

2016 IL App (3d) 150829WC-U
No. 3-15-0829WC
Order filed December 20, 2016

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IN THE
APPELLATE COURT OF ILLINOIS
THIRD DISTRICT
WORKERS' COMPENSATION COMMISSION DIVISION

DAWN FOOD PRODUCTS, INC.,)	Appeal from the Circuit Court
)	of Kankakee County.
Appellant,)	
)	
v.)	No. 15-MR-305
)	
THE ILLINOIS WORKERS')	
COMPENSATION COMMISSION, <i>et al.</i> ,)	Honorable
)	Adrienne W. Albrecht,
(Seth Whitmer, Appellee).)	Judge, Presiding.

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

ORDER

¶ 1 *Held:* (1) The Commission's finding that the current condition of ill-being of claimant's back is not causally related to his industrial accident of April 19, 2013, was not against the manifest weight of the evidence given the Commission's concerns regarding claimant's credibility and the fact that the only physician who directly addressed the issue found no causation; and (2) given the Commission's conclusion regarding causal connection, its decisions to limit reasonable and necessary medical expenses to those incurred through September 26, 2013, and to terminate TTD benefits as of October 11, 2013, were not against the manifest weight of the evidence.

¶ 2

I. INTRODUCTION

¶ 3 Claimant, Seth Whitmer, sought benefits pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2012)) for injuries he allegedly sustained to his back while working for respondent, Dawn Food Products, Inc. Following a hearing pursuant to section 19(b) of the Act (820 ILCS 305/19(b) (West 2012)), the arbitrator determined that claimant sustained a compensable injury and that his current condition of ill-being was causally related to his industrial accident. The arbitrator awarded claimant 57-2/7 weeks of temporary total disability (TTD) benefits, encompassing two distinct periods, from April 19, 2013, through April 21, 2013, and from April 26, 2013, through the date of the arbitration hearing. The arbitrator also awarded claimant all medical expenses incurred prior to the arbitration hearing. The Illinois Workers' Compensation Commission (Commission) reversed the decision of the arbitrator on the issue of causal connection, vacated the award of medical expenses incurred after September 26, 2013, modified the period of TTD benefits, and remanded the matter for further proceedings. On judicial review, the circuit court of Kankakee County set aside the decision of the Commission and reinstated the decision of the arbitrator. Respondent now appeals, arguing that the Commission's findings with respect to causation, medical expenses, and TTD benefits were not against the manifest weight of the evidence. For the reasons set forth below, we agree with respondent. Accordingly, we reverse the judgment of the circuit court, reinstate the decision of the Commission, and remand this matter for further proceedings.

¶ 4

II. BACKGROUND

¶ 5 On May 28, 2013, claimant filed an application for adjustment of claim alleging injuries to his left lower extremity and the "man as a whole" on April 19, 2013, while working for respondent. The claim proceeded to an arbitration hearing pursuant to section 19(b) of the Act

(820 ILCS 305/19(b) (West 2012)) on May 29, 2014. The issues in dispute were accident, causation, period of TTD, medical expenses, and prospective medical care. The following evidence was presented at the arbitration hearing.

¶ 6 Respondent operates an industrial bakery producing cookies, cupcakes, and muffins on a large scale. Claimant began working for respondent in 2012 as a temporary laborer. In October 2012, claimant was hired for a regular full-time position in “environmental control.” This position involved tearing down and cleaning the industrial equipment for sanitation purposes. Claimant testified that he performed this work without any problems.

¶ 7 In March 2013, claimant bid on a “batter mixer” position. Claimant began working in this position as a trainee on March 11, 2013, and after a week of training, he worked alone. This position was regularly scheduled for 12-hour shifts. The work involved lifting large bags of flour and buckets of soy oil and pouring them into a mixer. The bags were stored on a pallet about six feet from the mixer. Claimant testified that a typical “batch” of product required 9 to 11 bags of flour and 2½ to 3 buckets of soy oil, each weighing about 50 pounds. Claimant made between 20 and 33 batches per day. Claimant testified that prior to April 19, 2013, he was not under any medical restrictions and was able to fully perform his job duties, including heavy lifting.

¶ 8 Claimant saw his family physician, Dr. Dharam Anand, twice in the month preceding the accident. On March 18, 2013, claimant was seen for a wellness examination. He presented with complaints of anxiety and hip pain. An examination of claimant’s musculoskeletal system showed “[n]o joint or back pain or muscle problems.” Dr. Anand recorded claimant’s weight as 313 pounds and his height as 77 inches, giving him a body-mass index (BMI) of 37.1. Dr.

Anand recommended preventative counseling related to diet and exercise. In addition, he continued claimant's anxiety medication.

¶ 9 On March 29, 2013, claimant again saw Dr. Anand. At that time, claimant reported that his anxiety medication (Zoloft) was not helping. Claimant also reported pain in the left hip and back. Claimant testified that he recalled the pain as a "dull ache" in his left hip. Dr. Anand ordered an X ray of the left hip, which was interpreted as normal. Dr. Anand diagnosed anxiety, back pain, left hip pain, and sciatica. He changed claimant's anxiety medication from Zoloft to Xanax and reiterated that claimant undergo preventative counseling related to diet and exercise. Claimant testified that he did not recall complaining of back pain or being diagnosed by Dr. Anand with sciatica.

¶ 10 Claimant testified that on April 19, 2013, the day of the injury, he was performing his job duties as usual. He stated that at approximately 9 a.m., which was 4 hours into his shift, he lifted a 50-pound bucket of soy oil and felt a sharp pain in his low back with pain traveling down his left leg. He stopped briefly to stretch his back out and continued working, but after an hour or two, the pain became unbearable. Claimant reported the injury to his supervisor, who drove him directly to the company clinic, Provena St. Mary's Hospital Occupational Health Center (Provena).

¶ 11 At Provena, claimant was examined by Dr. J.M. Panuska. Dr. Panuska noted that claimant experienced low back pain radiating to his left leg and foot after lifting 50-pound bags. Claimant reported moderate discomfort. Upon examination, Dr. Panuska noted that claimant sat crooked with his left leg extended. Dr. Panuska also noted lumbar tenderness with positive straight-leg raising and sciatic tension on the left. Dr. Panuska diagnosed a lumbar strain with sciatica. He prescribed Vicodin and a Medrol Dosepak. He also instructed claimant to stay off

work that day and periodically apply ice to his back for the rest of the day. He was given light-duty restrictions to start the following day. These restrictions included: (1) a five-pound lifting limit; (2) limited bending, stooping, and twisting; (3) alternate standing and sitting as needed; and (4) no reaching while lifting.

¶ 12 On April 22, 2013, claimant again saw Dr. Panuska. He reported no change and rated his low-back pain at level 5 on a 10-point scale. Dr. Panuska prescribed physical therapy and ThermoCare patches along with the medications and work restrictions given earlier. Claimant testified that his light-duty work began that day, consisting of emptying muffin wrappers and straightening product as it traveled down the production line. However, even this light work caused painful muscle spasms to his low back. Claimant reported the problem to respondent's safety representatives but did not receive a response.

¶ 13 On April 25, 2013, claimant consulted Dr. Anand. Dr. Anand recorded that claimant "hurt back 4-19-13 at work" while lifting something, which caused a burning and painful sensation on his left side with radiation down his left leg to his toes. Dr. Anand noted that the pain had worsened since the accident, that the occupational health physician would not take claimant off work, and that claimant experienced spasms when claimant tried to return to work. Dr. Anand diagnosed sciatica and ordered a lumbar MRI. Claimant testified that Dr. Anand took him off work beginning the following day and that he has not worked since.

¶ 14 On May 3, 2013, claimant followed up with Dr. Anand for his back pain. At that time, claimant reported pain at a constant level of 6/10, which interfered with his ability to sleep despite being prescribed Flexeril and Vicodin. Dr. Anand ordered physical therapy and repeated his order for an MRI, which had not yet been approved. When claimant returned on May 13, he reported continued back pain that increased as the day progressed. Dr. Anand noted that neither

the MRI nor the physical therapy had been approved and that claimant was “off work due to back pain.”

¶ 15 Respondent’s workers’ compensation carrier eventually approved the lumbar MRI, and it was performed on May 30, 2013. The radiologist interpreted the MRI as showing a small posterior disc herniation at L3-L4 and a small posterior central disc protrusion at L4-L5, superimposed on disc bulging from L1-L2 through L4-L5. There was no central canal stenosis, but moderate to severe foraminal narrowing was noted bilaterally at L3-L4 and L4-L5, with an annular tear at L3-L4.

¶ 16 On June 7, 2013, Dr. Anand reviewed the MRI results with claimant. At that time, plaintiff reported pain at a 4/10 level in the morning that increased to 7/10 as the day progressed. Dr. Anand referred claimant to a pain clinic for treatment. When claimant returned on June 21, Dr. Anand noted that claimant was still awaiting approval for the pain clinic and physical therapy. On July 12, 2013, claimant reported no improvement in his back pain. His medications at the time (Norco and Soma) were causing nausea, but he continued to take them. Dr. Anand renewed claimant’s off-work status and referred him “to uoniversity [*sic*] for evaluation for surgery.” On August 9, 2013, claimant reported to Dr. Anand that his back pain persisted and that it “hurt to do anything,” including sitting, lying down, or lifting. The pain kept claimant awake at night, and he continued to experience nausea from the pain medication. On August 12, 2013, Dr. Anand referred claimant to a pain specialist, Dr. Kelly. Claimant testified that he was never approved to see Dr. Kelly.

¶ 17 Meanwhile, on August 29, 2013, respondent had claimant evaluated by Dr. Jesse Butler pursuant to section 12 of the Act (820 ILCS 305/12 (West 2012)). Dr. Butler authored a report of his findings. Regarding the accident, Dr. Butler wrote, “[t]he patient reports on April 19,

2013 he was lifting a barrel of soy oil that weighed about 50 pounds and developed back pain. He denied prior injury. He reports back and left leg pain. He states he works as a mixer and lifts bags of cake mix at work.” Dr. Butler reviewed the notes of claimant’s visits to Dr. Anand on March 18 and March 29, 2013. He noted diet and exercise counseling and the change from Zoloft to Xanax, along with an “unremarkable” left hip X ray taken on March 29. Dr. Butler referenced an April 22, 2013, return-to-work form signed by Dr. Panuska outlining light-duty restrictions. He also reviewed Dr. Anand’s progress notes from April 25 through June 7, 2013, including the written report of claimant’s May 30, 2013, lumbar MRI. Dr. Butler noted that Dr. Anand had kept claimant off work and referred him to a pain clinic, but he “has yet to have injections.” He summarized the MRI report as showing “multilevel degenerative spondylosis,” disc bulges at L1-L2 through L4-L5, a small posterior central disc herniation at L3-L4, a small posterior central disc protrusion at L4-L5, and “multilevel foraminal compromise,” but no central canal stenosis. Dr. Butler’s physical examination noted moderate lumbosacral tenderness and lumbar spine flexion of 60 degrees, but no neurologic deficits. Straight-leg-raising, reverse-straight-leg-raising, and Waddell’s tests were all negative. Claimant’s height was 77 inches and his weight was 368 pounds, giving him a BMI of 43.64. Dr. Butler noted that claimant was “[m]orbidly obese with a large protuberant abdomen.” Dr. Butler concluded as follows:

“The diagnosis is lumbar strain and morbid obesity with deconditioning. The lumbar strain appears to be causally related to the work injury. The patient remains off work pending review of the [MRI] films. He may work light duty with a 25 pound lifting restriction. He should limit bending and stooping to an occasional basis. The need for additional treatment is not known. I need to review the films to determine the medical necessity of additional treatment.”

Claimant testified that although the examination lasted 90 minutes, Dr. Butler spent only 5 to 10 minutes with him. Following the examination, he was not offered any light-duty work and his TTD benefits continued.

¶ 18 On September 12, 2013, claimant reported to Dr. Anand that he was waiting for the company physician to approve a pain clinic referral and injections. He continued to have back pain as well as nausea from the medications. Dr. Anand kept claimant off work.

¶ 19 On September 26, 2013, Dr. Butler reviewed claimant's MRI films and authored an addendum to his initial report. Dr. Butler reported a central protrusion of the L4-L5 disc which he labeled as "degenerative." However, he found that the L3-L4 level, where the radiologist had reported a small disc herniation and annular tear as well as moderate to severe foraminal narrowing, was "normal." There was "some mild stenosis at the L4-L5 and L5-S1 levels" and "facet hypertrophy at multiple levels." In Dr. Butler's opinion, the MRI showed no "acute structural pathology affecting the lumbar spine" that would interfere with a return to full-duty work. He opined that claimant had suffered a lumbar strain as a result of his work accident, but that claimant's current status was largely due to his morbid obesity. Dr. Butler did not see any need for epidural injections, as he saw "no documentation of a radicular component" to justify them. He opined that claimant had reached maximum medical improvement (MMI) regarding the work injury and that he could return to work full duty. On October 11, 2013, based on Dr. Butler's report, respondent suspended claimant's TTD benefits.

¶ 20 On November 14, 2013, claimant presented to the office of orthopaedic surgeon Anthony Rinella, where he underwent an examination by Doug Stevens, a physician's assistant. Claimant told Stevens that he injured his back on April 19, 2013, after lifting a 50-pound bag of batter mix. Claimant stated that he initially felt discomfort in his back. Since then, the pain has slowly

increased in severity and travelled to the left lower extremity. Stevens interpreted the May 2013 MRI as showing “bilateral stenosis at L4-L5 and a central to left-sided disc herniation at L5-S1 with significant foraminal narrowing.” Upon examination, Stevens noted that claimant walked with an antalgic gait, had some difficulty going from sit to stand, and reported pain on lumbar flexion. Claimant had pain with palpation of the lumbar region and some loss of sensation on the left in the L5 nerve distribution, with pain radiating into the left gluteal area and the posterior aspect of the left thigh and calf. The overall impression was “lumbago with left lower extremity radiculopathy, bilateral stenosis at L4-L5 and central to left-sided disc herniation at L5-S1.” Stevens prescribed physical therapy. Finding that the MRI previously taken was of “suboptimal” quality, Stevens also recommended a repeat MRI and upright lumbar X rays.

¶ 21 On December 20, 2013, claimant was evaluated by Dr. Rinella. At that time, claimant rated his pain as a 4/10 and Dr. Rinella noted he was taking Norco, Soma, and Mobic as prescribed by Dr. Anand. Dr. Rinella’s impression was of bilateral stenosis at L4-L5, a central and left-sided disc herniation at L5-S1, and lumbar spondylotic radiculopathy. He prescribed epidural steroid injections at L4-L5 and L5-S1 along with physical therapy, and recommended claimant remain off work. Dr. Rinella referred claimant to a pain specialist, Dr. Roland, for the injections.

¶ 22 On January 9, 2014, claimant again saw Dr. Anand. Dr. Anand noted “chronic back pain due to herniated disc” and refilled claimant’s pain medications. Dr. Anand reported that claimant continued to sit awkwardly in the office due to back pain, had limited range of motion, and still appeared to be in pain. Claimant continued to see Dr. Anand on a monthly basis through May 8, 2014. He reported no improvement in his symptoms, with stabbing pain radiating down his left leg and occasional tingling in his left foot. Dr. Anand noted claimant’s

condition appeared unchanged. Claimant continued taking Vicodin, despite the nausea it caused, and was still awaiting approval for pain management.

¶ 23 On March 21, 2014, Dr. Rinella wrote a letter disagreeing with Dr. Butler's opinion that epidural steroid injections were unwarranted in claimant's case. Dr. Rinella stated:

“As discussed in my notes, [claimant] has lumbar back pain extending into his left posterior thigh and calf. This corresponds directly to the MRI demonstrating L4-5 spinal stenosis and L5-S1 spinal stenosis. Dr. Butler agreed with this reading on his most recent evaluation. While [claimant's] obesity may contribute to his lumbar back pain, I do not believe this is a basis to limit care including epidural steroid injections. [Claimant's] pain has been persistent over 11 months at this time and this injection may allow him to improve more steadily. The left posterior thigh and calf symptoms are very clear radicular symptoms. Therefore, * * * I recommend the epidural steroid injections and disagree that there is no significant radiculopathy present.”

¶ 24 On May 22, 2014, Dr. Butler, after reviewing updated records from Dr. Anand and claimant's two visits to Dr. Rinella, authored a second addendum to his August 2013 examination report. Initially, Dr. Butler noted a reference to back pain at claimant's March 29, 2013, visit to Dr. Anand, upon which Dr. Butler did not comment in his original report. Dr. Butler wrote, “[t]he first documentation of lower back pain is on March 29, 2013 which is 2.5 weeks prior to the complaints of back pain at work.” At that time, Dr. Anand diagnosed low back pain, anxiety, and sciatica. Dr. Butler noted, however, that no mechanism of injury was specified and that the neurological examination performed by Dr. Anand that day was “poorly documented.” Dr. Butler disagreed with Dr. Rinella's prescription for epidural injections, citing the lack of documentation of radicular pain in the records. Dr. Butler also took note of

claimant's substantial weight gain since the accident, along with his low activity level and use of narcotic pain killers.

¶ 25 Regarding diagnosis and causation of claimant's symptoms, Dr. Butler wrote:

"The only changes to my diagnosis rendered in August 2013 are the additional diagnoses of morbid obesity and narcotic tolerance. The patient has continued to take narcotics despite no change in pain score and his weight has continued to grow from inactivity that peaked to 368 pounds in August 2013."

Dr. Butler added that the causal connection for claimant's pain and the work injury was "soft," in view of the reference to back pain in Dr. Anand's records of March 29, 2013. He noted the absence of any resolution of this back pain or "any medication/treatment prescribed in the interval period to the work injury." Dr. Butler added:

"Overall, the documentation of the primary physician is poor. The MRI does not show acute disc pathology that would clearly relate to this work incident. I disagree that there is a disc herniation with any left sided position that causes his current pain. His degeneration is long standing despite his young age and is an obvious sequela of his morbid obesity and poor conditioning."

Dr. Butler reiterated that an epidural "will not reverse the poor choices" claimant has made with his own health. Based on the MRI and his August 2013 examination, Dr. Butler reiterated that claimant was capable of returning to full-duty work, adding that he had "long since reached MMI from the work event."

¶ 26 At the arbitration hearing, claimant testified that his pain interfered with virtually all daily activities, including household chores, grocery shopping, and playing football with his friends. Claimant could not climb stairs or walk for more than 15 minutes without severe pain. He also

noticed a substantial weight gain. Claimant testified that his medications “take the edge off” his pain, but the pain still interferes with his sleep. Claimant testified that he would like to have the treatments prescribed by his doctors. However, neither the physical therapy, the repeat MRI, nor the epidural injections have been authorized by respondent. Claimant remained off work under Dr. Anand’s care with a plan to follow up with Dr. Rinella once the injections are performed.

¶ 27 Based on the foregoing evidence, the arbitrator determined that claimant sustained an accident arising out of and in the course of his employment with respondent on April 19, 2013. The arbitrator found that claimant’s account of the accident was not rebutted and that it was consistently reported in the medical records. The arbitrator further determined that claimant met his burden of establishing that his current condition of ill-being was causally related to the industrial accident. In support, the arbitrator cited claimant’s testimony, which he found credible, the medical evidence, and the opinions of claimant’s treating physicians, which the arbitrator found to be more persuasive than the opinion of Dr. Butler. The arbitrator awarded claimant 57-2/7 weeks of TTD benefits, encompassing two distinct periods, from April 19, 2013, through April 21, 2013, and from April 26, 2013, through May 29, 2014 (the date of the arbitration hearing). The arbitrator also awarded claimant reasonable and necessary medical expenses subject to the applicable medical fee schedule and the prospective medical care recommended by claimant’s treating physicians.

¶ 28 Respondent sought review of the arbitrator’s decision before the Commission. The Commission reversed the decision of the arbitrator on the issue of causal connection. In support of its decision, the Commission determined that claimant had preexisting problems involving his back and left hip prior to April 19, 2013, when he strained his back at work. However, by the time claimant saw Dr. Butler in August 2013, the back strain had resolved and claimant’s

condition returned to its pre-accident state of pain involving the low back and the left lower extremity. The Commission noted that Dr. Butler opined that claimant's weight, deconditioning, and degenerative condition was the current cause of his pain. The Commission found Dr. Butler's opinion more persuasive than that of Dr. Rinella because Dr. Butler addressed claimant's preexisting back pain and left hip pain and Dr. Rinella did not. The Commission also found claimant's credibility was "affected by his denial of prior back pain clearly indicated in the records in evidence." As a result of its conclusion as to causal connection, the Commission vacated the arbitrator's award of medical expenses and treatment after September 26, 2013, and reduced the award of TTD benefits to 24-3/7 weeks, encompassing the periods from April 20, 2013, to April 21, 2013, and from April 26, 2013, through October 11, 2013. In addition, the Commission remanded the matter to the arbitrator for a determination of compensation for permanent disability, if any, pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980). On judicial review, the circuit court of Kankakee County set aside the decision of the Commission and reinstated the decision of the arbitrator. This appeal by respondent followed.

¶ 29

III. ANALYSIS

¶ 30

A. Causation

¶ 31 On appeal, respondent first contends that the Commission's finding that the current condition of ill-being of claimant's back is not causally related to his industrial accident of April 19, 2013, was not against the manifest weight of the evidence. Accordingly, respondent urges us to reverse the judgment of the circuit court and reinstate the Commission's finding on causation.

¶ 32 In a proceeding under the Act, the employee seeking benefits has the burden of proving all elements of his or her claim. *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253 (1980). Among other things, the employee must establish a causal connection between the employment

and the injury for which he or she seeks benefits. *Elgin Board of Education School District U-46 v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 943, 948 (2011). In cases involving a preexisting condition, recovery will depend on the employee's ability to establish that a work-related accidental injury aggravated or accelerated the preexisting condition such that the employee's current condition of ill-being can be said to be causally connected to the work-related injury. *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 204-05 (1993); *Elgin Board of Education School District U-46*, 409 Ill. App. 3d at 949. The work-related injury need not be the sole causative factor or even the principal causative factor, as long as it was *a* causative factor in the resulting condition of ill-being. *Sisbro, Inc.*, 207 Ill. 2d at 205; *Tower Automotive v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 427, 434 (2011). "Thus, even though an employee has a preexisting condition that may make him or her more vulnerable to injury, recovery will not be denied where the employee can show that a work-related condition aggravated or accelerated the preexisting [condition] such that the employee's current condition of ill-being can be said to be causally related to conditions in the workplace and not merely the result of a normal degenerative process of the preexisting condition." *Bernardoni v. Industrial Comm'n*, 362 Ill. App. 3d 582, 596-97 (2005).

¶ 33 Causation presents an issue of fact. *Bernardoni*, 362 Ill. App. 3d at 597. In resolving factual matters, it is the function of the Commission to assess the credibility of the witnesses, resolve conflicts in the evidence, assign weight to be accorded the evidence, and draw reasonable inferences therefrom. *Hosteny v. Illinois Workers' Compensation Comm'n*, 397 Ill. App. 3d 665, 674 (2009). This is especially true with respect to medical issues, where we owe heightened deference to the Commission due to the expertise it has long been recognized to possess in the medical arena. *Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979). A reviewing court may

not substitute its judgment for that of the Commission on factual matters merely because other inferences from the evidence may be reasonably drawn. *Berry v. Industrial Comm'n*, 99 Ill. 2d 401, 407 (1984). We review the Commission's factual determinations under the manifest-weight-of-the-evidence standard. *Ming Auto Body/Ming of Decatur, Inc. v. Industrial Comm'n*, 387 Ill. App. 3d 244, 257 (2008). A decision is against the manifest weight of the evidence only if an opposite conclusion is clearly apparent. *Mlynarczyk v. Illinois Workers' Compensation Comm'n*, 2013 IL App (3d) 120411WC, ¶ 17. Stated another way, if there is sufficient factual evidence in the record to support the Commission's decision, we must uphold it, regardless of whether this court, or any other tribunal, might reach an opposite conclusion. *Pietrzak v. Industrial Comm'n*, 329 Ill. App. 3d 828, 833 (2002).

¶ 34 Applying these standards, we find ample evidence to support the Commission's finding that claimant failed to establish a causal connection between his work-related accident of April 19, 2013, and the current condition of ill-being involving his back. In concluding that claimant's current condition of ill-being was not causally related to his work accident of April 19, 2013, the Commission cited (1) concerns about claimant's credibility and (2) the opinion of Dr. Butler.

¶ 35 The Commission found that claimant's credibility was "affected by his denial of prior back pain clearly indicated in the records." The record supports this finding. Although claimant did not recall voicing complaints of back pain or being diagnosed by Dr. Anand with sciatica in March 2013, this testimony was directly contradicted by the medical records. Based upon this credibility finding, the Commission could find reason to doubt claimant's credibility regarding other aspects of his testimony, including his level of pain and his ability to return to work. See *McDonald v. Industrial Comm'n*, 39 Ill. 2d 396, 403 (1968) (noting that when a witness is not

credible as to one material matter, the trier of fact may disregard the uncorroborated testimony of that witness regarding other factual matters).

¶ 36 With respect to the medical evidence, the record shows that Dr. Butler first examined claimant on August 29, 2013, a little more than four months after the work accident. At that time, claimant presented with complaints of back pain. Dr. Butler read claimant's medical records, including those predating the accident. He also conducted a physical examination and reviewed the report of the MRI taken on May 30, 2013. Dr. Butler diagnosed a lumbar strain and morbid obesity with deconditioning. He opined that the lumbar strain appeared to be causally related to the work injury, but wanted to review the actual MRI films to determine whether additional medical treatment was warranted. On September 26, 2013, after reviewing the MRI films, Dr. Butler found no acute structural pathology affecting the lumbar spine that would interfere with a return to full-duty work. At that time, Dr. Butler found that claimant had reached MMI. In his addendum report of May 2014, Dr. Butler explained that claimant had preexisting back and left-hip pain of an unknown origin. He also noted that there was no evidence that these preexisting symptoms had resolved prior to the work injury. Dr. Butler concluded that while claimant suffered a lumbar strain as a result of the work accident in April 2013, his current status was the result of his morbid obesity, poor conditioning, and the long-standing degenerative condition of his back. He reiterated that claimant had reached MMI from the work injury.

¶ 37 Claimant first presented to Dr. Rinella's office in November 2013, almost seven months after the accident. At that time, claimant was examined by Stevens, Dr. Rinella's physician's assistant. Claimant reported back pain following an accident at work in April 2013, which had progressively increased in severity and travelled to the left lower extremity. Stevens reviewed

the May 2013 MRI and physically examined claimant. He diagnosed lumbago with left lower extremity radiculopathy, bilateral stenosis at L4-L5, and a central left-sided disc herniation at L5-S1. Dr. Rinella, who examined claimant in December 2013, came to the same diagnosis as Stevens. At that time, Dr. Rinella prescribed epidural steroid injections, a diagnosis he reiterated in his narrative report issued in March 2014.

¶ 38 The Commission found Dr. Butler's causation opinion persuasive because his review of claimant's medical records was more comprehensive than any other physician. The evidence supports this finding. Not only did Dr. Butler review the records of the physicians claimant consulted following the work accident, but also those from Dr. Anand predating the work accident. In addition, Dr. Butler read the report of claimant's May 2013 MRI, he interpreted the MRI films, and he conducted a physical examination of claimant. As noted above, Dr. Butler determined that claimant was already suffering from back pain which had not resolved when he was involved in the April 2013 work accident. Dr. Butler found that although claimant suffered a lumbar strain as a result of the work accident, any symptoms attributable to the lumbar strain were only temporary, that claimant had returned to baseline by September 26, 2013, and that claimant's current symptoms are attributable to his morbid obesity, deconditioning, and preexisting degenerative condition.

¶ 39 In contrast, Dr. Rinella's progress notes are notable for the failure to reference any of claimant's medical records, including those predating the April 2013 work accident. Additionally, there is no evidence of record that Dr. Rinella or his physician's assistant was even aware of the complaints of back pain claimant voiced to Dr. Anand prior to the work accident. Moreover, although Dr. Rinella acknowledged that claimant's obesity may contribute to his back pain, he did not otherwise address Dr. Butler's causation opinion and he did not expressly

indicate what additional causes—work related or not—may be a cause of claimant’s symptoms and his need for additional treatment. Likewise, the other physicians who treated claimant did not offer an opinion regarding the link between claimant’s current back complaints and his employment. In this regard, we note that Dr. Panuska last treated claimant three days after the work accident and therefore could not offer an opinion regarding claimant’s condition of ill-being around the time of Dr. Butler’s examination. Additionally, although claimant saw Dr. Anand shortly before the arbitration hearing, he did not offer an opinion regarding the causation of claimant’s back symptoms. In other words, the Commission was left with Dr. Butler’s opinion—which directly addressed causation and was based on a comprehensive review of claimant’s medical records—and the medical records of physicians who did not expressly indicate the cause of claimant’s back symptoms. Moreover, Dr. Rinella was not aware of claimant’s complete medical history of back pain. This evidence, coupled with the Commission’s concerns regarding claimant’s credibility, provided the Commission with an ample basis to reasonably conclude that claimant had preexisting back problems, he sustained a temporary lumbar strain as a result of the work accident of April 19, 2013, claimant’s condition had since returned to his pre-accident baseline, and claimant’s current condition of ill-being was solely attributable to his morbid obesity, deconditioning, and degenerative condition. Although the record may support other inferences, an opposite conclusion is not clearly apparent. Hence, the Commission’s decision is not against the manifest weight of the evidence.

¶ 40 Claimant, of course, disputes the Commission’s causation finding. Initially, he asserts that the Commission’s decision “relied heavily on an erroneous ‘fact’ regarding [his] alleged prior medication use.” This is a reference to a single sentence in the Commission’s decision that states that claimant “was already being prescribed medications for back and left hip pain” when

he saw Dr. Anand in March 2013, prior to the work accident. We agree that the Commission's reference to pre-accident back medication finds no support in the medical records. We disagree, however, that it renders the Commission's decision against the manifest weight of the evidence. In *Grischow v. Industrial Comm'n*, 228 Ill. App. 3d 551, 561 (1992), the Commission cited to some incorrect facts regarding claimant's medical treatment. The court found that this was not a controlling fact and that when viewed as a whole, the record supported the Commission's decision. *Grischow*, 228 Ill. App. 3d at 561. Likewise, in this case, the Commission's reference to pre-accident back medication was not material to the Commission's conclusion that claimant failed to establish causation. The Commission's decision on causation was based on its findings regarding claimant's lack of credibility and the medical opinion of Dr. Butler. Dr. Butler did not note any pre-accident back medications. Moreover, as noted above, the Commission's reliance on Dr. Butler's opinion was reasonable as it was premised on a more comprehensive review of claimant's medical records and no other physician offered a causation opinion.

¶ 41 Claimant also suggests that the Commission's reliance on "the lack of pre-accident back pain resolution" was erroneous. According to claimant, there was no preexisting back pain which required resolution. We disagree. Although claimant did not recall complaining of or being diagnosed with back pain on March 29, 2013, Dr. Anand's progress note from that date reflects that claimant presented with complaints of pain involving the back and left hip. At that time, Dr. Anand diagnosed back pain and sciatica and he prescribed preventative counseling for diet and exercise. Claimant did not have the opportunity to return to Dr. Anand prior to the accident. Based on this record, the Commission could reasonably conclude that claimant experienced back pain prior to his work accident, that Dr. Anand attributed claimant's symptoms to his poor diet and lack of exercise, and that Dr. Anand intended to initially treat the symptoms

conservatively. We note additionally that claimant's MRI of May 30, 2013, was interpreted as showing an underlying degenerative condition. Accordingly, we reject claimant's contention that there was no preexisting back pain which required resolution.

¶ 42 Claimant argues that even assuming *arguendo* that there was some sort of preexisting back condition, the Commission erred in relying on this condition to deny causation. Claimant asserts that because he was able to perform his assigned duties for respondent without restriction prior to April 19, 2013, he established that he did not have any ongoing unresolved problems in his lower back prior to his work accident. Claimant further asserts that the lifting accident in April 2013 "triggered the entire disability and subsequent need for treatment." We find claimant's position unpersuasive. As noted above, the Commission, relying on the opinion of Dr. Butler, could have reasonably concluded that the work accident aggravated a preexisting condition which returned to baseline when Dr. Butler found him at MMI in September 2013 and released him to full duty. This is a reasonable interpretation of the record. Additionally, we note that despite Dr. Butler's clearance for him to return to work full duty, the record does not indicate that claimant attempted to return to *any* type of employment after September 2016. As a result, there is no evidence to support his claim that he is still unable to perform his assigned duties as a result of the lifting accident in April 2013.

¶ 43 Claimant next contends that the Commission's determination that his credibility was affected by his denial of prior back pain was in error. According to claimant, he could not have denied any "prior ongoing treatment" for back-related complaints because no such treatment existed in the first place. Claimant mischaracterizes the Commission's finding. The Commission referenced the denial of back *pain*, not treatment. Moreover, the evidence of record supports a finding that claimant denied a history of back pain predating the work accident. On

March 29, 2013, Dr. Anand diagnosed back pain and sciatica. He intended to treat the condition conservatively with preventative counseling for diet and exercise. At the arbitration hearing, claimant testified that he did not recall complaining of back pain or being diagnosed by Dr. Anand with sciatica. Based on this record, the Commission could have reasonably determined that claimant reported back symptoms to Dr. Anand and that his denial of these symptoms at the arbitration hearing affected his credibility. Hence, we find no error.

¶ 44 Claimant also posits that, assuming *arguendo*, that the Commission's decision to adopt Dr. Butler's opinion was not against the manifest weight of the evidence, his opinion nevertheless supports a finding of causation as a matter of law. Specifically, claimant asserts that his post-accident physical inactivity and resulting deconditioning and weight loss is both the result of his injury and a consequence of respondent's repeated refusal to authorize additional treatment such as physical therapy and epidural injections. We disagree. The medical records predating the injury at issue show claimant had preexisting weight and deconditioning issues. Claimant suggests that his gain in weight was the result of his post-injury behavior and clinical course. However, no expert opinion linked the post-accident weight gains and deconditioning with the work accident. Indeed, the medical records show that claimant's weight fluctuated, with both increases and decreases, following the accident. Given these fluctuations in claimant's weight, the Commission could reasonably determine that any increase in weight following the injury was not a result of the work accident.

¶ 45 In sum, the Commission's finding that claimant failed to satisfy his burden of proving by a preponderance of the evidence that his current condition of ill-being is causally related to his April 19, 2013, work accident was not against the manifest weight of the evidence. The evidence of record supports a reasonable inference that the claimant had preexisting back

symptoms and that the work accident resulted in a temporary lumbar strain, but that claimant returned to baseline by September 26, 2013. As noted above, although the record may support other inferences, we cannot say that an opposite conclusion is clearly apparent. Accordingly, the Commission's decision is not against the manifest weight of the evidence.

¶ 46

B. TTD Benefits & Medical

¶ 47 Respondent also argues that, given the Commission's decision on causation, its conclusion regarding the period of TTD is not against the manifest weight of the evidence. We agree.

¶ 48 TTD benefits are available from the time an injury incapacitates an employee from work until such time as the employee is as far recovered or restored as the permanent character of the injury will permit. *Westin Hotel v. Illinois Workers' Compensation Comm'n*, 372 Ill. App. 3d 527, 542 (2007). The dispositive inquiry is whether the employee's condition has stabilized, that is, whether the employee has reached MMI. *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 594 (2005). The factors to consider in assessing whether an employee has reached MMI include a release to return to work, medical testimony or evidence concerning the employee's injury, and the extent of the injury. *Freeman United Coal Mining Co. v. Industrial Comm'n*, 318 Ill. App. 3d 170, 178 (2000). Once the injured employee has reached MMI, he is no longer eligible for TTD benefits. *Nascote Industries v. Industrial Comm'n*, 353 Ill. App. 3d 1067, 1072 (2004). The period during which a claimant is entitled to TTD benefits is a factual inquiry for the Commission. *Ming Auto Body/Ming of Decatur, Inc.*, 387 Ill. App. 3d at 256-57. Hence, the Commission's decision will not be overturned on appeal unless it is against the manifest weight of the evidence. *Ming Auto Body/Ming of Decatur, Inc.*, 387 Ill. App. 3d at 256-57.

¶ 49 After reviewing the record, we cannot say that the Commission's decision to terminate claimant's TTD benefits as of October 11, 2013, is against the manifest weight of the evidence. The record shows that claimant was given light-duty work restrictions the day after the work accident. Claimant worked light duty as prescribed, but reported painful muscle spasms to his low back. As a result, Dr. Anand took him off work as of April 26, 2013. Thereafter, claimant continued to treat with Dr. Anand and remained off work. Late in August 2013, claimant saw Dr. Butler for an independent medical examination. Dr. Butler diagnosed a lumbar strain and morbid obesity with deconditioning, but wanted to review claimant's MRI films prior to determining the need for additional treatment. On September 26, 2013, after Dr. Butler reviewed the MRI films, he concluded that the MRI showed no "acute structural pathology affecting the lumbar spine" that would interfere with a return to full-duty work. At that time, Dr. Butler also concluded that claimant had reached MMI regarding the work injury and that he could return to full-duty work. Shortly thereafter, on October 11, 2013, respondent suspended claimant's TTD benefits. Although Dr. Rinella and Dr. Anand did not authorize claimant to return to work, the Commission was not obligated to adopt their opinions, especially considering the Commission's causation finding, which was based on its determination that Dr. Butler was more credible given his more comprehensive review of the medical evidence. Given the foregoing evidence, and in light of the Commission's role in assessing the same, we cannot say that its finding that claimant was not entitled to TTD benefits after October 11, 2013, was against the manifest weight of the evidence.

¶ 50

C. Medical Expenses and Treatment

¶ 51 Finally, respondent maintains that the Commission's modification of the award of medical expenses and additional medical treatment was not against the manifest weight of the evidence. Again, we agree.

¶ 52 Section 8(a) of the Act (820 ILCS 305/8(a) (West 2012)) governs medical care. That provision states in relevant part:

“The employer shall provide and pay * * * all the necessary first aid, medical and surgical services, and all necessary medical, surgical and hospital services thereafter incurred, limited, however, to that which is reasonably required to cure or relieve from the effects of the accidental injury.” 820 ILCS 305/8(a) (West 2012).

Specific procedures or treatments that have been prescribed by a medical service provider are “incurred” within the meaning of section 8(a) even if they have not been performed or paid for. *Bennett Auto Rebuilders v. Industrial Comm’n*, 306 Ill. App. 3d 650, 655 (1999). The claimant bears the burden of proving, by a preponderance of the evidence, his or her entitlement to an award of medical care under section 8(a). *Westin Hotel*, 372 Ill. App. 3d at 546. 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 decisions on factual matters will not be disturbed on appeal unless they are against the manifest weight of the evidence. *Dye*, 2012 IL App (3d) 110907WC, ¶ 10.

¶ 53 In this case, the Commission determined that claimant was not entitled to any medical expenses or additional medical treatment after September 26, 2013, when Dr. Butler found that claimant had reached MMI from the work injury and did not require any additional medical care for the same. While Dr. Anand and Dr. Rinella prescribed additional treatment, the Commission

was not obligated to adopt their opinions especially considering the Commission's causation finding, which was based on its determination that Dr. Butler was more credible based given his more comprehensive review of the medical evidence. Given the foregoing evidence, and in light of the Commission's role in assessing the same, we cannot say that its finding that claimant was not entitled to medical expenses or additional medical treatment after September 26, 2013, was against the manifest weight of the evidence.

¶ 54

IV. CONCLUSION

¶ 55 For the reasons set forth above, we reverse the judgment of the circuit court of Kankakee County and reinstate the decision of the Commission. In addition, we remand this matter to the Commission for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327.

¶ 56 Circuit court judgment reversed, Commission's decision reinstated, and cause remanded.