

BEFORE THE KANSAS WORKERS COMPENSATION APPEALS BOARD

ALICIA WOLGAMUTH
Claimant

v.

AP-00-0456-859
CS-00-0446-980

CATHOLIC DIOCESE OF WICHITA
Respondent

and

CHURCH MUTUAL INSURANCE CO.
Insurance Carrier

ORDER

Respondent and Insurance Carrier request review of the February 26, 2021¹, Award issued by Administrative Law Judge (ALJ) Gary K. Jones.

APPEARANCES

Terry Torline appeared for Claimant. Austin J. Enns appeared for Respondent and Insurance Carrier.

RECORD AND STIPULATIONS

The Board adopted the parties' stipulations and reviewed the record considered by the ALJ, consisting of the transcript of Preliminary Hearing held April 30, 2020, including Claimant's Exhibits B-C and Respondent's Exhibits 1-2; the transcript of Regular Hearing (Stipulations) via Telephone held December 9, 2020; the transcript of Regular Hearing Testimony by Evidentiary Deposition taken December 8, 2020, including Exhibits 1-4; the transcript of Remote Evidentiary Deposition of Patrick L. Hughes, M.D., taken February 2, 2021, including Exhibits 1-4; the transcript of Evidentiary Deposition of Randy Lance Parker, Ph. D., taken December 17, 2020, including Exhibits 1-7; the Stipulation, with attached medical reports of Dr. Scott and Dr. Murati, filed January 8 and 12, 2021; and the

¹ The Award states it is dated February 26, 2020, but it was uploaded into OSCAR on February 26, 2021. The Award also considers evidence submitted after February 26, 2020. The date of the Award is clearly a typographical error and should be "February 26, 2021."

pleadings and orders contained in the administrative file. The Board also reviewed the parties' briefs, and heard oral argument on June 17, 2021.

ISSUES

1. Did Claimant sustain a compensable psychological/psychiatric injury or traumatic neurosis?
2. What is the nature and extent of Claimant's disability?
3. Was Claimant underpaid temporary total disability compensation?
4. What is Claimant's average weekly wage and resulting compensation rate?
5. Are Respondent and Insurance Carrier responsible for the payment of past psychological treatment by Dr. Parker as authorized and related medical expenses?
6. Is Claimant entitled to an award of future medical treatment?

FINDINGS OF FACT

Claimant was employed as a paraprofessional at St. Margaret Mary Catholic School. Claimant assisted elementary school teachers, watched the students in the cafeteria during lunch breaks and supervised the students in an afterschool program. The parties stipulated Claimant's average weekly wage, excluding the value of fringe benefits, was \$259.24. Claimant received 401(k) contributions when she was employed by Respondent, and the parties stipulated the value of the contributions was \$1.53 per week. Claimant also received a free lunch from Respondent, but the value of the free lunch is unknown. The parties agreed Claimant's fringe benefits were terminated on September 1, 2020.

On September 20, 2018, Claimant was performing her usual work at the school. Claimant received a call advising a teacher was having problems with a first-grade student in the hallway, and Claimant went to help. The student, who was six to seven years old, was known for prior behavior problems, and had struck Claimant's back the previous day. Claimant arrived at the scene, and the student was screaming obscenities and kicking while the teacher was restraining him. Claimant attempted to calm the student by squatting down to the student's eye level and talking to him. The student kicked one of Claimant's legs from underneath her. Claimant fell on her left hip and heard a pop. Claimant also hit the left side of her head and left shoulder.

Claimant felt an immediate onset of left hip pain running to the low back area, low back pain and left knee pain. Claimant was transported by ambulance to Wesley Hospital.

Dr. Scott performed a surgical repair of a femoral neck fracture at the left hip socket with screws on September 21, 2018. Claimant was released from the hospital the following day, and saw Dr. Scott for routine follow-up appointments. On December 12, 2018, Claimant was released to return to work with a sitting-only restriction, and Claimant returned to work for Respondent on January 3, 2019. Respondent and Insurance Carrier paid temporary total disability compensation for twenty-three weeks at \$92.88 per week, from September 21, 2018 through February 28, 2019.

Eventually, Claimant was released to perform her usual work, and Dr. Scott released Claimant from treatment on July 31, 2019. At that time, Claimant reported some residual groin and thigh pain, and Dr. Scott recommended IT band stretches, anti-inflammatories and ice for trochanteric bursitis. Claimant was told to return on an as-needed basis. Dr. Scott subsequently rated Claimant's functional impairment at 7% of the left lower extremity, or 3% of the body as a whole, under the *AMA Guides to the Evaluation of Permanent Impairment, Sixth Edition (AMA Guides)*. Dr. Scott's treatment records do not document psychological or psychiatric symptoms.

Dr. Murati evaluated Claimant's physical injuries on December 2, 2019. Dr. Murati's report documents residual symptoms from the physical injuries, but no psychological or psychiatric symptoms. Dr. Murati diagnosed a left femoral neck fracture at the hip requiring percutaneous fixation, left-sided low back sprain, left sacroiliac dysfunction and left trochanteric bursitis. Dr. Murati did not impose restrictions, and recommended future medical treatment, including injections, physical therapy, medications and a total hip replacement. Dr. Murati rated Claimant's physical injuries at 2% of the body as a whole for the lumbar sprain and 3% of the body as a whole for the hip fracture, which produced a total impairment of 5% of the body as a whole under the *AMA Guides*.

Claimant began experiencing emotional problems when she was at home approximately two weeks after being released from the hospital. Claimant had difficulty sleeping, irritability and crying. Upon returning to work, Claimant had difficulty being in the hallway where the accident occurred, and she felt nervous when she saw someone who looked like the student who kicked her. Claimant saw the student one time in church, and felt anxious. Claimant cried more than she did before the accident. In her initial deposition of March 11, 2020, Claimant testified she experienced flashbacks of the accident five times per week. Claimant's emotional or psychological symptoms did not prevent her from engaging in activities, although her physical injuries did. Before the accident, Claimant was taking venlafaxine for migraine headaches, although venlafaxine has psychiatric applications. Claimant briefly took Prozac in the past.

On February 14, 2020, Dr. Parker, a psychologist, evaluated Claimant at her attorney's request. Claimant reported anxiety and trepidation upon returning to work. The accident was reviewed, as well as Claimant's reporting to school administration the day before the accident the student should be evaluated due to his behavior. Claimant

reported feeling sorrow for the student, and feeling depressed and irritable since the accident. Claimant experienced panic when she saw a child who looked like the student. If Claimant was reminded of the event, she felt fear, panic and pain for the student. Dr. Parker, without explanation, diagnosed post-traumatic stress disorder, and recommended therapy, work accommodation and consideration of medication.

On May 7, 2020, Claimant was evaluated by Dr. Hughes, a psychiatrist, at the request of Respondent. Claimant reported her prior encounters with the student, as well as the accident. According to Dr. Hughes' report, Claimant did not fear for her life or her safety during the accident. Dr. Hughes' report also stated Claimant limited activities due to pain from the physical injuries, but not from post-traumatic stress disorder. Dr. Hughes noted a history of anxiety disorder because of the prior Prozac use, and stated venlafaxine was not used to treat headaches. Dr. Hughes diagnosed adjustment disorder caused by Claimant's prior encounters with the student before the accident, but Claimant did not suffer from post-traumatic stress disorder from the accident because Claimant did not feel threatened. Dr. Hughes did not recommend psychiatric treatment for a work-related psychiatric injury.

Claimant sought psychological treatment by Dr. Parker, and a preliminary hearing took place on April 30, 2020. On June 2, 2020, ALJ Jones issued a preliminary order denying the request for psychological treatment because Claimant did not prove her post-traumatic stress disorder was compensable. Claimant appealed, and one Board Member issued the Board's Order, dated July 23, 2020, affirming the ALJ. The Board concluded Claimant did not meet her burden of proving she sustained a compensable traumatic neurosis because Dr. Parker did not verify Claimant's symptoms, review medical records, administer psychological tests or address prevailing factor; because Dr. Hughes explained the basis for his opinions in detail; and because Dr. Scott and Claimant's primary care physician did not document psychological or psychiatric symptoms.

Following the Board's preliminary denial, Claimant sought psychological treatment on her own with Dr. Parker from August 3, 2020, through December 1, 2020. Dr. Parker noted Claimant's post-traumatic stress disorder symptoms were essentially the same during his course of treatment, which focused on Claimant's successful reentry into her work environment and the development of anxiety and stress management skills. Dr. Parker noted Claimant had preexisting anxiety, but the extent of Claimant's preexisting condition was not known to Dr. Parker. Dr. Parker thought Claimant was showing signs of improvement, but required additional counseling.

In his deposition, Dr. Parker initially testified, without explanation, Claimant sustained a physical injury; developed symptoms of post-traumatic stress disorder, which was a traumatic neurosis; Claimant's neurosis was directly traceable to the physical injury; and the accidental physical injury was the prevailing factor creating the traumatic neurosis. Dr. Parker was provided copies of medical records by Claimant's counsel and asked to

write a report confirming whether Claimant sustained a traumatic neurosis. Dr. Parker reviewed the records, but not as part of the preparation of his reports. Dr. Parker wrote a report confirming Claimant's post-traumatic stress disorder was a traumatic neurosis, but Dr. Parker did not consider the medical records when he wrote his subsequent report.

On cross-examination, Dr. Parker testified Claimant's post-traumatic stress was a physiological and emotional reaction to the accident, and a disruption in cognitive processing to avoid the memory of the event. Claimant had a serious physical injury, even if she was not afraid of the student at the time of the accident. Dr. Parker thought a lot of Claimant's anxiety and emotion in describing the accident was caused by her concern for the student and his mental health, rather than her physical injuries. Claimant also indicated concerns about paying for future medical treatment. Although Dr. Parker was unable to apportion Claimant's resulting impairment among the factors causing her psychological condition, Dr. Parker thought 30% of Claimant's current condition was caused by concern of paying for future medical and 20% was caused by concern about the student. Dr. Parker acknowledged Claimant did not require accommodation to return to work, and did not require additional medication. According to Dr. Parker's rating report of September 16, 2020, Claimant required additional medical treatment, a significant portion of Claimant's stress and anxiety was based on concern for paying for future medical, and Claimant's functional impairment was 10% of the body as a whole.

Dr. Hughes testified by deposition on February 2, 2021, but did not see Claimant again. Dr. Hughes reiterated his opinion Claimant did not sustain post-traumatic stress disorder because Claimant was not actually in fear for her life, and did not sustain a threat of serious injury or sexual violence. Dr. Hughes diagnosed preexisting chronic anxiety disorder unrelated to the work-related accident or injuries. Dr. Hughes thought Claimant sustained adjustment disorder approximately one month before the date of accident based on Claimant's belief the school's response to Claimant's concerns about the student were not adequately addressed, which resolved when the student left the school. Because Claimant did not sustain a work-related psychological or psychiatric injury, Dr. Hughes did not believe Claimant sustained permanent impairment. Dr. Hughes' opinion was not based on the *AMA Guides*, but rather on "common sense."² On cross-examination, Dr. Hughes acknowledged the use of venlafaxine for migraines, as prescribed by Dr. Reddy, and Dr. Hughes' assumption Claimant was taking venlafaxine for preexisting depression was erroneous.

Claimant was offered a position as guest paraprofessional at Respondent's school, but her employer is U.S.D. 259. Claimant no longer performs the lunchroom work she previously performed due to COVID-19 restrictions. Claimant does not perform after school work. Claimant has continuing pain the left hip area, from the thigh to the left

² See Hughes Depo. at 30.

buttock and low back. Standing and walking makes Claimant's symptoms worse. Claimant takes over-the-counter pain medication for her hip pain. Claimant denied her post-traumatic stress disorder symptoms prevented her from engaging in any activities. Claimant confirmed she told Dr. Parker a significant portion of her current stress and anxiety is based on the possibility of paying for a surgery and other medical bills in the future.

On February 26, 2021, ALJ Jones issued the Award. First, ALJ Jones found Claimant sustained a compensable left hip injury, namely a non-displaced femoral neck fracture requiring surgery by Dr. Scott, resulting in 4% functional impairment to the body as a whole based on split of the ratings of Drs. Scott and Murati. Second, ALJ Jones found Claimant sustained a compensable psychological or psychiatric injury, namely post-traumatic stress disorder. ALJ Jones found more credible Dr. Parker's opinion Claimant's post-traumatic stress disorder was directly traceable to the physical injuries, and the accident was the prevailing factor causing Claimant's injuries, need for treatment and impairment, because Dr. Parker saw Claimant multiple times as the treating health care provider, and he was entitled to deference. ALJ Jones found Claimant's psychological impairment was 10% of the body as a whole, and Claimant's global functional impairment was 15% of the body as a whole. ALJ Jones made findings regarding the value of Claimant's average weekly wage when the 401(k) contributions ceased, but noted the modification of Claimant's compensation rate would occur after all of the compensation awarded was paid. Future medical treatment was awarded, along with payment of past expenses for treatment with Dr. Parker. Claimant also received an award of temporary total disability compensation. This appeal follows.

ANALYSIS AND CONCLUSIONS OF LAW

Respondent and Insurance Carrier seek review of the Award, contending Claimant did not meet her burden of proving she sustained a compensable psychological or psychiatric injury. Respondent and Insurance Carrier also argue the value of Claimant's free lunch cannot be included in the average weekly wage, an underpayment of temporary total disability compensation was less than alleged by Claimant, and the determination of Claimant's global functional impairment was incorrect. Respondent and Insurance Carrier also claim the awards of past medical expenses and future medical are erroneous, and should be reversed.

Claimant argues the ALJ correctly concluded Claimant sustained a compensable traumatic neurosis, and the awards of past and future medical should be affirmed. Claimant also maintains her average weekly wage should include the value of the free lunch discontinued by Respondent.

It is the intent of the Legislature the Workers Compensation Act be liberally construed only for the purpose of bringing employers and employees within the provisions

of the Act.³ The provisions of the Workers Compensation Act shall be applied impartially to employees and employers.⁴ The burden of proof shall be on the employee to establish the right to an award of compensation, and to prove the various conditions on which the right to compensation depends.⁵

1. Claimant failed to meet her burden of proving she sustained a compensable psychological or psychiatric injury.

The primary issue is whether Claimant sustained a compensable psychological or psychiatric injury. It is undisputed Claimant sustained a compensable left hip fracture, compensated as an injury to the body as a whole, on account of the work-related accident of September 30, 2018. Although ALJ Jones and the Appeals Board concluded in preliminary orders Claimant did not sustain a compensable psychological or psychiatric injury, preliminary findings are not binding in final proceedings, and may change based on a full presentation of evidence.⁶

The current standard for proving a compensable psychological or psychiatric injury is an amalgamation of cases predating the current version of the Workers Compensation Act and K.S.A. 44-508(f). To prove a compensable psychiatric or psychological injury, the employee must prove: (1) a work-related physical injury, (2) symptoms of a traumatic neurosis, (3) the neurosis is directly traceable to the physical injury and (4) the accident was the prevailing factor causing the psychological injury.⁷

In this case, it is undisputed Claimant sustained a work-related physical injury to the left hip. Although Dr. Parker and Dr. Hughes disagree on diagnosis, both experts agree Claimant displays symptoms of a neurosis. Dr. Parker believes Claimant suffers from post-traumatic stress disorder, and Dr. Hughes believes Claimant suffers from preexisting anxiety disorder and adjustment disorder. At issue are whether Claimant proved her neurosis is directly traceable to the physical injury, and whether the accident is the prevailing factor causing the psychological injury.

³ See K.S.A. 44-501b(a).

⁴ See *id.*

⁵ See K.S.A. 44-501b(c).

⁶ See K.S.A. 44-534a(a)(2).

⁷ See *Heyen v. City of Wichita*, No. 1,064,079, 2013 WL 2455722, at *2 (Kan. W.C.A.B. May 29, 2013)(citing *Love v. McDonald's Restaurant*, 13 Kan. App. 2d 397, 771 P.2d 577, rev. denied June 6, 1989, (1989); K.S.A. 2011 Supp. 44-508(d)).

Based on review of the record as a whole, Claimant failed to prove by a greater weight of the credible evidence her neurosis was directly traceable to her physical injury. Claimant testified her emotional and psychological symptoms, including sleep problems, irritability, anxiety and sadness, occur when she thinks about the accident, and particularly when she thinks about the student. Claimant experienced nervousness when she saw the student after the accident, and when she sees another child who looks like the student who kicked her. Claimant did not describe any emotional or psychological issues stemming from her physical injuries. The records of Dr. Scott, Dr. Murati and Claimant's personal physician do not document psychological or psychiatric issues stemming from her physical injuries.

Neither Dr. Hughes, nor Dr. Parker, credibly linked Claimant's neurosis to her physical injuries. Dr. Hughes thought Claimant's psychiatric disorders preexisted the accident, and were unrelated to her physical injuries. Dr. Hughes' understanding of Claimant's prior condition may have been faulty based on his misunderstanding of Claimant's treatment with Dr. Reddy. Dr. Parker initially stated without explanation, in response to a letter generated by Claimant's counsel, Claimant's neurosis was directly traceable to her physical injuries, without considering her prior medical records. Dr. Parker later testified, however, Claimant's post-traumatic stress disorder was brought about by the accident, itself, and Claimant's inability to acknowledge and to process her memory of the event. Dr. Parker also acknowledged Claimant's psychological condition was caused by her worry and concern for the student and his future, as well as Claimant's concern of paying for future medical treatment. None of the causes enumerated by Dr. Parker involve Claimant's physical injuries, and undermine the credibility of his initial causation opinion. Dr. Parker did not review medical records when he considered causation. Because Dr. Parker's opinions are contradictory, they are not credible evidence of the cause of Claimant's psychological condition. Accordingly, Claimant did not prove by a greater weight of the credible evidence her neurosis was directly traceable to her physical injuries, and her request for compensation for a traumatic neurosis must be denied.

2. Claimant is entitled to permanent partial disability compensation based on 4% functional impairment to the body as a whole attributable to the left hip.

Having determined Claimant's compensable injuries are limited to the compensable left hip injury, the Board next considers the nature and extent of Claimant's disability. Claimant's hip injury is compensable as an injury to the body as a whole. Claimant continues to work, and her entitlement to permanent partial disability compensation is limited to her functional impairment.

Dr. Scott thought Claimant's functional impairment was 3% of the body as a whole under the *AMA Guides*, and Dr. Murati thought Claimant's functional impairment was 5% of the body as a whole under the *AMA Guides*. Neither physician testified. Claimant

testified she continues to have residual pain in her left hip extending to her low back, which is supported by the rating reports of Dr. Scott and Dr. Murati. The Appeals Board finds both impairment ratings equally credible, and finds Claimant's functional impairment is 4% of the body as a whole under the *AMA Guides*. Accordingly, Claimant is entitled to permanent partial disability compensation based on 4% functional impairment to the body as a whole for her compensable left hip injury.

3. Claimant is entitled to temporary total disability compensation for 14.71 weeks, from September 21, 2018, through January 2, 2019.

With regard to temporary total disability compensation, temporary total disability exists when the employee, on account of the injury, has been rendered completely and temporarily incapable of engaging in any substantial and gainful employment, and an authorized treating physician's opinion regarding work status shall be determinative.⁸ Where the employee remains employed by the employer and an authorized treating physician imposes restrictions, the employee shall receive temporary total disability compensation if the employer cannot accommodate the restrictions.⁹

Here, Claimant was rendered temporarily and totally disabled from engaging in any employment on account of her physical injuries from September 21, 2018, through January 2, 2019. Claimant returned to work on January 3, 2019. Claimant is entitled to an award of temporary total disability compensation for 14.71 weeks, from September 21, 2018 through January 2, 2019.

4. Claimant's average weekly wage increased to \$260.77 when Respondent's 401(k) contribution was discontinued on September 1, 2020. From September 20, 2018, through August 31, 2020, Claimant's average weekly wage was \$259.24, and her compensation rate was \$172.84.

The next issue is Claimant's average weekly wage. The parties stipulated Claimant's average weekly wage on September 20, 2018, was \$259.24, which would produce a compensation rate of \$172.84 for temporary total disability compensation and permanent partial disability compensation.¹⁰ Claimant argues her average weekly wage and compensation rate should be adjusted upward because the 401(k) contribution and free lunch she previously received from Respondent were terminated on September 1, 2020.

⁸ See K.S.A. 44-510c(b)(2)(A).

⁹ See K.S.A. 44-510c(b)(2)(B).

¹⁰ See K.S.A. 44-510c(b)(1); K.S.A. 44-510e(a)(2)(F).

Under the Workers Compensation Act, the value of “additional compensation” shall not be included in the average weekly wage calculation unless and until the compensation is discontinued. If the additional compensation is discontinued after a computation of average weekly wage, there shall be a recomputation including the value of the additional compensation.¹¹ “Additional compensation” includes employer contributions to pension and profit-sharing plans. “Board and lodging” is also included when furnished by the employer, and shall be valued at \$25 per week for board and lodging combined, unless the value was fixed otherwise by the employer and employee, or unless a higher value is proven.¹²

In this case, Respondent contributed \$1.53 per week to Claimant’s 401(k) plan, which is a pension or profit-sharing plan under K.S.A. 44-511(a)(2)(A). Claimant argues the free lunch she was provided should be included, but the value of the free lunch is unknown. Claimant did not receive lodging with the free lunch, and the \$25 statutory valuation for board and lodging combined does not apply. Therefore, the value of Claimant’s free lunch cannot be included in the average weekly wage calculations without engaging in speculation. Based on the evidence in the record, Claimant’s average weekly wage increased to \$260.77, effective September 1, 2020. The Board notes this adjustment will not affect the compensation awarded herein, because the compensation is due and owing prior to September 1, 2020.

5. Because Claimant did not meet her burden of proving she sustained a compensable psychological or psychiatric injury, the award of past medical expenses associated with treatment by Dr. Parker must be reversed.

ALJ Jones awarded past medical expenses incurred in association with Claimant’s treatment with Dr. Parker for her post-traumatic stress disorder, pursuant to K.S.A. 44-510j(h). Respondent and Insurance Carrier contend the award should be reversed because Claimant did not sustain a compensable psychological or psychiatric injury.

When an employee sustains a compensable injury, it shall be the duty of the employer to provide such medical treatment as may be reasonably necessary to cure and relieve the employee from the effects of the injury.¹³ Because Claimant did not sustain a compensable psychological or psychiatric injury, Respondent and Insurance Carrier cannot be held responsible for paying for the expenses associated with Claimant’s psychological treatment by Dr. Parker. Accordingly, the provision of the award requiring Respondent and

¹¹ See K.S.A. 44-511(a)(2)(B).

¹² See K.S.A. 44-511(a)(2)(A).

¹³ See K.S.A. 44-510h(a).

Insurance Carrier to pay Dr. Parker's bills, and the expenses, such as mileage, associated with Dr. Parker's treatment, must be reversed.

6. Claimant is entitled to an award of future medical treatment for the compensable left hip injury under K.S.A. 44-510k.

Finally, the Board addresses future medical treatment. The employer's liability for compensation includes the duty to provide medical treatment as may be reasonably necessary to cure or to relieve the effects of the compensable injury.¹⁴ It is presumed the employer's obligation to provide medical treatment terminates upon the employee's reaching maximum medical improvement. The presumption may be overcome with medical evidence it is more probably true than not additional medical treatment will be necessary after maximum medical improvement. "Medical treatment" means treatment provided or prescribed by a licensed health care provider and not home exercises or over-the-counter medication.¹⁵

In this case, Claimant underwent a surgical hip fracture repair with hardware. Dr. Scott last saw Claimant for treatment on July 31, 2019. At that time, Dr. Scott noted Claimant developed trochanteric bursitis, and recommended IT band stretches, anti-inflammatory medication and icing. It is unclear whether Dr. Scott contemplated prescription anti-inflammatories or over-the-counter medication. Dr. Scott released Claimant from treatment, with instructions to return as needed. Claimant testified Dr. Scott thought she may require a hip replacement in the future, but Dr. Scott's records do not state this. Dr. Murati recommended extensive future medical treatment, including injections, physical therapy, medication and a total hip replacement. Claimant sustained a serious physical injury necessitating implantation of hardware, and Claimant presented medical evidence from Dr. Murati indicating future intervention by a physician will be needed. Claimant met her burden of proving entitlement to future medical treatment for her left hip injury, pursuant to K.S.A. 44-510k.

CONCLUSIONS

Claimant failed to meet her burden of proving she sustained a traumatic neurosis compensable under the Kansas Workers Compensation Act, and the award of compensation and medical expenses for a traumatic neurosis should be reversed. Claimant is entitled to an award of temporary total disability compensation and permanent partial disability compensation based on 4% of the body as a whole attributable to the left hip, using an average weekly wage of \$259.24, and a compensation rate of \$172.84 per

¹⁴ See K.S.A. 44-510h(a).

¹⁵ See K.S.A. 44-510h(e).

week. Claimant's average weekly wage adjusts upward to \$260.77, effective September 1, 2020. Claimant is entitled to an award of future medical treatment for the left hip injury, pursuant to K.S.A. 44-510k.

AWARD

THEREFORE it is the finding, decision and order of the Appeals Board the Award issued by ALJ Jones, dated February 26, 2021, is modified.

An award of compensation is herein issued for Claimant, Alicia Wolgamuth, and against Respondent, Catholic Diocese of Wichita, and its Insurance Carrier, Church Mutual Insurance Company. Claimant is entitled to temporary total disability compensation for 14.71 weeks at \$172.84 per week, totaling \$2,542.48, followed by permanent partial disability compensation based on 4% functional impairment to the body as a whole attributable to the left hip for 16.6 weeks at \$172.84 per week, totaling \$2,869.14, for a total award of \$5,411.62.

As of the date of this award, the entire award of \$5,411.62 is due and owing, and shall be paid in one lump sum by Respondent and Insurance Carrier to Claimant and her attorney, less any compensation previously paid.

Respondent and Insurance Carrier shall also pay all valid, authorized and related medical expenses for treatment reasonably necessary to cure or to relieve the effects of the compensable injuries, pursuant to the Kansas Workers Compensation Medical Fee Schedule.

Claimant is awarded future medical treatment for the compensable left hip injury, which shall be provided either by agreement or upon application and hearing, as provided in K.S.A. 44-510k.

Claimant's attorney's written fee agreement is approved. Pursuant to K.S.A. 44-536, Claimant's attorney is awarded an attorney's fee of 25% of the compensation awarded herein, as well as reimbursement of actual expenses incurred.

The costs of these proceedings, consisting of the Court reporter's charges, shall be paid by Respondent and Insurance Carrier.

IT IS SO ORDERED.

Dated this ____ day of July, 2021.

ALICIA WOLGAMUTH

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BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: (Via OSCAR)

Terry Torline
Austin J. Enns
Hon. Gary K. Jones