

Workers' Compensation
Commission Division
Filed: June 3, 2013

No. 1-12-0965WC

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

MANUEL BELTRAN,)	APPEAL FROM THE
)	CIRCUIT COURT OF
Appellant,)	COOK COUNTY
)	
v.)	No. 11 L 50290
)	
ILLINOIS WORKERS' COMPENSATION)	
COMMISSION, <i>et al.</i> ,)	
(MARRIOTT INTERNATIONAL, Inc.,)	HONORABLE
)	DANIEL T. GILLESPIE,
Appellee).)	JUDGE PRESIDING.

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

ORDER

¶ 1 Held: The Illinois Workers' Compensation Commission's finding that the claimant's current condition of ill-being is not causally related to his June 8, 2006, work accident is not against the manifest weight of the evidence.

¶ 2 The claimant, Manuel Beltran, appeals from an order of the Circuit Court of Cook County which confirmed a decision of the Illinois Workers' Compensation Commission (Commission), awarding him benefits pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 et seq.

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(West 2006)), for injuries he received while in the employ of the City of Chicago (City) on June 8, 2006, but concluding that his present state of ill being is not related to his workplace injury and that he reached maximum medical improvement (MMI) as a result of his workplace injury on January 7, 2007. For the reasons which follow, we affirm the judgment of the circuit court.

¶ 3 The following factual summary is taken from the evidence adduced at the arbitration hearing held on March 9, 2010.

¶ 4 The claimant was employed by the City as a laborer in the Water Department. In that capacity, the claimant assembled and repaired fire hydrants for the City and provided other assistance to plumbers employed by the City. The physical requirements for the job included the ability to lift and carry up to 100 pounds continuously, the ability to climb ladders frequently and stairs occasionally, and the ability to stand and bend continuously and walk frequently.

¶ 5 On June 8, 2006, the claimant was carrying a fire hydrant when he stepped into a pothole, twisted his right knee, and fell to the ground. The claimant reported the accident to his supervisor and was instructed to seek medical attention at MercyWorks, an occupational clinic. Later that day, the claimant was seen by Dr. Hector A. Marino at MercyWorks and complained of right knee pain. The claimant denied any previous knee injuries. Dr. Marino observed tenderness along the area medial to the patella and noted the existence of a congenital genu valgus. An x-ray of the right knee was negative for acute fracture or dislocation. Dr. Marino took the claimant off duty, advised him to take ibuprofen and scheduled a follow-up appointment.

¶ 6 The claimant returned to MercyWorks on June 12, 2006, and June 19, 2006. At both visits, the claimant continued to complain of right knee pain, and Dr. Marino observed minimal swelling

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and tenderness medial to the patella. After the claimant's June 19, 2006, appointment, Dr. Marino ordered an MRI and advised him to return for a follow-up appointment.

¶ 7 On June 26, 2006, the claimant underwent an MRI, which revealed a complex tear of the anterior horn and body of the lateral meniscus, extending toward the posterior horn, as well as a surface tear of the posterior horn of the medial meniscus. At his follow-up appointment on June 30, 2006, Dr. Marino referred the claimant to Dr. Michael G. Maday, an orthopedic surgeon at Midland Orthopedic Associates.

¶ 8 On July 12, 2006, the claimant presented to Dr. Maday with complaints of right knee pain and a feeling that his right knee was "crooked." Dr. Maday noted that the claimant had a valgus stance of his right knee, with an approximately five degree valgus deformity. Dr. Maday further opined that the claimant had some early degenerative changes in his knee which were not attributable to his workplace injury. Dr. Maday recommended arthroscopic surgery to address the meniscal pathology.

¶ 9 On August 10, 2006, the claimant underwent right arthroscopic surgery with partial medial and lateral meniscectomy without complication. On August 18, 2006, the claimant presented to Dr. Maday for post-surgery evaluation. At that time, Dr. Maday prescribed physical therapy and kept the claimant off work duty. The claimant underwent physical therapy from August 21, 2006, until October 18, 2006, during which time Dr. Maday periodically assessed his improvement and continued to prescribe therapy based on complaints of continued pain, tenderness in his knee, and difficulty performing certain functions.

¶ 10 On October 18, 2006, the claimant returned to Dr. Maday complaining of pain and continued

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difficulty squatting and kneeling. Dr. Maday noted minimal tenderness in the claimant's knee and the claimant's valgus stance, which Dr. Maday explained was apparently caused by a previous fracture. At the arbitration hearing, Dr. Maday testified that prior to this date, the claimant denied having a history of trauma to his right leg. Dr. Maday recommended that the claimant cease physical therapy and begin a work hardening program. The claimant participated in a work hardening program from October 23, 2006, until December 19, 2006.

¶ 11 Dr. Maday continued to monitor the claimant's progress during that time. On November 8, 2006, Dr. Maday noted that he measured the claimant's valgus stance, which was approximately 14 degrees, and obtained x-rays consistent with the above findings. Additionally, on November 22, 2006, Dr. Maday noted that the claimant's main restriction was his low back pain, which, Dr. Maday testified at the arbitration hearing, was not related to his June 8, 2006, accident. Dr. Maday further observed that the claimant's knee range of motion was full and there did not appear to be any tenderness of the knee.

¶ 12 On December 19, 2006, the claimant was discharged from work hardening. At that time, the case manager noted that the pain in the claimant's right knee was his main limiting factor. On December 20, 2006, the claimant presented to Midland Orthopedics Association for a follow-up appointment. Dr. Maday noted that the claimant was lifting 80 pounds in work hardening and that there was no change in his knee or valgus stance. Dr. Maday kept the claimant off duty. However, Dr. Maday recommended that the claimant continue to work on functional activities and strengthening and return in three weeks for an anticipated release to full duty. The claimant also presented to MercyWorks on December 20, 2006, complaining of knee pain. His record from

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MercyWorks indicates that the claimant had knee tenderness and a restricted range of motion.

¶ 13 After his appointments on December 20, 2006, the claimant embarked on a trip to Mexico. The claimant testified that, on his way back from Mexico, he was detained in Laredo, Texas relating to three prior driving under the influence (DUI) charges and a prior unauthorized use of a weapon (UUW) charge. The claimant testified that his detention was a mistake because he had previously pled guilty to all charges and had no outstanding warrants. On May 18, 2007, approximately five months after his detention, the claimant was released from the detention center and allowed to return to Illinois.

¶ 14 Upon returning to Chicago, the claimant contacted Robert Serafin, the Director of Workers' Compensation for the City, and explained that he had been mistakenly detained. The claimant requested continued treatment from Dr. Maday. Mr. Serafin, however, informed the claimant that his benefits were terminated. Subsequently, the claimant learned that his employment with the City was also terminated. The claimant made several unsuccessful attempts to have his job reinstated, including speaking with the City's personnel division, filing a union grievance, and retaining a private attorney.

¶ 15 In October 2007, the claimant obtained employment with Kiwi Construction. However, the claimant testified that after a few weeks he stopped working with Kiwi because of right knee pain. Thereafter, the claimant worked for two weeks for Chicago Structures, another construction company. The claimant testified that Chicago Structures had light-duty work available. After two weeks, Chicago Structures indicated that it did not have any more work for the claimant. Since then, the claimant has remained unemployed.

¶ 16 In April 2008, the claimant petitioned the Commission for a hearing pursuant to section 8(a) of the Act to authorize a return visit to Dr. Maday, which the City authorized. On June 4, 2008, the claimant returned to Dr. Maday's office complaining of pain referable to the medial aspect of his knee. Dr. Maday's medical records from that appointment read, "last [office visit] 12/20/2006, [follow-up] knee same condition," though it is unclear whether Dr. Maday made the notation, or whether it was an administrative note. Upon examination, Dr. Maday noted that the claimant still had a valgus stance and a full range of motion in his right knee. Dr. Maday further noted tenderness over the quadriceps tendon and patellar tendon. Dr. Maday ordered an MRI to visualize the claimant's meniscus.

¶ 17 On September 9, 2008, the claimant underwent an MRI, which revealed chronic tearing of the anterior horn of the lateral meniscus with additional subtle complex tear of the outer periphery of the middle third of the meniscus. The MRI further revealed a subtle complex microtear of the outer periphery of the posterior horn of the medial meniscus as well as a mild improvement in lateral chondromalacia patella since the claimant's last MRI in June of 2006.

¶ 18 On September 25, 2008, the claimant presented to Dr. Maday and reported that he continued to experience pain and did not feel capable of performing full activities. The claimant further reported that he did not feel as though his knee had "been right" since the surgery and that he still had pain in the posterior aspect of the knee. After an examination, Dr. Maday acknowledged that the claimant's valgus was approximately ten degrees and found that there was no evidence of prior fracture. Dr. Maday opined that, aside from the claimant's posterior knee pain, he did not see anything preventing the claimant from increasing his activity level. Nevertheless, Dr. Maday

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prescribed a short course of physical therapy. A few days later, however, MercyWorks was instructed to close the claimant's case by the City's Committee on Finance so the claimant could be examined by a doctor retained by the City. The claimant did not return to MercyWorks or Midland Orthopedic Association for any further treatment.

¶ 19 On November 4, 2008, at the City's request, the claimant was examined by Dr. Charles A. Bush-Joseph. Dr. Bush-Joseph noted that the claimant denied any history of trauma to his right leg, including the fracture noted in Dr. Maday's October 18, 2006, medical record. After a physical examination, Dr. Bush-Joseph found that the claimant had an 18 to 20-degree valgus alignment of his left knee. The claimant had full range of motion in his right knee and mild to moderate lateral compartment crepitation. A plain radiograph of both knees demonstrated evidence of right-sided lateral knee joint space narrowing, osteoarthritic spurring, in addition to either a congenital or posttraumatic valgus alignment to the proximal tibia. Dr. Bush-Joseph found that the claimant's September 9, 2008, MRI confirmed the presence of a posttraumatic or a long-standing congenital valgus alignment with subsequent arthrosis of the lateral compartment of the right knee. Dr. Bush-Joseph further found the MRI revealed meniscal subluxation, subchondral edema, and significant loss of joint space.

¶ 20 Overall, Dr. Bush-Joseph made the following findings pertaining to the claimant's medical status: (1) the claimant suffers from valgus arthrosis of the knee which is clearly preexisting in nature and due to either a congenital or posttraumatic deformity of the right knee and leg; (2) the claimant's current condition of ill-being is not a result of his workplace injury; (3) the claimant achieved MMI as of January 7, 2007, following his treatment from Dr. Maday, and was able to work without

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restriction as of that date; (4) the claimant's current work restrictions are consistent with the arthritic nature of his knee, and are not related to his workplace injury; and (5) the claimant's denial of any history of injury, treatment or deformity prior to his work-related injury as well as his denial of any work performed since his surgical procedure by Dr. Maday, is inconsistent with his medical record and degenerative condition.

¶ 21 Dr. Bush-Joseph testified consistently with his report. Dr. Bush-Joseph opined that the claimant's condition was caused by a valgus arthrosis of the knee, which was preexisting in nature and was a result of either a congenital or posttraumatic deformity of the right knee and leg. However, Dr. Bush-Joseph conceded that this preexisting condition could be accelerated or aggravated by trauma. He further testified that there was no medical evidence that the claimant's knee injury subsided after his accident.

¶ 22 Dr. Maday testified in accordance with the course of treatment he provided. Additionally, when asked whether he was able to determine a likely cause for the claimant's complaints in June 2008, Dr. Maday testified that he did not completely identify the cause of the pain. Though, Dr. Maday testified that he thought the claimant's pain stemmed from the back part of his knee, which could be related to the claimant's previous injury. Dr. Maday further testified that the claimant had a valgus deformity that was preexisting, and thus, not caused, aggravated or accelerated by the claimant's June 8, 2006, injury. He could not testify as to whether the valgus deformity worsened as a result of the claimant's workplace injury, but he stated that there is a possibility that it did.

¶ 23 At the arbitration hearing, the claimant testified that his knee still causes him pain, restricts him from performing certain tasks, and swells after extended use. However, the arbitrator and the

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City's counsel did not observe any swelling of the knee at the time of the hearing.

¶ 24 Following the arbitration hearing held pursuant to section 19(b) of the Act (820 ILCS 305/19(b)(West 2008)), the arbitrator found that the claimant sustained injuries arising out of and in the course of his employment. However, the arbitrator further found that the claimant's present state of ill-being is not causally connected to the workplace injury he sustained on June 8, 2006, as the claimant had reached MMI on December 20, 2006. The arbitrator supported his opinion primarily with the testimony of Dr. Bush-Joseph that the claimant's valgus deformity, which was preexisting and was not caused, accelerated, or aggravated by his workplace injury, is the cause of the claimant's current state of ill-being. The arbitrator awarded the claimant \$24,808.22 in temporary total disability (TTD) benefits commencing June 9, 2006, through December 20, 2006, pursuant to Section 8(b) of the Act (820 ILCS 305/8(b)(West 2008)), but denied him additional TTD and vocational rehabilitation. The arbitrator also awarded the City a credit of \$24,808.22 for TTD benefits already paid.

¶ 25 The claimant filed a petition for review of the arbitrator's decision before the Commission. In a unanimous decision, the Commission affirmed and adopted the arbitrator's decision with a modification granting the TTD benefits through January 7, 2007, the date the Commission found that the claimant reached MMI. The Commission based its findings on the testimony of Dr. Bush-Joseph and Dr. Maday, and the claimant's medical records.

¶ 26 Thereafter, the claimant filed a petition for judicial review of the Commission's decision in the Circuit Court of Cook County. The circuit court confirmed the Commission's decision, and this appeal followed.

¶ 27 The claimant first argues that the Commission’s finding, that his present condition of ill-being is not causally connected to the workplace injury he sustained on June 8, 2006, is against the manifest weight of the evidence. We disagree.

¶ 28 It is axiomatic that, under the Act, an employee is entitled to compensation only where the employee is able to prove that his present state of ill-being is causally related to a work injury. *Palos Electric Co. v. Industrial Comm’n*, 314 Ill. App. 3d 920, 926, 732 N.E.2d 603 (2000). In a workers’ compensation case, such a determination is a question of fact uniquely within the province of the Commission. *Id.* The Commission’s factual findings will only be disturbed on review if it is against the manifest weight of the evidence. *Boatman v. Industrial Comm’n*, 256 Ill. App. 3d 1070, 1071-72, 628 N.E.2d 829 (1st Dist. 1993). For a finding of fact to be contrary to the manifest weight of the evidence, an opposite conclusion must be clearly apparent. *Caterpillar, Inc. v. Industrial Comm’n*, 228 Ill. App. 3d 288, 291, 591 N.E. 2d 894 (1992).

¶ 29 According to the claimant, his medical records, along with the testimony from the arbitration hearing, demonstrate an “unbroken chain” between his accident and his current condition. For example, the claimant argues, his work hardening discharge documents from December 19, 2006, state that on that date, he complained of pain in his right knee, which was found to be his main limiting factor. Additionally, on December 20, 2006, the claimant also reported right knee pain to his physician at MercyWorks. The claimant further argues that there are no medical records documenting that he reached MMI and Dr. Maday testified that his condition on June 4, 2008, was probably related to his workplace injury.

¶ 30 In essence, the claimant is asking this court to conclude that the Commission should have placed greater weight on his work hardening discharge note, the MercyWorks medical report from December 20, 2006, Dr. Maday's testimony that the claimant's current state is probably related to his workplace accident, and the lack of any medical report documenting when the claimant reached MMI. However, "it was the function of the Commission to decide the credibility of witnesses, determine the weight to be given to their testimony, and resolve conflicting medical evidence." *Tower Auto. v. Illinois Workers' Comp. Comm'n*, 407 Ill. App. 3d 427, 435-36, 943 N.E.2d 153 (2011) (citing *O'Dette v. Industrial Comm'n*, 79 Ill. 2d 249, 253, 403 N.E. 2d 221 (1980)). In this case, the Commission concluded that the claimant's current state of ill-being is a result of valgus arthrosis in his right knee, which preexisted, and was not aggravated or accelerated by, his workplace injury. The Commission based its findings on the claimant's medical records from Midland Orthopedics Association and Dr. Maday's testimony, both of which demonstrate that as of December 20, 2006, the claimant's restrictions were solely related to the claimant's back pain and that the claimant was expected to be released to full work duty in three weeks. The Commission further relied on Dr. Bush-Joseph's testimony that the claimant reached MMI as of January 7, 2007, and that his current symptoms stem from his valgus deformity, which arose out of a fracture pre-dating the claimant's workplace accident, and had since worsened. Given this evidence, we conclude that the Commission's decision to accredit the testimony of Dr. Maday and Dr. Bush-Joseph has support in the record, and we therefore conclude that the Commission's finding was not against the manifest weight of the evidence.

¶ 31 Next, the claimant argues that the Commission should not have relied on Dr. Bush-Joseph's testimony because it was internally inconsistent. The claimant sees an inconsistency between Dr. Bush-Joseph's testimony, on one hand, that he still has some residual symptoms and Dr. Bush-Joseph's testimony, on the other hand, that his current state of ill-being is related to his valgus deformity and he reached MMI from his workplace accident on January 7, 2007. We reject the claimant's argument that this testimony is contradictory.

¶ 32 MMI does not necessarily equate to a disposition of "fully healed." Rather, when a claimant reaches MMI, the claimant is as far recovered or restored as the permanent character of his injury will permit. *Archer Daniels Midland Co. v. Industrial Comm'n*, 138 Ill. 2d 107, 118, 561 N.E. 2d 623 (1990). Accordingly, Dr. Bush-Joseph's testimony, that the claimant had residual symptoms and nonetheless reached MMI on January 7, 2007, is not inconsistent.

¶ 33 The claimant also argues that Dr. Bush-Joseph's testimony was incredible because it conflicted with Dr. Maday's testimony. Dr. Maday testified that he could not be sure as to whether the claimant's valgus deformity worsened between 2006 and 2008. Conversely, Dr. Bush-Joseph testified that the medical records support his finding that the claimant's valgus deformity worsened during that time. The claimant urges this court to place a greater emphasis on Dr. Maday's testimony, as he "is clearly in a better position than Dr. Bush-Joseph to address any change in Claimant's valgus arthrosis." However, again, we must defer to the Commission's findings pertaining to the credibility of testimony, the weight to place on testimony, and conflicting medical evidence, and therefore conclude that the Commission's reliance on Dr. Bush-Joseph's testimony was not against the manifest weight of the evidence.

¶ 34 The claimant further argues that the Commission erred in finding that his current arthritic condition was not accelerated by his workplace injury. The Commission, however, based its opinion on both the testimony of Dr. Maday and Dr. Bush-Joseph that the valgus deformity was not caused, accelerated, or aggravated by the claimant's workplace accident. Accordingly, we hold that the Commission's finding is not against the manifest weight of the evidence.

¶ 35 Finally, the claimant asserts that the Commission erred in relying on the notion that he had medical insurance after the City terminated him and therefore could have sought additional medical treatment between May 2007 and April 2008. The claimant did testify that upon termination, his health insurance was canceled. However, the Commission's findings did not turn on this discrepancy. Rather, the Commission relied primarily on the medical testimony and record to support its findings, then added that it was unclear why the claimant had a gap in treatment because he maintained his group insurance. Thus, even if the Commission erred in this respect, the Commission's findings are still well-supported by the medical and testimonial evidence on which it based its decision.

¶ 36 Because we hold that the Commission did not err in concluding that the claimant's current condition is not causally related to his workplace accident, we also reject the claimant's argument that he is entitled to vocational rehabilitation. See *Tower Auto. v. Industrial Comm'n*, 407 Ill. App. 3d 427, 436, 943 N.E.2d 153 (1st Dist. 2011) (TTD benefits are contingent on a finding of causation); *National Tea Co. v. Industrial Comm'n*, 97 Ill. 2d 424, 432, 454 N.E.2d 672 (1983) (vocational rehabilitation is contingent upon a causation finding). Therefore, we conclude that the Commission's denial of such benefits was not against the manifest weight of the evidence.

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¶ 37 For these reasons, we affirm the judgment of the circuit court, which confirmed the decision of the Commission granting the claimant TTD benefits commencing June 9, 2006 through January 7, 2007, and denying the claimant additional benefits under the Act, and we remand the case back to the Commission for further proceedings pursuant to *Thomas*, 78 Ill. 2d at 399, 399 N.E.2d 1322.

¶ 38 Affirmed and remanded.