State of South Carolina

Workers' Compensation Commission

APPELLATE PANEL DECISION AND ORDER

COMMISSION PANEL: The Honorable Gene McCaskill, The Honorable John Gabriel Coggiola, The Honorable T. Scott Beck

SCWCC File No.: 2310515

Angela Mayo,

Claimant,

v.

Campbell's Wrecker Service, Inc.,

Employer,

and

Bridgefield Casualty Insurance Company,

Carrier,

Defendants.

RECEIVED
OCT 28 2026
SC Court of Appeals

AFFIRMED

Hearing held virtually via CourtCall
on August 17, 2026
Per notice timely and properly served upon all Parties of Interest.

Appearances:	Stephen B. Samuels, Esq., of Samuels Reynolds Law Firm, LLC, appeared on behalf of Claimant/Appellant.
	Amanda A. Mellard, Esq., of Robinson Gray Stepp & Lafitte, LLC, appeared on behalf of Defendants/ Respondents.
Court Reporter:	Megan Brown, ABC Reporting Services 803-730-3015, Cwiz1959@gmail.com
Filed:	October 1, 2026

I. STATEMENT OF THE CASE

This case is set on Forms 15 (Section III), 50, 51, and 21. Claimant contended that she is not at maximum medical improvement (MMI) and suffers from Complex Regional Pain Syndrome (CRPD) entitling her to a spinal cord stimulator, and that she was not receiving adequate treatment from the authorized treating physician, Dr. Tavel. Further, Claimant contends she suffered a psychological overlay based on the opinions of Dr. Hutcheson, Dr. Tollison, and Dr. Tavel (as stated in his deposition). Claimant seeks to designate a psychiatrist to treat the mental overlay and to change the authorized treating physician for pain management.

Claimant also asserts that Defendants illegally suspended temporary total disability (TTD) benefits after November 13, 2023. Claimant contends the total amount of temporary compensation due based on actual wage loss is $15,439.89 plus a 25% penalty of $3,859.97.

Defendants contend that Claimant is at MMI for the admittedly compensable right foot injury and seek a finding of MMI on February 19, 2024; an award of permanent partial disability (PPD) compensation to the right foot, and credit for overpayment of TTD. Defendants deny that Claimant has CRPS entitling her to a spinal cord stimulator, that she has not suffered an aggravation of her pre-existing psychological overlay, and that there is any good reason shown as to why Dr. Tavel should be removed.

Defendants further contend that Claimant's TTD benefits were properly terminated and she was not entitled to further benefits during the time period in question. In the alternative, Defendants argue that if Claimant is owed temporary partial disability (TPD) benefits, she would be entitled only to the difference between her average weekly wage and $700, for a total of $10,327.11. Defendants contend no penalty should be assessed.

On June 4, 2025, a hearing was held before the single commissioner, and on December 19, 2025, the single commissioner issued an order in which they found that (1) Claimant was not at MMI, (2) Dr. Tavel was to remain the attending physician for Claimant's right foot injury and Defendants were to provide all causally-related treatment considered necessary by Dr. Tavel until Claimant reaches MMI, (3) Defendants were to designate an attending psychiatrist to treat Claimant's psychological overlay and provide any causally-related treatment recommended by the psychiatrist until Claimant reaches her baseline prior to the accident, and (4) Defendants would pay to Claimant $10,327.11 in temporary partial disability benefits and a 25% penalty of $2,581.78 for compensation wrongfully withheld.

On January 13, 2026, Claimant filed an appeal, claiming that the single commissioner erred in (1) their method of calculating Claimant's wages and corresponding benefits, (2) determining that Claimant was entitled to only 43 weeks of disability, (3) denying Claimant's request for a change in attending physician, and (4) allowing Defendants to designate a treating psychiatrist. A hearing was held before the appellate panel on August 17, 2026. We affirm the decision of the single commissioner.

II. SINGLE COMMISSIONER FINDINGS OF FACT AND CONCLUSIONS OF LAW

The verbatim findings of fact and conclusions of law in the appealed order of the single commissioner are as follows:

Single Commissioner Findings of Fact

1. Claimant filed a Form 15 (Section III) alleging the Claimant's TTD benefits were illegally terminated on November 15, 2023. She further alleges that she is owed $15,439.89 plus 25% penalty of $3,859.97. Claimant also filed a Form 50 seeking additional medical treatment for

psych issues and CRPS. She is also seeking that Dr. Hutcheson be designated as her ATP for pain management and Dr. Tollison be designated at the ATP of her psych issues.

2. Defendants filed a Form 21 alleging that the Claimant has reached MMI as to her right foot injury per Dr. James on 2/7/24. They further allege that the Claimant is entitled to pain management with Dr. Tavel under Dodge. They also seek credit for overpayment of TTD from the MMI date of 2/7/24. They further argue that the Claimant had a pre-existing psych condition which was not aggravated by her accident at work.

3. Claimant was evaluated by Dr. Drye on 8/14/17. Claimant reported persistent back and left leg pain. MRI showed no distinct pathology beyond disc desiccation and an acute annular tear at L5-S1. It was noted that she was not a surgical candidate. Recommendation: continued PT, meds, return to work -light duty. (Def APA pgs. 13-16)

4. Claimant was evaluated by Dr. Armsey on 2/8/2020. It was noted that the Claimant had joint pain in ankle/foot, contusion of heel, right Achilles tendonitis. Recommendation: PT, return to work light duty with no climbing, no prolonged standing. (Def APA pgs. 3-12)

5. Claimant was evaluated by Dr. Armsey on 1/12/21. Claimant was released to light duty work but no walking, no climbing, no prolonged standing. (Def APA pgs. 1-2)

6. Claimant was evaluated at Concentra on 7/31/23. Claimant complained of pain in her right foot. Assessment: crush injury of right foot. Recommendation: x-rays, heat/ice, meds, return to work modified duty on 8/1/23 using crutches, sit 95% of the time with no squatting, no kneeling, wear brace, no uneven ground, no stairs, no ladders, may not drive company vehicle. X-rays showed no acute osseous abnormality. (Claimant APA pgs. 1-9)

7. Claimant was evaluated at Concentra on 8/1/23. Claimant reported pain and swelling in right foot. Assessment: crush injury to right foot. Recommendation: heat/ice, meds, return to

work sitting 95% of the time, no squatting, no kneeling, wear brace, no uneven ground, no stairs, no ladders, no driving company vehicle. (Claimant APA pgs. 10-14)

8. Claimant's Accident report dated 8/7/23. (Claimant APA pg. 292)

9. Claimant was evaluated at Concentra on 8/8/23. Claimant reported intermittent swelling, persistent pain, and ability to put minimal weight on right foot without crutches/boot. Assessment: crush injury to right foot. Recommendation: PT, heat/ice, meds, return to work sitting 95% of the time, no squatting, no kneeling, wear brace, no uneven ground, no stairs, no ladders, no driving company vehicle. (Claimant APA pgs. 15-18)

10. Claimant was evaluated at Concentra on 8/15/23. Assessment: crush injury to right foot. Recommendation: meds, heat/ice, return to work with crutches, sitting 95% of the time, no squatting, no kneeling, wear brace, no uneven ground, no stairs, no ladders, no driving company vehicle. (Claimant APA pgs. 19-22)

11. Claimant attended PT on 8/15/23. Claimant report pain at 7 out of 10, mostly with weight bearing. (Claimant APA pgs. 49-52)

12. Claimant attended PT on 8/21/23. (Claimant APA pgs. 53-54)

13. Claimant attended PT on 8/22/23. (Claimant APA pgs. 55-56)

14. Claimant was evaluated at Concentra on 8/24/23. Claimant reported swelling, pain, and difficulty ambulating without the boot. Assessment: crush injury to right foot. Recommendation: MRI, PT, heat/ice, return to work with 95% sitting, no squatting, no kneeling, wear brace, no uneven ground, no stairs, no ladders. (Claimant APA pgs. 23-26)

15. Claimant attended PT on 8/24/23. Claimant reported that the swelling had pretty much disappeared. (Claimant APA pgs. 57-58)

16. Claimant attended PT on 8/29/23. Claimant reported that her foot/ankle was more swollen. She reported that she played with her grandkids over the weekend with jumping around and landed on the injured foot. (Claimant APA pgs. 59-60)

17. Claimant attended PT on 9/1/23. Claimant reported 4 out of 10 pain. (Claimant APA pgs. 61-63)

18. Claimant was evaluated at Concentra on 9/7/23. Claimant reported minimal improvement with PT. Assessment: crush injury to right foot. Recommendation: meds, heat/ice, return to work with the same restrictions. (Claimant APA pgs. 27-31)

19. Claimant attended PT on 9/7/23. Claimant reported less pain and swelling in foot. (Claimant APA pgs. 64-65)

20. Claimant attended PT on 9/8/23. Claimant reported that her foot was swollen. (Claimant APA pgs. 66-67)

21. Claimant attended PT on 9/11/23. Claimant reported that she walked a few steps without her boot on. (Claimant APA pgs. 68-69)

22. Claimant attended PT on 9/13/23. Claimant reported that she bumped the dog with her foot and had more pain. (Claimant APA pgs. 70-71)

23. Claimant attended PT on 9/19/23. Claimant reported that she was on her feet on the weekend and had increased swelling. (Claimant APA pgs. 72-73)

24. Claimant was evaluated at Concentra on 9/21/23. Assessment: crush injury to right foot. Recommendation: PT, heat/ice, meds, return to work with same restrictions. (Claimant APA pgs. 32-36)

25. Claimant attended PT on 9/21/23. Claimant reported that she was wearing her boot, and that she could not climb in/out of truck, ascend/descend stairs and her pain was 4 out of 10. (Claimant APA pgs. 74-76)

26. Claimant attended PT on 10/4/23. Claimant reported that she mowed the lawn, that she was walking without crutches or boot but wearing an ace wrap. (Claimant APA pgs. 77-78)

27. Claimant was evaluated at Concentra on 10/5/23. Claimant reported that she was improving in function, but felt nerve pain in her foot, shooting pain. Assessment: crush injury to right foot. Recommendation: meds, heat/ice, return to work with same restrictions. (Claimant APA pgs. 37-40)

28. Claimant attended PT on 10/5/23. Claimant reported increased swelling. (Claimant APA pgs. 79-80)

29. Claimant attended PT on 10/11/23. Claimant reported improved pain and swelling. (Claimant APA pgs. 81-82)

30. Claimant was evaluated by Concentra on 10/16/23. Claimant complained of mobility issues. It was noted that she was using a knee scooter. Assessment: crush injury to right foot. Recommendations: podiatry referral, heat/ice, meds, return to work sitting 90% of the time, no squatting, no kneeling, no uneven ground, no stairs, no ladders. (Claimant APA pgs. 41-44)

31. Claimant attended PT on 10/16/23. Claimant reported that she was limping due to increased pain. (Claimant APA pgs. 83-84)

32. Claimant was evaluated at Future Psych Solutions on 8/21/23. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. It was noted that Claimant had prior hospitalization in 2017 due to SI and attempt. Prior intensive outpatient program for 2 months from 9/2017 to 10/2017. (Claimant APA pgs. 85-107)

33. Claimant was evaluated by Concentra on 10/30/23. Claimant reported sharp pain in foot, tennis shoes made it worse, compression sock made it hurt worse. They felt she had possible CRPS. Assessment: crush injury to right foot. Recommendation: meds, heat/ice, return to work sitting 90% of the time, no squatting, no kneeling, no uneven ground, no stairs, no ladders. (Claimant APA pgs. 45-48)

34. Claimant was evaluated by Dr. Dunbar on 9/14/23. Claimant reported back pain. (Claimant APA pgs. 143-146)

35. Claimant was evaluated at Future Psych Solutions on 9/19/23. Claimant reported feeling a little better. Diagnosis: major depression disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 108-112)

36. MRI of right foot on 9/21/23. Impression: within normal limits. (Claimant APA pg. 174)

37. Sheakley job offer dated 11/3/23. (Claimant APA pgs. 305-308)

38. Claimant was evaluated by Dr. James on 11/13/23. Claimant reported pain in her right foot and numbness and tingling laterally, hypersensitivity and tenderness in right forefoot. It was noted that she had no skin changes nor swelling, full range of motion. Assessment: status post right foot crush injury, now persistent pain. Recommendation: meds, EMG/NCS, pain management. X-rays showed large OS trigonum, no obvious bony process or significant bony abnormality. It was noted that the Claimant was not a surgical candidate. It was noted that the Claimant had soft tissue pain most likely neurotic in nature. He felt she could return to work light duty with no climbing, no prolonged standing, no work at heights. (Claimant APA pgs. 175-183)

39. Claimant was evaluated at Future Psych Solutions on 11/22/23. Claimant reported that she was much better. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 113-117)

40. Claimant was evaluated by Sierra Roach PA at Pain Specialists on 12/19/23. Claimant reported that her right foot pain was worse, sharp, stabbing, numbness, tingling continuously. Assessment: right foot pain, does not meet criteria for CRPS. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendations. (Claimant APA pgs. 199-202)

41. Claimant was evaluated by Sierra Roach PA at Pain Specialists on 1/16/24. Claimant reported numbness and tingling with mild improvement, pain in right foot, she reported that she was driving again. Assessment: pain in right foot. Does not meet criteria for CRPS. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 203-206)

42. NCS on 1/25/24. Impression: normal, no evidence for focal neuropathy in RLE. (Claimant APA pgs. 207-209)

43. Report from Dr. James dated 1/29/24. Claimant was not seen on this date. Claimant can return to work with the same restriction. (Claimant APA pgs. 184-190)

44. Claimant was evaluated by Dr. James on 2/7/24. EMG/NCS was normal. Diffuse pain in right foot, neurotic complaints of paresthesia, mild rubor diffusely, diffuse hypersensitivity and tenderness about the foot. Good range of motion, but quite guarded, ambulating independently in accommodative shoe. Assessment: right foot crush injury with persistent pain, no evidence for structural abnormality. Nothing further from ortho standpoint. Recommendation: pain management, return to work sedentary duty. (Claimant APA pgs. 191-197)

45. Claimant was evaluated by Joanna McKellar, PA-C at Pain Specialists on 2/13/24. Claimant reported increased pain, tingling, numbness on lateral side of right foot. Claimant reported that she was driving but using cruise control. She reported her pain at 6 out of 10. It was

noted that she did not meet criteria for CRPS. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 210-214)

46. Form 14B prepared by Dr. Tavel on 2/19/24. Right foot pain only 3%. Restrictions: defer to Dr. James, no hardware, future meds: meds and PT. (Claimant APA pg. 215)

47. Claimant was evaluated by Dr. Dunbar on 2/20/24. It was noted that Claimant had a foot injury and that the foot had normal color. (Claimant APA pgs. 147-150)

48. Claimant was evaluated at Future Psych Solutions on 2/22/24. Claimant complained of heightened anxiety and depression symptoms due to WC/job changes. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 118-123)

49. Form 14B prepared by Dr. James dated 2/28/24. 0% impairment to right foot, no restrictions, no hardware, no future meds. (Claimant APA pg. 198)

50. Claimant was evaluated by Kayley Miles NP on 3/12/24. Claimant complained of sinus problems. Diagnosis: acute sinusitis. (Claimant APA pgs. 151-153)

51. Claimant was evaluated by Joanna McKeller, PA-C on 4/9/24. Claimant reported that she had a spider bite which increased pain, tingling/numbness on lateral side of right foot and that one of her toes turned grey and that she had swelling. Pain was reported at 6 out of 10. It was noted that she did not meet the criteria for CRPS. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 216-219)

52. Claimant was evaluated at Future Psych Solutions on 4/16/24. Claimant complained of concerns regarding her foot injury. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 124-129)

53. Claimant was evaluated by Dr. Dunbar on 4/23/24. Diagnosis: seborrheic dermatitis, HTN. (Claimant APA pgs. 154-159)

54. Claimant was evaluated by Dr. Dunbar on 5/15/24. Diagnosis: HTN, allergies. (Claimant APA pgs. 160-162)

55. Claimant was evaluated by Dr. Barcel on 5/15/24. Claimant reported severe pain in right foot. Assessment: right foot pain that was out of proportion and with evidence of allodynia, temperature and color asymmetry, mild swelling and mild decreased range of motion, symptoms most consistent with a sympathetically mediated neurogenic type of pain. Recommendation: second opinion regarding pain management, MMI from ortho with no restrictions, not at MMI for pain management. (Claimant APA pgs. 243-248)

56. Claimant was evaluated by Joanna McKeller, PA-C on 6/4/24. Claimant reported right foot pain, tingling/numbness on lateral side of foot. She reported 7 out of 10 pain level. Assessment: pain in right foot. Does not meet the criteria for CRPS. Recommendation: second opinion for pain (Dr. Hillegas at MUSC) and meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 220-223)

57. Claimant was evaluated by Dr. Schiff on 7/15/24. Claimant reported her pain level at 4 out of 10. Assessment: chronic pain possible saphenous neuralgia, not consistent with CRPS. Does not meet criteria for CRPS but has a chronic nerve injury and may be a candidate for SCS. Chronic pain due to trauma, neuralgia and neuritis. (Claimant APA pgs. 249-252)

58. Form 18 dated 7/22/24. (Claimant APA pg. 416)

59. Claimant was evaluated by Kayley Miles NP on 8/12/24. Claimant tested positive for COVID 19 with onset 2-3 days ago. (Claimant APA pgs. 163-165)

60. Claimant was evaluated at Urgent Care on 8/17/24. Diagnosis: COVID 19. (Claimant APA pgs. 253-259)

61. Claimant was evaluated by Dr. Dunbar on 8/19/24. Diagnosis: COVID 19. (Claimant APA pgs. 166-173)

62. Claimant was evaluated by Dr. Hutcheson on 8/26/24. Claimant's IME. Claimant complained of right foot pain with pain level of 4 out of 10. Assessment: causalgic of RLE, neuropathic pain of right foot. Recommendation: SCS, possible dorsal root ganglion stimulation. Not at MMI, but if no further care, then 20% whole person impairment. Return to work with limited use of right foot. (Claimant APA pgs. 260-262)

63. Claimant was evaluated by Dr. Tollison on 8/26/24. Claimant's IME. Claimant was diagnosed with chronic right foot pain, chronic depression/anxiety. Assessment: major depression disorder, PTDS, ADHD, adjustment disorder with mixed anxiety and depressed mood, exacerbation of pre-existing condition, psychological symptoms in reaction to work injury, and pain intensity. Not at MMI for psych issues. Recommendation: continued mental health treatment. (Claimant APA pgs. 263-267)

64. Form 50 dated 8/30/24. (Claimant APA pgs. 368-371)

65. Claimant was evaluated by Sydney Johnson, PA-C on 9/10/24. Claimant complained of right foot pain. It was noted that she did not meet the full criteria for CRPS. It was noted that the Claimant was suffering from neuropathic pain secondary to trauma. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 224-226)

66. Claimant was evaluated at Future Psych Solutions on 9/10/24. Claimant reported that her anxiety levels increased and panic attacks which she felt were related to work at the homeless

shelter and finances and loss of grandmother. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 130-135)

67. Form 15 section III dated 9/12/24. (Claimant APA pgs. 372-374)

68. Claimant was evaluated by Sydney Johnson, PA-C on 10/8/24. Claimant reported right foot pain and numbness on lateral side and that now pain radiates up into the right ankle. She also reported back pain. Pain level was reported at 7 out of 10. It was noted that she did not meet the criteria for CRPS. Recommendation: meds, she was released to return to work with no restrictions from a pain perspective. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 227-230)

69. CORA FCE on 10/9/24. Consistent and max effort. Claimant qualifies for Sedentary physical demand job. (Claimant APA pgs. 270-291)

70. Claimant was evaluated by Sydney Johnson, PA-C on 12/3/24. Claimant complained of right foot pain that radiated into the ankle with numbness/tingling. She reported her pain level at 7 out of 10. It was noted that she did not meet all criteria for CRPS. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 231-233)

71. The deposition of Rachel Campbell was taken on 12/2/24. She testified that she is the office manager (pg. 7), Claimant was not an employee of Campbell's as of 9/30/24 (pg. 39), no open position now (pg. 40), when Claimant was volunteering at Samaritan House, she was still an employee of Campbell's and Campbell's paid her. (pg. 46). (Claimant APA pgs. 488-550)

72. Claimant was evaluated by Sierra Roach, PA on 12/31/24. Claimant complained of right foot pain that radiated into her ankle with numbness and tingling. She reported her pain level at 7 out of 10. She also reported left thumb/hand pain that she believed was related to the accident. It was noted that she did not meet all the criteria for CRPS. It was felt that she was suffering from

neuropathic pain. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 234-236)

73. The deposition of Andrea Torres was taken on 1/17/25. She testified that she is a WC adjuster at Summit (pg. 6), Claimant saw Dr. Schiff for second opinion for pain management. (pgs. 9-10), she did not pay TPD (pg. 21), Claimant missed work at Samaritan House due to transportation, illness etc. (pg. 21), she never paid TPD (pg. 35), Claimant did not remain at work for 15 days (pg. 40), the employer told her that Claimant was missing work for unrelated reasons (pg. 42), Claimant was employee of employer even when at the Samaritan House (pg. 46), if injured at Samaritan House that would be WC coverage under the employer's coverage. (pg. 46). (Claimant APA pgs. 551-601)

74. The deposition of Dr. Tollison was taken on 2/3/25. He testified that he practices psychiatry and neurology and saw the Claimant for IME on 8/26/24 (pg. 7), Claimant was sent to him by attorney Samuels (pg. 8), Claimant's main issue was physical and psychological (pg. 9), Claimant was symptomatic since childhood (pg. 19), this was not a new psychological injury but an aggravation of a pre-existing symptoms (pg. 21), PCP referred her for increased anxiety which was prior to the date of the accident (pg. 22), possible bipolar disorder (pg. 23), needs treatment to help her deal with pain and that is related to this accident, not treatment for bipolar, ADHA (pgs. 34-35), it is possible that She will return to baseline without any impairment for this accident (pgs. 35-36), on 11/22/23 the Claimant's anxiety issues worsened (pg. 40), work at Samaritan House triggered increased in anxiety (pg. 41), Claimant considered placement at Homeless shelter as negative (pgs. 45-46), and additional stress (pg. 46), getting paid less money could be a stressor (pg. 46), Claimant was a chronic pain patient (pg. 46), would not be able to work in her current psychological condition (pg. 49), aggravated anxiety is causally related to her foot injury (pgs. 49-

50), Dr. Dubose opinion is consistent with his opinion (pg. 50), he agreed with Dr. Dubose's treatment plan (pg. 51), which included SCS (pg. 51), employment at Samaritan House was negative on Claimant's mental health (pg. 62). (Claimant APA pgs. 602-665)

75. The deposition of Dr. Tavel was taken on 2/11/24. The Claimant had right foot pain (pg. 5), he sees the patient at each visit (pg. 14), Claimant's pain complaint was not consistent with CRPS (pg. 16), she has post-traumatic neuro praxia (pg. 16), SCS implantable device would not be beneficial to the Claimant (pgs. 16-17), it would not help her at all (pg. 17), Dr. Barcel's evaluation is inconsistent (pg. 31), he saw the Claimant 12 times and Dr. Hutcheson saw her only 1 time (pg. 35), in his opinion he did not think that she had CRPS and he was not willing to do that because he did not think it was indicated personally (pg. 46), Claimant will not be returning to work as a tow truck driver (pg. 50), CRPS is progressive generalized problem (pg. 54), one thing that improves chronic pain is dorsal root stimulation/dorsal root ganglion stimulation (pg. 55), might need her to see a therapist for cognitive coping biofeedback (pg. 62). (Claimant APA pgs. 700-785)

76. Claimant was evaluated by Sierra Roach, PA on 2/25/25. Claimant reported right foot pain that radiated into ankle and back of calf with numbness/tingling. She reported her pain level at 7 out of 10. It was noted that she did not meet all criteria for CRPS. It was noted that she suffered from neuropathic pain. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 237-239)

77. Claimant was evaluated at Future Psych Solutions on 3/31/25. Claimant reported more bad days than good recently due to foot pain, anxiety, depression related to work injury. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 136-142)

78. Claimant was evaluated by Sierra Roach, PA on 4/8/25. Claimant reported right foot pain that radiated up right leg to hip with numbness and tingling with redness on leg. Claimant report pain level at 7 out of 10. It was noted that the Claimant did not meet all the criteria for CRPS but had neuropathic pain. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 240-242)

79. The second deposition of Dr. Tavel was taken on 4/15/25. He uses the Budapest criteria but also his clinical experience (pgs. 6-7), he evaluates them over a period of time not just one visit (pgs. 8-9), he didn't see any gait abnormality if didn't put that in his notes (pg. 18), Claimant has aggravated her pre-existing depression/anxiety (pgs. 41-42) (Claimant APA pgs. 786-872)

80. The deposition of Dr. James was taken on 6/5/25. He is an expert in orthopedics (pgs. 4-5), felt Claimant had potential nerve injury based on Claimant's complaints (pgs. 6-7), he was concerned about CRPS (pg. 9), but he deferred to the pain specialist (pg. 8), Form 14B is not consistent with his last visit notes (pgs. 19-20), sedentary duty work but defer to pain management doctor for rating (pg. 20), he defers to pain management doctor for treatment and diagnosis (pgs. 22-23), 0% impairment rating (pg. 26), but sedentary duty work (pg. 26), but more appropriate for pain management doctor (pg. 27), rely on FCE for restrictions (pgs. 28-29) (Deposition of Dr. James)

81. Claimant was evaluated by Dr. Dubose (undated report). Claimant exacerbated symptoms of major depression disorder, recurrent social anxiety disorder, ADHD, PTSD following WC accident. (Claimant APA pgs. 268-269)

82. Text message (Claimant APA pg. 309)

83. Photos (Claimant APA pgs. 310-316)

84. Claimant's notes for pain management (Claimant APA pgs. 317-318)

85. Samaritan House Volunteer Log (Claimant APA pgs. 319-320)

86. Text messages (Claimant APA pgs. 321-330)

87. COVID Test (Claimant APA pg. 331)

88. Work excuses (Claimant APA pgs. 332-334)

89. Photo of flat tire (Claimant APA pg. 335)

90. Emails regarding absences and tardiness (Claimant APA pgs. 336-367)

91. TTD checks (Claimant APA pgs. 375-379)

92. Paystubs (Claimant APA pgs. 380-415)

93. TTD checks (Claimant APA pgs. 417-429)

94. Eaddy v AJ Metler Hauling and Rigging Co. 325 SE2d 581. (Claimant APA pgs. 430-432)

95. Martin v Rapid Plumbing 631 SE2d 547. (Claimant APA pgs. 433-440)

96. File material from Samaritan House (Claimant APA pgs. 441-487)

97. Photos (Claimant APA pgs. 666-669)

98. Claim notes (Claimant APA pgs. 670-671)

99. Sheakley emails/timecards (Claimant APA pgs. 672-699)

100. Wright Rehab Services Kelly Wells case manager notes (Claimant APA pgs. 873-896)

101. Text messages between Claimant and Kelly Wells NCM (Claimant APA pgs. 899-931)

102. Text messages between Claimant and the employer (Def APA pgs. 17-26)

103. Wages (Def APA pgs. 27-30)

104. Upon review of the record as a whole, specifically the medical evidence and testimony of Dr. Tavel, I find that the Claimant has not reached MMI for her right foot injury. Defendants are ordered to continue the Claimant's pain management for neuropathic pain due to trauma with Dr. Tavel and per his deposition for consideration of dorsal root stimulation/dorsal root ganglion

stimulation and consideration for therapist for cognitive coping biofeedback. I gave greater weight to Dr. Tavel's opinion since he saw the Claimant multiple times vs one time visit with the other doctors. Further, Claimant has suffered from an exacerbation of the psychological issues based on the reports from Future Psych Solutions and deposition of Dr. Tollison. Defendants are ordered to provide psychological treatment with psychiatrist of their choice until Claimant reaches her baseline prior to the accident. TTD is to continue until Dr. Tavel and psychiatrist release the Claimant to return to work or by agreement of the parties. Defendants are ordered to pay the Claimant TPD during the time of Claimant's light duty work with Samaritan House, as the Claimant was not paid in accordance with her comp rate during that time. The Claimant did miss time from her light duty job for other personal reasons, therefore the TPD benefits are owed for a total of 43 weeks. The amount of the TPD owed is $10,327.11 plus 25% penalty of $2,581.78. This finding of fact is based upon the greater weight and preponderance of the evidence.

Single Commissioner Conclusions of Law

1. Claimant sustained an injury by accident arising out of and in the course of employment on July 31, 2023, within the meaning of S.C. Code Ann. § 42-1-160 (2007). Claimant aggravated a preexisting psychological condition within the meaning of §§ 42-1-160 and 42-9-35.

2. Claimant is entitled to additional medical treatment necessary to lessen the period of disability. S.C. Code Ann. § 42-15-60 (2005); Dodge v. Bruccoli, Clark, and Layman, Inc., 518 S.E.2d 593 (S.C. 1999); Dykes v. Daniel Constr. Co., 202 S.E.2d 646 (S.C. 1974). When the employee has not reached maximum medical improvement, medical care to treat injuries related to the injury by accident tends to lessen the period of disability. Additional medical care after reaching maximum medical improvement must be provided if it tends to lessen the period of disability.

3. During any period of disability resulting from the injury, the employer, at his own option, may continue to furnish or cause to be furnished, free of charge to the employee, and the employee shall accept, an attending physician and any medical care or treatment that is considered necessary by the attending physician, unless otherwise ordered by the commission for good cause shown. S.C. Code Ann. § 42-15-60 (2007).

4. The employer's representative shall provide and pay for medical care while a claimant is receiving or entitled to receive temporary compensation benefits. Reg. 67-509. Medical, surgical, hospital and other treatment which will tend to lessen the period of disability within the judgment of the Commission shall be provided by the employer. For good cause shown, the Commission may order such further medical, surgical, hospital or other treatment as may in the discretion of the Commission be necessary. S.C. Code Ann. § 42-15-60 (2007). The Commission has discretion to designate the authorized treating physician and require the employer's representative to pay for causally related treatment. Id.; Martin v. Rapid Plumbing, 369 S.C. 278, 631 S.E.2d 547 (Ct. App.2006).

5. Claimant failed to show good cause for the Commission to overrule the Defendants choice of physician.

6. Disability is defined as "Incapacity because of injury to earn wages which the employee was receiving at the time of injury in the same or any other employment." 25A S.C. Reg. 67-502 (1997). Claimant was disabled within the meaning of the Act on August 1, 2023. 42-9-190. Disability is presumed to continue until the employee returns to work or compensation is otherwise suspended or terminated according to Section 42-9-260.

7. "The reason given on the Form 15 for the termination was because 'Claimant has returned to work without restrictions and employment has been offered.' However, the statute is explicit

that even under a Form 15, an employer can only terminate or suspend temporary compensation if one of the specified conditions is met. The applicable condition in this case allows termination or suspension if 'the employee has returned to work; however, if the employee does not remain at work for a minimum of fifteen days, temporary disability payments must be resumed immediately [S.C.Code Ann. § 42-9-260(B)(1) (Supp.2005)]. Because [Claimant] did not remain at work for fifteen days, [employer] was required to resume payments immediately after [s]he left work on [November 20, 2023]. The rationale given by [employer] is only applicable when suitable employment is offered but not accepted. See S.C.Code Ann. § 42-9-190 (1985) ('If an injured employee refuses employment procured for him suitable to his capacity and approved by the Commission he shall not be entitled to any compensation at any time during the continuance of such refusal.')." Martin v. Rapid Plumbing, 369 S.C. 278, 631 S.E.2d 547 (Ct. App.2006). Failure to comply with the statutory procedure shall result in a twenty-five percent penalty imposed upon the carrier or employer computed on the amount of benefits withheld. § 42-9-260(G).

8. When the incapacity for work resulting from the injury is partial, the employer shall pay, or cause to be paid, as provided in this chapter, to the injured employee during such disability a weekly compensation equal to sixty-six and two-thirds percent of the difference between his average weekly wages before the injury and the average weekly wages which he is able to earn thereafter. S.C. Code Ann. § 42-9-20 (2007). This figure is based on the wages made available to an employee rather than actual wages. In an ongoing period of temporary partial compensation where the rate varies from week to week, the payments must be reported on the Form 15S.

9. Claimant has not yet reached maximum medical improvement. A decision on permanency is premature.

III. ISSUES ON APPEAL

1. Did the single commissioner err in their method of calculating Claimant's wages and corresponding benefits?

2. Did the single commissioner err in determining that Claimant was entitled to only 43 weeks of disability?

3. Did the single commissioner err in denying Claimant's request for a change in attending physician?

4. Did the single commissioner err in allowing Defendants to designate a treating psychiatrist?

IV. DECISION OF THE APPELLATE PANEL

Appellate Panel's Findings of Fact

1. Claimant filed a Form 15 (Section III) alleging the Claimant's TTD benefits were illegally terminated on November 15, 2023. She further alleges that she is owed $15,439.89 plus 25% penalty of $3,859.97. Claimant also filed a Form 50 seeking additional medical treatment for psych issues and CRPS. She is also seeking that Dr. Hutcheson be designated as her ATP for pain management and Dr. Tollison be designated at the ATP of her psych issues.

2. Defendants filed a Form 21 alleging that the Claimant has reached MMI as to her right foot injury per Dr. James on 2/7/24. They further allege that the Claimant is entitled to pain management with Dr. Tavel under Dodge. They also seek credit for overpayment of TTD from the MMI date of 2/7/24. They further argue that the Claimant had a pre-existing psych condition which was not aggravated by her accident at work.

3. Claimant was evaluated by Dr. Drye on 8/14/17. Claimant reported persistent back and left leg pain. MRI showed no distinct pathology beyond disc desiccation and an acute annular tear at

L5-S1. It was noted that she was not a surgical candidate. Recommendation: continued PT, meds, return to work -light duty. (Def APA pgs. 13-16)

4. Claimant was evaluated by Dr. Armsey on 2/8/2020. It was noted that the Claimant had joint pain in ankle/foot, contusion of heel, right Achilles tendonitis. Recommendation: PT, return to work light duty with no climbing, no prolonged standing. (Def APA pgs. 3-12)

5. Claimant was evaluated by Dr. Armsey on 1/12/21. Claimant was released to light duty work but no walking, no climbing, no prolonged standing. (Def APA pgs. 1-2)

6. Claimant was evaluated at Concentra on 7/31/23. Claimant complained of pain in her right foot. Assessment: crush injury of right foot. Recommendation: x-rays, heat/ice, meds, return to work modified duty on 8/1/23 using crutches, sit 95% of the time with no squatting, no kneeling, wear brace, no uneven ground, no stairs, no ladders, may not drive company vehicle. X-rays showed no acute osseous abnormality. (Claimant APA pgs. 1-9)

7. Claimant was evaluated at Concentra on 8/1/23. Claimant reported pain and swelling in right foot. Assessment: crush injury to right foot. Recommendation: heat/ice, meds, return to work sitting 95% of the time, no squatting, no kneeling, wear brace, no uneven ground, no stairs, no ladders, no driving company vehicle. (Claimant APA pgs. 10-14)

8. Claimant's Accident report dated 8/7/23. (Claimant APA pg. 292)

9. Claimant was evaluated at Concentra on 8/8/23. Claimant reported intermittent swelling, persistent pain, and ability to put minimal weight on right foot without crutches/boot. Assessment: crush injury to right foot. Recommendation: PT, heat/ice, meds, return to work sitting 95% of the time, no squatting, no kneeling, wear brace, no uneven ground, no stairs, no ladders, no driving company vehicle. (Claimant APA pgs. 15-18)

10. Claimant was evaluated at Concentra on 8/15/23. Assessment: crush injury to right foot. Recommendation: meds, heat/ice, return to work with crutches, sitting 95% of the time, no squatting, no kneeling, wear brace, no uneven ground, no stairs, no ladders, no driving company vehicle. (Claimant APA pgs. 19-22)

11. Claimant attended PT on 8/15/23. Claimant report pain at 7 out of 10, mostly with weight bearing. (Claimant APA pgs. 49-52)

12. Claimant attended PT on 8/21/23. (Claimant APA pgs. 53-54)

13. Claimant attended PT on 8/22/23. (Claimant APA pgs. 55-56)

14. Claimant was evaluated at Concentra on 8/24/23. Claimant reported swelling, pain, and difficulty ambulating without the boot. Assessment: crush injury to right foot. Recommendation: MRI, PT, heat/ice, return to work with 95% sitting, no squatting, no kneeling, wear brace, no uneven ground, no stairs, no ladders. (Claimant APA pgs. 23-26)

15. Claimant attended PT on 8/24/23. Claimant reported that the swelling had pretty much disappeared. (Claimant APA pgs. 57-58)

16. Claimant attended PT on 8/29/23. Claimant reported that her foot/ankle was more swollen. She reported that she played with her grandkids over the weekend with jumping around and landed on the injured foot. (Claimant APA pgs. 59-60)

17. Claimant attended PT on 9/1/23. Claimant reported 4 out of 10 pain. (Claimant APA pgs. 61-63)

18. Claimant was evaluated at Concentra on 9/7/23. Claimant reported minimal improvement with PT. Assessment: crush injury to right foot. Recommendation: meds, heat/ice, return to work with the same restrictions. (Claimant APA pgs. 27-31)

19. Claimant attended PT on 9/7/23. Claimant reported less pain and swelling in foot. (Claimant APA pgs. 64-65)

20. Claimant attended PT on 9/8/23. Claimant reported that her foot was swollen. (Claimant APA pgs. 66-67)

21. Claimant attended PT on 9/11/23. Claimant reported that she walked a few steps without her boot on. (Claimant APA pgs. 68-69)

22. Claimant attended PT on 9/13/23. Claimant reported that she bumped the dog with her foot and had more pain. (Claimant APA pgs. 70-71)

23. Claimant attended PT on 9/19/23. Claimant reported that she was on her feet on the weekend and had increased swelling. (Claimant APA pgs. 72-73)

24. Claimant was evaluated at Concentra on 9/21/23. Assessment: crush injury to right foot. Recommendation: PT, heat/ice, meds, return to work with same restrictions. (Claimant APA pgs. 32-36)

25. Claimant attended PT on 9/21/23. Claimant reported that she was wearing her boot, and that she could not climb in/out of truck, ascend/descend stairs and her pain was 4 out of 10. (Claimant APA pgs. 74-76)

26. Claimant attended PT on 10/4/23. Claimant reported that she mowed the lawn, that she was walking without crutches or boot but wearing an ace wrap. (Claimant APA pgs. 77-78)

27. Claimant was evaluated at Concentra on 10/5/23. Claimant reported that she was improving in function, but felt nerve pain in her foot, shooting pain. Assessment: crush injury to right foot. Recommendation: meds, heat/ice, return to work with same restrictions. (Claimant APA pgs. 37-40)

28. Claimant attended PT on 10/5/23. Claimant reported increased swelling. (Claimant APA pgs. 79-80)

29. Claimant attended PT on 10/11/23. Claimant reported improved pain and swelling. (Claimant APA pgs. 81-82)

30. Claimant was evaluated by Concentra on 10/16/23. Claimant complained of mobility issues. It was noted that she was using a knee scooter. Assessment: crush injury to right foot. Recommendations: podiatry referral, heat/ice, meds, return to work sitting 90% of the time, no squatting, no kneeling, no uneven ground, no stairs, no ladders. (Claimant APA pgs. 41-44)

31. Claimant attended PT on 10/16/23. Claimant reported that she was limping due to increased pain. (Claimant APA pgs. 83-84)

32. Claimant was evaluated at Future Psych Solutions on 8/21/23. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. It was noted that Claimant had prior hospitalization in 2017 due to SI and attempt. Prior intensive outpatient program for 2 months from 9/2017 to 10/2017. (Claimant APA pgs. 85-107)

33. Claimant was evaluated by Concentra on 10/30/23. Claimant reported sharp pain in foot, tennis shoes made it worse, compression sock made it hurt worse. They felt she had possible CRPS. Assessment: crush injury to right foot. Recommendation: meds, heat/ice, return to work sitting 90% of the time, no squatting, no kneeling, no uneven ground, no stairs, no ladders. (Claimant APA pgs. 45-48)

34. Claimant was evaluated by Dr. Dunbar on 9/14/23. Claimant reported back pain. (Claimant APA pgs. 143-146)

35. Claimant was evaluated at Future Psych Solutions on 9/19/23. Claimant reported feeling a little better. Diagnosis: major depression disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 108-112)

36. MRI of right foot on 9/21/23. Impression: within normal limits. (Claimant APA pg. 174)

37. Sheakley job offer dated 11/3/23. (Claimant APA pgs. 305-308)

38. Claimant was evaluated by Dr. James on 11/13/23. Claimant reported pain in her right foot and numbness and tingling laterally, hypersensitivity and tenderness in right forefoot. It was noted that she had no skin changes nor swelling, full range of motion. Assessment: status post right foot crush injury, now persistent pain. Recommendation: meds, EMG/NCS, pain management. X-rays showed large OS trigonum, no obvious bony process or significant bony abnormality. It was noted that the Claimant was not a surgical candidate. It was noted that the Claimant had soft tissue pain most likely neurotic in nature. He felt she could return to work light duty with no climbing, no prolonged standing, no work at heights. (Claimant APA pgs. 175-183)

39. Claimant was evaluated at Future Psych Solutions on 11/22/23. Claimant reported that she was much better. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 113-117)

40. Claimant was evaluated by Sierra Roach PA at Pain Specialists on 12/19/23. Claimant reported that her right foot pain was worse, sharp, stabbing, numbness, tingling continuously. Assessment: right foot pain, does not meet criteria for CRPS. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendations. (Claimant APA pgs. 199-202)

41. Claimant was evaluated by Sierra Roach PA at Pain Specialists on 1/16/24. Claimant reported numbness and tingling with mild improvement, pain in right foot, she reported that she was driving again. Assessment: pain in right foot. Does not meet criteria for CRPS.

Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 203-206)

42. NCS on 1/25/24. Impression: normal, no evidence for focal neuropathy in RLE. (Claimant APA pgs. 207-209)

43. Report from Dr. James dated 1/29/24. Claimant was not seen on this date. Claimant can return to work with the same restriction. (Claimant APA pgs. 184-190)

44. Claimant was evaluated by Dr. James on 2/7/24. EMG/NCS was normal. Diffuse pain in right foot, neurotic complaints of paresthesia, mild rubor diffusely, diffuse hypersensitivity and tenderness about the foot. Good range of motion, but quite guarded, ambulating independently in accommodative shoe. Assessment: right foot crush injury with persistent pain, no evidence for structural abnormality. Nothing further from ortho standpoint. Recommendation: pain management, return to work sedentary duty. (Claimant APA pgs. 191-197)

45. Claimant was evaluated by Joanna McKellar, PA-C at Pain Specialists on 2/13/24. Claimant reported increased pain, tingling, numbness on lateral side of right foot. Claimant reported that she was driving but using cruise control. She reported her pain at 6 out of 10. It was noted that she did not meet criteria for CRPS. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 210-214)

46. Form 14B prepared by Dr. Tavel on 2/19/24. Right foot pain only 3%. Restrictions: defer to Dr. James, no hardware, future meds: meds and PT. (Claimant APA pg. 215)

47. Claimant was evaluated by Dr. Dunbar on 2/20/24. It was noted that Claimant had a foot injury and that the foot had normal color. (Claimant APA pgs. 147-150)

48. Claimant was evaluated at Future Psych Solutions on 2/22/24. Claimant complained of heightened anxiety and depression symptoms due to WC/job changes. Diagnosis: major

depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 118-123)

49. Form 14B prepared by Dr. James dated 2/28/24. 0% impairment to right foot, no restrictions, no hardware, no future meds. (Claimant APA pg. 198)

50. Claimant was evaluated by Kayley Miles NP on 3/12/24. Claimant complained of sinus problems. Diagnosis: acute sinusitis. (Claimant APA pgs. 151-153)

51. Claimant was evaluated by Joanna McKeller, PA-C on 4/9/24. Claimant reported that she had a spider bite which increased pain, tingling/numbness on lateral side of right foot and that one of her toes turned grey and that she had swelling. Pain was reported at 6 out of 10. It was noted that she did not meet the criteria for CRPS. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 216-219)

52. Claimant was evaluated at Future Psych Solutions on 4/16/24. Claimant complained of concerns regarding her foot injury. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 124-129)

53. Claimant was evaluated by Dr. Dunbar on 4/23/24. Diagnosis: seborrheic dermatitis, HTN. (Claimant APA pgs. 154-159)

54. Claimant was evaluated by Dr. Dunbar on 5/15/24. Diagnosis: HTN, allergies. (Claimant APA pgs. 160-162)

55. Claimant was evaluated by Dr. Barcel on 5/15/24. Claimant reported severe pain in right foot. Assessment: right foot pain that was out of proportion and with evidence of allodynia, temperature and color asymmetry, mild swelling and mild decreased range of motion, symptoms most consistent with a sympathetically mediated neurogenic type of pain. Recommendation:

second opinion regarding pain management, MMI from ortho with no restrictions, not at MMI for pain management. (Claimant APA pgs. 243-248)

56. Claimant was evaluated by Joanna McKeller, PA-C on 6/4/24. Claimant reported right foot pain, tingling/numbness on lateral side of foot. She reported 7 out of 10 pain level. Assessment: pain in right foot. Does not meet the criteria for CRPS. Recommendation: second opinion for pain (Dr. Hillegas at MUSC) and meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 220-223)

57. Claimant was evaluated by Dr. Schiff on 7/15/24. Claimant reported her pain level at 4 out of 10. Assessment: chronic pain possible saphenous neuralgia, not consistent with CRPS. Does not meet criteria for CRPS but has a chronic nerve injury and may be a candidate for SCS. Chronic pain due to trauma, neuralgia and neuritis. (Claimant APA pgs. 249-252)

58. Form 18 dated 7/22/24. (Claimant APA pg. 416)

59. Claimant was evaluated by Kayley Miles NP on 8/12/24. Claimant tested positive for COVID 19 with onset 2-3 days ago. (Claimant APA pgs. 163-165)

60. Claimant was evaluated at Urgent Care on 8/17/24. Diagnosis: COVID 19. (Claimant APA pgs. 253-259)

61. Claimant was evaluated by Dr. Dunbar on 8/19/24. Diagnosis: COVID 19. (Claimant APA pgs. 166-173)

62. Claimant was evaluated by Dr. Hutcheson on 8/26/24. Claimant's IME. Claimant complained of right foot pain with pain level of 4 out of 10. Assessment: causalgic of RLE, neuropathic pain of right foot. Recommendation: SCS, possible dorsal root ganglion stimulation. Not at MMI, but if no further care, then 20% whole person impairment. Return to work with limited use of right foot. (Claimant APA pgs. 260-262)

63. Claimant was evaluated by Dr. Tollison on 8/26/24. Claimant's IME. Claimant was diagnosed with chronic right foot pain, chronic depression/anxiety. Assessment: major depression disorder, PTDS, ADHD, adjustment disorder with mixed anxiety and depressed mood, exacerbation of pre-existing condition, psychological symptoms in reaction to work injury, and pain intensity. Not at MMI for psych issues. Recommendation: continued mental health treatment. (Claimant APA pgs. 263-267)

64. Form 50 dated 8/30/24. (Claimant APA pgs. 368-371)

65. Claimant was evaluated by Sydney Johnson, PA-C on 9/10/24. Claimant complained of right foot pain. It was noted that she did not meet the full criteria for CRPS. It was noted that the Claimant was suffering from neuropathic pain secondary to trauma. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 224-226)

66. Claimant was evaluated at Future Psych Solutions on 9/10/24. Claimant reported that her anxiety levels increased and panic attacks which she felt were related to work at the homeless shelter and finances and loss of grandmother. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 130-135)

67. Form 15 section III dated 9/12/24. (Claimant APA pgs. 372-374)

68. Claimant was evaluated by Sydney Johnson, PA-C on 10/8/24. Claimant reported right foot pain and numbness on lateral side and that now pain radiates up into the right ankle. She also reported back pain. Pain level was reported at 7 out of 10. It was noted that she did not meet the criteria for CRPS. Recommendation: meds, she was released to return to work with no restrictions from a pain perspective. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 227-230)

69. CORA FCE on 10/9/24. Consistent and max effort. Claimant qualifies for Sedentary physical demand job. (Claimant APA pgs. 270-291)

70. Claimant was evaluated by Sydney Johnson, PA-C on 12/3/24. Claimant complained of right foot pain that radiated into the ankle with numbness/tingling. She reported her pain level at 7 out of 10. It was noted that she did not meet all criteria for CRPS. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 231-233)

71. The deposition of Rachel Campbell was taken on 12/2/24. She testified that she is the office manager (pg. 7), Claimant was not an employee of Campbell's as of 9/30/24 (pg. 39), no open position now (pg. 40), when Claimant was volunteering at Samaritan House, she was still an employee of Campbell's and Campbell's paid her. (pg. 46). (Claimant APA pgs. 488-550)

72. Claimant was evaluated by Sierra Roach, PA on 12/31/24. Claimant complained of right foot pain that radiated into her ankle with numbness and tingling. She reported her pain level at 7 out of 10. She also reported left thumb/hand pain that she believed was related to the accident. It was noted that she did not meet all the criteria for CRPS. It was felt that she was suffering from neuropathic pain. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 234-236)

73. The deposition of Andrea Torres was taken on 1/17/25. She testified that she is a WC adjuster at Summit (pg. 6), Claimant saw Dr. Schiff for second opinion for pain management. (pgs. 9-10), she did not pay TPD (pg. 21), Claimant missed work at Samaritan House due to transportation, illness etc. (pg. 21), she never paid TPD (pg. 35), Claimant did not remain at work for 15 days (pg. 40), the employer told her that Claimant was missing work for unrelated reasons (pg. 42), Claimant was employee of employer even when at the Samaritan House (pg. 46), if

injured at Samaritan House that would be WC coverage under the employer's coverage. (pg. 46). (Claimant APA pgs. 551-601)

74. The deposition of Dr. Tollison was taken on 2/3/25. He testified that he practices psychiatry and neurology and saw the Claimant for IME on 8/26/24 (pg. 7), Claimant was sent to him by attorney Samuels (pg. 8), Claimant's main issue was physical and psychological (pg. 9), Claimant was symptomatic since childhood (pg. 19), this was not a new psychological injury but an aggravation of a pre-existing symptoms (pg. 21), PCP referred her for increased anxiety which was prior to the date of the accident (pg. 22), possible bipolar disorder (pg. 23), needs treatment to help her deal with pain and that is related to this accident, not treatment for bipolar, ADHA (pgs. 34-35), it is possible that She will return to baseline without any impairment for this accident (pgs. 35-36), on 11/22/23 the Claimant's anxiety issues worsened (pg. 40), work at Samaritan House triggered increased in anxiety (pg. 41), Claimant considered placement at Homeless shelter as negative (pgs. 45-46), and additional stress (pg. 46), getting paid less money could be a stressor (pg. 46), Claimant was a chronic pain patient (pg. 46), would not be able to work in her current psychological condition (pg. 49), aggravated anxiety is causally related to her foot injury (pgs. 49-50), Dr. Dubose opinion is consistent with his opinion (pg. 50), he agreed with Dr. Dubose's treatment plan (pg. 51), which included SCS (pg. 51), employment at Samaritan House was negative on Claimant's mental health (pg. 62). (Claimant APA pgs. 602-665)

75. The deposition of Dr. Tavel was taken on 2/11/24. The Claimant had right foot pain (pg. 5), he sees the patient at each visit (pg. 14), Claimant's pain complaint was not consistent with CRPS (pg. 16), she has post-traumatic neuro praxia (pg. 16), SCS implantable device would not be beneficial to the Claimant (pgs. 16-17), it would not help her at all (pg. 17), Dr. Barcel's evaluation is inconsistent (pg. 31), he saw the Claimant 12 times and Dr. Hutcheson saw her only

1 time (pg. 35), in his opinion he did not think that she had CRPS and he was not willing to do that because he did not think it was indicated personally (pg. 46), Claimant will not be returning to work as a tow truck driver (pg. 50), CRPS is progressive generalized problem (pg. 54), one thing that improves chronic pain is dorsal root stimulation/dorsal root ganglion stimulation (pg. 55), might need her to see a therapist for cognitive coping biofeedback (pg. 62). (Claimant APA pgs. 700-785)

76. Claimant was evaluated by Sierra Roach, PA on 2/25/25. Claimant reported right foot pain that radiated into ankle and back of calf with numbness/tingling. She reported her pain level at 7 out of 10. It was noted that she did not meet all criteria for CRPS. It was noted that she suffered from neuropathic pain. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 237-239)

77. Claimant was evaluated at Future Psych Solutions on 3/31/25. Claimant reported more bad days than good recently due to foot pain, anxiety, depression related to work injury. Diagnosis: major depressive disorder, social anxiety disorder, ADHD, PTSD. Recommendation: meds. (Claimant APA pgs. 136-142)

78. Claimant was evaluated by Sierra Roach, PA on 4/8/25. Claimant reported right foot pain that radiated up right leg to hip with numbness and tingling with redness on leg. Claimant report pain level at 7 out of 10. It was noted that the Claimant did not meet all the criteria for CRPS but had neuropathic pain. Recommendation: meds. Dr. Tavel agreed with the evaluation and recommendation. (Claimant APA pgs. 240-242)

79. The second deposition of Dr. Tavel was taken on 4/15/25. He uses the Budapest criteria but also his clinical experience (pgs. 6-7), he evaluates them over a period of time not just one visit

(pgs. 8-9), he didn't see any gait abnormality if didn't put that in his notes (pg. 18), Claimant has aggravated her pre-existing depression/anxiety (pgs. 41-42) (Claimant APA pgs. 786-872)

80. The deposition of Dr. James was taken on 6/5/25. He is an expert in orthopedics (pgs. 4-5), felt Claimant had potential nerve injury based on Claimant's complaints (pgs. 6-7), he was concerned about CRPS (pg. 9), but he deferred to the pain specialist (pg. 8), Form 14B is not consistent with his last visit notes (pgs. 19-20), sedentary duty work but defer to pain management doctor for rating (pg. 20), he defers to pain management doctor for treatment and diagnosis (pgs. 22-23), 0% impairment rating (pg. 26), but sedentary duty work (pg. 26), but more appropriate for pain management doctor (pg. 27), rely on FCE for restrictions (pgs. 28-29) (Deposition of Dr. James)

81. Claimant was evaluated by Dr. Dubose (undated report). Claimant exacerbated symptoms of major depression disorder, recurrent social anxiety disorder, ADHD, PTSD following WC accident. (Claimant APA pgs. 268-269)

82. Text message (Claimant APA pg. 309)

83. Photos (Claimant APA pgs. 310-316)

84. Claimant's notes for pain management (Claimant APA pgs. 317-318)

85. Samaritan House Volunteer Log (Claimant APA pgs. 319-320)

86. Text messages (Claimant APA pgs. 321-330)

87. COVID Test (Claimant APA pg. 331)

88. Work excuses (Claimant APA pgs. 332-334)

89. Photo of flat tire (Claimant APA pg. 335)

90. Emails regarding absences and tardiness (Claimant APA pgs. 336-367)

91. TTD checks (Claimant APA pgs. 375-379)

92. Paystubs (Claimant APA pgs. 380-415)

93. TTD checks (Claimant APA pgs. 417-429)

94. Eaddy v AJ Metler Hauling and Rigging Co. 325 SE2d 581. (Claimant APA pgs. 430-432)

95. Martin v Rapid Plumbing 631 SE2d 547. (Claimant APA pgs. 433-440)

96. File material from Samaritan House (Claimant APA pgs. 441-487)

97. Photos (Claimant APA pgs. 666-669)

98. Claim notes (Claimant APA pgs. 670-671)

99. Sheakley emails/timecards (Claimant APA pgs. 672-699)

100. Wright Rehab Services Kelly Wells case manager notes (Claimant APA pgs. 873-896)

101. Text messages between Claimant and Kelly Wells NCM (Claimant APA pgs. 899-931)

102. Text messages between Claimant and the employer (Def APA pgs. 17-26)

103. Wages (Def APA pgs. 27-30)

104. Upon review of the record as a whole, specifically the medical evidence and testimony of Dr. Tavel, we find that the Claimant has not reached MMI for her right foot injury. Defendants are ordered to continue the Claimant's pain management for neuropathic pain due to trauma with Dr. Tavel and per his deposition for consideration of dorsal root stimulation/dorsal root ganglion stimulation and consideration for therapist for cognitive coping biofeedback. We gave greater weight to Dr. Tavel's opinion since he saw the Claimant multiple times vs one time visit with the other doctors. Further, Claimant has suffered from an exacerbation of the psychological issues based on the reports from Future Psych Solutions and deposition of Dr. Tollison. Defendants are ordered to provide psychological treatment with psychiatrist of their choice until Claimant reaches her baseline prior to the accident. TTD is to continue until Dr. Tavel and psychiatrist release the Claimant to return to work or by agreement of the parties. Defendants are ordered to pay the

Claimant TPD during the time of Claimant's light duty work with Samaritan House, as the Claimant was not paid in accordance with her comp rate during that time. The Claimant did miss time from her light duty job for other personal reasons, therefore the TPD benefits are owed for a total of 43 weeks. The amount of the TPD owed is $10,327.11 plus 25% penalty of $2,581.78. This finding of fact is based upon the greater weight and preponderance of the evidence.

Appellate Panel's Conclusions of Law

Based on the foregoing findings of fact, the undersigned commissioners make the following conclusions of law:

1. Claimant sustained an injury by accident arising out of and in the course of employment on July 31, 2023, within the meaning of S.C. Code Ann. § 42-1-160 (2007). Claimant aggravated a preexisting psychological condition within the meaning of §§ 42-1-160 and 42-9-35.

2. Claimant is entitled to additional medical treatment necessary to lessen the period of disability. S.C. Code Ann. § 42-15-60 (2005); Dodge v. Bruccoli, Clark, and Layman, Inc., 518 S.E.2d 593 (S.C. 1999); Dykes v. Daniel Constr. Co., 202 S.E.2d 646 (S.C. 1974). When the employee has not reached maximum medical improvement, medical care to treat injuries related to the injury by accident tends to lessen the period of disability. Additional medical care after reaching maximum medical improvement must be provided if it tends to lessen the period of disability.

3. During any period of disability resulting from the injury, the employer, at his own option, may continue to furnish or cause to be furnished, free of charge to the employee, and the employee shall accept, an attending physician and any medical care or treatment that is considered necessary by the attending physician, unless otherwise ordered by the commission for good cause shown. S.C. Code Ann. § 42-15-60 (2007).

4. The employer's representative shall provide and pay for medical care while a claimant is receiving or entitled to receive temporary compensation benefits. Reg. 67-509. Medical, surgical, hospital and other treatment which will tend to lessen the period of disability within the judgment of the Commission shall be provided by the employer. For good cause shown, the Commission may order such further medical, surgical, hospital or other treatment as may in the discretion of the Commission be necessary. S.C. Code Ann. § 42-15-60 (2007). The Commission has discretion to designate the authorized treating physician and require the employer's representative to pay for causally related treatment. Id.; Martin v. Rapid Plumbing, 369 S.C. 278, 631 S.E.2d 547 (Ct. App.2006).

5. Claimant failed to show good cause for the Commission to overrule the Defendants' choice of physician.

6. Disability is defined as "Incapacity because of injury to earn wages which the employee was receiving at the time of injury in the same or any other employment." 25A S.C. Reg. 67-502 (1997). Claimant was disabled within the meaning of the Act on August 1, 2023. 42-9-190. Disability is presumed to continue until the employee returns to work or compensation is otherwise suspended or terminated according to Section 42-9-260.

7. "The reason given on the Form 15 for the termination was because 'Claimant has returned to work without restrictions and employment has been offered.' However, the statute is explicit that even under a Form 15, an employer can only terminate or suspend temporary compensation if one of the specified conditions is met. The applicable condition in this case allows termination or suspension if 'the employee has returned to work; however, if the employee does not remain at work for a minimum of fifteen days, temporary disability payments must be resumed immediately [S.C.Code Ann. § 42-9-260(B)(1) (Supp.2005)]. Because [Claimant] did not remain at work for

fifteen days, [employer] was required to resume payments immediately after [s]he left work on [November 20, 2023]. The rationale given by [employer] is only applicable when suitable employment is offered but not accepted. See S.C.Code Ann. § 42-9-190 (1985) ('If an injured employee refuses employment procured for him suitable to his capacity and approved by the Commission he shall not be entitled to any compensation at any time during the continuance of such refusal.')." Martin v. Rapid Plumbing, 369 S.C. 278, 631 S.E.2d 547 (Ct. App.2006). Failure to comply with the statutory procedure shall result in a twenty-five percent penalty imposed upon the carrier or employer computed on the amount of benefits withheld. § 42-9-260(G).

8. When the incapacity for work resulting from the injury is partial, the employer shall pay, or cause to be paid, as provided in this chapter, to the injured employee during such disability a weekly compensation equal to sixty-six and two-thirds percent of the difference between his average weekly wages before the injury and the average weekly wages which he is able to earn thereafter. S.C. Code Ann. § 42-9-20 (2007). This figure is based on the wages made available to an employee rather than actual wages. In an ongoing period of temporary partial compensation where the rate varies from week to week, the payments must be reported on the Form 15S.

9. Claimant has not yet reached maximum medical improvement. A decision on permanency is premature.

ORDER

Based on the preceding findings of fact and conclusions of law,

IT IS HEREBY ORDERED that the findings of fact and conclusions of law of the single commissioner are affirmed in full;

IT IS FURTHER ORDERED that Dr. Tavel shall remain the attending physician for Claimant's right foot injury. Defendants shall provide all causally-related medical treatment

considered necessary by Dr. Tavel including consideration of dorsal root stimulation/dorsal root ganglion stimulation and consideration for therapist for cognitive coping biofeedback. Treatment shall be provided until Claimant reaches MMI and thereafter so long as it tends to lessen her period of disability;

IT IS FURTHER ORDERED that Defendants shall designate an attending psychiatrist who is ready, willing and able to treat Claimant's psychological overlay. Defendants shall provide all causally-related treatment considered necessary by the attending psychiatrist. Treatment shall be provided until Claimant reaches her baseline prior to the accident;

IT IS FURTHER ORDERED that temporary total disability compensation shall continue until Dr. Tavel and the attending psychiatrist release the Claimant to return to work or by agreement of the parties;

IT IS FURTHER ORDERED that Defendants shall pay temporary partial disability compensation for a total of 43 weeks in the amount of $10,327.11 to Claimant based on the difference between the average weekly wage and the wages made available to Claimant at the Samaritan House of 40 hours per week at $17.50 per hour;

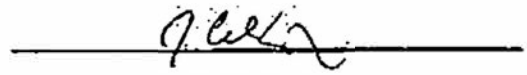
IT IS FURTHER ORDERED that Defendants shall pay to Claimant a 25% penalty of $2,581.78 on the amount of temporary compensation withheld in violation of the Act;

IT IS FURTHER ORDERED that determination of permanency is premature pending maximum medical improvement;

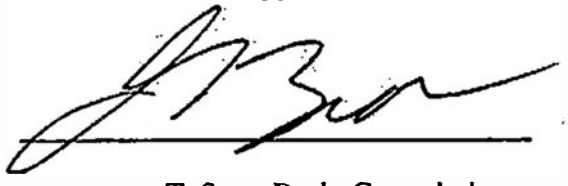
IT IS FURTHER ORDERED that no hearing costs are assessed.

AND SO IT IS ORDERED.

Gene McCaskill, Commissioner



John Gabriel Coggiola, Commissioner



T. Scott Beck, Commissioner

_____

Date

Columbia, SC

Order Served via email:

Amanda A. Mellard Robinson Gray Stepp & Laffitte, LLC amellard@robinsongray.com	Stephen B. Samuels Samuels Reynolds Law Firm stephen@samuelsreynolds.com

CERTIFICATE OF SERVICE

This is to certify that the undersigned has on this date served a copy of this order in the above entitled action upon all parties to this case by sending an electronic copy hereof by electronic mail addressed to the attorneys for said parties; or if there is an unrepresented party(ies), by depositing a copy hereof, postage paid in the United States mail, first class, addressed to the unrepresented party(ies) and to the attorney(s) for the represented party(ies).

By Eugenia Hollmon on October 1, 2026

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SC Court of Appeals