ISSUE

- Did Claimant prove by a preponderance of the evidence that the platelet rich plasma injection given to Claimant on October 11, 2024, was reasonable, necessary and related to his work injury of March 7, 2015?

FINDINGS OF FACT

Based on the evidence at hearing, the ALJ enters the following findings of fact:

1) On March 7, 2015, Claimant was working as a police officer when he sustained an admitted work injury to his right shoulder as a result of pulling on a door while attempting to extricate a woman from a vehicle.

2) Claimant initially presented to Dr. Miguel Castrejon on March 16, 2015 with complaints of intermittent dull pain located at the anterior shoulder and shoulder blade as well as pain to the right anterolateral right elbow. Physical examination revealed tenderness in the right proximal biceps, anterior capsule, and right trapezius. Dr. Castrejon diagnosed right biceps tendon strain and recommended physical therapy ("P.T.") No work restrictions were given at this visit. (Claimant's Submissions – Bates # 000064)

3) Claimant attended P.T. through April 18, 2015, after which he presented to Dr. Castrejon for a follow up evaluation on May 5, 2015. According to Dr. Castrejon's note of May 5, Claimant failed to improve with PT and at times was worse. On that date, Claimant was reporting pain over the anterior shoulder and elbow that worsens with elevation or forced grasping activities. Dr. Castrejon prescribed Voltaren gel and recommended an MRI for Claimant's shoulder and elbow. (Claimant's Submissions - Bates # 000066)

4) An MRI was done on May 7, 2015, and the radiologist's impressions were as follows:

    a. Inferior labral tear at the 6 o'clock position with associated with a [sic] paralabral cyst measuring 0.8 x 0.5 in maximum dimension. Mild degenerative changes of the remainder of the labrum without other evidence of tear.
    b. Mild osteoarthrosis of the glenohumeral joint.
    c. Mild degenerative changes of the acromioclavicular joint.
    d. Mild tendinosis of the supraspinatus, infraspinatus and intra-articular portion of the long biceps tendon.
    e. Mild subacromial/subdeltoid bursitis.
    f. The remainder of the exam is unremarkable.

    (Claimant's Submissions – Bates #000105-000106)

5) Claimant was seen by Dr. Castrejon on May 13, 2015, and June 8, 2015 with the same complaints. On June 8, 2015, Claimant was referred to Dr. David Weinstein for a surgical consultation. (Claimant's Submissions – Bates # 000105 – 000106)

6) Claimant presented to Dr. Weinstein on June 19, 2015 with ongoing complaints of pain in the anterior and anterolateral aspect of the shoulder as well as pain in the area of his biceps and forearm. Claimant was also having difficulty reaching overhead, gripping and doing any repetitive activity. According to this note, Claimant sustained an injury to his right shoulder attempting to open a door at the scene of a motor vehicle accident. In doing so, Claimant put "significant force across his elbow and shoulder." Upon physical examination, it was noted that there was tenderness over the distal biceps, the brachioradialis, posterior interosseous nerve, and mild weakness with supination and elbow flexion. Dr. Weinstein's impressions were rotator cuff tendinitis, right anterior-inferior labral tear, and right elbow biceps/ brachioradialis tendinitis with a potential posterior interosseous nerve inflammation. In an attempt to avoid surgery, Dr. Weinstein administered a cortisone injection into the posterior subacromial space. (Claimant's Submissions – Bates # 000110 – 000112)

7) Claimant returned to Dr. Weinstein on July 27, 2015, with the same symptoms as in the initial visit. According to this note, the cortisone injection provided minimal improvement. Physical examination of the right shoulder showed tenderness over the subacromial space with a positive impingement sign and pain over the anterior glenohumeral joint line. Weakness with rotator cuff testing was also noted. (Claimant's Submissions – Bates # 000113-000114)

8) On October 29, 2015, Dr. Weinstein performed surgery consisting of a right arthroscopic subacromial decompression, a right arthroscopic extensive glenohumeral debridement of grade 4 chondral- lesion of the glenoid, and right arthroscopic anterior/ inferior capsular shift with labral repair. (Claimant's Submissions – Bates # 000115-000116)

9) Post surgery, Claimant engaged in a course of P.T. and acupuncture. Dr. Castrejon put Claimant on light duty while recovering. (Claimant's Submissions – Bates # 000074-000078)

10) Claimant was re-evaluated by Dr. Weinstein on February 17, 2016. On this date, it was noted that Claimant was making steady progress but was still having mild tightness behind his back. Dr. Weinstein released Claimant from his care with directions to return if needed. (Claimant's Submissions – Bates # 000117-000118)

11) In a letter to Dr. Castrejon dated June 4, 2016, Dr. Abercrombie wrote that Claimant was having minimal discomfort but was having tightness with reaching

behind his back and weakness when reaching out in front of him. (Claimant's Submissions – Bates # 000042)

12) Claimant was placed at MMI by Dr. Castrejon on August 2, 2016 with a 6% scheduled impairment. Dr. Castrejon returned Claimant to full duty work and recommended maintenance medical care to include six visits of chiropractic care and a steroid injection. Based on Dr. Castrejon's report, Respondent filed a Final Admission of Liability, wherein it admitted to the 6% scheduled impairment and maintenance medical care. (Respondent's Submissions – Bates # 009-012)

13) On February 24, 2020, Claimant was seen by Paula Hornberger, PA-C at the City Clinic for a right shoulder injury sustained while arresting a drunk female. The history revealed that on January 30, 2020, Claimant was assisting a female who collapsed, causing a pulling sensation leading to right shoulder pain that radiates into the neck. Ms. Hornberger noted that Claimant's prior injury from 2015 was stable prior to this recent injury. Ms. Hornberger diagnosed a right shoulder strain and recommended P.T. and ibuprofen. Ms. Hornberger opined Claimant was not at MMI due to his acute symptoms. (Respondent's Submissions – Bates # 442)

14) An MRI done on March 3, 2020, revealed the following:

    a. Mild supraspinatus and subscapularis tendinopathy with strain with a tear.
    b. Mild to moderate acromioclavicular arthropathy.
    c. Hold labral degeneration with a tear. Mild to moderate glenohumeral arthropathy, chondral thinning and fibrillation identified, cystic changes and osteophyte formation identified.
    d. Small right glenohumeral join effusion with synovitis and debris loose bodies present within the subscapular recess.

    (Claimant Submission's – Bates # 000107)

15) Claimant received chiropractic care from Dr. Abercrombie from June 30, 2020 through July 24, 2020 for a right-sided cervicothoracic strain, right shoulder strain, and cervical/upper thoracic facet and costovertebral joint dysfunction. According to the July 24, 2020 note, Claimant was doing much better and was released from care. Claimant was advised to continue with the same stretches as before. (Claimant's Submissions – Bates # 000044-000049)

16) Claimant sustained another work injury to his right shoulder on May 2, 2021, while trying to lift a tactical shield. (Respondent's Submissions – Bates # 330)

17) Claimant had MRI done on May 14, 2021 which revealed progressive mild glenohumeral joint osteoarthritis with glenohumeral join effusion, synovitis with intraarticular bodies and rotator cuff tendinitis without evidence of tears. (Claimant's Submissions – Bates # 000108)

18) On May 20, 2021, Claimant was evaluated by Ms. Hornberger with ongoing right shoulder pain, which was surrounding his right scapula and radiated along his lateral right upper arm. Upon physical examination, Ms. Hornberger found full range of motion of the right shoulder, elbow, and wrist, right trapezial tenderness anteriorly and posteriorly along the soft tissue. Miss Hornberger's assessment was right shoulder strain, exacerbation of underlying degenerative arthritis and right thoracic strain. Ms. Hornberger recommended P.T., prescribed medication, and referred Claimant to Dr. Weinstein. (Claimant's Submissions – Bates # 000330)

19) On May 26, 2021, Claimant returned to Dr. Weinstein's office where he was seen by Shannon Constantinides, FNP-C. At this visit, Claimant was noted to be experiencing diffuse pain over the posterior aspect of the subacromial area as well as myofascial pain in the trapezius, scapula rotators, and axilla. There was also a sensation of muscle pulling and burning across the strap muscles. The pain worsened with activities requiring lifting, reaching, and overhead movement. X-rays were taken which showed, in part, a moderate amount of inferior glenohumeral joint space narrowing with osteophyte formation seen at the inferior humeral head/ surgical neck, consistent with moderate degenerative joint disease. Ms. Constantinides' assessment was acute right shoulder pain, right shoulder rotator cuff tendinitis, primary localized osteoarthritis of the right shoulder (exacerbated), and myofascial pain syndrome. Ms. Constantinides administered a cortisone injection into the glenohumeral joint and advised Claimant if there is no improvement, consideration should be given to additional cortisone injections, PRP injections, arthroscopy with glenohumeral debridement/subacromial decompression, or shoulder arthroplasty. (Claimant's Submissions – Bates # 000119-000122)

20) In a follow-up visit with Dr. Weinstein on July 7, 2021, it was noted that Claimant was doing better with conservative care, although he was still experiencing mild weakness with overhead activity in the anterior and anterolateral aspect of his shoulder. Dr. Weinstein recommended additional P.T. and to continue anti-inflammatory medication as needed. (Claimant's Submissions -Bates # 000123-000124)

21) Claimant underwent chiropractic care and massage therapy from August 10 through September 7, 2021, along with two P.T. sessions from August 23, 2021 through September 20, 2021. (Claimant's Submissions – Bates # 000022)

22) On September 28, 2021, Claimant was placed at MMI by Dr. Nicholas Kurz for the 2021 injury with no impairment or need for additional care. (Claimant's Submissions – Bates #000296)

23) Claimant presented to Ms. Hornberger on August 4, 2022, with right shoulder, neck, and upper/mid back pain following extensive training at the C.S.P.D. weapons range the day prior. Physical examination was abnormal with right

upper-mid thoracic paraspinal tenderness and right trapezial tenderness with trigger points. There was also tenderness of the right anterior shoulder over the long and short head of the biceps proximally. Ms. Hornberger's diagnoses were right shoulder strain and right cervicothoracic strain. Ms. Hornberger prescribed chiropractic care, massage, over-the-counter medication and referred Claimant to Dr. Weinstein for evaluation and consideration of an injection as "this has helped in the past." (Claimant's Submissions – Bates # 000298-000299)

24) On September 19, 2022, Claimant was seen by Dr. Weinstein with mild to moderate ache deep within the anterior and posterior aspect of the shoulder radiated down his mid-humorous, which increased with shoulder level and overhead activity. He was also having difficulty moving his arm away from his body and was having pain in the posterior aspect of his shoulder. Claimant told Dr. Weinstein his symptoms are similar to what he had experienced over the last year, although to a higher level. Physical examination revealed mild tenderness over the scapular rotators, particularly in the inferior scapula as well as moderate tenderness over the anterior and posterior joint. There was also mild tenderness over the bicipital groove and subacromial space. X-rays of the shoulder were essentially unchanged from those taken on May 26, 2021. Dr. Weinstein's impressions were right rotator cuff tendonitis, right aggravation of glenohumeral arthritis, and right upper extremity myofascial inflammation. Dr. Weinstein recommended a glenohumeral cortisone injection with P.T. and chiropractic care. (Claimant's Submissions – Bates # 000126-000128)

25) Notes from Ms. Hornberger and Dr. Thomas Centi dated August 18, 2022, and September 6, 2022 respectively reflect that Claimant was doing better. Dr. Centi's September 6, 2022 note indicated under "PMH" that Claimant had right shoulder surgery in 2015, and had good immediate recovery but has had persistent intermittent pain since. (Claimant's Submissions – Bates #000303-000307)

26) On September 22, 2022, Claimant had a right shoulder glenohumeral cortisone injection. (Claimant's Submissions – Bates # 000303-000307)

27) On November 15, 2022, Claimant was placed at MMI by Dr. Thomas Centi for the August 3, 2022 work injury with no impairment or need for maintenance care. Dr. Centi's note of this date reflects Claimant was doing better but was still having some shoulder discomfort. This note reiterates that Claimant has had persistent intermittent pain since his 2015 shoulder surgery. (Claimant's Submissions – Bates # 000314-000315)

28) Claimant returned to Ms. Hornberger on July 12, 2023 with increased right shoulder pain which has persisted since March/ April. Ms. Hornberger referred Claimant to P.T. and Dr. Weinstein for an injection. In the WC164 form signed by Ms. Hornberger, she checks that Claimant needs maintenance care to include injections as it relates to his 2015 shoulder surgery. (Claimant's Submissions –

Bates # 000319-000320, and 000322)

29) On July 17, 2023, Claimant presented to Mr. Raulie for consideration of a repeat injection. According to this note, Claimant's last cortisone injection lasted a reasonable amount of time, but Claimant was wondering about PRP injections. X-rays taken at that visit showed moderate to advanced narrowing in the right glenohumeral joint with inferior osteophyte formation of the surgical neck. There were hypertrophic changes of the AC joint consistent with arthrosis noted. Mr. Raulie's impressions were chronic right shoulder pain, aggravation of moderate to advanced glenohumeral degenerative joint disease, right rotator cuff tendonitis, and right upper extremity myofascial pain. At this visit, various treatment options were discussed to include continued observation, P.T., home exercises, cortisone injections, PRP injections, and surgery. (Claimant's Submissions – Bates # 000132-000135)

30) On September 22, 2023, Claimant underwent a PRP injection. Claimant was reevaluated by Mr. Raulie on November 13, 2023. At that time, Claimant's shoulder was improving and was doing much better. It was noted that Claimant was able to perform more activities without discomfort and was sleeping better due to a decrease in pain. (Claimant's Submissions – Bates # 000137-000140)

31) Claimant saw Ms. Hornberger on November 15, 2023, at which time he was released from care with instructions to follow up with Dr. Weinstein for injections and P.T. as needed. (Claimant's Submissions – Bates # 000373-000375)

32) Claimant had 13 P.T. sessions from January 3, 2024 through March 25, 2024. A review of these notes reflect that Claimant reported stiffness, pain, and difficulty with using his right upper extremity over the past 8 years. (Claimant's Submissions – Bates # 000377-000401)

33) On October 11, 2024, Claimant returned to Mr. Raulie for a repeat PRP injection to his right shoulder. According to Mr. Raulie's note, Claimant had great relief from his previous PRP injection. (Claimant's Submissions – Bates # 000141-000142)

34) At Respondent's request, Claimant had an evaluation with John Burris, MD, on August 13, 2024. As part of his evaluation, Dr. Burris reviewed medical records dating back to 2013. Based upon his examination of Claimant and review of the medical records, Dr. Burris opined that Claimant is not a candidate for PRP injections pursuant to the MTGs. Dr. Burris further opined that any treatment to Claimant's right shoulder is not related to the 2015 work injury. (Respondent's Submissions – Tab D)

35) In support of his opinion that the PRP injections are not supported by the MTGs, Dr. Burris relied upon Rule 17, Exhibit 4, which states that PRP injections are not

generally recommended but may be considered in unusual circumstances when the following three criteria are met:

a. There is tendon damage;
b. There has been no response to appropriate conservative measures; and
c. The next level of guideline-consistent therapy would involve an invasive procedure with risk of significant complication.

Dr. Burris went on to state the MRI does not show tendon damage and Claimant is working full duty without restrictions therefore the requirements are not met. (Respondent's Submissions – Bates # 029-030)

36) In support of his opinion that Claimant's present right shoulder condition is not related to the 2015 work injury, Dr. Burris wrote that Claimant had glenohumeral joint arthritis dating back to the MRI of May 7, 2015 and it is therefore a pre-existing condition unrelated to his workers compensation claim. Furthermore, repeat diagnostic imaging reveals the natural progression of this arthritis. Regarding Claimant's workers compensation claims since reaching MMI for the 2015 work injury, Dr. Burris wrote that they involved relatively "minor mechanisms of injury" with no acute abnormalities. (Respondent's Exhibits – Bates # 029)

37) A review of the medical records prior to March 5, 2015, reveals a paucity of complaints related to Claimant's right shoulder, except for two of Dr. Abercrombie's notes. The October 29, 2011 note reflects that Claimant was experiencing an ache in the upper back and mid back region with a knot under the right shoulder blade. The March 3, 2015 note indicates Claimant had a concern of new right shoulder and arm symptoms after doing push-ups. However, Dr. Abercrombie's note does not reflect any treatment directed toward the upper arm or rotator cuff. Rather, Dr. Abercrombie's treatment was directed toward the upper torso/ thoracic spine and the lower torso/ lumbar spine. (Claimant's Submissions – Bates # 000001 and 000007)

38) Dr. Weinstein testified as an expert in orthopedic surgery. He also testified that he is Level II accredited by the Division of Workers' Compensation. Dr. Weinstein testified that Claimant's ongoing right shoulder problems are related to the March 7, 2015 work injury for which surgery was performed. Dr. Weinstein explained that, based on his review of the medical records, Claimant did not have any significant problems with his right shoulder prior to the March 5, 2015, work injury. Then he has a grade 4 chondral lesion which Dr. Weinstein characterized as a small area of isolated arthritis, due to a labral tear which occurred as a result of the March 5, 2015 work injury. As a result, Claimant's glenohumeral arthritis became symptomatic and progressive as his shoulder is no longer able to adequately compensate. (Depo. Tr. P. 14, l. 1 – P. 15, l. 3; P. 16, ll. 5-8; P. 37, l. 21- P.38, l. 19)

39) Dr. Weinstein was aware of Claimant's visit to Dr. Abercrombie on March 3, 2015. However, Dr. Weinstein testified that doing push-ups would likely not tear the labrum but would more likely cause issues with the musculature of the neck. Regarding Claimant's right shoulder injuries subsequent to the 2015 work injury, Dr. Weinstein testified they were essentially aggravations of the underlying arthritis dating back to the original injury. For this opinion, Dr. Weinstein relied upon his review of the medical records and examinations of Claimant for the subsequent injuries which, he testified, don't show any acute damage to Claimant's tendon or labrum. According to Dr. Weinstein, the forces involved in the subsequent injuries did not involve forces great enough to cause severe damage to the shoulder, but enough to aggravate the underlying arthritis related to the 2015 work injury. (Depo. Tr. P. 49, ll. 4-17; P. 62, l. 4 – P. 64, l. 21)

40) Dr. Weinstein further testified that the PRP injection of October 24, 2024 was reasonable and necessary as it relates to Claimant's 2015 right shoulder injury. In support of his opinion, Dr. Weinstein pointed to Claimant's subsidence of shoulder symptoms after each PRP injection. Dr. Weinstein testified that there is literature that shows PRP injections reduce inflammation in arthritis with little to no side effects unlike cortisone injections, which can cause further cartilage degeneration. In addition, Dr. Weinstein also testified that PRP injections help with tendonitis. According to Dr. Weinstein, Claimant meets the MTG Guidelines for PRP injections in that he has inflammation of the rotator cuff along with degenerative arthritis. In addition, if the injections lose their effectiveness, the next treatment modality would be invasive with significant risk of complications. In addition, Dr. Weinstein said that while Claimant has returned to full duty work, he has not returned to full function. (Depo. Tr. P. 29, ll. 2-24; P. 30, ll. 19-25; P. 43, l. 19- P. 44, l. 9; P. 47, ll. 4-17; P.66, ll. 4-7; P.67, ll. 4-8)

41) Dr. Burris testified as an expert in occupational medicine. Dr. Burris reiterated his opinion that Claimant does not meet the criteria for PRP injections as set forth in the MTGs. Dr. Burris explained that Rule 17, Exhibit 4, p.33 of the MTGs sets forth the criteria for whether or not a PRP injection is reasonable and necessary. Dr. Burris said it is borderline as to whether or not Claimant meets the first criteria of having tendon damage that while Claimant has some swelling and inflammation he did not have severe tearing. Dr. Burris went on to say Claimant has not had 6 weeks of conservative care before the October 2024 PRP injection. Finally, Dr. Burris testified that there is no documentation of significant functional benefit, as he has been working full duty since 2016. (Hearing Tr. P. 62, l.3-P.64-l.13)

42) Concerning Claimant's ongoing shoulder issues, Dr. Burris testified that Claimant has glenohumeral joint arthritis prior to his March 7, 2015, injury and that when he was placed at MMI he returned to his baseline and the need for a PRP injection would be the result of a natural progression of the arthritis. Dr. Burris testified that his opinion concerning etiology remained the same even when

factoring in the various injuries Claimant sustained subsequent to the March 7, 2015 injury. (Hrg. Tr. P.56,l.20-P.59,l.15)

43) On cross-examination, Dr. Burris agreed it is very common for glenohumeral arthritis to be asymptomatic. Furthermore, Dr. Burris agreed that trauma to the shoulder joint can cause asymptomatic arthritis to become symptomatic. Dr. Burris conceded that the MTGs are flexible in that the treating physician can deviate from them in individual cases. Dr. Burris further conceded that the MTGs are for pre-MMI care and are not intended to limit post-MMI care. (Hrg. Tr. P. 70, l. 17 – P. 71, l. 8; P. 798, l. 8 – P.81, l. 20; P.86,l.23-P.87-l.2)

44) Claimant testified to his March 7, 2015 work injury and to the subsequent work injuries to his right shoulder. According to Claimant, he had no problems with his right shoulder prior to the March 7, 2015 work injury other than pain which emanated from his cervical spine and down his right shoulder. Claimant further testified consistent with the medical records that insofar as the injuries to his right shoulder subsequent to the March 5, 2015 work injury are concerned, that he was provided limited care, never given work restrictions, and was always placed back at MMI with no impairment or recommendations for maintenance care. Claimant also testified that after being placed at MMI on August 2, 2016, he continued to have problems with his right shoulder to include pain, tightness, and muscle spasms for which he performed self-directed care such as working out, stretching, and using a compression vest. (Hrg Tr. P.11,ll.5-16;P.16,l.13-P.24,l.12;P.30,l.2-P.32-l.12)

45) Claimant testified that while steroid injections to his right shoulder provided some symptomatic relief, it was short-lived. However, Claimant went on to testify, consistent with his medical records, that the PRP injections provided significant relief such that his sleep was better, and he was able to perform his everyday activities with less pain. (Hrg. Tr. P. 25, l. 17- P.27, l. 12; P. 28, l. 24 – P. 29, l. 14)

46) The opinions of Dr. Weinstein are more persuasive than Dr. Burris' opinions to the contrary.

47) Claimant's testimony is credible and persuasive.

48) Claimant has proved by a preponderance of the evidence that the PRP injection of October 11, 2024 was reasonably necessary to relieve the effects of his March 5, 2015 injury and to prevent deterioration of his condition.

CONCLUSIONS OF LAW

Based upon the foregoing findings of fact, the ALJ draws the following conclusions of law:

General Legal Principles

A. The purpose of the Workers' Compensation Act of Colorado (Act), § 8- 40-101, *et seq*., C.R.S., is to assure the quick and efficient delivery of disability and medical benefits to injured workers at a reasonable cost to employers, without the necessity of litigation. *Section 8-40-102(1), C.R.S*. The Claimant shoulders the burden of proving by a preponderance of the evidence that he is a covered employee who suffered an "injury" arising out of and in the course of employment. *Section 8-43- 301(1), C.R.S.; Faulker v. Industrial Claim Appeals Office, 12 P.3d 844 (Colo. App. 2000); City of Boulder v. Streeb, 706 P.2d 786 (Colo. 1985); Pacesetter Corp. v. Collett, 33 P.3d 1230 (Colo. App. 2001).* A preponderance of the evidence is that which leads the trier-of-fact, after considering all of the evidence, to find that a fact is more probably true than not. *Page v. Clark, 197 Colo. 306, 592 P.2d 792 (1979)*. The facts in a workers' compensation case must be interpreted neutrally, neither in favor of the rights of the claimant nor in favor of the rights of respondents. *Section 8-43-201, C.R.S*. A workers' compensation claim is decided on its merits. *Section 8-43-201, supra.*

B. In determining credibility, the ALJ should consider the witness' manner and demeanor on the stand, means of knowledge, strength of memory, opportunity for observation, consistency or inconsistency of testimony and actions, reasonableness or unreasonableness of testimony and actions, the probability or improbability of testimony and actions, the motives of the witness, whether the testimony has been contradicted by other witnesses or evidence, and any bias, prejudice or interest in the outcome of the case. *Colorado Jury Instructions, Civil*, 3:16. The weight and credibility to be assigned expert testimony is a matter within the discretion of the ALJ. *Cordova v. Industrial Claim Appeals Office, 55 P.3d 186 (Colo. App. 2002)*. To the extent expert testimony is subject to conflicting interpretations, the ALJ may resolve the conflict by crediting all, part or none of the testimony of a medical expert. *Colorado Springs Motors, Ltd. v. Industrial Commission, 441 P.2d 21 (Colo. 1968); see also, Dow Chemical Co. v. Industrial Claim Appeals Office, 843 P.2d 122 (Colo. App. 1992)* (ALJ may credit one medical opinion to the exclusion of a contrary opinion). As found in this case, the medical opinions of Dr. Weinstein regarding the cause of Claimant's symptoms and the need for PRP injections are credible and more persuasive than those to the contrary.

C. In accordance with Section 8-43-215, C.R.S., this decision contains Specific Findings of Fact, Conclusions of Law and an Order. In rendering this decision, the ALJ has made credibility determinations, drawn plausible inferences from the record and resolved essential conflicts in the evidence. See *Davison v. Industrial Claim Appeals Office*, *84 P.3d 1023 (Colo. 2004).* This decision does not address every item contained in the record; instead, incredible or implausible testimony or unpersuasive arguable inferences have been implicitly rejected. *Magnetic Engineering, Inc. v. Industrial Claim Appeals Office*, *5 P.3d 385 (Colo. App. 2000).*

CLAIMANT'S ENTITLEMENT TO MEDICAL BENEFITS

D. Once a claimant has established the compensable nature of his/her work injury, he/she is entitled to a general award of medical benefits and respondents are liable to provide all reasonable, necessary, and related medical care to cure and relieve the effects of the work injury. Section 8-42-101, C.R.S.; *Grover v. Industrial Commission*, *759 P.2d 705 (Colo. 1988); Sims v. Industrial Claim Appeals Office, 797 P.2d 777 (Colo. App. 1990).* However, a claimant is only entitled to such benefits as long as the industrial injury is the proximate cause of his/her need for medical treatment. *Merriman v. Indus. Comm'n*, *210 P.2d 448 (Colo. 1949); Standard Metals Corp. v. Ball, 172 Colo. 510, 474 P.2d 622 (1970); § 8-41-301(1)(c)*, C.R.S. Ongoing benefits may be denied if the current and ongoing need for medical treatment or disability is not proximately caused by an injury arising out of and in the course of the employment. *Snyder v. City of Aurora*, *942 P.2d 1337 (Colo. App. 1997*). In other words, the mere occurrence of a compensable injury does not require an ALJ to find that all subsequent medical treatment and physical disability was caused by the industrial injury. To the contrary, the range of compensable consequences of an industrial injury is limited to those that flow proximately and naturally therefrom. *Standard Metals Corp. v. Ball*, *supra*. Contending that Claimant's current symptoms and need for PRP injections represent the natural progression of a preexisting, non-industrial condition that would have become symptomatic, whether Claimant worked for Employer or not, Respondents urge the ALJ to conclude that the recommended PRP injections are unrelated to March 5, 2015 work injury. The ALJ is not persuaded.

E. It is well settled that a pre-existing condition "does not disqualify a claimant from receiving worker's compensation benefits." *Duncan v. Indus. Claims Appeals Office*, *107 P.3d 999, 1001 (Colo. App. 2004).* To the contrary, a claimant may be compensated if his or her employment "aggravates, accelerates, or "combines with" a pre-existing infirmity or disease "to produce the disability and/or the need for treatment for which workers' compensation is sought". *H & H Warehouse v. Vicory*, *805 P.2d 1167, 1169 (Colo. App. 1990).* Even temporary aggravations of pre-existing conditions may be compensable. *Eisnack v. Industrial Commission*, *633 P.2d 502 (Colo. App. 1981).* Pain is a typical symptom from the aggravation of a pre-existing condition. Thus, a claimant is entitled to medical benefits for treatment of pain, so long as the pain is proximately caused by the employment–related activities and not the underlying preexisting condition. *See Merriman v. Industrial Commission*, *120 Colo. 400, 210 P.2d 488 (1940).*

F. In this case, the persuasive evidence demonstrates that prior to March 5, 2015, Claimant had minimal, if any, issues with his right shoulder. Subsequent to the March 5, 2015, work injury, Claimant underwent surgery with Dr. Weinstein and was ultimately placed at MMI on August 2, 2016 with a 6% scheduled impairment and a recommendation for maintenance care. It is recognized that Claimant had three work injuries to his right shoulder subsequent to the August 2, 2016, MMI date. However, the medical record evidence reflects that for each injury Claimant had a relatively short course of care and was placed at MMI with no impairment and no recommendation for maintenance care. The subsequent injuries were essentially temporary aggravations of the underlying residuals from the 2015 work injury. Both Dr. Weinstein and Dr. Burris

agree that Claimant has arthritis in his glenohumeral joint which is progressive. However, Dr. Weinstein opined that Claimant's ongoing shoulder problems relate back to the March 7, 2015 work injury based on the fact that Claimant's right shoulder was essentially asymptomatic prior to said date. According to Dr. Weinstein, Claimant's right shoulder became symptomatic as a result of the 2015 work injury and continues to this day. It is recognized that Dr. Burris believes Claimant's present shoulder issues are due to his ongoing glenohumeral arthritis, which predated the March 7, 2015 work injury. However, the medical record evidence does not reflect Claimant was having prior right shoulder issues which required ongoing treatment. As found, the evidence presented persuades the ALJ that Claimant's March 7, 2015, injury to his right shoulder was sufficient to aggravate his pre-existing arthritis giving rise to his ongoing glenohumeral joint symptoms. The ALJ finds no persuasive evidence to establish that Claimant's pre-existing arthritis was symptomatic or disabling prior to March 5, 2015. It is concluded that Claimant has proven by a preponderance of the evidence that the etiology of Claimant's ongoing right shoulder symptoms is the March 5, 2015 work injury.

G. A Claimant may receive maintenance medical benefits if it is proven that medical treatment will be necessary to relieve the Claimant from the effects of the injury or to prevent deterioration of the Claimant's condition. *Grover v. Industrial Commission, 759 P.2d 705 (Colo. 1988)*; See *Hanna v. Print Expeditors, Inc., 77 P.3d 863 (Colo. App. 2003)*; *Stolluneyer v. Industrial Claim Appeals Office, 916 P.2d 609 (Colo. App. 1995).* It is well settled that it is appropriate for an ALJ to consider the MTGs in deciding whether a certain medical treatment is reasonable and necessary for the Claimant's condition, and that the ALJ's consideration of the MTGs may be denoted from where there is evidence justifying the deviations. Rule 17-4 (A), *Logiudice v. Siemen's Westinghouse, W.C. No. 4-665-873 (January 25, 2011);* See *Hieb v. Devereux, W.C. No. 4-626-898 (March 15, 2017).* Additionally, § 8-43-201(3), C.R.S. states an ALJ is "not required" to use the MTG's as the sole basis for a determination that a medical treatment is reasonable and necessary. Furthermore, Rule 17, Exhibit 4, section 2.1 states that the recommendations in the MTGs are for pre-MMI care and are not intended to limit post-MMI treatment.

H. In the case at hand, there is a discrepancy between the opinions of Dr. Weinstein and Dr. Burris concerning whether Claimant meets the criteria for PRP injections for his shoulder symptoms. Dr. Weinstein testified that the PRP injections are for both Claimant's tendonitis as well as his glenohumeral joint arthritis. Claimant has received conservative care and performed home therapy to assist in keeping his symptoms at a baseline level since being placed at MMI by Dr. Castrejon in 2016. Furthermore, Claimant credibly testified that the PRP injections increase his function in that he is better able to perform his activities of daily living and is able to sleep better. Even if Claimant does not meet the criteria set forth in the MTGs, Dr. Weinstein testified that the PRP injections increase Claimant's function. As found, Dr. Weinstein's opinions are more credible and persuasive than those of Dr. Burris. Considering the totality of the evidence, it is concluded that Claimant has proven by a preponderance of the evidence that the PRP injections are reasonable and necessary to cure and relieve Claimant from the effects of the March 7, 2015 industrial injury as well as maintain his functional status.

ORDER

It is therefore ordered that:

1) Respondent shall pay for Claimant's PRP injection of October 11, 2024.

2) All matters not determined herein, and not closed by operation of law, are reserved for future determination.

Dated this 8th day of April, 2025.

Michael A. Perales

Michael A. Perales
Administrative Law Judge
Office of Administrative Courts
2864 S. Circle Dr., Ste. 810
Colorado Springs, CO 80906

NOTE: If you are dissatisfied with the ALJ's order, you may file a Petition to Review the order with the Denver Office of Administrative Courts, 1525 Sherman St., 4th Floor, Denver, CO 80203. You must file your Petition to Review within twenty (20) days after mailing or service of the order, as indicated on certificate of mailing or service; otherwise, the ALJ's order will be final. You may file the Petition to Review by mail, as long as the certificate of mailing attached to your petition shows: (1) That you mailed it within twenty (20) days after mailing or service of the order of the ALJ; and (2) That you mailed it to the above address for the Denver Office of Administrative Courts. You may file your Petition to Review electronically by emailing the Petition to Review to the following email address: oac-ptr@state.co.us. If the Petition to Review is emailed to the aforementioned email address, the Petition to Review is deemed filed in Denver pursuant to OACRP 27(A) and Section 8-43-301, C.R.S. If the Petition to Review is filed by email to the proper email address, it does not need to be mailed to the Denver Office of Administrative Courts. For statutory reference, see Section 8-43-301(2), C.R.S. For further information regarding procedures to follow when filing a Petition to Review, see Rule 27, OACRP. You may access a petition to review form at: http://www.colorado.gov/dpa/oac/forms-WC.htm.