefits was the result of an IME by Respondent's retained Section 12 examiner Dr. Candido. In a report dated July 14, 2014 Dr. Candido gave Petitioner a full duty work release and declared her to be at MMI without having reevaluated her since September 2017.

Respondent fails to explain how the termination of TTD benefits on May 12, 2018 could possibly have been based upon an opinion from Dr. Candido that was not received until July 14, 2018.The Commission finds that these benefits were terminated without the benefit of any medical opinion.

The Commission finds Dr. Candido's credentials to be relevant in evaluating the validity and persuasiveness of his opinions. Dr. Candido is board certified in anesthesiology and maintains a pain management practice. He is not trained in orthopedics or rehabilitation medicine. His qualifications to opine on Petitioner's functional ability to return to full duty work as a tree trimmer given the severity of her injuries are not persuasive. It is difficult to comprehend the logic employed by Respondent in relying upon a Section 12 expert whose expertise is in pain management to evaluate the care and treatment rendered Petitioner and assess her functional abilities.

The Commission finds that Respondent's conduct in withholding temporary total disability benefits for the period of May 12, 2018 through August 2, 2018 was objectively unreasonable and represents the vexatious conduct Sections 19(k) and 19(l) of the Act were intended to address. The Commission finds that TTD benefits were reinstituted by the efforts of Petitioner's attorney in filing a Petition for Penalties and Fees. For the foregoing reasons the Commission awards penalties in the amount of $2,209.37 pursuant to Section 19(k) of the Act, penalties pursuant to Section 19(l) in the amount of $5,523.42, and attorneys' fees pursuant to Section 16 in the amount of $2,209.37.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent shall pay to the Petitioner the sum of $920.57 per week commencing March 8, 2014 through October 24, 2018, for a period of 241 5/7 weeks, that being the period of temporary total incapacity for work under §8(b), and that as provided in §19(b) of the Act, this award in no instance shall be a bar to a further hearing and determination of a further amount of temporary total compensation or of compensation for permanent disability, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay reasonable and necessary medical expenses, adjusted pursuant to the medical fee schedule of $22,430.00 to Dr. Angelopoulos, $3,378.25 and $724.00 to South Chicago Orthopedics, $801.45 to ATI, $2,442.20 to Dr. Troy, $5,666.78 to Prescription Partners, and $1,020.00 to Premier Healthcare Services pursuant to §8(a) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay Petitioner maintenance benefits of $920.57 per week for a period of 55 6/7 weeks commencing October 25, 2018 through November 19, 2019.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall authorize and pay for prospective medical treatment recommended by Dr. Steven Chandler, Dr. Richard Troy, Dr. George Angelopoulos, and any necessary follow up care.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall be given a credit of $258,773.37 for temporary total disability benefits, maintenance benefits, and the permanent partial disability advance that has been paid.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner penalties pursuant to Section 19(k) of the Act in the sum of $2,209.37, penalties pursuant to Section 19(l) of the Act in the sum of $5,523.42, and attorneys' fees pursuant to Section 16 of the Act in the sum of $2,209.37.

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 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.

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.

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

November 16, 2021

o- 08/18/21
SM/msb
44

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

/s/ *Deborah J. Baker*
Deborah J. Baker

/s/*Deborah L. Simpson*
Deborah L. Simpson

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

Before the Illinois Workers' Compensation Commission

NANCY TAYLOR,
Petitioner,

vs.

Nos. 14 WC 010957
21 IWCC 0501

CITY OF CHICAGO,
Respondent.

ORDER

The Commission on the Motion of Respondent recalls the Decision and Opinion on Review of the Illinois Workers' Compensation Commission dated September 30, 2021, pursuant to Section 19(f) of the Act due to a clerical error.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision and Opinion on Review dated September 30, 2021 is hereby recalled and a Corrected Decision and Opinion on Review is hereby issued simultaneously.

October 21, 2021

SM/msb
44

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

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

NANCY TAYLOR,

Petitioner,

vs. NO: 14WC 10957

CITY OF CHICAGO,

Respondent.

CORRECTED DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b) having been filed by the Petitioner and Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection, medical expenses, prospective medical care,temporary total disability, penalties pursuant to Sections 19(k), 19(l), and attorneys' fees pursuant to Section 16, and being advised of the facts and law, corrects and 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).

The Commission hereby corrects the Decision of the Arbitrator to award maintenance benefits commencing October 25, 2018 through November 19, 2019.

The Commission, after reviewing the issue of penalties pursuant to Section 19(l) and 19(k), and attorneys' fees under Section 16 of the Act views the evidence differently. Petitioner sustained serious injuries in a work-related accident on March 7, 2014. She was employed by Respondent as a tree trimmer when a large, heavy tree trunk fell on her causing a comminuted,

displaced pelvic fracture, spinal injuries, and injury to her right knee and right shoulder. Her pelvic fracture was unstable and required surgical reduction which was performed by Dr. Chandler. Petitioner underwent multiple surgeries and her rehabilitation was complicated by the combination of upper and lower extremity injuries, and pelvic and spinal instability. She was treated by a team of physicians that included specialists in orthopedics, physical medicine, and pain management.

Petitioner was confined to a wheelchair for a period and then progressed to a walker and finally relied upon a cane when ambulating outside her home. She underwent extensive physical therapy to treat severe back pain and regain as much function as possible. In 2016 she underwent a spinal fusion and a spinal cord stimulator was installed in November 2016 for intractable back pain.

On April 25, 2017 Dr. Chandler, Petitioner's treating orthopedic surgeon placed permanent restrictions that included a 10 lb. lifting limitation, no overhead lifting, limited standing and walking, no stairs or climbing, and no use of heavy equipment. Petitioner underwent a Section 12 evaluation by Dr. Candido at the request of Respondent on September 26, 2017. Dr. Candido opined that she was able to return to light duty work with a 25 lb. lifting restriction and limitations on walking and no overhead lifting.

Petitioner underwent a Functional Capacity Evaluation on April 11, 2018 which was suspended due to concerns about exertional blood pressure elevation. A second FCE was performed on April 26, 2018 following medical clearance, which the evaluator determined to be not valid and not representative of Petitioner's functional performance.

Respondent terminated Petitioner's temporary total disability benefits on May 12, 2018 without explanation. Petitioner filed a Petition seeking penalties and fees. Respondent did not file a response to the Petition. On June 12, 2018 Dr. Chandler commented on the invalid FCE in his clinical note attributing the "submaximal performance" to a misinterpretation of Petitioner's baseline threshold of pain by the evaluator. TTD benefits were not restored until August 12, 2018.

Respondent City of Chicago sent a letter dated August 2, 2018 stating that the suspension of TTD benefits was the result of an IME by Respondent's retained Section 12 examiner Dr. Candido. In a report dated July 14, 2014 Dr. Candido gave Petitioner a full duty work release and declared her to be at MMI without having reevaluated her since September 2017.

Respondent fails to explain how the termination of TTD benefits on May 12, 2018 could possibly have been based upon an opinion from Dr. Candido that was not received until July 14, 2018.The Commission finds that these benefits were terminated without the benefit of any medical opinion.

The Commission finds Dr. Candido's credentials to be relevant in evaluating the validity and persuasiveness of his opinions. Dr. Candido is board certified in anesthesiology and maintains a pain management practice. He is not trained in orthopedics or rehabilitation medicine. His qualifications to opine on Petitioner's functional ability to return to full duty work as a tree trimmer given the severity of her injuries are not persuasive. It is difficult to comprehend the logic employed by Respondent in relying upon a Section 12 expert whose expertise is in pain management to evaluate the care and treatment rendered Petitioner and assess her functional abilities.

The Commission finds that Respondent's conduct in withholding temporary total disability benefits for the period of May 12, 2018 through August 2, 2018 was objectively unreasonable and represents the vexatious conduct Sections 19(k) and 19(l) of the Act were intended to address. The Commission finds that TTD benefits were reinstituted by the efforts of Petitioner's attorney in filing a Petition for Penalties and Fees. For the foregoing reasons the Commission awards penalties in the amount of $2,209.37 pursuant to Section 19(k) of the Act, penalties pursuant to Section 19(l) in the amount of $5,523.42, and attorneys' fees pursuant to Section 16 in the amount of $2,209.37.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent shall pay to the Petitioner the sum of $920.57 per week commencing May 12, 2018 through August 7,2018, for a period of 13 2/7 weeks, that being the period of temporary total incapacity for work under §8(b), and that as provided in §19(b) of the Act, this award in no instance shall be a bar to a further hearing and determination of a further amount of temporary total compensation or of compensation for permanent disability, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay reasonable and necessary medical expenses, adjusted pursuant to the medical fee schedule of $22,430.00 to Dr. Angelopoulos, $3,378.25 and $724.00 to South Chicago Orthopedics, $801.45 to ATI, $2,442.20 to Dr. Troy, $5,666.78 to Prescription Partners, and $1,020.00 to Premier Healthcare Services pursuant to §8(a) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay Petitioner maintenance benefits of $920.57 per week for a period of 55 6/7 weeks commencing October 25, 2018 through November 19, 2019.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall authorize and pay for prospective medical treatment recommended by Dr. Steven Chandler, Dr. Richard Troy, Dr. George Angelopoulos, and any necessary follow up care.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall be given a credit of $258,773.37 for temporary total disability benefits, maintenance benefits, and the permanent partial disability advance that has been paid.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner penalties pursuant to Section 19(k) of the Act in the sum of $2,209.37, penalties pursuant to Section 19(l) of the Act in the sum of $5,523.42, and attorneys' fees pursuant to Section 16 of the Act in the sum of $2,209.37.

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 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.

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.

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

October 21, 2021

SM/msb
44

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

/s/ *Deborah J. Baker*
Deborah J. Baker

/s/ *Deborah L. Simpson*
Deborah L. Simpson

ILLINOIS WORKERS' COMPENSATION COMMISSION

DECISION SIGNATURE PAGE

Case Number	14WC010957
Case Name	TAYLOR, NANCY A v. CITY OF CHICAGO
Consolidated Cases	No Consolidated Cases
Proceeding Type	Petition for Review under 19(b) Remanded Arbitration
Decision Type	Commission Decision
Commission Decision Number	21IWCC0501
Number of Pages of Decision	24
Decision Issued By	Stephen Mathis, Commissioner

Petitioner Attorney	Patrick Nicholson
Respondent Attorney	Matthew Locke

DATE FILED: 9/30/2021

/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

NANCY TAYLOR,

Petitioner,

vs. NO: 14WC 10957

CITY OF CHICAGO,

Respondent.

DECISION AND OPINION ON REVIEW

Timely Petition for Review under §19(b) having been filed by the Petitioner and Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection, medical expenses, prospective medical care,temporary total disability, penalties pursuant to Sections 19(k), 19(l), and attorneys' fees pursuant to Section 16, and being advised of the facts and law, corrects and 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).

The Commission hereby corrects the Decision of the Arbitrator to award maintenance benefits commencing October 25, 2018 through November 19, 2019.

The Commission, after reviewing the issue of penalties pursuant to Section 19(l) and 19(k), and attorneys' fees under Section 16 of the Act views the evidence differently. Petitioner sustained serious injuries in a work-related accident on March 7, 2014. She was employed by Respondent as a tree trimmer when a large, heavy tree trunk fell on her causing a comminuted,

displaced pelvic fracture, spinal injuries, and injury to her right knee and right shoulder. Her pelvic fracture was unstable and required surgical reduction which was performed by Dr. Chandler. Petitioner underwent multiple surgeries and her rehabilitation was complicated by the combination of upper and lower extremity injuries, and pelvic and spinal instability. She was treated by a team of physicians that included specialists in orthopedics, physical medicine, and pain management.

Petitioner was confined to a wheelchair for a period and then progressed to a walker and finally relied upon a cane when ambulating outside her home. She underwent extensive physical therapy to treat severe back pain and regain as much function as possible. In 2016 she underwent a spinal fusion and a spinal cord stimulator was installed in November 2016 for intractable back pain.

On April 25, 2017 Dr. Chandler, Petitioner's treating orthopedic surgeon placed permanent restrictions that included a 10 lb. lifting limitation, no overhead lifting, limited standing and walking, no stairs or climbing, and no use of heavy equipment. Petitioner underwent a Section 12 evaluation by Dr. Candido at the request of Respondent on September 26, 2017. Dr. Candido opined that she was able to return to light duty work with a 25 lb. lifting restriction and limitations on walking and no overhead lifting.

Petitioner underwent a Functional Capacity Evaluation on April 11, 2018 which was suspended due to concerns about exertional blood pressure elevation. A second FCE was performed on April 26, 2018 following medical clearance, which the evaluator determined to be not valid and not representative of Petitioner's functional performance.

Respondent terminated Petitioner's temporary total disability benefits on May 12, 2018 without explanation. Petitioner filed a Petition seeking penalties and fees. Respondent did not file a response to the Petition. On June 12, 2018 Dr. Chandler commented on the invalid FCE in his clinical note attributing the "submaximal performance" to a misinterpretation of Petitioner's baseline threshold of pain by the evaluator. TTD benefits were not restored until August 12, 2018.

Respondent City of Chicago sent a letter dated August 2, 2018 stating that the suspension of TTD benefits was the result of an IME by Respondent's retained Section 12 examiner Dr. Candido. In a report dated July 14, 2014 Dr. Candido gave Petitioner a full duty work release and declared her to be at MMI without having reevaluated her since September 2017.

Respondent fails to explain how the termination of TTD benefits on May 12, 2018 could possibly have been based upon an opinion from Dr. Candido that was not received until July 14, 2018.The Commission finds that these benefits were terminated without the benefit of any medical opinion.

The Commission finds Dr. Candido's credentials to be relevant in evaluating the validity and persuasiveness of his opinions. Dr. Candido is board certified in anesthesiology and maintains a pain management practice. He is not trained in orthopedics or rehabilitation medicine. His qualifications to opine on Petitioner's functional ability to return to full duty work as a tree trimmer given the severity of her injuries are not persuasive. It is difficult to comprehend the logic employed by Respondent in relying upon a Section 12 expert whose expertise is in pain management to evaluate the care and treatment rendered Petitioner and assess her functional abilities.

The Commission finds that Respondent's conduct in withholding temporary total disability benefits for the period of May 12, 2018 through August 2, 2018 was objectively unreasonable and represents the vexatious conduct Sections 19(k) and 19(l) of the Act were intended to address. The Commission finds that TTD benefits were reinstituted by the efforts of Petitioner's attorney in filing a Petition for Penalties and Fees. For the foregoing reasons the Commission awards penalties in the amount of $2,209.37 pursuant to Section 19(k) of the Act, penalties pursuant to Section 19(l) in the amount of $5,523.42, and attorneys' fees pursuant to Section 16 in the amount of $2,209.37.

IT IS THEREFORE ORDERED BY THE COMMISSION that Respondent shall pay to the Petitioner the sum of $920.57 per week commencing May 12, 2018 through August 7,2018, for a period of 241 5/7 weeks, that being the period of temporary total incapacity for work under §8(b), and that as provided in §19(b) of the Act, this award in no instance shall be a bar to a further hearing and determination of a further amount of temporary total compensation or of compensation for permanent disability, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay reasonable and necessary medical expenses, adjusted pursuant to the medical fee schedule of $22,430.00 to Dr. Angelopoulos, $3,378.25 and $724.00 to South Chicago Orthopedics, $801.45 to ATI, $2,442.20 to Dr. Troy, $5,666.78 to Prescription Partners, and $1,020.00 to Premier Healthcare Services pursuant to §8(a) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay Petitioner maintenance benefits of $920.57 per week for a period of 55 6/7 weeks commencing October 25, 2018 through November 19, 2019.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall authorize and pay for prospective medical treatment recommended by Dr. Steven Chandler, Dr. Richard Troy, Dr. George Angelopoulos, and any necessary follow up care.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall be given a credit of $258,773.37 for temporary total disability benefits, maintenance benefits, and the permanent partial disability advance that has been paid.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall pay to Petitioner penalties pursuant to Section 19(k) of the Act in the sum of $2,209.37, penalties pursuant to Section 19(l) of the Act in the sum of $5,523.42, and attorneys' fees pursuant to Section 16 of the Act in the sum of $2,209.37.

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 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.

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.

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

September 30, 2021

o- 08/18/21
SM/msb
44

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

/s/ *Deborah J. Baker*
Deborah J. Baker

/s/ *Deborah L. Simpson*
Deborah L. Simpson

ILLINOIS WORKERS' COMPENSATION COMMISSION
NOTICE OF 19(b) ARBITRATOR DECISION

21IWCC0501

TAYLOR, NANCY A
Employee/Petitioner

Case# **14WC010957**

CITY OF CHICAGO
Employer/Respondent

On 4/14/2020, 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 0.29% 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:

0147 CULLEN HASKINS NICHOLSON ET AL
PATRICK B NICHOLSON
10 S LASALLE ST SUITE 1250
CHICAGO, IL 60603

0010 CITY OF CHICAGO CORP COUNSEL
MATTHEW LOCKE
30 N LASALLE ST SUITE 800
CHICAGO, IL 60602-2580

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)

Nancy A. Taylor
Employee/Petitioner

Case # 14 WC 010957
Consolidated Cases: None

v.

City of Chicago
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 **Steven Fruth**, Arbitrator of the Illinois Workers' Compensation Commission, in the city of **Chicago**, on **November 19, 2019.** 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, **3/7/2014**, 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 **$71,804.79**; the average weekly wage was **$1,380.86.00**.

On the date of accident, Petitioner was **51** years of age, *single* with **1** 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 **$204,275.12** for TTD, **$0** for TPD, **$50,889.95** for maintenance, and **$3,608.30** for PPD advance, for a total credit of **$258,773.37**.

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

ORDER

Respondent shall pay Petitioner temporary total disability benefits of $920.57/week for **241 &5/7** weeks, **commencing March 8, 2014 through October 24, 2018**.

Respondent shall pay Petitioner maintenance benefits of $920.57/week for **55 & 6/7** weeks, **commencing March 7, 2014 through November 19, 2019** as provided in §8(a) of the Act.

Respondent shall be given a credit of $258,773.37 for temporary total disability benefits, maintenance benefits, and the permanent partial disability advance that has been paid.

Respondent shall pay reasonable and necessary medical services, adjusted pursuant to the medical fee schedule, of $22,430.00 to Dr. Angelopoulos, $3,378.25 and $724.00 to South Chicago Orthopedics, $801.45 to ATI, $2,442.20 to Dr. Troy, $5,666.78 to Prescription Partners, and $1,020.00 to Premier Healthcare Services.

Respondent shall further authorize and pay for prospective medical treatment recommended by Dr. Steven Chandler, Dr. Richard Troy, Dr. George Angelopoulos, and any necessary follow up care.

Respondent shall pay Petitioner penalties of $10,000.00, as provided in §19(l) 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

April 8, 2020
Date

APR 14 2020

Nancy Taylor v. City of Chicago
14 WC 10957

INTRODUCTION

This matter proceeded to hearing on November 19, 2019 before Arbitrator Steven Fruth. The disputed issues were: ***F:*** Is the Petitioner's current condition of ill-being causally related to the accident?; ***J:*** Were the medical services that were provided to the Petitioner reasonable and necessary? Has the Respondent paid all appropriate charges for all reasonable and necessary medical services? Is the Petitioner entitled to any prospective medical care?; ***L:*** What temporary total disability benefits are in dispute? TTD; and ***M:*** Should penalties be imposed upon Respondent?

FINDINGS OF FACT

Petitioner Nancy Taylor was employed by Respondent City of Chicago Bureau of Forestry as a tree trimmer. Petitioner's essential duties, as set forth in the job description from Respondent (PX #16) included climbing trees, being lifted in a mechanical device to remove tree limbs with power saws or pruners, cut tree trucks on the ground with power saws, loading tree trunks onto trucks, paring trees and using various equipment for planting, transplanting and pruning trees. The logs weigh from 50-75 pounds. Petitioner worked for Respondent about 10 years.

Petitioner testified that on March 7, 2014, a tree trunk approximately 18 inches in diameter and 7 feet long fell on her, after she had fallen to the ground. She had been cutting the tree when she stopped to help a colleague. When she returned to cutting the tree, she heard a crackling sound, which she knew to mean something was going to happen with the tree. Petitioner then threw her chainsaw away and fell to the ground. The tree trunk came down on her between her knees and chest. She testified that her whole body was numb.

Petitioner was transported by ambulance to Advocate Trinity Hospital with complaints of back pain, hip pain, and right thigh pain (PX #2). A CT confirmed a comminuted fracture of the left ilium at the sacroiliac joint with mild separation of fracture fragments, fractures of the bilateral superior and inferior pubic rami. The right superior pubic ramus fracture is comminuted with small displacement. CT of the lumbar spine demonstrated no fracture or spondylolisthesis but a small disc herniation or bulge at L4-5 contributed to mild central canal stenosis. CT of the cervical spine demonstrated asymmetric left-sided facet arthrosis at C2-3 and moderate disc space narrowing and

degenerative changes at C5-6. There were also disc osteophyte complexes at C4-5 and C5-6, contributing to central spinal canal stenosis. Petitioner was then transferred to Advocate Christ Hospital.

Petitioner was admitted to Advocate Christ Hospital and remained an inpatient until March 15, 2014. On March 11, 2014, Petitioner underwent an open reduction internal fixation of her pelvis for pelvic ring fractures with bilateral superior and inferior pubic rami fractures and left iliac c-wing fracture with a disruption of the left sacroiliac joint by Dr. Steven Chandler, D.O. (PX #3).

Petitioner was then transferred to Manor Care for rehabilitative care. She used a wheelchair and walker until on April 10, 2014. While in Manor Care, Dr. Durudogan Petitioner's complaints of pain and problems to her right shoulder. An MRI of the right shoulder was ordered by Dr. Chandler, which showed a moderately sized full thickness anterior supraspinatus insertional tear with prominent tendinosis in the remainder of the supraspinatus and infraspinatus and peritoneal tightness with no significant muscle atrophy (PX #4 & PX #5).

When Petitioner was discharged to home, she received home occupational and physical therapy, as well as nursing visits (PX #5). Dr. Chandler prescribed a course of physical therapy which began at Athletico on May 20, 2014. Dr. Chandler noted that Petitioner needed to be full weight bearing before he could perform right shoulder surgery. Petitioner was initially discharged from Athletico on August 4, 2014 with limited stair negotiation, right shoulder causing severe night pain, difficulty brushing hair, fastening bra, and reaching. Petitioner's primary complaint of severe low back pain was noted (PX #13).

On August 5, 2014, Dr. Chandler performed a right shoulder arthroscopy for repair of the full thickness rotator cuff tear and impingement syndrome along with degenerative labral tear and hypertrophic bursa/bursitis repair. Petitioner was prescribed a sling and cane as well as additional physical therapy. Petitioner returned to Athletico on August 22, 2014 with difficulty ambulating, severe low back and hip pain, and difficulty sleeping.

Petitioner underwent a series of epidural steroid injections at L5-S1 by Dr. Jido August 29 and September 24, 2014. Dr. Chandler prescribed a lumbar MRI which on October 21, 2014 demonstrated post-surgical changes at L5-S1. Dr. Chandler prescribed additional physical therapy and home exercise program as well as Norco. Petitioner continued her physical therapy at Athletico.

Because of continuing low back complaints Dr. Chandler then referred the Petitioner to an orthopedic spine specialist, Dr. Richard Troy. On December 9, 2014, Dr. Troy noted constant low back pain across the left and right side as well as the left gluteal region and the posterior aspect of the left leg. Dr. Troy administered and SI joint injection. He recommended a CT scan of the pelvis, continued physical therapy, Norco and Lyrica (PX #11).

Petitioner also continued treating with Dr. Chandler, who on January 5, 2015 noted right thigh pain and that Petitioner had a large hematoma. He indicated that there was a strong possibility that she has a quadriceps muscle tear, so he ordered an MRI and a CT myelogram in addition to Norco.

The January 12, 2015 MRI of the right femur revealed a probable partial thickness sartorius tendon tear along the superficial fascia of the anteromedial aspect of the mid-thigh. Petitioner continued in her therapy at Athletico.

On February 21, 2015 Dr. Troy administered a left SI joint injection.

On March 9, 2015, Dr. Troy noted minimal relief from the SI joint injection and recommended a repeat injection as well as Norco and Tramadol. On March 20, 2015, Dr. Chandler noted that if the second SI joint injection did not provide relief, a SI joint fusion would be the next step. He prescribed continued physical therapy due to weakness and renewed the Norco prescription. Petitioner continued in her therapy at Athletico.

Dr. Chandler "wrote a "To Whom It May Concern" letter March 20, 2015, stating his treatment of Petitioner for pelvic fracture, lateral compression type II bilateral and superior and inferior pubic rami fractures, and left SI joint disruption. He also noted petitioner's complete tear right rotator cuff tendon, strain of right thigh with Sartorius muscle grade 2 partial tear, bicipital tendonitis-right, herniated disc (L4-5) central, lumbar canal stenosis, and posttraumatic arthritis left SI joint.

On April 1, 2015 Dr. Troy administered a left SI joint cortisone injection.

On May 6, 2015, Dr. Troy removed the cannulated screw going across the sacroiliac joint and associated washer. He also gave a left sacroiliac injection. Dr. Chandler noted his agreement with the removal of the screw, as well as a fusion in his office notes of May 1 and July 1, 2015.

On August 13, 2015, the Petitioner was discharged for her shoulder and back from Athletico, having attended 159 sessions.

On August 16, 2015, Dr. Troy performed a left SI joint fusion with instrumentation.

On October 21, 2015, Dr. Chandler noted that Petitioner's shoulder range of motion had improved, but with weakness, particularly overhead. He indicated that Petitioner could perform no overhead work over 10 pounds with no lifting, pushing, pulling or carrying over 25 pounds. He prescribed additional physical therapy.

Petitioner returned to Athletico on November 11, 2015. Dr. Chandler prescribed a knee brace as well as additional therapy and home exercise program. Petitioner continued treating at Athletico. On January 13, 2016, Dr. Chandler noted back pain into the right leg. He read the MRI to show a partial tear to the sartorius muscle of the right leg and prescribed continued physical therapy. A CT scan on February 18, 2016 of the pelvis demonstrated extensive pelvis reconstruction surgery and SI fusion.

On April 11, 2016, Athletico noted that Petitioner attended 71 visits, and could a two-hand lift to the shoulder with 11 pounds and a one hand lift to the shoulder and eye levels with only 5 pounds.

Petitioner received a Toradol injection by Dr. Chandler on April 13, 2016. Due to the restrictions on the Petitioner's back, physical therapy was limited on what could be done with the shoulder.

Dr. Troy administered bilateral facet joint injections at L4-5 and L5-S1 on April 27, 2016

Petitioner saw Dr. Angelopoulos on June 8, 2016 for pain management on the referral of Dr. Troy. Dr. Angelopoulos recommended a spinal cord stimulator, Fentanyl, and Norco and that he assume Petitioner's care for pain management (PX #9).

Petitioner underwent an MRI on her right knee which demonstrated a right medial meniscus tear. Dr. Chandler recommended arthroscopic surgery.

On October 12, 2016, Petitioner was evaluated by Dr. Peter Loss Brown who gave psychological clearance for a spinal cord stimulator. He noted the onset of some depressive symptoms about 5 years before but that the symptoms had been well managed (PX #9).

After reviewing the psychological evaluation, Dr. Angelopoulos proceeded with the placement of Infineon leads in the hope of capturing the entire painful area with a spinal cord stimulator trial. On December 1, 2016, Dr. Angelopoulos noted that the Petitioner had good relief in her back and legs and scheduled a permanent placement. Petitioner reported 50-60 % pain relief.

On February 23, 2017 when Dr. Troy performed a T8 laminectomy, spinal cord decompression at T8-9 level, spinal cord stimulator placement overlying the T6 and T7 posterior aspect of the spinal canal (PX #11).

Petitioner was reevaluated by Dr. Chandler on March 16, 2017, with 8/10 pain. Petitioner was taking Cyclobenzaprine and Hydrocodone and using a cane. Due to the recent procedures to her back and pain in the right knee, she had been unable to do physical therapy. Her knee was giving out. Dr. Chandler gave Petitioner a cortisone injection to the right knee.

On April 12, 2017, Dr. Chandler performed a right knee arthroscopy with a partial medial meniscectomy and limited debridement and sub-chondroplasty of the medial tibial plateau (PX #5). He ordered post-operative physical therapy.

Petitioner returned to Athletico on April 18, 2017. Low back pain, radiculopathy, and decreased knee range of motion and strength were all noted. On April 25, 2017, Dr. Chandler stated Petitioner's permanent restrictions were limited standing and walking, right upper extremity limited, no overhead, no lifting more than 10 pounds, other restrictions per the spine surgeon, limited distance walking, no stairs, no climbing, no pushing, no pulling, and no use of heavy equipment (PX #8).

Dr. Troy administered a left SI injection May 23, 2017.

On May 24, 2017, Athletico noted that Petitioner had improved knee strength and mobility, but remains with significant functional limitations and pain free stair climbing. It was noted that Petitioner was limited in completion of functional activities due to the severity of chronic low back pain.

At the last session of physical therapy on April 18, 2017 at Athletico, the physical therapist noted that Petitioner was "very motivated." At her time of discharge from that session of physical therapy Petitioner had attended 40 appointments.

Dr. Chandler wrote a "To Whom It May Concern" note April 25, 2017 setting forth petitioner's permanent restrictions: limited standing and walking, right upper extremity limited, no overhead, no lifting › 10 lbs., other restrictions per spine surgeon, limited distance walking, no stairs, no climbing, no push, no pulling, and no use of heavy equipment (PX #8).

Petitioner completed her treatment with Athletico on September 18, 2017. At that time, it was noted that no further improvement and tolerance for functional activities would occur, due to the severity of chronic low back pain. It was recommended that further medical intervention and pain management be suggested due to the chronic low back pain. Petitioner was discharged as no further functional improvement would be indicated. Petitioner's pain was noted to be 5/10.

The Petitioner was examined pursuant to §12 of the Act at the request of Respondent by anesthesiologist Dr. Kenneth Candido on September 26, 2017 (RX #2). Dr. Candido had reviewed Petitioner's medical records. He noted that his exam was consistent with limited lumbar flexion and limited lumbar extension. Those range of motion maneuvers were limited by stiffness and by pain. Dr. Candido noted that subjectively, Petitioner rated her pain at 5/10 in the low back at rest and up to 8/10 with activity.

Dr. Candido related Petitioner's injuries to the reported injury of March 7, 2014. He diagnosed low back pain, lumbar spondylosis, status post pelvic fracture, status post pelvic surgery, status post SI joint fusion, status post spinal cord stimulator placement, and status post total knee arthroplasty. Dr. Candido further opined that Petitioner was at MMI and could return to Light Duty type work with no carrying or lifting more than 25 pounds, no ambulating more than 30 minutes without 10 minutes of rest, and no overhead activity, pending a functional capacity evaluation. He noted her overall prognosis for a full recovery was good, with the only limitations being some moderate restrictions in her lumbar range of motion. Dr. Candido noted that while Petitioner is neurologically and orthopedically intact, she is deconditioned. He recommended increasing her activity level with home exercise, rather than with a formal prescription for physical therapy. Finally, Dr. Candido specifically opined that Petitioner, based on the MRI of her lumbar spine, did not require spinal injections or additional medical care and treatment.

On November 3, 2017, Petitioner underwent a lumbar CT that showed mild lower lumbar degenerative disc disease and moderate facet joint osteoarthritis at most

pronounced L4-5 level without significant central spinal canal stenosis or neuroforaminal stenosis.

On November 25, 2017, Dr. Chandler reiterated his permanent restrictions.

On November 28, 2017, Dr. Troy referred the Petitioner back to Dr. Angelopoulos to evaluate for facet injections. Dr. Troy also recommended an LSO back brace, with injections at L4-5 and L5-S1.

On March 8, 2018, Dr. Angelopoulos indicated that he had reviewed the Dr. Candido report which recommended light duty. He recommended a diagnostic medial branch block to determine what components of her persistent mechanical low back pain are secondary to the facet joints which Dr. Troy also recommended.

On April 11, 2018, the Petitioner underwent a functional capacity evaluation at Athletico. The examination had to be stopped due to concerns with the Petitioner's high blood pressure.

Petitioner underwent a second FCE with Athletico on April 26, 2018 with a different examiner. The examiner opined that the Petitioner had an "inconsistent performance/unacceptable effort." The examiner noted that the Petitioner's job description is that of a HEAVY physical demand level. The examiner noted that Petitioner demonstrated the physical capabilities of tolerance to function at the LIGHT physical demand level delineated by a two-hand 12 inch to waist lift of 20 pounds.

Respondent suspended temporary total disability benefits without explanation on May 12, 2018.

On May 17, 2018, Dr. Troy noted that Petitioner had failed surgical intervention, had only moderate to mild relief with the spinal cord stimulator, and may need a pain pump. Petitioner continued treating with both Dr. Troy and Dr. Angelopoulos with pain medications of Meloxicam, Norco, and Tramadol.

On June 12, 2018, Dr. Troy reiterated his restrictions. He opined that the submaximal performance on the FCE may have been underlying misinterpretation of Petitioner's underlying base line threshold of pain. Dr. Troy reiterated the restrictions of a 10-pound lifting restriction, limited bending, standing, walking, no kneeling, squatting, overheard work with occasional twisting.

In an addendum July 14, 2018, Dr. Candido, after reviewing the FCE and other of Petitioner's medical records, opined that Petitioner's substandard effort undermined the utility of the examination and reiterated his opinion that Petitioner showed a complete absence of any sensory or motor defects in the bilateral upper or lower extremities. In consideration with Petitioner's intact strength and motor function, Dr. Candido, opined Petitioner was at MMI and that she could return to full duty without any restrictions.

On July 24, 2018, Dr. Angelopoulos was cutting down on the Norco and starting extended release of Tramadol. He noted that Petitioner's work status was unchanged and consistent with the form filled out by Dr. Troy on June 12, 2018. He again recommended an LSO back brace.

Petitioner underwent another FCE at ATI August 8, 2018, which was determined to be valid. The examiner concluded that Petitioner's capabilities fell below the level stated by the job description provided by the employer. Petitioner demonstrated capabilities at a LIGHT to MEDIUM demand level. It was noted that Petitioner reported lumbar pain, right knee pain, and right shoulder pain during the desk to chair, chair to floor, above shoulder, stairs, carry, kneel/crawl, prolonged sitting and during prolonged standing.

On October 9, 2018, Dr. Candido wrote another addendum relative to Petitioner's work restrictions. He agreed that Petitioner was capable of working light-medium work duty in accordance with the valid FCE completed on August 8, 2018. He agreed with the majority of the findings but disagreed with the apparent restriction of work of 7 hours per day. When specifically asked to review the job description, Dr. Candido opined the Petitioner falls below the requirements of her regular job duties which were in the medium-heavy category.

The Petitioner's temporary total disability benefits were reinstated on October 25, 2018. She then began vocational rehabilitation with Vocamotive and had an initial interview on November 14, 2018 (PX #21).

On January 25, 2019, Dr. Troy ordered another lumbar CT scan. He noted that the Petitioner was in vocational rehabilitation and driving one hour back and forth. He also noted that secondary to the drive, Petitioner had increasing low back discomfort for acute exacerbation. He again recommended an LSO back brace.

Petitioner returned to Dr. Chandler on March 5, 2019 with complaints of patella femoral pain with pain going up and down stairs, kneeling and squatting. Driving an hour to vocational rehabilitation aggravated her symptoms. Dr. Chandler injected her right

knee, reiterated her light duty restrictions, and recommended additional physical therapy for the right shoulder.

The March 7, 2019 the lumbar CT scan revealed multilevel degenerative changes, severe degenerative facet changes at L4-5 and hardware in the left SI region (PX #11).

Dr. Troy on March 29, 2019, noted 7/10 low back pain and occasional pain into the left thigh of 7/10. He again recommended bilateral L4-5 facet injections and an LSO brace. He recommended that Petitioner continue to see Dr. Angelopoulos for follow up regarding the facet injections.

On April 17, 2019, the Petitioner was involved in a motor vehicle accident. She was seen at Morris Hospital where she was examined. She was given Norco and an injection. There was no other treatment relative to the motor vehicle accident (PX #23).

On April 16, 2019, the Petitioner returned to Dr. Angelopoulos. He again prescribed the LSO brace and continued with the current medications of Norco, Meloxicam and Tramadol.

On July 30, 2019, the Petitioner was contacted by the Respondent regarding potential reasonable accommodations for employment with the Respondent (PX #20). As of the date of arbitration, Petitioner's restrictions were not accommodated by the Respondent.

On July 16, 2019, Dr. Troy again recommended facet injections and possible medial branch blocks. On July 25, 2019, Dr. Angelopoulos again recommended an LSO back brace and medial branch blocks which would be diagnostic in scope in order to determine what role the lumbar facet joints are playing the persistent low back pain. This was be a prelude to possible radiofrequency ablation of the lumbar medial branch nerves.

On July 30, 2019, Petitioner received bilateral lumbar facet injections and diagnostic medial branch blocks by Dr. Angelopoulos. Some improvement was noted.

On October 27, 2019, Dr. Angelopoulos performed a right radiofrequency ablation of the lumbar medial branch nerves in order to provide Petitioner with more permanent relief from her facet joint pain. A left medial branch radiofrequency ablation was performed on September 11, 2019.

As of the date of arbitration, the Petitioner had ongoing treatment with both Dr. Troy and Dr. Angelopoulos. Petitioner is continuing in her participation in vocational rehabilitation with Vocamotive. She had computer training and was performing a job search, which as of the date of arbitration was unsuccessful.

On cross-examination, Petitioner testified about the limitations noted in the August 2018 FCE, that she was capable of doing those activities on an occasional basis. Petitioner acknowledged the discrepancy between her FCE performance and her testimony, but stated that it was because at the FCE she put in her maximum effort.

CONCLUSIONS OF LAW

F: Is Petitioner's current condition of ill-being causally related to the accident?

This issue was not genuinely disputed. The evidence clearly demonstrated that on March 7, 2014 petitioner was severely injured when a tree trunk fell on her, fracturing her pelvis and pubic bones. Petitioner also sustained injuries to her right shoulder and right knee. All of these injuries required extensive medical care, including surgery. Petitioner testified credibly to ongoing limitations in complaints.

Accordingly, the Arbitrator finds that Petitioner proved that her current conditions of ill-being are causally related to her workplace injury on March 7, 2014.

J: 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?

Petitioner sustained objectively significant injuries which required extensive medical care including surgeries, physical therapy, and pain management. There is no dispute that the medical services provided to petitioner were reasonable and necessary up to the §12 IME by Dr. Candido on July 14, 2017. Respondent disputes payment of Petitioner's medical treatment after the July 14, 2017 IME based on Dr. Candido's opinion that Petitioner was at MMI.

Dr. Candido is a board-certified anesthesiologist who respondent retained to examine a patient with orthopedic injuries to her pelvis, pubic bones, right shoulder, and right knee, Dr. Candido evaluated Petitioner then current condition and whether further medical care was necessary.

Dr. Candido summarized his diagnoses as including low back pain, lumbar spondylosis, status post pelvic fracture, status post pelvic surgery, status post SI joint fusion, status post spinal cord stimulator placement, and status post total knee arthroplasty, all of which are orthopedic and not within the realm of Dr. Candido's expertise in anesthesiology. Based on his examination and review of Petitioner's records, including the April 26, 2018 FCE which noted inconsistent performance and unacceptable effort, Dr. Candido concluded that Petitioner was at MMI.

The Arbitrator finds the opinions of Dr. Candido unpersuasive and unreliable. First, the Arbitrator notes that Dr. Candido is an anesthesiologist, not an orthopedic surgeon. Dr. Candido's opinions are in conflict Petitioner's treating board-certified orthopedic surgeons. That alone, given Petitioner's considerable orthopedic issues, undermines the reliability and persuasiveness of Dr. Candido's opinions. The Arbitrator also finds that Dr. Candido misplaced his later reliance on the April 2018 FCE. Dr. Troy aptly noted on June 12, 2018 that the FCE examiner most likely misinterpreted Petitioner's effort because of her limitations due to pain.

In summary review of Petitioner's medical history Dr. Candido noted that Petitioner had had a total knee arthroplasty, when in fact Petitioner had an arthroscopic meniscectomy and chondroplasty. Further, in his summary Dr. Candido overlooked the T8 laminectomy attendant with the spinal cord stimulator insertion. These oversights indicate a lack of a thoroughness necessary for a reliable and persuasive opinion.

It does not take a trained healthcare professional to appreciate that Petitioner sustained painful, disabling, and limiting injuries which included a fractured pelvis that required open reduction with internal fixation, removal of pelvic fixation hardware, right rotator cuff arthroscopy, SI joint fusion, spinal cord stimulator, numerous rounds of pain intervention procedures such as facet and medial branch block injections, as well as multiple rounds of physical therapy. It does not take a trained healthcare professional to appreciate that a constellation of these maladies may cause pain and discomfort which may inhibit function sufficient to invalidate an FCE. Dr. Candido 's reliance on the April 26, 2018 FCE was wholly unsupported by the scope of Petitioner's injuries, necessary medical care, and common sense.

Accordingly, the Arbitrator rejects Dr. Candido's opinion that Petitioner was at MMI on July 14, 2017 as being unsupported by the evidence. Therefore, the Arbitrator awards all medical charges and fees incurred by Petitioner after June 14, 2017, finding that the medical care relating to those charges and fees was reasonable and necessary, to be adjusted in accord with the medical fee schedule provided in §8.2 of the Act.

Although not affecting the above reasoning and findings, the Arbitrator notes that assuming that Dr. Candido is correct about MMI, medical expenses to help alleviate pain from a condition causally related to the complaints employee occurred after she has reached MMI are compensable. *Elmhurst Memorial Hospital v. Industrial Commission*, 323 Ill.App.3rd 758 (2001).

K: Is Petitioner entitled to any prospective medical care?

The Arbitrator previously found the causal relationship between the accident of March 7, 2014 and Petitioner's current conditions of ill-being. The Arbitrator previously found that the medical services provided to the Petitioner as of the date of arbitration were reasonable and necessary and awarded the billing to Petitioner as noted above.

Based on the foregoing, the Arbitrator finds that Petitioner proved that the recommended pain management and LSO brace as recommended by both Dr. Troy and Dr. Angelopoulos are reasonably necessary to cure to relieve Petitioner's current condition of ill-being and in particular her severe chronic ongoing pain. The Arbitrator further finds that Petitioner proved that the physical therapy recommended by Dr. Chandler is reasonably necessary to cure or relieve Petitioner's condition of ill-being.

Therefore, Respondent is hereby ordered to authorize and pay for the procedures and treatment recommended by Dr. Angelopoulos, Dr. Troy and Dr. Chandler as well as any related medical care.

L: What temporary total disability benefits are in dispute? TTD

Petitioner received temporary total disability benefits up to May 12, 2018, benefits were suspended without explanation at that time. However, prior to May 12, 2018 Petitioner's treating physicians had placed work restrictions which prevented her from returning to her regular job as a tree trimmer. Respondent reinstated benefits October 25, 2018 as maintenance, which was undisputed (ArbX #1).

Petitioner's benefits were terminated based on the opinions of Respondent's retained §12 examining physician, Dr. Candido, that petitioner was at MMI and capable of returning to full duty work. The Arbitrator previously found Dr. Candido's opinions to be unreliable and unpersuasive. Therefore, the Arbitrator finds the restrictions placed by Petitioner's treating physicians to be reliable and reasonable.

Inasmuch as Respondent was unable to accommodate Petitioner's work restrictions, Petitioner is entitled to temporary total disability benefits commencing March 8, 2014 through October 24, 2018, 241 & 5/7 weeks, with credit due to Respondent

for benefits it paid. There was evidence of Petitioner's participation in vocational rehabilitation through Vocamotive, but without stating the start date.

Accordingly, the Arbitrator awards the disputed temporary total disability benefits to Petitioner for the time period from May 12, 2018 through October 24, 2018.

M: Should penalties or fees be imposed upon Respondent?

As noted above, Respondent terminated temporary total disability benefits unilaterally and without explanation as of May 12, 2018. Respondent apparently relied on the opinions of its retained §12 examining physician, Dr. Candido. As also noted above, the arbitrator did not find Dr. Candido's opinions reliable more persuasive. Despite the lack of reliability and persuasive nature of Dr. Candido's opinions it was neither reasonable nor vexatious for respondent to rely on those opinions.

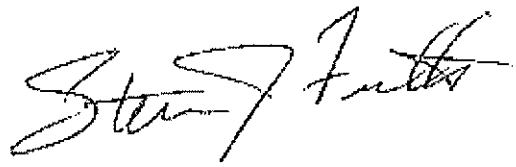
Therefore, the Arbitrator finds that Petitioner failed to prove that she is entitled to penalties pursuant to §19(k) of the Act.

However, Respondent's termination of total temporary disability benefits without explanation or reason stated in writing within 14 days, in violation of provisions of §19(l) of the Act. The number of days that payments temporary total disability benefits were not paid, from May 12, 2018 through November 19, 2019, totals 557 days.

On August 2, 2018, Respondent issued a letter indicating that benefits had been suspended as of May 11, 2018. The reason given was a "full duty release per July 14, 2018 independent medical exam addendum." This does not abate the requirements of 14 days in which to explain termination of benefits.

Therefore, the Arbitrator awards the maximum §19(l) penalty of $10,000.00 since the number of days at $30.00 a day exceeds $10,000.00.

Given the Arbitrator's finding that Respondent's reliance on the opinions of Dr. Candido was neither frivolous nor vexatious, the Arbitrator declines to award §16 attorneys' fees as a further penalty.



Steven J. Fruth, Arbitrator

April 8, 2020
Date