2014 IL App (2d) 130169WC-U
No. 2-13-0169WC
Order filed February 25, 2014

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

TOWN & COUNTRY DISTRIBUTORS,	)	Appeal from the Circuit Court
	)	of Kane County.
Plaintiff-Appellant,	)	
	)	
v.	)	No. 12-MR-520
	)	
THE ILLINOIS WORKERS'	)	
COMPENSATION COMMISSION and	)	
BRUCE WILLIAMSON,	)	Honorable
	)	David R. Akemann,
Defendants-Appellees.	)	Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hoffman, Harris, and Stewart concurred in the judgment.

ORDER

¶ 1 *Held*: (1) Commission's finding that claimant's current condition of ill-being is causally related to his work injury of September 23, 2010, is not against the manifest weight of the evidence in light of conflicting medical opinions; (2) Commission's award of temporary total disability benefits for the period from February 28, 2011, through March 29, 2011, is not against the manifest weight of the evidence; and (3) Commission's award of prospective medical treatment is not against the manifest weight of the evidence.

¶ 2 Respondent, Town & Country Distributors, appeals from the judgment of the circuit court of Kane County, which confirmed a decision of the Illinois Workers' Compensation Commission (Commission) awarding benefits to claimant, Bruce Williamson. On appeal, respondent challenges the Commission's findings with respect to causation, the period of temporary total disability (TTD), and prospective medical expenses. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On March 16, 2011, claimant filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq*. (West 2010)) asserting that he injured his upper back, spine, and shoulders on September 23, 2010, while working for respondent. The matter was tried before an arbitrator on November 21, 2011, pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2010)). The following evidence was presented at the arbitration hearing.

¶ 5 Respondent, a beer distributor, hired claimant in 1989. During all times relevant to this appeal, claimant worked for respondent as a "driver's helper." Claimant testified that this job involves delivering cases of beer to retailers using either a semi tractor trailer or a side-loading truck. According to claimant, he would use a side-loading truck 80% of the time. Using the side-loading truck involves lifting the rolling side doors on the truck, climbing up onto the side of the truck, pulling cases down to the ground from a height of 10 feet, stacking the product onto a two-wheeler, moving the two-wheeler into the store, and shelving each case of beer or creating displays. Claimant estimated that a case of beer weighs between 25 and 28 pounds and that each day he would move about 800 cases of beer on average by himself.

¶ 6 Claimant acknowledged a history of pain involving his back and neck dating to the early 1990s. In 1996, claimant began seeing Dr. Scott Payne, a chiropractor, for these complaints.

Claimant testified that he was able to perform all the functions of his job and never missed work due to complaints of back or neck pain during this period.

¶ 7 On January 16, 1998, claimant slipped and fell on ice while at work, landing on his left arm. Following this incident, claimant noticed an increase in pain involving his shoulder and neck and he began to experience headaches. Claimant returned to Dr. Payne, who referred him to Dr. Harb Boury at Neurological and Spine Surgery. Claimant first saw Dr. Boury on February 6, 1998. Dr. Boury eventually diagnosed claimant with a herniated disc at C5-C6 and a congenitally narrow spinal canal which was made symptomatic by the work injury. At that time, he recommended an anterior cervical discectomy and fusion at C5-C6. However, after reviewing an April 26, 1999, MRI of claimant's cervical spine, Dr. Boury recommended a two-level anterior cervical discectomy and fusion at C3-C4 and C5-C6. On September 13, 1999, claimant was seen by Dr. John Shea of Loyola University Hospital for an independent medical examination. Dr. Shea opined that there was no need for surgery due to the January 16, 1998, injury.

¶ 8 Meanwhile, claimant continued to treat with Dr. Payne and Dr. Boury. Dr. Payne ordered an EMG, which was completed on February 14, 2001. The EMG was negative for paracervical or upper extremity muscle denervation, cervical radiculopathy, myopathy, or polymyositis. Claimant followed up with Dr. Boury on August 6, 2001. At that time, Dr. Boury ordered a repeat MRI, which was performed on August 9, 2001. The repeat MRI showed no significant change from the April 26, 1999, MRI. As a result, Dr. Boury continued to recommend an anterior cervical discectomy and fusion at C3-C4 and C5-C6.

¶ 9 Claimant filed a workers' compensation claim related to the January 16, 1998, accident. On November 1, 2002, the arbitrator issued a decision, finding that claimant sustained an injury

arising out of and in the course of his employment on January 16, 1998, but denying authorization for the surgical procedure requested by Dr. Boury. Eventually, the matter was settled without authorization for surgery and claimant never underwent the procedure recommended by Dr. Boury. Claimant denied losing time from work as a result of the January 1998 injury. He further noted that although he felt soreness in his shoulders, neck, and head, he was not placed on light duty, but continued to work full duty, including pulling product off the trucks.

¶ 10 With respect to the injury at issue, claimant testified that on September 23, 2010, he was making a delivery using a side-loading truck. As he tried to close the rolling side door of the vehicle, the door "jammed" and claimant felt a sharp pain in the back of his neck and in his left shoulder. According to claimant, the pain was worse than the type of pain he experienced in the same areas prior to September 23. Claimant was able to finish his shift on September 23 and work the following day. However, the condition worsened, and he reported the injury to respondent. Respondent sent claimant to Concentra, the company clinic, where he underwent an examination and X rays. Based on those results, claimant was sent for an MRI, which was completed on October 4, 2010. Claimant was provided a note limiting his ability to return to work, but respondent would not accommodate light duty.

¶ 11 Claimant returned to Concentra on October 6, 2010, at which time he was referred to Dr. Sean Salehi, a neurosurgeon. Dr. Salehi first saw claimant on October 15, 2010. Claimant told Dr. Salehi that he began to feel pain in his neck and left shoulder on September 23, 2010, while reaching overhead to pull down a heavy door on his work truck. Dr. Salehi's records indicate that although claimant admitted having similar pain in the past, it was "never as severe," and claimant denied any prior workers' compensation claims requiring medical attention. Dr. Salehi

reviewed the MRI of October 4, 2010, noting: (1) multi-level disc disease from C3-C4 through C5-C6 without cord compression; (2) moderate to significant bilateral foraminal stenosis at C3-C4; (3) moderate to significant bilateral foraminal stenosis at C4-C5; (4) significant bilateral foraminal stenosis at C5-C6; and (5) a right paracentral bulge/herniation at C6-C7 resulting in significant foraminal stenosis. Dr. Salehi diagnosed degenerative disc disease. He prescribed six weeks of physical therapy, modified duty, pain medication, and possible injection therapy. Claimant did complete six weeks of physical therapy, but experienced no significant relief.

¶ 12 Claimant returned to Dr. Salehi on December 3, 2010, complaining of continued neck pain and pain radiating down both arms, left worse than right. Dr. Salehi referred claimant for a cervical epidural steroid injection from C4 through C6. That injection was administered by physicians at the Illinois Pain Institute and provided only minimal relief. As part of his treatment at the Illinois Pain Institute, claimant underwent an EMG, which was performed on December 30, 2010. That EMG noted mild chronic right C5-C6 radiculopathy.

¶ 13 On January 17, 2011, claimant was examined by Dr. Michael Kornblatt pursuant to section 12 of the Act (820 ILCS 305/12 (West 2010)). In a report of his findings, Dr. Kornblatt opined that claimant suffered a cervical strain and exacerbation of preexisting multi-level cervical degenerative disc disease. Dr. Kornblatt felt that claimant still needed conservative care but that surgery was not indicated. Further, Dr. Kornblatt opined that if claimant warrants surgical treatment referable to the spine, it would be unrelated to the specific work incident of September 23, 2010, as this incident did not result in a cervical radiculopathy, cervical myelopathy, herniated disc, or nerve root or spinal cord impingement. Dr. Kornblatt recommended a four week work-conditioning program. In addition, he imposed a 30-pound lifting restriction for three weeks, but noted that the restriction could be diminished after that if

restricted duty is available. Dr. Kornblatt estimated that claimant would reach maximum medical improvement (MMI) upon completion of the work-conditioning program, or, if restricted duty is available, upon completion of three weeks of restricted duty and three weeks of full duty.

¶ 14 On January 21, 2011, claimant returned to Dr. Salehi. Claimant continued to complain of neck pain with radiation down both arms, but noted that "his neck pain is the majority of his complaints." Dr. Salehi noted that claimant was scheduled to undergo a second epidural steroid injection. However, given that claimant's complaints centered on his neck, Dr. Salehi recommended facet injections in the bilateral C3-4 down to C6-7 instead. The record does not indicate that the facet injections were ever administered. However, respondent did authorize the work-conditioning program prescribed by Dr. Kornblatt. Claimant completed the work-conditioning program, but reported that it provided no benefit in reducing his pain.

¶ 15 Claimant sought a second opinion from Dr. Ronjon Paul, an orthopaedic spine surgeon, on February 9, 2011. Dr. Paul diagnosed claimant with moderate to severe cervical spinal stenosis from C3-4 through C5-6. Dr. Paul recommended a cervical anterior cervical discectomy and fusion at all three levels. Meanwhile, claimant continued to treat with Dr. Salehi, who agreed that claimant should consider a three-level anterior discectomy and fusion.

¶ 16 Although Dr. Kornblatt never examined claimant after January 17, 2011, he authored several addenda to his report, including one dated March 18, 2011. In that addendum, Dr. Kornblatt noted that claimant completed the work-conditioning program on February 28, 2011. The results of that evaluation indicated that claimant could occasionally carry 100 pounds and occasionally handle material from floor to knuckle and from knuckle to shoulder of 100 pounds. In addition, claimant was capable of frequently handling material from floor to knuckle and

knuckle to shoulder of 50 pounds and from shoulder to overhead of 20 pounds. Dr. Kornblatt found that claimant was able to return to work as of February 28, 2011, in accordance with the restrictions set forth in the work-conditioning evaluation. Dr. Kornblatt also recommended that claimant obtain a functional capacity evaluation (FCE) to document permanent work restrictions, although the record does not indicate that the FCE was ever authorized. On March 25, 2011, Dr. Kornblatt authored a second addendum, opining that claimant had reached MMI as of the completion of the work-conditioning program on February 28, 2011.

¶ 17 Claimant testified that he was informed by his attorney on or about March 25, 2011, that Dr. Kornblatt had returned him to work within the restrictions referenced in the work-conditioning evaluation. In response, claimant contacted his supervisor, Lowell Streufert. Streufert told claimant that he could not return to work unless he had a full-duty release from his treating physician. After speaking with Streufert, claimant called Dr. Salehi's office and asked the staff for a note allowing him to return to work without restrictions. On March 29, 2011, Dr. Salehi issued a note releasing claimant to return to work on March 30, 2011. Claimant testified that he did not speak with Dr. Salehi when he requested the release and Dr. Salehi did not examine him before authorizing his return to work.

¶ 18 Claimant returned to work on March 30, 2011. During his first week back, claimant was assigned a different route because his partner, David Barnes, was on vacation. As a result, claimant performed the full duties of his position, including pulling product from 10 feet high, stacking product, wheeling product into stores, and stocking it. Claimant testified that this work made him "real sore" and increased the pain in his neck, shoulders, and arms. When Barnes returned from vacation, he and claimant again paired together as driver and helper for deliveries. At that time, Barnes began doing nearly all the pulling of cases of beer so as not to "aggravate[]"

claimant's neck and shoulder. Claimant testified that he continues to experience severe headaches, neck pain, shoulder pain, and pain radiating into both arms. He stated that the pain is getting worse and that it wakes him from his sleep. Claimant testified that he did not experience sharp pains in the shoulders and down the arms prior to September 2010. Claimant testified that he wishes to proceed with the three-level anterior cervical fusion.

¶ 19 Barnes testified that he has worked with claimant for about 17 years. According to Barnes, after claimant's injury on January 16, 1998, claimant continued to perform all the functions of his job without modification or assistance, including pulling cases of beer. Barnes testified that between 2001 and September 23, 2010, claimant would occasionally complain of headaches and neck and shoulder pain. However, claimant never missed a significant amount of time from work for any such complaints. Barnes testified that since claimant returned to work in March 2011, he complains of pain constantly. Barnes testified that he has agreed to pull nearly all of the cases of beer so claimant may continue working.

¶ 20 Dr. Michael Zindrick, a board-certified orthopaedic surgeon specializing in the spine, testified by evidence deposition. Dr. Zindrick examined claimant on May 5, 2011. In conjunction with the examination, Dr. Zindrick reviewed multiple diagnostic films, including the MRI taken on October 4, 2011, and various medical records, including those from Concentra, Dr. Salehi, Dr. Paul, and Dr. Kornblatt. During the examination, claimant related the events of September 23, 2010, and complained of pain in his neck radiating to both shoulders and arms with tingling and numbness into his hands bilaterally. Dr. Zindrick noted that the MRI showed varying degrees of degenerative disc disease and cervical spinal stenosis from C4 to C6 as well as a central stenosis at C3-C4 with bilateral severe foraminal stenosis between C3 and C4. Dr.

Zindrick testified that although claimant reported a long-standing condition of pain in his upper body prior to September 23, 2010, he was "functioning" and "doing his job."

¶ 21 Dr. Zindrick diagnosed preexisting degenerative disc disease and opined that claimant's current condition of ill-being is due to an aggravation of this condition resulting from the trauma of September 23, 2010. Dr. Zindrick explained that the neck experiences a "load" or "force" during lifting and pulling which results in further inflammation or irritation of the disc and the facet joints as well as synovitis in the facet joints that causes increased pain, loss of range of motion, and aggravation of neurologic symptoms. According to Dr. Zindrick, a work-related injury "can really be the tipping point *** for a degenerative condition to become either symptomatic from an asymptomatic condition or symptomatically worse from a prior minimally symptomatic condition." It was Dr. Zindrick's understanding that in claimant's case, his symptoms, *i.e.*, his neck and arm pain, became "significantly worse" after the September 2010 accident and he experienced a decrease in physical function that interfered with his ability to work. Having been through various conservative measures, Dr. Zindrick opined that surgery "would be the next appropriate reasonable step" for claimant. In particular, Dr. Zindrick recommended an anterior cervical fusion at levels C3-4, C4-5, and C5-6.

¶ 22 In response to Dr. Zindrick's examination, Dr. Kornblatt authored a third addendum, dated October 14, 2011. Dr. Kornblatt opined that claimant's incident of September 23, 2010, represented only a temporary exacerbation of his preexisting cervical condition and neither resulted in an acute condition necessitating surgery nor caused or accelerated preexisting degenerative disc disease. According to Dr. Kornblatt, "[i]f indeed the work incident of September 23, 2010, had resulted in a clinical surgical lesion, the patient's clinical findings on

examination would have been consistent with radiculopathy and/or myelopathy which were never documented."

¶ 23 Based on the foregoing evidence, the arbitrator determined that claimant's current condition of ill-being is causally related to the accident of September 23, 2010. The arbitrator adopted the opinion of Dr. Zindrick, who opined that the September 23, 2010, injury was the "tipping point" causing claimant's current complaints of ill-being. In addition, the arbitrator credited claimant's testimony that although he had cervical stenosis prior to September 23, 2010, he did not miss a significant amount of time from work due to complaints related to the preexisting condition and he was able to perform his duties without any accommodation, but that after September 23, 2010, he was in significantly more pain and was unable to perform all of his work duties. Relying on the opinions of Drs. Salehi, Paul, and Zindrick, the arbitrator ordered respondent to authorize and pay for the anterior cervical fusion at levels C3-4, C4-5, C5-6. With respect to the period of TTD, the arbitrator noted that it was not until late in March 2011 that claimant was advised that Dr. Kornblatt had returned him to restricted duties as of February 28, 2011. When claimant called his supervisor, however, he was informed that he could not return to work without a full-duty release authored by his treating physician. In response, claimant obtained authorization from Dr. Salehi to work full duty as of March 30, 2011. Thus, the arbitrator awarded TTD benefits for the period from September 27, 2010, through March 29, 2011, a period of 26-2/7 weeks.

¶ 24 In a unanimous decision, the Commission affirmed and adopted the decision of the arbitrator and remanded the cause for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980). On judicial review, the circuit court of Kane County confirmed the decision of the Commission. Respondent then initiated the present appeal.

¶ 25 II. ANALYSIS

¶ 26 A. Causation

¶ 27 Respondent first argues that the Commission's finding that claimant's current condition of ill-being is causally related to the work accident of September 23, 2010, is against the manifest weight of the evidence. To obtain compensation under the Act, an employee must prove that some act or phase of employment was a causative factor in the ensuing injuries. *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 592 (2005). A work-related injury need not be the sole or principal causative factor, as long as it was *a* causative factor in the resulting condition of ill-being. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 205 (2003). Thus, even if an employee has a preexisting condition which makes him or her more vulnerable to injury, recovery for an industrial injury will not be denied as long as the employee can establish that employment was also a causative factor. *Sisbro, Inc.*, 207 Ill. 2d at 205. In resolving disputed issues of fact, including issues of causation, it is the Commission's province to assess the credibility of witnesses, draw reasonable inferences from the evidence, determine the weight to assign testimony, and to resolve conflicts in the evidence. *Beattie v. Industrial Comm'n*, 276 Ill. App. 3d 446, 449 (1995). A reviewing court may not substitute its judgment for that of the Commission on factual issues merely because other inferences from the evidence may be drawn. *Berry v. Industrial Comm'n*, 99 Ill. 2d 401, 407 (1984). We will overturn the Commission's causation finding only when it is against the manifest weight of the evidence. *Swartz v. Industrial Comm'n*, 359 Ill. App. 3d 1083, 1086 (2005). A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Caterpillar, Inc. v. Industrial Comm'n*, 228 Ill. App. 3d 288, 291 (1992).

¶ 28 In this case, the Commission weighed the evidence and determined that claimant's current condition of ill-being was causally related to the September 23, 2010, accident. In support of this finding, the Commission cited claimant's testimony that his preexisting condition worsened following the accident on September 23, 2010. The Commission also credited the opinion of Dr. Zindrick over the opinion of Dr. Kornblatt. According to respondent, this constituted error as Dr. Kornblatt was the only physician who "studied all of [claimant's] records and came to his conclusions." We disagree.

¶ 29 First, there was ample evidence that claimant's condition worsened after September 23, 2010. The record establishes that although claimant had a preexisting history of pain involving his back and neck dating back to the early nineties, he did not miss a significant amount of work because of these symptoms and he was able to perform all of his work duties. The evidence is undisputed, however, that after the September 23, 2010, accident, claimant reported significantly more pain in his neck, shoulder, and head and testified that these symptoms interfered with his work duties. For instance, claimant noted that he cannot pull cases of beer without causing extreme pain. Accordingly, when he works with his partner, Barnes performs nearly all of the pulling duties. Based on this testimony, the Commission could have reasonably concluded that the accident of September 23, 2010, was *a* causative factor in claimant's condition of ill-being. See *Sisbro, Inc.*, 207 Ill. 2d at 205.

¶ 30 Moreover, there was also medical evidence to support a finding of causation. As the Commission noted, Dr. Zindrick opined that claimant's current condition of ill-being is due to an aggravation of his degenerative disc disease resulting from the trauma of September 23, 2010. Specifically, Dr. Zindrick explained that the neck experiences a "load" or "force" during lifting and pulling which results in further inflammation or irritation of the disc and the facet joints as

well as synovitis in the facet joints that causes increased pain, loss of range of motion, and aggravation of neurologic symptoms. Dr. Zindrick related that claimant was minimally symptomatic and able to do his job until September 23, 2010. On that date, which Dr. Zindrick identified as the "tipping point," claimant's neck and arm pain became "significantly worse," resulting in a decrease in physical function that interfered with claimant's ability to work. Noting that conservative measures had failed claimant, Dr. Zindrick agreed that "the next reasonable step" would be for claimant to undergo an anterior cervical discectomy and fusion at C3-C4, C4-C5, and C5-C6, a procedure recommended by claimant's other physicians (Drs. Salehi and Paul).

¶ 31 Although respondent's section 12 examiner, Dr. Kornblatt, reached a different conclusion, the Commission was not required to adopt his opinion. Quite simply, the Commission was presented with conflicting medical opinions. Dr. Zindrick reasoned that claimant's current condition of ill-being is causally related to the accident of September 23, 2010, because following that date, claimant's pain became more intense and interfered with his ability to work, necessitating a three-level fusion. Dr. Kornblatt opined that the event of September 23, 2010, merely resulted in a temporary exacerbation of his preexisting condition which did not require surgery. The Commission resolved the dispute in favor of claimant as was its province to do. *Beattie*, 276 Ill. App. 3d at 449.

¶ 32 As noted above, respondent insists that the Commission should have given more weight to the opinion of Dr. Kornblatt because he was the only physician who "studied all of [claimant's] records and came to his conclusions." The Commission could have reasonably concluded otherwise. In this regard we note that according to Dr. Kornblatt, any surgical treatment to the spine would be unrelated to the work injury because the incident of September

23, 2010, did not result in a cervical radiculopathy, cervical myelopathy, herniated disc, or nerve root or spinal cord impingement. It is true that an EMG taken in connection to claimant's January 1998 accident was negative for cervical radiculopathy. However, an EMG taken on December 30, 2010, just two months after the accident at issue, demonstrates mild chronic right C5-C6 radiculopathy. Thus, Dr. Kornblatt's opinion was inconsistent with the evidence of record. Respondent acknowledges the December 30, 2010, EMG, but insists that it merely revealed "a normal progression of [claimant's] condition at C5-C6 that was not affected in any way by claimant's accident of September 23, 2010." However, respondent cites no medical testimony supporting this claim.

¶ 33 Respondent also asserts that the Commission erred in crediting Dr. Zindrick because he did not articulate how the preexisting degenerative changes were in any way changed by the work accident. According to respondent, Dr. Zindrick's opinion is based more on claimant's subjective complaints than medical records and diagnostic testing. Respondent, however, cites no reason why Dr. Zindrick was not entitled to rely on claimant's subjective complaints in forming his opinion. More important, the December 30, 2011, EMG provides some objective evidence that claimant's condition was changed by the work accident. In short, we cannot say that an opposite conclusion is clearly apparent. The Commission's conclusion that claimant's current condition of ill-being is causally related to the September 23, 2011, accident is therefore not against the manifest weight of the evidence.

¶ 34 B. TTD

¶ 35 Respondent next challenges the period of TTD awarded to claimant. An employee is temporarily totally disabled from the time an injury incapacitates him until such time as he is as far recovered as the permanent character of the injury will permit, *i.e.*, reached MMI. *Archer*

Daniels Midland Co. v. Industrial Comm'n, 138 Ill. 2d 107, 118 (1990); *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 542 (2007). An employee seeking TTD benefits must prove not only that he or she did not work, but that he or she is unable to work and the duration of that inability to work. *Pietrzak v. Industrial Comm'n*, 329 Ill. App. 3d 828, 832 (2002). The period during which an employee is temporarily totally disabled is a question of fact for the Commission. *Archer Daniels Midland Co.*, 138 Ill. 2d at 118-19. In determining whether an injured employee has reached MMI, the Commission may consider factors such as a release to work, medical testimony or evidence concerning the employee's injury, and, most importantly, whether the injury has stabilized. *Mechanical Devices v. Industrial Comm'n*, 344 Ill. App. 3d 752, 760 (2003). The Commission's determination as to the period of TTD will not be set aside on review unless it is contrary to the manifest weight of the evidence. *Archer Daniels Midland Co.*, 138 Ill. 2d at 118-19. A decision is against the manifest weight of the evidence only if a contrary decision is clearly apparent. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 675 (2009).

¶ 36 In this case, the Commission awarded claimant 26-2/7 weeks of TTD benefits, encompassing the period from September 27, 2010 (claimant's first day off work following the accident), through March 29, 2011 (the day before he returned to work). On appeal, respondent does not dispute that claimant was unable to work for a period of 22 weeks from September 27, 2010, through February 28, 2011. However, relying on Dr. Kornblatt's reports, respondent insists that claimant's condition stabilized by February 28, 2011, and he is therefore not entitled to TTD benefits for the period from February 28, 2011, through March 29, 2011.

¶ 37 The record shows that in his initial report of January 17, 2011, Dr. Kornblatt recommended that claimant undergo a four-week work-conditioning program. At that time, Dr.

Kornblatt estimated that claimant would reach MMI upon completion of work-conditioning. Claimant completed the work-conditioning program on or about February 28, 2011, at which time certain work limitations were recommended. However, it was not until March 18, 2011, that Dr. Kornblatt authored an addendum to his report, opining that claimant was capable of returning to work as of February 28, 2011, within the restrictions set forth in the work-conditioning evaluation. A week later, Dr. Kornblatt authored another addendum, indicating that respondent reached MMI on February 28, 2011. Claimant testified that his attorney informed him on or about March 25, 2011, that Dr. Kornblatt had released him to work within the restrictions in accordance with the findings of the work-conditioning program. Claimant then contacted his supervisor, Streufert, who informed claimant that he could not return to work unless he had a full duty release authored by his treating physician. In response, claimant called Dr. Salehi's office to obtain a release to return to work without restrictions. On March 29, 2011, Dr. Salehi issued a note authorizing claimant to return to work as of March 30, 2011.

¶ 38 Thus, the evidence suggests that claimant was not even aware that Dr. Kornblatt had released him to return to work as of February 28, 2011, until late in March 2011. Further, Dr. Kornblatt's release was subject to restrictions. Respondent, however, would not allow claimant to return to work modified duty. Accordingly, claimant was instructed by his supervisor to obtain a full-duty release from his treating physician. Claimant contacted Dr. Salehi's office shortly after speaking with his supervisor and Dr. Salehi released claimant to work as of March 30, 2011. Based on this evidence, the Commission could have reasonably concluded that claimant was unable to work prior March 30, 2011. As such, we cannot say that the Commission's award of TTD benefits through March 29, 2011, is against the manifest weight of the evidence.

¶ 39 C. Prospective Medical

¶ 40 Finally, respondent argues that the Commission's decision to award claimant prospective medical treatment is against the manifest weight of the evidence. Section 8(a) of the Act (820 ILCS 305/8(a) (West 2010)) provides that the employer "shall pay for necessary medical, surgical and hospital services, limited however, to that which is reasonably required to cure or relieve from the effects of the accidental injury." Questions regarding entitlement to prospective medical care under section 8(a) are factual inquiries for the Commission to resolve. *Dye v. Illinois Workers' Compensation Comm'n*, 2012 IL App (3d) 110907WC, ¶ 10. The Commission's decision on a factual matter will not be disturbed on appeal unless it is against the manifest weight of the evidence. *Dye*, 2012 IL App (3d) 110907WC, ¶ 10. A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Dye*, 2012 IL App (3d) 110907WC, ¶ 10.

¶ 41 Respondent insists that claimant failed to prove that his recommended treatment is causally related to the September 23, 2010, accident. According to respondent, the recommended surgery is no different than the procedure previously recommended by Dr. Boury. Contrary to respondent's position, the recommended surgery is not identical to the operation previously recommended by Dr. Boury. Dr. Boury advised surgery at only two levels whereas claimant's current physicians, Drs. Salehi, Paul, and Zindrick, recommended a *three-level* anterior cervical discectomy and fusion. We acknowledge that Dr. Kornblatt does not recommend surgery. However, as noted with respect to causation, this merely created a conflict for the Commission to resolve. *Beattie*, 276 Ill. App. 3d at 449. Moreover, Dr. Kornblatt appears to base his opinion that spine surgery is not necessary on his belief that if the work incident of September 23, 2010, resulted in a clinical surgical lesion, claimant's physical findings

on examination would have been consistent with a radiculopathy or a myelopathy which were never documented. As noted previously, however, the EMG from December 30, 2010, taken just three months after the accident at issue, noted mild chronic right C5-C6 radiculopathy. In sum, given that three qualified spinal specialists agree that claimant requires surgical intervention, we cannot say that the Commission's finding that the recommended surgery is reasonable and necessary is against the manifest weight of the evidence.

¶ 42 III. CONCLUSION

¶ 43 For the foregoing reasons, we affirm the judgment of the circuit court of Kane County. This cause is remanded for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327.

¶ 44 Affirmed and remanded.