

**ARKANSAS COURT OF APPEALS**

DIVISION IV  
No. CA11-1194

TYSON POULTRY, INC.  
APPELLANT

V.

IRINEA GUTIERREZ BERRUN  
APPELLEE

Opinion Delivered April 25, 2012

APPEAL FROM THE ARKANSAS  
WORKERS' COMPENSATION  
COMMISSION  
[NO. 906308]

AFFIRMED ON DIRECT APPEAL;  
AFFIRMED ON CROSS-APPEAL

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**JOSEPHINE LINKER HART, Judge**

Tyson Poultry, Inc., appeals from the decision of the Arkansas Workers' Compensation Commission, arguing that substantial evidence does not support the Commission's decision to award medical services to the claimant, Irinea Gutierrez Berrun. Berrun cross-appeals, arguing that she was entitled to additional temporary-total-disability benefits. In appeals involving claims for workers' compensation, we view the evidence in the light most favorable to the Commission's decision and affirm the decision if it is supported by substantial evidence. *Tyson Poultry, Inc. v. Narvaiz*, 2012 Ark. 118, 388 S.W.3d 16. We conclude that substantial evidence supports the Commission's decision and affirm both the direct appeal and the cross-appeal.

The parties stipulated that on April 20, 2009, Berrun sustained a compensable injury to her back, and there was no dispute over medical services through January 21, 2010, and temporary-total-disability benefits through November 28, 2010. The parties litigated Berrun's



entitlement to additional medical services after January 21, 2010, and her entitlement to additional temporary-total-disability benefits from November 29, 2010, through December 27, 2010, and from March 24, 2011, through April 26, 2011. The administrative law judge (ALJ) concluded that Berrun was entitled to medical services provided and recommended by Dr. Rodney Routsong because the services were necessitated by her compensable injury and reasonable in that the services reduced or controlled her chronic difficulties from the injury. The ALJ denied Berrun's claim for additional temporary-total-disability benefits because Berrun failed to establish that she remained in her healing period. The Commission adopted the ALJ's opinion.

We hold that substantial evidence supports the Commission's decision on both its denial of additional temporary-total-disability benefits and its award of additional medical services. To be entitled to temporary-total-disability benefits, a claimant must prove that she remains in her healing period and suffers a total incapacity to earn wages. *Tyson Poultry, supra*. The healing period is "that period for healing of an injury resulting from an accident." Ark. Code Ann. § 11-9-102(12) (Supp. 2011). In denying additional temporary-total-disability benefits, the ALJ relied on medical records showing that Dr. Routsong opined that Berrun was at maximum medical improvement from her compensable injury. Thus, there was substantial evidence from which to conclude that Berrun was no longer in her healing period and therefore was ineligible for additional temporary-total-disability benefits.

A claimant, however, may be entitled to ongoing medical treatment after the healing period has ended if the medical treatment is geared toward management of the claimant's



Cite as 2012 Ark. App. 284

injury. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004). Employees are to be accorded medical services “reasonably necessary in connection with the injury received by the employee.” Ark. Code Ann. § 11-9-508(a) (Supp. 2011). In challenging the award of additional medical services, Tyson asserts that Berrun’s pain was the result of a subsequent fall in October 2010. The ALJ found, however, that the medical services recommended by Dr. Routsong were, at least in part, necessitated by Berrun’s compensable injury and reasonable because the services reduced or controlled her chronic pain and other symptoms from her injury. As Dr. Routsong noted on April 26, 2011, Berrun had an “ongoing spinal pain problem,” even though a fall in October 2010 “caused additional difficulty.” Accordingly, we affirm the Commission’s decision.

Affirmed on direct appeal; affirmed on cross-appeal.

GRUBER and GLOVER, JJ., agree.

*Ledbetter, Cogbill, Arnold & Harrison, LLP*, by: *E. Diane Graham* and *Rebeca D. Hattabaugh*, for appellant.

*Tolley & Brooks, P.A.*, by: *Evelyn E. Brooks*, for appellee.