

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

MAY - 9 2013

G. EDWARD WELMAKER, Circuit Court Judge

S.C. Supreme Court

Unpublished Opinion No. 2013-UP-071 (Ct. App. Filed 2/13/2013)

Maria E. McGaha.....Respondent

vs.

Honeywell International, Inc., Employer,
and Zurich North America, Carrier.....Petitioners

APPENDIX

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ORDER
of the
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
File No.: 0312096

Maria Magaha,

Employee/Claimant,

vs.

Honeywell International, Inc.,

Employer, and

Zurich American Insurance Co.,

Carrier/Defendants.

Hearing:	Held in Greenville, South Carolina on January 5, 2009
Appearances:	Kathryn Williams, Esq. of Kathryn Williams, P.A. for claimant Vernon F. Dunbar, Esq. of Turner, Padgett, Graham & Laney, P.A. for defendants
Purpose:	To determine issues as set forth on the Forms 50 and 51
Decision & Order:	Derrick L. Williams, Commissioner
Filed:	<u>2-17-09</u>

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(as numbered and submitted by the parties)

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STIPULATIONS

Counsel for all parties stipulated at the hearing to the following issues:

1. The purpose of the hearing is to determine the issues set forth in the hearing notice, issues pled in the Forms 50 and 51 and other issues timely brought before the Commissioner.
2. Notice of the hearing was timely and properly served upon all parties of interest.
3. Venue, set in Greenville County, is proper.
4. Claimant seeks benefits under the South Carolina Workers' Compensation Act based upon an injury by accident on August 1, 2003 while she was working for employer-defendant, and

therefore, the South Carolina Workers' Compensation Commission has jurisdiction of the case.

5. The Commission's file and the Hearing Commissioner's notes are a part of the record of this case, with the exception of any self-serving declarations or unstipulated medical reports.

6. Claimant's average weekly wage is \$806.96, for a corresponding compensation rate of \$538.00.

CLAIMANT'S BIOGRAPHICAL INFORMATION

Age:	68
Education:	Claimant completed High School in Columbia, South America
Work History:	Claimant worked for employer-defendant as a deburrer for six years

STATEMENT OF THE CASE

Claimant seeks benefits for injury by accident she sustained on August 1, 2003 while working for employer-defendant. She specifically contends that she sustained injury by accident as a result of repetitive trauma, causing injuries to her neck, left shoulder and left upper extremity. She seeks additional medical treatment and temporary total disability benefits from August 1, 2003 to the present and continuing.

Defendants admit claimant sustained injury by accident on August 1, 2003 as a result of repetitive trauma, and admit that she sustained left carpal tunnel syndrome. However, they deny she sustained compensable injury to her left shoulder or to any other body part or system. They deny claimant is entitled to any additional medical treatment or to temporary total disability benefits, and seek credit for short term disability allegedly paid in lieu of workers' compensation benefits.

EVIDENCE OF THE CASE

Claimant testified that she began working for employer-defendant in 1998 and that she worked as a deburrer, which required the extensive use of her upper extremities. On or about July or August 2003, she was performing her regular work duties, when she began having pain and problems in her left shoulder, the left side of her neck and down her left arm. Claimant testified that she reported these problems to employer-defendant. She was sent to the company nurse, who referred her to the company doctor at St. Francis Workwell. Claimant was eventually placed on light duty work restrictions by the company doctor. However, employer-defendant could not accommodate these restrictions. Claimant was terminated from her job. Claimant saw Dr. Brunson for her left upper extremity pain, and he recommended an MRI of the left shoulder. However, the insurance carrier denied the MRI. Dr. Brunson also recommended referral to neurosurgeon, Dr. Michael Bucci, and to orthopaedic specialist Dr. Stephen Geary, who recommended possible future left shoulder surgery. Claimant testified that she was unable to have the surgery because her health insurance was cancelled when she lost her job.

Claimant stated that her husband suffered from several illnesses during this time, including colon cancer in 2000, two strokes in 2005, and liver cancer, and that he continues to have problems today, for which he is being hospitalized. She stated that she received short-term disability for approximately three months.

Claimant testified that her neck and wrist pain is better, but that she continues to experience pain and problems in her left shoulder. She testified that she has difficulty performing activities involving her left upper extremity. As an example, she stated that she has difficulty lifting juice from the refrigerator with her left arm. While her sisters-in-law help her care for her husband, claimant testified that she has mostly cared for him on her own. Claimant further testified that she is right-hand dominant but is only able to use her left hand as a helper hand. She testified that she wants further

treatment with Dr. Geary and is unable to return to any work as a result of her continuing left shoulder pain.

Mary Gilboy, human resources manager for employer-defendant, testified that she is currently on disability due to a recent hip replacement. Her testimony confirms the nature of claimant's work requiring the use of her upper extremities, as well as the fact that claimant did complain to employer-defendant about left shoulder problems.

Nurses' notes from claimant's employment file dated July 17, 2003 indicate that claimant had been evaluated at Mountain View Family Practice for likely work-related carpal tunnel syndrome, and that she had been written out of work for a period of two weeks. These notes further show that claimant was experiencing pain in her neck and left arm, but that she did not want to miss time from work. The attending nurse recommended sending claimant to Workwell to see if she could perform one-handed duty, and noted that claimant was agreeable to this plan. On July 18, 2003, the attending nurse noted that Workwell said claimant could work with restrictions, and on July 23, 2003, it was noted that claimant had been approved for an MRI. The nurses' notes further indicate that claimant was offered a lighter duty job which involved "airflow/waterflow." While the attending nurse noted that claimant was grateful to be offered a job, she noted after an extended conversation that she was favoring her right arm. On August 1, 2003, the company nurse noted that an MRI of the cervical spine revealed degenerative disc disease at C4-5 through C6-7 levels. On October 28, 2003, the attending nurse noted that claimant had seen Dr. Merriweather at St. Francis Workwell for her return to work evaluation and that he had restricted her from overhead work, interior lifting, and lifting greater than five pounds. However, it was further noted that no work was available within those restrictions and that claimant was upset that she may lose her job. On April 15, 2004, the attending nurse spoke with claimant, noted that she continued to have pain in her shoulder and that she may need surgery. She

further noted that claimant had been referred to orthopaedic specialist Dr. Stephen Geary, who recommended surgery, but that claimant was having issues regarding her insurance. Claimant signed the authorization for defendants to obtain her medical notes from Dr. Geary at that time.

On June 21, 2003, Dr. Brunson evaluated claimant for left arm pain and numbness from her neck to her fingers which had reportedly been present for six months. Dr. Brunson noted that claimant's job requires the almost continuous use of her arms and hands in a deburring process. He diagnosed carpal tunnel syndrome and cervicgia. Upon evaluation on July 17, 2003, Dr. Brunson noted that claimant was unable to wear splints at work due to the nature of her job. He diagnosed work-related carpal tunnel syndrome due to repetitive motion and restricted claimant from working for a period of two weeks. In a note to employer-defendant, Dr. Brunson further indicated that this claim should be considered a workers' compensation injury. He noted that claimant continued to work other jobs for employer-defendant, but still had pain which was exacerbated by work. Dr. Brunson opined that claimant needed to be out of work while her claim was sorted out and restricted her from work from August 4, 2003 to August 25, 2003. Upon evaluation on August 21, 2003, he recommended an MRI of claimant's left shoulder and indicated that he had spoken with Gail Pless, claimant's rehabilitation nurse. Dr. Brunson continued to restrict claimant from work through September 4, 2003. On September 4, 2003, he noted that the MRI of the left shoulder had been denied by claimant's insurance.

On September 17, 2003, Dr. Brunson noted that claimant was experiencing depression and persistent pain. He further noted that claimant's health insurance carrier, Cigna, had directed her to orthopaedist Dr. Jernigan, but that Dr. Jernigan wanted to review her records before deciding whether to treat claimant and that, in the meantime, claimant was in limbo. Claimant began treatment for depression while Dr. Brunson continued to restrict her from work through October 19, 2003. On

October 9, 2003, Dr. Brunson noted that claimant's short term disability benefits had been denied due to a lack of information, even though he had faxed the notes to a representative for the insurance company. Dr. Brunson continued to restrict claimant from work from October 14, 2003 through November 15, 2003. On October 22, 2003, he noted that claimant's short term disability was at its limit and that claimant must either be released from treatment or returned to work. He further noted that claimant had been told by employer-defendant that short term disability had been denied due to a lack of information, but that claimant wanted to return to work. On November 14, 2003, Dr. Brunson noted that claimant's records had been faxed at least twice, but that employer-defendant claimed those records had never been received. On February 14, 2005, Dr. Brunson opined that claimant's left upper extremity and neck problems were caused by her repetitive work at Honeywell.

On July 17, 2003, the attending nurse practitioner at St. Francis Workwell noted left neck, arm and hand pain. She further noted that claimant was motivated and did not want to be out of work, even though she was having difficulty secondary to this pain. On July 21, 2003, the attending physician continued to note left shoulder pain and diagnosed cervical radiculopathy. On August 1, 2003, the attending physician recommended referral to a spine specialist and noted that claimant would discuss this treatment with Mary at Honeywell. In the meantime, the attending physician recommended limited twisting and bending of the neck at work and restricted claimant from lifting greater than five pounds with her left arm.

Records of Metlife dated October 6, 2003 show that claimant's disability claim was denied due to lack of information. In her disability claim, claimant's job was described as involving the repetitive use of both hands seven to eight hours a day, firm grasping with both hands for 4 hours per day, and use of the head and neck five to six hours a day.

Dr. Michael Bucci, of the Piedmont Neurosurgical Group, evaluated claimant on November

4, 2003 for cervical spine problems due to left upper extremity pain and numbness, and he recommended physical therapy. On December 16, 2003, Dr. Bucci assessed persistent left upper extremity weakness and pain, and sought to rule out primary shoulder pathology and HNP. He recommended an MRI of the left shoulder and a CT myelogram of the cervical spine. On December 30, 2003, he insisted the insurance carrier authorize an MRI of claimant's left shoulder.

On January 7, 2004, claimant underwent an MRI of her left shoulder at St. Francis Women's and Family Hospital. The results were read by the reviewing radiologist to reveal mild impingement tendinosis.

Pain management specialist Dr. Clifford Monda evaluated claimant on January 13, 2004 upon referral by Dr. Bucci and assessed pain secondary to her work at Honeywell. He specifically noted left-sided neck, shoulder and arm pain. He noted that claimant needed to return to work by February 4, 2004 or she would lose her job. He refilled her prescription of the pain medication Lortab, injected the left shoulder, and noted that his office was waiting for the results of claimant's MRI. In the meantime, he restricted claimant from lifting, pulling or pushing greater than 10 pounds.

Orthopaedic specialist Dr. Stephen Geary evaluated claimant on January 21, 2004 for left shoulder pain and noted the pushing and pulling she was required to perform at work. He diagnosed left shoulder subacromial impingement and cervical spondylosis. He recommended injecting the AC joint, with consideration of future decompression surgery. On February 9, 2005, Dr. Geary opined that claimant's left shoulder problems were aggravated by her work at Honeywell.

Dr. Robert Schwartz evaluated claimant on February 21, 2005 for complaints of sharp shoulder pain related to work. He noted that claimant had last worked in September 2003. On February 22, 2005, Dr. Schwartz again evaluated claimant for complaints of left shoulder pain due to work and diagnosed subacromial arthritis. On March 4, 2005, Dr. Schwartz noted that he had seen claimant for

neck pain after a motor vehicle accident in 1990, but further noted her complaints of new shoulder pain related to her work for employer-defendant.

Employment records show that claimant reported her work injury on July 17, 2003. Claimant alleged neck and shoulder pain into her arm and hand due to her work with employer-defendant. In a fax to Workwell dated July 17, 2003, Mary Gilboy indicated that employer-defendant would accommodate any restriction. On August 4, 2003, claimant requested family medical leave and it was noted that claimant had been restricted to a maximum lift of five pounds; however, Mary Gilboy indicated that these restrictions were not work-related. On August 6, 2003, it was noted that the pain in claimant's left arm and shoulder had been aggravated by repetitive motion at work and that claimant was restricted from working with her left hand. On January 14, 2004, Ms. Gilboy noted that claimant's physician had cleared her to return to work. She indicated that this would need to be cleared through the company doctor before employer-defendant would allow her to return.

Dr. Robert Dameron performed an independent medical evaluation on December 19, 2008. He noted that claimant started having problems with her neck and left upper extremity in 2003 and that her job required repetitive activity. Dr. Dameron opined that claimant's left shoulder problems began with work, that she was not at maximum medical improvement, and that she needed to return to Dr. Geary.

FINDINGS OF FACT

1. An employee/employer relationship existed between the parties at the time of claimant's injury. This finding is based on the parties' stipulation.
2. Claimant average weekly wage is \$806.96, for a corresponding compensation rate of \$538.00. This finding is based on the parties' stipulation.
3. Claimant was employed by employer-defendant as a deburrer, a job that required the

extensive use of her hands and upper extremities on a repetitive basis. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.

4. On or around July or August 2003, claimant began experiencing pain and problems in her left shoulder, the left side of her neck and down her left arm while performing her regular work duties, and she reported these problems to the company nurse. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the records of employer-defendant.

5. The testimony of Mary Gilboy confirms the nature of claimant's work requiring the use of her upper extremities and that claimant did complain to employer-defendant about the pain and problems in her left shoulder. This finding is based on all the evidence on the record, including but not limited to the testimony of Mary Gilboy.

6. The company nurse referred claimant to the company doctor, who noted left neck, arm and hand pain, as well as the pain in claimant's left shoulder. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of employer-defendant and St. Francis Workwell.

7. Dr. Jack Brunson evaluated claimant for her left shoulder pain during this time, assessed left upper extremity problems caused by her work for employer-defendant, and recommended an MRI of the left shoulder. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Brunson.

8. Neurosurgeon Dr. Michael Bucci evaluated claimant's left shoulder and also recommended an MRI, which was later performed and read to be consistent with mild impingement tendinosis. This finding is based on the medical records of Dr. Bucci and St. Francis.

9. Orthopaedic specialists Dr. Stephen Geary and rehabilitation specialist Dr. Clifford Monda evaluated claimant's left shoulder and both physicians opined that claimant's left shoulder

problems were related to her work for employer-defendant. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Geary and Dr. Monda.

10. Claimant was sent by defendants to rehabilitation specialist Dr. Robert Schwartz, who also noted complaints of work-related left shoulder pain. This finding is based on the medical records of Dr. Schwartz.

11. The greater weight of the evidence shows claimant sustained injury by accident arising out of and in the course of her employment with employer-defendant on August 1, 2003, causing injury to her left shoulder in addition to her admitted left carpal tunnel syndrome. This finding is based on all the evidence on the record, including but not limited to claimant's testimony, the testimony of Mary Gilboy, the records of employer-defendant, and the medical records of St. Francis Workwell, Dr. Brunson, Dr. Bucci, Dr. Geary, and Dr. Schwartz.

12. The medical evaluation and treatment provided to claimant for her left shoulder since August 1, 2003 is causally related to her injury by accident and tended to lessen the period of her disability. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

13. Claimant is entitled to reimbursement for all causally related medical treatment and expenses for her left shoulder from August 1, 2003 to the date of this hearing. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

14. While claimant's neck and left hand pain have dissipated, she continues to experience pain and problems in her left shoulder. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

15. Dr. Geary recommended injecting the AC joint and consideration of future decompression surgery. This finding is based on the medical records of Dr. Geary.

16. Claimant is in need of additional medical treatment for her left shoulder, including but not limited to medical evaluation and treatment as recommended by orthopaedic specialist Dr. Stephen Geary. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

17. Claimant is entitled to additional medical treatment for her left shoulder as directed by Dr. Geary, and defendants are required to pay for such treatment. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Geary.

18. As a result of the injuries to her left shoulder, claimant has been unable to work since March 4, 2005, and she remains unable to work as a result of her left shoulder injuries. This finding is based on claimant's testimony and the medical records of Dr. Schwartz.

19. Claimant has been temporarily and totally disabled since March 4, 2005 as a result of the injuries to her left shoulder, and she remains temporarily and totally disabled as a result of her left shoulder injuries. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Schwartz.

20. Claimant has not reached maximum medical improvement from the injuries to her left shoulder. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Geary.

21. There is no evidence that any of the short term disability benefits which have been paid to date were paid in lieu of workers' compensation benefits, and therefore, defendants are not entitled to any credit for short term disability benefits. This finding is based on all the evidence on the record, including but not limited to the testimony of Mary Gilboy, the records of MetLife, and the records of

employer-defendant.

22. All other issues are held in abeyance until claimant has reached maximum medical improvement.

RULINGS OF LAW

1. Under S.C. Code Ann. §§ 42-1-130 to -150, the South Carolina Workers' Compensation Commission has jurisdiction over claimant's claim for benefits.

2. Under S.C. Code Ann. § 42-1-40 and S.C. Code Reg. 67-1603, claimant's average weekly wage is \$806.96, for a corresponding compensation rate of \$538.00.

3. Under S.C. Code Ann. § 42-1-160, claimant sustained compensable injury by accident arising out of and in the course of her employment with employer-defendant on August 1, 2003, causing left carpal tunnel syndrome and injury to her left shoulder.

4. Under S.C. Code Ann. § 42-15-20, claimant timely notified her employer of the injury to her left shoulder.

5. Claimant has not reached maximum medical improvement from the injury to her left shoulder. See Dodge v. Bruccoli, Clark, Layman, Inc., 334 S.C. 574, 514 S.E.2d 593 (Ct.App.1999)(maximum medical improvement is plateau at which no further medical care or treatment will lessen the degree of impairment).

6. Under S.C. Code Ann. § 42-15-60, claimant is entitled to and defendants are responsible for all causally related medical evaluation and treatment expenses from August 1, 2003 to the present and continuing, including but not limited to all past causally related medical evaluation and treatment for her left shoulder and additional medical treatment as recommended and directed by orthopaedic specialist Dr. Stephen Geary.

7. Under S.C. Code Ann. §§ 42-1-120 and 42-9-10, claimant is entitled to and defendants are responsible for temporary total disability compensation benefits at the rate of \$538.00 per week for her total disability from March 4, 2005 to the present and continuing until further Order of the Commission or agreement of the parties.

ORDER

It is ordered that defendants shall make the following payments:

1. All causally related medical evaluation and treatment expenses from August 1, 2003 to the present and continuing, including but not limited to all past causally related medical evaluation and treatment for her left shoulder and additional medical treatment as recommended and directed by orthopaedic specialist Dr. Stephen Geary.

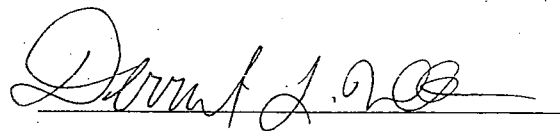
2. Temporary total disability compensation at the rate of \$538.00 per week from March 4, 2005 to the present and continuing until further Order of the Commission or agreement of the parties.

All payments shall be made to claimant through her attorney's office.

CERTIFICATE OF SERVICE
This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, postage paid, in the United States mail addressed to the attorney or attorneys for said parties.
This 26th day of Feb., 2009
By Carol B. Smith
Administrative Assistant to the Commissioner

VFD
KW

S.C. Workers' Compensation Commission



Derrick L. Williams, Commissioner

Date: 2-17-09

DECISION AND ORDER
OF THE
APPELLATE PANEL
OF THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

FILE NO.: 0312096

Maria McGaha,

Employee-Claimant,

vs.

Honeywell International, Inc.,

Employer, and

Zurich American Insurance Co.,

Carrier, Defendants.

Appellate Panel Review held in Columbia,
South Carolina on June 23, 2009, per notice timely
and properly served upon all parties of interest.

Appearances: Kathryn Williams, Esq. of Kathryn Williams, P.A.,
Greenville, South Carolina for claimant.

Vernon F. Dunbar, Esq. of Turner Padgett Graham & Laney,
P.A. for defendants.

Filed:

8/20/09

STATEMENT OF THE CASE

Commissioner Derrick L. Williams heard the parties on January 5, 2009 in Greenville, South Carolina. On February 17, 2009, the Commissioner issued the following Order:

It is ordered that defendants shall make the following payments:

1. All causally related medical evaluation and treatment expenses from August 1, 2003 to the present and continuing, including but not limited to all past causally related medical evaluation and treatment for her left shoulder and additional medical treatment as recommended and directed by orthopaedic specialist Dr. Stephen Geary.
2. Temporary total disability compensation at the rate of \$538.00 per week from March 4, 2005 to the present and continuing until further Order of the Commission or agreement of the parties. All payments shall be made to claimant through her attorney's office.

Within the statutory period, defendants filed an Application for Review in the case, copies of which were furnished to all parties. By appeal, defendants respectfully contend the Hearing Commissioner erred in the following manner:

1. The Hearing Commissioner erred in finding as a fact and concluding as a matter of law that respondent is entitled to payment of temporary total disability compensation benefits from March 4, 2005 to the present when such an award is based upon speculation, conjecture and self-serving statements.
2. The Hearing Commissioner erred in finding as a fact and concluding as a matter of law that respondent sustained a compensable injury to her neck and left shoulder.

All proffered testimony and documentary evidence has been taken and delivered to the individual members of the Appellate Panel for their study and consideration. In addition, the parties have briefed and orally argued their positions before the Panel.

In an Appellate Panel review under S.C. Code Ann. § 42-17-50, the Commission's Appellate Panel shall review the award, weigh the evidence as presented at the initial hearing, and, if good grounds be shown therefore, make its own findings and conclusions consistent with or inconsistent with those of the Hearing Commissioner.

After careful review of the record in this case, the Commission, by majority vote, has determined that all of the Hearing Commissioner's Findings of Fact and Rulings of Law are correct as stated. The Hearing Commissioner's Order is affirmed in its entirety, and the Commissioner's Findings of Fact and Rulings of Law, as set forth verbatim below, are hereby the law of this case.

FINDINGS OF FACT

1. An employee/employer relationship existed between the parties at the time of claimant's injury. This finding is based on the parties' stipulation.
2. Claimant average weekly wage is \$806.96, for a corresponding compensation rate of \$538.00. This finding is based on the parties' stipulation.
3. Claimant was employed by employer-defendant as a deburrer, a job that required the extensive use of her hands and upper extremities on a repetitive basis. This finding is based on all the evidence on the record, including but not limited to claimant's testimony.
4. On or around July or August 2003, claimant began experiencing pain and problems in her left shoulder, the left side of her neck and down her left arm while performing her regular work duties, and she reported these problems to the company nurse. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the records of employer-defendant.

5. The testimony of Mary Gilboy confirms the nature of claimant's work requiring the use of her upper extremities and that claimant did complain to employer-defendant about the pain and problems in her left shoulder. This finding is based on all the evidence on the record, including but not limited to the testimony of Mary Gilboy.

6. The company nurse referred claimant to the company doctor, who noted left neck, arm and hand pain, as well as the pain in claimant's left shoulder. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of employer-defendant and St. Francis Workwell.

7. Dr. Jack Brunson evaluated claimant for her left shoulder pain during this time, assessed left upper extremity problems caused by her work for employer-defendant, and recommended an MRI of the left shoulder. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Brunson.

8. Neurosurgeon Dr. Michael Bucci evaluated claimant's left shoulder and also recommended an MRI, which was later performed and read to be consistent with mild impingement tendinosis. This finding is based on the medical records of Dr. Bucci and St. Francis.

9. Orthopaedic specialists Dr. Stephen Geary and rehabilitation specialist Dr. Clifford Monda evaluated claimant's left shoulder and both physicians opined that claimant's left shoulder problems were related to her work for employer-defendant. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Geary and Dr. Monda.

10. Claimant was sent by defendants to rehabilitation specialist Dr. Robert Schwartz, who also noted complaints of work-related left shoulder pain. This finding is based on the medical records of Dr. Schwartz.

11. The greater weight of the evidence shows claimant sustained injury by accident arising out of and in the course of her employment with employer-defendant on August 1, 2003, causing injury to her left shoulder in addition to her admitted left carpal tunnel syndrome. This finding is based on all the evidence on the record, including but not limited to claimant's testimony, the testimony of Mary Gilboy, the records of employer-defendant, and the medical records of St. Francis Workwell, Dr. Brunson, Dr. Bucci, Dr. Geary, and Dr. Schwartz.

12. The medical evaluation and treatment provided to claimant for her left shoulder since August 1, 2003 is causally related to her injury by accident and tended to lessen the period of her disability. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

13. Claimant is entitled to reimbursement for all causally related medical treatment and expenses for her left shoulder from August 1, 2003 to the date of this hearing. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

14. While claimant's neck and left hand pain have dissipated, she continues to experience pain and problems in her left shoulder. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

15. Dr. Geary recommended injecting the AC joint and consideration of future decompression surgery. This finding is based on the medical records of Dr. Geary.

16. Claimant is in need of additional medical treatment for her left shoulder, including but not limited to medical evaluation and treatment as recommended by orthopaedic specialist Dr. Stephen Geary. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records.

17. Claimant is entitled to additional medical treatment for her left shoulder as directed by Dr. Geary, and defendants are required to pay for such treatment. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Geary.

18. As a result of the injuries to her left shoulder, claimant has been unable to work since March 4, 2005, and she remains unable to work as a result of her left shoulder injuries. This finding is based on claimant's testimony and the medical records of Dr. Schwartz.

19. Claimant has been temporarily and totally disabled since March 4, 2005 as a result of the injuries to her left shoulder, and she remains temporarily and totally disabled as a result of her left shoulder injuries. This finding is based on all the evidence on the record, including but not limited to claimant's testimony and the medical records of Dr. Schwartz.

20. Claimant has not reached maximum medical improvement from the injuries to her left shoulder. This finding is based on all the evidence on the record, including but not limited to the medical records of Dr. Geary.

21. There is no evidence that any of the short term disability benefits which have been paid to date were paid in lieu of workers' compensation benefits, and therefore, defendants are not entitled to any credit for short term disability benefits. This finding is based on all the evidence on the record, including but not limited to the testimony of Mary Gilboy, the records of MetLife, and the records of employer-defendant.

22. All other issues are held in abeyance until claimant has reached maximum medical improvement.

RULINGS OF LAW

1. Under S.C. Code Ann. § 42-17-50, the Commission's Appellate Panel is empowered to review the appealed award, weigh the evidence as presented at the initial hearing, and, if good grounds are shown therefore, make its own findings and conclusions consistent with or inconsistent with those of the Hearing Commissioner.
2. Under S.C. Code Ann. §§ 42-1-130 to -150, the South Carolina Workers' Compensation Commission has jurisdiction over claimant's claim for benefits.
3. Under S.C. Code Ann. § 42-1-40 and S.C. Code Reg. 67-1603, claimant's average weekly wage is \$806.96, for a corresponding compensation rate of \$538.00.
4. Under S.C. Code Ann. § 42-1-160, claimant sustained compensable injury by accident arising out of and in the course of her employment with employer-defendant on August 1, 2003, causing left carpal tunnel syndrome and injury to her left shoulder.
5. Under S.C. Code Ann. § 42-15-20, claimant timely notified her employer of the injury to her left shoulder.
6. Claimant has not reached maximum medical improvement from the injury to her left shoulder. See *Dodge v. Bruccoli, Clark, Layman, Inc.*, 334 S.C. 574, 514 S.E.2d 593 (Ct.App.1999)(maximum medical improvement is plateau at which no further medical care or treatment will lessen the degree of impairment).
7. Under S.C. Code Ann. § 42-15-60, claimant is entitled to and defendants are responsible for all causally related medical evaluation and treatment expenses from August 1, 2003 to the present and continuing, including but not limited to all past causally related medical evaluation and treatment for her left shoulder and additional medical treatment as recommended and directed by orthopaedic specialist Dr. Stephen Geary.

8. Under S.C. Code Ann. §§ 42-1-120 and 42-9-10, claimant is entitled to and defendants are responsible for temporary total disability compensation benefits at the rate of \$538.00 per week for her total disability from March 4, 2005 to the present and continuing until further Order of the Commission or agreement of the parties.

ORDER

IT IS, THEREFORE, ORDERED that the Order of the Hearing Commissioner is hereby affirmed by majority vote of the Appellate Panel of the Commission.

IT IS FURTHER ORDERED that the defendants shall make the following payments:

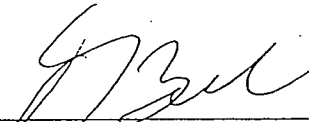
1. All causally related medical evaluation and treatment expenses from August 1, 2003 to the present and continuing, including but not limited to all past causally related medical evaluation and treatment for her left shoulder and additional medical treatment as recommended and directed by orthopaedic specialist Dr. Stephen Geary.

2. Temporary total disability compensation at the rate of \$538.00 per week from March 4, 2005 to the present and continuing until further Order of the Commission or agreement of the parties. All payments shall be made to claimant through her attorney's office.

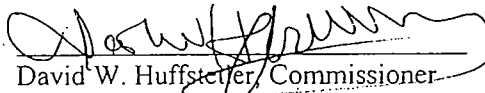
[signature page follows]

AND IT IS SO ORDERED.

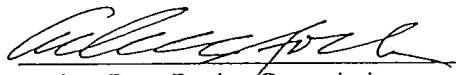
S.C. Workers' Compensation Commission


T. Scott Beck, Commissioner

CONCUR:


David W. Huffstetter, Commissioner

CONCUR IN PART:


Andrea Pope Roche, Commissioner

Commissioner Roche voted to affirm in part and reverse in part: "I would reverse the award of temporary total disability and award it to the date of the filing of the Form 50. I would find the claimant sat on her rights."

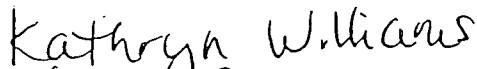
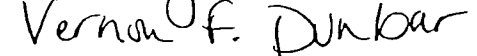
Dated: August 19, 2009
Columbia, South Carolina

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this date served this order in the above entitled action upon all parties to this cause by depositing a copy hereof, postage paid, in the United State mail addressed to the attorney or attorneys for said parties.

This 20 day of August, 2009
By Valerie B. Deller

Administrative Assistant to the Commissioner

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRTEENTH JUDICIAL CIRCUIT
COUNTY OF GREENVILLE	)	
Maria E. McGaha, Employee,	)	C.A. Nos. 2009-CP-23-7978
	)	
Claimant-Respondent,	)	WCC File No. 0312096
	)	
vs.	)	
	)	
Honeywell Int'l, Inc., Employer and	)	
Zurich North America, Carrier,	)	
	)	
Defendants-Appellants.	)	

ORDER

FILED
JAN 19 11 19 AM '09
CLERK OF COURT
GREENVILLE CO. SC

This is an appeal from the Workers' Compensation Commission. By Order dated February 17, 2009, the Hearing Commissioner found Maria McGaha sustained compensable injuries to her neck and left shoulder in addition to the admitted left carpal tunnel syndrome and that she is entitled to past and continuing medical treatment at the recommendation of Dr. Geary. The Commissioner further found that she is entitled to temporary total disability compensation from March 4, 2005 to the present and continuing and that Honeywell International and its workers' compensation insurance carrier, Zurich North America (together "Honeywell"), are not entitled to credit for any short-term disability benefits paid.

Both parties appealed to the Full Commission Panel, but by Order dated August 20, 2009, the Commission affirmed the Hearing Commissioner's Order.

Honeywell now appeals to this Court contending only that the Commission erred in finding McGaha sustained compensable injury to her neck and erred in finding she is entitled to temporary total disability compensation from March 4, 2005 to the present and continuing. McGaha did not file an appeal of the August 20, 2009 Order.

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SCOPE OF REVIEW

In Brown v. Greenwood Mills, Inc., the Court of Appeals explained at length the standard of appellate review in workers' compensation cases.

The South Carolina Administrative Procedures Act ("APA") establishes the standard for judicial review of decisions of the workers' compensation commission. A reviewing court may reverse or modify a decision of an agency if the findings, inferences, conclusions, or decisions of that agency are "clearly erroneous in view of the reliable, probative and substantial evidence on the whole record." Under the scope of review established in the APA, this Court may not substitute its judgment for that of the appellate panel as to the weight of the evidence on questions of fact, but may reverse where the decision is affected by an error of law.

The substantial evidence rule of the APA governs the standard of review in a workers' compensation decision. Pursuant to the APA, this Court's review is limited to deciding whether the appellate panel's decision is unsupported by substantial evidence or is controlled by some error of law. Substantial evidence is not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the administrative agency reached in order to justify its action.

The appellate panel is the ultimate fact finder in workers' compensation cases and is not bound by the single commissioner's findings of fact. The final determination of witness credibility and the weight to be accorded evidence is reserved to the appellate panel. The possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's findings from being supported by substantial evidence. Where there are conflicts in the evidence over a factual issue, the findings of the appellate panel are conclusive.

The findings of an administrative agency are presumed correct and will be set aside only if unsupported by substantial evidence. It is not within our province to reverse findings of the appellate panel which are supported by substantial evidence.

Brown v. Greenwood Mills, Inc., 366 S.C. 379, 391-93, 622 S.E.2d 546, 553-54
(Ct.App.2005)(citations omitted).

ANALYSIS

Honeywell now appeals to this Court contending only that the Commission erred in finding McGaha sustained compensable injury to her neck and erred in finding she is entitled to temporary total disability compensation from March 4, 2005 to the present and continuing. However, as set forth more fully below, I find that both decisions are supported by substantial evidence on the record and affirm the Commission's Order.

Injury to the neck. Honeywell appealed only the Commission's finding concerning injury to the neck, and therefore accepts the Commission's determination concerning compensable carpal tunnel syndrome in her left upper extremity/hand and compensable injury to the left shoulder. A review of the record shows that the Commission's finding that McGaha sustained compensable injury to her neck is supported by substantial evidence.

McGaha testified that her work as a deburrer with employer-defendant required extensive use of her upper extremities and that she began having pain and problems in her left shoulder, the left side of her neck, and down her left arm while doing this work in July or August 2003. She further testified that she reported these problems to her employer and was sent to the company nurse, who referred her to the company doctor at St. Francis Workwell. The company nurse, Mary Gilboy, also testified at the hearing and admitted that McGaha reported experiencing symptoms in her left shoulder, neck, and left arm. Ms. Gilboy's notes taken from McGaha's employment file show that McGaha was experiencing pain in her neck and left arm and that she clearly stated

that she thought her work activities were causing the problem but that she did not want to miss time from work.

McGaha was sent to Workwell, the company doctor, to determine if she could perform one-handed duty, and on July 18, 2003, the nurse noted that Workwell had indicated McGaha could work with restrictions. McGaha was offered and accepted a lighter duty job which involved "airflow/waterflow," but the nurse later noted that McGaha was favoring her left arm quite a bit and was exhibiting facial grimaces while doing this work. The nurse specifically noted on August 1, 2003 that an MRI of McGaha's neck had revealed multilevel degenerative disc disease. Further, an FMLA form in McGaha's employment records indicates that Dr. Brunson advised the employer that McGaha's problem was aggravated by repetitive activities.

The medical records show that on June 21, 2003, Dr. Brunson evaluated McGaha for left arm pain and numbness from her neck to her fingers. He noted that McGaha's job requires the almost continuous use of her arms and hands in a deburring process, and after examination, he diagnosed carpal tunnel syndrome and cervicalgia. In a note to employer-defendant, he specifically advised that McGaha's condition should be considered a workers' compensation injury. On August 21, 2003, Dr. Brunson noted that NCV testing had not shown suspected carpal tunnel syndrome, and after further evaluation, he diagnosed cervical radiculopathy or neuralgia and recommended an MRI of the left shoulder. On February 14, 2005, Dr. Brunson opined again that McGaha's left upper extremity and neck problems were caused by her repetitive work at Honeywell.

On July 17, 2003, the attending nurse practitioner at St. Francis Workwell – the company physician's office – noted left neck, arm and hand pain, and after examination, she assessed probable left cervical radiculopathy. On August 1, 2003, the attending company physician, Dr.

Merriwether, continued to note McGaha's complaints of neck pain radiating to her left arm, and he specifically noted that McGaha related her symptoms to her work activities. He diagnosed cervical radiculopathy and referred McGaha to a spine specialist.

Neurosurgeon Dr. Michael Bucci evaluated McGaha on November 4, 2003 for cervical spine problems and left upper extremity pain and numbness. After physical therapy failed to relieve the problem, he assessed persistent left upper extremity weakness and pain and recommended an MRI of the left shoulder and a CT myelogram of the cervical spine to rule out primary shoulder or spine pathology.

Pain management specialist Dr. Clifford Monda evaluated McGaha on January 13, 2004 for complaints of left-sided neck and left upper extremity complaints, and he specifically noted that she related her symptoms to her work activities at Honeywell. After examination, Dr. Monda diagnosed possible left rotator cuff tear pending results of an MRI and cervical spine pain due to spurring, stenosis, and neuroforaminal narrowing.

Orthopaedist Dr. Robert Dameron evaluated McGaha on December 19, 2008, and he noted that she related that she began having problems with her neck and left upper extremity in 2003 and that her job required repetitive activity. Dr. Dameron opined that McGaha's left shoulder problems began with work and that she was not at maximum medical.

This evidence is substantial evidence supporting the Commission's determination that McGaha has sustained compensable injury to her neck. Therefore, the Commission's finding must be affirmed.

Temporary total disability compensation. Honeywell next contends the Commission erred in finding McGaha is entitled to temporary total disability compensation from March 4, 2005

to the present and continuing. However, a review of the record again shows that the Commission's finding is supported by substantial evidence.

An injured employee is entitled to and an employer is liable for temporary total disability compensation benefits for all periods of total disability, or inability to earn wages because of the injury in the same or any other employment, until the Commission determines that the worker has reached maximum medical improvement. Smith v. S.C. Dep't of Mental Health, 335 S.C. 396, 517 S.E.2d 694 (1999); S.C. Code Ann. §§ 42-1-120, 42-9-10 (2003). Here, the evidence on the record actually supports McGaha's contention that she has been totally disabled because of her injuries since August 1, 2003. Nevertheless, for the reasons set forth below, I affirm the Commission's finding that she is entitled to such compensation from March 4, 2005 to the present and continuing.

Dr. Brunson medical records reveal his stated opinion that McGaha needed to be out of work while her claim was sorted out, and he restricted her from work from August 4, 2003 to August 25, 2003. He continued to restrict McGaha from work through September 4, 2003 and noted on that date that the MRI he had recommended was denied. Dr. Brunson thereafter continued to restrict her work duties through November 15, 2003.

Employer-defendant sent McGaha to the company physician, Dr. Merriwether, and in a fax to that office dated July 17, 2003, Mary Gilboy indicated that employer-defendant would accommodate any restriction. Dr. Merriwether restricted McGaha to light duty work and from any twisting or bending of the neck or lifting greater than five pounds with her left arm on August 1, 2003. Despite the earlier fax message, employer-defendant advised McGaha that there was no work available within Dr. Merriwether's restrictions. In fact, McGaha testified that she was terminated because the employer told her that no work was available under those restrictions.

Therefore, there is clear evidence on the record that McGaha became totally disabled from working at the time of her injury in August 2003. Though the company physician later stated that she could return to light duty work, employer-defendant failed to provide such work, and therefore, McGaha remained totally disabled because of her injuries. There is no evidence on the record that this disability has ended.

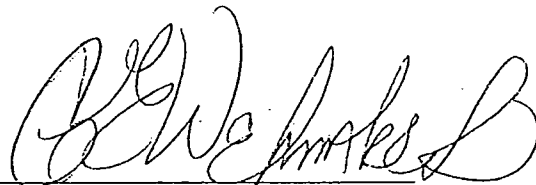
At the original hearing in this matter, McGaha contended she has been unable to work because of her injuries since August 1, 2003 and is entitled to temporary total disability compensation from that date to the present and continuing until she reaches maximum medical improvement. Honeywell responded with the allegation that she should not be allowed benefits for that entire period since she spent part of that time caring for her sick husband. This is based on McGaha's testimony that her husband suffered from several illnesses, including several bouts with cancer and strokes, during this time that she has been out of work due to the injuries sustained at Honeywell. In a spirit of compromise, McGaha alternatively contended that she should be awarded benefits from August 1, 2003 to March 5, 2005 and then from December 19, 2008 to the present and continuing. In an obvious compromise, the Commissioner determined that McGaha is entitled to temporary total disability benefits from March 4, 2005 to the present and continuing. That decision was affirmed by the Commission's Appellate Panel.

Of course, the fact that some other circumstance also contributes to the worker's inability to work is immaterial and does not remove an employer's liability for compensation benefits. See Orr v. Elastomeric Products, 323 S.C. 342, 474 S.E.2d 448 (Ct.App.1996)(claimant entitled to continued temporary disability benefits despite intervening pregnancy where disability caused by work-related injury, not pregnancy). Therefore, Honeywell's argument on that issue is rejected.

At oral arguments before this Court, Honeywell conceded through its counsel that it would have little grounds for complaint if the Commission had found McGaha became totally disabled and entitled to temporary total disability compensation from August 4, 2003 to the present. In awarding benefits from March 4, 2005, the Commission was obviously attempting to find a date that would be equitable to both parties. If this Court were to reverse the Commission's decision on this issue, based on the evidence on the record, the Court would find that the Commission should have awarded temporary total disability compensation from August 4, 2003. However, this Court will give deference to what the Commission was trying to accomplish and affirm its decision. As the evidence actually shows that McGaha has been totally disabled because of her injuries since August 4, 2003, the Commission's compromise determination that she is entitled to temporary total disability compensation for the lesser time period from March 4, 2005 to the present and continuing is clearly supported by substantial evidence and is affirmed.

For the foregoing reasons, the Commission's Order in this matter is affirmed on all issues.

IT IS SO ORDERED.



G. Edward Welmaker
Judge, Thirteenth Judicial Circuit

Dated: 1-6-2011

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
P. O. Box 1715 - 1612 Marion Street
Columbia, South Carolina 29202-1715

WCC File #0312096
Carrier File #
Carrier Code #
Employer FEIN

<u>Maria E. McGaha</u>		<u>Honeywell International</u>	
Claimant's Name	SSN	Employer's Name	
<u>[REDACTED]</u>		<u>PO Box 1404, Greer, SC 29650</u>	
Address	City	State	Zip
<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>	<u>[REDACTED]</u>
Home Phone	Work Phone	Insurance Carrier	
		<u>Zurich American Ins. Co. Zurich US</u>	
<u>Kathryn Williams, P.A.</u>		<u>(864) 235-6254</u>	
Preparer's Name		Phone #	

Complete each information blank. To request a hearing, check box 13 b., indicate the kinds of benefits claimed by checking the box(es) at lines 6, 7, 8, and 9 and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds:

- 1 a. Claimant sustained accidental injury to All body parts and psychiatric, neck, left shoulder, left upper extremity on 8/4/03 in Greenville County, State of South Carolina.
- 1 b. Describe briefly how accident occurred: Repetitive use of upper extremities at work.
2. Both claimant and employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of injury, claimant was performing services arising out of and in the course of employment.
5. Notice of accidental injury was given to employer on 8/4/03 in the following manner: Notified supervisor
- ☒ 6. Due to injury, claimant is in need of (check one):
 - ☐ (a) medical examination and treatment for _____
 - ☒ (b) additional medical examination and treatment for all body parts and psychiatric, both upper extremities, neck, left shoulder
- ☒ 7. Due to injury, claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of: to be supplied
- ☒ 8. Due to injury, claimant has permanent disability of the following nature and extent: (check one)
 - ☐ (1) General Disability: ☐ Total ☐ Partial
 - ☐ (2) Specific Disability: ☐ Total ☐ PartialBody part(s) affected are: premature at this time
9. Due to injury, claimant has a serious bodily disfigurement consisting of _____
- 10 a. At the time of injury, claimant was paid weekly wages of \$ to be supplied and demands accounting of days worked and wages earned as provided by law.
- 10 b. Names and addresses of all employers for whom claimant has worked since the date of accident: _____
- 11 a. Further grounds of claim: See #12, lump sum payment and Utica Mohawk language
- 11 b. Names and addresses of all physicians or other medical specialists who have seen or treated claimant as a result of accident: see attached sheet
- 11 c. To the best of your knowledge, was there any prior permanent disability? No. If yes, describe: _____
12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.
- ☒ 13 a. I am filing a claim. I am not requesting a hearing at this time.
- ☐ 13 b. I am requesting a hearing.

Kathryn Williams
Signature of Claimant/Representative

July 9, 2001
Date

Refer to R.67-205, R.67-206, R.67-207, and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department.

WCC Form #50

Rev. Date 9/90

Employee 32 Notice of Claim and/or Request for Hearing.

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
DATE OF ACCIDENT: 8/4/02

Maria McGaha)
Employee-Claimant,)
vs.)
Honeywell International)
Employer, and)
Zurich American Ins. Co.)
Carrier, Defendants.)

CERTIFICATE OF SERVICE

This is to certify that the undersigned did cause the Form 50
to be served upon the Claims Department of the S.C. Workers'
Compensation Commission and the defendants by mailing a copy of the
same to the below-named as addressed by U.S. Mail, proper postage
prepaid on the 9th day of July, 2004.

Claims Department
S.C. Workers' Compensation Comm'n
P.O. Box 1715
Columbia, SC 29202-1715

Zurich American Ins. Co.
Zurich USA
PO Box 195008
Charlotte, NC 28219-5008

Honeywell International
PO Box 1404
Greer, SC 29650

Kathy Culpepper

South Carolina Workers' Compensation Commission
1612 Marion Street • Post Office Box 1715
Columbia, South Carolina 29202-1715
(803) 737-5723
www.wcc.sc.gov



WCC File #: 0312096
Carrier File #: _____
Carrier Code #: _____
Employer FEIN #: _____

Claimant's Name: Maria E. McGaha SSN: _____ Employer's Name: Honeywell
Address: [REDACTED] Address: P. O. Box 1404
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Greer State: SC Zip: 29650
Home Phone: _____ Work Phone: _____ Insurance Carrier: Zurich American Ins.
Co./Zurich US
Preparer's Name: Kathryn Williams Law Firm: Kathryn Williams, PA Preparer's Phone #: (864) 235-6254

Complete each information blank. To request a hearing, check Box 13b, indicate the kinds of benefits claimed by checking the box(es) at Lines 6, 7, 8, and 9, and file this form in duplicate.

A claim for workers' compensation benefits is made based on the following grounds: Date of Injury or Illness: 08/04/2003

☒ Injury ☐ Illness ☒ Repetitive Trauma

- 1a. The claimant sustained an injury to Neck, both upper extremities and both shoulders on 08/04/2003 in Greenville county, state of South Carolina
1b. Body part(s) affected are: Neck, both upper extremities and both shoulders

Briefly describe how the accident occurred. Repetitive use of both upper extremities at work

2. Both the claimant and the employer were subject to the South Carolina Workers' Compensation Act at the time of injury.
3. The relationship of employer and employee existed at the time of injury.
4. At the time of the injury the claimant was performing services arising out of and in the course of employment.
5. Notice of the accidental injury was given to the Employer on 08/04/2003 in the following manner: Reported to supervisor

☒ 6. Due to injury, the claimant is in need of (check one):

☒ (a) medical examination and treatment for: Neck, both upper extremities and both shoulders

☐ (b) additional medical examination and treatment for:

☐ 7. Due to injury, the claimant requests temporary total disability benefits because of lost compensable time from work and wages for the period of:
To be determined

☒ 8. Due to the injury, the Claimant has permanent disability of the following nature and extent (check one):

☒ (1) General Disability:

☐ Total

☒ (2) Specific Disability:

☐ Total

☐ (3) Wage Loss

☐ Partial

☐ Partial

☐ 9. Due to the injury, the Claimant has a serious bodily disfigurement consisting of:

10a. At the time of the injury, the Claimant was paid weekly wages of \$ To be determined, and demands accounting of days worked and wages earned as provided by law.

10b. Give names and addresses of all employers for whom the Claimant has worked since the date of the accident:

11a. Further grounds or unusual aspects of claim: Claimant makes claim to any and all rights she is entitled to under the Workers' Compensation laws of South Carolina. Claimant requests payment of any award in lump sum with lifetime allocation.

11b. List names and addresses of all physicians or other medical specialists who have seen or treated the Claimant as a result of the accident:
See attached list

11c. To the best of your knowledge, did you have any prior permanent disability?
If yes, describe:

12. Appropriate benefits as provided in the Act for the above grounds and other relief as the Workers' Compensation Commission may direct as just and proper.

☐ 13a. I am filing a claim. I am not requesting a hearing at this time.

☒ 13b. I am requesting a hearing. A \$25 fee is required.

14. Estimated time needed for hearing: 30 minutes

I verify the contents of this form are accurate and true to the best of my knowledge.

[Signature]
Preparer's Signature

Attorney for the
Claimant
Title

kwilliamslaw@bellsouth.net
Email

9/11/08
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Claims Department.

WCC Form # 50
Revised 9/07

50

Employee's Notice of Claim and/or
Request for Hearing

Re: Maria E. McGaha vs. Honeywell
Date of Injury: 08/04/2003
WCC File No: 0312096

11b. Mountain View Family Practice
298 The Parkway
Greer, SC 29650

Piedmont Neurosurgical
109 Montgomery Drive
Anderson, SC 29621

Steadman Hawkins Clinic
200 Patewood Drive Suite C100
Greenville, SC 29615

Dr. Robert Schwartz
317 St. Francis Drive, Suite 350
Greenville, SC 29601

St. Francis Hospital
1 St. Francis Drive
Greenville, SC 29601

WCC FILE NO: 0312096

[illegible]

Janna Lee

South Carolina Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



WCC File #: 0312096
Carrier File #: 2800034122001
Carrier Code #: 090-01

Claimant's Name: Maria E. McGaha

Employer FEIN #: 222640650000

Address: [REDACTED]

Employer's Name: Honeywell International, Inc.

Address: P.O. Box 1404

City: [REDACTED] State: [REDACTED] Zip: [REDACTED]

City: Greer State: SC Zip: 29652-1404

Home Phone: [REDACTED] Work Phone: [REDACTED]

Carrier: Zurich North America

Preparer's Name: Vernon F. Dunbar, Esq.

Law Firm: Turner Padgett Graham & Laney P.A.

Preparer's Phone #: (864) 552-4601

Date of Injury or Illness: 8/4/2003

Complete each information blank. Specify clearly when contentions are admitted in part and denied in part. The employer/carrier in answer to the claim, respectfully shows:

- It is **Admitted in part/Denied in part** the employee sustained an injury or illness on or about the date set forth in the Form 50. The reasons for denial are:
It is admitted that the claimant only suffered from left carpal tunnel syndrome that ostensibly emanated from her work activities. It is denied that the claimant sustained an injury to her neck, left and right shoulders, and right arm/wrist. The claimant failed to prove that the proximate cause of the left arm problems and the denied problems with respect to the neck, right shoulder and right arm arose out of and in the course and scope of her employment in August 4, 2003.
- It is **Admitted in part/Denied in part** both the employer and employee were subject to the Workers' Compensation Act at the time in question. The reasons for denial are:
It is admitted that the claimant made an allegation of left carpal tunnel syndrome and left arm problems, for which the claimant was provided a medical evaluation and treatment to ascertain causation. It is denied that the claimant's other alleged injuries occurred during the course and scope of her employment with Honeywell.
- It is **Admitted in part/Denied in part** the relationship of employer and employee existed at the time in question. The reasons for denial are:
See responses in No. 2 above.
- It is **Denied** at the time in question the employee was performing services arising out of and in the course of employment. The reasons for denial are:
Claimant is unable to ascertain whether left arm problems emanate from her work related activities, congenital factors, or from the aging process.
- It is **Admitted in part/Denied in part** notice of injury was given the employer. The reasons for denial are:
It is admitted only that the defendant was provided timely notice of an alleged accidental injury to the left upper extremity and hand. The defendant denies that the claimant gave timely notice of any alleged injuries to the neck, right upper extremity and right shoulder.
- It is **Denied** the employee **Needs / Is Entitled to Additional** medical care as a result of injury or illness. The reasons for denial are:
No proof that claimant's present allegations of injuries and disease are a proximate result of her employment activities.
- It is **Denied** the employee is entitled to temporary total disability for the period(s) of :
It is denied that claimant has not properly pled an entitlement to temporary total disability compensation benefits.
- It is **Denied** the employee is permanently disabled. The reasons for denial are:
The injuries as alleged by the claimant on the Form 50 are not compensable because such did not arise out of and during the course and scope of employment.
- It is **Denied** the employee has serious disfigurement.
- It is contended that an average weekly wage of \$Pursuant to Form 20 applies, according to attached Form 20 as provided by law.
- Further contentions, grounds of defense, or unusual aspects are:
Any and all defenses available and applicable under the Act to include, but not limited to, the affirmative defenses set forth in Reg. 67-603; any and all defenses available under the statutory and case law of this state including, but not limited to, horseplay, intoxication, intentional injury, jurisdiction, and Cooper v. McDevitt & Street; Medlin v. Greenville County; Miller v. Springs Mill; and Havird v. Columbia YMCA.
- Estimated time needed for hearing: 1 hour and 15 minutes.

I certify I have served this document pursuant to R.67-212 by delivering a copy to:

Name: Kathryn Williams, Esquire; Post Office Box 10693, Greenville, SC, 29603.

on the 14th day of October, 2008 by ☒ first class mail ☐ personal service ☐ certified mail.

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

I verify the contents of this form are accurate and true to the best of my knowledge.

Preparer's Signature

Esq.
Title

VDunbar@TurnerPadgett.com
Email

October 14, 2008
Date

Refer to R.67-204 through R.67-210 and R.67-601 through R.67-615. Questions about the use of this form may be directed to the Commission's Judicial Department. Pursuant to R.67-606, a Form 20 must be filed with the Claims Department at least 30 days from the date of filing this form.

ICC Form # 51
Revised 9/07

51
- 38 -

Employer's Answer to Request for Hearing

South Carolina Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



WCC File #: 0312096

Carrier File #: 2800034122001

Carrier Code #:

Employer FEIN #:

Claimant's Name: Maria E. McGaha SSN: _____

Employer's Name: Honeywell International, Inc.

Address: [REDACTED]

Address: P.O. Box 1404

City: [REDACTED]

State: SC

Zip: [REDACTED]

City: Greer

State: SC

Zip: 296

Home Phone: _____

Work Phone: _____

Insurance Carrier: Zurich North America

Zip: 140

Preparer's Name: Vernon F. Dunbar, Esq.

Law Firm: Turner Padgett Graham & Laney P.A.

Preparer's Phone #: (864) 552-4601

REQUEST FOR COMMISSION REVIEW

Request for Commission Review by ☐ claimant ☒ employer (check one)

Date of injury: _____ (m/d/yyyy)

The undersigned makes application for review of the findings of the Commissioner in the above-captioned case. The request for review is based on the following grounds: (State the grounds of your appeal in the form of questions presented. Each question presented must contain a concise statement of one proposition of law or fact. Refer to evidence by title and exhibit number. Use additional pages if necessary).

1. The Hearing Commissioner erred in finding as a fact and concluding as a matter of law that claimant sustained a compensable injury to her neck and left shoulder/arm and is entitled to payment of medical treatment, temporary total disability compensation benefits, and future medical treatment.

2. The Hearing Commissioner erred in finding as a fact and concluding as a matter of law in awarding claimant temporary total disability compensation benefits in view of intervening circumstances and claimant's failure to prosecute her claim for approximately 5-1/2 years.

3. The Hearing Commissioner erred and abused his discretion in not placing greater weight upon the opinion of Dr. Robert Schwartz on the issue of causation.

(Check one) Oral argument ☒ is ☐ is not requested. Appellant's request for oral argument is waived if not indicated on this form.

I certify that I have served this document pursuant to R.67-211 by delivering a copy to Kathryn Williams, Esquire, Post Office Box 10693,
Greenville, SC 29601 Name

on the 13th day of March, 2009 by ☒ first class mail ☐ personal service ☐ certified mail.

Preparer's Signature

Attorney for Defendants
Title

March 13, 2009
Date

Check this box if you are not represented by an attorney. ☐

SCWCC

MAR 16 2009

JUDICIAL

If the claimant appeals and is representing himself or herself, the Judicial Department will prepare the additional copies of this form and serve this form on the opposing party. R.67-701B. Otherwise, file the original and four copies of this form with the Judicial Department. The appeal must be postmarked no later than 14 days from the date of service of the Hearing Commissioner's decision. R.67-701 and R.67-205. Attach the filing fee to this form. Attach a Form 32 if you are unable to pay the filing fee. Refer to R.67-701 through R.67-711 for additional information.

ICC Form # 30
Rev. 3/97

30

- 39 -

REQUEST FOR COMMISSION REVIEW

Smith, Renee

From: Williams, Derrick
Sent: Friday, January 16, 2009 9:56 AM
To: Williams, Derrick; VDunbar@TurnerPadget.com; kwilliamslaw@bellsouth.net
Cc: Smith, Renee
Subject: RE: Maria Magaha v. Honeywell (WCC #0312096)

I apologize. It should read "Kathryn" instead of Katherine. I'm trying to rename you for some reason...

Commissioner Williams

From: Williams, Derrick
Sent: Fri 1/16/2009 9:55 AM
To: VDunbar@TurnerPadget.com; kwilliamslaw@bellsouth.net
Cc: Smith, Renee
Subject: Maria Magaha v. Honeywell (WCC #0312096)

Attorneys,

After reviewing the complete record, my decision is below. If there are any questions, please let me know.

1. I find the Claimant has sustained the burden of proving a compensable injury by accident to her left shoulder.
2. Claimant is entitled to additional medical treatment per Dr. Geary, to be paid for by the Defendants.
3. Claimant is entitled to reimbursement for any causally-related medical expenses to her shoulder, to date.
4. Claimant testified that her neck and hand pain have dissipated. I do not find that she has any ongoing issues with the neck or the hand.
5. The testimony of Ms. Mary Gilboy confirms the nature of Claimant's work requiring her to use her upper extremity, as well as the fact that Claimant did complain about shoulder problems.
6. Based on the evidence and the medical record as a whole, I find that the Claimant is entitled to ttd from 3/4/05 to the present and continuing until she is relased to return to work or she reaches MMI.
7. There is no evidence that any of the STD benefits were paid in lieu of comp, therefore, theer is no credit awarded to the Defendants for such.
8. All other issues held in abeyance until Claimant reaches MMI.

INSTRUCTIONS: Order to be written by Attorney Katherine Williams by February 16, 2009. *me*
Please let our office know if you have difficulty obtaining a transcript or cannot complete the order within this timeframe. Draft the Order consistent with the above substance of the preceding Findings of Fact; however, you may add additional Findings of Fact consistent with the above ruling. The Order should also include biographical information, information regarding the Claimant's work history and previous medical history, if relevant to the case.

If you need a transcript, order it *immediately* from the court reporter, or contact my assistant, Renee Smith, in writing at P.O. Box 1715, Columbia, SC 29202-1715 or via e-mail at

rgsmith@wcc.sc.gov. Provide a copy of the proposed Order to opposing counsel or *pro se* claimant before or at the same time one is submitted to the Commission. When submitting the proposed Order, please e-mail it to rgsmith@wcc.sc.gov, or include a floppy disk (only if e-mail is unavailable), as well as the required hard copies.

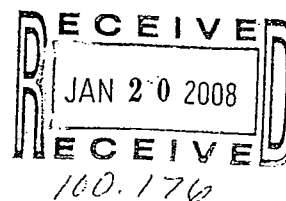
The Commission now requires the original and three (3) copies of the proposed order with addressed, postage-paid envelopes.

Matters To Include In The Order:

1. APA Submissions
2. Stipulations
3. Statement of the Case (contentions of the parties, stated concisely)
4. Evidence of the Case (synopsis of the evidence, including testimony and medical reports)
5. Findings of Fact – numbered (Do NOT delete any of the above findings, however, the prevailing party may add to support the decision, except regarding credibility, unless I have instructed you to)
6. Conclusions of Law (cite applicable statutory sections and case law)
7. Award

Do not address credibility in the Order, unless it has been addressed in the preceding Order Notes.

Commissioner Derrick L. Williams
S.C. Workers' Compensation Commission
1612 Marion Street
Columbia, SC 29202-1715
dwilliams@wcc.sc.gov



**SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
REQUEST FOR A PROPOSED DECISION AND ORDER**

This document is not a Decision and Order. It is a request for a proposed order.
The Commissioners reserve the right to modify and/or delete any or all portions
of the submitted Decision and Order.

**Maria Magaha v Honeywell ES&S
SCWCC: 0312096
Commission Panel: Roche, Huffstetler, Beck Chair
Order Assigned to Commissioner: Huffstetler**

Vernon Dunbar/Appellant
Kathryn Williams/Respondent

This matter was heard before the South Carolina Workers' Compensation Full Commission Appellate Panel during the last term of Review. The Commissioners considered the matter and find a **Majority Affirmation** of the Single Commissioner's Decision and Order.

Please publish Commissioner Roche's vote and remarks. Commissioner Roche affirms in part and reverses in part. "I would reverse the award of temporary total disability and award it to the date of the filing of the Form 50. I would find the Claimant sat on her rights."

Ms. Williams, please prepare a proposed order with copies for each Party, and submit to the Judicial Department within thirty (30) days of this notice. Please make sure the Appellate Panel Decision and Order recites the specific Finds of Fact and Rulings of Law of the Single Commissioner's Decision and Order.

If you have any questions, please do not hesitate to email me at vcrocker@wcc.sc.gov or call at 803.737.5739.

**Virginia L. Crocker
Judicial Director**

Transmitted this 4 day of July, 2009

☒ X via email
☐ via United State mail

KATHRYN WILLIAMS, P.A.

ATTORNEYS AT LAW
POST OFFICE BOX 10693
GREENVILLE, SC 29603

KATHRYN WILLIAMS
DONALD E. KAMB, JR.
MELISSA S. MILLER
TOM J. ERVIN
OF COUNSEL

December 19, 2008

619 N. MAIN STREET
GREENVILLE, SC 29601
TELEPHONE (864) 235-6254
FAX (864) 233-6591

The Honorable Derrick L. Williams
SC Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29201-1715

Re: Maria McGaha vs. Honeywell
WCC File No.: 0312096

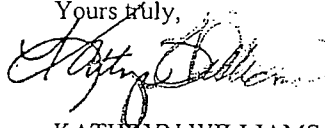
Dear Commissioner Williams:

Enclosed please find the Pre-Hearing Brief and Notice of Witnesses And Written Reports/Physician Or Other Evidence To Be Introduced On Behalf Of The Claimant in the above-captioned matter.

By copy of this letter to the below named, I am forwarding a complete copy of this submission as well as advising of the filing of this document as evidence in the hearing of the above-captioned matter pursuant to the rules and regulations of the Administrative Procedures Act and the S.C Workers' Compensation Act.

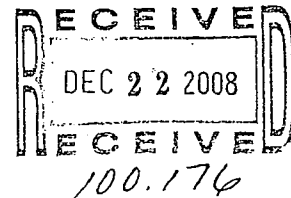
Kindest regards,

Yours truly,



KATHRYN WILLIAMS

KW/jl
Enclosures
cc: Vernon Fred Dunbar, Esq.



BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
WCC FILE NO: 0312096

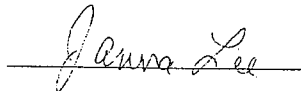
Maria E. McGaha,	)
	)
Employee-Claimant,	)
	)
vs.	)
	)
Honeywell,	)
	)
Employer,	)
	)
and	)
	)
Zurich American Ins. Co./Zurich US,	)
	)
Carrier-Defendants	)

CERTIFICATE OF SERVICE

This is to certify that the undersigned did cause the Pre-Hearing Brief and Notice of Witnesses and Written Medical Records To Be Introduced On Behalf Of The Claimant to be served upon the defendants by mailing a copy of same to the below named as addressed by United States mail, proper postage prepaid on December 19, 2008.

The Honorable Derrick L. Williams
SC Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715

Vernon Fred Dunbar, Esquire
Turner, Padgett, Graham & Laney, PA
P.O. Box 1509
Greenville SC 29602



South Carolina Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739
www.wcc.sc.gov



PRE-HEARING BRIEF
WCC File No: 0312096

Claimant's Name:	Maria E. McGaha	Employer's Name:	Honeywell		
Address:	<u>[REDACTED]</u>	Address:	P. O. Box 1404		
City:	<u>Greer</u>	State:	<u>SC</u>	Zip:	<u>29650</u>
Home Phone:	() -	Work Phone:	() -	Carrier:	Zurich American Ins. Co./Zurich US
Preparer's Name:	Kathryn Williams	Preparer's Phone #:	(864) 235-6254		

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☒ Repetitive Trauma

1. Compensation Rate: \$ To Be Determined 2. AWW: \$ Date of Injury: 08/04/2003
3. Type of injury and body part(s): Neck, both upper extremities, both shoulders and left hand
4. Facts in controversy: a) Whether the claimant is entitled to medical care and treatment for her neck, both upper extremities, both shoulders and left hand; b) Whether the claimant sustained compensable injury to her neck, both upper extremities and both shoulders; c) Whether the claimant is entitled to temporary total disability benefits from 8/4/03 to present and continuing
5. Legal issues involved: See No. 4
6. Unusual aspects:
7. Witnesses (designate if expert):* Maria E. McGaha; Frank McGaha
8. Exhibits: Personnel and employment records
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): See APA
10. Name, address, and specialty, if any, of the treating physician: Dr. Stephen Geary, 200 Patewood Drive, Suite C 100, Greenville, SC 29615
11. Impairment rating(s); body part(s); physician and date of opinion: Claimant is not seeking determination of disability at this time
12. I am amending my Form 50/51 in the following manner: _____

I verify the contents of this form are accurate and true to the best of my knowledge.

Signature:	<u>[Signature]</u>	Email:	kwilliamslaw@bellsouth.net
Date of hearing:	<u>1/5/09</u>	Time needed for hearing:	<u>30 minutes</u>
On behalf of	☒ Claimant ☐ Employer		

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.

* Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form # 58
Rev. 9/07

58

PRE-HEARING BRIEF

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Maria E. McGaha,

Employee-Claimant

v.

Honeywell,

Employer,

and

Zurich American Ins. Co./Zurich US,

Carrier/Defendants.

BEFORE THE
SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

W.C.C. File No: 0312096

NOTICE OF WITNESSES AND
WRITTEN REPORTS/PHYSICIAN
OR OTHER EVIDENCE TO BE
INTRODUCED ON BEHALF OF
CLAIMANT

TO: THE HONORABLE DERRICK L. WILLIAMS, SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND VERNON F. DUNBAR, ATTORNEY FOR THE DEFENDANTS:

YOU ARE HEREBY NOTIFIED THAT THE CLAIMANT, pursuant to the provisions of the South Carolina Workers' Compensation Act and S.C. Code Ann. Section 1-23-330, (1985), herewith submits the following reports/physician or other evidence on behalf of the Claimant, to wit:

APA #1		
Nurses' Notes from Employment File	7/17/03 - 4/16/04	Pages 1 - 6
APA #2		
Dr. Jack Brunson		
Mountain View Family Practice	6/21/03 - 2/14/05	7 - 39
APA #3		
St. Francis Workwell	7/17/03 - 8/1/03	40 - 45
APA #4		
St. Francis Hospital	7/28/03 - 1/7/04	46 - 51
APA #5		
Dr. Michael Bucci	11/4/03 - 12/30/03	52 - 58
APA #6		
Dr. Clifford Monda		
Upstate Medical Rehabilitation	1/13/04	59 - 61
APA #7		
Dr. Stephen Geary	1/21/04 - 2/9/05	62 - 65

APA #8
Dr. Robert Schwartz

2/22/05

66 - 68

APA #9.
Records from Honeywell
Employment File

7/17/03 - 8/4/03

69 - 74

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise that right, you are to forthwith schedule the deposition(s) of any of the physicians or other person(s) whose reports are submitted.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, will be submitted at the Hearing before the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the claimant.

YOU ARE FURTHER NOTIFIED that the following witness may be called on behalf of the claimant:

1. Maria E. McGaha; Frank McGaha


KATHRYN WILLIAMS, P.A.

Kathryn Williams
ATTORNEY FOR CLAIMANT
619 N. Main Street
P.O. Box 10693
Greenville, SC 29603
(864) 235-6254

Dated: December 19, 2008
Greenville, South Carolina

TURNER PADGET

TURNER PADGET GRAHAM & LANEY P.A.

VFD

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

December 24, 2008

Vernon F. Dunbar
VDunbar@TurnerPadget.com
Direct Dial: (864) 552-4601

The Honorable Derrick L. Williams
SC Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

RE: Claimant: Maria E. McGaha
 Employer: Honeywell International, Inc.
 Carrier: Zurich North America
 Claim No.: 2800034122001
 WCC File No.: 0312096
 Our File No.: 00100.00176

Dear Commissioner Williams

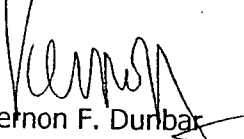
Please find enclosed our Pre-hearing Brief and Notice of Witnesses and Written Medical Reports to be Introduced as Direct Evidence on Behalf of the Defendants for filing in the above captioned matter.

By copy of this letter to Kathryn Williams, the claimant's attorney, we are notifying her of these submissions and serving copies of the same upon her by mail.

With kind regards, I am

Very truly yours,

TURNER PADGET GRAHAM & LANEY P.A.


Vernon F. Dunbar

VFD/jmc
Enclosures

cc: Sabrina Martin (w\enclosures)
 Kathryn Williams, Esquire (w\enclosures)

BUSINESS • LITIGATION • SOLUTIONS

200 East Broad Street • Suite 250 (29601) • PO Box 1509 • Greer, SC 29602
Phone (864) 552-4600 • Fax (864) 552-4620 • turnerpadget.com

South Carolina Workers' Compensation Commission
1612 Marion St. :
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



PRE-HEARING BRIEF
WCC File No: 0312096

Claimant's Name: Maria E. McGaha Employer's Name: Honeywell International, Inc.
Address: [REDACTED] Address: P.O. Box 1404
City: [REDACTED] State: [REDACTED] Zip: [REDACTED] City: Greer State: SC Zip: 29652-1404
Home Phone: _____ Work Phone: _____ Carrier: Zurich North America
Preparer's Name: Vernon F. Dunbar, Esq. Preparer's Phone #: (864) 552-4601

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☒ Repetitive Trauma

1. Compensation Rate: \$TBD 2. AWW: \$TBD Date of Injury: 07/17/2003
3. Type of injury and body part(s): Left arm and shoulder.
4. Facts in controversy: First, whether the claimant sustained an injury to her neck and left hand and right shoulder and arm as a consequence of her employment duties. Second, whether the claimant is entitled to payment of temporary total disability compensation benefits and medical treatment or whether such claimed benefits are barred by the doctrine of laches. Third, whether the claimant's request for additional medical treatment complies with the requirements as is set forth pursuant to Section 42-15-60.
5. Legal issues involved: Whether the claim is barred by doctrine of laches.
6. Unusual aspects: Defense witness, Mary Kilboy, is unable to attend hearing due to recent surgery. Therefore, it is request that the hearing either be postponed or the record remain open to submit the deposition of Ms. Kilboy at a later time.
7. Witnesses (designate if expert):* Mary Gilboy, the claimant, Frank McGaha, and the defendants reserve the right to call additional witnesses.
8. Exhibits: Personnel and employment records and claimant's short term disability applications.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): See APA Submissions
10. Name, address, and specialty, if any, of the treating physician: Dr. Stephen Geary, Steadman Hawkins Clinic of Patewood, 200 Patewood Drive, Suite B260, Greenville, SC 29615
11. Impairment rating(s); body part(s); physician and date of opinion: N/A.
12. I am amending my Form 50/51 in the following manner: N/A.

I verify the contents of this form are accurate and true to the best of my knowledge.

Signature: Vernon F. Dunbar, Esq.

Email: VDunbar@TurnerPadget.com

Date of hearing: January 5, 2009

Time needed for hearing: 1 hour

On behalf of ☐ Claimant ☒ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.

* Commissioners reserve the right to admit expert witnesses at hearings.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO: 0312096

MARIA E. MCGAHA,

Employee,

Claimant,

vs.

HONEYWELL INTERNATIONAL, INC.,

Employer,

AND

ZURICH NORTH AMERICA,

Carrier,

Defendants.

**NOTICE OF WITNESSES AND
WRITTEN MEDICAL REPORTS TO BE
INTRODUCED AS DIRECT EVIDENCE
ON BEHALF OF DEFENDANTS**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND KATHRYN WILLIAMS, ESQUIRE, ATTORNEY FOR CLAIMANT:

YOU ARE NOTIFIED that the Defendants, pursuant to the provisions of the South Carolina Workers' Compensation Act and Section 1-23-330 of the South Carolina Code of Laws (Cum. Supp. 1988) submit the following medical records and other documents as evidence:

APA#	NAME OF PROVIDER/OTHER	DATE(S) OF RECORD(S)	PAGE NUMBERS
1.	Robert G. Schwartz, MD	02/21/2005 – 02/24/2005	75 – 84
2.	Piedmont Neurosurgical Group, PA	11/04/2003 – 12/18/2003	85 – 89
3.	Mountain View Family Practice – Thornblade	08/04/2003	90
4.	Bon Secours St. Francis Health System	07/17/2003	91 – 92
5.	Upstate Medical Rehabilitation PC	01/13/2004	93 – 97
6.	Honeywell	08/08/2003 – 01/22/1998	98 – 103
7.	Mountain View Family Practice – Thornblade	10/22/2003	104 – 106

8.	Nurses Notes	07/17/2003 – 04/15/2004	107 – 112
9.	MetLife	10/06/2003 – 07/17/2003	113 – 119

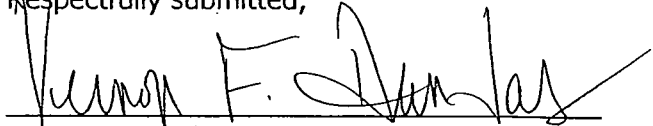
YOU ARE FURTHER NOTIFIED that you have the right to cross-examine or otherwise oppose this evidence and, should you desire to exercise this right, you are to promptly schedule the deposition of any provider whose records are submitted, for the purposes of cross-examination, or otherwise promptly submit opposing medical records into evidence.

YOU ARE FURTHER NOTIFIED that these records, or photocopies of the same, will be provided to the South Carolina Workers' Compensation Commission for insertion in their file and for consideration as evidence on behalf of the Defendants.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Defendants:

Mary Kilboy, the claimant, Frank McGaha, and the defendants reserve the right to call additional witnesses.

Respectfully submitted,



Vernon F. Dunbar, Esq.
TURNER PADGET GRAHAM & LANEY P.A.
P.O. Box 1509
Greenville, SC 29602
(864) 552-4601
Attorneys for the Employer/Carrier

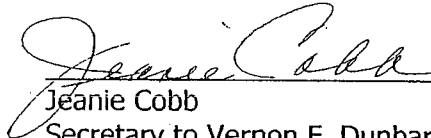
Greenville, South Carolina

December 24, 2008

PROOF OF SERVICE

The undersigned certifies that she is an employee at TURNER, PADGET, GRAHAM & LANEY, P.A., and that the attached Pre-Trial Brief and Notice of Evidentiary Submissions served documents were served upon Kathryn Williams, Esquire, the attorney for the claimant, this 24th day of December, 2008, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

Kathryn Williams, Esquire
Attorney at Law
Post Office Box 10693
Greenville, SC 29603



Jeanie Cobb
Secretary to Vernon F. Dunbar

KATHRYN WILLIAMS, P.A.

ATTORNEYS AT LAW
POST OFFICE BOX 10693
GREENVILLE, SC 29603

KATHRYN WILLIAMS
DONALD E. KAMB, JR.
MELISSA S. MILLER
TOM J. ERVIN
OF COUNSEL

December 30, 2008

619 N. MAIN STREET
GREENVILLE, SC 29601
TELEPHONE (864) 235-6254
FAX (864) 233-5591

The Honorable Derrick L. Williams
SC Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29201-1715

Re: Maria McGaha vs. Honeywell
WCC File No.: 0312096

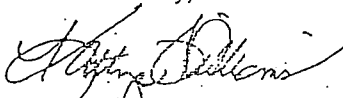
Dear Commissioner Williams:

Enclosed please find the amended Notice of Witnesses And Written Reports/Physician
Or Other Evidence To Be Introduced On Behalf Of The Claimant in the above-captioned matter.

By copy of this letter to the below named, I am forwarding a complete copy of this
submission as well as advising of the filing of this document as evidence in the hearing of the
above-captioned matter pursuant to the rules and regulations of the Administrative Procedures
Act and the S.C Workers' Compensation Act.

Kindest regards,

Yours truly,


KATHRYN WILLIAMS

KW/jl
Enclosures
cc: Vernon Fred Dunbar, Esq.

South Carolina Workers' Compensation Commission
1612 Marion St.
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5739
www.wcc.sc.gov



AMENDED

PRE-HEARING BRIEF
WCC File No: 0312096

Claimant's Name:	Maria E. McGaha	Employer's Name:	Honeywell
Address:	[REDACTED]	Address:	P. O. Box 1404
City:	[REDACTED]	State:	SC
Zip:	[REDACTED]	City:	Greer
State:	SC	State:	SC
Zip:	29650	Zip:	29650
Home Phone:	() -	Work Phone:	() -
Carrier:	Zurich American Ins. Co./Zurich US		
Preparer's Name:	Kathryn Williams	Preparer's Phone #:	(864) 235-6254

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☒ Repetitive Trauma

1. Compensation Rate: \$ 538.00 2. AWW: \$ 806.96 Date of Injury: 08/04/2003
3. Type of injury and body part(s): Neck, both upper extremities, both shoulders and left hand
4. Facts in controversy: a) Whether the claimant is entitled to medical care and treatment for her neck, both upper extremities, both shoulders and left hand; b) Whether the claimant sustained compensable injury to her neck, both upper extremities and both shoulders; c) Whether the claimant is entitled to temporary total disability benefits from 8/4/03 to present and continuing
5. Legal issues involved: See No. 4
6. Unusual aspects:
7. Witnesses (designate if expert):* Maria E. McGaha; Frank McGaha
8. Exhibits: Personnel and employment records
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): See APA
10. Name, address, and specialty, if any, of the treating physician: Dr. Stephen Geary, 200 Patewood Drive, Suite C 100, Greenville, SC 29615
11. Impairment rating(s); body part(s); physician and date of opinion: Claimant is not seeking determination of disability at this time; On 12/19/08 Dr. Dameron opined that the claimant's, "left shoulder problems began while she was working and pushing against metal parts at work and her problem has evolved into a chronic subacromial impingement syndrome in the left shoulder, and that she should return to Dr. Geary for management of this problem. She has not reached MMI."
12. I am amending my Form 50/51 in the following manner:

I verify the contents of this form are accurate and true to the best of my knowledge.

Signature:	[Signature]	Email:	kwilliams1aw@bellsouth.net
Date of hearing:	1/5/09	Time needed for hearing:	30 minutes
On behalf of	☒ Claimant ☐ Employer		

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.

* Commissioners reserve the right to admit expert witnesses at hearings.

WCC Form # 58
Rev. 9/07

58

PRE-HEARING BRIEF

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Maria E. McGaha,

Employee-Claimant

v.

Honeywell,

Employer,

and

Zurich American Ins. Co./Zurich US,

Carrier/Defendants.

BEFORE THE
SOUTH CAROLINA WORKERS'
COMPENSATION COMMISSION

W.C.C. File No: 0312096

NOTICE OF WITNESSES AND
WRITTEN REPORTS/PHYSICIAN
OR OTHER EVIDENCE TO BE
INTRODUCED ON BEHALF OF
CLAIMANT

AMENDED

TO: THE HONORABLE DERRICK L. WILLIAMS, SOUTH CAROLINA WORKERS' COMPENSATION
COMMISSION AND VERNON F. DUNBAR, ATTORNEY FOR THE DEFENDANTS:

YOU ARE HEREBY NOTIFIED THAT THE CLAIMANT, pursuant to the provisions of the South
Carolina Workers' Compensation Act and S.C. Code Ann. Section 1-23-330, (1985), herewith submits the
following reports/physician or other evidence on behalf of the Claimant, to wit:

APA #1 Nurses' Notes from Employment File	7/17/03 - 4/16/04	Pages 1 - 6
APA #2 Dr. Jack Brunson Mountain View Family Practice	6/21/03 - 2/14/05	7 - 44f
APA #3 St. Francis Workwell	7/17/03 - 8/1/03	45 - 45g
APA #4 St. Francis Hospital	7/28/03 - 1/7/04	46 - 51
APA #5 Dr. Michael Bucci	11/4/03 - 12/30/03	52 - 58
APA #6 Dr. Clifford Monda Upstate Medical Rehabilitation	1/13/04	59 - 61
APA #7 Dr. Stephen Geary	1/21/04 - 2/9/05	62 - 65

APA #8
Dr. Robert Schwartz

2/22/05

66 - 68

APA #9
Records from Honeywell
Employment File

7/17/03 - 8/4/03

69 - 74

APA #10
Dr. Robert Dameron

12/19/08

75 - 77

YOU ARE FURTHER HEREBY NOTIFIED that you have the right to cross-examination; and, should you desire to exercise that right, you are to forthwith schedule the deposition(s) of any of the physicians or other person(s) whose reports are submitted.

YOU ARE FURTHER NOTIFIED that the originals of the documents referred to herein, or photocopies received from said physicians/others, will be submitted at the Hearing before the South Carolina Workers' Compensation Commission, for insertion in the file of the South Carolina Workers' Compensation Commission and inclusion into evidence on behalf of the claimant.

YOU ARE FURTHER NOTIFIED that the following witness may be called on behalf of the claimant:

1. Maria E. McGaha; Frank McGaha



KATHRYN WILLIAMS, P.A.

Kathryn Williams
ATTORNEY FOR CLAIMANT
619 N. Main Street
P.O. Box 10693
Greenville, SC 29603
(864) 235-6254

Dated: December 30, 2008
Greenville, South Carolina

BEFORE THE SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION

WCC FILE NO: 0312096

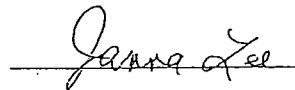
Maria E. McGaha,	)
	)
Employee-Claimant,	)
	)
vs.	)
	)
Honeywell,	)
	)
Employer,	)
	)
and	)
	)
Zurich American Ins. Co./Zurich US,	)
	)
Carrier-Defendants	)

CERTIFICATE OF SERVICE

This is to certify that the undersigned did cause the amended Notice of Witnesses and Written Medical Records To Be Introduced On Behalf Of The Claimant to be served upon the defendants by mailing a copy of same to the below named as addressed by United States mail, proper postage prepaid on December 30, 2008.

The Honorable Derrick L. Williams
SC Workers' Compensation Commission
P.O. Box 1715
Columbia, SC 29202-1715.

Vernon Fred Dunbar, Esquire
Turner, Padgett, Graham & Lancy, PA
P.O. Box 1509
Greenville SC 29602



Nurse's Notes

Associate's Name: Maria Mc Gaha

SS# or ID# _____

Date	Time	
7/17/03	3:30pm	Escorted to Nurse's Office by Sam Cleveland. Has note from Mountain View Family Practice stating she has CTS of Right hand that is likely work-related and should be taken care of by Worker's Comp. No work x 2 weeks. Discussion with associate reveals C/o Neck pain x 6-7 months with pain going down left arm until it started cramping into forearm area causing pain into hand. Denies specific injury. States she believes "everything" about her job is causing the CTS. Her Doctor said she had. States she does not want to miss work. Continues to say that her neck pain kept getting worse to the point that she cannot sleep on left side. Due to neck and shoulder pain. Advised associate I would be sending her to WorkWell to see if she would be okay to work @ least a one-handed job. She's agreeable as my phone call to "Angie" @ Mountain View said it may take hours for the Doctor to get back with me. Advise Eddie Plott of plan to have WorkWell determine if able to ^{perform} work some kind of work and that he would need to kind work with in any restriction outlined by WorkWell. He's agreeable. Will complete a Job Description. A/R started by myself. Magilboy, R.
7/18/03	5:30pm	Spoke with Loretta @ WorkWell. Believes pain is more of a Cervical radiculopathy not CTS. No classic CTS STS. Will allow to work w/ restrictions. needs some mm releases NSAIDs probably PT. Maybe MRI if no improvement. Mag, R.

Nurse's Notes

Associate's Name: Maria Mc Gahan

SS# or ID# _____

Date	Time	
7/18/03		Jerry Boland aware of situation.
7/18/03		Workwell assessment sheet here with completed J.D. has flu appt. 7/25/03 8AM @ Workwell. Dr. D covered radiology with Magilligan.
7/23/03		Lynn Farnell called - MRI approved by Dr. Merriweather to help R/O or confirm cervical disc problem, scheduled 7/31/03 @ 3:30pm @ Women's Hospital. She will try to get it sooner will let me know, magilligan.
	3:30p	Maria came by - advised. Sam Cleveland said she may work Airflow/Waterflow. She expressed gratitude and pleasure with that assignment. I advised her to take a 10 minute break every hour, but to make sure she does not bother other operators during that time. She voices understanding. Maria and I visited until 4pm. During our visit she was verbal and used her hands frequently to constantly while talking. We talked mostly non-work related topics such as religion and politics. She was very talkative and used both arms and hands to stst of pain until about 3:55pm. At that time I noticed her favoring her D arm, even tucking it behind the chair back, and at about 3:58 I started noticing facial grimaces. I again reviewed with her to work Airflow/Waterflow; to ~~take~~ break 10 min every hour and to make sure she goes to her PT tomorrow, as scheduled. She will see if she can get an MRI sooner than 7/31 since she will be @ Workwell anyway. RTU magilligan.

Nurse's Notes

Associate's Name: Maria Malaba

SS# or ID# _____

Date	Time	
7/29/03	10:15 AM	Maria called. Said she got her MRI done yesterday and that they told her the doctor would have results in 3 days. She would like an appointment to review MRI with Lorette. Told her I would see what I could get and would call her back. Spoke to Workwell - Lorette out until NEXT Thursday. Scheduled appt. with Dr. Mennweather for Friday 8/1 @ 11 AM - to review MRI. Called Maria to ~~advise~~ advise her of appt. This does not meet her schedule so she will let Workwell reschedule. She will call them. I called Workwell, spoke to Alesha ~~extending~~ and advised okay for Maria to re-schedule appt. Mag. P. Call from Dr. Mennweather. Reviewed MRI @ 9:50 - she is not happy about this being a non-work related issue. There are no sts of CTS upon exam and this is something she will need to take care of thru private insurance. Said she was excited and upset when he mentioned arthritis and said he could recommend someone, but she would need to go thru her private insurance and he would tell her to talk with me about it. Mag. P.
8/1/03	2:00 pm	Received & reviewed MRI of cervical spine. Impression: DDD - mostly @ C4-5 through C6-7 levels. Hypertrophic foramina. encroachment is suggested @ least the C5-6 level and less @ C6-7 level. Mag. P.
	3:20 pm	Came in with WVA assem. & Allet. Said WVA of family arthritis. Does not really believe this. Want me to approve payment for Rx - advised I cannot - next pg.

Page 3 of _____

Nurse's Notes

Associate's Name:

Maria Magalhaes

SS# or ID#

Date	Time	Continued from previous page
8/11/03		Advised EE her personal health insurance would have to pay for meds and doctor visits. Gave EE copy of MRI report. RTW in Reunions magilboy, R
10/28/03	1300m	Has seen Dr Merrinweather for RTW eval. States may RTW in following restrictions "No overhead, ~~and~~ no anterior lifting. No lifting > 25# "mag, R" "If above can be accommodated, may RTW. If not, recommend out until P/u in Specialist. mag, R"
	230p	Discussed in Lena Long - small worker discuss in Ken McKee, magilboy, R
	250p	Discussed in Ken McKee - No work available in those restrictions. Will advise Assoc. mag, R
10/28/03 (806) 906-8161	255p	Spoke in Maria - she initially is upset she may lose her job. Told her that Mithel is reviewing in appeals process not to panic or give up yet. magilboy, R
11/5/03		Maria had - said Dr Bucci said no work until after P/u, which is after 5 weeks of PT. We called Dr Bucci's office together - we need note on work status, which will fax magilboy, R
11/4/04		Brought in note - Upstate Medical Rehab. P/C RTW in restrictions of light duties no lifting, pushing anything greater than 10 pounds. Will need Dr Merrinweather to eval fit for duty. mag

Nurse's Notes

Associate's Name: Maria McGaha

SS# or ID# _____

Date	Time	
4/15/04		Spoke with Maria - I asked how she was doing today she said "terrible" because she has pain in her shoulder. Maria went on to say she may need surgery and had been referred to an Orthopaedist. I told her the reason I called, was to find out who/where her MRI was done as Dr. Mondak's office said @ they do not have it. She informed me she had it done at St. Francis. Then I asked her for her Orthopaedic doctor's name so that I could also get records from that office. I told her once I got all the records, I would have our doctor review and he would probably see her to determine her work status. She voiced understanding and appreciation. Magilboy, R.
		Spoke with Debbie @ Dr. Humerick's office. This is a Dermatology office, not Orthopaedic. Mag, R. I called Maria again. Told her she gave me her Dermatologist's number, and that when she finds her orthopaedic number to call me back with the name and number. She apologizes and is agreeable. Mag, R.
	2pm	Maria calls - Ortho was Dr. Stephen Geary @ the East North Office 292-6695. Said she has had 2 injections in her shoulder. The first from Dr. Mondak did not do a lot, but the 2nd helped a great deal. Said she is hurting so bad now because it has been so long since her 2nd shot and she cannot go back because the insurance won't pay and she has no money. Said Dr. Geary told her he would schedule her for surgery, because the shots do not help much, but she cannot go bec. of insurance issues. -histog.

Nurse's Notes

Associate's Name: Maria McGohe

SS# or ID#

Date	Time	Continued from previous page.
4/15/04		I told Maria I would need her to sign another authorization ~~document~~ and I would get records from Dr. Gary's office and I would be able to present all info for S. D. Munweather. She is agreeable. I will have OJ (daughter) bring it to her for her to sign so she won't have to run back over here. She's agreeable. I call Oakwood Orthopaedics. The number is not in service. I called their main office, spoke to Elaine. She has records and will be willing to provide some with authorization, give me fax #. (Mag, R.)
4/16/04	745A	Brought ARO1 to OJ - she will have Maria sign and bring back to me (Mag, R.) OJ brought in signed ARO1. Faxed to Elaine @ Dr. Gary's office. (Mag, R.)

Honeywell

Appendix A

FAMILY/MEDICAL LEAVE REQUEST FORM
(FMLA)

TO BE COMPLETED BY THE EMPLOYEE

Employee name: Mario E. McGallo
Home address: [REDACTED]
Home Phone #: [REDACTED]
Social Security #: [REDACTED]
Badge #: [REDACTED]

Supervisor: Edo
Phone #: [REDACTED]
Department/Division: 5300 / prep & finish

I am requesting FMLA leave for:

- ☐ the birth of a child, or the placement of a child with me for adoption or foster care.
☐ a serious health condition that makes me unable to perform the essential functions of my job.
☐ a serious health condition affecting my ☐ spouse, ☐ child, ☐ parent, for which I am needed to provide care.

Date leave begins: 8/4/03
Date of anticipated return to work: 8/22/03

Health Care Provider Certification: If you have requested a FMLA Leave due to your own serious health condition or the serious health condition of your spouse, child or parent for whom you are needed to provide care, Honeywell may require that a Health Care Certification Form be completed by the health care provider.

Employee's signature: Mario E. McGallo Date: 8/4/03

TO BE COMPLETED BY HONEYWELL

Received by: Magillby, R Date: 8/8/03

Leave qualifies as FMLA: ☒ Yes/No (circle one).

Health Care Provider Certification Form received on: 8/8/03 mag

FMLA Leave approved/denied (circle one) by: _____
Date: _____

COPY

received
[Signature]

MFP - Thornblade
398 The Parkway Greer, SC 29650
864-877-9577 Fax: 864-877-9073

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Mountain View Family Practice
13915 Highway 101, Suite 100, Greer, SC 29615
Phone: (864) 877-9577 Office: (864) 877-9073
Fax: (864) 877-9073

06/21/2003 - Office Visit: L arm pain
Provider: Jack W Brunson, MD
Location of Care: Mountain View Family Practice

Office Visit

History of Present Illness

History from: patient

Chief Complaint: L arm pain and numbness

History of Present Illness: Pt has been having L arm pain and numbness from neck to fingers x 6 mons.
No known injury. Started in the L side of neck and has gradually progressed to shoulder and upper arm.
Tingling sensations from elbow down to fingertips on L hand. Her job requires almost continuous use of arms and hands in a deburring process.

Past, Family, and Social History

Social History: husband deceased of cancer

Review of Systems

Neurologic

Musculoskeletal: Complains of stiffness.

Neurologic: Complains of see HPI, paresthesias, headache.

Vital Signs

Ht: 63 in. Wt: 138 lbs. T: 99.3 deg F. T site: oral BP: 112/78

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Eyes

External: wears glasses

Neck

Neck: decreased ROM on rotation to L

Respiratory

Respiratory effort: no intercostal retractions or use of accessory muscles

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

Head and neck: decreased left lateral bending and L rotation

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INTERPRETATION: MFP - Thornblade
Home: (864) 906-8167 Fax: (864) 906-8167
Home: (864) 906-8167 Fax: (864) 906-8167
Home: (864) 906-8167 Fax: (864) 906-8167

LUE: normal GS, + Tinel's sign

Mental Status Exam

Judgment, insight: intact

Mood and affect: no depression, anxiety, or agitation

Assessment

New Problems:

CARPAL TUNNEL SYNDROME (ICD-354.0)

CERVICALGIA (ICD-723.1)

Plan

New Prescriptions/Refills:

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain 06/21/2003 #30 x 1 :

Jack W Brunson, MD

VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict 06/21/2003 #20 x 0 : Jack W Brunson, MD

SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder 06/21/2003 #30 x 1 : Jack W Brunson, MD

Updated Medication List:

CELEXA 40 MG TAB (CITALOPRAM HYDROBROMIDE) 1/2-1 qd.

ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd

ESTRACE 1 MG TAB (ESTRADIOL) 1qd si

VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict

LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd

PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr prn nausea

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain

ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs

ELOCON 0.1 % CREAM (MOMETASONE FUROATE) apply bid

SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder

New Orders:

Splint - Wrist [A4570]

Level III 99213 OV Est Expanded [CPT-99213]

Handouts given. REcheck if not improved in 3-4 weeks or if sx progress.

Medical Decision-Making

Amount/complexity of data to be reviewed

* review/order other diagnostic or tx interventions

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864-877-9577 Fax: 864-877-9073

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MARIA EMMA MCCALL Home: (864) 990-6816 Office: (864) 939-0742
FAX: (864) 939-0742
DOB: 06/21/1952

Risk of complications: moderate

Prescriptions:

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain 06/21/2003 #30 x 1

Entered, Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict 06/21/2003 #20 x 0

Entered, Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder 06/21/2003 #30 x

1

Entered, Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

Signed by Jack W Brunson, MD on 06/21/2003 at 2:33 PM

MFP - Thornblade
398 The Parkway Greer, SC 29650
864-877-9577 Fax: 864-877-9073

October 14, 2003
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MARIA TATIANA MICAHA
10/13/2003 11:21 AM
Office: 864-877-9577 / Office: 864-877-9073
Home: 864-877-9577 / Home: 864-877-9073

07/17/2003 - Office Visit: f/u on pain and numbness in left shoulder and arm
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Office Visit

History of Present Illness

Chief Complaint: f/u on pain and numbness in left shoulder and arm
History of Present Illness: pt states medicine received on her last visit helped the pain in her shoulder, however, the pain and numbness in her left arm continues with the feel of twisting of the muscles in her left arm. Wears splint at night but unable to wear at work due to the nature of her job. Also concerned about studies on HRT but still has menopausal sx when she stops the Estrace.

Past, Family, and Social History

Past History (reviewed - no changes required): hysterectomy
Family History (reviewed - no changes required): strong fm hx hypothyroidism
Social History (reviewed - no changes required): husband deceased of cancer

Review of Systems

Musculoskeletal

General: Complains of fatigue.

Musculoskeletal: Complains of see HPI, joint pain, stiffness.

Neurologic: Complains of see HPI, weakness, paresthesias.

Vital Signs

Ht: 63 in. Wt: 137 lbs. T: 97.4 deg F. T site: oral BP: 136/82

Physical Exam

Respiratory

Respiratory effort: no intercostal retractions or use of accessory muscles

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

Head and neck: normal alignment and mobility

RUE: normal ROM and strength, no joint enlargement or tenderness

LUE: decreased GS, +Tinel's sign

Neurologic

Cranial nerves: II - XII grossly intact

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MARIA EMMA MCGAHA
Home: (864) 906-8167 Office: (864) 989-3712
Female [REDACTED] 39-1-31-1964 MCGAHA, MARIA EMMA
[REDACTED] 39-1-31-1964 MCGAHA, MARIA EMMA

Reflexes: 2+, symmetric, no pathological reflexes
Sensation: decreased in L fingers

Mental Status Exam

Judgment, insight: intact

Mood and affect: flat affect

Assessment

Status of Existing Problems:

CARPAL TUNNEL SYNDROME Deteriorated - Jack W Brunson, MD

CERVICALGIA Improved - Jack W Brunson, MD

STATE, FEMALE CLIMACTERIC Unchanged - Jack W Brunson, MD

Work related CTS due to repetitive motion. Rec out of work x 2 weeks as not likely to improve otherwise.

Plan

New Prescriptions/Refills:

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain 07/17/2003 #30 x 1;

Jack W Brunson, MD

ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl 07/17/2003 #30 x 11 : Jack W Brunson, MD

Updated Medication List:

CELEXA 40 MG TAB (CITALOPRAM HYDROBROMIDE) 1/2-1 qd

ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd

ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl

VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict

LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd

PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr prn nausea

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain

ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs

ELOCON 0.1 % CREAM (MOMETASONE FUROATE) apply bid

SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder

New Orders:

Level IV 99214 OV Est Detailed [CPT-99214]

Schedule NCV's

Disposition: return to clinic in 2 weeks

Medical Decision-Making

Amount/complexity of data to be reviewed

* review/order other diagnostic or tx interventions

MFP - Thornblade
398 The Parkway Greer, SC 29650
864-877-9577 Fax: 864-877-9073

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MAUREEN BYNUM MCGATHAW Home: (864) 906-8816 Office: (864) 939-9712
Cell: (864) 906-8816 Fax: (864) 939-9712

MAUREEN BYNUM MCGATHAW Home: (864) 906-8816 Office: (864) 939-9712
Cell: (864) 906-8816 Fax: (864) 939-9712

Risk of complications: moderate

Prescriptions:

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain 07/17/2003 #30 x 1

Entered; Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl 07/17/2003 #30 x 11

Entered; Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

Handwritten note to employer for OOW x 2 weeks due to job related CTS. Rec she pursue W/C.

.....Jack W Brunson, MD July 17, 2003 10:26 AM

Signed by Jack W Brunson, MD on 07/17/2003 at 10:28 AM

received

Mountain View Family Practice

406 Memorial Dr. Ext. Greer, SC 29651 (864) 877-9066

398 The Parkway Greer, SC 29650 (864) 877-9577

K. Graham Lawrence, Jr. 8398 AL6955631
Thomas A. Ballard 8371 AB7081336
Jack W. Brunson 10099 AB9404663
David L. Hudson 18248 BH4176928

Philip A. Snell 6611 AS8735550
William D. Byars 9201 AB7642920
Pat S. Maybee F 43298 MM0189173
Conagh Nechodom, FNP 45339 F45339

PATIENT'S NAME <i>Maria M. Cannon</i>		PT# <i>DOB</i>	DATE <i>7/17/03</i>	
MEDICATION THERAPY	DOSE SIZE	SIG	DISP.	REFILLS
<i>Mrs. M. Cannon has carpal tunnel syndrome in</i>				0 1 2 3
<i>her (D) hand. This is likely to be a work-related</i>				0 1 2 3
<i>repetitive motion problem and should be covered under</i>				0 1 2 3
<i>Wahne Corp. I recommend she be out of work for</i>				0 1 2 3
<i>2 weeks and be tested for this.</i>				
DISPENSE AS WRITTEN			SUBSTITUTION PERMITTED	

Claim #2800034/22



Mountain View Family Practice
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November 26, 2008
Page 1
Chart Document

MARIA EMMA MCGAHA
Female DOB: [REDACTED]

Home: (864)906-8167 Office: (864)989-3712
Ins: MEDICARE (81)

07/17/2003 - Phone Note: NCV appt
Provider: K Denise Garrard
Location of Care: MFP - Thornblade

---- Converted from flag ----
---- 07/17/2003 10:27 AM, Jack W Brunson, MD wrote:
Schedule NCV's of upper extremities for dx carpal tunnel syndrome L hand

NCV = Nerve Conduction Study

Phone Note

Patient home phone [REDACTED]

Clinical Lists Changes

Patient Referral

Referral was processed to: EEG lab
Diagnosis: Carpal tunnel syndrome 345.0
Appointment was scheduled for 07/25/2003 at 10:45am
Patient notified: Yes
Instructions given: Come in at least 30 min. early and go by business office. Then go up to EEG for procedure.
Comments: Appointment August 25th 2003 @ 10:45. Greenville Memorial Hospital Tele# 455-7774 Fax# 455-4500
.....Elizabeth Jacobs,CMA July 21, 2003 2:06 PM
07/24/03 @ 10:47 am called member services line 800-516-2898 talked to Max no prec/referral needed for this appt.
dgar
PT. informed of appointment. Elizabeth Jacobs,CMA July 21, 2003 2:06 PM

Observations:

Added new observation of CONSULT REFE: EEG lab (07/17/2003 10:29)

Signed by K Denise Garrard on 07/24/2003 at 10:51 AM

She's supposed to be scheduled for a Nerve Conduction Velocity test (NCV) not an EEG. Also we need to get this done ASAP, and at least within the next 2 weeks because she is going to be out of work.

Appended by Jack W Brunson, MD on 08/04/2003 at 9:31 AM

MFP - Thornblade
398 The Parkway Greer, SC 29650
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July 19, 2004
Page 1
Chart Document

MARTALEEN MCCAHA

Home: (864) 906-8467 Office: (864) 989-1712

Female DOB: [REDACTED]

08/04/2003 - Office Visit: Reck neck pain
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Office Visit

History of Present Illness

Chief Complaint: Reck neck pain

History of Present Illness: Pt here for reek of neck pain. Radiates down left arm. States she is no better. She's continued to work but has been tried on a couple of other jobs at her workplace. Still had pain. Was sent to another doctor for eval for W/C injury and had MRI of the neck. Was told "my problem was caused by old age and had nothing to do with work and he said the pain in my neck and shoulder and down my arm was not due to carpal tunnel." She was also advised to d/c the wrist splint though she has continued to wear it to sleep in.

Past, Family, and Social History

Social History (reviewed - no changes required): husband deceased of cancer

Review of Systems

Neurologic

General: Complains of fatigue, malaise.

Musculoskeletal: Complains of see HPI, back pain, stiffness.

Neurologic: Complains of weakness, paresthesias.

Vital Signs

Ht: 63 in. Wt: 136 lbs. T: 98.4 deg F. T site: tympanic BP: 144/76

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Musculoskeletal

Gait and station: normal; can undergo exercise testing and/or participate in exercise program

Head and neck: tenderness and spasm in paracervical and trapezius musculature, L>R

LUE: decreased GS, + Tinel's

Mental Status Exam

Judgment, insight: intact

Mood and affect: flat affect

Assessment

MFP - Thornblade
398 The Parkway Greer, SC 29650
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July 19, 2004
Page 2
Chart Document

MARIA MINA TICCAHA Home: (864) 906-8167 Office: (864) 939-3712
Female DOB: 4/21/25

Status of Existing Problems:

CERVICALGIA Unchanged - Jack W Brunson, MD
CARPAL TUNNEL SYNDROME Unchanged - Jack W Brunson, MD

Probably has incidental finding of some cervical arthritis but I still think her most likely problem is the CTS. Whichever the case it's apparent that work exacerbates the problem and she's going to need to be out of work while I get this sorted out.

Plan

New Prescriptions/Refills:

SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder 08/04/2003 #30 x 1 : Jack W Brunson, MD
LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain 08/04/2003 #30 x 1 : Jack W Brunson, MD
VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict 08/04/2003 #30 x 1 : Jack W Brunson, MD

Updated Medication List:

CELEXA 40 MG TAB (CITALOPRAM HYDROBROMIDE) 1/2-1 qd
ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd
ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl
VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict
LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd
PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr prn nausea
LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain
ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs
ELOCON 0.1 % CREAM (MOMETASONE FUROATE) apply bid
SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder

New Orders:

Level III 99213 OV Est Expanded [CPT-99213]

Advised to file for STD and proceed w/NCV's ASAP. Cont meds and wear splint all day and night while she's going to be out. Obtain records from W/C doc and MRI report also.
Disposition: return to clinic in 2 weeks

Medical Decision-Making

Amount/complexity of data to be reviewed
* review/order other diagnostic or tx interventions

Risk of complications: moderate

Prescriptions:

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July 19, 2004
Page 3
Chart Document

MARIA PATRICIA MCGAHAN Home: (864) 966-8167 Office: (864) 989-3717
DOB: [REDACTED] SSN: [REDACTED]

SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder 08/04/2003 #30 x

1

Entered, Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain 08/04/2003 #30 x 1

Entered, Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict 08/04/2003 #30 x 1

Entered, Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

Signed by Jack W Brunson, MD on 08/04/2003 at 10:07 AM

Mountain View Family Practice - Thornblade
398 The Parkway
Greer, SC 29650
(864) 877-9577

August 4, 2003 9:48 AM

MARIA EMMA MCGAHA. < [REDACTED]

DOB: 11/02/1940
MRN: 489135

Dr. Brunson has advised MARIA EMMA MCGAHA to stay home from work for 22
days August 4 thru August 25, 2003. maj

(MJ)

Mountain View Family Practice
[REDACTED]

Claim # 2800034122

MFP - Thornblade
398 The Parkway Greer, SC 29650
864-877-9577 Fax: 864-877-9073

July 19, 2004
Page 1
Chart Document

MARIA VEMMA MCGAHIA Home (864) 906-3167 Office: (864) 989-3712
Female DOB [REDACTED] 189135

08/07/2003 - Office Visit: complete Honeywell disability forms
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Office Visit

History of Present Illness

Chief Complaint: complete Honeywell's disability forms

History of Present Illness: As previously discussed pt has Honeywell's disability forms to be complete.

Sx of L neck and shoulder pain improved since out of work and wearing splint continuously

Vital Signs

[REDACTED] Wt: 135 lbs. T: 98.9 deg F. T site: oral BP: 120/72

Assessment

Status of Existing Problems:

CERVICALGIA Unchanged - Jack W Brunson, MD

CARPAL TUNNEL SYNDROME Unchanged - Jack W Brunson, MD

FMLA forms completed

Plan

Updated Medication List:

CELEXA 40 MG TAB (CITALOPRAM HYDROBROMIDE) 1/2-1 qd

ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd

ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl

VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict

LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd

PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr prn nausea

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain

ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs

ELOCON 0.1 % CREAM (MOMETASONE FUROATE) apply bid

SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder

New Orders:

Level III 99213 OV Est Expanded [CPT-99213]

MFP - Thornblade
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July 19, 2004
Page 2
Chart Document

MAIRFAIRMMACGATHA Home: (864) 906-8167 Office: (864) 989-3742
Female-DOB: [REDACTED] 04/09/25

for NCV's tomorrow, f/u in 2 weeks

Medical Decision-Making

Visit was primarily counseling/coordination. Time spent: 15 minutes

Amount/complexity of data to be reviewed

* review/order other diagnostic or tx interventions

Risk of complications: moderate

Signed by Jack W Brunson, MD on 08/07/2003 at 12:57 PM.

MFP - Thornblade
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October 22, 2003
Page 1
Chart Document

MARIA EMMA MCGAHIA Home: (864)906-8167 Office: (864)906-8167
Home: (864)906-8167 Office: (864)906-8167

08/11/2003 - Phone Note; RE: Disability
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Phone Note

Caller: Mary Ann Vetree Met Life Disability 800-243-8786 X 6117
Patient home phone (864)906-8167

Comments: Disability office requesting updated office note. Is it alright to fax last
note?.....Donna B Melton, MLT, CMA August 11, 2003 5:09 PM

Yes, assuming we have HIPPA clearance from patient to do so. If not specifically stated in some sort of
written form, check for HIPPA compliance first Jack W Brunson, MD August 11, 2003
6:17 PM

Spoke with pt and was given verbal ok for faxing notes...Last office note faxed to the above
#.....Donna B Melton, MLT, CMA August 15, 2003 11:26 AM

Clinical Lists Changes

Signed by Donna B Melton, MLT, CMA on 08/15/2003 at 11:28 AM

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July 19, 2004
Page 1
Chart Document

MARIA EMMA MC GASHA
Female DOB: 08/21/1955
Home: (864) 906-8167 Office: (864) 989-3772

08/21/2003 - Office Visit: f/u on lab work
Provider: Jack W Brunson, MD
Location of Care: RHC - Urgent Care

Office Visit

History of Present Illness

Chief Complaint: f/u on lab results

History of Present Illness: Pt comes for follow-up on NCV results. Pain persists, some days it's better than others, but overall she thinks about the same as last visit.

Past, Family, and Social History

Social History (reviewed - no changes required): husband deceased of cancer

Review of Systems

Neurologic

General: Complains of fatigue. Denies malaise.

Musculoskeletal: Complains of joint pain, muscle weakness, stiffness.

Neurologic: Complains of see HPI, paresthesias.

Vital Signs

Ht: 63 in. Wt: 138 lbs. T: 98.5 deg F. T site: oral BP: 124/78

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

LUE: wrist in splint

Mental Status Exam

Judgment, insight: intact

Mood and affect: depressed mood

Assessment

Status of Existing Problems:

CERVICALGIA Unchanged - Jack W Brunson, MD

New Problems:

NEURALGIA/NEURITIS NOS (ICD-729.2)

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July 19, 2004
Page 2
Chart Document

MARIA B. MC GAHA Home (864) 906-8167 Office (864) 989-3712
Female DOB 4/29/35

NCV's negative for CTS which is a surprise to me. I really thought she had CTS w/retrograde pain. That may still turn out to be the case though less likely w/normal NCV's. Clinically sx and physical findings would fit CTS but may have some other type of radiculopathy/neuralgia/neuritis syndrome

Plan

Updated Medication List:

CELEXA 40 MG TAB (CITALOPRAM HYDROBROMIDE) 1/2-1 qd
ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd
ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl
VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict
LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd
PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr prn nausea
LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain
ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs
ELOCON 0.1 % CREAM (MOMETASONE FUROATE) apply bid
SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder

New Orders:

Level III 99213 OV Est Expanded [CPT-99213]

Schedule MRI scan of shoulder which should show evidence of repetitive motion injury. Cont meds and out of work

Disposition: return to clinic in 2 weeks

Medical Decision-Making

Amount/complexity of data to be reviewed

* review/order other diagnostic or tx interventions

Risk of complications: moderate

Spoke to Gail Pless, RN, a Rehab Consultant w. Armstrong & Assoc (800-277-1111/ PO Box 470637 Charlotte, NC 28247) representing Zurich Ins. W/C underwriter for Honeywell, Mrs McGaha's employer. Advised that since problem at this time has yet to be determined as work-related, unable to share medical information w/her. She stated that she had considered getting NCV's and referring patient to Dr. Rudisill at the Hand Clinic. I did advise that that would be unnecessary at this time. I did advise Mrs. McGaha that it would not be inappropriate for her to sign a release allowing Ms. Pless to receive copies of diagnostic reports such as the NCV's and the planned shoulder MRI but that copies of office progress notes should not be released at this time. Jack W Brunson, MD August 21, 2003 5:50

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398 The Parkway
Greer, SC 29650
(864) 877-9577

August 21, 2003 5:37 PM

MARIA EMMA MCGAHA

DOB: ...
MRN: 400...

Dr. Bruson has advised MARIA EMMA MCGAHA to stay home from work
8.21.03 through 9.4.03 skd

Mountain View Family Practice

received
8-25-03 me

Mountain View Family Practice
406 Memorial Drive Extension Greer, SC 29651
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November 26, 2008
Page 1
Chart Document

MARIA EMMA MCGAHA

Female DOB: 10-12-26

Home: (864)906-8167 Office: (864)989-3712

Ins: MEDICARE (81)

09/02/2003 - Phone Note: MRI appt
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

--- Converted from flag ---

--- 08/21/2003 5:19 PM, Jack W Brunson, MD wrote:
Schedule for MRI of L shoulder for radicular pain L arm

Appt scheduled at ABMH on wed. 09.03.03 at 11am. Pt informed by Julie. Order faxed and filed for scanning.....Donna B Melton, MLT, CMA September 2, 2003 8:36 AM

Phone Note:

Patient home phone (864)906-8167

Clinical Lists Changes

Signed by Donna B Melton, MLT, CMA on 09/02/2003 at 8:37 AM

Pt arrived to have MRI done. Diane from business office called re: pre-cert. Problem being that insurance is based in N.C. and S.C. is considered out of network. Pt will be rescheduled after this is straightened out. Case # is 673304. Pt to come by office to sign release for office notes to be faxed to MedSolutions at 888-693-3210. They will in turn, determine if MRI will be covered. To discuss case, call 888-693-3208.

Appended by Donna B Melton, MLT, CMA on 09/03/2003 at 11:29 AM

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398 The Parkway Greer, SC 29650
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July 19, 2004
Page 1
Chart Document

MARIA EMMA MCGAHAN Phone: (864) 906-2867 Office: (864) 939-3712
Female DOB: 09/05

09/04/2003 - Office Visit: L shoulder pain
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Office Visit

History of Present Illness

Chief Complaint: L shoulder pain

History of Present Illness: Pt here for recheck of L shoulder pain. Was scheduled for MRI yesterday but was denied by insurance. I spoke with Diane at ABMH and she told me there was a problem so I called Cigna and was told problem had to do with dual state coverage. Supposedly, her insurance coverage is for N.C., and S.C. procedures and specialists are out-of-network. I suggested pt contact her HR person at work and have her contact this office so I can find out what to do. Received fax this morning from MedSolutions requesting as much documentation of problem as we can send so MRI can be approved. Her shoulder pain problem is unchanged and she is still out of work.

Review of Systems

Musculoskeletal

Musculoskeletal: Complains of see HPI, joint pain, stiffness.

Vital Signs

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

Head and neck: decreased ROM and muscle tenderness L side of neck

LUE: shoulder unchanged

Mental Status Exam

Judgment, insight: intact

Mood and affect: depressed mood

Assessment

Status of Existing Problems:

CERVICALGIA Unchanged - Jack W Brunson, MD

NEURALGIA/NEURITIS NOS Unchanged - Jack W Brunson, MD

MFP - Thornblade
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July 19, 2004
Page 2
Chart Document

MARIA EMMA MCGAHAN Home (864) 908-8167 Office (864) 989-3712
Ronal DCE

Plan

Updated Medication List:

CELEXA 40 MG TAB (CITALOPRAM HYDROBROMIDE) 1/2-1 qd
ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd
ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl
VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict
LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd
PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr prn nausea
LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain
ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs
ELOCON 0.1 % CREAM (MOMETASONE FUROATE) apply bid
SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder

New Orders:

Level III 99213 OV Est Expanded [CPT-99213]

Signed by Jack W Brunson, MD on 09/04/2003 at 5:54 PM

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398 The Parkway
Greer, SC 29650
(864) 877-9577

September 4, 2003 4:58 PM

MARIA EMMA MCGAHA
312 MAPLEWOOD CIR
GREER, SC 29651-4426

DOB
MRN: 489135

Dr. Brunson has advised MARIA EMMA MCGAHA to stay home from work from
9.5.03 through 9.18.03 skd

Mountain View Family Practice
406 Memorial Drive Extension Greer, SC 29651
864-877-9066 Fax: 864-848-3291

November 26, 2008

Page 1

Chart Document

MARIA EMMA MCGAHA
Female DOB 489135

Home: (864)906-8167 Office: (864)989-3712
Ins: MEDICARE (81)

09/08/2003 - Phone Note: RE: MRI denial
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Phone Note

Caller: MedSolutions 888-693-3211 option 3 then 4
Patient home phone: (864)989-3712

Comments: Per Dr. Standard w/MedSolutions, request for MRI of shoulder has been denied. She has to have ortho referral first. Written response to be faxed with appeal information. Case #673304.....Donna B Melton, MLT, CMA September 8, 2003 1:01 PM

That's fine by me. If they want to spend more money getting a second opinion, go for it!! Jack W Brunson, MD September 8, 2003 1:25 PM

Pt informed and will check provider book and let me know where she can be scheduled.....Donna B Melton, MLT, CMA September 8, 2003 1:31 PM

Clinical Lists Changes

Signed by Donna B Melton, MLT, CMA on 09/08/2003 at 1:31 PM

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July 19, 2004
Page 1
Chart Document

MARIA MARIA MICCAHA Home: (864) 906-8167 Office: (864) 989-3712
Female DOB: 4/30/45

09/17/2003 - Office Visit: pain in left arm
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Office Visit

History of Present Illness

Chief Complaint: recheck, pain and cramps in left arm

History of Present Illness: pt states condition has worsen, she now has pain and cramps in left arm

Past, Family, and Social History

Past History: hysterectomy

depression

Family History (reviewed - no changes required): strong fm hx hypothyroidism

Social History (reviewed - no changes required): husband deceased of cancer

Review of Systems

Neurologic

General: Complains of fatigue, malaise.

Musculoskeletal: Complains of back pain, muscle weakness, stiffness.

Neurologic: Complains of see HPI, weakness, paresthesias.

Vital Signs

Ht: 63 in. Wt: 144.5 lbs. T: 98.1 deg F. T site: oral BP: 138/84

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

Head and neck: discomfort w/lateral rotation to both sides, R>L; mod tenderness and spasm L trap, lat and supraspinatus musculature

LUE: weakness L shoulder w/ABduction

Neurologic

Reflexes: 2+, symmetric, no pathological reflexes

Mental Status Exam

Judgment, insight: intact

Mood and affect: depressed mood

MFP - Thornblade
398 The Parkway Greer, SC 29650
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July 19, 2004
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Chart Document

MARIA EMMA MCGAHY Home: (864) 906-8167 Office: (864) 989-3412
4201330
Thornblade

Assessment

Status of Existing Problems:

DISORDER, DEPRESSIVE NEC Deteriorated - Jack W Brunson, MD
CERVICALGIA Unchanged - Jack W Brunson, MD
NEURALGIA/NEURITIS NOS Deteriorated - Jack W Brunson, MD

emotional overlay of depression but pain is persistent and neuralgia subjectively worse; MRI shows clear nerve root impingement but her health insurer (Cigna) has directed that she see Dr. Jernigan at Piedmont Ortho. He on the other hand wants to review her records before deciding whether or not he will. She in the meantime is in limbo

Plan

New Prescriptions/Refills:

PAXIL CR 12.5 MG TABSR24 (PAROXETINE HCL) 1 tablet daily 09/17/2003 #35 x 0 : Jack W Brunson, MD
SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder 09/17/2003 #60 x 5 : Jack W Brunson, MD
LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain 09/17/2003 #30 x 5 : Jack W Brunson, MD
VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict 09/17/2003 #30 x 5 : Jack W Brunson, MD

Updated Medication List:

ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd
ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl
VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict
LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd
PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr prn nausea
LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain
ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs
ELOCON 0.1-% CREAM (MOMETASONE FUROATE) apply bid
SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder
PAXIL CR 12.5 MG TABSR24 (PAROXETINE HCL) 1 tablet daily

New Orders:

Level IV 99214 OV Est Detailed [CPT-99214]

begin tx for depression while awaiting Dr. Jernigan's decision. I don't think she has a shoulder problem so much as a nerve impingement w/radiculopathy from the C-spine lesion noted on the MRI scan.
Disposition: return to clinic in 1 month

Medical Decision-Making

MFP - Thornblade
398 The Parkway Greer, SC 29650
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July 19, 2004
Page 3
Chart Document

MARIA EMMA MCGAHA Home: (864) 906-8167 Office: (864) 989-3712
Female 489/135

Amount/complexity of data to be reviewed
* review/order other diagnostic or tx interventions

Risk of complications: moderate

Prescriptions:

PAXIL CR 12.5 MG TABSR24 (PAROXETINE HCL) 1 tablet daily 09/17/2003 #35 x 0

Entered, Authorized and Signed by: Jack W Brunson, MD

Method used: Samples Given

SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasim in neck and shoulder 09/17/2003 #60 x 5

Entered, Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain 09/17/2003 #30 x 5

Entered, Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict 09/17/2003 #30 x 5

Entered, Authorized and Signed by: Jack W Brunson, MD

Method used: Print then Give to Patient

Signed by Jack W Brunson, MD on 09/17/2003 at 5:40 PM

Mountain View Family Practice - Thornblade
398 The Parkway
Greer, SC 29650
(864) 877-9577

September 17, 2003 5:30 PM

MARIA EMMA MCGAHA

GREER, SC 29650 420

DOB:

MRN: 100000000

Dr. Brunson has advised MARIA EMMA MCGAHA to stay home from work for 1 month. 9.19.03 through 10.19.03 skd

Mountain View Family Practice

received
9/19/03

mag

Mountain View Family Practice
406 Memorial Drive Extension Greer, SC 29651
864-877-9066 Fax: 864-848-3291

November 26, 2008
Page 1
Chart Document

MARIA EMMA MCGAHA

Female DOB: 39135

Home: (864)906-8167 Office: (864)989-3712
Ins: MEDICARE (81)

09/17/2003 - Phone Note: RE: Ortho referral
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Phone Note

Patient home phone

Comments: Per letter received from MedSolutions, appt requested for ortho referral. Piedmont Ortho, Dr. Jernigan specifically. Spoke with Kim at that office. Records have to be faxed for his consideration. (Faxed to 679-1930) This has been done. Pt has appt here this afternoon and will be informed at that time.....Donna B Melton, MLT, CMA
September 17, 2003 9:51 AM

Clinical Lists Changes

Signed by Donna B Melton, MLT, CMA on 09/17/2003 at 9:52 AM

Mountain View Family Practice
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November 26, 2008
Page 1
Chart Document

MARIA EMMA MCGAHA
Female DOB 1489135

Home: (864)906-8167 Office: (864)989-3712
Ins: MEDICARE (81)

09/24/2003 - Phone Note: RE: Dr. Jernigan
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Phone Note

Caller: Kimberly w/ Piedmont Ortho
Patient home phone

Comments: Dr. Jernigan reviewed notes on pt and states he does not want to see her. Kimberly said there was no reason given.....Donna B Melton, MLT, CMA September 24, 2003 8:41 AM

OK well no surprise there. Since employer seems to be running the show ask them what they want to do now. I think her problem is mainly coming from the C-spine and I would rec she see someone like Dr. Bucci. Jack W Brunson, MD September 24, 2003 12:33 PM

Spoke with pt. She will contact employer and have them contact us with next step.....Donna B Melton, MLT, CMA September 24, 2003 3:22 PM

Clinical Lists Changes

Signed by Donna B Melton, MLT, CMA on 09/24/2003 at 3:22 PM

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November 26, 2008
Page 1
Chart Document

MARIA EMMA MCGAHA
Female DOB: [REDACTED]

Home: (864)906-8167 Office: (864)989-3712
Ins: MEDICARE (81)

09/24/2003 - Phone Note: RE: Insurance
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

--- Converted from flag ---

--- 09/24/2003 12:37 PM, Jack W Brunson, MD wrote:

Just out of curiosity, I'd like for you to ask the insurance co. how and whom we bill for the time it took for us to arrange the consult w/Dr. Jernigan. You know, time on the telephone, preparation and communication of records, that sort of thing. Just to see how they respond to that question.

Printed this flag out and will do when I have more time.....Donna B Melton, MLT, CMA September 24, 2003
4:55 PM

Phone Note
Patient home phone [REDACTED]

Clinical Lists Changes

Signed by Donna B Melton, MLT, CMA on 09/24/2003 at 4:55 PM

MFP - Thornblade
398 The Parkway Greer, SC 29650
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October 22, 2003
Page 1
Chart Document

MARIA FUMMIA MCCABIA Home (864) 906-8167 Office (864) 989-3712
Donna B Melton, MLT, CMA CNA PO (82) Gm (31) 73159

10/09/2003 - Phone Note: Disability office
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Phone Note

Caller: patient
Patient home phone (864)906-8167

Comments: Maria came by office stating she had been told at work that her short term disability was not going to pay due to lack of information. I called Mary Ann Vetree (see phone note dated 08.11) with disability while pt was here and left message requesting a return call. Ms. Vetree called this morning and informed me that 2 form letters had been sent to pt regarding lack of information. I told her that after receiving verbal ok to fax office notes, this was done on 08.15.03 and nothing had been heard back since. She states those notes were never received. We also discussed miscommunication with patient. She is a bit hard to understand due to strong accent. Ms. Vetree gave me a claim number 520308048122 to refax notes. Fax number is 866-690-1264. Records faxed.....Donna B Melton, MLT, CMA
October 9, 2003 11:46 AM

Wonder how often the notes we fax to insurance companies about disability matters "didn't go through" ?
.....Jack W Brunson, MD October 9, 2003 4:00 PM

Clinical Lists Changes

Signed by Jack W Brunson, MD on 10/09/2003 at 4:00 PM

MFP - Thornblade
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July 19, 2004
Page 1
Chart Document

MARIA EMMA MCGAHA Home: (864) 206-3167 Office: (864) 989-3717
Female 4/29/55

10/14/2003 - Office Visit: paper reviewed and forms completed
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Office Visit

History of Present Illness

History from: daughter & patient

Chief Complaint: paperwork reviewed and forms completed

History of Present Illness: pt needs paperwork reviewed and proper forms completed stating her condition to received disability income. Pain is persistent but improved significantly since she has been out of work.

Past, Family, and Social History

Past History (reviewed - no changes required): hysterectomy
depression

Family History: strong fm hx hypothyroidism
mother die of stroke

several family members w/brain aneurysm

Social History (reviewed - no changes required): husband deceased of cancer

Review of Systems

Neurologic

Musculoskeletal: Complains of see HPI, muscle weakness, stiffness.

Neurologic: Complains of see HPI, weakness, paresthesias.

Vital Signs

Ht: 63 in. Wt: 144 lbs. T: 98.1 deg F. T site: oral BP: 144/82

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

Head and neck: decreased tenderness and spasm in paracervical musculature, slight impairment of L rotation of neck

Spine, ribs, pelvis: normal alignment and mobility, no deformity

LUE: normal ROM and strength, no joint enlargement or tenderness

Mental Status Exam

MFP - Thornblade
398 The Parkway Greer, SC 29650
864-877-9577 Fax: 864-877-9073

July 19, 2004
Page 2
Chart Document

MARIA EMMA MCGALLA Home: (864) 906-8167 Office: (864) 939-5712
Female 08/12/60

Judgment, insight: intact
Mood and affect: depressed mood

Assessment

Some improvement w/rest and meds but still at risk for relapse if she returns to work

Plan

Updated Medication List:

ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd
ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl
VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict
LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd
PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr prn nausea
LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain
ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs
ELOCON 0.1 % CREAM (MOMETASONE FUROATE) apply bid
SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder
PAXIL CR 12.5 MG TABSR24 (PAROXETINE HCL) 1 tablet daily

New Orders:

Level III 99213 OV Est Expanded [CPT-99213]

Appt w/Dr. Bucci 11/04. Extend work absence through 11/15
Disposition: return to clinic in 1 month

Medical Decision-Making

Amount/complexity of data to be reviewed

- * review/order other diagnostic or tx interventions
- * obtain old records or history from another person

Risk of complications: moderate

Signed by Jack W Brunson, MD on 10/14/2003 at 6:22 PM

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398 The Parkway
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(864) 877-9577

October 14, 2003 6:25 PM.

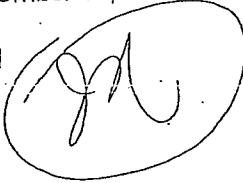
MARIA EMMA MCGAHA

DOB:

MRN:

Dr. Brunson has advised MARIA EMMA MCGAHA to stay home from work until
November 15, 2003.

JMN



received
10/15/03 Bmk

Mountain View Family Practice

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398 The Parkway Greer, SC 29650
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July 19, 2004
Page 1
Chart Document

MARIA T. MC GATHA Home: (864) 906-8167 Office: (864) 989-3712
Female 4289858

10/22/2003 - Office Visit: Discuss disability
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Office Visit

History of Present Illness

Chief Complaint: Discuss disability

History of Present Illness: Pt here today because her employer has told her that short term disability has reached its limit. She has to be released from PCP care as of today in order to be seen by her company physician, otherwise, she must return to work this monday 10.27.03. She's been told by the HR person at her company that her short term disability has been denied because information was not provided within the 60 day time period and that her FMLA limit had also been reached. Maria says she never applied for FMLA. She does feel better though as indicated when she was here the other day. She wants to try to return to work though plans to follow through w/seeing Dr. Bucci and trying to get rid of her neck/shoulder problem completely even if it requires surgery.

Past, Family, and Social History

Past History (reviewed - no changes required): hysterectomy
depression

Social History (reviewed - no changes required): husband deceased of cancer

Review of Systems

Musculoskeletal

General: Denies fatigue, malaise.

Musculoskeletal: Complains of see HPI, stiffness.

Psychiatric: Complains of anxiety.

Vital Signs

Ht: 63 in. Wt: 140.5 lbs. T: 98.4 deg F. T site: oral BP: 128/74

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Neck

Neck: no masses, trachea midline

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

Head and neck: slight limitation to ROM on L lateral rotation of head

MFP - Thornblade
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July 19, 2004
Page 2
Chart Document

MARIA EMMA MCCAFFEY
Female DOB [REDACTED] Home (864) 906-8169 Office (864) 989-3712
[REDACTED]
[REDACTED]

Spine, ribs, pelvis: trigger point over spine of scapula on L
RUE: FROM shoulder
LUE: FROM shoulder

Neurologic

Cranial nerves: II - XII grossly intact

Mental Status Exam

Judgment, insight: intact

Mood and affect: anxious w/ labile mood

Assessment

Status of Existing Problems:

CERVICALGIA Improved - Jack W Brunson, MD

NEURALGIA/NEURITIS NOS Improved - Jack W Brunson, MD

As noted the other day she is much better w/only minimal residual but w/her underlying cervical arthritis is at risk for exacerbation of pain and disability w/repetitive motion

Plan

Updated Medication List:

ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd

ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl

VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict

LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd

PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr prn nausea

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain

ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs

ELOCON 0.1 % CREAM (MOMETASONE FUROATE) apply bid

SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder

PAXIL CR 12.5 MG TABSR24 (PAROXETINE HCL) 1 tablet daily

New Orders:

Level III 99213 OV Est Expanded [CPT-99213]

Request return to work and I think it reasonable to allow given her current situation though advised her of risk for re-injury. Encouraged her to follow through w/plans to see Dr. Bucci

Disposition: return to clinic in 1 month

Medical Decision-Making

Amount/complexity of data to be reviewed

* review/order other diagnostic or tx interventions

MFP - Thornblade
398 The Parkway Greer, SC 29650
864-877-9577 Fax: 864-877-9073

July 19, 2004
Page 3
Chart Document

MARIA EMMA MCGAHA Home (864) 906-2167 Office (864) 898-9742
Female DOB [REDACTED] 10/15/1975

[REDACTED]

Risk of complications: moderate

Signed by Jack W Brunson, MD on 10/22/2003 at 10:30 AM

MFP - Thornblade
398 The Parkway Greer, SC 29650
864-877-9577 Fax: 864-877-9073

July 19, 2004
Page 1
Chart Document

MARIA B. MCGAHEY
Female DOB 4/30/55 Home (864) 906-8167 Office (864) 989-3712

11/14/2003 - Office Visit: recheck
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Office Visit

History of Present Illness

Chief Complaint: recheck

History of Present Illness: pt states company did not rec'd forms or papers she needs for her paycheck. continues to have multiple problems w/the insurance situation. We've faxed records at least twice and they continue to say they've never been received. Her shoulder is better, she's seen Dr. Buccì and feels that she's improving as long as she doesn't have to do repetitive motion w/the shoulder

Past, Family, and Social History

Past History (reviewed - no changes required): hysterectomy
depression

Social History (reviewed - no changes required): husband deceased of cancer

Review of Systems

Musculoskeletal

Musculoskeletal: Complains of see HPI, joint pain, stiffness.

Vital Signs

Ht: 63 in. Wt: 141.5 lbs. T: 99.5 deg F. T site: oral BP: 148/74

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

LUE: ROM improved w/decreased tenderness and spasm in shoulder

Mental Status Exam

Judgment, insight: intact

Mood and affect: depressed mood

Assessment

New Problems:

VACCINE AGAINST INFLUENZA (ICD-V04.81)

MFP - Thornblade
398 The Parkway Greer, SC 29650
864-877-9577 Fax: 864-877-9073

July 19, 2004
Page 2
Chart Document

MARIA EMILIA MCGAHAN
Home: (864) 906-8167 Office: (864) 989-0712
Female DOB: [REDACTED] 4/29/1957

Dr. Bucci has advised PT since she does not apparently have a surgical lesion at this time

Plan

Updated Medication List:

ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd
ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl
VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict
LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd
PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr prn nausea
LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h prn pain
ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs
ELOCON 0.1 % CREAM (MOMETASONE FUROATE) apply bid
SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder
PAXIL CR 12.5 MG TABSR24 (PAROXETINE HCL) 1 tablet daily

New Orders:

Administration, 1 Vaccine, Sngl/Comb [CPT-90471]
FLU Vaccine, Spilt, 3+ Years Dx V04.81 [CPT-90658]
Level III 99213 OV Est Expanded [CPT-99213]

cont w/PT per Dr. Bucci's suggestion. Referred to Donna Mellon to help her resolve the insurance situation

Medical Decision-Making

Amount/complexity of data to be reviewed

* review/order other diagnostic or tx interventions

Risk of complications: moderate

IMMUNIZATIONS

Flu Vax

Dose: Gave .5cc

Manufacturer: Aventis Pasteur

Lot #: U1270AA

Expir Date: 06/30/2004

Site/Route: R Deltoid
given by AG

Wm L 489135

Mountain View Family Practice

406 Memorial Dr. Ext. Greer, SC 29651 (864) 877-9066

398 The Parkway Greer, SC 29650 (864) 877-9577

K. Graham Lawrence, Jr. 8398 AL6955631

Philip A. Snell 6611 AS8735550

Thomas A. Ballard 8371 AB7081336

William D. Byars 9201 AB7642920

Jack W. Brunson 10099 AB9404663

Pat S. Maybee F 43298 MM0189173

David L. Hudson 18248 BH4176928

Oonagh Nechodom, FNP 45339 F45339

PATIENT'S NAME		PT#	DATE	
Maria E McGaha			01-16-04	
MEDICATION THERAPY	DOSE SIZE	SIG	DISP	REFILLS
DDV Shoulder Implants l/r Dr				0 1 2 3
Steven Gossy		232-4422		0 1 2 3
Crino Cls @ April '04		9.15 phone 271-6060		0 1 2 3
ser. Apr 22-4263				0 1 2 3

APEX 10/00

DISPENSE AS WRITTEN

SUBSTITUTION PERMITTED

Mountain View Family Practice
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November 26, 2008
Page 1
Chart Document

MARIA EMMA MCGAHA

Female DOB:

Ins: MEDICARE (81)

01/16/2004 - Referral: Referral-Oakwood Ortho Ctr
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Patient Referral

Referral was processed to: Orthopedic
Diagnosis: shoulder impingement
Appointment was scheduled for 01/21/2004 at 9:15
Patient notified: Leigh Ann @220-4263 informed pt
Comments: Leigh Ann request a referral for pt to Dr Steven Geary @ Oakwood Ortho on Jan 21, '04 @9:15 faxed order to 232-6422, 770-1099, phone 271-6060 Tammie Hill, RTR January 16, 2004 4:53 PM

called Cigna, per Deanna @cigna states no pre-cert is needed b/c both dr's are in the network, order has been faxed and scanned.....Tammie Hill, RTR January 19, 2004 10:20 AM

Clinical Lists Changes

Observations:

Added new observation of CONSULT REF: Orthopedic (01/16/2004 13:23)

Signed by Tammie Hill, RTR on 01/19/2004 at 10:35 AM

Mountain View Family Practice
406 Memorial Drive Extension Greer, SC 29651
864-877-9066 Fax: 864-848-3291

November 26, 2008

Page 1

Chart Document

MARIA EMMA MCGAHA

Female DOB:

Ins: MEDICAR (81)

01/19/2004 - Internal Other: referral order for Oakwood Ortho(Dr. S. Geary)

Provider: Jack W Brunson, MD

Location of Care: MFP - Thornblade

This document contains external references

referral order for Oakwood Ortho(Dr. S. Geary)

Imported By: Tammie Hill, RTR 01/19/2004 10:32:46

External Attachment:

Type: Image

Comment: Scanned Image

Signed before import by Jack W Brunson, MD

Filed automatically on 01/19/2004 at 10:32 AM

Mountain View Family Practice
406 Memorial Drive Extension Greer, SC 29651
864-877-9066 Fax: 864-848-3291

November 26, 2008

Page 1

Chart Document

MARIA EMMA MCGAHA

Female DOB:

Ins: MEDICARE (81)

03/03/2004 - Phone Note: RE: Attorney
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade

Phone Note

Caller: patient

Patient home phone (864)906-8167

Comments: Maria came by office very upset. States she ended up losing her job. Says you discussed getting an attorney. I'm assuming Don Moorhead. Is this correct? She has no money or insurance to come see you. Donna B Melton, MLT, CMA March 3, 2004 11:52 AM

Yes, give her his number and tell her to tell his receptionist that I referred her Jack W Brunson, MD
March 3, 2004 12:57 PM

Pt informed and number for Don given.....Donna B Melton, MLT, CMA March 3, 2004 5:31 PM

Clinical Lists Changes

Signed by Donna B Melton, MLT, CMA on 03/03/2004 at 5:31 PM

STATEMENT OF
JACK BRUNSON, M.D.

RE: Maria E. McGaha
DATE OF BIRTH:
SOCIAL SECURITY NO.:
DATE OF ACCIDENT: 08-04-03

☒

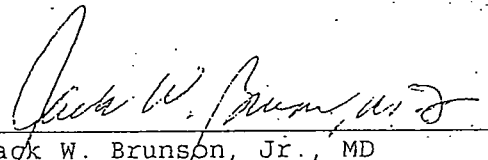
YES

Ms. McGaha's left upper extremity and neck problems were caused and/or aggravated by continued use of her upper extremities and neck in her work at Honeywell.

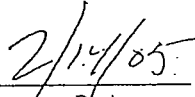
☐

NO

Ms. McGaha's left upper extremity and neck problems were caused and/or aggravated by continued use of her upper extremities and neck in her work at Honeywell.



Jack W. Brunson, Jr., MD



Date


**BON SECOURS
ST. FRANCIS HEALTH SYSTEM**

WorkWell™ Occupational Health Center
St. Francis Women's & Family Hospital
131 Commonwealth Drive - Suite 200
Greenville, SC 29615
Phone: (864) 675-4800 Fax: (864) 675-4604

Today's Date: 7.17.03
Arrival Time: 4:58
Time In: 5:08
Time Out: 5:40
☒ Initial ☐ Re-check

BATIA E. AGGARWAL
M.D.
989-3712
989-3722
7/17/2003
HAWAIIAN
2408894
VVS

Post-Accident UDS? (Check Company List) ☒ Yes ☐ No Date of Injury: 7/17/03 Time of Injury: 6:10 PM
Allergies: N/A Home Phone:
Current Job: Prep & finish

Treatment Authorized by: Title: Date:

I hereby authorize the release of all medical information pertaining to this work related injury/illness to my employer, insurance company and referral physicians. Records from any medical provider involved in or relative to the diagnosis or treatment of this injury may be released to WorkWell™ Occupational Health Clinic. In addition, authorization is hereby given to this treating facility to perform any and all tests or procedures relative to my injury/illness or physical examination as deemed necessary by the attending physician and/or employer. Should this visit be found unrelated to my work and not part of a worker's compensation claim, I will not hold WorkWell™ Occupational Health Clinic or St. Francis Health System liable for the release of these records. If this injury is determined to not be work-related, I understand that I will be responsible for my bill.

Employee's Signature: Marion E. Aggarwal

Date: 7/17/03

Vital Signs: BP: 122/70 P: 80 T: 98.1°F
Chief Complaint: (where, what, when, how) Right Arm/Hand Pain

Treatment: Exam

Diagnosis: (2) Cervical radiculopathy

Medication Given: Aspirin DS #20. Skelaxin 800mg #24.

Prescription? ☒ Yes ☐ No

X-Ray

Yes ☐ No ☐ Interpretation:

Disposition:

☒ Work Related ☐ Non-Work Related ☐ Undecided

May return to work/physical activity without restrictions Date: 7-17-03 MMI:

May return to work/physical activity with the following restrictions: Date: 7-17-03

- ☐ No prolonged sitting/standing Amount of Time:
☐ No strenuous climbing, pulling or pushing Weight limit:
☐ Lifting limited to lbs with ☒ (L) arm (R) arm ☒ no lifting
☐ No/limited lifting at waist level - Specify weight if limited:
☐ No/limited repetitive use of: (L) hand/arm/leg (R) hand/arm/leg - Specify # repetitions/Time:
☐ Sedentary work only (0 - 10 lbs.)
☐ No significant physical activity without use of splint, crutches, brace, etc.
☐ No walking on rough terrain
☐ No/limited repetitive stooping, bending, squatting or twisting - Specify frequency per hour:
☐ No/limited overhead lifting - Specify weight if limited:
☐ No exposure to heights above ft.
☐ Environmental restrictions ☐ Yes ☒ No
Exposure requires limitation to heat cold dust chemicals vibrations
If yes, please explain:

☐ Keep dressing clean & dry

☐ Other: Massage with wife

4. Employee is unable to work until recheck date - 7/17/03 days week

5. Is employee restricted by medication and/or treatment that might affect his/her ability to drive? ☐ Yes ☒ No ability to operate machinery? ☐ Yes ☒ No

6. Estimated date of maximal medical improvement (MMI):

Scheduled appointments:

☒ Follow-up appointment at WorkWell™ Occupational Health Center

Date: 7-25-03 Time: 8:00 AM

☒ To Specialist:

Date: 7-25-03 Time: 8:00 AM

☒ To Physical Therapy: 3 times w/ wife Location: ST FRANCIS

Date: 7-25-03 Time: 8:00 AM

☒ Other:

☒ Test/Procedures ordered:

Date: Time:

Facility:

Name of Physician/Provider: Marion E. Aggarwal

Physician/Provider Signature: Marion E. Aggarwal

Instructions given by: Marion E. Aggarwal understand the instructions given to me:

Company called by: Forester Time:

Company Rep Name/Title: Forester

WHITE: WY
SFHS-665 WORKWELL OHS INJURY ASSESSMENT

PINK: EMPLOYEE
Revised 10/1/99

GOLDENROD: MEDICAL RECORDS
C: Injury Assessment Form with Blue Print

Copy: C30



ST. FRANCIS
WORKWELL OCCUPATIONAL HEALTH
131 Commonwealth Drive, Suite 200
Greenville, SC 29615
Phone: (864) 675-4800
Fax: (854) 675-4604

071703

KATIA E. HOGANA
WORKWELL
HAPPY

LT ARM/WRIST/SHOULDER 1/17/2003
2408694

Patient Notes

071703
muscle
relaxer
Pain med
Ant- inf.
States approx. 6 months ago experienced
(L) side neck pain, 1 month ago experienced
tingling pain down (L) arm. Was seen by
PMD diagnosed pinched nerve (cervical), Cervical
nerve (L) exist. C/O cervical pain, (L) side
neck pain radiating down (L) arm (L) exist
pain, difficulty sleeping 20 mins. Wrist splint
& activity.

Lyn Ferrell, PA

DJF

Vell-594 (10/02)

Bon Secours St. Francis Health System
WorkWell

Office Notes

DATE: 07/17/03
PATIENT: MCGAHA, Maria
CHART #: 2408694
INJURY DATE: Unclear, approximately 7 months ago
EMPLOYER: Honeywell

SUBJECTIVE: The patient comes in today because of pain in her left arm. She states that for about the last seven months she has had pain which started in her left neck and shoulder area and has progressed to where the pain has gone down into her left arm and she has occasionally has lightening type pains shooting down her arm and into the thumb and first two fingers of her left hand. She was seen by her primary care physician and was given three different medications, one of which was for pain, one for a muscle relaxer, and another unknown medication which she states did help some, but she continues to have pain. She states that it is worse after she works a long day and also sometimes keeps her up at night because of the pain. She denies any numbness or weakness in her arm. She states that movement of her neck from side to side and flexion and extension make the pain worse. She states that she uses both of her arms at work equally and she is right hand dominant. She went to her primary care physician today, who told her she had carpal tunnel syndrome and subsequently went to the company nurse and was referred here.

OBJECTIVE: She is a pleasant thin stature Hispanic female sitting in the examining chair with no acute distress. She has is pleasant and has a good command of the English language. Her gait is normal and she moves onto and off of the examining table without difficulty. HEENT: she is normal and cephalic. Eyes: PERL, EOM is intact. Sclerae are intact. Nose is normal. Mouth: mucous membranes are moist. Her throat is normal. Her neck is supple with no specific tenderness over the cervical, thoracic, or lumbar spinous processes. There is no obvious muscle spasm in the neck, but she is tender in the sternocleidomastoid muscle on the left as well as the trapezius more medially than distally. The left arm has normal strength and ROM. Sensation is intact. Capillary refill is brisk. Her fine motor function is normal and she has normal and equal strength in both of her hands. She has a negative Phalen's and Tinel's sign. Deep tendon reflexes are 2+ and equal in the upper and lower extremities.

ASSESSMENT: Probable left cervical radiculopathy, less likely carpal tunnel syndrome. I am unsure if this is directly related to work. She does not relate any specific incidents and the pain has been ongoing and progressive for the last seven months or so.

Bon Secours St. Francis Health System
WorkWell

Office Notes

DATE: 07/17/03
PATIENT: MCGAHA, Maria.
CHART #: 2408694
INJURY DATE: Unclear, approximately 7 months ago
EMPLOYER: Honeywell
PAGE TWO

PLAN:

We will place her on restricted duty with no use of her left arm. I have also given her prescriptions for Anaprox DS and Skelaxin. I gave her some Biofreeze to use for massage. I think maybe a course of physical therapy may be beneficial. The patient is motivated and does not want to be out of work, although she is having difficulty secondary to the pain, but she clearly states that she does not want to be placed out of work completely. I have discussed this with Mary Gilboy at Honeywell today. She should return here next week for further evaluation.

Lorette Mitchem, NP
Lorette Mitchem, NP
LM/pdm/mta


**BON SECOURS
ST. FRANCIS HEALTH SYSTEM**

WorkWell™ Occupational Health Center
St. Francis Women's & Family Hospital
131 Commonwealth Drive - Suite 200
Greenville, SC 29615
Phone: (864) 675-4800 Fax: (864) 675-4804

 Today's Date: 7/21/03

 Arrival Time: 12:28

 Time In: 12:33

 Time Out: 1:16
☐ Initial

☒ Re-check

 R. J. HOGAN
ST. FRANCIS
HOSPITAL

 07/21/03
15001508
2408694

Post-Accident UDS? (Check Company List) ☐ Yes ☐ No	Date of Injury: <u>7/21/03</u>	Time of Injury: <u>12:33</u>
Allergies: _____		
Current Job: _____		

Treatment Authorized by: _____ Title: _____ Date: _____

I hereby authorize the release of all medical information pertaining to this work related injury/illness to my employer, insurance company and referral physicians. Records from any medical provider involved in or relative to the diagnosis or treatment of this injury may be released to WorkWell™ Occupational Health Center. In addition, authorization is hereby given to this treating facility to perform any and all tests or procedures relative to my injury/illness or physical examination as deemed necessary by the attending physician and/or employee. Should this visit be found unrelated to my work and not part of a worker's compensation claim, I will not hold WorkWell™ Occupational Health Center of St. Francis Health System liable for the release of these records. If this injury is determined to not be work-related, I understand that I will be responsible for my bill.

 Employee's Signature: [Signature]

 Date: 7/21/03
Vital Signs:

BP: _____

 Chief Complaint: (where, what, when, how) Left (L) shoulder radiating pain
Treatment:
Exa
Diagnosis:
(L) cervical radiculopathy
Medication Given:
Conc Aspirin, Stelax

 Prescription? ☐ Yes ☐ No

X-Rays

 Yes ☐ No ☒
Interpretation:
Disposition:

1. ☒ Work Related ☐ Non-Work Related ☒ Undecided Date: 7-27-03 MMI _____
2. May return to work/physical activity without restrictions Date: _____
3. May return to work/physical activity with the following restrictions: Date: 7-27-03
 - ☐ No prolonged sitting/standing Amount of Time: _____
 - ☒ No strenuous climbing, pulling or pushing Weight limit: 5-10 lbs
 - ☒ Lifting limited to 5-10 lbs with (L) arm _____ (R) arm _____ ☐ no lifting
 - ☐ No/limited lifting at waist level - Specify weight if limited: _____
 - ☒ No/limited repetitive use of: (L) hand/arm/leg _____ (R) hand/arm/leg - Specify # repetitions/Time: 3-4x hr
 - ☐ Sedentary work only (0 - 10 lbs.)
 - ☐ No significant physical activity without use of splint, crutches, brace, etc. _____
 - ☐ No walking on rough terrain
 - ☐ No/limited repetitive stooping, bending, squatting or twisting - Specify frequency per hour: _____
 - ☒ No/limited overhead lifting - Specify weight if limited: _____
 - ☐ No exposure to heights above _____ ft.
 - ☐ Environmental restrictions ☐ Yes ☐ No
 - Exposure requires limitation to _____ heat _____ cold _____ dust _____ chemicals _____ vibrations
 - If yes, please explain: _____
 - ☐ Keep dressing clean & dry
 - ☒ Other: heat to neck & shoulder 3x hr
4. Employee is unable to work until recheck date - _____ days _____ week
5. Is employee restricted by medication and/or treatment that might affect his/her ability to drive? ☐ Yes ☐ No ability to operate machinery? ☐ Yes ☐ No
6. Estimated date of maximal medical improvement (MMI): Re 2 wks

Scheduled appointments:

- ☒ Follow-up appointment at WorkWell™ Occupational Health Center Date: _____ Time: _____
- ☒ To Specialist Dr. Anderson Date: _____ Time: _____
- ☒ To Physical Therapy Dr. Anderson Location: _____ Date: _____ Time: _____
- ☒ Other: _____ Date: _____ Time: _____ Facility: _____
- ☒ Test/Procedures ordered: _____ Date: _____ Time: _____

 Name of Physician/Provider: Kimberly W. Tolbert

 Physician/Provider Signature: [Signature]

 Instructions given by: [Signature]

 I understand the instructions given to me: [Signature]

Signature of Patient

Company called by: _____

Time: _____

Company Rep Name/Title: _____

 WHITE: WWM YELLOW: EMPLOYER
SF43-505 WORKWELL OHS INJURY ASSESSMENT

 PINK: EMPLOYEE
Revised 10/1/00

 GOLDENROD: MEDICAL RECORDS
C: Injury Assessment Form with Blue Plate

Copy: CBO



**ST. FRANCIS
WORKWELL OCCUPATIONAL HEALTH**
Don Gordon MD/SCCH System
131 Commonwealth Drive, Suite 200
Greenville, SC 29615
Phone: (864) 675-4600
Fax: (864) 675-4604

MARIA E. M. HA
HONEYWELL
MARY

F 07/17/2003
IST/SHOULDER
2408694

Patient Notes

7.21.03

Recheck W arm wrist + shoulder -
Pt states her arm is not getting
any better - Pt states she still has
pain. Asstg
S: as above c/o waving pain (L) side of
neck radiating to (L) shoulder & upper arm
c/o fatigue. Fatig more as directed
having trouble w restrictions at work
D: Neck feels full Rom lungs CTA
HARD MAs. 8 deformities or abnormal X's
good pulses & femoral. grip & strength
Normal brisk cap refill Non tender
A/P Cervical radiculopathy approx D5.
Relaxer Pt referral Ref 2 w/o.
Nikky W. Tolson MD.

WorkWell-594 (10/02)

Bon Secours St. Francis Health System
WorkWell

Office Notes

DATE: 08/01/03
PATIENT: MCGAHA, Maria
CHART #: 2408694
EMPLOYER: Honeywell

SUBJECTIVE:

Ms. McGaha presents today for re-check of some radicular neck pain status post MRI for MRI review without any change in her symptoms. She does have still pain from the neck that radiates down into the arm. It does appear to be questionably worse with use of the arm. Also worse with neck turning. The patient's history is reviewed with her today, apparently symptoms have been going on for about seven months with an insidious onset. She does relate her symptoms questionably to some anterior lifting at work, but no acute injury or specific onset related to her occupation. Please see previous notes for details.

OBJECTIVE:

Hispanic female seated in no acute distress. MRI is reviewed with her and it is explained that this is without acute changes. She has significant degenerative changes at the C4 through C6-7 level with hypertrophic foraminal encroachment at the 5-6 and 6-7 level consistent with some chronic changes that would be consistent with her level of distribution. On exam today her symptoms of radicular pain are reproduced with neck flexion to the left as well as neck extension. There is a positive Spurling's maneuver for reproduction of symptoms down into the left arm and thumb and forefinger. Shoulder ROM is normal without reproduction of her symptoms as is elbow and wrist ROM. No palpable tenderness at the neck. There is some mild discomfort of a somewhat tight trapezius on the left.

ASSESSMENT:

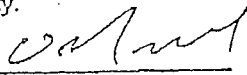
Radicular neck pain with chronic change and foraminal encroachment on MRI.

PLAN:

I recommended that she follow-up with a spine specialist and a referral would be made today by us to the Spine Clinic were this considered work related. She will discuss this with Mary out at Honeywell and they will help her coordinate an appropriate referral for follow-up and treatment.

RESTRICTIONS:

It is recommended that she limit her twisting and bending of the neck at work to no more than 5 to 10 times an hour. Limited lifting with that left arm to less than 5 lb for her comfort and safety.


Wes Merriwether, M.D.
WM/pdm/mta



BON SECOURS
ST. FRANCIS HEALTH SYSTEM

WorkWell™ Occupational Health Center
St. Francis Women's & Family Hospital
131 Community Health Drive - Suite 200
Greenville, SC 29615
Phone: (864) 675-4500 Fax: (864) 675-4804

Today's Date: 8.1.03
Arrival Time: 939
Time In: 945A
Time Out: 1015A
☐ Initial ☒ Re-check

NATIA E. HOGANA
NOCYRELL

8/1/2003
2405074

Post-Accident UDS? (Check Company List) ☐ Yes ☐ No Date of Injury: 1/1 Time of Injury: 1/1
Allergies: NKA Home Phone:
Current Job:

Treatment Authorized by: Title: Date:

I hereby authorize the release of all medical information pertaining to this work related injury/illness to my employer, insurance company and referral physicians. Records from any medical provider involved in or relative to the diagnosis or treatment of this injury may be released to WorkWell™ Occupational Health Clinic. In addition, authorization is hereby given to this treating facility to perform any and all tests or procedures relative to my injury/illness or physical examination as deemed necessary by the attending physician and/or employer. Should this visit be found unrelated to my work and not part of a worker's compensation claim, I will not hold WorkWell™ Occupational Health Clinic or St. Francis Health System liable for the release of those records. If this injury is determined to not be work-related, I understand that I will be responsible for my bill.

Employee's Signature: mbu Date: 8.1.03

Vital Signs: BP: 102/64 P: 80 T:
Chief Complaint: (where, what, when, how)

Treatment: REFERR

Diagnosis: CERVICAL RADICULOPATHY

Medication Given: 0

Prescription? ☐ Yes ☒ No

X-Rays

Yes ☐ No ☒ Interpretation:

Disposition:

1. Work Related ☒ Non-Work Related ☐ Undecided ☐ Date: MMI:
2. May return to work/physical activity without restrictions
3. May return to work/physical activity with the following restrictions: Date:
 - ☐ No prolonged sitting/standing Amount of Time:
 - ☐ No strenuous climbing, pulling or pushing Weight limit: 15-20 lb
 - ☐ Lifting limited to 5 lbs with (L) arm (R) arm ☐ no lifting
 - ☐ No/limited lifting at waist level - Specify weight if limited:
 - ☐ No/limited repetitive use of: (L) hand/arm/leg (R) hand/arm/leg - Specify # repetitions/Time:
 - ☐ Sedentary work only (0 - 10 lbs.)
 - ☐ No significant physical activity without use of splint, crutches, brace, etc.
 - ☐ No walking on rough terrain
 - ☒ No/limited repetitive stooping, bending, squatting or twisting - Specify frequency per hour: OF ARK 5-10 Y/1 hr
 - ☐ No/limited overhead lifting - Specify weight if limited:
 - ☐ No exposure to heights above ft.
 - ☐ Environmental restrictions ☐ Yes ☐ No
 - Exposure requires limitation to heat cold dust chemicals vibrations
 - If yes, please explain:
 - ☐ Keep dressing clean & dry
 - ☐ Other
4. Employee is unable to work until recheck date - days week
5. Is employee restricted by medication and/or treatment that might affect his/her ability to drive? ☐ Yes ☐ No ability to operate machinery? ☐ Yes ☐ No
6. Estimated date of maximal medical improvement (MMI):

Scheduled appointments:

✓ Follow-up appointment at WorkWell™ Occupational Health Center Date: Time:
✓ To Specialist: DR. JAMES C. CUNY Date: 8/1/03 Time:
✓ To Physical Therapy: Location: Date: Time:
✓ Other: Date: Time: Facility:
✓ Test/Procedures ordered: Date: Time:

Name of Physician/Provider: MCAT

Physician/Provider Signature:

Instructions given by: DUPUIS, D understand the instructions given to me:

Company called by: NOV

Time:

Company Rep Name/Title: DR. JAMES C. CUNY

WHITE: WVA
5719-585 WORKWELL OHS INJURY ASSESSMENT

YELLOW: EMPLOYER

PINK: EMPLOYEE

Revised 10/1/00

GOLDENROD: MEDICAL RECORDS
C-Injury Assessment Form with Blue Print

Copy: CEO

FILE JACKET COPY

7:59 07/29/2003 COPY

JL 8/2/03

ST. FRANCIS HOSPITAL
One St. Francis Drive
Greenville, SC 29601

MRI REPORT

PATIENT NAME: MCGAHA, MARIA EMMA
LOCATION: XR

TECHNOLOGIST:

SEX: F

MR:

AGE: 62Y

ORDER: 6105421

ORDERING: WESLEY MERRIWETHER, M.D.

ACCT: 4565104

RADIOLOGIST: ROBERT J. BALOTIN, M.D.

PT TYPE: O

PT DOB:

CERVICAL SPINE MRI 07/28/03

HISTORY: Cervical radiculopathy. Left arm weakness and numbness and pain.

There are no radiographs for comparison.

Cervical MRI consists of axial and sagittal sequences obtained without Gadolinium administration. The vertebral body height and intervertebral disc space height is preserved at all levels. The craniocervical junction relationships are unremarkable. There are some mild degenerative disc type changes. Hypertrophic vertebral spurring and change is present particularly in the uncovertebral joint region of C5-6 and also seen at C6-7. These findings likely contribute to some component of moderate foraminal encroachment. No significant central stenosis is seen at any level. There is slightly greater effacement of the surrounding CSF at the C5-6 level and at other levels likely due to some hypertrophic spurring and broad-based disc bulge is likely present at both the 5-6 and C6 levels matching the vertebral hypertrophic changes.

IMPRESSION: SOME DEGENERATIVE DISC DISEASE MOST PROMINENT AT THE C4-5 THROUGH THE C6-7 LEVEL. HYPERTROPHIC FORAMINAL ENCROACHMENT IS SUGGESTED AT LEAST THE 5-6 LEVEL AND LESS SO AT THE 6-7 LEVEL.

THIS DOCUMENT HAS BEEN REVIEWED AND ELECTRONICALLY SIGNED
BY ROBERT J. BALOTIN, M.D. ON 07/29/2003.

ROBERT J. BALOTIN, M.D.

\: t1s /: 92229
ID: 000820978

DD: 07/28/2003

DT: 07/29/2003 0735

W

MRI-CERVICAL SPINE - 72141
Page 1 of 2

NO 779

SSHSI RADIOLOGY FILE

JUL 29 2003 10:08AM

22:31 12/19/2003 C O P Y

ST. FRANCIS HOSPITAL
One St. Francis Drive
Greenville, SC 29601

COMPUTED TOMOGRAPHY REPORT

PATIENT NAME:	MCGAHA, MARIA EMMA	MR:	
LOCATION:	MI	SEX:	F
TECHNOLOGIST:		AGE:	63Y
ORDERING:	MICHAEL N. BUCCI, MD 103	ACCT:	6311852
RADIOLOGIST:	WILLIAM WOODARD, M.D.	PT TYPE:	O
		PT DOB:	

CT OF THE CERVICAL SPINE 12/18/03

HISTORY: C6-7 left-sided radiculopathy.

COMPARISON: Myelogram performed the same day.

TECHNIQUE: 1.2mm axial images are obtained through the cervical spine following the performance of a myelogram. Sagittal and coronal reconstructions are performed.

FINDINGS: Vacuum disc phenomenon is seen at C5-6. Mild bilateral uncovertebral spurring is seen at C3-4 which causes no stenosis. At C4-5 there is left-sided mild uncovertebral spurring which causes no stenosis. There is suggestion of very mild spondylolisthesis anteriorly of C4 on C5. Flexion and extension plain films may be beneficial to evaluate for instability at this area. No central canal or neural foraminal stenosis is seen at this level.

At C5-6 there is mild bilateral uncovertebral spurring which is greatest on the left where there is mild neural foraminal stenosis. There is minimal encroachment upon the central canal without cord contact. No disc herniation is seen.

At C6-7 no abnormalities are seen. No cord enlargement is seen.



ST. FRANCIS HOSPITAL

NAME: MCGAHA, MARIA EMMA

MR:

ORDER: 6311852

LOCATION: MI

ACCT: 4591076

IMPRESSION: THERE IS SUGGESTION OF MILD ANTEROLISTHESIS OF C4 ON C5. THIS MAY BE POSITIONAL BUT FOLLOW UP FLEXION/EXTENSION LATERAL VIEWS OF THE CERVICAL SPINE ARE RECOMMENDED TO EVALUATE FOR INSTABILITY IN THIS AREA. MILD UNCOVERTEBRAL SPURRING AT C5-6 CAUSES MILD CENTRAL CANAL AND LEFT NEURAL FORAMINAL NARROWING.

THIS DOCUMENT HAS BEEN REVIEWED AND ELECTRONICALLY SIGNED
BY WILLIAM WOODARD, M.D. ON 12/18/2003.

WILLIAM WOODARD, M.D.

\: t1s

/: 92232

DD: 12/18/2003

ID: 000874327

DT: 12/18/2003

1256

fx: MICHAEL N. BUCCI, MD 103 (14321)

>

22:32 12/19/2003 C O P Y

ST. FRANCIS HOSPITAL
One St. Francis Drive
Greenville, SC 29601

DIAGNOSTIC IMAGING REPORT

PATIENT NAME: MCGAHA, MARIA EMMA
LOCATION: MI
TECHNOLOGIST:
ORDERING: MICHAEL N. BUCCI, MD 103
RADIOLOGIST: WILLIAM WOODARD, M.D.

SEX: F
AGE: 63Y

MR:
ORDER: 6311793
ACCT: 4591076
PT TYPE: O
PT DOB:

CERVICAL MYELOGRAM 12/18/03

HISTORY: Left C6-7 radiculopathy.

COMPARISON: None available.

TECHNIQUE: Following informed consent the patient was placed prone in the Fluoroscopic Suite. The L3-4 level is localized using fluoroscopy and the patient is prepped and draped in a sterile fashion. A 22 gauge spinal needle is then placed into the thecal sac with return of clear CSF. 15cc of Isovue 300m contrast is then injected intrathecally.

The patient was then placed with the cervical region dependently and images are obtained with a fluoroscopic tower with additional crosstable lateral films obtained of the cervical region at the end of the study. The patient tolerated the procedure well.

FINDINGS: At C5-6 there is mild uncovertebral spurring which causes mild central canal narrowing without cord contact. No nerve root sheath truncation is seen. The patient is transported to CT scan for CT evaluation.

IMPRESSION: MILD UNCOVERTEBRAL SPURRING AT C5-6 CAUSES MILD CENTRAL CANAL ENCROACHMENT.

THIS DOCUMENT HAS BEEN REVIEWED AND ELECTRONICALLY SIGNED
BY WILLIAM WOODARD, M.D. ON 12/18/2003.

WILLIAM WOODARD, M.D.

\: tls /: 92232
ID: 000874324

DD: 12/18/2003
DT: 12/18/2003 1253

C G Y

ST. FRANCIS HOSPITAL
One St. Francis Drive
Greenville, SC 29601

DIAGNOSTIC IMAGING REPORT

PATIENT NAME: MCGAHA, MARIA
LOCATION: OX
TECHNOLOGIST:
ORDERING: MICHAEL N. BUCCI, MD 103
RADIOLOGIST: MALCOLM CORLEY, MD
MR:
ORDER: 6327066
ACCT: 4593091
PT TYPE: O
PT DOB:

CERVICAL SPINE 12-29-03

HISTORY: Radiculopathy.

Ten views of the cervical spine reveal straightening of the usual lordotic curvature. There is disc space narrowing at C3-4 and C5-6. There is some minimal degenerative retrolisthesis of C5 on C6. No acute bony abnormality is seen. The C5 on C6 retrolisthesis is minimally exaggerated with extension.

IMPRESSION: NO ACUTE BONY ABNORMALITY IS SEEN. DEGENERATIVE CHANGES AS NOTED ABOVE WITH DISC SPACE NARROWING AT C3-4 AND C5-6. THERE IS MINIMAL RETROLISTHESIS OF C5 ON C6 WHICH IS SLIGHTLY ACCENTUATED DURING EXTENSION.

THE OBLIQUE VIEWS SHOW BILATERAL FORAMINAL ENCROACHMENT AT C3-4 AND C5-6.

THIS DOCUMENT HAS BEEN REVIEWED AND ELECTRONICALLY SIGNED
BY MALCOLM CORLEY, MD ON 12/29/2003.

MALCOLM CORLEY, MD

\: ldw
ID: 000877425

/: 92192

DD: 12/29/2003
DT: 12/29/2003

1631

fx: MICHAEL N. BUCCI, MD 103 (14321)

SPINE, CERV W/FLEX EXT - 72052
Page 1 of 1

JAN. 21. 2004 9:31AM

ST. FRANCIS WOMEN'S & FAMILY HOSPITAL

9:25 01/21/2004 C O P Y

ST. FRANCIS WOMEN'S & FAMILY HOSPITAL
125 COMMONWEALTH DRIVE
GREENVILLE, S.C. 29615

WH MRI REPORT

PATIENT NAME: MCGAHA, MARIA

LOCATION: MR

TECHNOLOGIST:

ORDERING: MICHAEL N. BUCCI, MD 103

RADIOLOGIST: TERENCE M. CLARK, M.D.

SEX: F

AGE: 63Y

MR:

ORDER: 1149281

ACCT: 2436936

PT TYPE: O

PT DOB

MRI OF THE LEFT SHOULDER 01/07/04

HISTORY: Left shoulder and neck pain.

Multiplanar imaging of the left shoulder was carried out.

The bone marrow signal about the bony elements of the left shoulder is normal. The adjacent musculature is unremarkable. Morphologically the rotator cuff is intact. There is slightly increased signal within the distal supraspinatus tendon consistent with mild tendinosis. There was slight to moderate bony overgrowth at the AC joint. This is likely producing at least mild impingement. There was no unusual fluid within the subacromial/subdeltoid bursa. The biceps tendon is in its expected location. The bony glenoid and the glenoid labra are intact.

IMPRESSION: MRI OF THE LEFT SHOULDER DEMONSTRATES FINDINGS CONSISTENT WITH MILD IMPINGEMENT/TENDONOSIS. (NO EVIDENCE OF A ROTATOR CUFF TEAR. THE BONY GLENOID AND THE GLENOID LABRA ARE INTACT.

THIS DOCUMENT HAS BEEN REVIEWED AND ELECTRONICALLY SIGNED
BY TERENCE M. CLARK, M.D. ON 01/07/2004.

TERENCE M. CLARK, M.D.

\: t1s

/: 92185

ED: 01/07/2004

ED: 000880512

DT: 01/07/2004

1204

ix: MICHAEL N. BUCCI, MD 103 (14321)

>

MRI - LEFT UPPER EXTREM - 73220

Page 1 of 1

Piedmont
Neurosurgical
Group, P.A.

109 Montgomery Drive
Anderson, S.C. 29621
Telephone 864-224-5700

Michael N. Bucci, M.D., F.A.C.S.
Aaron C. MacDonald, M.D., F.A.C.S.
Christie B. Mina, M.D.

3 St. Francis Dr. Suite 330
Greenville, SC 29601
Telephone: 864-220-4263

November 4, 2003

Dr. Jack Brunson
398 The Parkway
Greer, SC 29650

RE: McGaha, Maria

Dear Dr. Brunson,

I had the pleasure of examining Maria MaGaha in the office today. As you will recall, she is a 62 year old right handed Hispanic female with left upper extremity numbness and pain beginning in January 2003 and worsening in May and June 2003. EMG testing by Dr. Kistler in August 2003 was negative. MRI scanning of the cervical spine in July 2003 did show some cervical spondylosis without significant spinal stenosis or disc herniation.

She has not had any physical therapy or epidural steroid injections to date.

Allergies are none. Mediations are Vioxx, Metaxalone and Hydrocodone. Past history is unremarkable, except for previous arthritis and knee surgery. Family history is positive for CVA secondary to brain aneurysm. Social history reveals she is a nonsmoker, nondrinker and she works at Honeywell Engines. Review of systems is negative for incontinence.

Exam reveals a well developed, well nourished Hispanic lady in no significant distress. She does not have a Horner's syndrome, she does not have scapular winging and bulk and tone are symmetric and normal. Lhermitte's sign is negative. Motor strength is 5/5, although she has some diffuse giveway weakness in the left upper extremity when compared to the right. This does not conform to a specific dermatome. Sensory exam is normal. Reflexes are 1-2+. No pathological reflexes are present.

Examination of her axillary regions reveal no masses and no lymphadenopathy.

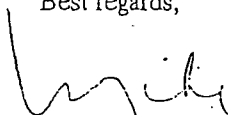
A complete history, review of systems and physical examination is documented within the patient's chart.

It is my impression that Ms. McGaha has left upper extremity pain and weakness; however, her EMG was negative and her MRI scan is nonsurgical.

Page two
McGaha, Maria

At the present time I do not feel that cervical spine surgery is indicated. I have made arrangements for her to undergo outpatient physical therapy for the next several weeks, and I will see her back in follow up. If she fails to improve, consideration will be given to epidural injections and/or pain management. Thank you for referring this lady.

Best regards,

A handwritten signature in dark ink, appearing to read 'M. Bucci', with a stylized flourish at the end.

Michael N. Bucci, M.D., F.A.C.S.

MNB/asc

Piedmont
Neurosurgical
Group, P.A.

109 Montgomery Drive
Anderson, S.C. 29621
Telephone 864-224-5700

Michael N. Bucci, M.D., F.A.C.S.
Aaron C. MacDonald, M.D.
Carol P. Geer, M.D.
Christie B. Mina, M.D.

3 St. Francis Dr.
Suite 330
Greenville, SC 29601
Telephone: 864-220-4263

LEAVE OF ABSENCE CERTIFICATION

Maria McGaha was seen in my office today for evaluation of C-DDD
(Pt. Name) (Diagnosis)

The patient will be unable to perform the duties of his/her occupation from 11-04-03
to 12-17-03 inclusive. An appointment for evaluation, reassessment has been scheduled
for the patient with Dr. Bucci/Dr. MacDonald/Dr. Geer/Dr. Mina on 12-16-, 2003 at

4:15 AM/PM and the status of occupational abilities will be reviewed at that time.

Michael N. Bucci, M.D.
(Signature)

Michael N. Bucci, M.D., F.A.C.S.
Aaron C. MacDonald, M.D.
Carol P. Geer, M.D.
Christie B. Mina, M.D.
2/2003

11-05-03
Date

OFFICE NOTE
MCGAHA, MARIA
DECEMBER 16, 2003

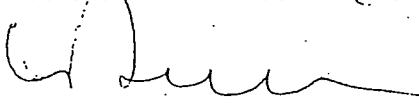
Ms. McGaha returns today and unfortunately physical therapy was not helpful. She still has pain in the region of the left shoulder traveling approximately to the left upper extremity.

On exam, she has 4/5 weakness in her left shoulder internal rotators. She has giveway weakness in the left upper extremity proximally.

IMPRESSION: PERSISTENT LEFT UPPER EXTREMITY WEAKNESS AND PAIN ?
ETIOLOGY RULE OUT PRIMARY SHOULDER PATHOLOGY, RULE OUT HNP.

RECOMMENDATIONS: EMG TESTING LEFT LOWER EXTREMITY WAS
NEGATIVE AND MRI SCANS OF THE CERVICAL SPINE WERE NEGATIVE FOR
DISC HERNIATION AND SPINAL STENOSIS.

I HAVE THEREFORE MADE ARRANGEMENTS FOR HER TO UNDERGO LEFT
SHOULDER MRI SCANS TO RULE OUT ROTATOR CUFF TEAR AND I WILL
ALSO OBTAIN A CT MYELOGRAM OF THE CERVICAL SPINE TO RULE OUT A
LEFT SIDED HERNIATED DISC AND I WILL SEE THE PATIENT BACK IN
FOLLOW UP. WE WILL MAKE FINAL DISPOSITION AT THAT TIME
REGARDING HER SUBSEQUENT CARE.



Michael N. Bucci, M.D., F.A.C.S.

MNB/asc

Cc: Dr. Jack Brunson

Piedmont
Neurosurgical
Group, P.A.

109 Montgomery Drive
Anderson, S.C. 29621
Telephone 864-224-5700

Michael N. Bucci, M.D., F.A.C.S.
Aaron C. MacDonald, M.D.
Carol P. Geer, M.D.
Christie B. Mina, M.D.

3 St. Francis Dr.
Suite 330
Greenville, SC 29601
Telephone: 864-220-4263

LEAVE OF ABSENCE CERTIFICATION

Maria McCaha was seen in my office today for evaluation of corneal, arm
(Pl Name) (Diagnosis) shoulder pain

The patient will be unable to perform the duties of his/her occupation from 12-16-03
to 12-31-03 inclusive. An appointment for evaluation/reassessment has been scheduled
for the patient with Dr. Bucci/Dr. MacDonald/Dr. Geer/Dr. Mina on 12/30/03, 2003 at
3:15 AM/PM and the status of occupational abilities will be reviewed at that time.

Dr. Michael N. Bucci, M.D.
Michael N. Bucci, M.D., F.A.C.S.
Aaron C. MacDonald, M.D.
Carol P. Geer, M.D.
Christie B. Mina, M.D.
2/2003

12-16-03
Date

OFFICE NOTE
MCGAHA, MARIA
DECEMBER 30, 2003

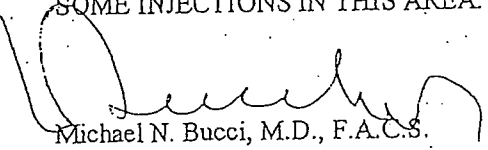
Flexion and extension cervical spine X-rays show no gross instability whatsoever. There is some mild ulcal vertebra spurring. CT myelography again shows some spurring at C5-6; however, no spinal stenosis is noted, no spinal cord compression or significant nerve root compression. All the nerve roots fill out well.

Her MRI scan of the left shoulder was ordered, but not authorized until the results of her CT myelogram.

IMPRESSION: LEFT UPPER EXTREMITY PAIN ? ETIOLOGY.

RECOMMENDATIONS: SHE DOES NOT HAVE A HORNER'S SYNDROME, DOES NOT HAVE ANY AXILLARY LYMPHADENOPATHY, AND THE EMG TEST BY DR. KISTLER IN AUGUST WAS NORMAL. FURTHERMORE, HER CT MYELOGRAM DOES NOT SHOW ANY COMPRESSIVE LESIONS.

I DO FEEL THAT AN MRI SCAN OF THE SHOULDER IS INDICATED AND WE WILL TRY TO MAKE THESE ARRANGEMENTS AGAIN TODAY AND INSIST THAT THE INSURANCE COMPANIES APPROVE THIS. I WILL ALSO MAKE A REFERRAL TO UPSTATE MEDICAL REHAB FOR THEIR ASSISTANCE WITH HER MANAGEMENT, AS I DO NOT FEEL THAT NEUROSURGICAL INTERVENTION IS INDICATED AND FURTHERMORE THE PHYSICAL THERAPY TO DATE HAS NOT BEEN HELPFUL. SHE MIGHT BENEFIT FROM SOME INJECTIONS IN THIS AREA.


Michael N. Bucci, M.D., F.A.C.S.

MNB/asc

Cc: Dr. Jack Brunson
Upstate Rehab

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LEAVE OF ABSENCE CERTIFICATION

Maria McLeod was seen in my office today for evaluation of Cervical strain
(Pt. Name) (Diagnosis)
shoulder pain

The patient will be unable to perform the duties of his/her occupation from 12-30-03
to 1-14-04 inclusive. An appointment for evaluation/reassessment has been scheduled
for the patient with Dr. Bucci/Dr. MacDonald/Dr. Geer/Dr. Mina on 1-13-04, 2003 at

3:15 AM/PM and the status of occupational abilities will be reviewed at that time

Dr. Michael N. Bucci, M.D.
Michael N. Bucci, M.D., F.A.C.S.
Aaron C. MacDonald, M.D.
Carol P. Geer, M.D.
Christie B. Mina, M.D.
2/2003

12-30-03
Date

pt scheduled for shoulder MRI
1/7/04 9:20 ST Francis Womens

UPSTATE MEDICAL REHABILITATION

1003 Grove Road, Suite E
Greenville, SC 29605
(864) 232-8417

David L. Shallcross, M.D.

Robert E. LeBlond, M.D.

Tamara Fatianov, M.D.

Alan R. Hippensteal, M.D.

Clifford A. Mondá, DO

NEW CONSULTATION

MCGAHA, MARIA

REFERRING PHYSICIAN: Michael Bucci, M.D.

CHIEF COMPLAINT: Left sided neck, shoulder and arm pain.

HISTORY OF PRESENT ILLNESS: The patient is a 63-year-old female who states that she began having pain approximately eight months ago. She felt that this was secondary to her work at Honeywell using a buffing machine. She has been out of work now six months. She describes left sided neck, shoulder and arm pain, from her mid biceps down. She has cramps and this is now slowly moving up she feels. She also describes left sided shoulder pain as well as some weakness to her left upper extremity. She does have some tingling sensation as well as some numbness in her forearm and hand. She has had physical therapy for five weeks and she has not had chiropractic treatment. She had taken Lortab 7.5/500 three to four times a day as well as Skelaxin b.i.d. which appears to help. She also takes Tylenol P.M. for sleep. She states that she needs to go back to work by February 4th or she may lose her job.

PAST MEDICAL HISTORY: She denies any problems.

ALLERGIES: No known drug allergies.

MEDICATION: Lortab and Skelaxin.

SOCIAL HISTORY: She is married and lives with her husband. She has worked at Honeywell for the last six years.

FAMILY HISTORY: Noncontributory.

REVIEW OF SYSTEMS: The patient denies any chest pain, shortness of breath, nausea, vomiting or diarrhea. She denies any other joint involvement. There is no bowel or bladder incontinence. She does not have any falls or loss of balance. All other review of systems are negative.

(continued next page)

MCGAHA, MARIA

01/13/04

Page -3-

PHYSICAL EXAM: Blood pressure: 124/80. Weight: 146. In general she is alert and oriented times three in no acute distress. Heart is regular rate and rhythm. Abdomen is soft, nontender, nondistended. Extremities show no distal edema. There are no signs of depression on today's exam. Her bilateral shoulder musculature and cervical paraspinals shows no sign of atrophy. There are no asymmetrical differences noted. She has good ROM in her cervical spine, shoulders and bilateral upper extremities. There is some slight weakness in her left upper extremity throughout compared to her right. Her sensation is intact bilaterally. Deep tendon reflexes are equal bilaterally. She has a negative apprehension sign. Negative impingement sign. There is some noted weakness on her external rotators of her left shoulder. She does have some weakness on empty can test on the left compared to right.

RADIOLOGICAL REVIEW: There is a cervical myelogram from December 18, 2003 which showed some mild uncovertebral spurring at C5/6 causing mild central canal encroachment and left neuroforaminal narrowing. There is also some suggestion of mild anterolisthesis on C4 and C5. There is a MRI of her left shoulder. Results are not available today.

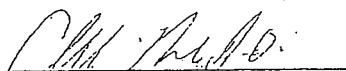
ASSESSMENT:

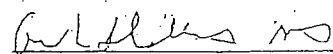
1. Left shoulder pain with questionable rotator cuff tear, awaiting MRI results.
2. Cervical spine pain with some mild uncovertebral spurring at C5/6 causing mild central canal stenosis and left neuroforaminal narrowing.

PLAN:

1. Refilled her Lortab 5/500 one p.o. q.i.d. #120 with no refills, Zanaflex 1 mg p.o. q.a.m., noon and two q.h.s. #120.
2. Proceeded today with a left shoulder joint injection.
3. We are awaiting MRI results and see her back in three weeks for continued evaluation.

PROCEDURE DESCRIPTION: Risks and benefits were explained including bleeding, injection site pain, infection and allergic reaction to medications. The patient understood and proceeded. The patient's left shoulder was cleansed in a sterile fashion. A 22-gauge 1½-inch needle was used to inject a total of 10 cc consisting of 1 cc 40 mg Depo-Medrol and 9 cc of 1% lidocaine. The patient tolerated the procedure well. She did notice some relief of her shoulder pain with the injection.


Clifford A. Monda, DO for
CAM/mbm
T: 01/15/04


David L. Shallcross, M.D.
DLS/mbm

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Upstate Medical Rehabilitation
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PHONE: (864) 232-8417

David L. Shallcross, MD • Robert E. LeBlond, MD • Tamara I. Fatianov, MD
Alan R. Hippensteal, MD • Clifford Monda, DO
D. Goldsmith, PA-C • W. Ngai, PA-C • D. Patel, PA-C

NAME Priscilla McGowan AGE 44
DATE 11/13/04
ADDRESS 1111 1st St. Ditch

pt to be on light Diet,
no lifting, pulling, pushing
Anything greater than 10 pounds

☐ REFILL _____ TIMES
☐ LABEL

DISPENSE AS WRITTEN _____ M.D.

[Signature] M.D.
SUBSTITUTION PERMITTED

WILLIAM B. EVINS, M.D.
 WILLIAM E. MANNING, M.D.
 RICHARD G. TAYLOR, JR., M.D.
 JOHN P. EVANS, M.D.
 BRIAN G. BURDICK, M.D.
 STEPHEN P. GEARY, M.D.
 STEFAN J. TOLAN, M.D.
 J. TOM ANDERSON, M.D.
 STEFAN J. TOLAN, M.D.
 J. TOM ANDERSON, M.D.

F. MICHAEL DESPEAUX
 Clinic Administrator

OAKWOOD ORTHOPAEDIC CLINIC

13 EDGEWOOD DRIVE
 GREENVILLE, S.C. 29605
 TELEPHONE (864) 271-6060
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WOODRUFF RD. OFFICE
 2078 - A WOODRUFF ROAD
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 (864) 297-4004
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 4200 E. NORTH ST., SUITE 12
 GREENVILLE, S.C. 29615
 (864) 292-6645
 Fax (864) 292-6906

ORTHOPAEDIC SURGERY
 ARTHROSCOPIC SURGERY
 RHEUMATOID SURGERY
 FOOT & ANKLE SURGERY
 SPORTS MEDICINE

RE: McGAHA, Maria
 AGE:
 ADDRESS:

SS#

Chief complaint: "Left shoulder"

HISTORY: 21 January 2004

Ms. McGaha is 63 years old. She is seen on consultation from Dr. Michael Bucci in regard to her left non-dominant shoulder. She's really had symptoms of her left shoulder anterolaterally for about ten months. She works at Honeywell and does do some pushing and pulling on metallic parts and machines and with buffing things. This has gradually worsened. She's had evaluation by Dr. Bucci including imaging of her neck and she was not found to have any radicular nor surgical pathology, but only some mild degenerative disc disease. Her MRI from 07/28/03 reveals some degenerative disc disease at C4-5 and C6-7. She's subsequently had imaging of her left shoulder for ongoing anterolateral pain. She had an MRI of her left shoulder on 01/07/04 revealing some mild impingement tendinosis, but no evidence of rotator cuff tearing. There was some hypertrophic AC arthrosis, but no osseous lesions. She did finally have an injection of her left shoulder by her primary care physician last week with some relief. She's here for my evaluation today.

PAST SURGICAL HISTORY: Negative
 PAST MEDICAL HISTORY: Negative
 CHRONIC ILLNESSES: None
 MEDICATIONS: None
 ALLERGIES: None
 REVIEW OF SYSTEMS: Negative
 FAMILY HISTORY: Negative
 SOCIAL HISTORY: She has no tobacco exposure.

Continued ...

OAKWOOD ORTHOPAEDIC CLINIC, P.A.

McGAHA, Maria

155970

Page 2 of 2

HISTORY: 21 January 2004 continued . . .

PHYSICAL EXAM: She is 5'3" tall and weighs 140 lbs. Exam reveals a middle-aged female. She is very pleasant and cordial to exam with an appropriate affect. She's in no acute distress. She has good rotation of her neck without much restriction and no significant pain at the extremes. Currently, she has a negative Spurling's bilaterally. Thoracolumbar spine is midline. Her shoulders are symmetric in appearance and level. There are no scars nor wounds. There is no parascapular atrophy. She has slight AC tenderness on the left, but more focal subacromial tenderness which is mild. She has well preserved motion of both shoulders with both getting full vertical elevation. External rotation is over 95 degrees in abduction, but with a mildly positive impingement sign on the left. However, she states she is much improved from last week after her injection. She has internal rotation to T9. She has an intact lift-off test bilaterally. There is no appreciable instability. She has good forward flexion, internal, and external rotation strength. She does have moderate subacromial crepitation. She has symmetric 2+ biceps and triceps reflexes and a full range of motion of both elbows and wrists. She has a good radial pulse. She has a negative impingement sign of the right shoulder.

X-RAYS: I've reviewed her studies and these reveal fair preservation of the cartilage space and moderate AC degenerative changes with her rotator cuff being intact.

IMPRESSION: 1. Left shoulder subacromial impingement with component of AC arthritis
2. Some cervical spondylosis without radiculopathy

PLAN: I've reviewed things with her and instructed her in progressing with a cuff and scapula strengthening program. I've reviewed such and the rationale and I'll assess her progress with this in one month.

Stephen P. Geary, M.D./sbr

cc: Michael N. Bucci, MD (3 St. Francis Drive, Suite 330, Greenville, SC 29601)
Jack Brunson, MD (398 The Parkway, Greer, SC 29650)

OAKWOOD ORTHOPAEDIC CLINIC, P.A.

McGAHA, Maria
DOB:

SS#: 155970

PROGRESS NOTE: 18 February 2004

Ms. McGaha is doing better with her neck. She's had recurrent symptoms in her left shoulder really focally anterior superiorly, pointing to her AC joint. She states her posterior symptoms in her trapezial region have improved. This remains worse with reaching across her body and laying on it, as well as aggravating her some in her work.

On exam today, she has fairly smooth rotation of her neck without much pain and with no appreciable mass nor spasm. There is no supraclavicular tenderness. She has focal tenderness of her left AC joint on the right and only slight subacromial tenderness on the left. Her shoulder motion is well preserved to fully vertical. External rotation is to 100 degrees. Internal rotation is to L1 with pain and she has pain with adduction crossover testing. No deformity of the biceps.

IMPRESSION: Left primary AC arthritis with component of subacromial impingement

PLAN: At this point, I think a selective injection of her AC joint by me would help in guiding things in terms of alleviation of her symptoms and hopefully eradicating them. Certainly if she has relief but only transiently and this fails, only then would this warrant consideration for decompression. I've sterilely injected the left AC joint with Depo-Medrol and Lidocaine with good initial relief in the office. I'll assess her progress with this over the next month.

Stephen P. Geary, M.D./sbr

cc: Michael N. Bucci, MD (3 St. Francis Drive, Suite 330, Greenville, SC 29601)
Jack Brunson, MD (398 The Parkway, Greer, SC 29650)

STATEMENT OF
STEPHEN GEARY, M.D.

RE: Maria E. McGaha
DATE OF BIRTH:
SOCIAL SECURITY NO.:
DATE OF ACCIDENT: 08-04-03

 ✓ YES Ms. McGaha's problems with her left shoulder
were caused and/or aggravated by her pushing
and pulling on metallic parts of machinery
and buffing at Honeywell.

 NO Ms. McGaha's problems with her left shoulder
were caused and/or aggravated by her pushing
and pulling on metallic parts of machinery
and buffing at Honeywell.

Stephen Geary, MD

Date 2/09/05

PIEDMONT PHYSICAL MEDICINE & REHABILITATION, P.A.

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317 St. Francis Drive • Suite 350 • Greenville, SC 29601-3988 • Tel: (864) 235-1834 • Fax: (864) 235-2486

Robert G. Schwartz, M.D.

NAME: MARIA MCGAHA

AGE: 65

HISTORY OF PRESENT ILLNESS:

1. WHERE DO YOU HURT? SHoolder

2. HOW WOULD YOU DESCRIBE THE PAIN (SHARP, SHOOTING, DULL, ACHY, CRAMPING, ETC.?)
SHARP

3. WHAT DATE DID SYMPTOMS START? (PAIN, WEAKNESS, NUMBNESS, FATIGUE, OTHER...)
JUNE 2003

4. WHAT CAUSED IT TO START? (CAR WRECK, WORK INJURY, SPORTS INJURY, DON'T KNOW, ETC.?)
Job - I am a welder; but I was not welding at the time of the injury. I was just standing by.

5. IF YOU WERE IN A CAR WRECK: (A) WERE YOU THE DRIVER OR PASSENGER? But can't recall

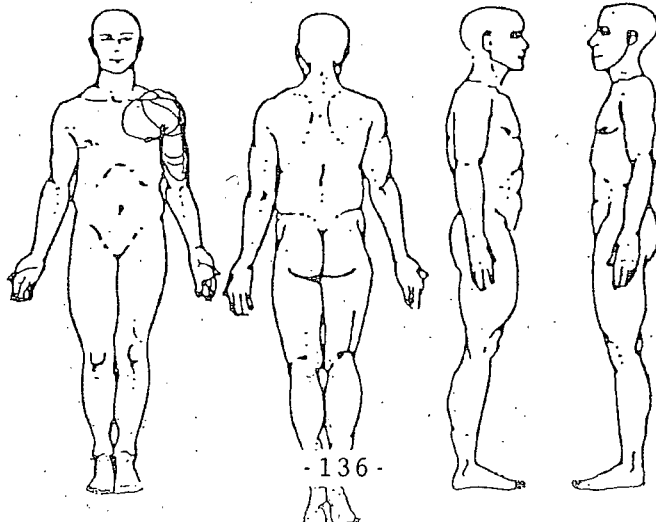
(B) DID YOU HAVE ON A SEATBELT? an seat

(C) HOW FAST WERE BOTH CARS TRAVELING? Don't know

(D) HOW MUCH VISIBLE DAMAGE WAS THERE TO YOUR CAR? That the wheel was bent

(E) WHAT DID IT COST TO FIX THE CAR? Not sure

6. PLEASE MARK ON THE DRAWINGS BELOW THE AREAS WHERE YOU FEEL PAIN.



OS

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Robert G. Schwartz, M.D.

McGAHA, MARIA

#4061

DATE: 2/22/05

Mrs. McGaha is a 64-year old female with a chief complaint of left shoulder pain that begins in the front of the shoulder and radiates into the proximal portion of the arm. Symptoms began in June of 2003. She does not recall a date or an event. She says it is related to do a finishing position that she performs at work. Apparently, she does finish blades for Honeywell. She does report that approximately one week before the incident, she felt like her wheel was "jumping". They replaced the wheel and eventually determined that the motor had to be replaced. She does not actually report that this is the source of her symptoms, but also says she knows of no other cause. She denies any weakness, but says her left shoulder is numb. She reports she has no prior history of these complaints, but was seen in this office in 1990 for neck pain that radiated into the RUE, in particular, the third through fourth fingers, including sternoclavicular syndrome and pectoral myofascial pain, after an MVA. Her problems were right-sided and not left-sided at that time. Medication seems to help. Using her arm makes it worse. She ranks her pain a 9/10. She was seen by Dr. Merriwether and he felt she may have cervical radiculopathy. An MRI was ordered and showed spondylosis at C4 through C7, with foraminal encroachment at C5 through C7. She was eventually referred to Dr. Bucci. He felt that her problems were non-surgical in nature after obtaining a CT and myelogram which only showed mild C4/5 anterolisthesis and C5/6 spurring. He also obtained a left shoulder MRI which showed mild supraspinatus tendinosis. She later saw Dr. Geary and he felt the same MRI revealed some associated left AC arthritis. She had at least two steroid injections into the shoulder. She says they helped for about four months. She also received an injection into the left shoulder by Dr. Monda. In addition, she was seen by Dr. Brunson, her PCP. As early as 2001, she was complaining of left-sided rib pain and, in June of 2003, Dr. Brunson notes that her symptoms seemed to progress to her neck, then her shoulder, and then involvement of the left hand. He thought she had carpal tunnel syndrome and/or cervical radiculitis. He reported as of June of 2003, her symptoms had been present for at least six months and progressive. An NCV for carpal tunnel syndrome was normal in August of 2003. She denies any history of infections, though the records suggest she has been on Levaquin frequently per her PCP. She has had multiple medications and physical therapy.

PMH: Reported negative; however, she did have right L5 radiculitis while under my care and she was maintained chronically on antidepressants by Mountain View Family Practice. In the eighties, she had left knee surgery in Florida by a Dr. Longenecker. She also has a history of esophagitis and hyperlipidemia. She is status post hysterectomy (not reported, but per record). Laboratories in January of 2003, including a CMP and CBC, were normal. She did have a mildly elevated TSH which does not appear to have been followed up upon at that time.

SH: She is married. She does not drink or smoke. She was employed at Honeywell as a prep finisher and last worked in September of 2003.

McGaha, Maria

Page 2

PE: Heart rate and regularity, respiratory rate, and weight are recorded on the physical assessment sheet in the chart. General appearance is within acceptable norms for nutrition and grooming. Orientation to person, time, and place is intact. Overt signs of depression, anxiety, or agitation are not present during today's examination.

Musculoskeletal examination of the head, neck, spine, ribs, pelvis, and bilateral upper extremities was performed. There are no abnormally palpable lymph nodes in the neck or groin. There are no rashes, ulcers, or abnormally palpable scars. There is no evidence of misalignment, asymmetry, crepitation, defects, tenderness, or effusions in the peripheral joints. Coordination for finger to nose, heel to shin, and rapid alternating movements is normal. Gait and station are normal. Peripheral pulses are intact. There is no evidence of ulceration or trophic change.

Reflexes are symmetric. Motor strength and tone are normal. Sensation is intact to pinprick. Phalen's and Spurling's are reportedly positive on left, with Tinel's negative. She has trigger points in the left infraspinatus and levator scapulae, with scalene spasm bilaterally as well as at C5/6, possibly left greater than right. She has a positive painful arc on left and is tender at the subacromial joint as well as AC joint.

IMP: Apparent subacromial and AC arthritis, with mild supraspinatus tendinitis and the presence of pre-existing cervical DDDZ. Possible left C5 nerve root irritation versus carpal tunnel syndrome (apparently carpal tunnel ruled out by physical exam).

PLAN: She has received significant improvement from subacromial injections in the past and I suspect she may have developed some shoulder degenerative change compensatory from her underlying cervical pre-existing problem. This has been going on long enough that it would be worthwhile to prove this further in one way or the other, however. I would like to assess her on EMG at this time to see if there is any evidence of radiculitis. Should it prove negative, we will likely request authorization for diagnostic ultrasound. Celebrex #30 written.

Thank you very much for the opportunity to be involved in the evaluation and treatment of this patient.

Robert G. Schwartz, MD/lo/pms

cc: ~~we~~ Mary Gilboy

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Robert G. Schwartz, M.D.

McGAHA, MARIA

#4061

DATE: 3/4/05

Diagnostic Musculoskeletal Ultrasonography

Musculoskeletal ultrasonography is a diagnostic procedure that utilizes reflections of sound waves (echoes) to generate an image of the area studied. B-mode imaging generates a tomographic image in two dimension form from a single scanning plane. M-mode imaging generates an image which displays variation of echo depth over time while the transducer probe is in a fixed position.

Diagnostic musculoskeletal ultrasonography was performed over the cervical/interscapular multifidus and related paraspinal soft tissues as well as left shoulder.

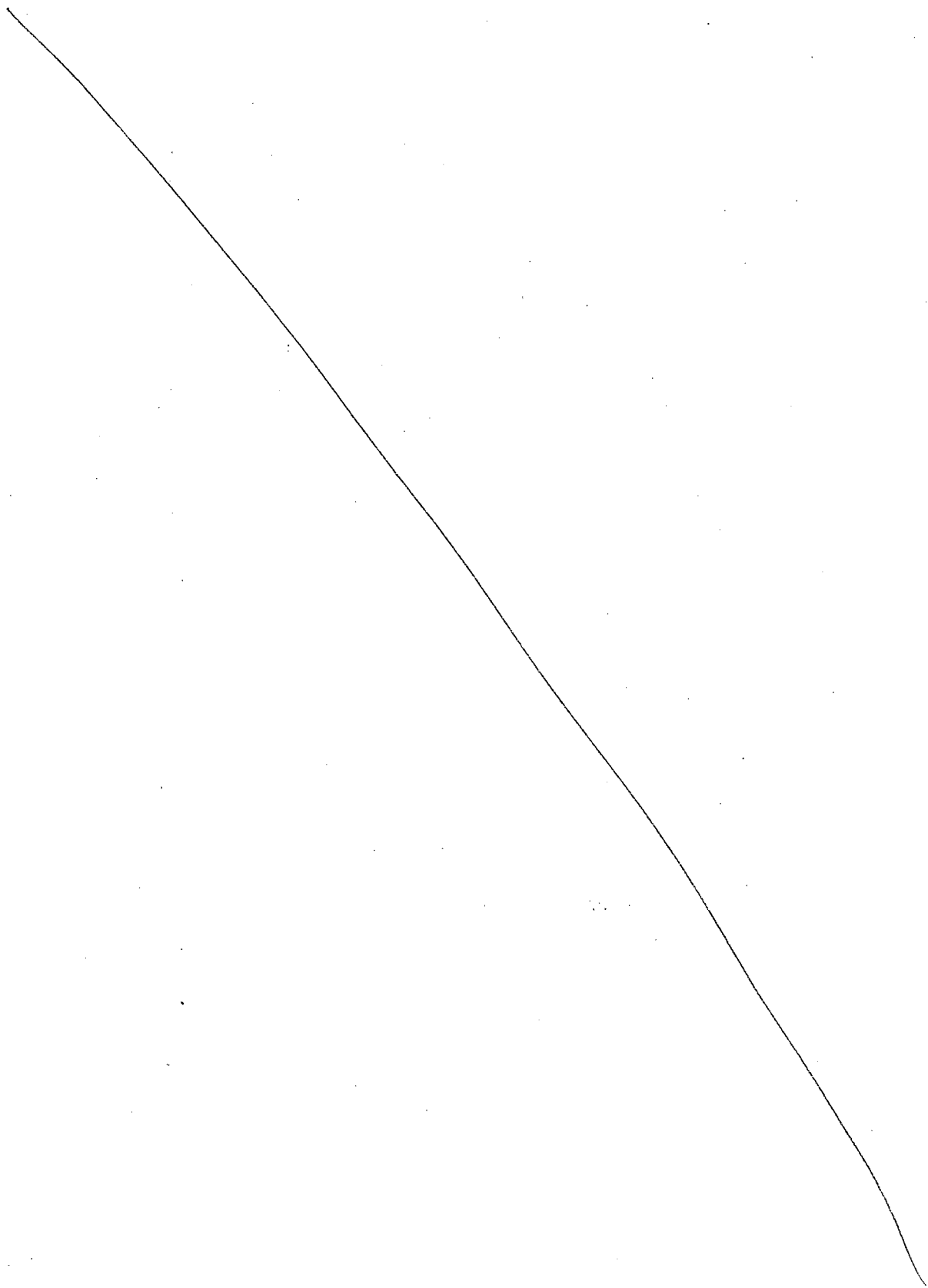
A 7.5 MHz wand was used.

Diagnostic Ultrasound Impression: There is a marginal hypoechoic signal at C3/4. The shoulder capsule and supraspinatus tendon are poorly visualized. The rest of the area studied showed a normal echogenic pattern.

Clinical Impression: Results reviewed. Options discussed. Mrs. McGaha says she does not recall having been seen in this office for five visits in 1990. She does recall the motor vehicle accident and coming to this building, however. She does not recall what body parts were injured in that accident. This was brought up because she asked how did she injure her neck to begin with. She is a very poor historian. I believe her cervical findings are probably old. They may very well be contributing to some of her current shoulder complaint. It is possible that she has some mild associated supraspinatus tendinitis that is new. Authorization for therapeutic as well as differential diagnostic injection to each locale requested. It should be noted that Mrs. McGaha says that she thinks her shoulder problem is more probably related to work because "everybody at work complains of the problem". She really has no other obvious event, source, or explanation for this than the belief as described above.

Robert G. Schwartz, MD/lo *ipms*

cc: w/c Mary Gilboy



☒ OEM ☐ R&O

Honeywell

MUST BE COMPLETED WITHIN
24 HOURS OF OCCURRENCE

ACCIDENT INVESTIGATION FORM

INJURED OR ILL EMPLOYEE <i>Handwritten</i>			
NAME (LAST NAME FIRST)		SOCIAL SECURITY NUMBER	PHONE NO.
McGaha, Maria			
ADDRESS (INCLUDE ZIP CODE)		EMPLOYEE NUMBER	☐ MALE ☒ FEMALE
		1556	
DATE HIRED	REGULAR DEPARTMENT	OCCUPATION	SHIFT
3/23/1998	Prep+Finish	Debris	2nd
POSITION/TITLE WORKED AT TIME OF ACCIDENT		TIME IN POSITION	WAGES
Debris Prep+Finish		YRS. 5 MOS. 6 HR. 19	MO.
ACCIDENT OR EXPOSURE			
EXACT LOCATION OF OCCURRENCE		OCCURRED ON COMPANY PREMISES	
Prep and Finish		☐ YES ☒ NO <i>Handwritten</i>	
DATE OF ACCIDENT	TIME OF ACCIDENT	DATE INJURY REPORTED	DATE LOST TIME STARTED
Unsure	Unsure	7/17/03	
NATURE OF INJURY OR ILLNESS (INCLUDE PART OF BODY AFFECTED) EXAMPLE...CUT RIGHT INDEX FINGER AT 2ND JOINT, FRACTURED RIGHT ARM			
Believed Carpal Tunnel Syndrome due to work started with neck/shoulder pain then upper arm cramping and into hand			
DESCRIBE ACTIVITIES WHEN INJURY OCCURRED. (WITH DETAIL OF HOW OCCURRED.) (INCLUDE NAMES OF INDIVIDUALS INVOLVED; TOOLS, MACHINERY, OBJECTS, VAPORS, CHEMICALS, UNNATURAL MOTIONS OF EMPLOYEES)			
Unsure - believes every part of job is causing problems with cramping. Pain x 6 months with pain going into lower arm x 1 month.			
WERE SAFE GUARDS OR SAFETY EQUIPMENT PROVIDED?		WERE THEY USED?	
☒ YES ☐ NO		☐ YES ☒ NO	
MEDICAL TREATMENT			
PHYSICIAN NAME & ADDRESS		HOSPITAL NAME & ADDRESS	
Mountain View Family Practice 406 Memorial Drive SE Greenville, SC 29651 877-9066		Workwell Occ. Health 131 Commonwealth Dr. #200 Greenville, SC 29615	
WITNESSES		675-4600	
NAME AND ADDRESS OF WITNESS OR WITNESS OF ACCIDENT:			
1.			
2.			

Claim #2800034122

Submitted to
2/21/04
811362708

INVESTIGATION REVIEW AND RECOMMENDATION			
TEAM:			
AFFECTED EMPLOYEE: <u>Maria McHale</u>			
DEPARTMENT SUPERVISOR: <u>Sam Cleveland / Eddie Platt</u>			
DEPARTMENT ENGINEER:			
PLANT MANAGER: <u>Dean Roberts</u>			
SAFETY REPRESENTATIVE: <u>Jerry Boland, Mary Gilboy, Sherry Fletcher</u>			
FIRST AID PROVIDED? ☐ YES ☒ NO	DATE	TIME	PROVIDER'S NAME
ANALYSIS: (EQUIPMENT TESTED, PHOTOGRAPHS OR SKETCHES, INTERVIEWS)			
RECOMMENDATION: (MATERIAL HANDLING, ENVIRONMENT, TEST RESULTS, EQUIPMENT MODIFIED OR PURCHASED, COMPLETION DATE)			
30 DAY FOLLOW UP:			
EMPLOYEE REVIEWED AND SIGNED:			

SUPERVISOR SIGNATURE: _____ DATE: _____

Claim # 2800034122



Appendix B

HEALTH CARE PROVIDER CERTIFICATION FORM
(FMLA)

TO BE COMPLETED BY THE EMPLOYEE

Employee name: Maria B McCgaha
Home address: _____
Home Phone #: _____
Social Security #: _____
Badge #: 155
Supervisor: Eddie
Phone #: 989-3778
Department/Division: 5300. / prep & finish

I hereby authorize my health care provider to provide information to Honeywell for the purpose of determining approval of the requested leave.

Maria B McCgaha
(Employee Signature)

8/4/03
(Date)

TO BE COMPLETED BY THE HEALTH CARE PROVIDER

1. Employee's Name _____
2. Patient's Name (if different from employee) _____
3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act. Does the patient's condition¹ qualify under any of the categories described? If so, please check the applicable category:

(1)___ (2) ☒ (3)___ (4)___ (5)___ (6)___ or None of the above ___

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

Pain in Dorn + shoulder which is aggravated by physical activity, particularly by repetitive motion. Clinical findings are consistent with Carpal tunnel syndrome with retrograde pain.

¹ Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

received
9/01/03

- 5 a. State the approximate date the condition commenced, and the probable duration of the condition (and also the probable duration of the patient's present incapacity³ if different):

— first seen for problem 6/21/03
— duration of condition unknown but usually for lifetime unless surgery performed

- b. Will it be necessary for the employee to take work only intermittently or to work on a less than full schedule as a result of the condition (including for treatment described in Item 6 below)? No

If yes, give the probable duration:

- c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity:

- 6 a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments: 4-6

If the patient will be absent from work or other daily activities because of treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known, and period required for recovery if any:

³ "Incapacity," for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

- b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments:

*May require surgical consultation
if conservative measures are
not effective*

- c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):

*Splinting of wrist
Anti-inflammatory medication*

- 7 a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind?

*May be able to work using only her
right hand. Left hand would
have to be immobilized*

- b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? ☒ If yes, please list the essential functions the employee is unable to perform:

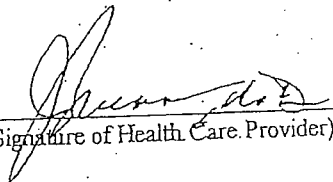
*Manipulation of parts or tools
using her left hand*

- c. If neither a. nor b. applies, is it necessary for the employee to be absent from work for treatment? _____

- 8 a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? _____

- b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _____

- c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:


(Signature of Health Care Provider)

Family Practice
(Type of Practice)

(Address)

(Telephone Number)

(Date)

NOTE: Following to be completed by employees needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule: *(please describe in detail below)*

(Employee Signature)

(Date)

Robert A. Dameron, Jr. M.D.

130 Longview Drive
Anderson, South Carolina 29621
Phone 864-225-4610

PATIENT'S NAME: Maria McGaha

PATIENT'S ADDRESS:

DOE: 08/04/2003

DOE

DOE: 12/19/2008

Purpose of Examination

Maria McGaha is seen in the office on 12/19/08 for independent medical evaluation for an opinion as to whether she is in need of further medical treatment for her neck, left upper extremity, and left shoulder and for an opinion regarding causation of her problem.

Medical Records Reviewed

Ms. McGaha's medical records from her employer medical department, Dr. Jack Brunson, St. Francis Health System, Dr. Michael Bucci, Dr. David L. Shallcross, Dr. Steven P. Geary, and Piedmont Physical Medicine and Rehabilitation (Dr. Robert Swartz) were reviewed in conjunction with this report.

Description of Injury

Ms. McGaha started having problems with her neck and left shoulder and left upper extremity in 2003. Her job consisted of repetitive activity with the left arm and pushing parts against a wheel which required fair amount of pressure from her upper extremities.

Course of Medical Treatment

Mc. McGaha started having problems with her neck and shoulder and left upper extremity in 2003 and was followed initially by her company medical department and was later seen by her family physician Dr. Jack Brunson. It was the opinion of Dr. Brunson that she had carpal tunnel syndrome with retrograde pain but nerve conduction studies did not confirm the presence of median nerve compression. She was later seen by Dr. Michael Bucci for evaluation of her neck. She underwent cervical studies including CT scan with myelogram and x-ray examination and MRI and all of these studies showed only very minimal findings in the cervical area. Dr. Bucci did not believe that she was a candidate for surgical treatment and referred her to Dr. David Shallcross.

(Continued)

PATIENT'S NAME: Maria McGaha

PATIENT'S ADDRESS:

Page 2

She was seen by Dr. David Shallcross on 1/13/04 and she was having left shoulder pain and she responded well to an injection of steroid in the subacromial space of the left shoulder.

She was seen by Dr. Steven P. Geary for orthopedic evaluation on 1/21/04. It was his impression that she had left shoulder subacromial impingement with a component of acromioclavicular joint arthritis and some cervical spondylosis without radiculopathy. She again responded to an injection of steroid in the subacromial space. February 18 2004 Dr. Geary noted that if Ms. McGaha continued to have symptoms with the left shoulder that she would be a candidate for surgical decompression of the left AC joint. It was also the opinion of Dr. Geary that Ms. McGaha's problem with her left shoulder were caused and/or aggravated by her pushing and pulling on the metallic parts of machinery and buffing while she was working at Honeywell.

Ms. McGaha was evaluated by Dr. Robert Swartz on 2/22/05. It was his impression that she did have some subacromial and acromioclavicular joint arthritis with supraspinatus tendonitis and the presence of some preexisting degenerative disc disease. He also suspected some possible left C5 nerve root irritation versus carpal tunnel syndrome.

Current Condition

Ms. McGaha has not worked on public job for five years. The neck pain that she was experiencing stopped very shortly after she quit work but she continues to have pain in her left shoulder and her left arm. She does not have any pain radiating into the forearm or into the hand. She no longer has the tingling sensation in the hand that she was experiencing previously. She notices the pain is worse after doing housework or yard work. She has some difficulty sleeping on the left shoulder and she notices that the pain is helped somewhat by taking Tylenol or Motrin. She also notices that reaching up behind her head with her left hand causes pain in the left shoulder and arm.

Physical Examination

On examination today Ms. McGaha is alert and cooperative. She is 5' 3" tall and weighs 135 pounds. She is a good historian. She has an accent but is capable of giving a very good history. On examination of the neck she has a good full range of motion with no pain being elicited by range of motion. She has normal reflexes at the biceps, triceps, and brachioradialis bilaterally. There is no evidence of Tinel's sign in either hand and she has good strength in both upper extremities. Her positive findings are essentially confined to (Continued)

PATIENT'S NAME: Maria McGaha

PATIENT'S ADDRESS:

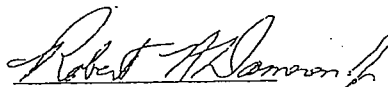
Page 3

the left shoulder. She has exquisite tenderness to palpation in the left subacromial area. She has a good full range of motion in the right shoulder but on the left side her abduction is limited to 100 degrees. She has good internal/external rotation and has good flexion and extension. Her primary findings are localized tenderness in the subacromial region and some limitation of abduction of the left shoulder.

In summary her physical examination and history are quite typical of a subacromial impingement syndrome.

Summary

It is my opinion within a reasonable degree of medical certainty that Ms. McGaha's left shoulder problems began while she was working and pushing against metal parts at work and that problem has slowly evolved into a chronic subacromial impingement syndrome in the left shoulder. Her history and physical findings are quite consistent with subacromial impingement syndrome and since she has responded to Cortisone injections in this area previously it is reasonable to proceed again with another injection and if she then has recurrence of symptoms subacromial decompression is certainly indicated. It is my opinion that Ms. McGaha should return to see Dr. Steven Geary for management of this problem. She has not reached maximal medical improvement and it would be inappropriate to give her an impairment rating at this time.


Robert A. Dameron Jr., MD.

RAD:cc



Appendix B

HEALTH CARE PROVIDER CERTIFICATION FORM
(FMLA)

TO BE COMPLETED BY THE EMPLOYEE

Employee name: Maria E McGaha
Home address: _____

Home Phone #: _____
Social Security # _____
Badge #: 153

Supervisor: Eddie
Phone #: 989-3778
Department/Division: 5300 / Prop & Service

I hereby authorize my health care provider to provide information to Honeywell for the purpose of determining approval of the requested leave.

Maria E McGaha
(Employee Signature)

8/4/08
(Date)

TO BE COMPLETED BY THE HEALTH CARE PROVIDER

1. Employee's Name _____
2. Patient's Name (if different from employee) _____
3. The attached sheet describes what is meant by a "serious health condition" under the Family and Medical Leave Act. Does the patient's condition¹ qualify under any of the categories described? If so, please check the applicable category:

(1) _____ (2) ☒ (3) _____ (4) _____ (5) _____ (6) _____ or None of the above _____

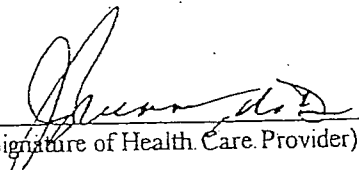
4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

Pain in Dorn + shoulder which is aggravated by physical activity, particularly by repetitive motion. Clinical findings are consistent with Carpal tunnel syndrome with retrograde pain.

¹ Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

received
8/8/08

- c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:


(Signature of Health Care Provider)

Family Practice
(Type of Practice)

(Address)

(Telephone Number)

(Date)

NOTE: Following to be completed by employees needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule: *(please describe in detail below)*

(Employee Signature)

(Date)

South Carolina Workers' Compensation Commission
1612 Marion St. :
P.O. BOX 1715
Columbia, SC 29202-1715
(803) 737-5723



PRE-HEARING BRIEF
WCC File No: 0312096

Claimant's Name: Maria E. McGaha Employer's Name: Honeywell International, Inc.
Address: _____ Address: P.O. Box 1404

City _____ State: _____ Zip: _____ City Greer State: SC Zip: 29652-1404
Home Phone: _____ Work Phone: _____ Carrier: Zurich North America
Preparer's Name: Vernon F. Dunbar, Esq. Preparer's Phone #: (864) 552-4601

A claim for workers' compensation benefits is made based on the following grounds:

☒ Injury ☐ Illness ☒ Repetitive Trauma

1. Compensation Rate: \$TBD 2. AWW: \$TBD Date of Injury: 07/17/2003
3. Type of injury and body part(s): Left arm and shoulder.
4. Facts in controversy: First, whether the claimant sustained an injury to her neck and left hand and right shoulder and arm as a consequence of her employment duties. Second, whether the claimant is entitled to payment of temporary total disability compensation benefits and medical treatment or whether such claimed benefits are barred by the doctrine of laches.. Third, whether the claimant's request for additional medical treatment complies with the requirements as is set forth pursuant to Section 42-15-60.
5. Legal issues involved: Whether the claim is barred by doctrine of laches.
6. Unusual aspects: Defense witness, Mary Kilboy, is unable to attend hearing due to recent surgery. Therefore, it is request that the hearing either be postponed or the record remain open to submit the deposition of Ms. Kilboy at a later time.
7. Witnesses (designate if expert):* Mary Gilboy, the claimant, Frank McGaha, and the defendants reserve the right to call additional witnesses.
8. Exhibits: Personnel and employment records and claimant's short term disability applications.
9. Medical evidence (indicate report pursuant to R.67-612; deposition or appearance): See APA Submissions
10. Name, address, and specialty, if any, of the treating physician: Dr. Stephen Geary, Steadman Hawkins Clinic of Patewood, 200 Patewood Drive, Suite B260, Greenville, SC 29615
11. Impairment rating(s); body part(s); physician and date of opinion: N/A.
12. I am amending my Form 50/51 in the following manner: N/A.

I verify the contents of this form are accurate and true to the best of my knowledge.

Signature: Vernon F. Dunbar, Esq.

Email: VDunbar@TurnerPadget.com

Date of hearing: January 5, 2009

Time needed for hearing: 1 hour

On behalf of ☐ Claimant ☒ Employer

File this form and proof of service on the opposing party according to R.67-611 and R.67-212. Do not send medical reports.

* Commissioners reserve the right to admit expert witnesses at hearings.

SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION
W.C.C. FILE NO: 0312096

MARIA E. MCGAHA,

Employee,

Claimant,

vs.

HONEYWELL INTERNATIONAL, INC.,

Employer,

AND

ZURICH NORTH AMERICA,

Carrier,

Defendants.

**NOTICE OF WITNESSES AND
WRITTEN MEDICAL REPORTS TO BE
INTRODUCED AS DIRECT EVIDENCE
ON BEHALF OF DEFENDANTS**

TO: SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION AND KATHRYN
WILLIAMS, ESQUIRE, ATTORNEY FOR CLAIMANT:

YOU ARE NOTIFIED that the Defendants, pursuant to the provisions of the South Carolina Workers' Compensation Act and Section 1-23-330 of the South Carolina Code of Laws (Cum. Supp. 1988) submit the following medical records and other documents as evidence:

APA#	NAME OF PROVIDER/OTHER	DATE(S) OF RECORD(S)	PAGE NUMBERS
1.	Robert G. Schwartz, MD	02/21/2005 – 02/24/2005	75 – 84
2.	Piedmont Neurosurgical Group, PA	11/04/2003 – 12/18/2003	85 – 89
3.	Mountain View Family Practice – Thornblade	08/04/2003	90
4.	Bon Secours St. Francis Health System	07/17/2003	91 – 92
5.	Upstate Medical Rehabilitation PC	01/13/2004	93 – 97
6.	Honeywell	08/08/2003 – 01/22/1998	98 – 103
7.	Mountain View Family Practice – Thornblade	10/22/2003	104 – 106

- 8. Nurses Notes
- 9. MetLife

07/17/2003 – 04/15/2004 107 – 112
10/06/2003 – 07/17/2003 113 – 119

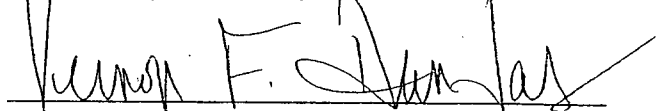
YOU ARE FURTHER NOTIFIED that you have the right to cross-examine or otherwise oppose this evidence and, should you desire to exercise this right, you are to promptly schedule the deposition of any provider whose records are submitted, for the purposes of cross-examination, or otherwise promptly submit opposing medical records into evidence.

YOU ARE FURTHER NOTIFIED that these records, or photocopies of the same, will be provided to the South Carolina Workers' Compensation Commission for insertion in their file and for consideration as evidence on behalf of the Defendants.

YOU ARE FURTHER NOTIFIED that the following witnesses may be called on behalf of the Defendants:

Mary Kilboy, the claimant, Frank McGaha, and the defendants reserve the right to call additional witnesses.

Respectfully submitted,



Vernon F. Dunbar, Esq.

TURNER PADGET GRAHAM & LANEY P.A.

P.O. Box 1509

Greenville, SC 29602

(864) 552-4601

Attorneys for the Employer/Carrier

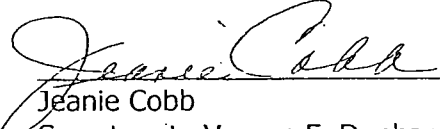
Greenville, South Carolina

December 24, 2008

PROOF OF SERVICE

The undersigned certifies that she is an employee at TURNER, PADGET, GRAHAM & LANEY, P.A., and that the attached Pre-Trial Brief and Notice of Evidentiary Submissions served documents were served upon Kathryn Williams, Esquire, the attorney for the claimant, this 24th day of December, 2008, pursuant to Section 15-9-930 and Section 15-9-940 of the Code of Laws of South Carolina, 1976, by depositing a copy of same in the United States Mail, postage prepaid, addressed to:

Kathryn Williams, Esquire
Attorney at Law
Post Office Box 10693
Greenville, SC 29603


Jeanie Cobb
Secretary to Vernon F. Dunbar

Specializing in:

- Pain Diagnosis and Treatment
- Non-Surgical Specialty Care
- Occupational Injuries and Sports Medicine

Robert G. Schwartz, M.D.

AGE: 65

1. WHERE DO YOU HURT? SHoolder

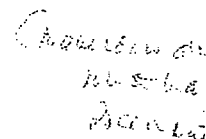
SHARP

JUNE 2003

Solve the system by substitution.

(D) HOW MUCH VISIBLE DAMAGE WAS THERE TO YOUR CAR? _____

6. PLEASE MARK ON THE DRAWINGS BELOW THE AREAS WHERE YOU FEEL PAIN.



B. 1. DO YOU HAVE ANY WEAKNESS IN PARTS OF YOUR BODY? NO WHERE? _____

2. DO YOU HAVE ANY NUMBNESS (pins & needles or cold feelings) IN PARTS OF YOUR BODY? WHERE? LEFT Shoulder

3. PLEASE CHECK WHICH OF THESE SYMPTOMS, IF ANY, YOU HAVE NOTICED ASSOCIATED WITH YOUR PAIN:

____ EARS RINGING
____ BLURRED VISION
____ TROUBLE SWALLOWING
____ CHRONIC FATIGUE

____ CONGESTION
____ TROUBLE SLEEPING
____ OTHER _____

4. DO YOU HAVE ANY PROBLEM WITH LOSS OF BOWEL OR BLADDER CONTROL? NO

5. HAVE YOU EVER HAD A PAIN IN THE PAST IN THE SAME PART OF YOUR BODY? NO

6. DOES YOUR PAIN INCREASE IF YOU COUGH OR SNEEZE? NO

7. DOES THE WEATHER OR TEMPERATURE AFFECT YOUR PAIN? NO

8. DO YOU ALWAYS HAVE COLD HANDS OR FEET? NO

C. 1. WHAT MAKES THE PAIN BETTER? Pain pill

2. WHAT MAKES IT WORSE? Rest arm

3. HOW MANY MINUTES CAN YOU SIT UNTIL YOU MUST STAND? _____

4. HOW MANY MINUTES CAN YOU STAND UNTIL YOU MUST SIT? _____

D. MARK ON THE LINE BELOW YOUR ESTIMATE OF YOUR AVERAGE PAIN:

0 _____ 10

- E. 1. PLEASE NAME ANY DOCTORS YOU HAVE SEEN FOR YOUR PAIN SO FAR. Doctor Brunson
Dr. Bucci, Dr. Woodard, Dr. Mundy
 2. WHAT TEST HAVE THEY DONE (BLOOD TEST, XRAY, CT SCANS, BONESCAN, MYELOGRAM, EMG, MRI)?
all the way - MRI - scan
 3. WHERE WERE THESE TEST DONE? Greenville Hospital, St. Francis
Hospital
 4. WERE ANY OF THEM ABNORMAL? NO IN WHAT WAY? NO
 5. HAVE YOU HAD ANY UNUSUAL ENVIRONMENTAL EXPOSURES? NO
 6. HAVE YOU EVER HAD FREQUENT OR SEVERE INFECTIONS? NO lungs - 2nd
 7. HAVE YOU EVER TAKEN AN MMPI? NO
 F. 1. WHAT MEDICINE HAVE YOU TAKEN FOR THE PAIN IN THE PAST? NO

2. WHAT PAIN MEDICINES ARE YOU TAKING NOW? LORITAB-5 500-5 mg
(MUSCIC (MUSC) RELAXER)

NAME	DOSAGE	FREQUENCY	DATE STARTED

3. HAVE YOU EVER HAD ANY SURGERY FOR YOUR PAIN? WHAT KIND?
 4. WHAT OTHER KIND OF TREATMENT (PHYSICAL THERAPY, CHIROPRACTIC, HYPNOSIS, INJECTIONS, ETC.) HAVE YOU TRIED FOR YOUR PAIN?

G. PAST MEDICAL HISTORY:

1. DO YOU HAVE DIABETES, HIGH BLOOD PRESSURE, CARDIOVASCULAR DISEASE, STOMACH ULCERS OR OTHER MEDICAL PROBLEMS? No
2. ARE YOU TAKING ANY MEDICINES? No WHICH ONES? _____
3. WHAT SUPPLEMENTS IF ANY, DO YOU TAKE? _____
4. ARE YOU ALLERGIC TO ANY MEDICINES? No WHICH ONES? _____
5. HAVE YOU EVER HAD SURGERY OF ANY KIND? Yes FOR WHAT? Knee
6. HAVE YOU EVER HAD A FRACTURED BONE? No WHERE? _____
7. ARE YOU RIGHT OR LEFT HANDED? Right

H. REVIEW OF SYSTEMS:

1. CONSTITUTIONAL: ANY RECENT OR UNUSUAL WEIGHT LOSS? No
2. HEENT: ANY DIFFICULTY WITH VISION OR HEARING? No
3. CARDIOVASCULAR: ANY CHEST PAIN OR PALPITATIONS? No
4. RESPIRATORY: ANY CURRENT OR RECENT INFECTION? No
5. HEMATOLOGIC: IS THERE ANY UNUSUAL BLEEDING OR ANEMIA? No
6. GI: ANY UNUSUAL CONSTIPATION OR DIARRHEA? No
7. GU: ANY FREQUENCY OR URGENCY OF URINATION? No
8. SKIN: ANY OPEN SORES? No
9. NEUROLOGICAL: ANY DOUBLE VISION OR TROUBLE SWALLOWING? No
10. PSYCHIATRIC: ANY CONFUSION ON THE DATE, YOUR NAME OR WHERE YOU ARE? No

I. FUNCTIONAL HISTORY:

1. CAN YOU FEED, BATHE AND DRESS YOURSELF? Yes
2. DO YOU NEED ADAPTIVE AIDS (BRACES, ETC.) TO WALK? No

J. FAMILY HISTORY:

1. HAVE ANY BLOOD RELATIVES HAD RHEUMATIC ARTHRITIC ILLNESS? No
2. HAVE ANY OF YOUR BLOOD RELATIVES HAD ¹⁵⁷ _____? No

K. SOCIAL HISTORY

1. ARE YOU MARRIED? Yes
2. HOW MANY CHILDREN DO YOU HAVE? 7
3. WHAT ARE THEIR AGES? _____
4. DO YOU DRINK ALCOHOL? No HOW MUCH? _____
5. DO YOU SMOKE CIGARETTES? No HOW MANY? _____
6. ARE YOU PRESENTLY WORKING? No FOR WHOM? _____
7. IF YOU WERE INJURED AT WORK, WHERE DID YOU WORK AT THE TIME? NO WORKING
8. HOW LONG HAVE YOU BEEN EMPLOYED BY THE PLACE OF EMPLOYMENT WHERE YOU WERE INJURED? _____
9. WHAT IS YOUR JOB? Prep Teacher
10. WHEN DID YOU LAST WORK? 9-2003
11. WHAT LEVEL OF EDUCATION HAVE YOU COMPLETED? High School
12. WHAT IS THE OCCUPATION OF YOUR SPOUSE? Self-employed
13. ARE YOU INVOLVED IN A LAW SUIT BECAUSE OF YOUR PAIN? Yes
14. WHAT IS YOUR ATTORNEY'S NAME AND ADDRESS? Catherine H. [unclear]

1. DO YOU REQUIRE A FEMALE STAFF MEMBER AS A CHAPERONE WITH YOU IN THE EXAM ROOM DURING EACH VISIT? ☒ NO ☐ YES
2. ON OCCASION THERE MAY BE A VISITING PHYSICIAN PRESENT WITH THE DOCTOR DURING VISITS. DO YOU HAVE ANY OBJECTION TO THIS? ☒ NO ☐ YES

Maria E. McQuinn
PATIENT'S SIGNATURE
(GUARDIAN SIGNATURE IF PATIENT IS A MINOR)

2-21-2005
DATE

RELATIONSHIP IF OTHER THAN _____

Piedmont Physical Medicine & Rehabilitation, PA Robert G. Schwartz, M.D

317 St. Francis Drive • # 350 • Greenville SC 29601 • Ph 864.235.1834 • Fax 864.235.2486 • piedmontpmr.com

Test Date: 2/24/200

Patient: maria mcgaha DO
ID#: 4061

Physician: Robert Schwartz, MD
Ref Phys: wc

Nerve Conduction Studies

Anti Sensory Summary Table

Site	NR	Peak (ms)	Norm Peak (ms)	P-T* Amp (µV)	Norm P-T Amp	Site1	Site2	Delta-P (ms)	Dist (cm)
Left Median Anti Sensory (3rd Digit)									
Wrist		2.9	<3.6	113.6	>20	Wrist	3rd Digit	2.9	14.0
Left Ulnar Anti Sensory (5th Digit)									
Wrist		3.3	<3.6	75.5	>20.0	Wrist	5th Digit	3.3	14.0

Motor Summary Table

Site	NR	Onset (ms)	Norm Onset (ms)	O-P* Amp (mV)	Norm O-P Amp	Site1	Site2	Delta-O (ms)	Dist (cm)	Vel (m/s)	Norm Vel (m/s)
Left Median Motor (Abd Poll Brev)											
Wrist		3.4	<4.3	5.0	>5	Elbow	Wrist	2.7	14.0	51.9	>50
Elbow		6.1		5.0							
Left Ulnar Motor (Abd Dig Minimi)											
Wrist		3.3	<4.3	2.7	>2.5	B Elbow	Wrist	2.6	18.0	69.2	>50
B Elbow		5.9		2.9							

F Wave Studies

NR	F-Lat (ms)	Lat Norm (ms)	Contra F-Lat (ms)	L-R F-Lat (ms)
Left Median (Mrkrs) (Abd Poll Brev)				
	23.56	<33		
Left Ulnar (Mrkrs) (Abd Dig Min)				
	25.33	<33		

EMG

Side	Muscle	Nerve	Root	Ins Act	Fib	Pos	Fasc	CRD	Amp	Poly	Recrt	Int Pat	Comment
Left	Abd Poll Brev	Median	C8-T1	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	ABD Dig Min	Ulnar	C8-T1	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	IstDorInt	Ulnar	C8-T1	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	FlexPolLong	Median (Ant Int)	C7-8	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	ExtIndicis	Radial (Post Int)	C7-8	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	Biceps	Musculocut	C5-6	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	ExtCarRad	Radial	C6-7	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	Deltoid	Axillary	C5-6	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	Triceps	Radial	C6-7-8	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Bilateral	C Paraspinals	PostRami	C1-C7	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	

Impression: This is a normal study. Authorization for Diagnostic Ultrasound of the cervical multifidus and related paraspinal soft tissues & left shoulder requested.

Robert Schwartz, MD
Cc: w/c; Mary Gilboy

**PIEDMONT
PHYSICAL MEDICINE
& REHABILITATION, P.A.**

Specializing in:
• Pain Diagnosis and Treatment
• Non-surgical Specialty Care
• Occupational Injuries and Sports Medicine

317 St. Francis Drive • Suite 350 • Greenville, SC 29601-3988 • Tel: (864) 235-1834 • Fax: (864) 235-2486 • www.piedmontpmr.com

Robert G. Schwartz, M.D.

McGAHA, MARIA

#4061

DATE: 2/22/05

Mrs. McGaha is a 64-year old female with a chief complaint of left shoulder pain that begins in the front of the shoulder and radiates into the proximal portion of the arm. Symptoms began in June of 2003. She does not recall a date or an event. She says it is related to do a finishing position that she performs at work. Apparently, she does finish blades for Honeywell. She does report that approximately one week before the incident, she felt like her wheel was "jumping". They replaced the wheel and eventually determined that the motor had to be replaced. She does not actually report that this is the source of her symptoms, but also says she knows of no other cause. She denies any weakness, but says her left shoulder is numb. She reports she has no prior history of these complaints, but was seen in this office in 1990 for neck pain that radiated into the RUE, in particular, the third through fourth fingers, including sternoclavicular syndrome and pectoral myofascial pain, after an MVA. Her problems were right-sided and not left-sided at that time. Medication seems to help. Using her arm makes it worse. She ranks her pain a 9/10. She was seen by Dr. Merriwether and he felt she may have cervical radiculopathy. An MRI was ordered and showed spondylosis at C4 through C7, with foraminal encroachment at C5 through C7. She was eventually referred to Dr. Bucci. He felt that her problems were non-surgical in nature after obtaining a CT and myelogram which only showed mild C4/5 anterolisthesis and C5/6 spurring. He also obtained a left shoulder MRI which showed mild supraspinatus tendinosis. She later saw Dr. Geary and he felt the same MRI revealed some associated left AC arthritis. She had at least two steroid injections into the shoulder. She says they helped for about four months. She also received an injection into the left shoulder by Dr. Monda. In addition, she was seen by Dr. Brunson, her PCP. As early as 2001, she was complaining of left-sided rib pain and, in June of 2003, Dr. Brunson notes that her symptoms seemed to progress to her neck, then her shoulder, and then involvement of the left hand. He thought she had carpal tunnel syndrome and/or cervical radiculitis. He reported as of June of 2003, her symptoms had been present for at least six months and progressive. An NCV for carpal tunnel syndrome was normal in August of 2003. She denies any history of infections, though the records suggest she has been on Levaquin frequently per her PCP. She has had multiple medications and physical therapy.

PMH: Reported negative; however, she did have right L5 radiculitis while under my care and she was maintained chronically on antidepressants by Mountain View Family Practice. In the eighties, she had left knee surgery in Florida by a Dr. Longenecker. She also has a history of esophagitis and hyperlipidemia. She is status post hysterectomy (not reported, but per record). Laboratories in January of 2003, including a CMP and CBC, were normal. She did have a mildly elevated TSH which does not appear to have been followed up upon at that time.

SH: She is married. She does not drink or smoke. She was employed at Honeywell as a prep finisher and last worked in September of 2003.

McGaha, Maria

Page 2

PE: Heart rate and regularity, respiratory rate, and weight are recorded on the physical assessment sheet in the chart. General appearance is within acceptable norms for nutrition and grooming. Orientation to person, time, and place is intact. Overt signs of depression, anxiety, or agitation are not present during today's examination.

Musculoskeletal examination of the head, neck, spine, ribs, pelvis, and bilateral upper extremities was performed. There are no abnormally palpable lymph nodes in the neck or groin. There are no rashes, ulcers, or abnormally palpable scars. There is no evidence of misalignment, asymmetry, crepitation, defects, tenderness, or effusions in the peripheral joints. Coordination for finger to nose, heel to shin, and rapid alternating movements is normal. Gait and station are normal. Peripheral pulses are intact. There is no evidence of ulceration or trophic change.

Reflexes are symmetric. Motor strength and tone are normal. Sensation is intact to pinprick. Phalen's and Spurling's are reportedly positive on left, with Tinel's negative. She has trigger points in the left infraspinatus and levator scapulae, with scalene spasm bilaterally as well as at C5/6, possibly left greater than right. She has a positive painful arc on left and is tender at the subacromial joint as well as AC joint.

IMP: Apparent subacromial and AC arthritis, with mild supraspinatus tendinitis and the presence of pre-existing cervical DDDZ. Possible left C5 nerve root irritation versus carpal tunnel syndrome (apparently carpal tunnel ruled out by physical exam).

PLAN: She has received significant improvement from subacromial injections in the past and I suspect she may have developed some shoulder degenerative change compensatory from her underlying cervical pre-existing problem. This has been going on long enough that it would be worthwhile to prove this further in one way or the other, however. I would like to assess her on EMG at this time to see if there is any evidence of radiculitis. Should it prove negative, we will likely request authorization for diagnostic ultrasound. Celebrex #30 written.

Thank you very much for the opportunity to be involved in the evaluation and treatment of this patient.

Robert G. Schwartz, MD/lo

cc: wc/Mary Gilboy

Piedmont Physical Medicine & Rehabilitation, PA Robert G. Schwartz, M.D

317 St. Francis Drive • # 350 • Greenville SC 29601 • Ph 864.235.1834 • Fax 864.235.2486 • piedmontpmr.com

Test Date: 2/24/2005

Patient: maria mcgaha	DOB:	Physician: Robert Schwartz, MD
ID#: 4061		Ref Phys: wc

Nerve Conduction Studies

Anti Sensory Summary Table

Site	NR	Peak (ms)	Norm Peak (ms)	P-P Amp (mV)	Norm P-P Amp	Site1	Site2	Delta P (ms)	Dist (cm)
Left Median Anti Sensory (3rd Digit)									
Wrist		2.9	<3.6	113.6	>20	Wrist	3rd Digit	2.9	14.0
Left Ulnar Anti Sensory (5th Digit)									
Wrist		3.3	<3.6	75.5	>20.0	Wrist	5th Digit	3.3	14.0

Motor Summary Table

Site	NR	Onset (ms)	Norm Onset (ms)	O-P Amp (mV)	Norm O-P Amp	Site1	Site2	Delta-O (ms)	Dist (cm)	Vel (m/s)	Norm Vel (m/s)
Left Median Motor (Abd Poll Brev)											
Wrist		3.4	<4.3	5.0	>5	Elbow	Wrist	2.7	14.0	51.9	>50
Elbow		6.1		5.0							
Left Ulnar Motor (Abd Dig Minimi)											
Wrist		3.3	<4.3	2.7	>2.5	B Elbow	Wrist	2.6	18.0	69.2	>50
B Elbow		5.9		2.9							

F Wave Studies

NR	Lat (ms)	Med Norm (ms)	Contr Lat (ms)	2-Rep Lat (ms)
Left Median (Mrks) (Abd Poll Brev)				
	23.56	<33		
Left Ulnar (Mrks) (Abd Dig Min)				
	25.33	<33		

EMG

Side	Muscle	Nerve	Root	Ins	Triceps	Paw	Phase	CRD	Amp	Poly	Rect	Int	Comments
Left	Abd Poll Brev	Median	C8-T1	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	ABD Dig Min	Ulnar	C8-T1	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	IstDorInt	Ulnar	C8-T1	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	FlexPolLong	Median (Ant Int)	C7-8	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	ExtIndicis	Radial (Post Int)	C7-8	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	Biceps	Musculocut	C5-6	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	ExtCarRad	Radial	C6-7	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	Deltoid	Axillary	C5-6	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Left	Triceps	Radial	C6-7-8	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	
Bilateral	C Paraspinals	PostRami	C1-C7	Nml	Nml	Nml	Absent	Absent	Nml	0	Nml	Nml	

Impression: This is a normal study. Authorization for Diagnostic Ultrasound of the cervical multifidus and related paraspinal soft tissues & left shoulder requested.

Robert Schwartz, MD

Cc: w/c; Mary Gilboy

**Piedmont
Neurosurgical
Group, P.A.**

*Michael N. Bucci, M.D., F.A.C.S.
Aaron C. MacDonald, M.D., F.A.C.S.
Christie B. Mina, M.D.*

109 Montgomery Drive
Anderson, S.C. 29621
Telephone 864-224-5700

3 St. Francis Dr. Suite 330
Greenville, SC 29601
Telephone: 864-220-4263

November 4, 2003

Dr. Jack Brunson
398 The Parkway
Greer, SC 29650

RE: McGaha, Maria

Dear Dr. Brunson,

I had the pleasure of examining Maria McGaha in the office today. As you will recall, she is a 62 year old right handed Hispanic female with left upper extremity numbness and pain beginning in January 2003 and worsening in May and June 2003. EMG testing by Dr. Kistler in August 2003 was negative. MRI scanning of the cervical spine in July 2003 did show some cervical spondylosis without significant spinal stenosis or disc herniation.

She has not had any physical therapy or epidural steroid injections to date.

Allergies are none. Mediations are Vioxx, Metaxalone and Hydrocodone. Past history is unremarkable, except for previous arthritis and knee surgery. Family history is positive for CVA secondary to brain aneurysm. Social history reveals she is a nonsmoker, nondrinker and she works at Honeywell Engines. Review of systems is negative for incontinence.

Exam reveals a well developed, well nourished Hispanic lady in no significant distress. She does not have a Homer's syndrome, she does not have scapular winging and bulk and tone are symmetric and normal. Lhermitte's sign is negative. Motor strength is 5/5, although she has some diffuse giveaway weakness in the left upper extremity when compared to the right. This does not conform to a specific dermatome. Sensory exam is normal. Reflexes are 1-2+. No pathological reflexes are present.

Examination of her axillary regions reveal no masses and no lymphadenopathy.

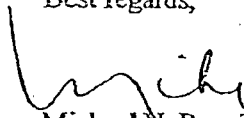
A complete history, review of systems and physical examination is documented within the patient's chart.

It is my impression that Ms. McGaha has left upper extremity pain and weakness; however, her EMG was negative and her MRI scan is nonsurgical.

Page two
McGaha, Maria

At the present time I do not feel that cervical spine surgery is indicated. I have made arrangements for her to undergo outpatient physical therapy for the next several weeks and I will see her back in follow up. If she fails to improve, consideration will be given to epidural injections and/or pain management. Thank you for referring this lady.

Best regards,



Michael N. Bucci, M.D., F.A.C.S.

MNB/asc

ST. FRANCIS WOMEN'S & FAMILY HOSPITAL
125 COMMONWEALTH DRIVE
GREENVILLE, S.C. 29615

WH MRI REPORT

PATIENT NAME: MCGAHA, MARIA
LOCATION: MR
TECHNOLOGIST: MR
ORDERING: MICHAEL N. BUCCI, MD 103
RADIOLOGIST: TERENCE M. CLARK, M.D.

SEX: F
AGE: 63Y

MR:
ORDER: 1149281
ACCT: 2436936
PT TYPE: O
PT DOB

MRI OF THE LEFT SHOULDER 01/07/04

HISTORY: Left shoulder and neck pain.

Multiplanar imaging of the left shoulder was carried out.

The bone marrow signal about the bony elements of the left shoulder is normal. The adjacent musculature is unremarkable. Morphologically the rotator cuff is intact. There is slightly increased signal within the distal supraspinatus tendon consistent with mild tendinosis. There was slight to moderate bony overgrowth at the AC joint. This is likely producing at least mild impingement. There was no unusual fluid within the subacromial/subdeltoid bursa. The biceps tendon is in its expected location. The bony glenoid and the glenoid labra are intact.

IMPRESSION: MRI OF THE LEFT SHOULDER DEMONSTRATES FINDINGS CONSISTENT WITH MILD IMPINGEMENT/TENDONOSIS. NO EVIDENCE OF A ROTATOR CUFF TEAR. THE BONY GLENOID AND THE GLENOID LABRA ARE INTACT.

THIS DOCUMENT HAS BEEN REVIEWED AND ELECTRONICALLY SIGNED
BY TERENCE M. CLARK, M.D. ON 01/07/2004.

TERENCE M. CLARK, M.D.

\: tla
ID: 000880512

/: 92185

DD: 01/07/2004
DT: 01/07/2004

1204

fx: MICHAEL N. BUCCI, MD 103 (14321)
>

MRI - LEFT UPPER EXTREM - 73220
Page 1 of 1

ST. FRANCIS HOSPITAL
One St. Francis Drive
Greenville, SC 29601

DIAGNOSTIC IMAGING REPORT

PATIENT NAME: MCGAHA, MARIA EMMA
LOCATION: MI
TECHNOLOGIST:
ORDERING: MICHAEL N. BUCCI, MD 103
RADIOLOGIST: WILLIAM WOODARD, M.D.

SEX: F
AGE: 63Y

MR:
ORDER: 6311793
ACCT: 4591076
PT TYPE: C
PT DOB:

CERVICAL MYELOGRAM 12/18/03

HISTORY: Left C6-7 radiculopathy.

COMPARISON: None available.

TECHNIQUE: Following informed consent the patient was placed prone in the Fluoroscopic Suite. The L3-4 level is localized using fluoroscopy and the patient is prepped and draped in a sterile fashion. A 22 gauge spinal needle is then placed into the thecal sac with return of clear CSF. 15cc of Isovue 300m contrast is then injected intrathecally.

The patient was then placed with the cervical region dependently and images are obtained with a fluoroscopic tower with additional crosstable lateral films obtained of the cervical region at the end of the study. The patient tolerated the procedure well.

FINDINGS: At C5-6 there is mild uncovertebral spurring which causes mild central canal narrowing without cord contact. No nerve root sheath truncation is seen. The patient is transported to CT scan for CT evaluation.

IMPRESSION: MILD UNCOVERTEBRAL SPURRING AT C5-6 CAUSES MILD CENTRAL CANAL ENCROACHMENT.

THIS DOCUMENT HAS BEEN REVIEWED AND ELECTRONICALLY SIGNED
BY WILLIAM WOODARD, M.D. ON 12/18/2003.

WILLIAM WOODARD, M.D.

\: t1s
ID: 000874324

/: 92232

DD: 12/18/2003
DT: 12/18/2003

1253

MYELOGRAM, CERV. COMPLETE - 72240
Page 1 of 2

NAME: MCGARA, MARIA EMMA

ST. FRANCIS HOSPITAL

MR:

ORDER: 6311852

LOCATION: MI

ACCT: 4591076

IMPRESSION: THERE IS SUGGESTION OF MILD ANTEROLISTHESIS OF C4 ON C5. THIS MAY BE POSITIONAL BUT FOLLOW UP FLEXION/EXTENSION LATERAL VIEWS OF THE CERVICAL SPINE ARE RECOMMENDED TO EVALUATE FOR INSTABILITY IN THIS AREA. MILD UNCOVERTEBRAL SPURRING AT C5-6 CAUSES MILD CENTRAL CANAL AND LEFT NEURAL FORAMINAL NARROWING.

THIS DOCUMENT HAS BEEN REVIEWED AND ELECTRONICALLY SIGNED
BY WILLIAM WOODARD, M.D. ON 12/18/2003.

WILLIAM WOODARD, M.D.

\: t1s

/: 92232

DD: 12/18/2003

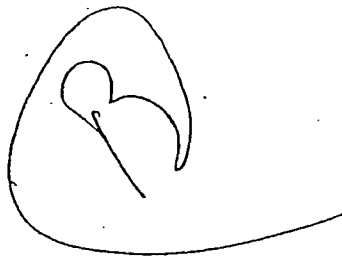
ID: 000874327

DT: 12/18/2003

1256

fx: MICHAEL N. BUCCI, MD 103 (14321)

>



COMPUTED TOMOGRAPHY REPORT

Page 2 of 2

Mountain View Family Practice - Thornblade
398 The Parkway
Greer, SC 29650
(864) 877-9577

August 4, 2003 9:48 AM

MARIA EMMA MCGAHA <

DOB:

MRN:

Dr. Brunson has advised MARIA EMMA MCGAHA to stay home from work for 22 days August 4 thru August 25, 2003. maj



Mountain View Family Practice

Qain # 2800034122



**BON SECOURS
ST. FRANCIS HEALTH SYSTEM**
WorkWell™ Occupational Health Center
St. Francis Women's & Family Hospital
131 Commonwealth Drive - Suite 200
Greenville, SC 29615
Phone: (864) 675-4600 Fax: (864) 675-4604

Today's Date: 7.17.03

Arrival Time: 4:58

Time In: 5:08

Time Out: 5:40

☒ Initial

☐ Re-check

MARIA E. HOGANA
HONEYWELL
MADY

F 07/17/03
ST SHOULDER
2408694

Post-Accident UDS? (Check Company List) ☐ Yes ☒ No

Date of Injury: cannot be time Time of Injury: thru

Allergies: 1711A

Current Job: Prep + finish

Home Phone: _____

Treatment Authorized by: _____

Title: _____

Date: _____

I hereby authorize the release of all medical information pertaining to this work related injury/illness to my employer, insurance company and referral physicians. Records from any medical provider involved in or relative to the diagnosis or treatment of this injury may be released to WorkWell™ Occupational Health Clinic. In addition, authorization is hereby given to this treating facility to perform any and all tests or procedures relative to my injury/illness or physical examination as deemed necessary by the attending physician and/or employer. Should this visit be found unrelated to my work and not part of a worker's compensation claim, I will not hold WorkWell™ Occupational Health Clinic or St. Francis Health System liable for the release of these records. If this injury is determined to not be work-related, I understand that I will be responsible for my bill.

Employee's Signature: Maria E. Hogana

Date: 7/17/03

Vital Signs:

BP: 122/70

P: 80

T: 98.1°F

Chief Complaint: (where, what, when, how)

Right arm / hand pain

Treatment:

Exam

Diagnosis:

(2) Cervical radiculopathy

Medication Given:

Advise DS #20. Skullum Room #24

Prescription? ☒ Yes ☐ No

X-Rays:

Yes ☐ No ☐

Interpretation: _____

Disposition:

☒ 1. Work Related ☐ Non-Work Related ☒ Undecided

☒ 2. May return to work/physical activity without restrictions

Date: _____

MMI _____

☒ 3. May return to work/physical activity with the following restrictions:

Date: 7-17-03

☐ No prolonged sitting/standing

Amount of Time: _____

☐ No strenuous climbing, pulling or pushing

Weight limit: _____

☐ Lifting limited to _____ lbs with

☒ (L) arm

(R) arm

☒ no lifting

☐ No/limited lifting at waist level - Specify weight if limited: _____

☐ No/limited repetitive use of: ☒ (L) hand/arm/leg

(R) hand/arm/leg

- Specify # repetitions/Time: _____

☐ Sedentary work only (0 - 10 lbs.)

☐ No significant physical activity without use of splint, crutches, brace, etc.

☐ No walking on rough terrain

☐ No/limited repetitive stooping, bending, squatting or twisting - Specify frequency per hour: _____

☐ No/limited overhead lifting - Specify weight if limited: _____

☐ No exposure to heights above _____ ft.

☐ Environmental restrictions ☐ Yes ☐ No

Exposure requires limitation to _____ heat _____ cold _____ dust _____ chemicals _____ vibrations

If yes, please explain: _____

☐ Keep dressing clean & dry

☐ Other: Massage with heating

4. Employee is unable to work until recheck date - 11 days _____ week

5. Is employee restricted by medication and/or treatment that might affect his/her

ability to drive? ☐ Yes ☐ No

ability to operate machinery? ☐ Yes ☐ No

6. Estimated date of maximal medical improvement (MMI): _____

Scheduled appointments:

☒ Follow-up appointment at WorkWell™ Occupational Health Center

Date: 7-25-03

Time: 8:00 AM

☒ To Specialist:

Date: _____

Time: _____

☒ To Physical Therapy: 3x/week x 2 weeks Location: _____

Date: _____

Time: _____

☒ Other:

☒ Test/Procedures ordered: _____

Date: _____

Time: _____

Facility: _____

Name of Physician/Provider: Marjorie M. Johnson

Physician/Provider Signature: Marjorie M. Johnson

Instructions given by: Dr. Johnson Understand the instructions given to me: Maria E. Hogana

Signature of Patient: _____

Company called by: _____

Time: _____

- 169 -

any Rep Name/Title: _____

WHITE: WW
SFHS-S65 WORKWELL OHS INJURY ASSESSMENT

YELLOW: EMPLOYER

PH

Revised 10/14/99

GOLDENROD: MEDICAL RECORDS
C: Injury Assessment Form with Blue Plate

Copy: CBO



BON SECOURS
ST. FRANCIS HEALTH SYSTEM

WorkWell™ Occupational Health Center
St. Francis Women's & Family Hospital
131 Commonwealth Drive - Suite 200
Greenville, SC 29615
Phone: (864) 675-4600 Fax: (864) 675-4604

Today's Date:

Arrival Time:

Time In:

Time Out:

☐ Initial

☒ Re-check

KARLA E. MCGAHA
PONEYWELL
MARY

07/17/2003
BOULDER
2408694

Post-Accident UDS? (Check Company List) ☐ Yes ☐ No	Date of Injury: / /	Time of Injury:
Allergies:	Home Phone:	
Current Job:	Title:	

Treatment Authorized by:

Title:

Date:

I hereby authorize the release of all medical information pertaining to this work related injury/illness to my employer, insurance company and referral physicians. Records from any medical provider involved in or relative to the diagnosis or treatment of this injury may be released to WorkWell™ Occupational Health Clinic. In addition, authorization is hereby given to this treating facility to perform any and all tests or procedures relative to my injury/illness or physical examination as deemed necessary by the attending physician and/or employer. Should this visit be found unrelated to my work and not part of a worker's compensation claim, I will not hold WorkWell™ Occupational Health Clinic or St. Francis Health System liable for the release of these records. If this injury is determined to not be work-related, I understand that I will be responsible for my bill.

Employee's Signature:

Date:

Vital Signs:

BP:

Chief Complaint: (where, what, when, how)

Treatment:

Diagnosis:

Medication Given:

Prescription? ☐ Yes ☐ No

X-Rays

Yes ☐ No ☒

Interpretation:

Disposition:

1. ☒ Work Related ☐ Non-Work Related ☒ Undecided
2. May return to work/physical activity without restrictions
3. May return to work/physical activity with the following restrictions:
 - ☐ No prolonged sitting/standing Amount of Time: _____
 - ☐ No strenuous climbing, pulling or pushing Weight limit: 5-10 lbs
 - ☐ Lifting limited to 5-10 lbs with (L) arm (R) arm ☐ no lifting
 - ☐ No/limited lifting at waist level - Specify weight if limited: _____
 - ☐ No/limited repetitive use of (L) hand/arm/leg (R) hand/arm/leg - Specify # repetitions/Time: 3-4x hr
 - ☐ Sedentary work only (0 - 10 lbs.)
 - ☐ No significant physical activity without use of splint, crutches, brace, etc.
 - ☐ No walking on rough terrain
 - ☐ No/limited repetitive stooping, bending, squatting or twisting - Specify frequency per hour: _____
 - ☐ No/limited overhead lifting - Specify weight if limited: _____
 - ☐ No exposure to heights above _____ ft.
 - ☐ Environmental restrictions ☐ Yes ☐ No
 - Exposure requires limitation to heat cold dust chemicals vibrations
 - If yes, please explain: heat to neck & shoulder 3x hr
 - ☐ Keep dressing clean & dry
 - ☒ Other
4. Employee is unable to work until recheck date - _____ days _____ week
5. Is employee restricted by medication and/or treatment that might affect his/her ability to drive? ☐ Yes ☐ No ability to operate machinery? ☐ Yes ☐ No
6. Estimated date of maximal medical improvement (MMI): _____

Scheduled appointments:

- ☒ Follow-up appointment at WorkWell™ Occupational Health Center
- ☒ To Specialist: as ordered
- ☒ To Physical Therapy: as ordered
- ☒ Other:
- ☒ Test/Procedures ordered:

Date:

Date:

Date:

Date:

Time:

Time:

Time:

Time:

Facility:

Name of Physician/Provider:

Physician/Provider Signature:

Instructions given by:

I understand the instructions given to me:

Signature of Patient

Company called by:

Time:

- 170 - Company Rep Name/Title:

WHITE: WW YELLOW: EMPLOYER

Revised 10/14/99

GOLDENROD: MEDICAL RECORDS
C: Injury Assessment Form with Site Plate

Copy: CBO

906-8167

Upstate Medical Rehabilitation, P.C.

1003 Grove Road • Suite E • Greenville, SC 29605
PHONE: (864) 232-8417 FAX (864) 232-1511

David L. Shallcross, MD • Robert E. LeBlond, MD • Tamara I. Fatianov, MD
Alan R. Hippensteal, MD • Clifford Monda, DO
D. Goldsmith, PA-C • W. Ngai, PA-C • D. Patel, PA-C

NAME Monica McCabe AGE _____
ADDRESS _____ DATE 11/13/04

pt to be on light Diet,
no lifting, pulling, pushing
anything greater than 10 pounds

☐ REFILL _____ TIMES
☐ LABEL

DISPENSE AS WRITTEN _____ M.D.

 M.D.
SUBSTITUTION PERMITTED

Upstate Medical Rehabilitation, P.C.

1003 Grove Road • Suite B • Greenville, SC 29605
PHONE: (864) 232-8417 FAX (864) 232-1511

David L. Shallcross, MD • Robert E. LeBlond, MD • Tamara I. Fatianov, MD
Alan R. Hippensteal, MD • Clifford Monda, DO
D. Goldsmith, PA-C • W. Ngai, PA-C • D. Patel, PA-C

NAME Monica McCalla AGE _____
ADDRESS _____ DATE 1/13/04

pt to be on light Diet,
no lifting, pulling, pushing
anything greater than 10 pounds

☐ REFILL _____ TIMES
☐ LABEL

DISPENSE AS WRITTEN _____ M.D.

[Signature] M.D.
SUBSTITUTION PERMITTED

UPSTATE MEDICAL REHABILITATION

1003 Grove Road, Suite E

Greenville, SC 29605

(864) 232-8417

David L. Shallcross, M.D.

Robert E. LeBlond, M.D.

Tamara Fatianov, M.D.

Alan R. Hippensteal, M.D.

Clifford A. Monda, DO

NEW CONSULTATION

MCGAHA, MARIA

01/13/04

REFERRING PHYSICIAN: Michael Bucci, M.D.

CHIEF COMPLAINT: Left sided neck, shoulder and arm pain.

HISTORY OF PRESENT ILLNESS: The patient is a 63-year-old female who states that she began having pain approximately eight months ago. She felt that this was secondary to her work at Honeywell using a buffing machine. She has been out of work now six months. She describes left sided neck, shoulder and arm pain, from her mid biceps down. She has cramps and this is now slowly moving up she feels. She also describes left sided shoulder pain as well as some weakness to her left upper extremity. She does have some tingling sensation as well as some numbness in her forearm and hand. She has had physical therapy for five weeks and she has not had chiropractic treatment. She had taken Lortab 7.5/500 three to four times a day as well as Skelaxin b.i.d. which appears to help. She also takes Tylenol P.M. for sleep. She states that she needs to go back to work by February 4th or she may lose her job.

PAST MEDICAL HISTORY: She denies any problems.

ALLERGIES: No known drug allergies.

MEDICATION: Lortab and Skelaxin.

SOCIAL HISTORY: She is married and lives with her husband. She has worked at Honeywell for the last six years.

FAMILY HISTORY: Noncontributory.

REVIEW OF SYSTEMS: The patient denies any chest pain, shortness of breath, nausea, vomiting or diarrhea. She denies any other joint involvement. There is no bowel or bladder incontinence. She does not have any falls or loss of balance. All other review of systems are negative.

(continued next page)

MCGAHA, MARIA

01/13/04

Page -3-

PHYSICAL EXAM: Blood pressure: 124/80. Weight: 146. In general she is alert and oriented times three in no acute distress. Heart is regular rate and rhythm. Abdomen is soft, nontender, nondistended. Extremities show no distal edema. There are no signs of depression on today's exam. Her bilateral shoulder musculature and cervical paraspinals shows no sign of atrophy. There are no asymmetrical differences noted. She has good ROM in her cervical spine, shoulders and bilateral upper extremities. There is some slight weakness in her left upper extremity throughout compared to her right. Her sensation is intact bilaterally. Deep tendon reflexes are equal bilaterally. She has a negative apprehension sign. Negative impingement sign. There is some noted weakness on her external rotators of her left shoulder. She does have some weakness on empty can test on the left compared to right.

RADIOLOGICAL REVIEW: There is a cervical myelogram from December 18, 2003 which showed some mild uncovertebral spurring at C5/6 causing mild central canal encroachment and left neuroforaminal narrowing. There is also some suggestion of mild anterolisthesis on C4 and C5. There is a MRI of her left shoulder. Results are not available today.

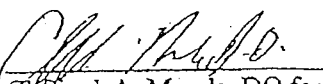
ASSESSMENT:

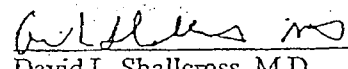
1. Left shoulder pain with questionable rotator cuff tear, awaiting MRI results.
2. Cervical spine pain with some mild uncovertebral spurring at C5/6 causing mild central canal stenosis and left neuroforaminal narrowing.

PLAN:

1. Refilled her Lortab 5/500 one p.o. q.i.d. #120 with no refills, Zanaflex 1 mg p.o. q.a.m., noon and two q.h.s. #120.
2. Proceeded today with a left shoulder joint injection.
3. We are awaiting MRI results and see her back in three weeks for continued evaluation.

PROCEDURE DESCRIPTION: Risks and benefits were explained including bleeding, injection site pain, infection and allergic reaction to medications. The patient understood and proceeded. The patient's left shoulder was cleansed in a sterile fashion. A 22-gauge 1½-inch needle was used to inject a total of 10 cc consisting of 1 cc 40 mg Depo-Medrol and 9 cc of 1% lidocaine. The patient tolerated the procedure well. She did notice some relief of her shoulder pain with the injection.


Clifford A. Monda, DO for
CAM/mbm
T: 01/15/04


David L. Shallcross, M.D.
DLS/mbm

Upstate Medical Rehabilitation, P.C.

1003 Grove Road • Suite E • Greenville, SC 29605
PHONE: (864) 232-8417 FAX (864) 232-1511

David L. Shallcross, MD • Robert E. LeBlond, MD • Tamara I. Fatianov, MD
Alan R. Hippensteal, MD • Clifford Monda, DO
D. Goldsmith, PA-C • W. Ngai, PA-C • D. Patel, PA-C

NAME Maria McCoate AGE _____
ADDRESS _____ DATE 1/13/04

pt to be on light Diet,
no lifting, pulling, pushing
anything greater than 10 pounds

☐ REFILL _____ TIMES
☐ LABEL

DISPENSE AS WRITTEN _____ M.D.

 M.D.
SUBSTITUTION PERMITTED

Honeywell

Work-Status

Associate's Name Maria Magaha

Department _____ Shift 2nd

☐ May Return to Work without restrictions. Date: _____

☒ May Return to Work with the Following Restrictions: _____

No strenuous climbing, pushing or pulling over 10-20#
Lifting limited to 5# with left arm
Limited bending, twisting of neck to 5-10 X/hour

Not work related

Restrictions effective from 8/1/03 until 8/1/03
(date) (date)

Authorized by: Magillroy

Date: 8/1/03 - E. Platt aware

10/02 mag

White - Supervisor

- 176 -

Pink - Employee

FAX TRANSMISSION

Honeywell Engines & Systems
PO Box 1404
Greer, SC 29652-1404
864-989-3700

Date: 1/14/04

pages: 2
(including cover)
Urgent

Please Review

Reply ASAP

To: Maryann Vetre
Company: MetLife
Fax #: 860 682 6060
Phone #: 860 682 6117

From: Mary A. Gilboy, RN, CCM, COHN
Occupational Health & Safety Specialist
Confidential Fax#: 864-989-3722
Phone#: 864-989-3712

Message:

Maria McGaha Claim # 520308048122

Dr's Note indicating okay to RTW with
restrictions. We will need to clear her through
the company physician before we can allow
any RTW so she has NOT yet returned.
Mary

Warning: Unauthorized interception of this facsimile may be a violation of Federal or State law.

This message is intended only for use by the individual or entity to which it is addressed and contains privileged or confidential business or medical information, the disclosure of which may be a violation of Federal or State law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is illegal and strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address listed above via U.S. Postal Service. Thank you.



PERSONNEL
file
2800034122



**EMPLOYMENT
APPLICATION**

AlliedSignal Inc.
AN EQUAL
OPPORTUNITY
EMPLOYER

EMPLOYMENT APPLICATION

NAME (LAST) *M C Palma* (FIRST) *Maria* (MIDDLE) *Emma* SOCIAL SECURITY NUMBER
 PRESENT ADDRESS (STREET) (CITY) (STATE) (ZIP) AREA CODE AND TELEPHONE NUMBER

POSITION APPLIED FOR SALARY / WAGE REQUESTED DATE AVAILABLE

ARE YOU A FORMER EMPLOYEE OF ALLIEDSIGNAL INC. OR ANY OF ITS AFFILIATES? ☐ YES ☐ NO IF YES, COMPLETE THE FOLLOWING:

EMPLOYMENT DATES: JOB TITLE:

PRIMARY REASON FOR LEAVING:

ARE YOU CURRENTLY INTERVIEWING WITH ANOTHER ALLIEDSIGNAL INC. FACILITY? ☐ YES ☐ NO

FACILITY:

WHAT LED YOU TO APPLY FOR A POSITION WITH THIS COMPANY?

ARE YOU AUTHORIZED TO WORK IN THE UNITED STATES? ☐ YES ☐ NO ARE YOU WILLING TO RELOCATE? ☐ YES ☐ NO
 IF NO, HAVE YOU APPLIED FOR WORK AUTHORIZATION? ☐ YES ☐ NO GEOGRAPHICAL PREFERENCE

EDUCATION

SCHOOL NAME	CITY AND STATE (COUNTRY)	MAJOR FIELD OF STUDY	GRADE / YEARS COMPLETED	DIPLOMA / DEGREE AWARDED
HIGH SCHOOL <i>Santa Teresa Colombia S A</i>		<i>Basic</i>	<i>12</i>	<i>Diploma</i>
COLLEGE / UNIVERSITY				
GRADUATE SCHOOL				
OTHER				

SPECIAL SKILLS, APTITUDES AND OTHER QUALIFICATIONS

WHAT BUSINESS MACHINES CAN YOU OPERATE?

HONORS, PRIZES, SCHOLARSHIPS, FELLOWSHIPS, ETC.

GRADEPOINT AVERAGE CLASS STANDING GRADEPOINT AVERAGE CLASS STANDING

UNDERGRADUATE GRADUATE

OUTLINE OR ATTACH RESEARCH INVESTIGATION MADE IN CONNECTION WITH THESIS OR ANY PUBLISHED PAPERS

PROFESSIONAL SOCIETIES OF WHICH YOU HAVE BEEN A MEMBER AND OFFICES HELD:

ATTACH RESUME OR ANY SIGNIFICANT QUALIFICATION INFORMATION INCLUDING INVENTIONS AND PATENTS.

OUTSIDE INTERESTS / ACTIVITIES:

UNITED STATES MILITARY SERVICE

ENTRY DATE	DISCHARGE DATE	BRANCH	LAST RANK	MAJOR DUTIES

SPECIALIZED TRAINING

BUSINESS EXPERIENCE (LIST MOST RECENT POSITION FIRST)					
DATES OF EMPLOYMENT	NAME AND ADDRESS OF EMPLOYER	TYPE OF BUSINESS	POSITION YOU HELD & NUMBER OF PEOPLE YOU SUPERVISED	NAME AND TITLE OF SUPERVISOR	STARTING AND FINAL PAY
FROM May 25 94 TO	Transworld Greenville SC	Staffing	Prep finish	Jerry James	

DUTIES: *Debur, Airflow, Water flow, Laser, Reverse Flank*

PRIMARY REASON FOR LEAVING:

UNEMPLOYED BETWEEN ABOVE AND BELOW EMPLOYMENTS?						
CITY AND STATE WHERE LIVING DURING THIS TIME:					FROM	TO
DATES OF EMPLOYMENT	NAME AND ADDRESS OF EMPLOYER	TYPE OF BUSINESS	POSITION YOU HELD & NUMBER OF PEOPLE YOU SUPERVISED	NAME AND TITLE OF SUPERVISOR	STARTING AND FINAL PAY	
FROM Dec 12-95 TO Agent 97	Specialty Placement Coordinator Greenville		244-7344	David Everts	9.00 129.	

DUTIES:

PRIMARY REASON FOR LEAVING:

UNEMPLOYED BETWEEN ABOVE AND BELOW EMPLOYMENTS?						
CITY AND STATE WHERE LIVING DURING THIS TIME:					FROM	TO
DATES OF EMPLOYMENT	NAME AND ADDRESS OF EMPLOYER	TYPE OF BUSINESS	POSITION YOU HELD & NUMBER OF PEOPLE YOU SUPERVISED	NAME AND TITLE OF SUPERVISOR	STARTING AND FINAL PAY	
FROM Sep 87 TO Aug 95	Pie-N-Save Jacksonville FL	Cashier			4.65 7.25	

DUTIES:

PRIMARY REASON FOR LEAVING: *closed*

UNEMPLOYED BETWEEN ABOVE AND BELOW EMPLOYMENTS?						
CITY AND STATE WHERE LIVING DURING THIS TIME:					FROM	TO
DATES OF EMPLOYMENT	NAME AND ADDRESS OF EMPLOYER	TYPE OF BUSINESS	POSITION YOU HELD & NUMBER OF PEOPLE YOU SUPERVISED	NAME AND TITLE OF SUPERVISOR	STARTING AND FINAL PAY	
FROM March 81 TO July 87	J.P. Stivers & Co Inc Duncan Plant Greenville SC	Weaver			5.00 9.50	

DUTIES: *Murwood To Jacksonville FL.*

PRIMARY REASON FOR LEAVING:

PROFESSIONAL / BUSINESS REFERENCES WHO MAY BE CONTACTED BY ALLIEDSIGNAL INC.			
NAME	ADDRESS	PHONE NUMBER	OCCUPATION

I HEREBY ACKNOWLEDGE THAT THE POST OFFER MEDICAL EXAMINATION AT ALLIEDSIGNAL INC. INCLUDES A SCREENING FOR CURRENT USE OF ILLEGAL DRUGS.

I UNDERSTAND THAT ANY OMISSION OR MISREPRESENTATION BY ME IN THIS APPLICATION MAY BE CAUSE FOR MY REJECTION OR DISMISSAL AND THAT ANY OFFER OF EMPLOYMENT IS CONTINGENT UPON SATISFACTORY RESULTS OF A MEDICAL EXAMINATION BY A COMPANY DESIGNATE PHYSICIAN AT COMPANY EXPENSE. ANY EMPLOYMENT RESULTING FROM THIS APPLICATION WILL BE EMPLOYMENT AT WILL. THIS MEANS THAT I HAVE THE RIGHT TO TERMINATE MY EMPLOYMENT AT ANY TIME AND FOR ANY REASON, AND THE COMPANY MAY EXERCISE THE SAME RIGHT. ALL APPLICANTS FOR EMPLOYMENT WILL BE CONSIDERED WITHOUT REGARD TO RACE, RELIGION, COLOR, NATIONAL ORIGIN, SEX, AGE OR DISABILITY.

I AUTHORIZE ALL OF MY FORMER EMPLOYERS, SCHOOL OFFICIALS, INSTRUCTORS, CREDIT BUREAUS, LOCAL, STATE AND FEDERAL AUTHORITIES, OTHER PERSONS NAMED HEREIN OR SUBSEQUENTLY PROVIDED AS REFERENCES, AND OTHER PERSONS WITH INFORMATION REGARDING MY QUALIFICATIONS TO GIVE TO ALLIEDSIGNAL INC., OR ITS AGENT, ANY ORAL OR WRITTEN INFORMATION THEY HAVE REGARDING ME. I HEREBY RELEASE SAID COMPANIES, ORGANIZATIONS, AGENTS, INDIVIDUALS AND ALLIEDSIGNAL INC. FROM ANY LIABILITY FOR ANY DAMAGE WHATSOEVER RESULTING FROM THE GIVING OF SUCH INFORMATION.

I UNDERSTAND THAT NO REPRESENTATIVE OF ALLIEDSIGNAL INC. OTHER THAN A PRESIDENT OR VICE PRESIDENT — HUMAN RESOURCES C ALLIEDSIGNAL INC. (WHO MUST DO SO IN WRITING) HAS ANY AUTHORITY TO ENTER INTO ANY AGREEMENT FOR EMPLOYMENT FOR ANY SPECIFIC PERIOD OF TIME OR TO MAKE ANY AGREEMENT CONTRARY TO THE FOREGOING.

I AUTHORIZE VERIFICATION OF:		SIGNATURE OF APPLICANT	DATE
☐ ALL INFORMATION GIVEN.	☐ ALL INFORMATION EXCEPT PRESENT EMPLOYER.	<i>[Signature]</i>	1/22/98

MFP - Thornblade
398 The Parkway Greer, SC 29650
864-877-9577 Fax: 864-877-9073

October 22, 2003

Page 1

Chart Document

MARIA EMMMA MCGAHAY
Female DOB: [REDACTED]

10/22/2003 - Office Visit: Discuss disability
Provider: Jack W Brunson, MD
Location of Care: MFP - Thornblade
Status: IN PROGRESS DOCUMENT. Contents are preliminary

Office Visit

History of Present Illness

Chief Complaint: Discuss disability

History of Present Illness: Pt here today because her employer has told her that short term disability has reached its limit. She has to be released from PCP care as of today in order to be seen by her company physician, otherwise, she must return to work this monday 10.27.03. She's been told by the HR person at her company that her short term disability has been denied because information was not provided within the 60 day time period and that her FMLA limit had also been reached. Maria says she never applied for FMLA. She does feel better though as indicated when she was here the other day. She wants to try to return to work though plans to follow through w/seeing Dr. Bucci and trying to get rid of her neck/shoulder problem completely even if it requires surgery.

Past, Family, and Social History

Past History (reviewed - no changes required): hysterectomy
depression

Social History (reviewed - no changes required): husband deceased of cancer

Review of Systems

Musculoskeletal

General: Denies fatigue, malaise.

Musculoskeletal: Complains of see HPI, stiffness.

Psychiatric: Complains of anxiety.

Vital Signs

Ht: 63 in. Wt: 140.5 lbs. T: 98.4 deg F. T site: oral BP: 128/74

Physical Exam

General appearance: well nourished, well hydrated, no acute distress

Neck

Neck: no masses, trachea midline

Musculoskeletal

Gait and station: normal, can undergo exercise testing and/or participate in exercise program

MFP - Thornblade
398 The Parkway Greer, SC 29650
864-877-9577 Fax: 864-877-9073

October 22, 2003

Page 2

Chart Document

MARIA EMMA MCGAHA
Female DOB

Head and neck: slight limitation to ROM on L lateral rotation of head
Spine, ribs, pelvis: trigger point over spine of scapula on L
RUE: FROM shoulder
LUE: FROM shoulder

Neurologic

Cranial nerves: II - XII grossly intact

Mental Status Exam

Judgment, insight: intact

Mood and affect: anxious w/ labile mood

Assessment

Status of Existing Problems:

CERVICALGIA Improved - Jack W Brunson, MD

NEURALGIA/NEURITIS NOS Improved - Jack W Brunson, MD

As noted the other day she is much better w/only minimal residual but w/her underlying cervical arthritis is at risk for exacerbation of pain and disability w/repetitive motion

Plan

Updated Medication List:

ACIPHEX 20 MG EC TAB (RABEPRAZOLE SODIUM) 1qd

ESTRACE 1 MG TAB (ESTRADIOL) 1qd sl

VIOXX 25 MG TAB (ROFECOXIB) daily or ut dict

LEVAQUIN 500 MG TAB (LEVOFLOXACIN) 1 qd

PHENERGAN 25 MG TAB (PROMETHAZINE HCL) 1 q4hr pm nausea

LORTAB 5 500-5 MG TAB (ACETAMINOPHEN-HYDROCODONE) 1-2 q4h pm pain

ZANTAC 300 MG TAB (RANITIDINE HCL) 1 qhs

ELOCON 0.1 % CREAM (MOMETASONE FUROATE) apply bid

SKELAXIN 800 MG TAB (METAXALONE) 1 qid for muscle spasm in neck and shoulder

PAXIL CR 12.5 MG TABSR24 (PAROXETINE HCL) 1 tablet daily

New Orders:

Level III 99213 OV Est Expanded [CPT-99213]

Request return to work and I think it reasonable to allow given her current situation though advised her of risk for re-injury. Encouraged her to follow through w/plans to see Dr. Bucci
Disposition: return to clinic in 1 month

Medical Decision-Making

Amount/complexity of data to be reviewed

Dr. Bucci 11/4/03

Page 3
Chart Document

Home:

489131

Risk of complications: moderate

Nurse's Notes

Associate's Name: Maria Mc Gaha

SS# or ID# _____

Date	Time	
7/17/03	3:30pm	Escorted to Nurse's Office by Sam Cleveland. Has note from Mountain View Family Practice stating she has CTS of R hand that is likely work-related and should be taken care of by Worker's Comp. No work x 2 weeks. Discussion with Associate reveals C/o R neck pain x 6-7 months with pain going down left arm until it started cramping into forearm area causing pain into hand. Denies specific injury, states she believes "everything" about her job is causing the CTS. Her doctor said she had. States she does not want to miss work. Continues to say that her neck pain kept getting worse to the point that she cannot sleep on left side due to neck and shoulder pain. Advised Associate I would be sending her to WorkWell to see if she would be okay to work @ least a one-handed job. She's agreeable as my phone call to "Angie" @ Mountain View said it may take hours for the doctor to get back with me. Advise Eddie Plott plan to have WorkWell determine if able to ~~work~~ ^{perform} some kind of work and that he would need to find work with in any restriction outlined by WorkWell. He's agreeable. Will complete a Job Description. A/R started by myself. Magillby, R.)
7/18/03 8:00 7/17/03	5:30pm	Spoke with Loretta @ WorkWell, believes pain is more of a Cervical radiculopathy, not CTS. No classic CTS STS. Will allow to work w/ restrictions, needs some mm relaxers NSAIDs probably PT. Maybe MRI if no improvement. Mag, P

Page 1 of _____

Nurse's Notes

Associate's Name: Maria McGowan

SS# or ID#

Date	Time	
7/18/03		Jerry Boland aware of situation.
7/18/03		WorkWell assessment sheet has with completed J.D. Has flu appt. 7/25/03 8am @ WorkWell. Dx @ Cervical radiculopathy (Mazilbay, R)
7/23/03		Lynn Farnell called - MRI approved by Dr. Merrinweather to help R/O & confirm cervical disc problem, scheduled 7/31/03 @ 3:30pm @ Women's Hospital. She will try to get it sooner, will let me know. Mags
	3:30p	Maria came by - advised Sam Cleveland said she may work Airflow/Waterflow. She expressed gratitude and pleasure with that assignment. I advised her to take a 10 minute break every hour, but to make sure she does not bother other operators during that time. She voices understanding. Maria and I visited until 4pm. During our visit she was verbal and used her hands frequently to constantly while talking. We talked mostly non-work related topics such as religion and politics. She was very talkative and used both arms and hands & S of pain until about 3:55pm. At that time I noticed her favoring her D arm, even tucking it behind the chair back, and at about 3:58 I started noticing facial grimaces. I again reviewed S. her to work Airflow/Waterflow; to ~~take~~ break 10 min every hour and to make sure she goes to her PT tomorrow, as scheduled. She will see if she can get an MRI sooner than 7/31 since she will be @ WorkWell anyway. RTH Mags

Page 2 of

Nurse's Notes

Associate's Name: Maria Magaba

SS# or ID# _____

Date	Time	
7/29/03	10:15 AM	Maria called. Said she got her MRI done yesterday and that they told her the doctor would have results in 3 days. She would like an appointment to review MR with Lorette. Told her I would see what I could get and would call her back. Spoke to Workwell - Lorette out until next Thursday. Scheduled appt. with Dr. Merrinweather for Friday 8:15 AM. - to review MR. Called Maria to ~~advise~~ advise her of appt. This does not meet her schedule so she will let Workwell reschedule. She will call them. I called Workwell, spoke to Alesha ~~explaining~~ & advised okay for Maria to re-schedule appt. Mag. P.
8/1/03		Call from Dr. Merrinweather. Reviewed MR & ECU - she is not happy about this being a non-work related issue. There are no signs of CTS upon exam and this is something she will need to take care of thru private insurance. Said she was excited and upset when he mentioned arthritis and said he could recommend someone, but she would need to go thru her private insurance and he would tell her to talk with me about it. Mag. P.
8/1/03	2:00 pm	Received & reviewed MRI of Cervical spine. Impression: DDD - mostly C4-5 through C6-7 levels. Hypertrophic foreman. microachne is suggested at least the C5-6 level and less at C6-7 level. Magilligan D
	3:20 pm	Came in with WIA assem & sheet. Said No hx of joint arthritis. Does not really believe this. Want me to approve payment for Rx - advised I cannot - next p

Page 3 of _____

Nurse's Notes

Associate's Name: Maria Mabaka

SS# or ID# _____

Date	Time	Continued from previous page
8/11/03		Advised EE her personal health insurance would have to pay for meds and doctor visits. Gave EE copy of MRI report. RTW & Restrictions magilboy, R
10/28/03	1:30pm	Has seen Dr. Merriweather for RTW eval. States may RTW with following restrictions "No overhead, ~~no~~ no anterior lifting. No lifting 75# "mag, R" "If above can be accommodated, may RTW. If not, recommend quit until E/u & Specialist. mag, R
	2:30p	Discussed with Lena Long - will further discuss with Ken McKee. magilboy, R
	2:50p	Discussed with Ken McKee - No work available with those restrictions. Will advise Assoc. mag, R
10/28/03 (804) 906-8167	2:50p	Spoke with Maria - she initially is upset she may lose her job. Told her that Michele is reviewing in appeals process not to panic or give up yet. magilboy, R
11/5/03		Maria here. Said Dr. Bucci said no work until after 5/11, which is after 5 weeks of PT. We called Dr. Bucci's office together - we need note on work status, which will fax magilboy, R
11/11/04		Brought in note - Upstate Medical Rehab. PC RTW & Restrictions of Light Duties no lifting, pulling, pushing anything greater than 10 pounds. Will need Dr. Merriweather to eval fit for duty. mag

Page 4 of _____

Nurse's Notes

Associate's Name: Maria McGaha

SS# or ID# _____

Date	Time	
4/15/04		Spoke with Maria - I asked how she was doing today she said "terrible" because she has pain in her shoulder. Maria went on to say she may need surgery and had been referred to an Orthopedist. I told her the reason I called was to find out who/where her MRI was done as Dr. Mondak's office said they do not have it. She informed me she had it done at St. Francis. Then I asked her for her Orthopedic doctor's name so that I could also get records from that office. I told her once I get all the records, I would have our doctor review and he would probably see her to determine her work status. She voiced understanding and appreciation. Magilboy, R.
		Spoke with Debbie @ Dr. Himerick's office. This is a Dermatology office, not Orthopedic. Magilboy, R. Called Maria again. Told her she gave me her Dermatologist's number, and that when she finds her orthopedic's number to call me back with the name and number. She apologizes and is agreeable. Magilboy, R.
	2pm	Maria calls - Ortho was Dr. Stephen Geary @ the East North Office 292-6695. Said she has had 2 injections in her shoulder. The first from Dr. Mondak did not do a lot, but the 2nd helped a great deal. Said she is hurting so bad now because it has been so long since her 2nd shot and she cannot go back because the insurance won't pay and she has no money. Said Dr. Geary told her he would schedule her for surgery, because the shots do not help much, but she cannot go because of insurance issues. -next pg. Magilboy, R.

Nurse's Notes

Associate's Name: Maria McGovern

SS# or ID#

Date	Time	
4/15/04		Continued from previous page. I told Maria I would need her to sign another authorization form so I could get records from Dr. Gary's office and would be able to present all info for Dr. Murawski. She is agreeable. I will have OS (daughter) bring it to her for her to sign so she won't have to run back over here. She's agreeable. I call Oakwood Orthopedics. The number is not in service. I called their main office, spoke to Elaine. She has records will be willing to provide some with authorization, gave me fax #. Mag, R.) Brought ARO1 to OS - she will have Maria sign and bring back to me (mag, R.)
4/16/04	745A	OS brought in signed ARO1. Faxed to Elaine @ Dr. Gary's office. Mag, R.)

Metropolitan Life Insurance Company
MetLife Disability, PO Box 14590, Lexington, KY 40511-4590
Phone: 1-800-243-8786 Fax: 1-866-690-1264

MetLife

October 6, 2003

Ms. Maria E. McGaha

RE: Employer: HONEYWELL
INTERNATIONAL INC.
Claim #: 520308048122
Employee ID #:

Dear Ms. McGaha:

We previously notified you of the information required to fully consider your claim for disability benefits. Our records reflect that this information has not yet been provided. For the reason(s) noted below, we have denied your claim effective August 4, 2003.

Your employer's plan provides as follows:

"For Disabilities incurred after May 31, 2002, the Eligible Employee must provide, or cause to be provided, all required forms and information within 21 calendar days from his first day absent from work due to alleged Disability. If the Eligible Employee does not submit such forms and information within the required 21-day period, benefits hereunder (if they are being paid pending a determination with respect to the claim) shall be temporarily suspended. If the Eligible Employee thereafter submits such forms and information within 60 calendar days of his first day absent from work due to alleged Disability, benefits under the Plan (in the event of a determination that a Disability exists) shall be paid or reinstated, as the case may be, retroactively. If the Eligible Employee does not submit such forms and information within the aforementioned 60-day period, the Eligible Employee shall be ineligible for benefits under the Plan."

Accordingly, inasmuch as you did not provide the requested documentation within the requisite 60-day time period, your claim for benefits is denied.

You may appeal this decision by sending a written request for appeal to MetLife Disability, PO Box 14592, Lexington KY, 40511-4592 within 60 days after you receive this denial letter. Please include in your appeal letter the reason(s) you believe the claim was improperly denied, and submit any additional comments, documents, records or other information relating to your claim that you deem appropriate for us to give your appeal proper consideration. Upon request, MetLife will provide you with a copy of the documents, records, or other information we have that are relevant to your claim and identify any medical or vocational expert(s) whose advice was obtained in connection with your claim.

MetLife will evaluate all the information and advise you of our determination of your appeal within 45 days after we receive your written request for appeal. If there are special circumstances requiring additional time to complete our review, we may take up to an additional 45 days, but only after notifying you of the special circumstances in writing.

For efficient and prompt claim handling, all documents or correspondence returned to us should contain the claim number.

Contact MetLife's Customer Response Center Monday through Friday from 8 a.m. to 8 p.m. Eastern Time at the toll free number above, if you have any questions. The customer response center representatives can assist you with most claim questions.

Sincerely,

Maryann Vetre
MetLife Disability

cc: Gina Zong
M Gilboy

For efficient and prompt claim handling, all documents or correspondence returned to us should contain the claim number.

MUST BE COMPLETED WITHIN
24 HOURS OF OCCURRENCE.

ACCIDENT INVESTIGATION FORM

INJURED OR ILL EMPLOYEE			
NAME (LAST NAME FIRST)		SOCIAL SECURITY NUMBER	PHONE NO.
McGaha, Maria			
ADDRESS (INCLUDE ZIP CODE)		DATE OF BIRTH	☐ MALE ☒ FEMALE
		1556	
DATE HIRED	REGULAR DEPARTMENT	OCCUPATION	SHIFT
3/23/1998	Prep+Finish	Deburr	2nd
POSITION TITLE WORKED AT TIME OF ACCIDENT		TIME IN POSITION	WAGES
Deburr - Prep+Finish		YRS. 5 MOS 6	HR 19 MO.
ACCIDENT OR EXPOSURE			
EXACT LOCATION OF OCCURRENCE		OCCURRED ON COMPANY PREMISES	
Prep and Finish		☐ YES ☒ NO	
DATE OF ACCIDENT	TIME OF ACCIDENT	DATE INJURY REPORTED	DATE LOST TIME STARTED
Unsure	Unsure	7/17/03	
NATURE OF INJURY OR ILLNESS (INCLUDE PART OF BODY AFFECTED) EXAMPLE...CUT RIGHT INDEX FINGER AT 2ND JOINT, FRACTURED RIGHT ARM			
Alleged Carpal tunnel syndrome due to work started with neck/shoulder pain then upper arm cramping and into hand			
DESCRIBE ACTIVITIES WHEN INJURY OCCURRED. (WITH DETAIL OF HOW OCCURRED.) (INCLUDE NAMES OF INDIVIDUALS INVOLVED; TOOLS, MACHINERY, OBJECTS, VAPORS, CHEMICALS, UNNATURAL MOTIONS OF EMPLOYEES)			
Unsure - believes every part of job is causing problems with cramping. Pain x 6 months with pain going into lower arm x 1 month.			
WERE SAFE GUARDS OR SAFETY EQUIPMENT PROVIDED?		WERE THEY USED?	
☒ YES ☐ NO		☒ YES ☐ NO	
MEDICAL TREATMENT			
PHYSICIAN NAME & ADDRESS		HOSPITAL NAME & ADDRESS	
Mountain View Family Practice 406 Memorial Drive E.A. Greer, SC 29651 817-9066		Workwell Occ. Health 131 Commonwealth #200 Greenville, SC 29615	
WITNESSES			
NAME AND ADDRESS OF WITNESS OR WITNESS OF ACCIDENT:			
1.			
2.			

Claim #2800034122

Submitted to
Zurich
8/13/03 mag

INVESTIGATION REVIEW AND RECOMMENDATION			
TEAM:			
AFFECTED EMPLOYEE: <u>Maria McHaha</u>			
DEPARTMENT SUPERVISOR: <u>Sam Cleveland / Eddie Plott</u>			
DEPARTMENT ENGINEER:			
PLANT MANAGER: <u>Dean Roberts</u>			
SAFETY REPRESENTATIVE: <u>Gary Boland, Mary Bulboy, Sherry Fletcher</u>			
FIRST AID PROVIDED? ☐ YES ☒ NO	DATE	TIME	PROVIDER'S NAME
ANALYSIS: (EQUIPMENT TESTED, PHOTOGRAPHS OR SKETCHES, INTERVIEWS)			
RECOMMENDATION: (MATERIAL HANDLING, ENVIRONMENT, TEST RESULTS, EQUIPMENT MODIFIED OR PURCHASED, COMPLETION DATE)			
30 DAY FOLLOW UP:			
EMPLOYEE REVIEWED AND SIGNED:			

SUPERVISOR SIGNATURE: _____ DATE: _____

Claim # 2800034122

Disability Claim Employee's Job Description

MetLife

Metropolitan Life Insurance Company
P.O. Box 14590
Lexington, KY 40511-4590
Fax: 1-866-690-1264

Instructions for completing the claim form:

1. Complete all applicable areas of the claim form.
2. Sign the claim form.
3. Fax this form to expedite your claim - retain original for your records.

Name of Employee: Maria McGaha

Usual Days Worked 5 / per week

Employee's Job Title: Debar Operator

Hours Worked 40 / per week

Social Security Number: _____

Claim Number: _____

This section should be completed by someone who is familiar with the employee's job functions (e.g., manager or supervisor). Complete all sections. This section must be completed AND you must also attach a copy of your company's job description for the employee.

Name of Person Completing This Section:

J. Eddie Platt

Title: Facilitator

Signature: J.E. Platt

Date: 7-17-03

Place an X in each of the appropriate boxes to describe the extent of the specific activity performed by this employee.

	Number of hours Per Work Shift				
	0	1-2	3-4	5-6	7-8+
1. Sitting				X	
2. Standing	X	X			
3. Walking		X			
4. Bending Over	X				
5. Twisting	X				
6. Climbing	X				
7. Reaching Above Shoulder Level	X				
8. Crouching/Stooping	X				
9. Kneeling	X				
10. Balancing	X				
11. Pushing or Pulling	X				
12. Repetitive Use of Foot Control					
A. Right Foot Only	X				
B. Left Foot Only	X				
C. Both Feet	X				
13. Repetitive Use of Hands					
A. Right Hand Only					
B. Left Hand Only					
C. Both Hands					X

14. Grasping

A. Simple/Light

1. Right Hand Only
2. Left Hand Only
3. Both Hands

Number Of Hours
Per Work Shift

0	1-2	3-4	5-6	7-8+
X				
X				
		X		

B. Firm/Strong

1. Right Hand Only
2. Left Hand Only
3. Both Hands

0	1-2	3-4	5-6	7-8+
X				
X				
		X		

15. Fine Finger Dexterity

A. Right Hand Only

B. Left Hand Only

C. Both Hands

0	1-2	3-4	5-6	7-8+
			X	

16. Use of Head and Neck In:

- A. Static Position
- B. Twisting
- C. Looking Up
- D. Looking Down

0	1-2	3-4	5-6	7-8+
X	X			
X				
			X	

	Never 0% Of Time	Occasionally 1-33% Of Time	Frequently 34-66% Of Time	Continually 67-100% Of Time
17. Lifting or carrying		X		
A. Up to 10 lbs				
B. 11 - 20 lbs	X			
C. 21 - 50 lbs	X			
D. 51 - 100 lbs	X			
E. 100 + lbs	X			
18. Frequency of Interpersonal Relationships Necessary to Perform the Job		X		
19. Frequency of Stressful Situations Necessary to Perform the Job		X		

In the course of performing the job, the employee is required to:

20. Drive cars, trucks, forklifts and/or other equipment
21. Be around moving equipment and/or machinery
22. Walk on uneven ground

Yes	No
	X
X	
	X

23. Be exposed to dust, gas, or fumes

If yes, are respirators required

24. Be exposed to marked changes in temperature or humidity

25. Is overtime required on a routine basis

Yes	No
	X
	X
	X



007010100000000000006%

Continued on Following Page

JY5316.SCRC (05/02)

Mountain View Family Practice

406 Memorial Dr. Ext. Greer, SC 29651 (864) 877-9066

398 The Parkway Greer, SC 29650 (864) 877-9577

K. Graham Lawrence, Jr. 8398 AL6955631
 Thomas A. Ballard 8371 AB7081336
 Jack W. Brunson 10099 AB9404663
 David L. Hudson 18248 BH4176928

Philip A. Snell 6611 AS8735550
 William D. Byars 9201 AB7642920
 Pat S. Maybee F 43298 MM0189173
 Oonagh Nechodom, FNP 45339 F45339

received

7/17/03

PATIENT'S NAME

Missie M. Brown

PT#

000

DATE

7/17/03

MEDICATION
THERAPY

DOSE
SIZE

SIG

DISP

REFILLS

Mr. M. Brown has carpal tunnel syndrome in

0 1 2 3

her (D) hand. This is likely to be a work-related

0 1 2 3

repetitive motion problem and should be considered

0 1 2 3

Wahai Corp. I recommend she be out of work for

0 1 2 3

2 weeks and be tested for this.

DISPENSE AS WRITTEN

SUBSTITUTION PERMITTED

APEX 1000

Claim #2800034122

FAX TRANSMISSION

Honeywell Engines & Systems
PO Box 1404
Greer, SC 29652

Date: 7/17/03

pages: 2
(including cover)

Urgent ☒

Please Review ☐

Replay ASAP ☐

To: Lynn Fennel

Company: WorkWell

Fax #: 675-4604

Phone #: 675-4600

From: Mary A. Gilboy, RN, CCM, COHN
Occupational Health & Safety Specialist
Confidential Fax#: 864-989-3722
Phone#: 864-989-3722

Message:

Lynn - re: Maria McGaha
Her note from PCP.

Please Note: We do have
1 handed work!! Please no lost
time unless absolutely necessary

We accommodate just about every situation!

Warning: Unauthorized interception of this facsimile may be a violation of Federal or State law.

This message is intended only for use by the individual or entity to which it is addressed and contains privileged or confidential business or medical information, the disclosure of which may be a violation of Federal or State law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is illegal and strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the above address listed above via U.S. Postal Service. Thank you.

STATE OF SOUTH CAROLINA
WORKERS' COMPENSATION COMMISSION
CASE NUMBER - 0312096

MARIA MAGAHA,	)	
	)	
CLAIMANT,	)	HEARING
	)	
VS.	)	BEFORE
	)	
HONEYWELL ES&S,	)	COMMISSIONER WILLIAMS
	)	
EMPLOYER,	)	
	)	
ZURICH AMERICAN,	)	
	)	
CARRIER,	)	
	)	
DEFENDANTS.	)	
	)	

COPY

WORKERS' COMPENSATION COMMISSION HEARING TAKEN
BEFORE NADINE A. QUATTLEBAUM, A NOTARY PUBLIC IN AND
FOR THE STATE OF SOUTH CAROLINA, COMMENCING AT THE
HOUR OF 8:49 AM ON JANUARY 5, 2009, AT COUNTY SQUARE,
301 UNIVERSITY RIDGE, GREENVILLE, SOUTH CAROLINA.

NADINE QUATTLEBAUM
COURT REPORTER
913 MILL RUN
WEST COLUMBIA, SOUTH CAROLINA 29169
(803) 197-307

APPEARANCES

FOR THE CLAIMANT

KATHRYN WILLIAMS, P.A.
 POST OFFICE BOX 10693
 GREENVILLE, SOUTH CAROLINA 29603
 (864) 235-6254

FOR THE CARRIER

VERNON F. DUNBAR, ESQUIRE
 TURNER PADGET GRAHAM & LANEY, PA
 POST OFFICE BOX 1509
 GREENVILLE, SOUTH CAROLINA 29602
 (864) 552-4621

NADINE QUATTLEBAUM
 COURT REPORTER
 913 MILL RUN
 WEST COLUMBIA, SOUTH CAROLINA 29169
 (803) 708-8307

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NADINE QUATTLEBAUM
 COURT REPORTER
 (80-198-307)

1 THE COURT: Today's date is January 5, 2009.

2 This is the Workers' Compensation case of Ms. Maria
3 Magaha versus Honeywell. The carrier is Zurich
4 American. This is WCC File No. 0312096. The date of
5 accident, we will go with August 4, 2003.

6 Present for the Claimant is Attorney Kathryn
7 Williams. Present for the Employer and Carrier is
8 Attorney Vernon Dunbar.

9 This hearing is set on the Forms 50 and 51.

10 Based on the submissions in the File, Ms. Magaha
11 would have an average weekly wage of \$806.96 with a
12 corresponding comp rate of \$538.

13 I do have APA submissions handed up from both
14 parties. Any objection to jurisdiction, venue or the
15 APA submissions? Ms. Williams?

16 MS. WILLIAMS: No, sir.

17 THE COURT: Mr. Dunbar?

18 MR. DUNBAR: No objection with respect to
19 jurisdiction, Commissioner. I just would like to
20 indicate the APA submissions of Ms. Williams dated
21 December 24, 2008. I'm objecting on two grounds, one
22 being timeliness, second, Dr. Dameron's opinion should
23 not be admissible because he saw her five years after
24 she last worked. And it is impossible for him to
25 opine any causal relationship between her need for

1 surgery and her occupational duties.

2 THE COURT: Okay. All that being noted, the
3 Commission File is part of our record with the
4 exception of any self-serving declarations or any
5 unstipulated medical reports.

6 It's kind of an old case. Why don't the parties
7 state your position for the record. Ms. Williams.

8 MS. WILLIAMS: Your Honor, it's our contention
9 that Ms. Magaha sustained an injury by accident by
10 repetitive trauma in July or August of '03. She has
11 not worked since August 1, 2003. We are asking for
12 temporary total from that date to the present and
13 continuing.

14 In the alternative, we would ask for temporary
15 total from August 1, '03 until March 4, '05, which is
16 the last time she saw Dr. Schwartz. And I believe
17 that was at the Defendants' request.

18 Then we would ask that temporary total benefits -
19 the Claimant's husband became ill during the pendency
20 of this case and that took her focus elsewhere. So,
21 we would alternatively request that temporary total be
22 started back as of the date that Dr. Dameron saw her,
23 which - and indicated that she still needed treatment,
24 which was December 19, 2008.

25 The body parts that we are alleging have been

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COURT REPORTER
(803-200-307)

1 affected by this are her right shoulder, right upper -
2 excuse me, left shoulder, left upper extremity, left
3 side of her neck.

4 And we would ask for further medical treatment to
5 be directed by Dr. Geary, who was the original
6 orthopedist that indicated she needed surgery.

7 THE COURT: Mr. Dunbar.

8 MR. DUNBAR: Thank you, Your Honor. The
9 Defendants take the position that Ms. Magaha did not
10 sustain a compensable injury by accident. If you will
11 review the medical reports, which I know Your Honor
12 will, you will notice that Dr. Brunson initially said
13 it was carpal tunnel and that was the basis for her
14 needing to be placed out of work and the basis for her
15 claim of temporary total disability compensation
16 benefits. And then later became a cervical problem
17 with radiculopathy.

18 Those two maladies were ruled out. She healed
19 from the carpal tunnel. It was not a basis for
20 disability.

21 With respect for the cervical spine, there was no
22 radiculopathy. It seemed to be more of an arthritic
23 problem.

24 As a consequence, my client was denied the
25 payment of temporary total and Ms. Magaha did, in

1 fact, receive some short-term disability because she
2 applied for such because the doctors, their opinions
3 were either equivocating with respect to the ideology
4 of her complaints or they just weren't certain. The
5 left shoulder was the most recent and it was, for lack
6 of a better term, a Johnny-come-lately diagnosis. And
7 this is the basis for her claim of temporary total.
8 We would take the position that we are certainly
9 entitled, if Your Honor would order any temporary
10 total, that we are entitled to a credit for short-term
11 disability that was paid to the Claimant. She did
12 receive such because we had denied this was a work-
13 related accident.

14 Secondly, we think this claim is barred by the
15 Doctrine of Laches with respect to temporary total,
16 given the enormous amount of time that has transpired.
17 And we think it's prejudicial of the Claimant to ask -
18 to the Defendants to go back and pay temporary total
19 from August 1, 2003 to the present, when she was not
20 totally incapacitated, but certainly unable to work
21 because of familial problems, the illness of her
22 husband.

23 And we would take the position that, with respect
24 to Dr. Dameron, Dr. Geary's in the best position to
25 determine whether she still needs surgery.

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COURT REPORTER
(80-202-307)

1 Dr. Dameron does not perform surgery and Dr. Geary
2 would be in the best position. So, any award of TTD
3 or medical treatment will be speculative.

4 THE COURT: Okay. All right.

5 MS. WILLIAMS: With regard to the - first of all,
6 he says the whole claim is denied. And they, in their
7 Form 51, admitted that she had carpal tunnel syndrome
8 from her job activities from repetitive use of her
9 upper extremities.

10 THE COURT: On the left side.

11 MS. WILLIAMS: On the left side. And we are
12 talking about the left side. So, they admitted at
13 least that much and I think are estopped from denying
14 that at this point.

15 With regard to the shoulder being a, quote,
16 "Johnny-come-lately diagnosis", I would point out that
17 Dr. Brunson, who is her family doctor, first
18 recommended an MRI on her shoulder on August 21, 2003.
19 So, we are talking less than three weeks after all of
20 this was taking place. The Carrier would not pay for
21 it. Dr. Bucci, who she saw in December '03, when they
22 were still thinking it might be her neck, at that
23 point said he didn't think it was her neck. And he
24 also recommended a left shoulder MRI. That was in
25 December '03. That's at Page 55 through 57 of my

1 APAs. Then in January of 2004, Dr. Geary diagnosed
2 the left shoulder subacromial impingement and injected
3 her left shoulder and then thought she should consider
4 surgery. So, the shoulder was diagnosed early on and
5 related back to the repetitive trauma.

6 MR. DUNBAR: Your Honor, if I could just add
7 something to that.

8 THE COURT: Go ahead.

9 MR. DUNBAR: Pages 91 and 92 of my APA certainly
10 reflects that her claim for disability was as a
11 consequence of cervical radiculopathy, not of carpal
12 tunnel syndrome. And as a consequence of that, she
13 was applying for short-term disability and indicated
14 in that particular form, when the question was asked
15 whether it was work related/not work related, she was
16 undecided. So, we take the position that because she
17 was undecided, the doctors were undecided, they have
18 not met their burden of proof with respect to payment
19 of temporary total.

20 MS. WILLIAMS: No, sir. That's a form filled out
21 by the doctor at WorkWell. She never said it was
22 undecided. And he actually put work related, then
23 scratched through it and put undecided because he's
24 having conversations with Ms. Gilboy all during this
25 time. And Ms. Gilboy is saying we don't know if we

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COURT REPORTER
(80-204-297)

1 are going to admit it or not.

2 THE COURT: Okay. Let's swear the Claimant in.

3 MARIA MAGAHA,

4 having been first duly sworn, testifies as follows:

5 THE COURT: Ms. Williams.

6 DIRECT EXAMINATION

7 BY MS. WILLIAMS:

8 Q Maria, how old are you?

9 A Sixty-eight.

10 Q And how far did you go in school?

11 A I finished high school.

12 Q And that was in Colombia, South America.

13 A Colombia, South America.

14 Q And how long have you been in this country?

15 A Thirty-four years.

16 Q Thirty-four years?

17 A Uh-huh.

18 Q And when did you go to work for Honeywell?

19 A I did in 1996. I worked for a hiring company.

20 Q For a temporary company -

21 A A temporary company.

22 Q - at Honeywell?

23 A Yes.

24 Q And then you got hired on -

25 A For Honeywell.

NADINE QUATTLEBAUM
COURT REPORTER
(80-205-1307)

1 Q - for Honeywell directly. What were your job duties
2 there?

3 A I was a deburrer.

4 Q Deburrer?

5 A Deburrer.

6 Q What did that require you to do from a physical
7 standpoint?

8 A We had to, the part -

9 Q The part?

10 A - the part, we had to see it and piece it real good,
11 because from the machine, it's coming cut, so we had
12 to piece - we call them guns. They gave guns. And
13 after that, in a wheel, we have to push until the part
14 was real nice.

15 Q So, you are pushing a part through a wheel; is that
16 what you are doing?

17 A I did it for six years, the same job.

18 Q And that's what you did all day long, every day?

19 A Every day.

20 Q In July of 2003, did you start having problems with
21 your left arm?

22 A In 2002.

23 Q 2002.

24 A But I don't say nothing and I was taking Tylenol for
25 the pain. And every day was more hard and hard and

1 hard until I went to the doctor - I complained to the
2 nurse of the company.

3 Q Who was the nurse that you complained to? Do you
4 remember?

5 A No. I don't remember the name.

6 Q But you went to the company nurse?

7 A And she told me to go to the doctor for the company.

8 Q And that was in about July of '03 or August of '03; is
9 that right?

10 A So he told me no, says because you are too old, to
11 come back to the job. I said okay. But every day was
12 worse and worse to making me cry. Sometimes I have to
13 cry because the pain was too strong. So I went to Dr.

14 -

15 Q Brunson?

16 A - Brunson. And he told me that, no -

17 MR. DUNBAR: Objection. Hearsay.

18 MS. WILLIAMS: You can't -

19 THE COURT: Sustained.

20 By MS. WILLIAMS:

21 Q You can't say what a doctor told you, okay?

22 A Okay.

23 Q Because his opinions are in the record, okay? You can
24 say what he did for you, though.

25 A He did - he send me to the hospital. And two times he

- 1 sent me to the hospital. Okay. So, after that, he
2 send me to an MRI. So, the insurance denied the MRI
3 because they said Dr. Brunson was a specialist.
- 4 Q This was an MRI for your shoulder?
- 5 A Yes. For my shoulder because I told Dr. Brunson I
6 know that my pain is here because the pain is too much
7 here to here.
- 8 Q Where were you hurting at the time?
- 9 A At that time? The pain would start here.
- 10 Q You are pointing to your left shoulder.
- 11 A My left shoulder.
- 12 Q Okay.
- 13 A After that my neck and this part here and here.
- 14 Q So, the left side of your neck and then down your left
15 arm.
- 16 A Uh-huh. Yes. So, Dr. Brunson, he thought that my
17 problem was here.
- 18 Q He thought it was in your forearm, in your wrist?
- 19 A Yes, in my wrist. So the tests, they no find nothing.
20 So, he sent me to the hospital for MRI. So, when I
21 went over there in the morning, they told me the
22 insurance not going to pay for the MRI because
23 Dr. Brunson was a specialist.
- 24 Q Okay.
- 25 A So, I went to his office and I told him. And he sent

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(800-208-307

- 1 me to another test here. So, finally he -
- 2 Q He sent you for another test on your arm?
- 3 A At the hospital again. So, finally he sent me to
- 4 Dr. Bucci.
- 5 Q Okay.
- 6 A So, he start look in same place.
- 7 Q Uh-huh.
- 8 A Same place. In here and here. So, I told them,
- 9 "Please, I know that my problem was here because I
- 10 feel the pain here, in here, in my shoulder and down
- 11 my arm."
- 12 Q Your upper arm?
- 13 A Here. Uh-huh.
- 14 Q In your bicep?
- 15 A So, Dr. Bucci told me, "Okay, I believe you. I will
- 16 send you to an MRI there."
- 17 Q So he recommended an MRI on your left shoulder, as
- 18 well?
- 19 A Yes. That was the last test. So, he sent me to
- 20 Dr. Geary.
- 21 Q Dr. Geary?
- 22 A Yeah, Dr. Geary. He told me that I need a surgery.
- 23 But he gave me an appointment. But when I went to the
- 24 surgery, it was late because the insurance cancelled
- 25 my insurance. They said that they're not going to pay

- 1 for the surgery.
- 2 Q So, you didn't have the surgery that Dr. Geary wanted
- 3 you to have?
- 4 A No, ma'am.
- 5 Q Because you didn't have insurance?
- 6 A Yeah. They cancelled. And after that, the company
- 7 told my daughter - the human resource told my daughter
- 8 that I going to lose the job.
- 9 Q Let's go back. Your daughter also works at Honeywell;
- 10 is that correct?
- 11 A Yeah.
- 12 Q And she's still there?
- 13 A She's still there.
- 14 Q And what did they tell your daughter?
- 15 A So, the human resource called my daughter and told my
- 16 daughter in a week I'm going to lose my job. So, I
- 17 called Dr. Bucci. And he said, "No, I cannot send you
- 18 to work because you are still sick." So, I said,
- 19 "Please, doctor, I'm going to lose my job." He said,
- 20 "Okay." So, the nurse from the company told me I had
- 21 to go to the company doctor.
- 22 Q Back to WorkWell?
- 23 A Yeah.
- 24 Q Okay.
- 25 A And I went over there and I begging to him to please

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(80)-210-307

1 send me work because I'm going to lose my job and I
2 cannot lose my job. So, he said, "No, no, I can't do
3 it because" - and I said, "Please." He said, "Okay.
4 Go home and I'm going to call the nurse and talk to
5 her." So, a week later, my daughter told me, "Mom,
6 you lose the job." And I said, "What do you mean?"
7 And I waiting for the doctors to tell me. So, I went
8 to human resource and they told me that somebody at
9 the company - she never told me nothing, what person
10 said there is no light duty for me because Dr. Bucci
11 and the company doctor sent me to a light duty. But
12 somebody there, she never told me, there was nothing
13 for me to do on light duty.

14 Q So, they didn't have anything for you to do?

15 A Nothing.

16 Q Okay.

17 A So, a month later I come back to the human resource
18 and they call short-term disability.

19 Q Uh-huh.

20 A And short-term disability said they no have nothing to
21 do with me because I was a lazy person and I don't
22 come back to work. I said, "Lazy person? What do you
23 mean?" He said, "They go to send me to work and you
24 don't show up to work." So, I asked human resources
25 and they told me the head from the company said, "If

- 1 Maria is still sick, she has nothing to do at the
2 company." So, I lose my job.
- 3 Q Okay. Did you always have good work reviews at
4 Honeywell?
- 5 A Oh, yeah.
- 6 Q Were you a hard worker?
- 7 A Oh, yeah. I no going to think proud, but I did - when
8 they ask for 120 parts, I did 200, 180, something like
9 that, too much.
- 10 Q Did they like your work?
- 11 A Yeah. Oh, my bosses, they were so happy with me.
- 12 Q And did you like working there?
- 13 A Oh, I loved working with Honeywell.
- 14 Q Okay. Have you been able to work anywhere since then?
- 15 A After that, when I finish my job, I no look for some
16 place to go to work because how I'm going to work if
17 Honeywell letting me go because I was so sick? So, I
18 cannot go to another company to lie and say, "Oh, I'm
19 fine," because they going to ask me, "Why Honeywell
20 let you go?" So, I have to say the truth, so nobody
21 going to hire me.
- 22 Q And I think the doctors had you on restrictions of no
23 lifting over five pounds; is that right?
- 24 A Yeah. That is what he told me.
- 25 Q Now, while this case was going on, did your husband

1 become ill?

2 A Yes, ma'am. In 2000, he has colon cancer. He had the
3 surgery. In 2005, in January 2005, he has two
4 strokes. He has a stroke that paralyze this right
5 side. So, I took to the hospital and he has another
6 stroke the same day. So, he was over there for two
7 weeks. So, he has cancer in his liver.

8 Q Cancer in his liver?

9 A Uh-huh.

10 Q And that was diagnosed in '05?

11 A Yeah. Because he was too weak for it - oh, no, the
12 cancer was too big, so he has to be in chemotherapy
13 for -make it small. So, nine months he was in
14 chemotherapy. After that, he was in surgery. He was
15 fine for two days. After two days, he was in coma and
16 has another heart attack. He has a heart attack and
17 he was in coma for five weeks. The doctor told us -
18 ask unplug him because the heart stop, everything
19 stop. Finally, he start breathing again and
20 everything, so he come back. After that, after came
21 home, it was schizophrenia because too much morphine
22 in his body.

23 Q And is he still having health problems today?

24 A Yeah. Right now he is in the hospital.

25 Q Okay.

- 1 A They test for - looking for cancer.
- 2 Q They are looking for cancer now?
- 3 A Uh-huh.
- 4 Q And have you -
- 5 A And his heart is too weak. The doctor told him two
- 6 months ago it's real weak, his heart real weak. And
- 7 he has a problem with a vein. And he go to have
- 8 surgery. He's still real sick.
- 9 Q Have you been pretty much consumed with taking care of
- 10 him and his illness since -
- 11 A Oh, yeah. Only he has two sisters and no more family.
- 12 So, the sisters help me a lot.
- 13 Q You've been having to do it, okay. Where are you
- 14 still having problems now?
- 15 A Right now in my left shoulder and here.
- 16 Q In your bicep?
- 17 A Too much pain here to here.
- 18 Q Is that the same pain that you were having -
- 19 A Yes, ma'am.
- 20 Q - back in 2004 and 2005?
- 21 A Uh-huh. Yes, ma'am.
- 22 Q Do you want further treatment?
- 23 A I want - please, if it's possible, a surgery because
- 24 Dr. Geary told me that surgery going to be better. He
- 25 told me, "Only you need surgery."

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1 MS. WILLIAMS: That's all the questions I have.

2 THE COURT: Mr. Dunbar.

3 MR. DUNBAR: Thank you very much.

4 CROSS EXAMINATION

5 BY MR. DUNBAR:

6 Q Ms. Magaha, it's my understanding that you last worked
7 in August 2003, correct?

8 A Yes, sir.

9 Q And you have not put in any applications at any
10 employers since you last worked at Honeywell, correct?

11 A No, sir.

12 Q Now, it's my understanding you had gone to the doctor
13 for your cervical, Dr. Bucci checked you out, correct?

14 A Yes.

15 Q And Dr. Bucci was supposed to return you to work. You
16 asked him to return you to work, correct?

17 A I begged him, but he told me that I go to call the
18 nurse at the company. He said that it's okay, they
19 put me on light duty.

20 Q Now, it's my understanding you also applied for short-
21 term disability after you were terminated or lost your
22 job at Honeywell, correct?

23 A I don't know.

24 Q Did you apply for disability, short-term disability?

25 MS. WILLIAMS: If you know, okay? If you know,

1 answer the question.

2 THE WITNESS: No.

3 BY MR. DUNBAR:

4 Q Did you ever receive any money after you last worked
5 at Honeywell?

6 A No, sir.

7 Q Did you ever receive any money from the time that you
8 were taken out of work by Dr. Brunson, up until you
9 were terminated from Honeywell?

10 A Only short-term disability.

11 Q Short-term disability.

12 A Yeah. They gave me - I don't remember how much, but
13 they denied to me - after Dr. Bucci send me to work
14 and the company, they told me that they not going to
15 give me more money because I was a lazy person, no
16 come back to work.

17 Q All right. So, it's my understanding, after you had
18 your problems, you see Dr. Brunson, you start
19 receiving short-term disability, weekly checks. Do
20 you know how much those checks were? How much did you
21 receive?

22 A No, sir.

23 Q Do you know what percentage of your salary it may have
24 been?

25 A The company?

- 1 Q Yes.
- 2 A Between 17 to \$18. I don't remember, but it was
3 between 17 and 18.
- 4 Q Okay. In any event, you received some disability
5 checks up until you were terminated for, as you term
6 it, being a lazy person?
- 7 A Uh-huh.
- 8 Q And you don't know how long you received those checks?
- 9 A No. I don't remember, sir. I'm sorry.
- 10 Q Do you know whether it was more than three months?
- 11 A Yeah. I guess three months.
- 12 Q Do you think it was more than six months?
- 13 A No.
- 14 Q So, about three months you received disability checks?
- 15 A Yeah.
- 16 Q Now, in order to receive those short-term disability,
17 did you have to complete an application for those
18 benefits?
- 19 A Yeah. The first time they sent to the papers, two
20 months later, I no have check from the short-term
21 disability. So, I call and they told me, "We don't
22 know nothing about you." I said, "What you mean that
23 you don't know nothing about me?" And they said,
24 "Yeah, we don't know nothing." So, I went to
25 Dr. Brunson. And Dr. Brunson look and he told the

- 1 nurse and she look and she showed to me at the
2 computer, "Maria, I don't know what happened, but I
3 send the papers to short-term disability." So, I
4 called the lady and I told her about short-term
5 disability. And she told me, "Okay. What you need to
6 do is send me a letter and sign and see what I can do,
7 because you call." And Dr. Brunson said, "No way.
8 There's no - you call because we send from here, the
9 paper is through." So, I send the letter and she send
10 me a check.
- 11 Q So, you sent the letter in and she sent you a check?
- 12 A After that, it stopped again, the money. So, a month
13 later, I called her back and she told me the same
14 thing, another letter. So, I sent the letter and she
15 sent me another check and that was -
- 16 Q That was it?
- 17 A Uh-huh.
- 18 Q Okay. Now, it's my understanding you hurt your left
19 shoulder.
- 20 A Yes, sir.
- 21 Q And you pointed to the top side of your shoulder.
- 22 A Yeah.
- 23 Q And you said - now, let me make certain the record is
24 clear. You said you had neck pain.
- 25 A Neck pain.

- 1 Q You pointed to your shoulder and bicep.
- 2 A Uh-huh.
- 3 Q Then you went to your hands, wrists and hands; is that
- 4 accurate.
- 5 A And the fingers.
- 6 Q And in the fingers.
- 7 A Uh-huh.
- 8 Q Now, as we sit here today, are you still having neck.
- 9 pain?
- 10 A The neck pain, no, sir.
- 11 Q No neck pain?
- 12 A In here, no.
- 13 Q And no hand or wrist pain?
- 14 A Uh-uh.
- 15 Q So, the only pain that you are having is in the
- 16 shoulder area?
- 17 A Yes, sir.
- 18 Q Now, it's my understanding you saw a lot of doctors
- 19 for your problems, correct?
- 20 A Uh-huh.
- 21 Q You saw a Dr. Bucci.
- 22 A Dr. Bucci.
- 23 Q You saw a Dr. Monda; do you remember?
- 24 A Yeah, that's the name.
- 25 Q And one of those doctors told you, you had arthritis

1 in your neck.

2 A No. Dr. Bucci, when he send me another test, another
3 MRI, he send me to another test here. So, he told me,
4 "Maria, your shoulder is perfect." I said,
5 "Dr. Bucci, it cannot be perfect because the pain that

6 I got is too real." So, he said, "I believe you." I
7 ask him, "You think I have arthritis?" He said, "No,
8 you no have arthritis."

9 Q Did any doctor tell you you had arthritis before
10 August 2003 or July of 2003?

11 A Only the company doctor told me that here I got
12 arthritis because I'm too old.

13 Q Okay. So, that's where you said too old because
14 that's what the company doctor told you?

15 A Uh-huh.

16 Q Okay. You take no medications as we speak now, do
17 you? Do you take any medications for your shoulder
18 pain?

19 A Motrin or Tylenol.

20 Q How often do you take the Motrin?

21 A Like yesterday, I took it three times because the pain
22 was - sometimes in days I only take it one time or
23 sometimes no, because the pain is more easy, so I
24 don't want to take too more pills.

25 Q So, sometimes you will take no pills, sometimes -

1 A Yeah, three times. Because I cannot take more
2 because I afraid I taking too much medicine.

3 Q Okay. Now, when they asked you whether your problems
4 were work related or not, when you went to St. Francis
5 Hospital, they asked you a lot of questions, didn't
6 they?

7 A Yes, sir.

8 Q They would ask you whether it was work related; did
9 they not? Do you recall? When you complained about
10 your neck, shoulder and hand, did they ask you what
11 was causing it?

12 A Yeah.

13 Q Okay. And did you -

14 A I had to tell them about my job, same thing showed to
15 them.

16 Q And did you give them any type of response when they
17 asked?

18 A Yes, sir.

19 Q Well, the reason why I'm asking this, I am looking at
20 your attorney's notes that they put in, APA Page 45.
21 They were asking you -

22 MS. WILLIAMS: That's a physician's report,
23 Vernon.

24 MR. DUNBAR: I understand, but I asked her did
25 they ask her how it happened. And she said they did.

1 And she gave them a response.

2 THE WITNESS: I told him why the pain.

3 BY MR. DUNBAR:

4 Q Now, did you believe your neck pain was coming from
5 work or not?

6 A I believed when the doctor from the company told me
7 that it was arthritis, I told him, "How can arthritis
8 - the pain only when it starts here in my shoulder,
9 start the pain." When it was too strong here, too
10 much pain, start the pain in my neck - you understand?
11 So, I told him that - I no believe him, you
12 understand, when he told me it was arthritis, believe
13 me.

14 Q Now, the doctors placed you on some restrictions after
15 you treated with them for a certain period of time,
16 correct?

17 A Yeah. Dr. Brunson told me that I cannot lift nothing
18 heavy. Even when I going to go to refrigerator, some
19 juice, I have to do it with this arm because I cannot
20 do it with arm.

21 Q Are you left handed or right handed?
22 (WHEREUPON Claimant raises her right hand.)

23 BY MR. DUNBAR:

24 Q You are right handed. Now, your husband has been ill,
25 correct?

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- 1 A Uh-huh.
- 2 Q He, according to you, and correct me if I'm wrong, was
3 he paralyzed on the right side at one point?
- 4 A Yeah. When he had the stroke, he was tingling and -
5 no paralyzed like he cannot walk. But he still now
6 where he cannot feel this side.
- 7 Q So he couldn't use his right side?
- 8 A All the time, too cold.
- 9 Q Okay. So, he was also undergoing chemotherapy?
- 10 A Uh-huh.
- 11 Q Did that make him weak?
- 12 A Real, real weak.
- 13 Q Very weak?
- 14 A Uh-huh.
- 15 Q He also had a heart attack?
- 16 A And two strokes.
- 17 Q And two strokes?
- 18 A Uh-huh.
- 19 Q And he was in a coma.
- 20 A He was in a coma for five weeks.
- 21 Q Needless to say, because of the state of his health,
22 you had to do a lot for him.
- 23 A Really. Yeah, because we live alone.
- 24 Q You live alone?
- 25 A Uh-huh.

1 Q So, if he needed to go to the bathroom, you would
2 have to help him, correct?

3 A Yes. I have to do anyway because I have to do it.

4 Q And if he needed a meal prepared for him, that was
5 your responsibility?

6 A Uh-huh.

7 Q And changing the linens on the bed and taking care of
8 linens, you would have to do that?

9 A My sisters-in-law, they helping me a lot.

10 Q Certainly. They would help.

11 A They help me in the morning and - they helping me a
12 lot.

13 Q Yes. But they don't help you every day. A lot of
14 times you do have to do things, correct?

15 A Yes.

16 Q And if you have to do the laundry. You have to lift
17 the basket of clothing; do you not?

18 A Yeah.

19 Q And the detergent to put in to the washer?

20 A I do everything.

21 Q You do everything. And if you cook, you have to lift
22 the groceries and the pots and the pans; do you not?

23 A Uh-huh. I have to do everything.

24 Q And when you do these things, you use both hands,
25 don't you? You use your right hand, as well as your

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1 left hand?

2 A Sometimes, yeah. I have to help him.

3 Q Sure. And your husband has not really fully recovered
4 to the point of where he was in 2003, has he?

5 A No.

6 Q So, a lot of the responsibility, in terms of the daily
7 chores, the daily activities, rest with you, along
8 with your sister-in-laws, correct?

9 A Yes, sir.

10 Q And taking care of him, at least during the time that
11 he was incapacitated, that was almost a 24-hour-a-day
12 job; was it not?

13 A Twenty-four, because sometimes I was sleeping, he was
14 in pain, he don't know what he's doing, so the
15 bathroom was running and they no do something. I have
16 to be there telling him, "No. Don't do that. Don't
17 do that."

18 Q Since you stopped working, your neck pain has gone
19 away and your hand pain has gone away, correct?

20 A Yeah. But that didn't about maybe only two years ago,
21 year and a half, "Oh, gosh, I no feel pain here."
22 Disappear. Three years, it's still same thing.

23 Q And you didn't continuously treat with the doctor from
24 the last time you saw Dr. Bucci or Monda, up until the
25 present, have you?

1 A Yes, sir.

2 Q I mean, you are not seeing a doctor on a regular
3 basis?

4 A No, sir. You know why? Because the regular doctor
5 only send me a prescription of pain pill. So, I
6 prefer taking Tylenol, to me, because the other pill
7 make you see there are other things, like, okay, this
8 is good for the pain, but it isn't this. I no take
9 that risk. So, better take the Tylenol or Motrin.

10 Q And you have not seen Dr. Stephen Geary in about four
11 years, have you?

12 A No. Only I see him two times, I guess.

13 MR. DUNBAR: Thank you ma'am. I have no further
14 questions.

15 THE COURT: All right. Any redirect?

16 REDIRECT EXAMINATION

17 BY MS. WILLIAMS:

18 Q Your insurance was cancelled when you lost your job;
19 is that correct?

20 A Yes, ma'am.

21 Q Have you had any injury to your left shoulder since
22 you left Honeywell?

23 A Injury, no.

24 MS. WILLIAMS: That's all I have.

25 THE COURT: Any other witnesses for the Claimant?

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1 MS. WILLIAMS: No.

2 THE COURT: Mr. Dunbar, call your witness.

3 MR. DUNBAR: Ms. Mary Gilboy.

4 MARY GILBOY,

5 having been first duly sworn, testifies as follows:

6 THE COURT: Mr. Dunbar.

7 DIRECT EXAMINATION

8 BY MR. DUNBAR:

9 Q Ms. Gilboy, even though I'm going to ask the
10 questions, I want you to direct your responses to
11 Commissioner Williams.

12 Ms. Gilboy, could you please tell the
13 Commissioner how do you know Ms. Magaha?

14 A She was an employee at Honeywell and I was employed at
15 Honeywell as the occupational health nurse.

16 Q What is your present employment status?

17 A I am currently on disability.

18 Q And you are here on your own time?

19 A Yes.

20 Q Now, in looking at the records - you have been in the
21 courtroom the entire time; have you not?

22 A Yes, sir.

23 Q You were aware of this work-related accident with
24 respect to carpal tunnel back in 2003, correct?

25 A I was aware of her claim for Workers' Comp for carpal

- 1 tunnel.
- 2 Q Were you ever made aware of any injury to her neck or
- 3 shoulder?
- 4 A No specific injury or incident.
- 5 Q Now, there's been a question about the light-duty
- 6 employment. Was light duty ever offered to her?
- 7 A Yes.
- 8 Q At what point in time?
- 9 A We provided light duty upon her seeing WorkWell, Dr. --
- 10 well the St. Francis records you referred to,
- 11 Dr. Merriwether's office. I believe she actually saw
- 12 her family nurse practitioner initially, while we were
- 13 trying to determine - or get all the medical
- 14 information to determine if this was possibly
- 15 compensable and we offered light duty.
- 16 Q What is - at least during this point in time, what was
- 17 Honeywell's light duty policy?
- 18 A For work related injuries, we would accommodate
- 19 anything other than bed rest. For non-work related
- 20 injuries, we would accommodate, if able, if possible,
- 21 without causing a hardship on the department.
- 22 Q And is there a particular law that guided this
- 23 principal with respect to non-work related duties and
- 24 providing light duty?
- 25 A No. It was dependent on the restrictions that were

1 assigned to the ill or injured employee and dependent
2 upon whether the supervisor could accommodate, based
3 upon the work that was being done.

4 Q So, you would look to see whether the company could
5 accommodate those in a non-work related setting?

6 A Yes.

7 Q Ms. Magaha testified that she applied for short-term
8 disability benefits. Are you familiar with
9 Honeywell's short-term disability benefits as it was
10 constructed at that time?

11 A Yes.

12 Q Would Honeywell or would the policy permit someone to
13 receive benefits, short-term disability benefits, for
14 a work-related accident?

15 A No.

16 Q Tell me how do you know that?

17 MS. WILLIAMS: I object to relevance.

18 THE COURT: I believe she did receive short-term
19 benefits in this case. I will let her answer that.

20 THE WITNESS: When you would call in your claim
21 to MetLife, who was our disability carrier, our short-
22 term disability carrier, they ask you a series of
23 questions. And one was work relationship. And if you
24 say no, it affords you the opportunity to continue to
25 receive - or a chance to receive benefits. If you say

1 yes, I believe they take a little closer look at it
2 and they would contact the employer and clarify it.

3 BY MR. DUNBAR:

4 Q In this particular case, were you ever contacted by
5 MetLife to clarify Ms. Magaha's short-term disability
6 application?

7 A No. Not that I can recall.

8 Q Now, at one point, she is released to return to work.
9 Are you aware of that?

10 A Yes.

11 Q By Dr. Bucci.

12 A With limitations.

13 Q At that point in time, what was Honeywell's action?
14 You've been in the courtroom - let me rephrase the
15 question. You heard Ms. Magaha's testimony that no
16 one told her about being able to return to work. Did
17 you hear that testimony?

18 A Yes.

19 Q Were you ever contacted by Ms. Magaha or by Dr. Bucci
20 or any other physicians indicating that she was able
21 to return to work with restrictions?

22 A Can I look at my notes?

23 Q Certainly.

24 A Initially, WorkWell gave her limitations, which we
25 accommodated. And then Dr. Bucci's office took her

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- 1 out of work November of '03, out of work December of
2 '03 and referred her on for further care. I do
3 believe, in looking at the file, that there was a
4 point where Dr. Bucci's office contacted me to see if
5 she could do light duty.
- 6 Q Okay. And what would have been your job or function
7 after the doctor's office contacted you to see whether
8 she could do light duty?
- 9 A To request that information in writing, the
10 limitations, so that I would have something to work
11 off of and to discuss it with human resources and a
12 supervisor.
- 13 Q Do you recall discussing it with a supervisor in this
14 case, the restrictions placed upon her by Dr. Bucci or
15 even St. Francis?
- 16 A I recall discussing it with human resources.
- 17 Q As a consequence of your discussion, was Ms. Magaha
18 permitted to return to work?
- 19 A Not at that time.
- 20 Q Why was that?
- 21 A She had been short-term disability and we were - the
22 restrictions were too limiting to accommodate for her
23 work.
- 24 Q During this time, there were also specific allegations
25 regarding cervical spine injury and shoulder injuries.

1 Were you aware of those?

2 A Neck and carpal tunnel.

3 Q And the carpal tunnel has been admitted, but the neck
4 was denied. Did you have any conversation with
5 Ms. Magaha about the arthritic - or the diagnosis of
6 arthritis in her cervical spine?

7 A I don't recall a specific conversation other than -

8 MS. WILLIAMS: I'm going to object if she is
9 getting ready to talk about what a doctor told her.

10 THE COURT: Okay. Proceed. Let's see how she
11 answers.

12 THE WITNESS: Other than referring to my notes,
13 I'd have to look to see if I actually talked to Maria
14 about what I had received.

15 BY MR. DUNBAR:

16 Q Well, let me show you - I'm assuming these may or may
17 not be your notes. I have it highlighted. I'm
18 looking at Claimant's APA Page 3.

19 A Okay.

20 Q Is that your notation there?

21 A Yes, that's my note.

22 Q I am reading where it said on August 1, 2003, that
23 injury dated on that date, said she was, it looked
24 like excited and upset. Am I reading your handwriting
25 correctly?

1 THE COURT: What's the page on that?

2 MR. DUNBAR: Page 3 of the APA. You Honor, I can
3 hand you one.

4 THE COURT: Okay. I got it.

5 BY MR. DUNBAR:

6 Q Could you read that entry for us, just to make
7 certain?

8 A From the beginning or from where?

9 Q Where it says, "said she was excited."

10 A "Said she was excited and upset when he mentioned
11 arthritis and said he could recommend someone, but she
12 would need to go through her private insurance and he
13 would tell her to talk with me about it."

14 Q So, she did mention arthritis to you?

15 A Yes.

16 Q And is the ideology of arthritis an occupational
17 hazard of Honeywell, to the best of your knowledge?

18 MS. WILLIAMS: I'm sorry. What's the question
19 again?

20 BY MR. DUNBAR:

21 Q Is arthritis an occupational hazard at Honeywell?

22 MS. WILLIAMS: I'm going to object. I don't
23 think he's established that she's qualified to answer
24 that kind of question.

25 THE COURT: Sustained.

1 BY MR. DUNBAR:

2 Q What is your professional background, Ms. Gilboy?

3 A I'm a registered nurse.

4 MR. DUNBAR: Your Honor, with that, I would ask
5 that that answer be admitted to the record.

6 THE COURT: Overruled. I'm going to sustain that
7 objection.

8 MR. DUNBAR: I understand.

9 MR. DUNBAR: That's all the questions I have.
10 Please answer any questions Ms. Williams may have.

11 THE COURT: All right. Ms. Williams.

12 CROSS EXAMINATION

13 BY MS. WILLIAMS:

14 Q Ms. Gilboy, she worked every time you provided light
15 duty for her; is that correct?

16 A I find it hard to establish that in my notes.

17 However, I do have a return-to-work note for her.

18 Q Well, let's look at your note dated July - you've got
19 your notes in front of you?

20 A Yes, ma'am.

21 Q Let's look at the one that's dated July 17, 2003.

22 A Okay.

23 Q And at that point, she brought you a note from
24 Mountainview that said she had carpal tunnel syndrome
25 that was likely work related and that she should be

- 1 out of work for two weeks; is that correct?
- 2 A Yes.
- 3 Q She told you then she was having pain in her neck and
- 4 left arm.
- 5 A Yes.
- 6 Q Correct? She said -
- 7 A Left neck pain -
- 8 Q Left neck and left -
- 9 A - going down her left arm.
- 10 Q Going down her left arm. Okay. And she did not want
- 11 to miss any work; isn't that correct? You made a
- 12 note.
- 13 A Yes.
- 14 Q She wanted to work.
- 15 A Yes.
- 16 Q And you wanted to send her to WorkWell at that point
- 17 to see if she could work one-handed duty.
- 18 A Yes.
- 19 Q And she was agreeable with that.
- 20 A Yes.
- 21 Q All right. Then on July 18, '03, you talked to
- 22 WorkWell and they said she could do light duty.
- 23 A Yes.
- 24 Q Is that correct?
- 25 A Yes.

- 1 Q All right. And then on July 23, '03, you told her
2 that she could do a job called airflow/waterflow.
3 A Yes.
4 Q And you said she expressed gratitude and pleasure with
5 that assignment.
6 A Yes.
7 Q She was grateful that you had given her light duty.
8 A Yes.
9 Q And allowed her to work. And that continued until
10 August 1st, when she had the MRI of her cervical spine;
11 is that correct?
12 A As far as I can tell, it did.
13 Q And then there was some back and forth during that
14 period of time about whether it was work related or
15 not and what she could do, precisely, in terms of
16 restrictions.
17 A I did allow her to return to work with restrictions on
18 8/1.
19 Q And then she went out of work shortly after that.
20 A The note that I - I do not have her exact date when
21 she went out of work again. I have a note that says
22 that she was allowed to work from 8/1/03 until 8/10/03
23 with those limitations.
24 Q And then after that, she went back out of work; is
25 that correct?

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- 1 A I could not swear to it, because I have nothing that
2 says yes and nothing that says no.
- 3 Q On the October - I subpoenaed her payroll records. Do
4 you have those with you?
- 5 A No, I don't.
- 6 Q On October 28, '03, at any rate, though, you were
7 sending her back to Merriwether to see if she could
8 return to work.
- 9 A Okay.
- 10 Q Is that correct? I'm looking at your note of that
11 date.
- 12 A "She was upset she may lose her job." Told her that
13 MetLife is reviewing -
- 14 Q Further up. The first time it says 10/28.
- 15 A I'm sorry.
- 16 Q It says that she was seeing Dr. Merriwether to see if
17 she could return to work.
- 18 A It said she had seen him. I don't know if she had saw
19 him that day or -
- 20 Q But at any rate, she would have obviously been out of
21 work at that point because she was seeing him to see
22 if she could return.
- 23 A Right.
- 24 Q And he gave her restrictions of no overhead, no
25 anterior lifting, no lifting over five pounds.

- 1 A Yes.
- 2 Q Is that correct? And then you discussed that with
- 3 human resources and then made a note that they had no
- 4 work available within those restrictions; is that
- 5 correct?
- 6 A Yes.
- 7 Q So, at that point, you did not allow her to return to
- 8 work.
- 9 A Correct.
- 10 Q And she was upset about that, wasn't she?
- 11 A She was fearful that she would lose her job.
- 12 Q And then in April of '04, you got - you wanted her to
- 13 sign some medical authorizations for you; is that
- 14 correct? Let's look at Page 5.
- 15 A Yes. I got an authorization.
- 16 Q 4/15/04. And she was telling you that day, April 15,
- 17 '04, that she had terrible pain because of pain in her
- 18 shoulder. And she went on -
- 19 A Yes.
- 20 Q And she went on to tell you that she may need surgery.
- 21 A Yes.
- 22 Q And you asked her to sign a medical authorization,
- 23 which she did.
- 24 A Yes.
- 25 Q And she told you that Dr. Geary had injected her

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- 1 shoulder.
- 2 A Yes.
- 3 Q And she has signed every medical authorization you've
- 4 asked her to sign; had she not?
- 5 A Yes.
- 6 Q She's been cooperative with you about getting a
- 7 medical record.
- 8 A Yes.
- 9 Q And MetLife, when she applied for disability, wanted a
- 10 description of her job; is that correct?
- 11 A Yes.
- 12 Q And did you assist in providing that?
- 13 A I gave the form to her supervisor.
- 14 Q And that form indicates that she uses her hands
- 15 repetitively, seven to eight hours every day; is that
- 16 correct?
- 17 A Do you have a number - page number on that?
- 18 Q It's 117 of my - excuse me, your lawyer's APA
- 19 submissions.
- 20 A Yes.
- 21 Q And it also indicates that she has to use her head and
- 22 neck and looking up and down for five to six hours,
- 23 every day.
- 24 A Yes.
- 25 Q So, no question this job required repetitive use of

- 1 her upper extremities.
- 2 A Yes.
- 3 Q Ms. Gilboy, during the time that you worked there,
- 4 were you familiar with Ms. Magaha as an employee?
- 5 A I may have met her a time or two.
- 6 Q So, not really then?
- 7 A No.
- 8 Q And you're out now because you just had surgery; is
- 9 that right?
- 10 A I did have surgery, yes.
- 11 Q You're still employed there.
- 12 A I hope so. I believe I am.
- 13 Q You're just temporarily disabled because of the
- 14 surgery you just had?
- 15 A Yes.
- 16 Q And I'm seeing a note where you - and this has been
- 17 brought up a good bit - where you told WorkWell that
- 18 you would provide just - if you would accommodate just
- 19 about any restriction. But that was not true; is that
- 20 correct?
- 21 A That is true when there's possibility of it being
- 22 compensable through Workers' Comp.
- 23 Q And then -
- 24 A For short-term disability, for non-work related
- 25 concerns, we have -

1 Q I understand. There's no question, though, that at
2 least as of October '03, she was not working there
3 because you all would not give her a job.

4 A We could not accommodate her restrictions.

5 MS. WILLIAMS: Thank you. That's all I have.

6 THE COURT: Any redirect, Mr. Dunbar?

7 MR. DUNBAR: Yes, Your Honor.

8 REDIRECT EXAMINATION

9 BY MR. DUNBAR:

10 Q I would like for you to take a review of APA Pages 71
11 through 74 of the Claimant's submissions. It's an
12 FMLA certification form.

13 A Uh-huh.

14 Q Looking at Page - I'm sorry, Numeral IV of Page 71,
15 the left arm and shoulder are mentioned. Is anything
16 mentioned about the neck?

17 A No.

18 Q And if you will go to Page 73, 6C. She was having
19 wrist or carpal tunnel problems at that point in time;
20 is that fair to say?

21 A Yes.

22 Q So, at this point, if you look at 7B, they're talking
23 splinting of the wrist and manipulation of the left
24 hand.

25 A Correct.

1 Q And that was the basis for the request of FMLA leave.

2 A Correct.

3 Q Now, with respect to the Claimant's job as a deburrer
4 operator -

5 A Uh-huh.

6 Q - it required her to use tools, correct, vibrating
7 tools?

8 A Yes.

9 Q And you're a nurse, you've been there. Those
10 vibrating tools can cause carpal tunnel?

11 A I don't necessarily agree with that.

12 Q But there have been complaints about the tools cause
13 carpal tunnel to some degree.

14 A In her work, no.

15 MS. WILLIAMS: I object to relevance. I mean -

16 MS. DUNBAR: It has to do with the aspect of her
17 job and is covering direct examination.

18 THE COURT: I'll let her testify to it. Go
19 ahead.

20 BY MR. DUNBAR:

21 Q Go ahead. You may continue.

22 A I do not recall any employee that does debur work on
23 the blade line having a Workers' Compensation claim
24 for carpal tunnel -

25 Q Nonetheless -

- 1 A - while I was there.
- 2 Q Certainly. Nonetheless, that was the basis for the
3 request of FMLA, at least according to these records.
- 4 A FMLA is required when you are applying for short-term
5 disability, in case there's a delay for getting
6 medical records or there is some problem, that your
7 time is at least covered as excuses, if it's approved
8 FMLA.
- 9 Q Looking at the FMLA and looking at the MetLife
10 disability application, job description, it does
11 reflect problems with the left hand and the left
12 wrist; would that be fair to say?
- 13 A The FMLA form does, yes.
- 14 Q Nothing is mentioned about the shoulder.
- 15 A No.
- 16 Q Nothing is mentioned about the neck.
- 17 A Well, I'm sorry, the shoulder, it says "pain in left
18 arm and shoulder" on Page 71 of your -
- 19 Q Certainly. But then when you look at Page 73, the
20 manipulation and the splinting is for the what?
- 21 A The treatment for wrist problems, carpal tunnel and -
22 I'm trying to read. I'm sorry. Splinting of the
23 wrist and anti-inflammatory medications for the wrist
24 and left hand.
- 25 Q And have you personally seen the deburrer job?

1 A Yes.

2 Q So, you know what's involved?

3 A Yes.

4 Q In terms of this description here, on APA Page 117,
5 what type of tool was used?

6 A They have little hand tools. I believe Ms. Magaha
7 even referred to them as guns, that have spinning
8 blades or - spinning discs or bits on the end that
9 they take a bur off with. And it is a vibrating hand
10 tool.

11 Q In performing this job, do you have to sit or stand?

12 A You can do it either, actually, and for most position
13 at this job. I have seen them do both. The parts are
14 like anywhere from an inch to maybe four inches long
15 and inch, inch and a half wide. So, they're small.
16 And when they're working with them, they usually have
17 them right in front of them. And some people prefer
18 to stand and some people sit at a table and do it.

19 MR. DUNBAR: Thank you, ma'am.

20 RE-CROSS EXAMINATION

21 BY MS. WILLIAMS:

22 Q Whether you sit or stand, you have to use your arms.

23 A Correct.

24 Q And no questions that on Page 71 of this FMLA form,
25 that the doctor has put down in there that she has

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1 pain in her left arm and shoulder.

2 A Yes.

3 MS. WILLIAMS: That's all I have.

4 THE COURT: Anything else from the Employer and
5 Carrier?

6 MR. DUNBAR: Nothing further, Your Honor.

7 THE COURT: Anything else from the Claimant?

8 MS. WILLIAMS: No, sir.

9 THE COURT: That'll conclude this hearing.

10 (This hearing concluded at 9:49 AM.)

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF LEXINGTON)

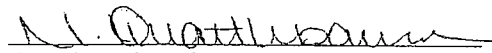
BE IT KNOWN THAT I TOOK THE FOREGOING
WORKERS' COMPENSATION HEARING;

THAT I WAS THEN AND THERE A NOTARY PUBLIC IN
AND FOR THE STATE OF SOUTH CAROLINA-AT-LARGE;

THE FOREGOING TRANSCRIPT REPRESENTS A TRUE,
ACCURATE AND COMPLETE TRANSCRIPTION OF THE TESTIMONY SO
GIVEN AT THE TIME AND PLACE AFORESAID TO THE BEST OF MY
SKILL AND ABILITY;

THAT I AM NOT RELATED TO NOR AN EMPLOYEE OF
ANY OF THE PARTIES HERETO, NOR A RELATIVE OR EMPLOYEE OF
ANY ATTORNEY OR COUNSEL EMPLOYED BY THE PARTIES HERETO,
NOR INTERESTED IN THE OUTCOME OF THIS ACTION.

WITNESS MY HAND AND SEAL THIS 10th DAY OF
JANUARY, 2009.



NADINE A. QUATTLEBAUM
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES AUGUST 11, 2016

NADINE QUATTLEBAUM
COURT REPORTER
(80-246-307)

BEFORE THE
SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION

MARIA MCGAHA, Employee,
Claimant,

vs.

HONEYWELL INTERNATIONAL, Employer,

and

ZURICH AMERICAN, Carrier,
Defendants.

ORIGINAL

TRANSCRIPT OF
RECORD

WCC NO. 0312096

SINGLE HEARING COMMISSIONER:
DERRICK WILLIAMS

Hearing held on JUNE 23, 2009, in Columbia, South Carolina, before
THE FULL COMMISSION PANEL.

APPEARANCES

FOR THE CLAIMANT:

KATHRYN WILLIAMS, ESQUIRE
Greenville, SC

FOR THE DEFENDANTS:

VERNON DUNBAR, ESQUIRE
Greenville, SC

FULL COMMISSION PANEL

T. SCOTT BECK, CHAIR
DAVID W. HUFFSTETLER
ANDREA POPE ROCHE

*THIS IS AN OFFICIAL TRANSCRIPT GOVERNED BY 25A S.C. CODE ANN. REGS 67-615D
(SUPP. 2000). THE UNAUTHORIZED COPYING OF THIS DOCUMENT IS DEEMED TO BE
CONVERSION OF AN ASSET BELONGING TO THE COURT REPORTER.

COURT REPORTER: TODAY'S DATE IS JUNE 23, 2009. THIS IS SOUTH CAROLINA WORKERS' COMPENSATION CASE FILE NUMBER 0312096. THIS IS THE CASE OF MARIA MCGAHA, CLAIMANT, VERSUS HONEYWELL INTERNATIONAL, INCORPORATED, EMPLOYER, AND ZURICH AMERICAN, CARRIER.

THIS IS A CROSS APPEAL. THE FIRST APPELLANT IS THE DEFENDANT, THE SECOND APPELLANT IS THE CLAIMANT. CLAIMANT IS REPRESENTED BY KATHRYN WILLIAMS AND THE DEFENDANT IS REPRESENTED BY VERNON DUNBAR.

EACH SIDE IS ALLOWED 8 MINUTES FOR ORAL ARGUMENTS AND 2 MINUTES IN REPLY. YOU ARE REQUESTED TO ARGUE THE GROUNDS OF EXCEPTIONS AND STAY WITHIN THE RECORD.

COMMISSIONER BECK: MR. DUNBAR.

MR. DUNBAR: THANK YOU VERY MUCH, YOUR HONOR. MAY IT PLEASE THE PANEL, I REPRESENT HONEYWELL IN THIS PARTICULAR CASE. AND MS. MARIA MCGAHA BEGAN WORKING AS A DEBUR OPERATOR AT HONEYWELL BACK IN 1998. AND AS A CONSEQUENCE OF THAT SHE DEVELOPED CARPAL TUNNEL, LEFT CARPAL TUNNEL SYNDROME. THAT WAS ADMITTED. SHE COMPLAINED ON JULY 17, 2003, THAT SHE WAS HAVING A PROBLEM WITH HER HANDS. SHE WAS REFERRED TO THE COMPANY DOCTOR. SHE WAS FITTED WITH A BRACE SPLINT. THEN LATER DETERMINED THAT SHE DID NOT HAVE CARPAL TUNNEL.

THEREUPON SHE COMPLAINED OF ARM PROBLEMS AND NECK PROBLEMS. NOW WHAT'S INTERESTING WHEN SHE THE INITIAL MEDICAL REPORT DATED JULY 17, 2007, DOESN'T SHOW US SPECIFIC INJURY TO THE ARM OR TO THE

1 SHOULDER. SHE COMPLAINED OF THE HAND PROBLEMS. WELL, THIS IS IN
2 AUGUST OF 2003. ULTIMATLEY SHE'S TERMINATED BECAUSE SHE'S GIVEN SOME
3 VERY SEVERE RESTRICTIONS WITH RESPECT TO USING HER HANDS AND ARMS.
4 AND AT THIS TIME THE CARPAL TUNNEL HAD BEEN RULED OUT. IT WAS NOT A
5 CAUSE OF HER PROBLEMS OR THE CAUSE OF HER DISABILITY.

6 AS A CONSEQUENCE SHE TRIED TO GET HER GROUP HEALTH TO PAY FOR
7 CERTAIN DIAGNOSTIC TESTS. SHE ULTIMATELY DID HAVE THOSE DIAGNOSTIC
8 TESTS. SHE HAD AN MRI OF THE CERVICAL SPINE WHICH REVEALED THAT SHE
9 HAD CERVICAL DISC DISEASE AND ARTHRITIS. AS A MATATER OF FACT WHEN
10 SHE STARTED COMPLAINING ABOUT THE ARM AND SHOULDER SHE SAID IT WAS
11 ARTHRITIS. AND FOR THAT REASON HONEYWELL SAID IT IS NOT WORK RELATED
12 BECAUSE THAT WAS ARTHRITIC PROBLEMS, IT DIDN'T COME FROM THE JOB AND
13 THERE WAS NO EVIDENCE AT THAT TIME THAT THERE WAS AN AGGRAVATION OF
14 A PRE-EXISTING CONDITION.

15 WHAT IS INTERESTING IS THAT AFTER SHE WAS DIAGNOSED WITH THE, SHE
16 HAD AN MRI ON THE CERVICAL SPINE. SHE LATER HAD AN MRI OF THE LEFT
17 SHOULDER WHICH REVEALED AGAIN SOME ARTHRITIS BUT SHOWED THAT SHE
18 HAD AN IMPINGEMENT SYNDROME. BECAUSE SHE NEVER COMPLAINED ABOUT
19 INJURING HER ARM ON JULY 17TH OR AUGUST 1, 2003, IT WAS DENIED AND SHE
20 APPLIED FOR SHORT TERM DISABILITY BENEFITS. AND IN ORDER TO APPLY FOR
21 SHORT TERM DISABILITY BENEFITS SHE HAD TO SAY THAT HER PROBLEMS
22 STEMMING WITH HER ARM WAS NOT WORK RELATED.

23 WELL, THIS IS IN AUGUST 2003. SHE'S TERMINATED SOMETIME
24 THEREAFTER. IT'S NOT UNTIL SEPTEMBER 2008 THAT THE CLAIMANT FILES A
25 FORM 50, SOME 5 YEARS AFTER THE ACCIDENT. AND THE CLAIMANT IS

1 CONTENDING THAT SHE'S ENTITLED TO TEMPORARY TOTAL DISABILITY
2 COMPENSATION BENEFITS FROM AUGUST 2003 TO THE PRESENT.

3 THE DEFENDANTS TOOK THE POSITION THAT THERE WAS NO MEDICAL
4 REPORTS AUTHORIZING HER OUT OF WORK FOR A CONTINUOUS 5 YEAR PERIOD.
5 THE DEFENDANTS ALSO TOOK THE POSITION THAT THE LEFT ARM WAS DENIED.
6 AND I UNDERSTAND THAT THIS COMMISSION WOULD GIVE GREAT DEFERENCE TO
7 THE SINGLE COMMISSIONER. HE ULTIMATELY FOUND THAT THE LEFT SHOULDER
8 PROBLEMS WERE COMPENSABLE. EVEN THOUGH WE CONTEST THAT I'M NOT
9 REALLY GOING TO WASTE YOUR TIME WITH THAT, I'M RELYING UPON MY BRIEF
10 ON THAT ISSUE AND ARGUMENT.

11 OUR MAIN ARGUMENT IS THAT THIS COMMISSION GOES THROUGH GREAT
12 LENGTHS TO GIVE PEOPLE TIMELY, SPEEDY HEARINGS. IF YOU LOOK AT THE
13 DATE ON THE FORM 50, IT'S DATED SEPTEMBER 2008. FIRST WEEK IN JANUARY, 3
14 MONTHS LATER, 3 AND A HALF MONTHS LATER SHE HAS A HEARING. IT IS OUR
15 POSITION THAT BECAUSE MS. MCGAHA DID NOT PROSECUTE HER CLAIM FOR
16 TEMPORARY TOTAL OR COMPENSABILITY, SHE OBVIOUSLY WAS NOT TEMPORARY
17 AND TOTALLY DISABLED AND THE COMMISSIONER ERRED IN AWARDED HER
18 TEMPORARY TOTAL DISABILITY COMPENSATION BENEFITS FROM MARCH 25, 2004,
19 AND CONTINUING. WE TAKE THE POSITION THAT THERE WAS NO MEDICAL
20 EVIDENCE TO SUPPORT THAT THAT IS THE GLORIOUS DATE OF DISABILITY. BUT
21 WE ALSO TAKE THE POSITION THAT NO DOCTOR WROTE HER OUT OF WORK AND
22 SHE ALSO HAD OTHER ISSUES. HER HUSBAND HAD HAD 2 STROKES. HE WAS
23 SUFFERING WITH PARALYSIS, HE WAS IN A COMA. HE HAD COLON CANCER AND
24 WAS ALSO UNDERGOING CHEMOTHERAPY. SHE TESTIFIED UNDER OATH THAT
25 HER HUSBAND'S PROBLEMS REQUIRED 24 HOUR SUPERVISION. SHE WAS THE

1 PRIMARY CARETAKER AND SHE GAVE HIM THAT CARE THAT ANY WIFE WOULD.
2 WE TAKE THE POSITION THAT BECAUSE OF THAT THAT CERTAINLY WE SHOULD
3 NOT BE SADDLED WITH PAYING HER TEMPORARY TOTAL WHEN SHE WAS NOT
4 EXCUSED FROM WORK BY ANY MEDICAL PHYSICIAN. BUT MORE IMPORTANTLY
5 WAS---

6 COMMISSIONER HUFFSTETLER: (INAUDIBLE) MARCH OF 2005?

7 MR. DUNBAR: I'M SORRY, 2005, YES, SIR.

8 COMMISSIONER HUFFSTETLER: HE WROTE HER OUT OF WORK IN
9 MARCH 2005?

10 MR. DUNBAR: YES, THAT'S CORRECT.

11 COMMISSIONER HUFFSTETLER: WHICH IS WHAT THE ORDER
12 AWARDED.

13 MR. DUNBAR: THAT'S CORRECT. AND WE TAKE THE POSITION THAT
14 THAT DATE WAS STALE GIVEN THE FACT THAT SHE COULD HAVE PROSECUTED
15 HER CLAIM WELL BEFORE 5 YEARS HAD TRANSPIRED AND CHOSE NOT TO, THAT
16 THE APPROPRIATE REMEDY WOULD HAVE BEEN TO AT LEAST HAVE HER GO BACK
17 TO DOCTOR GARY TO SEE WHETHER SHE STILL SUFFERS FROM IMPINGEMENT
18 SYNDROME. IF SHE DOES, HE'S ALREADY FOUND IT COMPENSABLE, THEN THE
19 CARRIER SHOULD BE MADE TO PAY TEMPORARY TOTAL AT THAT POINT IN TIME.
20 BUT SHE HAS NOT SEEN DOCTOR GARY SINCE 2005. AND ON 2004 HE WOULD BE IN
21 THE BEST POSITION BECAUSE HE'S THE ONE WHO WOULD ULTIMATELY DO
22 SURGERY TO DETERMINE WHETHER SHE'S TEMPORARY AND TOTALLY
23 INCAPACITATED.

24 AND WITH THAT, YOUR HONOR, I WOULD RELY ON MY BRIEF.

25 COMMISSIONER BECK: THANK YOU.

1 MS. WILLIAMS: MAY IT PLEASE THE COMMISSION, THIS LADY IS
2 FROM COLOMBIA, SOUTH AMERICA. BUT SHE'S BEEN IN THIS COUNTRY ABOUT 30
3 YEARS. IF YOU READ THE TRANSCRIPT YOU'LL SEE THAT SHE SPEAKS VERY
4 BROKEN ENGLISH.

5 SHE WORKED FOR 6 YEARS AT HONEYWELL AND NOT AT INSIGNIFICANT
6 WAGES. HER AVERAGE WEEKLY, NOT HER AVERAGE WEEKLY WAGE, HER COMP,
7 HER AVERAGE WEEKLY WAGE IS OVER \$800.00 A WEEK. AND THERE'S A JOB
8 DESCRIPTION IN THE DEFENDANTS' APA'S AT PAGE 117 THAT SHOWS THAT IT
9 REQUIRES THE REPETITIVE USE OF HER HANDS 7 TO 8 HOURS A DAY. THAT SHE
10 HAS TO USE HER HEAD FOR LOOKING DOWN 5 TO 6 HOURS A DAY. SHE USES HER
11 ARMS FOR FIRM GRASPING UP TO 4 HOURS A DAY.

12 SHE STARTED HAVING PROBLEMS IN HER ENTIRE LEFT SIDE FROM HER
13 NECK, HER SHOULDER, HER LEFT ARM AND HAND. MR. DUNBAR IS JUST WRONG
14 ABOUT WHAT HE TOLD YOU ABOUT THE INITIAL REPORT TO THE NURSES WHEN
15 SHE WENT TO THE NURSE AT HONEYWELL. IF YOU LOOK AT THAT INITIAL NOTE
16 ON 7/17/03 IT SAYS COMPLAINTS OF LEFT NECK PAIN, THIS IS A REPETITIVE
17 TRAUMA CLAIM, TIMES 6 OR 7 MONTHS WITH PAIN COMING DOWN THE LEFT ARM
18 UNTIL IT STARTED CRAMPING INTO HER FOREARM AREA CAUSING PAIN INTO HER
19 HAND. IT GOES ON TO SAY SHE STATES SHE DOES NOT WANT TO MISS WORK.
20 CONTINUES TO SAY THAT HER NECK PAIN KEPT GETTING WORSE TO THE POINT
21 THAT SHE CANNOT SLEEP ON HER LEFT SIDE DUE TO INCREASED NECK AND
22 SHOULDER PAIN. AND THE NEXT DAY ON JULY 18TH NURSE NOTES THAT SHE
23 SPOKE TO LORETTA AT WORKWELL WHERE THEY SENT HER. BELIEVES PAIN IS
24 MORE OF A CERVICAL RADICULOPATHY, NOT CTS. SO FROM THE VERY
25 BEGINNING OF THIS CLAIM THIS HAS BEEN ABOUT NECK, SHOULDER, ALL THE

1 WAY DOWN HER ARM AND INTO HER HAND.

2 WHEN THEY SENT HER TO WORKWELL, WORKWELL RECOMMENDED THAT
3 SHE SEE A SPINE SPECIALIST. BUT THEN THE COMPANY NURSE DECIDED IT
4 WASN'T WORK RELATED BECAUSE THEY SAID SO THERE WAS SOME MENTION
5 ABOUT ARTHRITIS. AND TOLD MY PRIMARILY SPANISH SPEAKING CLIENT THAT IT
6 WAS NOT WORK RELATED AND THEY WEREN'T GOING TO PAY FOR IT. SHE WAS
7 ALSO SEEING HER FAMILY DOCTOR AT THAT TIME. HER FAMILY DOCTOR
8 REFERRED HER TO DOCTOR BUCCI WHO NOTED THAT SHE HAD SOME
9 DEGENERATIVE DISC DISEASE ON THE MRI. BUT HE THOUGHT THE PRIMARY
10 PROBLEM THE SHOULDER: HE RECOMMENDED AN MRI OF THE SHOULDER, SENT
11 HER TO DOCTOR GARY. THE CARRIER NEVER PROVIDED AN MRI FOR THE
12 SHOULDER. AND FOR THE TIME SHE GOT TO GARY AND HE RECOMMENDED AND
13 HE RECOMMENDED SURGERY SHE HAD BEEN TERMINATED BECAUSE THEY HAD
14 NO WORK FOR HER TO DO WITHIN THE RESTRICTIONS THAT WORKWELL HAD PUT
15 ON HER, THE COMPANY DOCTOR. AND HER INSURANCE HAD RUN OUT. SO SHE
16 HAD NO WAY TO PAY FOR ANY OF THE TREATMENT THAT DOCTOR GARY WAS
17 RECOMMENDING FOR HER.

18 SO IT'S CLEAR THAT THE NECK AND SHOULDER WERE RELATED TO THIS
19 CLAIM BOTH FROM THE VERY FIRST NURSE'S NOTE WHERE SHE'S COMPLAINING
20 ABOUT IT. SHE COMPLAINS ABOUT IT ALL THE WAY THROUGH THE FAMILY
21 DOCTOR. SPECIFICALLY LINKS IT UP TO THE REPETITIVE NATURE OF THE WORK.
22 DOCTOR GARY WHO SAW HER SPECIFICALLY LINKED UP THE SHOULDER
23 PROBLEMS TO THE REPETITIVE NATURE OF HER WORK. AND I HAD HER
24 EVALUATED BY DOCTOR DAMERON WHO ALSO, I KNOW THAT'S AN IME DOCTOR
25 AND PROBABLY LESS (INAUDIBLE) BUT HE AGREES AS WELL. SO ALL OF THE

1 EVIDENCE IN THIS CASE CLEARLY POINTS TO THE FACT THAT IT'S WORK
2 RELATED.

3 NOW WITH REGARD TO THE TEMPORARY TOTAL ISSUE, THE HEARING
4 COMMISSIONER RULED THAT SHE WAS ENTITLED TO TEMPORARY TOTAL FROM
5 MARCH 4 OF '05. AND THAT WAS ABOUT THE TIME THAT THE INSURANCE RAN
6 OUT. WE CONTENDED THAT SHE WAS ENTITLED TO TEMPORARY TOTAL BACK
7 FROM AUGUST 1, 2003, BECAUSE THAT WAS THE LAST DATE THAT SHE ACTUALLY
8 WORKED. THE NURSE'S NOTE SHOW AND ALL THE MEDICAL RECORDS SHOW
9 THAT THIS LADY WAS VERY MOTIVATED. SHE DIDN'T WANT TO BE TAKEN OUT
10 OF WORK. AND THE COMPANY NURSE SENT HER TO WORKWELL---

11 COMMISSIONER ROCHE: WHAT WAS SHE DOING ALL THAT TIME
12 FROM '05 UNTIL SHE TRIED---

13 MS. WILLIAMS: HER HUSBAND HAD, FIRST HE HAD COLON CANCER.
14 THEN HE HAD 2 HEART ATTACKS. HE ALSO HAD 2 STROKES. AND THEN HE HAD A
15 RECURRENCE OF CANCER.

16 COMMISSIONER ROCHE: WHAT DOES THAT HAVE TO DO WITH, I
17 MEAN WHY DIDN'T SHE PURSUE HER CLAIM?

18 MS. WILLIAMS: BECAUSE SHE WAS FOCUSED ON OTHER THINGS.
19 NO QUESTION---

20 COMMISSIONER ROCHE: SHE'S GOT THE RIGHT TO FOCUS ON
21 OTHER THINGS. DOESN'T THAT PREJUDICE THE DEFENDANTS TO - THEY ARE
22 DENYING PART OF THE CLAIM ANYWAY. AND THEY CAN'T BRING YOU HERE ON A
23 DENIED CLAIM.

24 MS. WILLIAMS: WELL, THEY ADMITTED THE CARPAL TUNNEL.

25 COMMISSIONER ROCHE: RIGHT.

1 MS. WILLIAMS: AND SO THEY CERTAINLY COULD HAVE FILED A
2 FORM 21 ON THAT. AND THEY CONDUCTED THE DISCOVERY THAT NEEDS TO BE
3 DONE TO DETERMINE WHETHER THEY ARE ADMITTING OR WHETHER IT SHOULD
4 BE ADMITTED OR DENIED. THIS IS AN OBVIOUSLY CLEAR CLAIM FROM THE
5 BEGINNING ON THE NECK AND SHOULDER.

6 COMMISSIONER ROCHE: AND YOU WON ON THAT POINT. BUT
7 THEY CONDUCTED WHATEVER DISCOVERY THEY CHOSE TO DO AND DENIED
8 THAT CLAIM, DENIED THE SHOULDER PART OF IT. AND THEN SHE SAT FOR 3
9 YEARS AND DIDN'T DO ANYTHING.

10 MS. WILLIAMS: WELL, SHE WORKED ACTUALLY UNTIL AUGUST OF
11 '03 WHEN THE NURSE, WHEN THE COMPANY NURSE SENT HER TO WORKWELL,
12 WELL, ACTUALLY IT WAS BACK IN JULY THE NURSE SENT HER TO WORKWELL TO
13 GET SOME RESTRICTIONS. THEY PUT HER ON SOME RESTRICTIONS, THEY
14 ACCOMMODATED HER. BUT THEN THE NURSE NOTICED WHEN SHE WAS BACK AT
15 WORK DOING LIGHT DUTY THAT SHE WAS HAVING A LOT OF, SHE WAS FAVORING
16 HER LEFT ARM, THAT SHE WAS HAVING FACIAL GRIMACING, SHE WAS HAVING
17 DIFFICULTY DOING IT. AND THEN BRUNSON, HER FAMILY DOCTOR, TOOK HER
18 OUT OF WORK ALTOGETHER ON AUGUST 4TH. THE COMPANY NURSE THEN SENT
19 HER AGAIN TO WORKWELL TO GET RESTRICTIONS. WORKWELL SAID NO LIFTING
20 OVER 5 POUNDS. AND AT THAT POINT THEY STOPPED ACCOMMODATING HER.

21 SHE CONTINUED TO GET TREATMENT UNTIL THE INSURANCE RAN OUT
22 UNTIL HER HUSBAND, AND IT WAS JUST COINCIDENTALLY ABOUT THAT SAME
23 TIME THAT HER HUSBAND BECAME ILL. AND IN FACT HE WAS NOT AT THE
24 HEARING WITH HER BECAUSE HE WAS IN THE HOSPITAL ON THE DAY THAT THIS
25 HEARING OCCURRED. THIS WOMAN HAS HAD A TOUGH TIME IN TERMS OF HER

1 HUSBAND. SHE CANDIDLY ADMITTED THAT SHE DID WHAT SHE COULD TO CARE
2 FOR HIM, THAT SHE DID WHATEVER IT TOOK. BUT THAT DIDN'T MAKE HER
3 SHOULDER PAIN OR HER NECK PAIN ANY WORSE. SHE ALSO HAD HER HUSBAND'S
4 SISTER WAS INVOLVED WITH THIS AND HELPED HER WITH SOME OF THE CARE.

5 NOBODY EVER LIFTED THOSE RESTRICTIONS. SHE, YOU KNOW, THEY
6 DIDN'T HAVE, THEY ARE THE ONES WHO REFUSED TO ACCOMMODATE HER. AND
7 THIS IS WHAT THE NURSE TESTIFIED. SHE SAID IF SHE HAD BEEN, YOU KNOW, IF
8 WE HAD ADMITTED THE TOP CLAIM WE WOULD HAVE ACCOMMODATED HER.
9 BUT BECAUSE WE DENIED THE CLAIM THEN WE DIDN'T HAVE ANY WORK FOR
10 HER TO DO.

11 COMMISSIONER ROCHE: ALL OF THOSE ARGUMENTS ACTUALLY
12 SUPPORT THE FACT THAT SHE SHOULD HAVE DONE SOMETHING ABOUT THAT BY
13 FILING A CLAIM. IF IT'S AGGREGIOUS, MAYBE IF YOU WANT TO CALL THAT WHAT
14 THEY'VE DONE, SHE SHOULD HAVE DONE SOMETHING ABOUT IT.

15 MS. WILLIAMS: WELL, YOU'RE CORRECT. THEY'RE THE ONES WHO
16 DENIED THE CLAIM, THEY'RE THE ONES WHO TERMINATED HER, THEY'RE THE
17 ONES THAT CAUSED HER TO LOSE HER HEALTH INSURANCE. I'M HAVING A HARD
18 TIME EVOKING A WHOLE LOT OF SYMPATHY FOR THEM. BUT I WILL TELL YOU
19 THAT BEFORE THE, AT THE HEARING LEVEL I PRESENTED AN ALTERNATIVE THAT
20 IF YOU'RE IN THE MOOD TO PUNISH HER BECAUSE OF HER HUSBAND'S ILLNESS,
21 THEN WHAT I PROPOSED WAS THAT TEMPORARY TOTAL OUGHT TO BE PAID FROM
22 AUGUST 1, '03, WHEN SHE LAST WORKED UP UNTIL MARCH 5, '05, WHICH IS THE
23 LAST TIME WE HAVE A REPORT FROM DOCTOR GARY. AND THAT'S WHEN
24 TREATMENTS WERE STOPPED AND HER INSURANCE WAS CANCELLED. AND THEN
25 PICK IT BACK UP WHEN SHE SAW DOCTOR DAMERON ON DECEMBER 19, '08, AT

1 WHICH TIME HE SAID SHE NEEDED TO GET BACK IN TO SEE DOCTOR GARY AND
2 NEEDED FURTHER TREATMENT. SO ONE OF THE ALTERNATIVES I PRESENTED TO
3 THE COMMISSIONER WAS TO SUSPEND TEMPORARY TOTAL FOR THE PERIOD OF
4 TIME THAT SHE WAS PREOCCUPIED WITH HER HUSBAND'S ILLNESS. IF YOU THINK
5 IT'S UNFAIR FOR THE CARRIER TO HAVE TO PAY THE WHOLE THING, IF YOU THINK
6 SOMEHOW SHE'S PREJUDICED THEM BY WAITING THIS LONG, I DON'T THINK SHE
7 HAS, I THINK THE LAW IS THAT REGARDLESS OF WHAT ELSE IS GOING ON IN HER
8 LIFE, IF SHE CANNOT WORK BECAUSE OF HER PHYSICAL INJURIES THEN SHE'S
9 ENTITLED TO WORKERS' COMPENSATION.

10 AND THIS A CASE TO THE EXTENT THAT, I MEAN HONEYWELL
11 WRONGFULLY DENIED A CLEAR CLAIM. YET SHE PROBABLY SHOULD HAVE
12 PURSUED IT SOONER. BUT OF THE TWO, AND WHO'S ABLE TO HANDLE, I MEAN
13 WHO'S PREJUDICING WHO BY DENYING A WRONGFUL CLAIM OR HER BY NOT
14 PURSUING IT, HONEYWELL IS MUCH BETTER ABLE TO HANDLE THAT THAN SHE IS.

15 COMMISSIONER ROCHE: THERE'S NO DETERMINATION THAT IT'S
16 BEEN A WRONGFUL DENIAL OF YOUR CLAIM BECAUSE YOU WON. BUT THERE'S
17 NO DETERMINATION THAT THE DEFENSE WAS FRIVOLOUS.

18 MS. WILLIAMS: WELL, THERE SHOULD HAVE BEEN. THANK YOU.

19 COMMISSIONER BECK: MR. DUNBAR.

20 MR. DUNBAR: WITH RESPECT TO THE BASIS OF DENYING THE CLAIM
21 IN RESPONSE MY OPPONENT'S ARGUMENT, APA 1, AND WE'RE DEALING WITH
22 PEOPLE WHO ARE NOT LEARNED IN THE LAW, AND WHAT THEY LOOKED AT WAS
23 THE NURSE'S NOTES. SHE DENIED SPECIFIC INJURY. SHE WAS TALKING ABOUT
24 RADICULAR PAIN FROM THE NECK GOING DOWN TO THE FINGERS. AND IF YOU
25 LOOK AT APA, PAGE 1, IT TALKS ABOUT CARPAL TUNNEL. THAT'S WHAT THE

1 DOCTORS INITIALLY THOUGHT IT WAS. AND LATER THEY RULED OUT THE
2 CARPAL TUNNEL. SO AS OF JULY 21, 2003, AND THAT'S APA, PAGE 42, SHE GOES TO
3 ST. FRANCIS HOSPITAL WHERE SHE'S EVALUATED. AND AGAIN THEY TAKE A LOOK
4 AT HER CERVICAL RADICULOPATHY. BUT HERE THEY JUST CHECK THINGS
5 UNDECIDED AS TO THE CAUSE OF HER CERVICAL PROBLEMS. SO AT THIS POINT
6 HONEYWELL IS DEALING WITH SITUATION IS IT AUTHORIZED OR IS IT A WORK
7 RELATED ACCIDENT. THERE ARE SOME REPORTS THAT THE CLAIMANT DENIED
8 THAT SHE HAD INJURED HERSELF. AND AGAIN WE GET INTO WHETHER IT'S A
9 SPECIFIC ACCIDENT OR REPETITIVE TRAUMA. BUT BE THAT AS IT MAY THE
10 PEOPLE AT HONEYWELL WERE WORKING WITH THIS INFORMATION.

11 AND FINALLY APA, PAGE 45, SHE GOES BACK TO ST. FRANCIS ON AUGUST 1,
12 2003, AND IT TALKS ABOUT THE LEFT ARM AND CERVICAL RADICULOPATHY. AND
13 IT SAYS IT'S NOT WORK RELATED. THAT'S WHAT'S CHECKED BY THE MEDICAL
14 REPORT. SO AT THAT POINT IN TIME THE CASE WAS DENIED AS BEING
15 COMPENSABLE BASED UPON THE MEDICAL EVIDENCE AND THE MEDICAL TESTING
16 THAT HAD BEEN DONE AND ADMINISTERED UPON MS. MCGAHA AT THAT PERIOD
17 OF TIME.

18 ADDITIONALLY SHE SAW DOCTOR ROBERT SWARTZ FOR PAIN
19 MANAGEMENT. AND DOCTOR SWARTZ TOOK A LOOK AT HER AND HE SAID IN HIS
20 REPORT SHE REALLY COULDN'T TELL ME HOW SHE INJURED HERSELF, WHERE
21 HER COMPLAINTS ARE OR WHAT THE RATINGS ARE. SO HE DIDN'T THINK THAT
22 THEY WERE TOTALLY WORK RELATED IN ONE RESPECT. BUT HE SAID HE
23 MENTIONED ABOUT A 1990 AUTOMOBILE ACCIDENT. BUT ANY EVENT SHE WAS
24 NOT CLEAR AS TO HOW SHE HAD INJURED HER LEFT SHOULDER.

25 IN SUMMARY, YOUR HONOR, WE JUST TAKE THE POSITION THAT IT WAS

1 JUST ARBITRARY AND CAPRICIOUS TO SELECT THE DATE OF MARCH 4, 2005.
2 THANK YOU.

3 MS. WILLIAMS: THEY ADMITTED A REPETITIVE TRAUMA CLAIM
4 WITH REGARD TO THE LEFT HAND ON THE SAME HISTORY THAT SHE HAD GIVEN
5 ABOUT IT WAS REPETITIVE TRAUMA AT WORK BUT NO HISTORY OF SPECIFIC
6 TRAUMA. THIS IS A REPETITIVE TRAUMA CASE AND THEY ADMITTED, YOU KNOW,
7 THAT SHE HAD INJURED HER HAND. TO SAY, WELL, WE JUST REALLY DIDN'T
8 KNOW WHAT WE WERE DEALING WITH, I JUST DON'T BUY IT AND I DON'T
9 BECAUSE ON AUGUST 21 OF '03, AT MY APA NUMBER 23, DOCTOR BRUNSON
10 RECOMMENDED AN MRI ON HER SHOULDER. THEY HAD A REHAB NURSE ON THE
11 CASE THEN, GAYLE PLESS. HE TALKED TO GAYLE PLESS ABOUT THE MRI ON THE
12 SHOULDER. IT GOES, THEN DOCTOR, AND HE SAYS TO GAYLE PLESS THAT IT'S
13 RELATED. THEN HE GOES TO, SHE GOES TO WORKWELL. THEY RECOMMEND A
14 SPINE SPECIALIST. SHE SEES BUCCI. HE SAYS IT'S HER SHOULDER. AND DOCTOR
15 BUCCI, AND WE'RE STILL BACK IN 2003, DOCTOR BUCCI SAYS I THINK THAT THIS IS
16 A SHOULDER PROBLEM, I WANT AN MRI OF HER SHOULDER. AND THEY STILL
17 REFUSE TO DO IT. AND THEN HE SAYS I'LL SEND HER TO DOCTOR GARY. WE'RE
18 STILL IN 2003. THEY SEND HER TO DOCTOR GARY. HE ALSO WANTS AN MRI AND
19 THEY'RE STILL REFUSING TO DO IT.

20 COMMISSIONER ROCHE: THAT'S WHEN THE HEARING SHOULD
21 HAVE BEEN ASKED FOR.

22 COMMISSIONER HUFFSTETLER: WOULD YOU AGREE THAT IF THE
23 CASE WERE DEPENDENT OR PROSECUTED FOR THAT MATTER ON AN
24 UNREASONABLE GROUND, THAT THE PENALTY FOR THAT IS HEARING COST? IT'S
25 NOT FOR THE WORD BENEFITS. THE BENEFITS WOULD FLOW FROM THE NEED FOR

1 MEDICAL TREATMENT, CAUSAL RELATIONSHIP FOR THAT, WHETHER THE INJURY
2 RESULTED IN DISABILITY.

3 MS. WILLIAMS: PRECISELY.

4 COMMISSIONER HUFFSTETLER: JUST THE FACTS.

5 MS. WILLIAMS: PRECISELY.

6 COMMISSIONER HUFFSTETLER: WHETHER EITHER SIDE IS TO PAY
7 WOULD BE A MATTER OF WHETHER HEARING COSTS WERE ACCESSED.

8 MS. WILLIAMS: YES, SIR, I DO AGREE WITH THAT. AND I ALSO
9 WOULD AGREE WITH THE FACT THAT WHETHER SHE MISBEHAVED OR NOT IN
10 TERMS OF NOT FILING THIS CLAIM BECAUSE SHE WAS PREOCCUPIED WITH HER
11 HUSBAND HAS NO BEARING ON WHETHER SHE'S ENTITLED TO TEMPORARY
12 TOTAL. THAT POSITION SHOULD BE MADE BASED ON THE MEDICAL RECORDS
13 ABOUT WHETHER SHE IS OR IS NOT ABLE TO WORK. AND THE ONLY EVIDENCE
14 HERE IS THAT SHE IS NOT.

15 COMMISSIONER BECK: THANK Y'ALL VERY MUCH. THIS
16 CONCLUDES THIS PROCEEDING.

17 (WHEREUPON THIS PROCEEDING WAS CONCLUDED)
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IN THE COURT OF COMMON PLEAS

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1 neurosurgeon. Dr. Bucci evaluated her and determined it
2 was cervical disk disease and severe arthritis, but she was
3 not a surgical candidate. She still complained of pain in
4 her shoulder. We denied the neck claim and the shoulder
5 claim. In essence, saying that it was due from -- or due
6 as a result of arthritis, not as a result of her work
7 related activities. She began seeing or she saw Dr. Steven
8 Gary who said that the left shoulder problems were related
9 to work related activities and that's reflected in the
10 record.

11 This accidental injury happened in 2003. It was not
12 prosecuted by the claimant until -- at least it wasn't set
13 for a hearing and wasn't adjudicated until 2009. Actually
14 Derrick Williams, Commissioner Derrick Williams, heard it
15 on January 2009 and issued an order in February 2009.

16 The question was, and this is the primary crux of my
17 appeal, whether Ms. McGaha's entitled to temporary total
18 disability compensation benefits from March 4, 2005 and
19 continuing. We take the position, and one of the
20 Commissioners on the Appellate Panel agreed with us,
21 Commissioner Andrew Roach, that the claimant sat on her
22 rights, that she should have prosecuted the claim earlier
23 because it was prejudicial to my client.

24 More importantly, we take the position that this is a
25 legal question. This is not a factual question. The

1 reason why it's a legal question is because there is no
2 evidence to support the Commission's finding that she is --
3 or she was unable to work beginning on March 4, 2005 and
4 continuing. If you look through the record, you will find
5 that there are no documents supporting March 4th as the
6 date on which claimant was unable to work.

7 If you review the record you will find, earlier there
8 were many records from Doctors Bucci, Doctors Brunson
9 excusing her from work primarily because she's having
10 problem with the cervical spine so that she could become
11 evaluated. The Commission obviously didn't believe that
12 her neck problems were as a result of her work related
13 accident, otherwise, he would have awarded workers' comp
14 benefits from August 3, 2003 when she first -- or August
15 4th, 2003 when she first complained. He did not. He
16 selected the date of March 4, 2005.

17 The only thing I can find in the record is that she
18 had a test done, but there is nothing in the record to
19 support an award of temporary total disability compensation
20 benefits. As you're well aware, Your Honor, in workers'
21 compensation if the defendants wish to stop or terminate
22 temporary total, we need a medical report. We need a
23 medical document in order to do that. If there's a change
24 in condition claim, the claimant knows that she needs a
25 medical report to start temporary total and to get

1 additional medical treatment. We take the position that in
2 order for a claimant to be entitled to temporary total
3 disability compensations benefits, particularly when you
4 have a lot of ancillary issues out there, some being work
5 related allegations, some being non-work related
6 allegations, that you need an expert medical opinion to
7 support an award of temporary total disability compensation
8 benefits.

9 In this case there is not one from March 4th, 2005 to
10 the present. So we take the position that the Commission
11 clearly erred in ordering March 4th, 2005 as the date by
12 which to begin temporary total. We find that date to be
13 totally arbitrary and capricious, particularly when you
14 don't have any work excuses or medical excuses authorizing
15 Ms. McGaha out of work. This was a case that's been --
16 well, it was -- we knew about it in 2003. She didn't
17 prosecute it until -- 2008 is when she asked for a hearing,
18 late 2008, and in 2009 we actually had the hearing.

19 Our second argument is that because Ms. McGaha had
20 testified that she really wasn't having any problems with
21 her neck, that the commission shouldn't have deemed the
22 neck claim compensable. We find, and at least the record
23 supports, that the only allegation in terms of a neck
24 problem, which would be supportive of a neck problem, was
25 the diagnosis of degenerative disk disease that Dr. Michael

1 Bucci treated her for and has not seen her since 2004.

2 So to have a hearing some six years after the initial
3 incident and find that the neck claim is compensable and
4 find other body parts compensable, we think constitutes an
5 error of law. She didn't receive any additional treatment.

6 Now, I anticipate that my opponent will argue that,
7 well, she was no longer working there. She didn't have
8 access to medical treatment. We take the position the
9 reason why Ms. McGaha did not pursue medical treatment is
10 because she had some serious problems from a family
11 standpoint that she had to deal with. Her husband had
12 suffered with colon cancer, liver cancer, he had heart
13 attacks, strokes that resulted in paralysis. He was in a
14 coma. She testified that she had to be with him twenty-
15 four hours a day, seven days a week.

16 So that also sort of trends into our argument that the
17 award for temporary total was capricious, speculative and
18 totally arbitrary because Ms. McGaha testified herself that
19 because of her husband's poor health, she had to be there
20 in the position of nursing him, so to speak. So her
21 inability to work cannot proximately be related totally to
22 her shoulder problem, if it's deemed compensable, but
23 certainly can be deemed a proximate result of her
24 obligations as a wife, as a spouse, to care for a loved
25 one, which she did.

1 So we take the position that the Commission erred in
2 ordering payment of temporary total disability compensation
3 benefits from March 4th 2005 to the present. There's
4 simply no medical authorization to support that. The
5 records -- there are plenty of records that we've submitted
6 that would support temporary total for an earlier part, but
7 the problem with that is, it's related to non-compensable
8 and non-work-related maladies. And we also take the
9 position that the neck, because she has not received any
10 treatment -- her testimony is that she was not having any
11 problems as a consequence of that -- that either the
12 Commission should have determined that she had reached
13 maximum medical improvement on that issue or that it was
14 not a compensable malady given the fact that it was not
15 really an issue.

16 THE COURT: So if the Commissioner had found that
17 temporary total should have started in 2003, you really
18 wouldn't have had a complaint?

19 MR. DUNBAR: I don't think I would have had much
20 of a leg to stand on, to be quite candid. Because then
21 there are medical documents in the record to support
22 temporary total beginning on that date. Now, the only
23 problem is how do you order temporary total six years down
24 the road? Because there is some evidence indicating that
25 she was able to return to work some time in 2004/2005. So

1 we would take the position that the record would support
2 that it shouldn't have been continuing. But the beginning
3 date, clearly, I would not have much to argue on. But
4 because the Commission ignored all of those records and
5 arbitrarily chose, and I do have that one report that just
6 shows she had a test conducted on that date, and no doctor
7 writes her out from work. And I'll hand those up.

8 THE COURT: It wasn't a typo?

9 MR. DUNBAR: No, sir, and ---

10 THE COURT: Was there a March 4, 2003 report?

11 MR. DUNBAR: No, Your Honor. And so as not to --
12 these are all of the records so you won't have to thumb
13 through. You will see in 2003, Dr. Brunson, who we
14 referred her to when she was complaining of carpal tunnel
15 and pain in the arm, writes her out of work. Now, she
16 received short-term disability for that. And if you look
17 through that you will see where not only he writes her out,
18 but Dr. Bucci writes her out even as late as 2004 because
19 he's examining her neck to see what's the problem, whether
20 she's a surgical candidate. Now, we had denied the
21 cervical spine injury, but she's written out of work during
22 that period of time.

23 And even the FMLA Form that was submitted by Ms.
24 McGaha supports a certain period of time to be out of work.
25 But after that, there is nothing. And the only thing that

1 you see here on March 4th, 2005 is a diagnostic test. No
2 one writes her out of work on that particular report. As
3 a matter of fact, Dr. Schwartz questions whether her
4 shoulder problems even results from the work related
5 allegation. He thinks it may be from a 1990 automobile
6 accident.

7 So when you look at that last page, the March 4th,
8 2005 report and the Commission found as a fact, based upon
9 this report, she's obligated or she is entitled to
10 temporary total disability compensation benefits and we're
11 obligated to pay those benefits. Nothing in the record
12 supports that award, and Commissioner Roach recognized
13 that in her dissent and indicated that she would not have
14 awarded temporary total for such an extended period of
15 time because there's simply no evidence to support it.

16 THE COURT: All right, Ms. Williams, I'm sure
17 you're going to illuminate me, aren't you?

18 MS. WILLIAMS: Yes, sir. And it is sort of
19 interesting that, you know, what happened here -- I think
20 this is a discretionary call of the Commission and they
21 tried to cut him a break a little bit and he's complaining
22 about it, because the case did drag on for a while. But
23 let me give you some background.

24 This lady is not from this country. She's from
25 Colombia, South American, but she's been in this country

1 thirty years and she's sixty-eight years old. She worked
2 six years for this defendant and she was a good worker.
3 And, in fact, all of her medical records support that she
4 did not want to be taken out of work. She begged them for
5 light duty. She begged the doctors not to take her out of
6 work. She really wanted to work. And she was a high wage
7 earner. She was making over eight hundred dollars a week
8 in this job. The job required -- and there's a job
9 description that came from the employer -- that required
10 her to use her hands repetitively for seven to eight hours
11 per day. She had to bend and twist her neck for five to
12 six hours per day, and she had to do firm grasping with
13 both of her arms four hours a day. She started having
14 problems in her left shoulder. She complained from the
15 beginning to the plant nurse that her problems were in her
16 left shoulder, the left side of her neck, and her left
17 arm. The plant nurse sent her to the company doctor. The
18 company doctor said I think she needs to see a spine
19 specialists, and he put her on restrictions at that point.
20 And that's when he said, I want her to go see a spine
21 specialists, the plant nurse told my client, well, this
22 just isn't work related. We're not going to send you for
23 any more medical treatment under workers' comp.
24 Now, she still had health insurance through the
25 company at that time, so she did continue to seek treatment

1 for a while from -- she went to her family doctor, Dr.
2 Brunson, who she'd been seeing during this time, too. And
3 he referred her to Dr. Bucci to look at her spine. Dr.
4 Bucci said, well, you know, she's got pain here, but I
5 don't think the problem is coming from her spine. I think
6 it's coming from her shoulder. And I think she ought to
7 see a shoulder specialists, so he sends her to Dr. Gary.
8 And Dr. Gary says that, yeah, she's got a shoulder
9 problem. She needs surgery and that it's all related.
10 Every doctor that's seen her, they've all said that this
11 was related to the work that she was doing there. And he
12 says it's related and she needs to do surgery. And at that
13 point, she had been terminated because they refused to
14 provide any light duty for her in accordance with the
15 restrictions that the doctors put on her. So she was
16 terminated and she had no insurance.

17 Now, by this time, we're in about 2004 or '05, and I
18 filed a claim, a Form 50, sometime in '04. Well, then her
19 husband gets -- it's just a series of things that's just --
20 that's unbelievable. He has colon cancer. They go through
21 that. He has a stroke that paralyzes him on the right
22 side. Then he had another stroke. Then he had -- got
23 liver cancer and was in chemo and treatment for that. And
24 then while he was in treatment for that, he has a heart
25 attack. And really nearly died. And this lady has spent

1 -- spent the next three years of her life basically trying
2 to keep her husband alive. And this claim sort of took a
3 back seat to that. And, in fact, her husband was in the
4 hospital on the day we had the hearing. He couldn't be
5 there because he was in the hospital getting treatment for
6 all of these illnesses.

7 We asked for temporary total going back to August 4th
8 of 2003, which is when the company doctor took her out of
9 work. And, by the way as I said before, she didn't want to
10 go out of work. She wanted to keep her job and begged them
11 not to do and begged them to give her light duty. And they
12 said, well, you know, if we were admitting it was workers'
13 comp, we'd give you light duty. But since we're not going
14 to admit that it's workers' comp, we're not. So she was
15 just sort of left out in the cold.

16 What the Commissioner did -- and, you know, I think he
17 thought, well, you know, the law is clear that she's
18 entitled to temporary total and the law is clear that she
19 is entitled to it back to August 4th of 2003. There are
20 things -- and the law is also clear -- and I cited the
21 cases in my brief -- that if other things interfere with
22 somebody's ability to pursue the claim, that that does not
23 relieve them from their obligation to provide temporary
24 total. There's been a case on it where -- that involved a
25 pregnancy. Somebody couldn't pursue their claim because

1 they were pregnant. The employer didn't want to pay
2 temporary total during the period of pregnancy and the
3 Court said, too bad, you're going to have to pay it anyway
4 because the inability to work was there before the
5 pregnancy was. And so her inability to work is not solely
6 the result of the pregnancy. There's also been a case on
7 somebody being sent to jail and being unable to pursue a
8 claim for that reason. And do they continue to get
9 temporary total? Yes, they do. Because their inability
10 to work happened before they got sent to prison and so
11 their inability to pursue the claim does not arise solely
12 from the fact -- or their inability to work does not arise
13 solely from the fact that they're incarcerated. Well, if
14 you can -- if a voluntary act like pregnancy -- and most
15 times it's voluntary -- doesn't relieve them of
16 responsibility for paying temporary total, and if a
17 criminal act that is bad enough to get you sent to prison
18 doesn't relieve them from responsibility for temporary
19 total, then surely something that this lady had no control
20 over, which was her husband's very, very serious series of
21 illnesses, shouldn't operate to barr her from temporary
22 total.

23 So what the Commissioner did, in looking at all of
24 this was, you know, that does go back a long way. And so
25 I'm going to -- there's several dates he could have used.

1 He could have used that one, which I think is the ---

2 THE COURT: Is that the last treatment in a
3 sequence?

4 MS. WILLIAMS: No.

5 THE COURT: The March 4 wasn't?

6 MS. WILLIAMS: She continued to get treatment
7 from -- she got treatment, because she still had some
8 insurance that hung on, you know, after that. And she got
9 treatment from Dr. Brunson up until -- that was when she
10 got taken out of work, okay? But she continued to get
11 treatment with ---

12 THE COURT: Now, I thought she was out of -- she
13 was out of work on -- when was her last day of working, was
14 it '05?

15 MS. WILLIAMS: August of '03.

16 THE COURT: '03?

17 MS. WILLIAMS: Uh-huh (affirmative).

18 THE COURT: Okay. And she was still getting
19 treatment even beyond 3/4/05?

20 MS. WILLIAMS: Yes, sir, because I think she had
21 like eighteen months of, you know, eligibility under her
22 insurance.

23 THE COURT: Okay.

24 MS. WILLIAMS: So she continued to get treatment
25 with Dr. Brunson up until February of '05 and he does

1 specifically opine that her left upper extremity and neck
2 problems were related to this -- to what she was doing at
3 work. She got ---

4 THE COURT: And after Dr. Schwartz saw her on
5 March of '05, she had more visits in '05 and more in '06,
6 too?

7 MS. WILLIAMS: Not in '06.

8 THE COURT: Just those in '05.

9 MS. WILLIAMS: Because her insurance ran out in
10 March of '05, and that's what -- and she saw Dr. Gary up
11 until February of '05, okay? So when her insurance ran --
12 that's the date -- that's what -- was the date that the
13 Commissioner was relying on in picking that March date,
14 okay?

15 THE COURT: Okay. So she saw Brunson in February
16 of '05 and then Schwartz in March of '05, and that was the
17 end of her medical care?

18 MS. WILLIAMS: Uh-huh (affirmative). And her
19 insurance -- because her insurance ran out.

20 THE COURT: Okay.

21 MS. WILLIAMS: She could no longer afford to get
22 any, you know.

23 THE COURT: So the Commissioner picked the last
24 date of medical treatment, rather than the first day of
25 medical treatment, basically?

1 MS. WILLIAMS: Right. And he could have used,
2 you know, that date -- I sent her to Dr. Dameron in 2008.
3 Because when we filed the claim -- her husband got a little
4 better and we filed the claim and requested a hearing back
5 in 2008. It didn't get set until 2009. But I sent her to
6 Dr. Dameron and he evaluated her and agreed that the
7 problems were related to her work and that she needed the
8 surgery. The Commissioner could have used that date. And
9 I thought, you know, that -- but what the Commissioner was
10 trying to do was pick a date in the middle, not hurt
11 anybody too bad. I should have, I really should have
12 appealed and said that he was wrong.

13 THE COURT: Did you not appeal the single
14 Commissioner's hearing?

15 MS. WILLIAMS: I did not. Because I thought this
16 was a discretionary matter. You know, he was trying to be
17 -- to ---

18 THE COURT: I thought somewhere in my notes I saw
19 that each of you appealed to the Commission, but that was
20 not -- to the full Commission. That's not so? Maybe I
21 misread that.

22 MS. WILLIAMS: I don't think I appealed to the
23 full Commission.

24 THE COURT: Okay. I might have misread that.
25 Let's assume you didn't.

1 MS. WILLIAMS: I did not.

2 THE COURT: Okay.

3 MS. WILLIAMS: Okay. I did not. Because I
4 really did consider that to be a discretionary matter, you
5 know. But if what Vernon's arguing is then you've got to
6 stick to the -- that you've got to stick closely to the
7 date that the doctor says she can't work that's in the
8 medical records, then that gets her back to August of 2003.
9 So what he's been given is a gift and he's complaining
10 about it.

11 And I think that the, you know, I think it's
12 discretionary with the -- you know, the statute gives the
13 Commission -- it's sort of like a credit. They give the
14 Commission a lot of discretion in trying to determine
15 fairness and equity and what's fair to everybody involved,
16 and I think that's what this Commissioner was trying to do
17 and that was affirmed by the full Commission. There was
18 one Commissioner who disagreed, that she would have started
19 temporary total in 2008. But the other two -- it was an
20 affirmation, because the other two voted to affirm, in
21 toto, Commissioner Williams' decision on it. And I think
22 ---

23 THE COURT: They didn't address whether it should
24 have started in '03 in the order? I haven't looked at
25 that. But in the full Commission's order, the dissenter

1 said it should have been in '08, but the other two didn't
2 say, they didn't address the '03 possible start date?

3 MS. WILLIAMS: They didn't. They just affirmed
4 the hearing Commissioner's decision, that it should start
5 in '05.

6 THE COURT: How about the other argument on the
7 neck, that it's not work related. That takes your other
8 ground of appeal away.

9 MS. WILLIAMS: In all of this, okay, she
10 complained from the beginning of problems with her neck,
11 her shoulder and her hand, okay? Dr. Brunson says all of
12 it is work related. Now, they went through a process
13 during this time of trying to diagnosis precisely where the
14 problem was. She's got problems in her neck. She's got
15 problems in her shoulder and so there was some diagnostic
16 stuff going on during that time and they wanted to
17 determine, you know, what it was actually that was causing
18 the pain. But the problems in her neck and the problems in
19 her shoulder have been determined by everybody that's ever
20 seen her, to be related. Now, the neck doesn't need
21 surgery. It's the shoulder that needs the surgery. But
22 it's all related and Dr. Brunson specifically addressed
23 that, as did Dr. -- I think Dr. Brunson was the only one
24 that specifically addressed the neck, because by the time
25 she got to the other doctor, they had sort of ruled out --

1 you know, they were concentrating on the shoulder because
2 that was where they had determined that she needed surgery.

3 THE COURT: I believe you mentioned, Mr. Dunbar,
4 that Dr. Bucci found that there was arthritis in her neck.

5 MR. DUNBAR: That's right.

6 THE COURT: But were you saying that that was the
7 reason for her injury or that it had developed after the
8 injury or, do you know?

9 MR. DUNBAR: I did say it was ---

10 THE COURT: Is that an issue for you on appeal,
11 is that it was not -- the neck was not related?

12 MR. DUNBAR: That's correct, Your Honor, and ---

13 THE COURT: Because it was pre-existing or
14 arthritic condition.

15 MR. DUNBAR: It was pre-existing and an arthritic
16 and no one said that it was ---

17 THE COURT: Okay. But the only thing you've got
18 on that is Dr. Bucci's finding somewhere along the way that
19 it was arthritic?

20 MR. DUNBAR: That's correct.

21 THE COURT: But that could have been after the
22 injury, right? Well, it was after the injury. He didn't
23 say that it was existing before the injury, did he?

24 MR. DUNBAR: Well, we would say that it wasn't
25 after the injury. The reason why we would say that is

1 because she was complaining of carpal tunnel and the
2 doctors weren't certain whether it was radicular pain from
3 the cervical spine or actually carpal tunnel. So they did
4 a series of diagnostic tests to rule out whether she had a
5 herniated disk that was radiating into her neck -- I mean
6 to her hands and arms. They ruled that out. And then they
7 did the nerve conduction study tests and ruled out carpal
8 tunnel as well. So it seemed to be a shoulder problem more
9 than anything else that was causing the pain in her arm.

10 MS. WILLIAMS: But that's purely -- you know,
11 whether the neck's related is purely a substantial evidence
12 question. And if you look at the -- what I sent over
13 yesterday at page 280, Dr. Brunson directly addresses that,
14 which is the substantial evidence that supports the
15 Commission's finding in that.

16 THE COURT: All right.

17 MR. DUNBAR: Your Honor, if I may.

18 THE COURT: This just seems like a -- yes, sir.
19 I'll be glad to hear from you, Mr. Dunbar, in response.

20 MR. DUNBAR: The issue is temporary total
21 disability compensation, total incapacity from work. The
22 only documents in your possession in the record to support
23 temporary total would be from 2004 back. The reason why
24 the Commission did not order payment of temporary total is
25 because the evidence didn't support such. She had carpal

1 tunnel symptoms that was eventually ruled out, which my
2 client had admitted could have resulted from work. They
3 denied the shoulder, denied the neck. So the Commission
4 was in a quandary in terms of ordering temporary total from
5 2003 because what we had admitted was ruled out and the
6 cervical spine problem wasn't a problem. It was arthritic.
7 The only thing that she had was the left shoulder. And
8 that was diagnosed by Dr. Gary later, but he never writes
9 her out. The only thing close to being written out -- and
10 this is on January 13, 2004 in this APA -- I'm sorry,
11 record, page 108 was a light duty report. No one totally
12 excusing her from work, but indicating that she was able to
13 do light duty. No lifting, pulling, pushing or anything
14 bigger than ten pounds.

15 The reason why I point that out to the Court is
16 because Mary Gilboy testified had this shoulder been
17 deemed work related earlier, had she pursued it, Honeywell
18 would have provided her with light duty. But because it
19 was not accepted and not proven to be a work-related
20 incident, they did not provide her light duty and that's
21 why she was ultimately terminated. But had it been
22 concluded in being compensable, they would have provided
23 light duty. But still, if you look at APA page -- I'm
24 sorry, record page 108, no one excuses Ms. McGaha totally
25 from work. The only evidence that the Court has and that

1 the Commission has is from 2003 and sometime until January
2 2004.

3 Ms. Williams mentioned two cases where an individual
4 was receiving temporary total and became pregnant. That
5 was a procedural question because the employer/carrier
6 wanted to terminate benefits because the lady who was
7 pregnant could not have certain, well, tests involving
8 radiation. So they felt as though the pregnancy was an
9 intervening circumstance. The Court did not buy that.

10 With respect to the gentleman who was receiving
11 temporary total and was later arrested for committing a
12 crime and thrown into jail, again, -- and I remember that
13 case very well because Judge Pieper?? heard it. I was on
14 the full Commission and he reversed it because the full
15 Commission, we did not go by the procedural aspect of what
16 it takes to terminate one's benefits. In this particular
17 case, it's distinguished or distinguishable, I should say,
18 because Ms. McGaha was not in a running award. It's
19 incumbent upon her to prove her entitlement to workers'
20 compensation benefits, and more importantly to temporary
21 total disability compensation benefits.

22 In this case, she did not -- she failed in that. And
23 if you look at, again, this medical report, Dr. Schwartz
24 didn't see her. This is only the result of a diagnostic
25 test. The last time Dr. Schwartz saw her was in February

1 2005. And that's where he indicated, I'm not certain what
2 the etiology of her shoulder pain actually is. But this
3 March 4th, 2005, it's just a date that was pulled out of
4 thin air because there's a medical report there. But this
5 medical report does not support the payment of temporary
6 total disability compensation benefits. It does not
7 support any finding that she's totally incapacitated from
8 working, because she was not. She was caring for her
9 husband who was undergoing chemotherapy. And if you look
10 at the light duty restrictions imposed, care for a spouse,
11 pretty much is what she was doing in terms of this light
12 duty employment.

13 So we take the position that Honeywell didn't drag
14 this case on. Ms. McGaha decided not to pursue it until a
15 late date, yet my client is punished and we're ordered to
16 pay temporary total disability compensation benefits from
17 2005, which is four years before the hearing. And
18 continue. And we think we're prejudiced by that. But more
19 importantly, aside from the prejudice, is that she failed
20 to meet her burden of proof.

21 THE COURT: So in hindsight, if your company had
22 just hired her back some time in there or offered her her
23 job back when she was caring for her husband, then
24 everything would have been brought to a head, I guess,
25 right?

1 MR. DUNBAR: Assuming she could have come back.

2 THE COURT: Well, that's what I'm saying.

3 MR. DUNBAR: She said it was twenty-four seven
4 and she had ---

5 THE COURT: Well, that would have had a -- she
6 would have denied the work then, I guess, since she had to
7 care for her husband.

8 MR. DUNBAR: Yeah.

9 THE COURT: Well, I guess I can just ignore
10 substantial evidence rule and just issue an order making it
11 payable since '03, and then everybody's going to be happy,
12 right?

13 MR. DUNBAR: Well, I'm ---

14 THE COURT: Just kidding. Just kidding. I'll
15 stumble through this and see what I can do. This really
16 just seems like a case that ought to be resolved to me, but
17 sometimes you have clients that you can't resolve things
18 on. But even -- any workers' comp is complicated for me
19 now. But I'll look over your briefs and see if I can get a
20 handle on it.

21 MR. DUNBAR: All right. Thank you very much.

22 MS. WILLIAMS: Thank you, Your Honor.

23 THE COURT: And y'all can each submit proposed
24 orders if you want to. I hate -- I don't usually ask
25 lawyers to do that, but ---

1 MS. WILLIAMS: We'll, be happy to.

2 MR. DUNBAR: We'll do that. Any time frame?

3 THE COURT: No. After Christmas. Or do y'all
4 want to do it before Christmas while it's hot or do y'all
5 want to wait until after -- y'all don't want to do it after
6 Christmas, do you? Or do you?

7 MR. DUNBAR: No, we'll do it before Christmas.

8 THE COURT: Yeah. Otherwise, you'll never be
9 able to do it, right?

10 MR. DUNBAR: You're right about that. Okay.
11 We'll get it to you before Christmas.

12 THE COURT: That'll be good, if you can. If you
13 can't, if something comes up, let me know!

14 MR. DUNBAR: All right, sir.

15 THE COURT: Y'all have a good Christmas.

16 MS. WILLIAMS: You too.

17 MR. DUNBAR: Same to you. Thank you very much,
18 sir.

19

20 (END OF REQUESTED TRANSCRIPT OF RECORD)

CERTIFICATE OF REPORTER

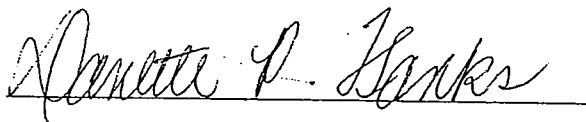
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I, the undersigned Danette P. Hanks, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate, and complete transcript of record of all the proceedings had and evidence introduced in the trial/hearing of the captioned case, relative to appeal, in the Court of Common Pleas for Greenville County, South Carolina, on the 10th day of December, 2010.

This transcript may contain quoted material. Such material is reproduced as read by the speaker.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

February 21, 2011

A handwritten signature in cursive script, reading "Danette P. Hanks", is written over a horizontal line.

Circuit Court Reporter

KATHRYN WILLIAMS, P.A.

ATTORNEY AT LAW
POST OFFICE BOX 10693
GREENVILLE, SC 29603

KATHRYN WILLIAMS
DONALD E. KAMB, JR.
TOM J. ERVIN
OF COUNSEL

619 N. MAIN STREET
GREENVILLE, SC 29601
TELEPHONE (864) 235-6254
TOLL FREE 1-888-377-1537
FAX (864) 233-6591

July 8, 2004

Claims Department
S.C. Workers' Compensation Comm'n
P.O. Box 1715
Columbia, SC 29202-1715

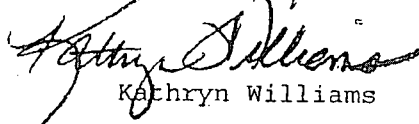
Re: Maria McGaha v. Honeywell International
Date of Accident: 8/4/03

Dear Sir:

Attached is the original Form 50 in the above matter.

Kindest regards,

Yours truly,


Kathryn Williams

KW:tt

cc: Zurich American Ins. Co.
Zurich USA
PO Box 195008
Charlotte, NC 28219-5008

Honeywell International
PO Box 1404
Greer, SC 29650

KATHRYN WILLIAMS, P.A.

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GREENVILLE, SC 29603

KATHRYN WILLIAMS
DONALD E. KAMB, JR.
TOM J. ERVIN
OF COUNSEL

September 11, 2008

619 N. MAIN STREET
GREENVILLE, SC 29601
TELEPHONE (864) 235-6254
FAX (864) 233-6591

Ms. Virginia L. Crocker
Judicial Director
SC Workers' Compensation Commission
P. O. Box 1715
Columbia, SC 29202-1715

Re: Maria E. McGaha vs. Honeywell
Date of Injury: 08/04/2003
WCC File No: 0312096

Dear Ms. Crocker:

Enclosed please find the original Form 50 and Certificate of Service in the above-referenced claim, together with my check for \$25.00 for the filing fee.

With kindest regards,

Yours truly,



KATHRYN WILLIAMS

KW/jl
Enclosure
cc: Zurich American Ins. Co./Zurich US
William E. Shaughnessy, Attorney

TURNER PADGET

TURNER PADGET GRAHAM & LANEY P.A.

CHARLESTON
COLUMBIA
FLORENCE
GREENVILLE
MYRTLE BEACH

October 14, 2008

Vernon F. Dunbar
Email: VDunbar@TurnerPadget.com
Writer's Direct Dial: (864) 552-4601

Ms. Virginia Crocker, Judicial Director
S.C. Workers' Compensation Commission
Post Office Box 1715
Columbia, SC 29202-1715

E-MAIL TO
to Matt
Walker for hand
delivery to WCC

RE: Claimant: Maria E. McGaha
Employer: Honeywell International, Inc.
Carrier: Zurich North America
Claim No.: 2800034122001
WCC File No.: 0312096
Our File No.: 00100.00176
D/A: 8/4/2003

Dear Ms. Crocker:

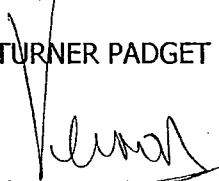
Turner Padget has been retained to represent the employer and carrier in the matter referenced above. Please find enclosed the original and one copy of the Form 51 on behalf of the Carrier in the above matter for filing in your office.

By copy of this letter, we are serving a copy of the Form 51 on the Claimant's attorney, Kathryn Williams.

With kind regards, I am

Very truly yours,

TURNER PADGET GRAHAM & LANEY P.A.


Vernon F. Dunbar

VFD/jmc

Enclosures: (1) Form 51

cc: Ms. Sabrina Martin (w/enclosures)
Kathryn Williams (w/enclosures)
Mary Gilboy (w/enclosures)

BUSINESS • LITIGATION • SOLUTIONS

200 East Broad Street • Suite 250 (29601) • PO Box 1509 • Greenville, SC 29602
Phone (864) 552-4600 • Fax (864) 552-4620 • turnerpadget.com • 290

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. EDWARD WELMAKER, Circuit Court Judge

Case No. 2009-CP-23-7978

Maria E. McGaha.....Respondent

vs.

Honeywell International, Inc., Employer,
and Zurich North America, Carrier.....Appellants

CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies this **Record on Appeal** contains all material proposed to be included by any of the parties and not any other material.

The undersigned also certifies that this **Record on Appeal** complies with the South Carolina Supreme Court's Order dated August 13, 2007, concerning personal data identifiers and other sensitive information.

Turner, Padgett Graham & Laney, P.A.



VERNON F. DUNBAR, (SC Bar No. 7836)
Post Office Box 1509
Greenville, SC 29602
ATTORNEY FOR CLAIMANT/APPELLANT
(864) 552-4601

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. EDWARD WELMAKER, Circuit Court Judge

Case No. 2009-CP-23-7978

Maria E. McGaha.....Respondent

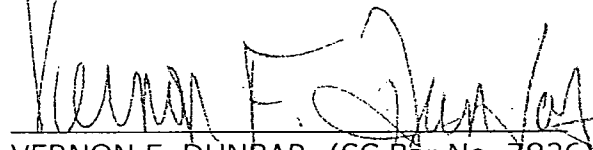
vs.

Honeywell International, Inc., Employer,
and Zurich North America, Carrier.....Appellants

CERTIFICATE OF SERVICE

I certify that I have served the ***Petition for Rehearing by Appellants, Honeywell International, Inc. and Zurich North America and Certificate of Service*** on Maria E. McGaha, Respondent, by hand delivery to the Court and by depositing a copy of it in the United States Mail, postage prepaid, on February 28, 2013, addressed to the attorney of record, Kathryn L. Williams, Esquire, and Donald E. Kamb, Jr., Esquire, Post Office Box 10693, Greenville, SC 29603.

Turner, Padgett Graham & Laney, P.A.



VERNON F. DUNBAR, (SC Bar No. 7836)
Post Office Box 1509
Greenville, SC 29602
ATTORNEY FOR Appellants
(864) 552-4601

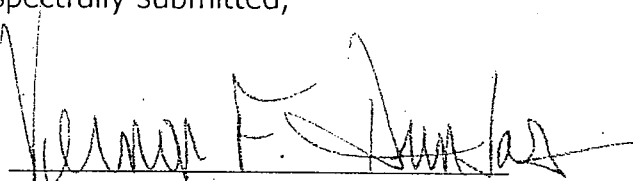
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SC Court of Appeals

CONCLUSION

For all the reasons stated herein, the Court's Order and Decision dated February 13, 2013 is subject to further review and reformation.

Respectfully submitted,

By: 

Vernon F. Dunbar
Turner Padgett Graham & Laney
Post Office Box 1509
Greenville, SC 29602
Telephone: 864-552-4601
Attorney for Appellants, Honeywell
International, Inc. and Zurich North
America

February 26, 2013

Greenville, South Carolina

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

Maria E. McGaha, Respondent,

v.

Honeywell International, Inc., Employer, and Zurich
North America, Carrier, Appellants.

Appellate Case No. 2011-185686

Appeal From Greenville County
G. Edward Welmaker, Circuit Court Judge

Unpublished Opinion No. 2013-UP-071
Heard January 8, 2013 – Filed February 13, 2013

AFFIRMED

Vernon F. Dunbar, of Turner Padget Graham & Laney,
PA, of Greenville, for Appellants.

Donald E. Kamb, Jr. and Kathryn Williams, both of
Kathryn Williams, PA, of Greenville, for Respondent.

PER CURIAM: Honeywell International, Inc. and Zurich North America argue the circuit court erred in affirming the Appellate Panel of the South Carolina Workers' Compensation Commission's findings that Maria McGaha sustained a

compensable injury to her neck and was entitled to temporary total disability benefits. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the Appellate Panel erred in determining McGaha was entitled to payment of temporary total disability compensation benefits from March 4, 2005, to the present: *Shuler v. Gregory Elec.*, 366 S.C. 435, 440, 622 S.E.2d 569, 571 (Ct. App. 2005) (holding the Appellate Panel's decision must be affirmed if supported by substantial evidence in the record); *Palmetto Alliance, Inc. v. S.C. Pub. Serv. Comm'n*, 282 S.C. 430, 432, 319 S.E.2d 695, 696 (1984) ("[T]he possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence."); *Hargrove v. Titan Textile Co.*, 360 S.C. 276, 290, 599 S.E.2d 604, 611 (Ct. App. 2004) (finding that when the evidence is conflicting over a factual issue, the findings of the Appellate Panel are conclusive); *Orr v. Elastomeric Prods.*, 323 S.C. 342, 344, 474 S.E.2d 448, 449 (Ct. App. 1996) (finding that although an employee's pregnancy indirectly prolonged the period during which she was unemployable, her injury, not her pregnancy, rendered her unable to work).

2. As to whether the Appellate Panel erred in finding McGaha had injured her neck or in the alternative failing to determine she did not suffer any disability from her neck strain: *Shuler*, 366 S.C. at 440, 622 S.E.2d at 571 (holding the Appellate Panel's decision must be affirmed if supported by substantial evidence in the record); *Rodney v. Michelin Tire Corp.*, 320 S.C. 515, 518, 466 S.E.2d 357, 358 (1996) (determining an injury arises out of employment if a causal relationship between the conditions under which the work is to be performed and the resulting injury is apparent to the rational mind, upon consideration of all the circumstances).

AFFIRMED.

SHORT, KONDUROS, and LOCKEMY, JJ., concur.

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. EDWARD WELMAKER, Circuit Court Judge

Case No. 2009-CP-23-7978

Maria E. McGaha.....Respondent

vs.

Honeywell International, Inc., Employer,
and Zurich North America, Carrier.....Appellants

**PETITION FOR REHEARING BY APPELLANTS, HONEYWELL INTERNATIONAL,
INC. AND ZURICH NORTH AMERICA**

Appellants, Honeywell International, Inc. and Zurich North America [hereinafter referred to as "Appellants"] hereby Petition this Court for Rehearing, pursuant to Rules 221 and 240 of the South Carolina Appellate Rules, of its Decision and Order filed February 13, 2013. That Decision and Order affirmed the Workers' Compensation Commission's Appellate Panel's Decision and Order awarding Maria McGaha, Respondent, temporary total disability compensation payments from March 4, 2005 to the present.

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SC Court of Appeals

Appellants' Petition seeks rehearing and reconsideration of the Court's Decision affirming the Workers' Compensation Commission's Appellate Panel's Decision and Order in the absence of substantial evidence with respect to the award of temporary total disability compensation benefits from March 4, 2005 to the present.

Furthermore, Appellants' Petition seeks rehearing and reconsideration of the Court's Decision to affirm the Decision of the South Carolina Workers' Compensation Commission's Appellate Panel finding and concluding that Respondent suffered a compensable neck strain. Last, Appellants request a rehearing and reconsideration of the issue of whether Respondent suffers disability from her neck strain when there is no evidence of a compensable work injury or disability.

FACTUAL AND PROCEDURAL BACKGROUND

Respondent allegedly sustained injuries to her neck, left shoulder and left arm on August 1, 2003 during the course and scope of her employment with Honeywell International, Inc. Respondent filed a Form 50 requesting an adjudicatory hearing, but did not prosecute her claim until January 5, 2009, when the matter was scheduled for an adjudicatory hearing by the Single Commissioner. Respondent requested payment of temporary total disability compensation benefits beginning on August 1, 2003. Respondent also sought a compensability determination with regard to the alleged injury to the cervical spine and neck.

Following the Decisions of the South Carolina Workers' Compensation Commission finding and concluding that Respondent is entitled to payment of temporary total disability compensation benefits from March 4, 2005 to the present for

the left shoulder injury; and finding that the neck sprain is compensable; Appellants filed an appeal with the Greenville County Court of Common Pleas. The Circuit Court or Greenville County Court of Common Pleas affirmed the Commission's Decision by Order dated January 6, 2011. Appellants then filed an appeal with this Court, which affirmed the Lower Court's and the Commission's Decisions and Orders.

ARGUMENTS

I. THE AWARD OF TEMPORARY TOTAL DISABILITY COMPENSATION BENEFITS DATING FROM MARCH 4, 2005 TO THE PRESENT IS NOT SUPPORTED BY MEDICAL OR OBJECTIVE LAY TESTIMONY.

The Record on Appeal, including the Appendix, contains approximately 292 pages of documentary evidence and testimony.

First, there is not one medical note or report from any of the numerous medical providers authorizing Respondent to remain off of work from March 4, 2005 to the present with regard the admitted left shoulder/left upper extremity injury or even the denied neck strain. (Appendix to ROA, pp. 1-2).

Second, a review of Respondent's testimony which is contained in the Record on Appeal from pages 205 to 227, do not reflect Respondent was totally incapacitated from gainful employment on March 4, 2005 to the present. (R. pp. 205-227). Respondent testified that since she last worked for Appellant in 2003, she has had to provide around the clock nursing care for her ill spouse. Respondent testified that her husband's strokes and chemotherapy treatment has made him weak and partially unable to walk. (R p. 213; 214, lines 1-11; and 223, lines 1-22).

Third, Respondent does not take any prescriptive medications which interfere with her ability to work. Specifically, Respondent's occasional consumption of Tylenol and Motrin does not cause drowsiness or other side effects which may potentially interfere with her ability to work in a full-time or part-time capacity. (R. p. 220, lines 16-25; and p. 221, lines 1-2). Appellants argue that because there is no competent evidence – lay or medical – to support the findings of the South Carolina Workers' Compensation Commission, this Court's affirmation of the Commission's Decision constitutes an error of law. See, Linen v. Ruscon Construction Co., 286 S.C. 67, 332 S.E.2d 211 (1985).

Because the long-standing proposition promulgated in all of the Appellate Court's Decisions regarding the standard of review and the need for all administrative decisions to be supported by substantial evidence, Appellants argue that Respondent's inability to prove her entitlement to temporary total disability compensation benefits beginning on March 4, 2005 must be reversed as a matter of law because the Decision obviously rests on surmise, conjecture and speculation. See, Sharpe v. Case Produce, Inc., 336 S.C. 154, 519 S.E.2d 102 (1999); Wynn v. Peoples Natural Gas Co., 238 S.C. 1, 118 S.E.2d 812 (1961); Cross v. Concrete Materials, 236 S.C. 440, 114 S.E.2d 828 (1960); Price v. B.F. Shaw Co., 224 S.C. 89, 77 S.E.2d 491 (1953); Landford v. Clinton Cotton Mills, 204 S.C. 423, 30 S.E.2d 36 (1944); and Etheredge v. Monsanto Co., 349 S.C. 451, 562 S.E.2d 679 (Ct. App. 2002).

More recently, in the case of Burnette v. City of Greenville, Opinion No. 5059 (Ct. App. Filed December 5, 2012), this Court unanimously reversed a Decision and Order of

the South Carolina Workers' Compensation Commission because the Commission's findings were not supported by substantial evidence. In *Burnette*, the Court noted that the Commission is permitted to disregard medical evidence only when there is other competent evidence in the record. *Supra*.

In the case at bar, there is absolutely no medical evidence supporting the award of temporary total disability compensation benefits. There is no other evidence in the record upon which Respondent can cite in support of an award of temporary total disability compensation benefits.

Hence, in the absence of medical testimony or any competent lay testimony to support an award of temporary total disability compensation benefits, this Court's affirmation of the award of temporary total disability compensation benefits constitutes reversible legal error because the underlying Decision is based on pure speculation and conjecture. In short, there is no proof Respondent became disabled on March 4, 2005. (Appendix to ROA p. 2). *Id*.

II. THE COURT COMMITTED ERROR IN AFFIRMING THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION'S DECISION AND ORDER THAT RESPONDENT SUFFERED A COMPENSABLE NECK SPRAIN.

The competent and credible medical evidence reflects Respondent did not injure her cervical spine or neck as a consequence of her employment duties with Honeywell International.

First, a report dated August 1, 2003 reflects that Respondent's neck pain and radicular pain into the left arm were not work related but emanated from arthritis or degenerative disc disease. (R. pp. 114-121).

Second, the record is devoid of any evidence that Respondent's work activities caused arthritis, an injury to the neck, or was the basis of any alleged disability. Respondent underwent a series of diagnostic studies to ascertain whether she suffered with a cervical spine problem or simply a left shoulder problem. Accordingly, Respondent began seeing Dr. Michael Bucci, a neurosurgeon with the Piedmont Neurosurgical Group. Dr. Bucci evaluated Respondent's cervical spine and left shoulder. Dr. Bucci ordered an MRI of the left shoulder and a CT myelogram of the cervical spine. (R. pp. 117-128 and 163-167). Dr. Bucci found no evidence of a discernible injury to the cervical spine or neck. (R. pp. 122-123 and 127). The fact is reflected in finding of fact number 14 of the Commission's Orders. (R. pp. 11 and 19).

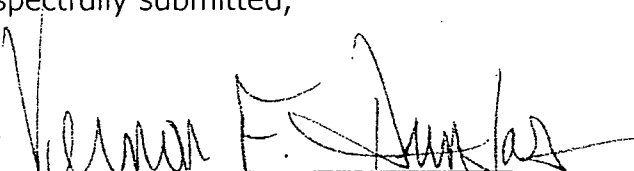
In the alternative, the Decision and Order of the South Carolina Workers' Compensation Commission erred in failing to find Respondent has not suffered any disability from the neck sprain, assuming the allegation of a compensable neck sprain has been proven. Respondent testified that she had no problems with her neck or bilateral carpal tunnel syndrome since 2004. (R. pp. 11, 19, 122, 146 and 225, lines 18-22).

Accordingly, Appellants respectfully request a rehearing or review as to whether Respondent has suffered disability for the alleged neck sprain.

CONCLUSION

For all the reasons stated herein, the Court's Order and Decision dated February 13, 2013 is subject to further review and reformation.

Respectfully submitted,

By: 

Vernon F. Dunbar

Turner Padgett Graham & Laney

Post Office Box 1509

Greenville, SC 29602

Telephone: 864-552-4601

Attorney for Appellants, Honeywell

International, Inc. and Zurich North
America

February 26, 2013

Greenville, South Carolina

The South Carolina Court of Appeals

Maria E. McGaha, Respondent,

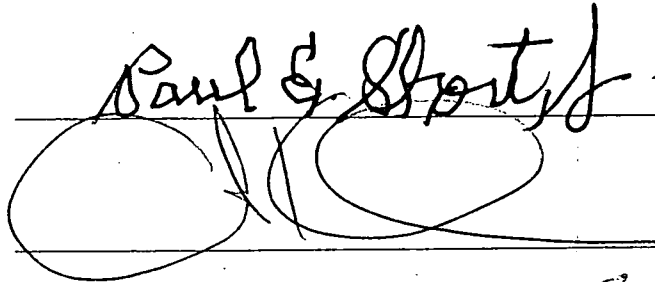
v.

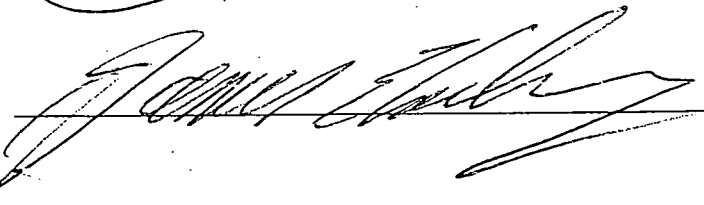
Honeywell International, Inc., Employer, and Zurich
North America, Carrier, Appellants.

Appellate Case No. 2011-185686

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

 J.

 J.

Columbia, South Carolina

cc:

Donald E. Kamb, Jr.

Kathryn Williams

Vernon F. Dunbar

FILED

March 22, 2013

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. EDWARD WELMAKER, Circuit Court Judge

Case No. 2009-CP-23-7978

Maria E. McGaha.....Respondent

vs.

Honeywell International, Inc., Employer,
and Zurich North America, Carrier.....Appellants

BRIEF OF APPELLANTS

Vernon F. Dunbar
Turner Padgett Graham & Laney P.A.
Post Office Box 1509
Greenville, SC 29602
Telephone: 864-552-4601
Attorney for Appellants

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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. EDWARD WELMAKER, Circuit Court Judge

Case No. 2009-CP-23-7978

Maria E. McGaha.....Respondent

vs.

Honeywell International, Inc., Employer,
and Zurich North America, Carrier.....Appellants

CERTIFICATE OF COUNSEL AND COMPLIANCE

The undersigned hereby certifies the Final Brief and Final Reply Brief of Appellants comply with Rule 211(b), SCACR.

The undersigned also certifies that the Final Brief and Final Reply Brief of Appellants comply with the South Carolina Supreme Court's Order dated April 20, 2011, concerning personal data identifiers and other sensitive information.

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STATEMENT OF ISSUES ON APPEAL

- I. DID THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERR IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT RESPONDENT PROVED HER ENTITLEMENT TO PAYMENT OF TEMPORARY TOTAL DISABILITY COMPENSATION BENEFITS FROM MARCH 4, 2005, TO THE PRESENT, WHEN THE AWARD IS BASED UPON SPECULATION, CONJECTURE, AND SELF-SERVING STATEMENTS?**
- II. DID THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERR IN FAILING TO FIND AS A FACT AND CONCLUDE AS A MATTER OF LAW THAT RESPONDENT HAD NOT SUSTAINED A COMPENSABLE INJURY TO HER NECK AND THAT ANY PURPORTED NECK PAIN HAD NOT RESOLVED SOME SIX YEARS AFTER THE ALLEGED ACCIDENTAL INJURY?**

STATEMENT OF THE CASE

This is an appeal from the Greenville County Court of Common Pleas regarding the affirmation of an appeal from the South Carolina Workers' Compensation Commission. (R. pp. 24-31). The Circuit Court affirmed the Order of the South Carolina Workers' Compensation Commission [hereinafter the "Commission"] finding Maria E. McGaha, Employee/Claimant [hereinafter "Respondent"] had sustained compensable injuries to her neck, left shoulder, and left hand. The Circuit Court also affirmed the Commission's findings that Respondent had proven her entitlement to temporary total disability compensation benefits beginning from March 4, 2005, to the present. (R. pp. 28-31). The Circuit Court's Order affirming the factual findings and legal conclusions of the Commission is dated January 19, 2011. From this Decision, Honeywell International, Inc., Employer, and Zurich North America, Workers' Compensation Carrier [hereinafter "Appellants"] appeal to this honorable Court.

By way of background, Respondent alleged injuring her neck, left shoulder, and left arm, on or about August 4, 2003, as a consequence of engaging in repetitive employment activities. Respondent retained counsel, who filed a Form 50 claim, dated July 9, 2004. (R. pp. 32-33). Respondent did not request an adjudicatory hearing seeking benefits, despite Appellants denying compensability of the claims. (R. pp. 32, 176, 186, 190-191). Appellants attempted to have claim dismissed by virtue of failure to prosecute or inaction in 2008. Thereafter, Claimant filed a Form 50, dated September 11, 2008, requesting an adjudicatory hearing and an award of workers' compensation benefits. (R. pp. 34-35).

On January 5, 2009, Derrick L. Williams, Hearing Commissioner, heard Respondent's claim and found Claimant had sustained injuries to her neck, left hand, and left shoulder, as a consequence of her work-related activities. (R. pp. 1-14). Respondent had contended that she was entitled to temporary total disability compensation benefits beginning on or about August 1, 2003, to the present. (R. p. 32). The Hearing Commissioner awarded Respondent temporary total disability compensation benefits beginning on March 4, 2005, to the present. (R. pp. 12-14).

Thereafter, Respondent and Appellants appealed the Hearing Commissioner's Decision and Order to the South Carolina Workers' Compensation Full Commission Appellate Panel. By Order, dated August 20, 2009, the Full Commission Appellate Panel affirmed the Hearing Commissioner's Decision and Order. (R. pp. 15-23). Commissioner Andrea Roche did dissent on the payment of temporary total benefits issue. (R. pp. 23, 42). From the Appellate Panel's Decision and Order, Appellants timely appealed to the Greenville County Court of Common Pleas. After oral arguments had been heard by the Court, an Order, dated January 19, 2011, was promulgated, affirming the Commission's Decision and Order. (R. pp. 24-31). From this Decision, Appellants have appealed to this Court.

FACTS

Maria E. McGaha, Respondent, began working at Honeywell International, Inc. on or about March 23, 1998. (R. pp. 178-180, 205). McGaha alleged a work-related injury to her neck, left hand, and left shoulder on or about August 1, 2003. (R. pp. 24, 45). McGaha first received treatment from Mountain View Family Practice, wherein she

was diagnosed as having carpal tunnel syndrome. (R. pp. 64-71). McGaha presented a medical note from Mountain View Family Practice to her supervisor indicating the left carpal tunnel syndrome was work related. (R. p. 70). The note authorized McGaha to remain off work for two weeks. (R. pp. 70, 195). Appellants did not dispute the diagnosis of left carpal tunnel syndrome. (R. p. 80, 184). Appellants referred McGaha to WorkWell for additional medical treatment, evaluation and assessment. (R. pp. 108-115).

McGaha later underwent nerve conduction studies to verify the initial diagnosis of carpal tunnel syndrome. Dr. Kent Kistler, neurologist, performed nerve conduction studies, which were normal. (R. pp. 80, 160 and 163). Dr. Kistler advised McGaha to discontinue use of the wrist splint because the nerve conduction studies had ruled out that she suffered from carpal tunnel syndrome. (R. p. 109).

WorkWell physicians later diagnosed McGaha as having degenerative disc disease. (R. pp. 114-121). The physicians did not relate this condition to McGaha's occupational duties. McGaha was prescribed anti-inflammatory medications, a brace, muscle relaxers, and physical therapy. (R. pp. 108-113).

Because McGaha's left arm and hand maladies persisted, McGaha underwent an MRI of the cervical spine. (R. p. 114). The MRI revealed degenerative disc disease at C4-5 through C6-7 with evidence of hypertrophic foraminal encroachment. (R. pp. 114-116). McGaha then began treating with Dr. Michael Bucci, a neurosurgeon. (R. pp. 122-128). Dr. Bucci eventually concluded that McGaha's cervical spine problems did not warrant surgery and was not causing left shoulder pain. (R. pp. 163-164).

On January 21, 2004, McGaha began treating with Dr. Stephen Geary, who diagnosed McGaha as having impingement of the left shoulder, along with a component of arthritis of the AC joint. Dr. Geary administered an injection to the AC joint. (R. pp. 132-134).

Dr. Geary completed a medical questionnaire dated February 9, 2005. Dr. Geary opined that McGaha's left shoulder problems had been aggravated by her work-related activities at Honeywell International. (R. p. 135).

McGaha next treated with Dr. Robert Schwartz, a physiatrist or pain management physician. Dr. Schwartz provided medical treatment for McGaha's left shoulder problems. (R. pp. 136-138). Dr. Schwartz noted in a report dated February 22, 2005, McGaha's shoulder problems may result from an automobile accident that occurred during the 1990's. Dr. Schwartz reached this conclusion as a result of McGaha's inability to identify the cause or etiology of her shoulder, hand, and neck complaints. (R. pp. 154-161). Dr. Schwartz was the last physician to treat McGaha. Drs. Schwartz or Geary never authorized Respondent to remain out-of-work due to left shoulder pain and problems.

Despite McGaha's allegation of an alleged work related accident of August 1, 2003, the initial Form 50, dated July 9, 2004, was not prosecuted by McGaha until she requested a hearing by virtue of a Form 50 dated September 11, 2008. (R. pp. 34-36).

At the hearing, McGaha testified that she sustained an injury to her neck, left and right arms, left and right shoulders, and left hand, as a consequence of her employment duties. (R. pp. 206-208). According to McGaha, her neck and left hand

problems have resolved since she last worked at Honeywell in August 2003. (R. p. 146; p. 219, lines 8-17; p. 225, lines 18-20). McGaha no longer suffers from left carpal tunnel syndrome. (R. p. 146; p. 219; lines 13-17). Despite having last worked in 2003, McGaha alleges she presently suffers with left shoulder pain. McGaha attributes the left shoulder problems to her past work related activities. (R. p. 221, lines 8-15).

McGaha did not prosecute her claim for a compensability determination of the denied left shoulder and neck injury claims or the payment of temporary total disability compensation benefits for five years. (R. pp. 34-36). McGaha admitted that during this five-year span she was preoccupied with her spouse's poor health. (R. pp. 222-225). In particular, McGaha's spouse has suffered with colon cancer, liver cancer, heart attacks, paralysis, and strokes. (R. p. 213, lines 2-24). McGaha's spouse was also in a coma for a substantial period of time and had been hospitalized on the date of the workers' compensation hearing in 2009. (R. p. 213, lines 23-24). McGaha admitted that her husband's poor health required her to provide him with medical assistance 24 hours a day/7 days a week due to chemotherapy treatments. (R. pp. 223-225).

Mary Gilboy, company nurse at Honeywell International, Inc., testified modified work would have been available to the McGaha had she indicated the neck, left arm, and shoulder problems were as a consequence of a work-related accident. ((R. pp. 227-229). On the contrary, Ms. Gilboy testified the medical reports provided to Honeywell reflected that McGaha's disability stemming from her neck and shoulder problems was because of arthritis and degenerative disc disease and not from McGaha's occupational duties. (R. p. 60).

Despite Ms. Gilboy's testimony and the medical evidence, the Hearing Commissioner found and concluded that McGaha's job as deburrer was the proximate cause of an accidental injury to the neck, left shoulder and/or left upper extremity. The Hearing Commissioner further found and concluded that McGaha is entitled to medical treatment for her shoulder problems as recommended by Dr. Stephen Geary. Finally, the Hearing Commissioner awarded McGaha temporary total disability compensation benefits from March 4, 2005 to the present.

Although there was testimony from Respondent that she no longer suffers with neck pain or hand/wrist pain (carpal tunnel syndrome), the Order of the Commission potentially awards Claimant additional medical treatment for maladies that have not been symptomatic since 2004.

Appellants initially denied the compensability of Respondent's left shoulder maladies. However, since the ruling by the Full Commission, Appellants accept compensability of the left shoulder claim, but deny compensable and permanent injuries to the neck and hand.

STANDARD OF REVIEW

The Appellate Court in a workers' compensation appeal has the authority to review the facts to determine whether or not there is any competent evidence to support the findings of the fact-finding body. Arnold v. Benjamin Booth Co., 257 S.C. 337, 185 S.E.2d 830 (1971). To this end, an award of the South Carolina Workers' Compensation Commission may be reversed if there is an absence of substantial competent evidence to support it. See Linen v. Ruscon Construction Co., 286 S.C. 67,

332 S.E.2d 211 (1985) and Cross v. Concrete Materials, 236 S.C. 440, 114 S.E.2d (1960).

In assessing the term "substantial evidence", South Carolina Appellate Courts have ruled that such is not a mere scintilla of evidence, nor evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusions the administrative agency reached in order to justify its action. See Sharpe v. Case Produce, Inc., 336 S.C. 154, 519 S.E.2d 102 (1999); and Muir v. C. R. Bard, Inc., 336 S.C. 266, 519 S.E.2d 583 (Ct. App. 1999).

An Appellate Court has the authority to reverse or modify the Decision of the South Carolina Workers' Compensation Commission if the substantial rights of Appellants have been prejudiced because the administrative findings, inferences, conclusions, or decisions are affected by an error of law. See Etheredge v. Monsanto Co., 349 S.C. 451, 562 S.E.2d 679 (Ct. App. 2002); and *S.C. Code Ann. § 1-23-380 (A)(6)(d)* (Law. Co-op. 2003).

ARGUMENTS

I. THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION ERRED IN FINDING AS A FACT AND CONCLUDING AS A MATTER OF LAW THAT RESPONDENT IS ENTITLED TO PAYMENT OF TEMPORARY TOTAL DISABILITY COMPENSATION BENEFITS FROM MARCH 4, 2005, TO THE PRESENT, BECAUSE THE AWARD IS BASED UPON SPECULATION, CONJECTURE, SURMISE, AND SELF-SERVING STATEMENTS.

The record contains no medical evidence, report or expert medical testimony opining Respondent has been temporarily and totally incapacitated from gainful employment from March 4, 2005, to the present. In the absence of any corroborating evidence, other than Respondent's self-serving statements, the Commission's award of temporary total disability compensation benefits is based upon complete speculation, conjecture, surmise, and self-serving statements. As such, this Court cannot affirm the lower Court's Order. Thus, the Commission's Decision and Order must be reversed as a matter of law. Herndon v. Morgan Mills, Inc., 246 S.C. 201, 143 S.E.2d 376 (1965); and Scott v. Havnear Motor Co., 226 S.C. 580, 86 S.E.2d 475 (1955).

Section 42-1-120 defines the term "*disability*" as the incapacity to earn wages because of a work related injury. *S.C. Code Ann. § 42-1-120* (2010). Temporary total disability compensation is not awarded for the physical injury as such, but rather for "disability" produced by such injury. The disability is to be measured by the employee's capacity to earn wages which he/she was receiving at the time of the injury Outlaw v. Johnson Service Co., 254 S.C. 486, 176 S.E.2d 152 (1970).

McGaha waited five years before she requested an adjudicatory hearing to decide the issue of temporary total disability compensation. Although workers' compensation laws constitute a form of social legislation and is afforded a liberal construction and furtherance of the beneficial purposes for which it is designed, the Workers' Compensation Act is not to be converted into a form of welfare insurance. Phillips v. Dixie Stores, Inc., 186 S.C. 374, 195 S.E. 646 (1938). See also, Price v. B. F. Shaw Co., 224 S.C. 89, 77 S.E.2d 491 (1953).

McGaha's five (5) year delay in adjudicating her claim was as a consequence of Ms. McGaha's justified pre-occupation with her spouse's serious and critical health conditions and illnesses. Unlike the situation in the case of Orr v. Elastomeric Products, 323 S.C. 342, 474 S.E.2d 448 (Ct. App. 1996), the alleged injury did not prolong the period for which McGaha could not work, rather it was McGaha's choice not to work during this period of time in order to care for her ailing spouse. *Id.* McGaha was not under the care of a physician during this time period. There is no medical note, excuse or evidence excusing her from work because of the shoulder injury. There is no indication McGaha was temporarily and totally disabled beginning on March 4, 2005. *S.C. Code Ann. § 42-1-120 (2009)*. McGaha's ability to provide care for her spouse reflects she was not totally incapacitated from working. (R. pp. 224-225).

Aside from McGaha's self-serving testimony, there is no objective medical evidence of McGaha's **total incapacity** to work because of shoulder maladies caused by her work activities. None of the evaluating physicians opine that McGaha is totally incapable of engaging in gainful employment; and no physician authorized her to

remain off of work. Mary Gilboy testified that McGaha was paid short-term disability benefits until she was advised she could return to work as was ordered by Dr. Michael Bucci. (R. pp. 126-127; 229-232).

The objective and credible medical evidence does not support the South Carolina Workers' Compensation Commission's decision to award temporary total disability compensation benefits to McGaha beginning on March 4, 2005. A medical report dated February 24, 2005, is a Diagnostic Musculoskeletal Ultrasonography from Dr. Robert Schwartz, the last physician to provide medical treatment. (R. p. 159). Dr. Schwartz had ordered the Musculoskeletal Ultrasonography, a diagnostic test, in order to obtain an image of the cervical spine and shoulder. Dr. Schwartz's clinical impression questions the etiology of the left shoulder problems and longstanding cervical spine problems. (R. p. 137). Although the Commission relies upon this last medical report as the basis for ordering temporary total disability compensation benefits, the report does not authorize McGaha to remain out-of-work or excuse her from performing occupational activities. (R. p. 159). It is simply a diagnostic test report and is not even a treatment note.

The Commission's award of temporary total disability compensation benefits is not supported by any evidence much less substantial evidence as is required by law. Hucks v. Green's Fuel of S.C., 247 S.C. 457, 148 S.E. 2d 149 (1966). In order to affirm the Commission's award of temporary total disability compensation benefits, clearly the Circuit Court and the Commission engaged in speculation, conjecture, and surmise, in absence of evidence corroborating the Commission's award of temporary total disability compensation benefits. See Hucks v. Green's Fuel of S.C., (Supra.).

Because the Commission's award of temporary total disability compensation benefits from March 4, 2005, is not supported by substantial evidence, it was legal error for the Circuit Court to affirm the Commission's Decision. *Id.* Accordingly, Appellants respectfully request that the Commission and the Circuit Court be reversed on the issue of payment of temporary total disability compensation benefits.

II. THE SOUTH CAROLINA WORKERS' COMPENSATION COMMISSION LEGALLY ERRED IN FINDING RESPONDENT HAD INJURED HER NECK OR IN THE ALTERNATIVE FAILING TO FIND AND CONCLUDE THAT RESPONDENT DID NOT SUFFER ANY DISABILITY FROM HER NECK STRAIN.

The burden of proof is upon the injured worker to show that he or she sustained a work-related accident arising out of and in the course of employment by credible and objective evidence. *Hall v. Desert Aire, Inc.*, 376 S.C. 338, 656 S.E. 753 (Ct. App. 2007). An injured worker's burden of proof to prove an accident cannot be predicated upon surmise, conjecture or speculation. *Jennings v. Chambers Development Co.*, 335 S.C. 249, 516 S.E.2d 453 (Ct. App. 1999).

In the instant case, the reports of Dr. Robert Schwartz reflect that Respondent could not identify the etiology of her neck, shoulder, or hand complaints. (R. pp. 160-161). More importantly, the initial medical report of Honeywell dated July 17, 2003, reflects Respondent denied a specific injury involving her arm pain. (R. p. 58). The arm pain was initially diagnosed as carpal tunnel syndrome and admitted as compensable. Carpal tunnel syndrome was later dismissed as an inaccurate diagnosis. (R. pp. 80, 145).

A report from St. Francis Hospital dated July 17, 2003, does not reflect Respondent's arm, neck, and hand pain result from work-related activities. (R. pp. 108, 110). As a matter of fact, in a St. Francis medical report dated August 1, 2003, it is noted that Respondent's neck problem and radicular pain into the left arm are not work related. (R. p. 115).

Respondent applied for and received short-term disability benefits. (R. p. 194, p. 216, lines 7-12). According to Mary Gilboy, Respondent was prohibited from receiving short-term disability benefits stemming from a work related accident. (R. p. 229, lines 7-25). Thus, the applications completed by Respondent denied the occurrence of a work related accident. Respondent admits receiving short-term disability benefits as a consequence of problems and complaints with her left shoulder and neck. (R. p. 216, lines 7-12).

Respondent did not report that she had sustained an injury to her neck and shoulder as a consequence of work related activities. Respondent had only claimed that the carpal tunnel syndrome emanated from her work duties. (R. p. 241, lines 14-21; p. 243, lines 9-24).

In short, given the information contained on the patient intake forms and the testimonies of the Respondent and Mary Gilboy, and the medical reports of Dr. Robert Schwartz and Dr. Robert Dameron, the South Carolina Workers' Compensation Commission's decision to find the neck claim compensable constitutes an error of law and abuse of discretion. Etheredge v. Monsanto Co., 349 S.C. 451, 562 S.E.2d 679 (Ct. App. 2002).

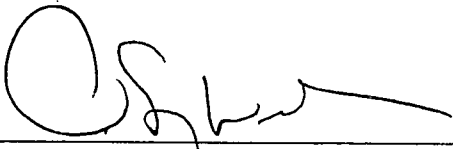
In the alternative, assuming this Court affirms the Commission's finding claimant suffered a compensable injury to her neck, there was ample evidence presented at the hearing for the Hearing Commissioner to have found Respondent had attained maximum medical improvement and suffered no disability as a consequence of the carpal tunnel syndrome and neck injury. (R. pp. 122, 146). See Turner v. Campbell Soup Co., 252 S.C. 446, 166 S.E.2d 817 (1969). The Hearing Commissioner's failure to address the attainment of maximum medical improvement with respect to the left hand and neck claim, ostensibly permits Respondent to request medical treatment for maladies for which she has sought no treatment since 2003; or to seek permanent disability benefits for maladies that have long resolved.

CONCLUSION

Based upon the foregoing arguments, it is respectfully submitted that the South Carolina Workers' Compensation Commission's Decision awarding temporary total disability compensation benefits from March 5, 2004 to the present be reversed due to Respondent's failure to meet her burden of proof that she was temporarily and totally disabled proximately as a consequence of the purported injury to her left shoulder.

Appellants further argue that the Commission's Decision finding a compensable neck injury claim be reversed because this Finding of Fact is not supported by substantial evidence of the case. More importantly, assuming Respondent sustained some type of injury to the neck, it appears to have been a temporary problem that resulted in no disability.

Respectfully submitted,

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September 20, 2011

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. Edward Welmaker, Circuit Court Judge

Circuit Court Case No. 2009-CP-23-7978

Maria E. McGaha, Employee, ... Respondent,

vs.

Honeywell Int'l, Inc., Employer and
Zurich North America, Carrier, ... Appellants.

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STATEMENT OF ISSUES ON APPEAL

- I. Is the Commission's determination that McGaha sustained compensable injury to her neck in addition to her admitted left carpal tunnel syndrome and left shoulder injuries supported by substantial evidence on the record and free from error of law?
- II. Is the Commission's determination that McGaha is entitled to temporary total disability compensation benefits from March 4, 2005 to the present and continuing supported by substantial evidence on the record and free from error of law?

STATEMENT OF THE CASE

This is an appeal from the Workers' Compensation Commission. By Order dated February 17, 2009, the Hearing Commissioner found Maria McGaha sustained compensable injuries to her neck and left shoulder in addition to the admitted left carpal tunnel syndrome and that she is entitled to past and continuing medical treatment at the recommendation of Dr. Geary. The Commissioner further found that she is entitled to temporary total disability compensation from March 4, 2005 to the present and continuing and that Honeywell International and its workers' compensation insurance carrier, Zurich North America (together "Honeywell"), are not entitled to credit for any short-term disability benefits paid. (R. pp. 1-14)

Both parties appealed to the Full Commission Panel, but by Order dated August 20, 2009, the Commission affirmed the Hearing Commissioner's Order. (R. pp. 15-23)

Honeywell appealed to the Circuit Court for Greenville County contending only that the Commission erred in finding McGaha sustained compensable injury to her neck and erred in finding she is entitled to temporary total disability compensation from March 4, 2005 to the present and continuing. By Order dated January 6, 2011, the Honorable G. Edward Welmaker affirmed the Commission's Order and award in its entirety. (R. pp. 24-31)

Honeywell now appeals to this honorable Court.

STATEMENT OF FACTS

McGaha testified that she began working for employer-defendant in 1998 and that she worked as a deburrer, which required the extensive use of her upper extremities. (R. p. 205, line 8-p. 206, line 19) On or about July or August 2003, she was performing her regular work duties, when she began having pain and problems in her left shoulder, the left side of her neck and down her left arm. McGaha testified that she reported these problems to employer-defendant. She was sent to the company nurse, who referred her to the company doctor at St. Francis Workwell. (R. p. 206, line 20-p. 207, line 7) McGaha was eventually placed on light duty work restrictions by the company doctor. However, employer-defendant could not accommodate these restrictions. McGaha was terminated from her job. (R. p. 210, line 9-p. 212, line 24; p. 215, lines 12-19) McGaha saw Dr. Brunson for her left upper extremity pain, and he recommended an MRI of the left shoulder. However, the insurance carrier denied the MRI. Dr. Brunson also recommended referral to neurosurgeon, Dr. Michael Bucci, and to orthopaedic specialist Dr. Stephen Geary, who recommended possible future left shoulder surgery. McGaha testified that she was unable to have the surgery because her health insurance was cancelled when she lost her job. (R. p. 207, line 7-p. 210, line 6)

McGaha stated that her husband suffered from several illnesses during this time, including colon cancer in 2000, two strokes in 2005, and liver cancer, and that he continued to have problems to that day, for which he was hospitalized. (R. p. 212, line 25-p. 214, line 13; p. 222, line 24-p. 225, line 17)

McGaha testified that her neck and wrist pain is better, but that she continues to experience pain and problems in her left shoulder. She testified that she has difficulty

performing activities involving her left upper extremity. As an example, she stated that she has difficulty lifting juice from the refrigerator with her left arm. While her sisters-in-law help her care for her husband, McGaha testified that she has mostly cared for him on her own. McGaha further testified that she is right-hand dominant but is only able to use her left hand as a helper hand. She testified that she wants further treatment with Dr. Geary and is unable to return to any work as a result of her continuing left shoulder pain. (R. p. 214, lines 13-25; p. 218, line 18-p. 222, line 24; p. 225, line 23-p. 226, line 9)

Mary Gilboy, human resources manager for employer-defendant, testified before the single Commissioner, and her testimony confirms the nature of McGaha's work requiring the use of her upper extremities, as well as the fact that McGaha did complain to employer-defendant about left shoulder problems. She also specifically testified that McGaha was not returned to work because her restrictions were too great for the company to accommodate her and return her to work. (R. p. 227, line 12-p. 229, line 6; p. 230, line 8-p. 231, line 23; p. 234, line 14-p. 240, line 2; p. 240, line 16-p. 241, line 4)

Nurses' notes from McGaha's employment file dated July 17, 2003 indicate that McGaha had been evaluated at Mountain View Family Practice for likely work-related carpal tunnel syndrome, and that she had been written out of work for a period of two weeks. These notes further show that McGaha was experiencing pain in her neck and left arm, but that she did not want to miss time from work. The attending nurse recommended sending McGaha to Workwell to see if she could perform one-handed duty, and noted that McGaha was agreeable to this plan. On July 18, 2003, the attending nurse noted that Workwell said McGaha could work with restrictions, and on July 23, 2003, it was noted that McGaha had been approved for an MRI. The nurses' notes further indicate that McGaha was offered a lighter duty job which

involved "airflow/waterflow." While the attending nurse noted that McGaha was grateful to be offered a job, she noted after an extended conversation that she was favoring her right arm. On August 1, 2003, the company nurse noted that an MRI of the cervical spine revealed degenerative disc disease at C4-5 through C6-7 levels. On October 28, 2003, the attending nurse noted that McGaha had seen Dr. Merriweather at St. Francis Workwell for her return to work evaluation and that he had restricted her from overhead work, interior lifting, and lifting greater than five pounds. However, it was further noted that no work was available within those restrictions and that McGaha was upset that she may lose her job. On April 15, 2004, the attending nurse spoke with McGaha, noted that she continued to have pain in her shoulder and that she may need surgery. She further noted that McGaha had been referred to orthopaedic specialist Dr. Stephen Geary, who recommended surgery, but that McGaha was having issues regarding her insurance. McGaha signed the authorization for defendants to obtain her medical notes from Dr. Geary at that time. (R. pp. 58-63)

On June 21, 2003, Dr. Brunson evaluated McGaha for left arm pain and numbness from her neck to her fingers which had reportedly been present for six months. Dr. Brunson noted that McGaha's job requires the almost continuous use of her arms and hands in a deburring process. He diagnosed carpal tunnel syndrome and cervicalgia. Upon evaluation on July 17, 2003, Dr. Brunson noted that McGaha was unable to wear splints at work due to the nature of her job. He diagnosed work-related carpal tunnel syndrome due to repetitive motion and restricted McGaha from working for a period of two weeks. In a note to employer-defendant, Dr. Brunson further indicated that this claim should be considered a workers' compensation injury. He noted that McGaha continued to work other jobs for employer-defendant, but still had pain which was exacerbated by work. Dr. Brunson opined that

McGaha needed to be out of work while her claim was sorted out and restricted her from work from August 4, 2003 to August 25, 2003. Upon evaluation on August 21, 2003, he recommended an MRI of McGaha's left shoulder and indicated that he had spoken with Gail Pless, the rehabilitation nurse. Dr. Brunson continued to restrict McGaha from work through September 4, 2003. On September 8, 2003, he noted that the MRI of the left shoulder had been denied by McGaha's insurance. (R. pp. 64-86)

On September 17, 2003, Dr. Brunson noted that McGaha was experiencing depression and persistent pain. He further noted that McGaha's health insurance carrier, Cigna, had directed her to orthopaedist Dr. Jernigan, but that Dr. Jernigan wanted to review her records before deciding whether to treat McGaha and that, in the meantime, she was in limbo. McGaha began treatment for depression while Dr. Brunson continued to restrict her from work through October 19, 2003. On October 9, 2003, Dr. Brunson noted that McGaha's short term disability benefits had been denied due to a lack of information, even though he had faxed the notes to a representative for the insurance company. Dr. Brunson continued to restrict McGaha from work from October 14, 2003 through November 15, 2003. On October 22, 2003, he noted that McGaha's short term disability was at its limit and that McGaha must either be released from treatment or returned to work. He further noted that McGaha had been told by employer-defendant that short term disability had been denied due to a lack of information, but that McGaha wanted to return to work. On November 14, 2003, Dr. Brunson noted that McGaha's records had been faxed at least twice, but that employer-defendant claimed those records had never been received. On February 14, 2005, Dr. Brunson opined that McGaha's left upper extremity and neck problems were caused by her repetitive work at Honeywell. (R. pp. 87-107)

On July 17, 2003, the attending nurse practitioner at St. Francis Workwell noted left neck, arm and hand pain. She further noted that McGaha was motivated and did not want to be out of work, even though she was having difficulty secondary to this pain. On July 21, 2003, the attending physician continued to note left shoulder pain and diagnosed cervical radiculopathy. On August 1, 2003, the attending physician recommended referral to a spine specialist and noted that McGaha would discuss this treatment with Mary at Honeywell. In the meantime, the attending physician recommended limited twisting and bending of the neck at work and restricted McGaha from lifting greater than five pounds with her left arm. (R. pp. 108-115)

Records of Metlife dated October 6, 2003 show that McGaha's disability claim was denied due to lack of information. In her disability claim, McGaha's job was described as involving the repetitive use of both hands seven to eight hours a day, firm grasping with both hands for four hours per day, and use of the head and neck five to six hours a day. (R. pp. 190-196)

Dr. Michael Bucci, of the Piedmont Neurosurgical Group, evaluated McGaha on November 4, 2003 for cervical spine problems due to left upper extremity pain and numbness, and he recommended physical therapy. On December 16, 2003, Dr. Bucci assessed persistent left upper extremity weakness and pain, and sought to rule out primary shoulder pathology and HNP. He recommended an MRI of the left shoulder and a CT myelogram of the cervical spine. On December 30, 2003, he insisted the insurance carrier authorize an MRI of McGaha's left shoulder. (R. pp. 117-120, 122-128, 163-167)

On January 7, 2004, McGaha underwent an MRI of her left shoulder at St. Francis Women's and Family Hospital. The results were read by the reviewing radiologist to reveal

mild impingement tendinosis. (R. p. 121)

Pain management specialist Dr. Clifford Monda evaluated McGaha on January 13, 2004 upon referral by Dr. Bucci and assessed pain secondary to her work at Honeywell. He specifically noted left-sided neck, shoulder and arm pain. He noted that McGaha needed to return to work by February 4, 2004 or she would lose her job. He refilled her prescription of the pain medication Lortab, injected the left shoulder, and noted that his office was waiting for the results of McGaha's MRI. In the meantime, he restricted McGaha from lifting, pulling or pushing greater than 10 pounds. (R. pp. 129-131, 171-175)

Orthopaedic specialist Dr. Stephen Geary evaluated McGaha on January 21, 2004 for left shoulder pain and noted the pushing and pulling she was required to perform at work. He diagnosed left shoulder subacromial impingement and cervical spondylosis. He recommended injecting the AC joint, with consideration of future decompression surgery. On February 9, 2005, Dr. Geary opined that McGaha's left shoulder problems were aggravated by her work at Honeywell. (R. pp. 132-135)

Dr. Robert Schwartz evaluated McGaha on February 21, 2005 for complaints of sharp shoulder pain related to work. He noted that she had last worked in September 2003. On February 22, 2005, Dr. Schwartz again evaluated McGaha for complaints of left shoulder pain due to work and diagnosed subacromial arthritis. (R. pp. 136-138, 154-162; R. supp. p. 2) On March 4, 2005, Dr. Schwartz noted that he had seen McGaha for neck pain after a motor vehicle accident in 1990, but further noted her complaints of new shoulder pain related to her work for employer-defendant. (R. supp. p. 2)

Employment records show that McGaha reported her work injury on July 17, 2003. McGaha alleged neck and shoulder pain into her arm and hand due to her work with employer-

defendant. In a fax to Workwell dated July 17, 2003, Mary Gilboy indicated that employer-defendant would accommodate any restriction. On August 4, 2003, McGaha requested family medical leave and it was noted that McGaha had been restricted to a maximum lift of five pounds; however, Mary Gilboy indicated that these restrictions were not work-related. On August 6, 2003, it was noted that the pain in McGaha's left arm and shoulder had been aggravated by repetitive motion at work and that McGaha was restricted from working with her left hand. On January 14, 2004, Ms. Gilboy noted that McGaha's physician had cleared her to return to work. She indicated that this would need to be cleared through the company doctor before employer-defendant would allow her to return. (R. pp. 139-144, 176-177, 184-189; R. supp. p.1)

Dr. Robert Dameron performed an independent medical evaluation on December 19, 2008. He noted that McGaha started having problems with her neck and left upper extremity in 2003 and that her job required repetitive activity. Dr. Dameron opined that McGaha's left shoulder problems began with work, that she was not at maximum medical improvement, and that she needed to return to Dr. Geary. (R. pp. 145-147)

ARGUMENTS

In Brown v. Greenwood Mills, Inc., this Court explained at length the standard of appellate review in workers' compensation cases.

The South Carolina Administrative Procedures Act ("APA") establishes the standard for judicial review of decisions of the workers' compensation commission. A reviewing court may reverse or modify a decision of an agency if the findings, inferences, conclusions, or decisions of that agency are "clearly erroneous in view of the reliable, probative and substantial evidence on the whole record." Under the scope of review established in the APA, this Court may not substitute its judgment for that of the appellate panel as to the weight of the evidence on questions of fact, but may reverse where the decision is affected by an error of law.

The substantial evidence rule of the APA governs the standard of review in a workers' compensation decision. Pursuant to the APA, this Court's review is limited to deciding whether the appellate panel's decision is unsupported by substantial evidence or is controlled by some error of law. Substantial evidence is not a mere scintilla of evidence, nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the administrative agency reached in order to justify its action.

The appellate panel is the ultimate fact finder in workers' compensation cases and is not bound by the single commissioner's findings of fact. The final determination of witness credibility and the weight to be accorded evidence is reserved to the appellate panel. The possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's findings from being supported by substantial evidence. Where there are conflicts in the evidence over a factual issue, the findings of the appellate panel are conclusive.

The findings of an administrative agency are presumed correct and will be set aside only if unsupported by substantial

evidence. It is not within our province to reverse findings of the appellate panel which are supported by substantial evidence.

Brown v. Greenwood Mills, Inc., 366 S.C. 379, 391-93, 622 S.E.2d 546, 553-54 (Ct.App.2005)(citations omitted).

I. The Commission's determination that McGaha sustained compensable injury to her neck in addition to her admitted left carpal tunnel syndrome and left shoulder injuries is supported by substantial evidence on the record.

At the original hearing of this matter, Honeywell admitted McGaha sustained compensable carpal tunnel syndrome in her left upper extremity/hand, and by not appealing the issue further, Honeywell has now also admitted that McGaha sustained compensable injury to her left shoulder. Honeywell only challenges the Commission's finding that McGaha sustained compensable injury to her neck. However, a review of the record shows that there is substantial evidence to support the Commission's determination that McGaha sustained compensable injury to her neck and, therefore, that finding must be affirmed by this Court.

In order to be entitled to workers' compensation benefits for an injury, an employee must show that the injury arose out of and in the course of her employment. Owings v. Anderson Co. Sheriff's Dep't, 315 S.C. 297, 433 S.E.2d 869 (1993); S.C. Code Ann. § 42-1-160 (2003).

The phrase "arising out of" refers to the origin of the cause of the accident. 'An injury arises out of employment when there is apparent to the rational mind, upon consideration of all the circumstances, a causal relationship between the conditions under which the work is to be performed and the resulting injury.'

Clade v. Champion Lab., 330 S.C. 8, ___, 496 S.E.2d 856, 857 (1998). "An accident 'arises out of employment' when the employment is a contributing proximate cause." Beam v. State Workers' Comp. Fund, 261 S.C. 327, ___, 200 S.E.2d 83, 85 (1973). An injury "arises 'in the course of employment' . . . when it occurs within the period of employment at a place where the employee reasonably may be in the performance of his duties and while fulfilling those duties or engaged in something incidental thereto." Id. When deciding whether causation of a particular injury has been established, the Commission may consider both lay and expert evidence, including lay testimony concerning claimant's health before and after an accident. Tiller v. National Health Care Ctr. of Sumter, 334 S.C. 333, 513 S.E.2d 843 (1999).

Here, the Commission's finding is supported by substantial lay and expert evidence. McGaha testified that she began working for employer-defendant in 1998 and that she worked as a deburrer, which required the extensive use of her upper extremities. (R. p. 205, line 8-p. 206, line 19) On or about July or August 2003, she was performing her regular work duties, when she began having pain and problems **in her left shoulder, the left side of her neck, and down her left arm.** McGaha testified that she reported these problems to her employer and that she was sent to the company nurse, who referred her to the company doctor at St. Francis Workwell. (R. p. 206, line 20-p. 207, line 7; p. 208, lines 8-15; p. 218, line 18-p. 219, line 7) **The company nurse, Mary Gilboy, corroborated McGaha's testimony and admitted that McGaha reported experiencing symptoms in her in her left shoulder, neck, and left arm.** (R. p. 234, line 18-p. 235, line 10)

McGaha stated that she saw Dr. Jack Brunson for her left upper extremity pain and that he recommended an MRI of the left shoulder. Dr. Brunson also recommended referral to neurosurgeon, Dr. Michael Bucci, and to orthopaedic specialist Dr. Stephen Geary, who

recommended possible future left shoulder surgery. However, McGaha testified that the insurance carrier denied authorization for the shoulder MRI and that she was unable to have the recommended surgery on her left shoulder because her health insurance was cancelled when she was terminated from her job. (R. p. 207, line 6-p. 210, line 4)

McGaha testified that she continues to experience pain and problems in her left shoulder, and as a result, she has difficulty performing activities involving her left upper extremity. As an example, she stated that she has difficulty lifting juice from the refrigerator with her left arm. (R. p. 214, lines 13-25; p. 222, lines 14-24) McGaha testified that she wants further treatment with Dr. Geary and is unable to return to any work as a result of her continuing left shoulder pain. (R. p. 212, lines 14-24; p. 214, lines 22-25)

Ms. Gilboy's notes taken from McGaha's employment file indicate on July 17, 2003 that McGaha had been evaluated at Mountain View Family Practice for likely work-related carpal tunnel syndrome and had been written out of work for a period of two weeks. (R. p. 58) **These notes further show that McGaha was experiencing pain in her neck and left arm and that she clearly stated that she thought her work activities were causing the problem** but that she did not want to miss time from work. (R. p. 58)

McGaha was sent to Workwell, the company doctor, to determine if she could perform one-handed duty, and on July 18, 2003, the nurse noted that Workwell had indicated McGaha could work with restrictions. McGaha was offered and gratefully accepted a lighter duty job which involved "airflow/waterflow," but the nurse later noted that McGaha was favoring her left arm quite a bit and was exhibiting facial grimaces while doing this work. (R. p. 59) **The nurse specifically noted on August 1, 2003 that an MRI of McGaha's neck had revealed multilevel degenerative disc disease.** (R. p. 60) Curiously, the nurse indicated in her note

that she told McGaha that her problem was not work-related simply because Dr. Merriwether related it to arthritis in her neck rather than carpal tunnel syndrome. There is no indication that the nurse addressed the fact that McGaha's work activities could have aggravated any arthritic condition in McGaha's neck. (R. p. 60)

Of note, **an FMLA form in McGaha's employment records indicate that Dr. Brunson advised the employer shortly thereafter that McGaha's problem was aggravated by repetitive activities.** (R. pp. 141-144) There is no indication in the nurse's notes that employer-defendant did anything with this information.

On October 28, 2003, the attending nurse noted that McGaha had seen Dr. Merriweather at St. Francis Workwell for her return to work evaluation and that he had restricted her from overhead work, interior lifting, and lifting greater than five pounds. The nurse further noted that McGaha became quite upset that she would lose her job when she was told that there was no work available within those restrictions. (R. p. 61) In fact, McGaha testified that she was terminated because no work was available under the restrictions placed by the company doctor. (R. p. 210, line 6-p. 211, line 15)

Of significant further note, Ms. Gilboy's note from April 15, 2004 indicates that McGaha told to her in a phone call that she was continuing to have pain in her shoulder and may need surgery. (R. pp. 62-63; see also p. 238, line 12-p. 239, line 8) McGaha signed the authorization for Ms. Gilboy to obtain her medical notes from Dr. Geary at that time.

The medical records show that on June 21, 2003, **Dr. Brunson evaluated McGaha for left arm pain and numbness from her neck to her fingers** which had reportedly been present for six months. He noted that McGaha's job requires the almost continuous use of her arms and hands in a deburring process, and after examination, he diagnosed carpal tunnel

syndrome **and cervicalgia**. (R. pp. 64-66) On July 17, 2003, Dr. Brunson noted that McGaha was unable to wear splints at work due to the nature of her job, and he diagnosed work-related carpal tunnel syndrome due to repetitive motion. (R. pp. 67-69) **In a note to employer-defendant, he specifically advised that McGaha's condition should be considered a workers' compensation injury.** (R. p. 70; see also p. 69)

On August 4, 2003, Dr. Brunson noted that McGaha continued to work other jobs for employer-defendant but also continued to experience worsened pain because of these activities, and **he again opined that her condition is a result of her work activities.** He also opined that McGaha needed to be out of work while her claim was sorted out. (R. pp. 72-74) In a form filled out for the employer and its FMLA program on or about August 6, 2003, Dr. Brunson opined that McGaha's left arm and shoulder problem "is aggravated by physical activity, particularly by repetitive motion." (R. pp. 141-144) On August 7, 2003, he noted that McGaha's neck and arm symptoms had improved since she has been out of work and wearing her splint. (R. pp. 76-77)

Upon evaluation on August 21, 2003, Dr. Brunson noted that NCV testing had not shown carpal tunnel syndrome, and after further evaluation, he diagnosed **possible radiculopathy or neuralgia and recommended an MRI of McGaha's left shoulder.** (R. pp. 79-82) Dr. Brunson continued to restrict McGaha from work, and on September 4, 2003, he noted that the MRI of the left shoulder had been denied by McGaha's insurance. (R. pp. 83-86) On February 14, 2005, **Dr. Brunson opined that McGaha's left upper extremity and neck problems were caused by her repetitive work at Honeywell.** (R. p. 107)

On July 17, 2003, **the attending nurse practitioner at St. Francis Workwell – the company physician's office – noted left neck, arm and hand pain.** She further noted that

McGaha was motivated and did not want to be out of work, even though she was having difficulty secondary to this pain. (R. pp. 108-111) The nurse assessed probable left cervical radiculopathy, and though she recorded McGaha's specific description of worsened symptoms as a result of her work duties, she stated that she was "unsure if this is directly related to work" as "she does not relate any specific incidents." (R. p. 110) Of course, **McGaha's description as recorded by the nurse practitioner is clearly a compensable repetitive work injury.**

On August 1, 2003, the attending company physician, Dr. Merriwether, continued to note McGaha's **complaints of neck pain radiating to her left arm, and he specifically noted that McGaha related her symptoms to her work activities. He diagnosed cervical radiculopathy, referred McGaha to a spine specialist, and advised her to speak with Mary at Honeywell to get an appointment arranged.** (R. p. 114) In the meantime, Dr. Merriwether restricted McGaha from twisting and bending of the neck at work and from lifting greater than five pounds with her left arm. (R. p. 114)

Neurosurgeon Dr. Michael Bucci evaluated McGaha on November 4, 2003 for cervical spine problems and left upper extremity pain and numbness. After physical therapy failed to relieve the problem, he assessed persistent left upper extremity weakness and pain and recommended an MRI of the left shoulder and a CT myelogram of the cervical spine to rule out primary shoulder or spine pathology. On December 30, 2003, he insisted the insurance carrier authorize an MRI of McGaha's left shoulder. (R. pp. 122-128)

On January 7, 2004, McGaha underwent an MRI of her left shoulder, and the reviewing radiologist opined the scan showed mild impingement tendinosis. (R. p. 165)

Pain management specialist **Dr. Clifford Monda evaluated McGaha on January 13, 2004 for complaints of left-sided neck and left upper extremity complaints, and he**

specifically noted that she related her symptoms to her work activities at Honeywell. (R. p. 129) He also specifically noted that McGaha was very motivated to return to work, as she indicated that she had to return by February 4, 2004 or she would lose her job. **After examination, Dr. Monda diagnosed possible left rotator cuff tear pending results of an MRI and cervical spine pain due to spurring, stenosis, and neuroforaminal narrowing.** (R. p. 130) He refilled her prescription of the pain medication Lortab, injected the left shoulder, and restricted McGaha from lifting, pulling or pushing greater than ten pounds. (R. pp. 130-131)

Orthopaedic specialist Dr. Stephen Geary evaluated McGaha on January 21, 2004 for complaints of left shoulder pain and noted the pushing and pulling she was required to perform at work. (R. p. 132) He diagnosed left shoulder subacromial impingement and cervical spondylosis and recommended injecting the AC joint, but also stated that decompression surgery was the next step if the injection failed to provide relief. (R. pp. 133-134) Of course, McGaha has testified that the injection did not help and that she continues to experience left shoulder pain and is in need of more treatment as recommended by Dr. Geary. (R. p. 214, lines 13-25) On February 9, 2005, Dr. Geary opined that McGaha's left shoulder problems were aggravated by her work at Honeywell. (R. p. 135)

Dr. Robert Schwartz evaluated McGaha on February 22, 2005 for complaints of sharp shoulder pain which she stated began in 2003 as a result of her work activities. (R. pp. 136-137) He diagnosed subacromial arthritis and recommended treatment. On March 4, 2005, Dr. Schwartz noted that he had seen McGaha for neck and right arm pain after a motor vehicle accident in 1990 but again noted her complaints of new shoulder pain which she related to her work for employer-defendant. (R. supp. p. 2)

Employment records show that McGaha reported her work injury on July 17, 2003, and the form clearly notes that she alleged neck and shoulder pain which extended into her arm and hand and that she contended her work activities were causing the problem. (R. p. 139) In a form filled out for the employer and its FMLA program, Dr. Brunson opined on August 6, 2003 that McGaha's left arm and shoulder problem "is aggravated by physical activity, particularly by repetitive motion." (R. pp. 141-144)

Orthopaedist Dr. Robert Dameron performed an independent medical evaluation on December 19, 2008. **He noted that McGaha started having problems with her neck and left upper extremity in 2003 and that her job required repetitive activity.** Dr. Dameron opined that McGaha's left shoulder problems began with work, that she was not at maximum medical improvement, and that she needed to return to Dr. Geary. (R. pp. 145-147)

From the foregoing it is very obvious that McGaha has had neck, left shoulder, and left upper extremity problems from the very beginning of this situation and that she reported the same to her employer. All of the physicians who have evaluated her have noted her description of her work activities and her opinion that her problems were caused by her work. Dr. Brunson unequivocally stated that her problems were related to her work activities, and Doctors Geary and Dameron agreed. The Commission's finding that McGaha has sustained compensable injury to her neck in addition to her left shoulder and her admitted left carpal tunnel syndrome is thoroughly supported by substantial evidence on the record and must be affirmed.

II. The Commission correctly determined McGaha is entitled to temporary total disability compensation benefits from March 4, 2005 to the present and continuing.

A review of the evidence on the record shows that McGaha has been unable to work because of her injuries since August 1, 2003, and under applicable workers' compensation law, she would therefore be entitled to temporary total disability compensation from that date to the present and continuing until she reaches maximum medical improvement. McGaha alleged the same at the original hearing of this matter, but defendants responded with the allegation that she should not be allowed benefits for that entire period since she spent part of that time caring for her sick husband. In a spirit of compromise, McGaha alternatively contended that she should be awarded benefits from August 1, 2003 to March 5, 2005 and then from December 19, 2008 to the present and continuing. In obvious such compromise, the single Commissioner determined that McGaha is entitled to temporary total disability benefits from March 4, 2005 to the present and continuing. That decision was affirmed by the Commission's Appellate Panel, and in further spirit of compromise, McGaha opted not to appeal further concerning the period from August 1, 2003 to March 4, 2005. On Honeywell's appeal to the Circuit Court, the Honorable G. Edward Welmaker determined that "[a]s the evidence actually shows that McGaha has been totally disabled because of her injuries since August 4, 2003, the Commission's compromise determination that she is entitled to temporary total disability compensation for the lesser time period from March 4, 2005 to the present and continuing is clearly supported by substantial evidence and is affirmed." (R. pp. 28-31) This Court should likewise affirm the Commission's decision, as that finding is clearly supported by substantial evidence and is not affected by any error of law.

Workers' compensation law provides that an injured employee is entitled to and an employer is liable for temporary total disability compensation benefits for all periods of total disability, or inability to earn wages because of the injury in the same or any other employment, until the Commission determines that the worker has reached maximum medical improvement. Smith v. S.C. Dep't of Mental Health, 335 S.C. 396, 517 S.E.2d 694 (1999); S.C. Code Ann. §§ 42-1-120, 42-9-10 (2003). The Commissioner here found that McGaha has not yet reached maximum medical improvement from her injuries and is in need of additional medical treatment in order to reach that plateau. (R. p. 12, Finding of Fact #20) As the evidence actually shows that McGaha has been totally disabled because of her injuries since August 1, 2003, the Commission's compromise determination that she is entitled to temporary total disability compensation for the lesser time period from March 4, 2005 to the present and continuing is clearly supported by substantial evidence.

Dr. Brunson opined that McGaha needed to be out of work while her claim was sorted out and restricted her from work from August 4, 2003 to August 25, 2003. (R. pp. 69-70, 72-74) He continued to restrict McGaha from work through September 4, 2003 and noted on that date that the MRI he had recommended was denied. (R. pp. 75, 81, 85, 90) He continued to help her pursue medical evaluation and treatment with orthopaedic and neurosurgical specialists and continued to restrict her work duties through November 15, 2003. (R. p. 97, 141-144)

Employer-defendant sent McGaha to Dr. Merriwether's office, and in a fax to that office dated July 17, 2003, Mary Gilboy indicated that employer-defendant would accommodate *any* restriction. (R. p. 196) McGaha was restricted to light duty work by Dr. Merriwether's office, and **Dr. Merriwether finally restricted McGaha from twisting**

and bending of the neck at work and from lifting greater than five pounds with her left arm when he last saw her on August 1, 2003. (R. p. 114)

The plant nurse, Ms. Gilboy, noted that McGaha became quite upset that she would lose her job when she was told that there was no work available within Dr. Merriwether's restrictions. (R. p. 61) In fact, McGaha testified that she was terminated because the employer told her that no work was available under those restrictions. (R. p. 210, line 6-p. 211, line 15)

Of course, there can be no dispute that an employee is totally disabled because of her injuries and entitled to full temporary total disability compensation if the employer fails to provide light duty work recommended by the treating physician. Such is the case here, and **such result is especially warranted where, as here, Honeywell specifically told the treating physician that light duty work would be provided and then terminated McGaha stating that those light duty restrictions could not be accommodated.**

Nevertheless, the Commission – as a part of an obvious compromise – determined that McGaha was disabled from working because of her injuries and entitled to temporary compensation benefits from March 4, 2005 to the present. McGaha testified that her husband suffered from several illnesses, including several bouts with cancer and strokes, during this time that she has been out of work due to the injuries sustained at Honeywell (R. p. 212, line 14-p. 214, line 12), and defendants argue that they should not be held responsible for temporary total disability benefits alleging that her need to be with him and care for him is the real reason that she has not worked. However, **the fact that some other circumstance also contributes to the worker's inability to work is immaterial and does not remove an employer's liability for compensation benefits.** See Orr v. Elastomeric

Products, 323 S.C. 342, 474 S.E.2d 448 (Ct.App.1996)(claimant entitled to continued temporary disability benefits despite intervening pregnancy where disability caused by work-related injury, not pregnancy).

In its brief, Honeywell focuses on the March 4, 2005 date and argues that there is no medical record dated on or about that date which proves McGaha became totally disabled at or around that time. However, Honeywell is merely putting a “red herring” before this Court, since the Court must look at the entire record and the circumstances of this claim in order to understand the Commission’s decision. Judge Welmaker picked up on this, and the following exchange between him and Honeywell’s attorney is especially telling:

The Court: So if the Commissioner had found that temporary total should have started in 2003, you really wouldn’t have had a complaint?

Mr. Dunbar: I don’t think I would have had much of a leg to stand on, to be quite candid. Because then there are medical documents in the record to support temporary total beginning on that date.

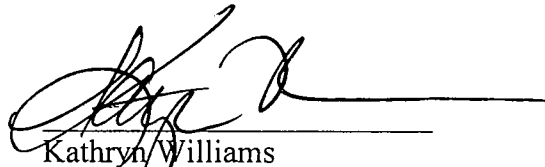
(CCt tr. p. 268, lines 16-22)

This admission by defendants concedes the very argument they are now making before this Court. If there is substantial evidence to support McGaha’s entitlement to temporary total disability compensation since 2003, then there is substantial evidence to support the Commission’s award of benefits for the shorter period of time. The Commission’s findings and award on this issue should be affirmed without change.

CONCLUSION

It is, therefore, respectfully submitted that the Commission's determination that McGaha has sustained compensable injury to her neck in addition to her admitted left shoulder and left carpal tunnel syndrome injuries is fully supported by substantial evidence on the record, and such determination is not affected by any error of law. Furthermore, as the evidence actually proves that McGaha has been totally disabled because of her injuries since August 1, 2003, the Commission's compromise determination that she is entitled to temporary total disability compensation for the lesser time period from March 4, 2005 to the present and continuing is clearly also supported by substantial evidence, and such determination is not affected by any error of law. This Court should affirm the Commission's Order in its entirety.

Respectfully submitted,



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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

G. EDWARD WELMAKER, Circuit Court Judge

Case No. 2009-CP-23-7978

Maria E. McGaha.....Respondent

vs.

Honeywell International, Inc., Employer,
and Zurich North America, Carrier.....Appellants

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In Respondent's Brief on Page 22, it is asserted Appellants concede and admit Respondent is entitled to temporary total disability compensation benefits. The question posed by the Circuit Court and the answer provided to the Court does not concede, admit nor stipulate payment of temporary total disability compensation benefits are owed beginning on March 4, 2005. The exchange between the Court and Appellants' counsel when read in its entirety and within context reflects that temporary total benefits could have only been potentially awarded for carpal tunnel syndrome. (R. pp. 68-70, 73, 75-81, 85, 90, and 97).

In particular, Appellants' counsel's argument to the Court regarding the payment of temporary total disability compensation confirms that such could not have been awarded as of March 4, 2005.

The Court: **So if the Commissioner had found that temporary total should have started in 2003, you really wouldn't have had a complaint? (R. p. 268, lines 16-18).**

Mr. Dunbar: **I don't think I would have had much of a leg to stand on, to be quite candid. Because then there are medical documents in the record to support temporary total beginning on that date. Now, the only problem is how do you order temporary total six years down the road? Because there is some evidence indicating that she was able to return to work some time in 2004/2005. So we would take the position that the record would support that [temporary total disability benefits] shouldn't have been continuing. But the beginning date, clearly, I would not have much to argue... because the Commission ignored all of those records and arbitrarily chose... one report that just shows she had a test conducted on that date, and no doctor writes her out from work. (R. p. 268, lines 16-25; and p. 269, lines 1-7).**

Mr. Dunbar: **The only documents... the record to support temporary total would be from 2004 back. The reason why the Commission did not order payment of temporary total is**

because the evidence didn't support such. [Claimant] had carpal tunnel syndrome that was eventually ruled out, which my client had admitted could have resulted from work. [Appellants] denied the shoulder, denied the neck. So the Commission was in a quandary in terms of ordering temporary total from 2003 because what we had admitted was ruled out and the cervical spine wasn't a problem. It was arthritic. (R. p. 281, lines 20-25, p. 282, lines 1-6).

The arguments of Appellants' counsel evidences Appellants' admission that if claimant had indeed suffered with carpal tunnel syndrome as originally diagnosed and temporary total disability compensation benefits had been ordered, the Commission's decision to award temporary total disability compensation benefits beginning in 2003 would likely have been supported by substantial evidence. The argument was simply that admittedly compensable carpal tunnel syndrome had affected the hands, and thus, would have legally obligated Appellants to pay temporary total disability compensation benefits in 2003. (R. pp. 68-70, 73, 75-81, 85, 90, 97). Respondent received treatment for carpal tunnel syndrome in 2003.

Appellants denied claimant's allegations of injuries to the neck, left shoulder and left upper extremity. Appellants' denial of a compensable injury to the neck or cervical spine is corroborated by the neurosurgical medical reports of Dr. Michael Bucci, who opined that Respondent suffers with arthritis or degenerative disc disease and she is not a surgical candidate. Dr. Bucci never opined Respondent's neck problems emanated or were aggravated by her employment duties. Thus, there would be no basis legally for the Commission nor the Court to have ordered payment of temporary total disability compensation benefits for the alleged neck malady in 2003/2004.

With respect to the left shoulder, Respondent had never been authorized to remain out-of-work due to her left shoulder malady. The Commission's decision to award temporary total disability compensation benefits beginning on March 4, 2005 is not supported by any medical evidence or credible, non self-serving lay testimony.

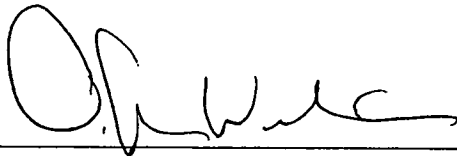
It is incumbent upon an injured worker to seek redress from the South Carolina Workers' Compensation Commission, when he or she believes that he/she has suffered a compensable work related accident and is entitled to indemnity and medical benefits. Respondent did not seek an adjudicatory hearing before the South Carolina Workers' Compensation Commission for five years and after Appellants had moved to have the matter dismissed for lack of prosecution. Because of Respondent's delay in prosecuting her claim, the Commission chose to arbitrarily assign the date of March 4, 2005 as the date Respondent was temporarily and totally disabled.

Last, Respondent's reliance upon the Court's holding in Orr v. Elastomeric Products, 323 S.C. 342, 474 S.E.2d 448 (Ct. App. 1996) is misplaced. In Orr the injured worker was receiving temporary total disability compensation and medical benefits. The Court of Appeals ruled simply that because claimant was pregnant, the pregnancy had indirectly prolonged the period during which time she was unemployable because it was unsafe for her to undergo x-rays due to radiation exposure while pregnant. Claimant's injury and not the pregnancy, rendered her unable to work. Orr v. Elastomeric Products, 474 S.E.2d at 449. Substantial evidence overwhelmingly shows that Respondent's caretaking activities because of her spouse's illness was the proximate reason for her inability to work, to seek

work and/or to obtain medical treatment, as opposed to her work related shoulder problem.

Because there is no medical evidence authorizing Respondent to remain out of work for injuries to her right shoulder on March 4, 2005 to the present, the Commission's Decision and Order must be reversed as a matter of law and because of abuse of discretion. See, Scott v. Havnear Motor Co., 226 SC 580, 86 S.E.2d 475 (1955); Schwartz v. Mount Vernon-Woodberry Mills, 206 S.C. 227, 33 S.E.2d 517 (1945) and Mullinax v. Winn-Dixie Stores, 318 SC 431, 458 S.E.2d 76 (Ct. App. 1995).

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