

BEFORE THE KANSAS WORKERS COMPENSATION APPEALS BOARD

RONALD MOORE)	
Claimant)	
V.)	
)	AP-00-0493-869
EVERGY KANSAS CENTRAL INC.)	CS-00-0486-270
Respondent)	
AND)	
)	
LIBERTY MUTUAL FIRE INS. CO.)	
Insurance Carrier)	

ORDER

Claimant appeals the December 9, 2025, Preliminary Hearing Order entered by Administrative Law Judge (ALJ) Brian Brown.

APPEARANCES

Jeff K. Cooper appeared for Claimant. Michelle Daum Haskins appeared for Respondent and its insurance carrier.

RECORD AND STIPULATIONS

The Board adopted the same stipulations and considered the same record as did the ALJ, consisting of the transcript of Preliminary Hearing from December 1, 2025, with exhibits attached, the documents of record filed with the Division and the parties' briefs.

ISSUES

1. Does the Board have jurisdiction over an appeal of the Preliminary Hearing Order?
2. Was Claimant's work accident the prevailing factor in causing Claimant's diagnosed injuries and medical conditions?
3. Is Claimant entitled to additional medical treatment for the left knee?

FINDINGS OF FACT

Claimant requests additional medical treatment for the left knee, specifically in the form of a total knee replacement as recommended by Dr. Everett Wilkinson.

Claimant is an 18-year employee of Respondent. He had no prior left knee problems before the work injury on October 26, 2024. The left knee injury occurred when Claimant missed a step coming down a ladder and he fell several feet landing on his knee. Claimant also had an injury to the right shoulder.

Respondent provided treatment for the left knee, which included an MRI showing a complex medial meniscal tear and some arthritis. Respondent referred Claimant to Dr. Daniel Chernoff for treatment of the left knee and right shoulder. Treatment for the left knee included a corticosteroid injection, physical therapy, oral steroids and a compression knee sleeve.

This treatment provided minor relief, but Claimant continues to have significant knee pain. The only additional treatment Dr. Chernoff offered was a medial off loader brace. Prior to the work accident, Claimant was able to perform a physically demanding job without limitations. After the accident, Claimant has difficulty walking and performing normal daily activities.

Dr. Chernoff found Claimant at maximum medical improvement (MMI) on January 31, 2025. He rated Claimant's permanent partial impairment at 2 percent to the left lower extremity. Dr. Chernoff opined there is a need for a knee replacement, but it is due to preexisting osteoarthritis and not the work injury.

Claimant's right shoulder injury was treated with physical therapy and corticosteroid steroids injection. Claimant does not want additional treatment for the right shoulder because the injection and home exercises are keeping the right shoulder functional.

Claimant met with Dr. Everett Wilkinson, at his attorney's request, on January 29, 2025, for an evaluation. Claimant complained of right shoulder and left knee pain from falling off a 4-foot ladder at work. Despite treatment, Claimant continued to have pain in his left knee.

Dr. Wilkinson diagnosed Claimant with: exacerbation of joint disease, left knee, left knee complex medial meniscus tear, and strain rotator cuff, right shoulder. He opined the work accident is the prevailing factor for these medical conditions. He further opined Claimant had not reached MMI as a result of the work injury. Despite the preexisting joint disease, Dr. Wilkinson recommended a total left knee replacement to cure and relieve the effects of the complex meniscal tear. He recommended temporary restrictions.

The ALJ denied Claimant's request for additional treatment for the left knee. The ALJ ruled the preponderance of the credible evidence supports Claimant's diagnosed left conditions, including but not limited to his complex meniscal tear, were degenerative in nature. Though Claimant stated his left knee was asymptomatic prior to his accident, his conditions are not solely compensable because the accident aggravated, accelerated or exacerbated a preexisting condition or rendered his preexisting condition symptomatic.

PRINCIPLES OF LAW AND ANALYSIS

Claimant argues the preponderance of credible evidence supports and proves his October 26, 2024, work injury is the prevailing factor for his left knee conditions, including a complex meniscal tear of the left knee. Claimant requests the Board reverse the ALJ and find the work injury is the prevailing factor for the need for medical treatment.

Respondent argues that the Order should be affirmed or the Board should find there is no jurisdiction to decide this matter. Respondent is not denying compensability of the claim, just the additional medical treatment for the left knee.

1. The Board has jurisdiction over this appeal.

K.S.A. 2024 Supp. 44-534a(a)(3) states, in part:

A finding with regard to a disputed issue of whether the employee suffered an accident, repetitive trauma or resulting injury, whether the injury arose out and in the course of employee's employment, whether notice is given, or whether certain defenses apply, shall be considered jurisdictional, and subject to review by the board.

The term certain defenses refers to defenses disputing compensability of the injury under the Workers Compensation Act.¹

Initial review of this record left the impression the ALJ decision was a denial of additional medical treatment. However additional scrutiny of Respondent's statements at the hearing, their submission brief and the ALJ decision, indicate the issue before the Board is whether Claimant's left knee injury is compensable and is he entitled to the medical treatment requested.

The ALJ's decision discusses prevailing factor and a finding that the injury is not compensable and additional medical treatment is denied. There is Respondent's statement, "the crux of the issue is medical and legal causation as far as what the Claimant

¹ *Carpenter v. National Filter Service*, 26 Kan. App. 2d, 672, 675, 994 P.2d 641 (1999).

is owed, if anything, with regard to the left knee.”² The compensability of this claim has been raised by Respondent and decided by the ALJ in the decision under appeal. The Board has jurisdiction.

2. The accident was the prevailing factor in causing Claimant’s current left knee complaints.

K.S.A. 2024 Supp. 44-508(f)(1) states

"Personal injury" and "injury" mean any lesion or change in the physical structure of the body, causing damage or harm thereto. Personal injury or injury may occur only by accident, repetitive trauma or occupational disease as those terms are defined.

K.S.A. 2024 Supp. 44-508(f)(2)(B) provides:

An injury by accident shall be deemed to arise out of employment if:

- (i) There is a causal connection between the conditions under which the work is performed and the resulting accident; and
- (ii) the accident is the prevailing factor causing the injury, medical condition and resulting disability or impairment.

K.S.A 2024 Supp. 44-508(g) defines prevailing factor as:

"Prevailing" as it relates to the term "factor" means the primary factor, in relation to any other factor. In determining what constitutes the "prevailing factor" in a given case, the administrative law judge shall consider all relevant evidence submitted by the parties.

Claimant suffered an accidental injury where he fell several feet off a ladder landing on his left knee. Claimant also suffered an injury to his right shoulder but the compensability of this injury is not before the Board and Claimant is no longer seeking medical treatment for the shoulder.

Respondent provided medical treatment for Claimant’s left knee. Despite this treatment, Claimant still has significant knee pain. Prior to the accident, Claimant was able to perform a physically demanding job without limitation. After the accident, Claimant has difficulty walking and performing normal daily activities.

² P.H. Trans. at 8.

Respondent's medical expert, Dr. Chernoff, opined all of Claimant's complaints except for two percent impairment, are entirely preexisting and no additional medical treatment is warranted.

Claimant's medical expert, Dr. Wilkinson, opined the accidental injury of October 26, 2024, is the prevailing factor for the left knee complex medial meniscus tear and exacerbation of joint disease. He recommended a total knee replacement is necessary to cure and relieve the effects of the medial meniscus tear.

The Board finds Dr. Wilkinson's opinion more credible. The mechanics of Claimant's accident are competent to cause a medial meniscus tear. Claimant fell several feet landing on his left knee while working for Respondent. Claimant's physical abilities have significantly deteriorated after the accident which is an indication of a physical change in structure and a new compensable injury such as a torn meniscus.

The Board finds Claimant's left knee injury, specifically the complex medial meniscus tear, arose out of and in the course of Claimant's employment and the work accident is the prevailing for Claimant's injury to the left knee. This medial meniscus tear is a change in the physical structure of Claimant's left knee.

3. Claimant is entitled to additional medical treatment for the left knee, specifically a total left knee replacement.

Dr. Wilkinson opined the effective treatment for the meniscus tear is a total knee replacement.

The Board has previously affirmed an ALJ's decision on authorizing a total knee replacement to cure and relieve the effects of a meniscus tear where there was preexisting arthritis.³ That is the case here.

It is found and concluded the work accident is the prevailing factor for Claimant's left knee complaints. A total left knee replacement is required to cure and relieve the effects of the accident.

DECISION

WHEREFORE, it is the finding, decision and order of the undersigned Board Member the appeal of the Order of ALJ Brian Brown dated December 9, 2025, is reversed and remanded. The ALJ is ordered to issue an order for Respondent to provide a list of

³ See *Ater v. Lang Diesel Inc.*, AP-00-0472-104, 2023 WL 2376933, (Kan. WCAB Feb. 3, 2023).

2 orthopedic surgeons (preferably knee specialists) for Claimant to chose from to provide the medical treatment requested by Claimant.

IT IS SO ORDERED.

Dated this _____ day of March, 2026.

REBECCA SANDERS
BOARD MEMBER

c: Via OSCAR

Jeff K. Cooper, Attorney for Claimant
Michelle Daum Haskins, Attorney for Respondent
Brian Brown, Administrative Law Judge