

ARKANSAS COURT OF APPEALSDIVISION I
No. CV-12-1025

AMBER WILKERSON

APPELLANT

V.

ST. EDWARD MERCY MEDICAL
CENTER AND SISTERS OF MERCY
HEALTH SYSTEM

APPELLEES

Opinion Delivered May 22, 2013

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. F707400]

AFFIRMED

PHILLIP T. WHITEAKER, Judge

Amber Wilkerson appeals the decision of the Arkansas Workers' Compensation Commission finding that she was not entitled to either additional medical treatments or an additional anatomical-impairment rating. We affirm. This is the second time we have addressed Wilkerson's workers' compensation issues, having previously affirmed the Commission by memorandum opinion. *St. Edward Mercy Med. Ctr. v. Wilkerson*, 2011 Ark. App. 287.

Wilkerson, a nurse at St. Edward Mercy Medical Center, suffered an admittedly compensable back injury on June 24, 2007. The employer accepted her injury as compensable and paid medical care and treatment while she saw various physicians. Wilkerson was diagnosed with a herniated disc at L4-5, but none of her physicians believed that surgical intervention was necessary. Wilkerson obtained a change of physician and began seeing Dr. Luke Knox in June 2009. Dr. Knox believed that Wilkerson should undergo a

Marcaine injection to determine whether a lumbar fusion might help. He also suggested surgery. At that point, St. Edward controverted Wilkerson's claim.

The administrative law judge (ALJ) found in Wilkerson's favor, and the Commission affirmed. In affirming the Commission, this court addressed Wilkerson's change of physician to Dr. Knox; the reasonableness of the treatment provided by Dr. Knox on June 4, 2009, and July 15, 2009; the denial of additional temporary total disability subsequent to July 8, 2009; and Wilkerson's entitlement to a 17% permanent physical impairment for her herniated disc and wage loss disability.

During the pendency of that appeal, Wilkerson continued to receive treatment by Dr. Knox. She underwent the Marcaine injection and an L4–5 hemilaminotomy on February 8, 2011. Following surgery, Dr. Knox assigned Wilkerson a 7% permanent partial disability rating. Wilkerson sought compensation for the additional medical treatment after January 1, 2010, and the additional disability rating. St. Edward again controverted her claim.

The ALJ denied Wilkerson's claim. The ALJ noted that the Marcaine injection was to help determine whether Wilkerson would be suitable for surgical intervention. The surgical intervention, however, was unsuccessful, and the ALJ concluded that the treatment Wilkerson received after January 2010 was treatment that led to the unsuccessful—and, according to her previous physicians, unwarranted—surgical treatment. The ALJ therefore concluded that Wilkerson failed to show by a preponderance of the evidence that any of the treatment rendered to her after January 1, 2010, was reasonable and necessary medical treatment. The ALJ also disallowed Dr. Knox's anatomical-impairment rating, finding that

it was based on the unreasonable surgical intervention. The ALJ's decision was affirmed by the Commission.

When reviewing a decision of the Commission, the court of appeals views the evidence and all reasonable inferences deducible therefrom in the light most favorable to the findings of the Commission. *Evans v. Bemis Co.*, 2010 Ark. App. 65, 374 S.W.3d 51. This court must affirm the Commission's decision if it is supported by substantial evidence. *Id.* Substantial evidence is that evidence which a reasonable mind might accept as adequate to support a conclusion of the Commission. *Id.* We reverse the Commission's decision only if we are convinced that fair-minded persons could not have reached the same conclusion with the same facts before them. *Id.*

Arkansas Code Annotated section 11-9-508(a) (Repl. 2012) requires an employer to provide an injured employee such medical services "as may be reasonably necessary in connection with the injury received by the employee." An employee may be entitled to ongoing medical treatment after the healing period has ended if the treatment is geared toward management of the compensable injury. *Stallworth v. Hayes Mech., Inc.*, 2013 Ark. App. 188; *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004). The employee has the burden of proving by a preponderance of the evidence that medical treatment is reasonable and necessary. *Greene v. Cockram Concrete Co.*, 2012 Ark. App. 691; *Cumble v. Bost Human Dev. Serv., Inc.*, 2012 Ark. App. 389, at 5–6. What constitutes reasonable and necessary medical treatment is a question of fact to be determined by the Commission. *Greene, supra.*

We conclude that substantial evidence supports the Commission's decision. Following Wilkerson's compensable back injury in 2007, none of her physicians believed that surgical intervention was appropriate until she began seeing Dr. Knox in June 2009. The Commission weighed the medical evidence from at least three physicians concluding that Wilkerson would not benefit from surgical intervention against the sole medical opinion from Dr. Knox suggesting surgery. The Commission is the ultimate arbiter of weight and credibility; it has the authority to accept or reject medical opinions, and its resolution of conflicting medical evidence has the force and effect of a jury verdict. *St. Edward Mercy Med. Ctr. v. Chrisman*, 2012 Ark. App. 475, ___ S.W.3d ___. Where, as here, the Commission has weighed and evaluated competing medical opinions, our standard of review requires us to defer to the Commission's decision.

Affirmed.

HARRISON and WYNNE, JJ., agree.

Michael Hamby, P.A., by: *Michael Hamby*, for appellant.

Anderson, Murphy & Hopkins, L.L.P., by: *Randy P. Murphy* and *Kyle E. Burton*, for appellees.