

FINAL AWARD ALLOWING COMPENSATION
(Affirming Award and Decision of Administrative Law Judge)

Injury No. 11-071977

Employee: Makeyta Jones

Employer: HCR Manor Care

Insurer: Insurance Company of the State of Pennsylvania

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo. Having reviewed the evidence and considered the whole record, the Commission finds that the award of the administrative law judge is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Law. Pursuant to § 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated June 29, 2015. The award and decision of Administrative Law Judge Kathleen M. Hart, issued June 29, 2015, is attached and incorporated by this reference.

The Commission further approves and affirms the administrative law judge's allowance of attorney's fee herein as being fair and reasonable.

Any past due compensation shall bear interest as provided by law.

Given at Jefferson City, State of Missouri, this 22nd day of December 2015.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

John J. Larsen, Jr., Chairman

James G. Avery, Jr., Member

Curtis E. Chick, Jr., Member

Attest:

Secretary

AWARD

Employee: Makeyta Jones

Injury No.: 11-071977

Dependents: n/a

Employer: HCR Manor Care

Before the
**Division of Workers'
Compensation**
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Additional Party: None

Insurer: Insurance Company of the State of Pennsylvania,
c/o Broadspire

Hearing Date: April 6, 2015

Checked by: KMH

FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? Yes
2. Was the injury or occupational disease compensable under Chapter 287? Yes
3. Was there an accident or incident of occupational disease under the Law? Yes
4. Date of accident or onset of occupational disease: September 1, 2011
5. State location where accident occurred or occupational disease was contracted: St. Louis
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? Yes
8. Did accident or occupational disease arise out of and in the course of the employment? Yes
9. Was claim for compensation filed within time required by Law? Yes
10. Was employer insured by above insurer? Yes
11. Describe work employee was doing and how accident occurred or occupational disease contracted: Claimant was assisting a resident and injured her shoulders, neck and low back.
12. Did accident or occupational disease cause death? No Date of death? n/a
13. Part(s) of body injured by accident or occupational disease: shoulders, neck, and low back
14. Nature and extent of any permanent disability: 2.5% of the body as a whole
15. Compensation paid to-date for temporary disability: None
16. Value necessary medical aid paid to date by employer/insurer? \$5,474.31

Employee: Makeyta Jones

Injury No.: 11-071977

- 17. Value necessary medical aid not furnished by employer/insurer? None
- 18. Employee's average weekly wages: \$256.59
- 19. Weekly compensation rate: \$171.06/\$171.06
- 20. Method wages computation: operation of law

COMPENSATION PAYABLE

21. Amount of compensation payable:

10 weeks of permanent partial disability from Employer	\$1,710.60
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22. Second Injury Fund liability:	None
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TOTAL:	\$1,710.60
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23. Future requirements awarded: n/a

Said payments to begin immediately and to be payable and be subject to modification and review as provided by law.

The compensation awarded to the claimant shall be subject to a lien in the amount of 25% of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

Mark Cordes

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Makeyta Jones

Injury No.: 11-071977

Dependents: n/a

Before the
**Division of Workers'
Compensation**

Employer: HCR Manor Care

Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Additional Party: n/a

Insurer: Insurance Co. of the State of Pennsylvania,
c/o Broadspire

Checked by: KMH

A hearing was held on the above captioned matter April 6, 2015. Makeyta Jones (Claimant) appeared pro se. One of her former attorneys, Mark Cordes, appeared specially to protect his lien. HCR Manor Care (Employer) was represented by attorney Mark Kornblum.

All objections not expressly ruled on in this award are overruled to the extent they conflict with this award.

STIPULATIONS

The parties stipulated to the following:

1. Claimant sustained an injury by accident September 1, 2011, while in the course and scope of her employment for Employer.
2. Employer and Claimant were operating under the provisions of the Missouri workers' compensation law.
3. Employer's liability was fully insured by Insurance Company of the State of Pennsylvania, c/o Broadspire.
4. Employer had notice of the injury and a Claim for Compensation was timely filed.
5. Claimant received \$5,474.31 in medical benefits.

ISSUES

The parties stipulated the issues to be resolved are as follows:

1. Medical causation
2. Future medical care
3. Rate
4. TTD
5. PPD
6. Attorney liens

FINDINGS OF FACT

Based on the competent and substantial evidence, my observations of Claimant at trial, and the reasonable inferences to be drawn therefrom, I find:

1. Claimant was hired by Employer October 27, 2010, as Certified Nurse Assistant. Her duties included lifting residents and assisting them with therapy, eating, bathing, and using the restroom. Claimant testified Employer was typically short staffed and had a high turnover of employees. There were not enough CNAs, so Claimant cared for up to 25 residents at a time.
2. Claimant testified she was injured when she was assisting a resident to the bedside commode. The resident was weak, so Claimant got Tasha Allen to help. The resident's legs buckled, and Claimant had to use her left side to support him. Claimant testified this caused injury to her left shoulder and arm. Claimant testified Tasha completed a report that night, but Claimant does not have the paperwork that describes how this injury happened because the documents were altered so much, and Employer would not give them to her. Claimant took over the counter Tylenol that night and kept working. The next day, Carol Hoette called her to see if she was okay and asked Claimant to let her know if her injury got worse. Claimant did not seek further treatment for this injury.
3. Employer's incident report was completed and signed by Claimant. Claimant reported she injured her right shoulder August 8, 2011, when she was assisting a resident, and Tasha Allen witnessed the injury. Claimant filed a Claim for Compensation September 15, 2011, alleging injury to her right shoulder, upper back, mid back, spine and whole body. Employer completed a First Report of Injury indicating they were notified of an August 1, 2011 injury to multiple body parts on September 20, 2011. A second Report of Injury was filed indicating Employer was notified of the injury September 26, 2011.
4. Claimant testified she was reinjured September 1, 2011, when she was assisting a resident who was a two person assist. Claimant testified she asked multiple co-workers to help her, and they all said no. Claimant had to move the 450 pound resident by herself. Claimant helped the resident back to her bed. When she lifted the resident's legs onto the bed, she felt pain in her neck, shoulders, arms, and back.
5. Claimant testified she reported this to her supervisor and completed an injury report. Employer's incident report, completed and signed by Claimant, states Claimant injured her neck, shoulder, arm, low back, and hands while assisting a resident back to bed on September 1, 2011. Claimant filed a Claim for Compensation alleging injury to her left shoulder, right shoulder, neck and back. The Claim was amended to allege injuries to her left upper extremity, and then was amended to allege injuries to her right upper extremity.
6. Claimant went to the Emergency Room after her September 1, 2011 injury and complained of numbness and tingling in her hands. She had x-rays. Claimant testified Cassandra, her supervisor, came to the Emergency Room and told Claimant to leave because Employer was not paying, and she told Claimant to go to Concentra.

7. Claimant testified the Emergency Room x-rays showed straightening of the cervical lordosis and possibly a rotator cuff tear. Claimant went home and called Miss Hoette, who sent her to Concentra. The records from Concentra indicate a history of injury September 1, 2011, consistent with Claimant's testimony. The doctor diagnosed a cervical and lumbar strain, prescribed medications and physical therapy, and recommended light duty.
8. Claimant went to physical therapy and took a prescription muscle relaxer at night. Her symptoms were typically worse at the end of the day, and the muscle relaxer made her drowsy. Claimant worked light duty, which consisted of taking vital signs and bringing water to 40-50 residents. Claimant testified this was exhausting because she was on her feet and had to put the information from the vitals into the computer. Claimant testified she had a lot of pain, but continued light duty and physical therapy.
9. Follow up records from Concentra indicate the doctor opined Claimant magnified her symptoms. By September 21, 2011, Claimant's pain continued undiminished and she was afraid to return to work. The Concentra physician recommended an evaluation by Dr. Cantrell.
10. Claimant testified the appointment with Dr. Cantrell was scheduled a month later. Claimant told Employer the light duty was hard work and made her drowsy, but they did not change her light duty. Employer frequently sent CNAs home to save money, so Claimant asked if she could go home. On other days, she called in to tell Employer she could not work because of her injuries.
11. On October 25, 2011, Claimant had her first appointment with Dr. Cantrell. Claimant testified she told him about her two injuries, one on the left and one on the right that affected her left side. She filled out the patient information sheet, but the doctor's office won't give her that document. Dr. Cantrell examined Claimant and recommended medications, physical therapy and light duty.
12. Claimant went to physical therapy October 27, 2011 for her shoulders, arms, back and neck. Claimant testified Employer fired her because of absenteeism and said the doctor did not say she was not able to work.
13. Claimant continued her physical therapy. At her November 14, 2011, visit to Dr. Cantrell, she told him her complaints continued. Claimant testified Dr. Cantrell recommended she see a neurologist. She asked for the referral, and Dr. Cantrell told her she will get it from Concentra. Claimant called Concentra and they told her once you leave there, you don't go back. She never got the referral to the neurologist. Claimant testified Dr. Cantrell didn't further investigate her injuries. He did x-rays but no other tests to determine why she still had swelling and pain in her neck, back and shoulders.
14. Dr. Cantrell's November 14, 2011, report indicates Claimant had no decrease in pain complaints in her neck and low back, and the therapist opined her complaints did not

correlate with the objective findings. Dr. Cantrell opined Claimant had reached MMI and could work without restrictions.

15. Claimant testified she went to her primary care physician for muscle relaxers. She didn't feel like she could do much. She had pain, and numbness, tingling, and burning. She requested an MRI, but her doctor said they needed to treat her first.
16. Claimant hired Mr. Swaney when she left her doctor's office. Claimant testified she told Mr. Swaney she was in pain, but he didn't send her to a doctor. Mr. Swaney told Mr. Kornblum that Claimant was supposed to see a neurologist.
17. Claimant testified she then hired Mr. Cordes because Mr. Swaney did not get her treatment. Mr. Cordes' assistant filled out the forms and was in such a rush that he wrote the injury was to the right side, but it was to the left. Claimant testified she did not know that until she saw Dr. Woiteshek.
18. Claimant testified she filled out the patient history packet and gave it to Dr. Woiteshek at her March 28, 2012, appointment. She told him she was in pain and needed treatment. Dr. Woiteshek examined Claimant, gave her a device to test her grip strength one time, and did some measurements. The exam was over in 10-15 minutes. Dr. Woiteshek said the injury was on the right side.
19. Claimant testified she called Mr. Cordes' office and asked if Dr. Woiteshek recommended treatment for her left side. The paralegal said he did not. Claimant said the doctor is a liar because he said the injury was on the right, but it is on the left.
20. Claimant got the report, and it said her injury was on the left. The doctor said he did a series of grip tests and that her MRI was normal, but the MRI showed she had a bulge. Claimant testified she called Mr. Cordes and told him Dr. Woiteshek lied. Mr. Cordes told her to write a letter outlining the inaccuracies and they would meet on Monday the 16th. Claimant testified Mr. Cordes told her to go to her own doctor for a therapy referral because Dr. Woiteshek's report contains fraudulent information.
21. Claimant testified she got a letter from her doctor, who made an error and said the bulging disc was at 5-6 when it is at C3-4. Claimant also testified the bulge was at C4-5. Mr. Cordes would not accept this letter. Claimant got it corrected from her doctor to show the bulge was at C4-5, and her doctor said she should get epidural steroid injections. Mr. Cordes didn't want to accept this letter either, and Claimant didn't want Dr. Woiteshek to do an updated report because he provides fraudulent information. Mr. Cordes would not let her see another doctor.
22. On April 19, 2012, Claimant went to the Emergency Room for the onset of pain. The doctor said she had cervical radiculopathy and gave her a prescription. Claimant testified she called Mr. Cordes and he kept telling her she needed a document saying the bulge was due to the injury.

23. On April 20, 2012, Mr. Cordes sent Claimant a letter advising her Dr. Poetz's physician's assistant did not relate her bulging disc or need for treatment to either of her injuries. (Exhibit 2)
24. A May 12, 2012, medical record from People's Health Center indicates a history of a work injury in August, and Claimant had sharp pain in her neck and down her right arm. She now had severe pain in her left shoulder and chest. The doctor noted the December 2011 MRI showed a moderate disc bulge at C4-5. He prescribed medications.
25. Claimant testified she felt Mr. Cordes was working with the opposing attorney and she had to do the work to get the doctor information, but Mr. Cordes didn't accept it. Mr. Cordes refused to provide another doctor or fix the errors Dr. Woiteshek made. Claimant fired Mr. Cordes May 16, 2012.
26. Claimant testified she then hired Ms. Christa Johnson because she used to be a workers' compensation Judge and she wins 90% of her cases. She went to Ms. Johnson's office and filled out a sheet saying her first injury was on the left side. She told Ms. Johnson the prior attorneys didn't give her proper medical treatment and changed her injuries to the right side. Ms. Johnson met with Mr. Kornblum and made changes to what her first injury was. Claimant testified she reminded Ms. Johnson that Mr. Kornblum said her injury was on the right side, and she told Ms. Johnson to get her injury reports. Ms. Johnson sent Claimant the injury reports, and Claimant noticed the injury was changed to the right side and Tasha Allen's signature was removed.
27. Ms. Johnson sent Claimant to Dr. Droege for an evaluation in May 2012. He ordered an MRI, which showed a herniated disc at C4-5. Dr. Droege recommended pain management, and Claimant had her first injection June 6.
28. In July 2012 Employer took Claimant's deposition. At that time, she testified she injured her right shoulder, right arm, back and neck on August 8, 2011. She took Tylenol, and did not feel she needed treatment for that injury. Her September 1, 2011 accident caused injury to her neck, shoulders, back, and down her right arm.
29. Claimant testified she asked Ms. Johnson to get a copy of her injury reports from Mr. Kornblum. Claimant has continuously requested these documents. Claimant testified her injury report and other documents have been altered; the OSHA investigative report in Exhibit 1 was altered; part of her injury report was missing; both First Reports of Injury were altered by Mr. Kornblum's office; and the Claims for Compensation are fraudulent.
30. In March 2013, Dr. Cantrell reviewed Dr. Droege's records, examined Claimant, and issued a report. Dr. Cantrell opined Claimant had cervical and lumbar strains from her September 2011 injury with a right shoulder strain which may have occurred with her August 2011 injury. He noted she had several non-physiologic pain behaviors. He opined she had reached MMI and her work injuries are not the prevailing factor in causing her current and ongoing symptoms or need for treatment. He rated Claimant's disability at 0% and opined she can work without restriction.

31. In July 2013 Claimant had a cervical MRI at BJC to assess her radicular neck pain. The MRI was interpreted as normal, and the doctor noted Claimant had mood swings and paranoia. She had a repeat cervical MRI in December 2013 which showed minimal degenerative disc disease, and was otherwise normal. Claimant returned to BJC in February 2014 with complaints of pain in her neck and upper extremities from an injury in 2011. A right shoulder MRI showed a small partial-thickness tear of the right supraspinatus tendon. An MRI of the left shoulder showed mild to moderate tendinosis with no tear.
32. On April 3, 2015, Mr. Kornblum took the deposition of Sharon Cancilla, the adjustor handling Claimant's cases for Insurer. Claimant participated in that deposition and stated on the record that her August injury was to the left arm, and she testified otherwise during her own deposition because her attorney told her to.
33. Claimant testified she has asked Mr. Kornblum for information regarding both injuries and requested work schedules, payroll documents, and that he call her. Employer's exhibits contain a complete set of records and documents Mr. Kornblum sent to Claimant. Many of these documents are also contained in the Exhibits Claimant submitted at trial.
34. Claimant sent numerous letters to each of her attorneys alleging fraud was committed by Employer, by each of the attorneys, by the doctors, and by Insurer.
35. Claimant testified this has caused her to be depressed. She wants medical treatment and wants this to be investigated.

RULINGS OF LAW

Having given careful consideration to the entire record, based upon the above testimony, the competent and substantial evidence presented and the applicable law, I find the following:

1. Claimant failed to establish a need for medical treatment related to this injury.

Claimant alleges she needs additional treatment related to each of her August and September injuries. Claimant bears the burden of proving all essential elements of her claim.

Claimant presented no medical evidence that her ongoing symptoms relate to this injury or that she needs treatment as a result of this injury. Claimant's primary care physician, Dr. Poetz, admitted her bulging disc and need for treatment are not causally related to either of her alleged injuries. Claimant saw Dr. Woiteshek at the direction of one of her prior attorneys. He opined she was not in need of additional treatment. Dr. Cantrell reviewed the records, examined

Claimant, and opined Claimant developed cervical and lumbar strains from the September injury, and he rated her at 0% PPD. He opined she had reached MMI and her work injuries are not the prevailing factor in causing any ongoing symptoms or need for additional treatment.

Claimant submitted into evidence numerous letters she wrote to her attorneys. She accused them of assisting and conspiring with Employer's attorney to deny her ongoing medical treatment. She asserts the attorneys would not give her copies of her records. She asserts the attorneys changed her records and withheld information from her. Claimant testified at trial that the doctors also committed fraud and the documents are fraudulent. She testified Employer concealed her documents. Claimant alleges everybody involved in her case has lied and conspired to make changes to documents and commit fraud. This is unsupported in the record and is not believable.

Based on the credible opinions of Dr. Poetz, Dr. Woiteshek, and Dr. Cantrell, I find Claimant is not in need of additional treatment related to this injury.

- 2. Claimant's TTD and PPD rate is \$171.06.**

- 3. Claimant is not entitled to TTD benefits.**

- 4. Claimant sustained 2.5% PPD of the body as a whole as a result of this injury.**

The only medical evidence regarding PPD is from Dr. Cantrell. He opined Claimant sustained 0% PPD as a result of the September injury. While Claimant continues to have complaints she relates to her injury, the medical evidence establishes her ongoing complaints are not the result of her work injury. Dr. Cantrell and the physical therapist opined Claimant magnified her symptoms. Claimant admitted she purposefully lied in her 2012 deposition. Claimant provided no credible evidence of PPD and failed to have her disability certified by a physician, as required by law. Claimant's own testimony can be evidence of permanent disability, but the objective medical evidence documents this injury caused cervical and lumbar strains and her ongoing symptoms are due to unrelated conditions. Based on subjective complaints, I find Claimant sustained 2.5% PPD as a result of cervical and lumbar strains due to this injury. She is entitled to compensation of \$1,710.60 minus 25% attorney fees, for a total of \$1,282.95 due to Claimant.

5. Attorney Mark Cordes is entitled to attorney fees of \$427.65.

Mr. Cordes submitted a lien for attorney fees of \$3,725.00 and expenses of \$666.80. Missouri law allows the Division to order reasonable attorney fees. I find the services of Mr. Cordes necessary and his charges are fair and reasonable. Mr. Cordes is hereby awarded attorney fees of 25% of the recovery, or \$427.65.

Made by: _____

KATHLEEN M. HART
Administrative Law Judge
Division of Workers' Compensation

FINAL AWARD DENYING COMPENSATION
(Affirming Award and Decision of Administrative Law Judge)

Injury No. 11-073265

Employee: Makeyta Jones

Employer: HCR Manor Care

Insurer: Insurance Company of the State of Pennsylvania

The above-entitled workers' compensation case is submitted to the Labor and Industrial Relations Commission (Commission) for review as provided by § 287.480 RSMo. Having reviewed the evidence and considered the whole record, the Commission finds that the award of the administrative law judge is supported by competent and substantial evidence and was made in accordance with the Missouri Workers' Compensation Law. Pursuant to § 286.090 RSMo, the Commission affirms the award and decision of the administrative law judge dated June 29, 2015, and awards no compensation in the above-captioned case.

The award and decision of Administrative Law Judge Kathleen M. Hart, issued June 29, 2015, is attached and incorporated by this reference.

Given at Jefferson City, State of Missouri, this 22nd day of December 2015.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

John J. Larsen, Jr., Chairman

James G. Avery, Jr., Member

Curtis E. Chick, Jr., Member

Attest:

Secretary

AWARD

Employee: Makeyta Jones

Injury No.: 11-073265

Dependents: n/a

Employer: HCR Manor Care

Before the
**Division of Workers'
Compensation**
Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Additional Party: None

Insurer: Insurance Company of the State of Pennsylvania,
c/o Broadspire

Hearing Date: April 6, 2015

Checked by: KMH

FINDINGS OF FACT AND RULINGS OF LAW

1. Are any benefits awarded herein? No
2. Was the injury or occupational disease compensable under Chapter 287? No
3. Was there an accident or incident of occupational disease under the Law? No
4. Date of accident or onset of occupational disease: alleged August 8, 2011
5. State location where accident occurred or occupational disease was contracted: alleged St. Louis
6. Was above employee in employ of above employer at time of alleged accident or occupational disease? Yes
7. Did employer receive proper notice? No
8. Did accident or occupational disease arise out of and in the course of the employment? No
9. Was claim for compensation filed within time required by Law? Yes
10. Was employer insured by above insurer? Yes
11. Describe work employee was doing and how accident occurred or occupational disease contracted: Claimant alleges she was assisting a resident and injured her right shoulder.
12. Did accident or occupational disease cause death? No Date of death? n/a
13. Part(s) of body injured by accident or occupational disease: alleged right shoulder
14. Nature and extent of any permanent disability: None
15. Compensation paid to-date for temporary disability: None
16. Value necessary medical aid paid to date by employer/insurer? None

Employee: Makeyta Jones

Injury No.: 11-073265

17. Value necessary medical aid not furnished by employer/insurer? None

18. Employee's average weekly wages: n/a

19. Weekly compensation rate: n/a

20. Method wages computation: n/a

COMPENSATION PAYABLE

21. Amount of compensation payable:

0 weeks of permanent partial disability from Employer None

22. Second Injury Fund liability: None

TOTAL: NONE

23. Future requirements awarded: n/a

Said payments to begin immediately and to be payable and be subject to modification and review as provided by law.

The compensation awarded to the claimant shall be subject to a lien in the amount of n/a% of all payments hereunder in favor of the following attorney for necessary legal services rendered to the claimant:

FINDINGS OF FACT and RULINGS OF LAW:

Employee: Makeyta Jones

Injury No.: 11-073265

Dependents: n/a

Before the
**Division of Workers'
Compensation**

Employer: HCR Manor Care

Department of Labor and Industrial
Relations of Missouri
Jefferson City, Missouri

Additional Party: n/a

Insurer: Insurance Co. of the State of Pennsylvania,
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Checked by: KMH

A hearing was held on the above captioned matter April 6, 2015. Makeyta Jones (Claimant) appeared pro se. One of her former attorneys, Mark Cordes, appeared specially to protect his lien. HCR Manor Care (Employer) was represented by attorney Mark Kornblum.

All objections not expressly ruled on in this award are overruled to the extent they conflict with this award.

STIPULATIONS

The parties stipulated to the following:

1. Employer and Claimant were operating under the provisions of the Missouri workers' compensation law on the alleged date of injury.
2. Employer's liability was fully insured by Insurance Company of the State of Pennsylvania, c/o Broadspire.
3. A Claim for Compensation was timely filed.

ISSUES

The parties stipulated the issues to be resolved are as follows:

1. Accident
2. Arising out of and in the course of employment
3. Notice
4. Medical causation
5. Future medical care
6. Rate
7. TTD
8. PPD
9. PTD
10. Attorney liens

FINDINGS OF FACT

Based on the competent and substantial evidence, my observations of Claimant at trial, and the reasonable inferences to be drawn therefrom, I find:

1. Claimant was hired by Employer October 27, 2010, as Certified Nurse Assistant. Her duties included lifting residents and assisting them with therapy, eating, bathing, and using the restroom. Claimant testified Employer was typically short staffed and had a high turnover of employees. There were not enough CNAs, so Claimant cared for up to 25 residents at a time.
2. Claimant testified she was injured when she was assisting a resident to the bedside commode. The resident was weak, so Claimant got Tasha Allen to help. The resident's legs buckled, and Claimant had to use her left side to support him. Claimant testified this caused injury to her left shoulder and arm. Claimant testified Tasha completed a report that night, but Claimant does not have the paperwork that describes how this injury happened because the documents were altered so much, and Employer would not give them to her. Claimant took over the counter Tylenol that night and kept working. The next day, Carol Hoette called her to see if she was okay and asked Claimant to let her know if her injury got worse. Claimant did not seek further treatment for this injury.
3. Employer's incident report was completed and signed by Claimant. Claimant reported she injured her right shoulder August 8, 2011, when she was assisting a resident, and Tasha Allen witnessed the injury. Claimant filed a Claim for Compensation September 15, 2011, alleging injury to her right shoulder, upper back, mid back, spine and whole body. Employer completed a First Report of Injury indicating they were notified of an August 1, 2011 injury to multiple body parts on September 20, 2011. A second Report of Injury was filed indicating Employer was notified of the injury September 26, 2011.
4. Claimant testified she was reinjured September 1, 2011, when she was assisting a resident who was a two person assist. Claimant testified she asked multiple co-workers to help her, and they all said no. Claimant had to move the 450 pound resident by herself. Claimant helped the resident back to her bed. When she lifted the resident's legs onto the bed, she felt pain in her neck, shoulders, arms, and back.
5. Claimant testified she reported this to her supervisor and completed an injury report. Employer's incident report, completed and signed by Claimant, states Claimant injured her neck, shoulder, arm, low back, and hands while assisting a resident back to bed on September 1, 2011. Claimant filed a Claim for Compensation alleging injury to her left shoulder, right shoulder, neck and back. The Claim was amended to allege injuries to her left upper extremity, and then was amended to allege injuries to her right upper extremity.
6. Claimant went to the Emergency Room after her September 1, 2011 injury and complained of numbness and tingling in her hands. She had x-rays. Claimant testified Cassandra, her supervisor, came to the Emergency Room and told Claimant to leave because Employer was not paying, and she told Claimant to go to Concentra.

7. Claimant testified the Emergency Room x-rays showed straightening of the cervical lordosis and possibly a rotator cuff tear. Claimant went home and called Miss Hoette, who sent her to Concentra. The records from Concentra indicate a history of injury September 1, 2011, consistent with Claimant's testimony. The doctor diagnosed a cervical and lumbar strain, prescribed medications and physical therapy, and recommended light duty.
8. Claimant went to physical therapy and took a prescription muscle relaxer at night. Her symptoms were typically worse at the end of the day, and the muscle relaxer made her drowsy. Claimant worked light duty, which consisted of taking vital signs and bringing water to 40-50 residents. Claimant testified this was exhausting because she was on her feet and had to put the information from the vitals into the computer. Claimant testified she had a lot of pain, but continued light duty and physical therapy.
9. Follow up records from Concentra indicate the doctor opined Claimant magnified her symptoms. By September 21, 2011, Claimant's pain continued undiminished and she was afraid to return to work. The Concentra physician recommended an evaluation by Dr. Cantrell.
10. Claimant testified the appointment with Dr. Cantrell was scheduled a month later. Claimant told Employer the light duty was hard work and made her drowsy, but they did not change her light duty. Employer frequently sent CNAs home to save money, so Claimant asked if she could go home. On other days, she called in to tell Employer she could not work because of her injuries.
11. On October 25, 2011, Claimant had her first appointment with Dr. Cantrell. Claimant testified she told him about her two injuries, one on the left and one on the right that affected her left side. She filled out the patient information sheet, but the doctor's office won't give her that document. Dr. Cantrell examined Claimant and recommended medications, physical therapy and light duty.
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14. Dr. Cantrell's November 14, 2011, report indicates Claimant had no decrease in pain complaints in her neck and low back, and the therapist opined her complaints did not correlate with the objective findings. Dr. Cantrell opined Claimant had reached MMI and could work without restrictions.

15. Claimant testified she went to her primary care physician for muscle relaxers. She didn't feel like she could do much. She had pain, and numbness, tingling, and burning. She requested an MRI, but her doctor said they needed to treat her first.
16. Claimant hired Mr. Swaney when she left her doctor's office. Claimant testified she told Mr. Swaney she was in pain, but he didn't send her to a doctor. Mr. Swaney told Mr. Kornblum that Claimant was supposed to see a neurologist.
17. Claimant testified she then hired Mr. Cordes because Mr. Swaney did not get her treatment. Mr. Cordes' assistant filled out the forms and was in such a rush that he wrote the injury was to the right side, but it was to the left. Claimant testified she did not know that until she saw Dr. Woiteshek.
18. Claimant testified she filled out the patient history packet and gave it to Dr. Woiteshek at her March 28, 2012, appointment. She told him she was in pain and needed treatment. Dr. Woiteshek examined Claimant, gave her a device to test her grip strength one time, and did some measurements. The exam was over in 10-15 minutes. Dr. Woiteshek said the injury was on the right side.
19. Claimant testified she called Mr. Cordes' office and asked if Dr. Woiteshek recommended treatment for her left side. The paralegal said he did not. Claimant said the doctor is a liar because he said the injury was on the right, but it is on the left.
20. Claimant got the report, and it said her injury was on the left. The doctor said he did a series of grip tests and that her MRI was normal, but the MRI showed she had a bulge. Claimant testified she called Mr. Cordes and told him Dr. Woiteshek lied. Mr. Cordes told her to write a letter outlining the inaccuracies and they would meet on Monday the 16th. Claimant testified Mr. Cordes told her to go to her own doctor for a therapy referral because Dr. Woiteshek's report contains fraudulent information.
21. Claimant testified she got a letter from her doctor, who made an error and said the bulging disc was at 5-6 when it is at C3-4. Claimant also testified the bulge was at C4-5. Mr. Cordes would not accept this letter. Claimant got it corrected from her doctor to show the bulge was at C4-5, and her doctor said she should get epidural steroid injections. Mr. Cordes didn't want to accept this letter either, and Claimant didn't want Dr. Woiteshek to do an updated report because he provides fraudulent information. Mr. Cordes would not let her see another doctor.
22. On April 19, 2012, Claimant went to the Emergency Room for the onset of pain. The doctor said she had cervical radiculopathy and gave her a prescription. Claimant testified she called Mr. Cordes and he kept telling her she needed a document saying the bulge was due to the injury.
23. On April 20, 2012, Mr. Cordes sent Claimant a letter advising her Dr. Poetz's physician's assistant did not relate her bulging disc or need for treatment to either of her injuries. (Exhibit 2)

24. A May 12, 2012, medical record from People's Health Center indicates a history of a work injury in August, and Claimant had sharp pain in her neck and down her right arm. She now had severe pain in her left shoulder and chest. The doctor noted the December 2011 MRI showed a moderate disc bulge at C4-5. He prescribed medications.
25. Claimant testified she felt Mr. Cordes was working with the opposing attorney and she had to do the work to get the doctor information, but Mr. Cordes didn't accept it. Mr. Cordes refused to provide another doctor or fix the errors Dr. Woiteshek made. Claimant fired Mr. Cordes May 16, 2012.
26. Claimant testified she then hired Ms. Christa Johnson because she used to be a workers' compensation Judge and she wins 90% of her cases. She went to Ms. Johnson's office and filled out a sheet saying her first injury was on the left side. She told Ms. Johnson the prior attorneys didn't give her proper medical treatment and changed her injuries to the right side. Ms. Johnson met with Mr. Kornblum and made changes to what her first injury was. Claimant testified she reminded Ms. Johnson that Mr. Kornblum said her injury was on the right side, and she told Ms. Johnson to get her injury reports. Ms. Johnson sent Claimant the injury reports, and Claimant noticed the injury was changed to the right side and Tasha Allen's signature was removed.
27. Ms. Johnson sent Claimant to Dr. Droege for an evaluation in May 2012. He ordered an MRI, which showed a herniated disc at C4-5. Dr. Droege recommended pain management, and Claimant had her first injection June 6.
28. In July 2012 Employer took Claimant's deposition. At that time, she testified she injured her right shoulder, right arm, back and neck on August 8, 2011. She took Tylenol, and did not feel she needed treatment for that injury. Her September 1, 2011 accident caused injury to her neck, shoulders, back, and down her right arm.
29. Claimant testified she asked Ms. Johnson to get a copy of her injury reports from Mr. Kornblum. Claimant has continuously requested these documents. Claimant testified her injury report and other documents have been altered; the OSHA investigative report in Exhibit 1 was altered; part of her injury report was missing; both First Reports of Injury were altered by Mr. Kornblum's office; and the Claims for Compensation are fraudulent.
30. In March 2013, Dr. Cantrell reviewed Dr. Droege's records, examined Claimant, and issued a report. Dr. Cantrell opined Claimant had cervical and lumbar strains from her September 2011 injury with a right shoulder strain which may have occurred with her August 2011 injury. He noted she had several non-physiologic pain behaviors. He opined she had reached MMI and her work injuries are not the prevailing factor in causing her current and ongoing symptoms or need for treatment. He rated Claimant's disability at 0% and opined she can work without restriction.
31. In July 2013 Claimant had a cervical MRI at BJC to assess her radicular neck pain. The MRI was interpreted as normal, and the doctor noted Claimant had mood swings and paranoia. She had a repeat cervical MRI in December 2013 which showed minimal

degenerative disc disease, and was otherwise normal. Claimant returned to BJC in February 2014 with complaints of pain in her neck and upper extremities from an injury in 2011. A right shoulder MRI showed a small partial-thickness tear of the right supraspinatus tendon. An MRI of the left shoulder showed mild to moderate tendinosis with no tear.

32. On April 3, 2015, Mr. Kornblum took the deposition of Sharon Cancilla, the adjustor handling Claimant's cases for Insurer. Claimant participated in that deposition and stated on the record that her August injury was to the left arm, and she testified otherwise during her own deposition because her attorney told her to.
33. Claimant testified she has asked Mr. Kornblum for information regarding both injuries and requested work schedules, payroll documents, and that he call her. Employer's exhibits contain a complete set of records and documents Mr. Kornblum sent to Claimant. Many of these documents are also contained in the Exhibits Claimant submitted at trial.
34. Claimant sent numerous letters to each of her attorneys alleging fraud was committed by Employer, by each of the attorneys, by the doctors, and by Insurer.
35. Claimant testified this has caused her to be depressed. She wants medical treatment and wants this to be investigated.

RULINGS OF LAW

Having given careful consideration to the entire record, based upon the above testimony, the competent and substantial evidence presented and the applicable law, I find the following:

- 1. Claimant did not sustain a compensable injury by accident arising out of and in the course of her employment on August 8, 2011.**

Claimant alleges she injured her shoulder in the course and scope of her employment while assisting a resident on August 8, 2011.

Claimant bears the burden of proving all essential elements of her claim. Proof of injury requires medical testimony. Claimant provided no medical opinion that she sustained an injury. She testified at trial and at her deposition that she did not need treatment until after her September injury. Whether this alleged August accident was to her right or left shoulder, Claimant presented no objective evidence of an injury and no medical opinion that she sustained an injury as a result of an August 2011 accident.

Dr. Cantrell reviewed the records and opined Claimant “may” have strained her right shoulder in August 2011. Under Missouri law, this is insufficient to establish a compensable injury.

Given the lack of objective medical information to substantiate an injury or evidence otherwise sufficient to sort out Claimant’s testimony, I would simply be guessing as to the cause of Claimant’s complaints, and therefore, Claimant has failed to meet her burden of proof.

2. All remaining issues are moot.

Made by: _____
KATHLEEN M. HART
Administrative Law Judge
Division of Workers' Compensation