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2013 IL App (2nd) 120781WC-U

NO. 2-12-0781WC

Order filed November 8, 2013

IN THE APPELLATE COURT

OF ILLINOIS

SECOND DISTRICT

ILLINOIS WORKERS' COMPENSATION COMMISSION DIVISION

JERRY JAMES,	)	Appeal from
Appellant,	)	Circuit Court of
v.	)	Winnebago County
THE ILLINOIS WORKERS' COMPENSATION	)	No. 11MR548
COMMISSION <i>et al.</i> (R.V. Evans Company, Appellee).	)	
	)	Honorable
	)	Edward J. Prochaska,
	)	Judge Presiding.

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

**ORDER**

¶ 1 *Held:* The Commission's finding that claimant's current condition of ill-being was not causally connected to his work accident and its denial of prospective medical care associated with that condition were supported by the record and not against the manifest weight of the evidence.

¶ 2 On August 31, 2004, claimant, Jerry James, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 to 30 (West 2002)), alleging work-related injuries and seeking benefits from the employer, R.V. Evans Company.

Following a hearing, the arbitrator determined that, although claimant sustained accidental

injuries that arose out of and in the course of his employment on August 31, 2004, his accident caused only a temporary aggravation of a preexisting condition in his lower back and his current condition of ill-being was unrelated to his work accident. The arbitrator awarded claimant (1) 6-5/7 weeks' temporary total disability (TTD) benefits from September 1, 2004, to October 17, 2004, and (2) \$2,773.81 for past medical expenses.

¶ 3 On review, the Illinois Workers' Compensation Commission (Commission) affirmed and adopted the arbitrator's decision without further comment. The circuit court of Winnebago County confirmed the Commission's decision. Claimant appeals, arguing (1) the Commission's finding that his current condition of ill-being was not causally connected to his August 2004, work-related accident was against the manifest weight of the evidence and (2) the Commission's denial of prospective medical care was against the manifest weight of the evidence. We affirm.

¶ 4 I. BACKGROUND

¶ 5 At arbitration, claimant testified the employer was a distributor for dealers of construction materials. On August 31, 2004, he was working for the employer as a supervisor in its warehouse and service department. Claimant stated, on that date, he was assisting a customer with placing a 108-pound roll of steel in the customer's pickup truck when he experienced pain in his lower back. He testified they placed the steel on the tailgate of the pickup truck and then described the incident as follows:

"I was sort of holding on to it. I thought [the customer] was going to jump up quick and move it forward in the truck, but immediately he pushed forward and that was when I had my pain."

Claimant testified the pain worsened and, the next day, he felt pain down his legs.

¶ 6 Claimant acknowledged a previous injury to his lower back in March 1992, while working for a different employer. As a result of that injury, claimant filed a workers' compensation claim and, after settling the claim with his employer in December 1994, received benefits for a 15% loss of the person as a whole. The settlement contract shows the nature of claimant's injury was "[h]erniated discs at L3-4, L4-5." Claimant testified he saw Dr. Morris Marc Soriano in connection with that injury and, in September 1993, Dr. Soriano released him from care. He submitted a letter authored by Dr. Soriano and dated September 15, 1993, which stated claimant was experiencing occasional low backaches and pain into his right leg. However, Dr. Soriano noted claimant was back to work without difficulty and "discharged from further followup."

¶ 7 Claimant denied sustaining any other injuries to his lower back between the date of his December 1994 settlement and his August 2004 accident. However, he acknowledged seeking emergency medical care in February 1996 and having x-rays taken of his lower and middle back due to experiencing some pains between his shoulder blades and back. He denied any other back-related doctor visits between 1994 and 2004. Additionally, claimant testified he worked for the employer for five years before his August 2004 work accident. During that five-year period, he never missed work due to any issue with his lower back. Claimant testified he was "doing good" during that time frame. He also worked for the volunteer fire department until his retirement from that job in June 2003.

¶ 8 On September 1, 2004, the day after his August 2004 work accident, plaintiff sought medical treatment with his family doctor, Dr. Kenneth Petersen, at Rockford Health Physicians and was seen by a nurse practitioner. Medical records show he reported having back pain with pain radiating into his right leg. He provided a history of his previous lower back injury and treatment with Dr. Soriano, as well as experiencing pain at work the day before when

"lifting some steel pieces onto a truck." Records state x-rays were performed on claimant's back and showed "severe degenerative changes." The nurse practitioner assessed him as having lumbosacral back pain and prescribed medication for pain and inflammation.

¶ 9 On September 8, 2004, claimant saw Dr. Petersen. Following an examination, Dr. Petersen's impression was "right lumbar disk compression of lumbar spinal nerve." He recommended a magnetic resonance imaging (MRI) of claimant's lumbar spine and took him off work until September 17, 2004. On September 16, 2004, claimant returned to Dr. Petersen who noted claimant underwent an MRI, showing "an L4-5 central disk herniation with moderate osteophyte formation of the facet joints and mild right foraminal encroachment, mild degree on the left, and moderate spinal stenosis at L4-5." Dr. Petersen also noted "[m]inor disk changes at other levels and arthritic changes." He referred claimant to Rockford Memorial Hospital Pain Clinic (Pain Clinic) for evaluation and took him off work for two more weeks. Ultimately, claimant was taken off work until October 17, 2004.

¶ 10 The record shows claimant began receiving treatment at the Pain Clinic and was under the care of Dr. Alfred Rosche. Claimant testified Dr. Rosche examined him and recommended epidural injections, which were performed on claimant in September, October, and November 2004. Claimant estimated he ultimately received 18 injections. On December 8, 2004, claimant returned to Dr. Rosche and reported he was "better overall by 40-50%." Upon examination, Dr. Rosche noted claimant was "slightly obese." He recommended physical therapy, weight loss, abdominal strengthening, and a 20-pound lifting restriction.

¶ 11 Claimant testified, at that time he began seeing Dr. Rosche, he was noticing pain radiating down his legs. He stated the epidural injections helped "a little bit" but his pain persisted. Claimant testified he experienced constant pain in his lower back. At arbitration, he

stated he was 5 feet, 10 inches tall and weighed 250 pounds. Medical records contain measurements consistent with claimant's reported weight but show varying measurements with respect to his height, documenting claimant as being anywhere from 5 feet, 8 inches to 5 feet, 10 inches tall.

¶ 12 In January 2005, claimant began physical therapy at Orthopedic Rehab Specialists. Records from his initial visit on January 7, 2005, show he provided a history of his August 2004 work accident, stating "he got a strain into his back" that "very quickly spread into his leg and into his knee." Claimant was described as being "markedly" overweight. On January 27, 2005, claimant's physical therapy records showed he experienced a complete resolution of all leg symptoms but still had "residual low back discomfort" that was "really problematic only at night."

¶ 13 On January 28, 2005, Dr. Rosche stated claimant had a condition "consistent with multilevel discopathy, lumbar stenosis and foraminal stenosis" and had resolved to some degree after steroid injections. He recommended claimant be evaluated by a surgeon.

¶ 14 Claimant testified he was referred to the Rockford Spine Center where, on February 22, 2005, he was evaluated by Dr. Michael Roh and his physician's assistant, Matthew Schwabero. Records show claimant had chief complaints of right-sided lumbar back pain. Dr. Roh noted claimant had undergone three epidural injections, which provided him with 100% relief from pain in his buttock, anterior thigh, and posterior thigh. Following evaluation, Dr. Roh's impression was possible right-sided L4-5 facet joint arthritis. He noted as follows:

"At this time [claimant] is suffering only from right-sided lower lumbar back pain. He has had this since August of 2004. He did have quite severe lower extremity radicular symptoms however

after his three epidural steroid injections that is 100% resolved.

The MRI and x-ray do show a somewhat arthritic right-sided L4-5 facet joint. Since his pain is localized on the right near L4-5 facet joint I would like to send him for an L4-5 facet joint block and possible ablation to see if this does give him relief of his lumbar back pain."

Dr. Roh recommended claimant continue with physical therapy and use a muscle stimulator. In a letter to Dr. Rosche that detailed his evaluation of claimant, Dr. Roh further stated as follows:

"In the event that [claimant] has recurrent radiculopathy he might be a candidate for some type of decompressive procedure but at this time given his symptoms are chiefly axial or paraspinal I think that further nonsurgical care is warranted and therefore I am sending him back to your care."

¶ 15 On March 11, 2005, claimant returned to Dr. Rosche who noted his evaluation with Dr. Roh. Dr. Rosche performed the L4-5 facet block recommended by Dr. Roh.

¶ 16 On April 7, 2005, claimant's physical therapist described him as doing much better. He believed they had accomplished everything they could expect to accomplish with standard physical therapy but stated claimant might benefit from a course of work conditioning if Dr. Rosche felt claimant was ready to go back to normal duty work.

¶ 17 On April 13, 2005, claimant was seen at the Pain Clinic by Dr. Frederick Gahl and received a lumbar epidural steroid injection after claimant's wife had telephoned to report claimant was in "excruciating pain." On April 27, 2005, claimant followed up with Dr. Rosche. Dr. Rosche noted claimant continued to have low back complaints. He discussed exercises,

weight loss, and physical limitations with claimant. Dr. Rosche cleared claimant to return to work with a trial, 40-pound lifting restriction. He stated claimant "continued to have the symptoms and stigmata of right lumbar radiculopathy secondary to lumbar degenerative disc dysfunction specifically related to MRI findings of stenosis and nerve root compression." Dr. Rosche encouraged claimant to do what he could to acquire good pain relief and "discussed the eventual nature of [claimant's] problem potentially requiring surgery." Claimant testified Dr. Rosche also recommended a recumbent position bike, which claimant testified he purchased and "seemed to help" and "ease[d] up the pain."

¶ 18 Claimant continued with therapy until April 28, 2005, when therapy records state claimant "rechecked with Dr. Rosche who told him to continue with one last session of physical therapy." His therapist noted claimant was "going to acquire a membership to a health club and continue spinal stabilization exercises in a self-supervised manner." A summary of his physical therapy care stated claimant was doing well when last seen for therapy, had followed up with Dr. Rosche, and Dr. Rosche "wanted him to access a health club and continue working general exercises on his own." Claimant testified he had 27 physical therapy visits between January and April 2005, and therapy helped his condition, in that he "[s]eemed to be getting a little bit better for a period of time." Claimant testified that, although his leg pain never went away for good, it did go away while he was undergoing therapy.

¶ 19 Claimant testified, on August 30, 2005, he saw Dr. Theodore Eller, a spine surgeon at Rockford Health Physicians. A letter authored by Dr. Eller shows claimant reported pain "occurring just to the left of center of his low back region and down his left leg." Dr. Eller examined claimant and reviewed his MRI. He stated he explained to claimant that he had "almost uniformly disappointing results from open surgery" with patients, like claimant, who

were obese and had a central disk herniation. Dr. Eller recommended weight loss, continued mild stretching exercises, and a second opinion from someone else due to the "wide range of opinion regarding treatment of [claimant's] type of problem."

¶ 20 Claimant testified, in September 2005, he called Dr. Gahl's office to request another epidural injection and, in 2006, he continued to receive medical treatment from Dr. Petersen and Dr. Thomas Dahlberg, whom claimant testified replaced Dr. Rosche at the Pain Clinic. Claimant stated his treatment with Dr. Dahlberg included additional epidural injections. He testified the injections would provide relief for a few months and then gradually the pain would return. Specifically, he stated the epidural injections relieved him of the pain radiating down his legs but he "would still have basically a knot in [his] back all the time." The record reflects claimant also received epidural injections from Dr. Dahlberg in 2007.

¶ 21 On August 10, 2007, claimant saw Dr. Edward Goldberg, an orthopedic surgeon, at the agreement of both parties. Claimant provided a history of his work accident and complained of low back pain but no radicular pain at all. Dr. Goldberg reviewed claimant's MRI films and found "evidence of degenerative disc disease at L3-4, L4-5 with stenosis at L3-4 and L4-5" and "a superimposed central herniated nucleus pulposus." Following an examination, Dr. Goldberg stated his working diagnosis was "degenerative disc disease L3-4, L4-5 with spinal stenosis at both levels and a superimposed central herniation L4-5." With respect to causation, he opined as follows:

"In my opinion[,] this was aggravated by the work-related accident of August 31, 2004. I do appreciate that he had previous lumbar problems and sought treatment, but there was a gap for approximately 8 years. The diagnosis [*sic*] studies done before, although



not available, were interpreted as showing pathology at L3-4 and L4-5. Hence, I feel they preexisted the alleged accident in 2004, but certainly [were] aggravated by it."

¶ 22 Dr. Goldberg noted claimant had been performing light-duty work and stated he could continue to do so. He further stated as follows:

"At this point in time, [claimant's] primary problem is back pain. He has no radicular complaints. In view of this, I would not recommend surgery at this time regarding his lumbar spine. To address 'back pain,' this will require a 2-level fusion without guarantee. If his radicular pain does recur, I feel he may benefit from an additional series of epidural injections. If that does not provide relief, then the proposed surgery would be laminectomy and fusion L3-4, L4-5 with discectomy at L4-5."

¶ 23 Claimant testified Dr. Goldberg recommended he continue with injections and exercise. He stated he received two epidural injections in 2008. Claimant agreed his medical records would be correct if they showed he received no medial treatment from September 27, 2007, through May 1, 2008.

¶ 24 In November 2007, claimant stopped working for the employer, testifying he was laid off, and went to work for Twin City Supply. He stated he performed essentially the same job duties he performed while working for the employer after his August 2004 accident.

¶ 25 In May 2009, claimant requested a repeat MRI, which was performed on June 3, 2009. On August 26, 2009, he returned to see Dr. Goldberg and reported continued low back pain, occasional pain in the base of the neck, and bilateral lower extremity radicular pain and

paresthesias. Dr. Goldberg reviewed claimant's new MRI, showing "degenerative disk disease at L3-L4 and L4-5 with a central herniation at L4-5 and severe stenosis L3-4 and L4-5." He found claimant's options included living with his condition or surgery in the form of a "laminectomy L3 and L4, discectomy L4-5, posterolateral fusion L3-L4 and L4-L5." Dr. Goldberg continued to believe claimant's condition was "from the accident of 2004." Claimant testified he wanted to consider surgery.

¶ 26 At arbitration, claimant presented Dr. Goldberg's deposition. Dr. Goldberg described his examinations of claimant and testified he found no significant difference between claimant's June 2009 MRI and his earlier MRI but did find increased stenosis "over additional years." Dr. Goldberg testified he would proceed with surgery for claimant if claimant wanted surgery but it was "the patient's call."

¶ 27 On cross-examination, Dr. Goldberg agreed that claimant previously injured his lower back in 1992, and experienced pain radiating into his right hip and lower extremity. Further, he acknowledged a 1992 CT scan showed narrowing at L4-L5 with bulging, a questionable disk herniation, and spinal stenosis at L4-5. Additionally, an MRI, also performed on claimant in 1992, showed a herniation at the L4-L5 level. Dr. Goldberg agreed claimant's medical records showed he received treatment in February 1996 for acute thoracic back pain and upper lumbar back pain, and had back pain radiating to his right side.

¶ 28 Dr. Goldberg testified that the findings from his August 2007 examination of claimant, *i.e.*, degenerative disc disease at L3-L4 and L4-L5 with spinal stenosis at both levels and a superimposed central herniation at L4-L5, could have been present prior to claimant's August 2004, work accident. He also agreed that claimant's weight could be a constant aggravation of the degenerative condition in his lumbar spine. Dr. Goldberg further testified it was

correct that claimant's August 2004 accident may not have structurally accelerated a preexisting condition in his lumbar spine.

¶ 29 Claimant testified he underwent additional epidural injections on September 28, 2009, and May 10, 2010. At arbitration, he submitted medical bills totaling \$2,773.81, for the medical care he received on September 28, 2009.

¶ 30 The employer presented the deposition of Dr. Andrew Zelby, a specialist in neurosurgery, who evaluated claimant on October 26, 2009, at the employer's request. Dr. Zelby testified he examined claimant and reviewed medical records, including diagnostic testing that predated claimant's August 2004 accident. Claimant provided a history of his August 2004, work accident and complained of constant low back pain with occasional pain radiating into his lower extremities, left more than right.

¶ 31 Dr. Zelby described claimant as morbidly obese, stating he was 67 inches tall (5 feet, 7 inches), weighed 259 pounds, and had a Body Mass Index (BMI) of 40.71. He testified morbid obesity occurs when an individual has a BMI of 40 or greater. On cross-examination, Dr. Zelby acknowledged claimant's driver's license from 2001 and various medical records showed claimant's height as being 5 feet, 10 inches.

¶ 32 Dr. Zelby diagnosed claimant with lumbosacral spondylosis and morbid obesity. He opined claimant's lumbar spine condition of ill-being was not causally connected to his August 2004, work accident. He testified claimant "essentially had a degenerative condition in his lumbar spine, along with morbid obesity." Dr. Zelby stated claimant's obesity was "a constant aggravation to the lumbar spine and place[d] a strain on the spine in a manner that the spine [was] not designed to withstand." He found claimant's "episodic complaints of pain" were

"consistent with the natural history of his degenerative condition, made more frequent because of [claimant's] morbid obesity."

¶ 33 Dr. Zelby believed claimant's August 2004 accident caused only a temporary exacerbation of his degenerative lumbar condition. He testified as follows:

"[Claimant] was very clear that in August 2004 his injury was not from lifting the steel roll that caused pain but trying to hold the steel roll as it was tipped forward into the bed of the truck by the customer. If [claimant] was holding the back of the steel roll as it flipped forward, this would have lifted [claimant] and he indicated that he held the steel roll as it went upward. This upward movement would have placed a distractive force on the spine, not a compressive force, and would have done little to aggravate or exacerbate the preexisting degenerative condition in his spine.

I said that it caused a temporary exacerbation of his degenerative condition. Essentially, it was - - the temporary exacerbation would have easily reached a condition of maximum medical improvement within three to four months of the time of his injury."

¶ 34 Dr. Zelby testified a distractive force "instead of going down through the spinal axis and other tissues, is going upwards; in other words, away" and "you are unloading the spine as opposed to loading it." On cross-examination, Dr. Zelby clarified that the type of force involved in claimant's accident was "part of the history" but "of no great significance." He stated as follows:

"[W]hatever the forces were, and I think they'll never be known exactly, they exerted their effect on the spine. The results of that can be seen on the MRI. And that shows no acute changes, which is what makes this exacerbation a temporary one as opposed to a permanent one."

¶ 35 Dr. Zelby further believed the medical treatment claimant received over the previous five years was related to the natural history of his degenerative condition and the morbid obesity, not his August 2004 accident. He testified claimant would be best served with a diligent home exercise program and maintaining a healthier body weight. He did not believe surgery would be in claimant's best interests because, due to his morbid obesity, it was "much less likely for him to get a good result following surgery."

¶ 36 On cross-examination, Dr. Zelby testified he did not believe claimant had any complaints of radiculopathy in 2006, 2007, or 2008. Further, he stated he was "apparently not" aware of the medical treatment claimant received from 2006 to 2009.

¶ 37 On September, 16, 2010, the arbitrator issued his decision in the matter. He determined claimant sustained accidental injuries that arose out of and in the course of his employment on August 31, 2004, and awarded claimant (1) 6-5/7 weeks' TTD from September 1, 2004, to October 17, 2004, and (2) \$2,773.81 for reasonable and necessary medical expenses. Relying on Dr. Zelby's opinion, the arbitrator determined claimant's current condition of ill-being was not causally related to his August 2004 accident. The arbitrator further determined claimant was not entitled to prospective medical care in the form of the surgery recommended by Dr. Goldberg in August 2009.

¶ 38 On August 24, 2011, the Commission affirmed and adopted the arbitrator's decision without further comment. On June 19, 2012, the circuit court of Winnebago County confirmed the Commission's decision.

¶ 39 This appeal followed.

¶ 40 II. ANALYSIS

¶ 41 On appeal, claimant argues the Commission's finding that his current condition of ill-being was not causally connected to his August 2004, work accident was against the manifest weight of the evidence. He contends the Commission's decision was based upon numerous errors of fact and the Commission improperly relied on the opinions of Dr. Zelby over those of Dr. Goldberg.

¶ 42 "Whether a causal relationship exists between a claimant's employment and his injury is a question of fact to be resolved by the Commission \*\*\*." *R & D Thiel v. Illinois Workers' Compensation Comm'n*, 398 Ill. App. 3d 858, 867, 923 N.E.2d 870, 878 (2010). "In resolving such issues, it is the function of the Commission to decide questions of fact, judge the credibility of witnesses, and resolve conflicting medical evidence." *R & D Thiel*, 398 Ill. App. 3d at 868, 923 N.E.2d at 878. "The Commission's determinations on questions of fact will not be disturbed on review unless they are against the manifest weight of the evidence; that is to say, unless an opposite conclusion is clearly apparent." *R & D Thiel*, 398 Ill. App. 3d at 868, 923 N.E.2d at 878. "The relevant inquiry is whether the evidence is sufficient to support the Commission's finding, not whether this court or any other might reach an opposite conclusion." *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 538-39, 865 N.E.2d 342, 353 (2007).

¶ 43 Here, the Commission determined claimant's August 2004 accident caused only a temporary aggravation of a preexisting degenerative condition in claimant's lower back and his

current lumbar spine condition of ill-being was not causally connected to his work accident. The record on appeal contains evidence to support that finding and it is not against the manifest weight of the evidence.

¶ 44 Following his August 2004 accident, claimant experienced lower back pain and pain radiating into his right lower extremity. Both Dr. Goldberg and Dr. Zelby determined the condition in claimant's lumbar spine preexisted his August 2004 accident. Dr. Goldberg reviewed claimant's post-accident MRI and found "degenerative disc disease [at] L3-4, L4-5 with spinal stenosis at both levels and a superimposed central herniation at L4-5." He noted diagnostic studies, which predated claimant's work accident, showed pathology at the same levels of claimant's spine, including a herniation at L4-L5. Dr. Zelby diagnosed claimant with lumbosacral spondylosis and morbid obesity. He opined claimant's August 2004 accident caused only a temporary aggravation of claimant's preexisting lumbar condition that would have resolved within three or four months. Dr. Zelby based his opinion on his finding of no acute changes on claimant's post-accident MRI and testified claimant "essentially had a degenerative condition in his lumbar spine, along with morbid obesity." He believed claimant's weight was "a constant aggravation" to claimant's lumbar spine and placed a strain on his spine that it was not designed to withstand.

¶ 45 Claimant argues the Commission erred in relying on Dr. Zelby's opinions over those of Dr. Goldberg, who found claimant's condition of ill-being was causally connected to his August 2004 accident. Although the record contains contrary medical opinion, it was within the province of the Commission to resolve those conflicts.

¶ 46 Here, evidence showed claimant received conservative medical treatment after his accident and, by January 2005, his physical therapist noted a complete resolution of all leg

symptoms and "residual low back discomfort" that was "really only problematic at night." Additionally, claimant's weight issues were noted by several medical providers, including Dr. Rosche who stated claimant was "slightly obese" and recommended weight loss; claimant's physical therapist who noted claimant was "markedly" overweight; and Dr. Eller who recommended weight loss and noted he had "almost uniformly disappointing results from open surgery" with patients who were obese and had a central disk herniation. At his deposition, Dr. Goldberg agreed claimant's weight could cause a constant aggravation of his degenerative condition. As the record contains support for Dr. Zelby's opinions, the Commission's reliance on his opinions over those of Dr. Goldberg was not against the manifest weight of the evidence.

¶ 47 On appeal, claimant also argues the Commission's decision was against the manifest weight of the evidence because it was based on errors of fact. Specifically, he contends the Commission erred in finding (1) Dr. Roh indicated claimant was not a surgical candidate and that he should continue under his home exercise program and with a weight loss regimen, (2) Dr. Goldberg stated claimant did not require surgical intervention due to his clinical exam and obesity, and (3) Dr. Zelby's causation opinion was based on his determination that claimant's accident involved a "distractive force." Here, the record reflects claimant has correctly identified two factual findings by the Commission that were unsupported by the evidence. However, even despite the Commission's misstatements of fact, its decision was not against the manifest weight of the evidence.

¶ 48 First, the record supports the Commission's findings that Dr. Roh and Dr. Goldberg both determined claimant was not a surgical candidate at the time of their respective February 2005 and August 2007 evaluations of claimant. While each doctor left open the



possibility of a surgical recommendation in the future upon the return of claimant's radicular symptoms, both clearly opined surgery was not warranted at the time of their evaluations.

¶ 49 Second, although the Commission incorrectly found Dr. Roh recommended claimant continue a home exercise program and lose weight and Dr. Goldberg based his surgical opinion on claimant's obesity, the errors were minor and insufficient to warrant reversal of the Commission's decision. Additionally, while Dr. Roh and Dr. Goldberg did not make the precise statements attributed to them by the Commission, those statements were made by other doctors involved in the case. In particular, claimant's weight was noted by several of his providers, including Dr. Rosche who recommended weight loss and Dr. Eller who recommended claimant lose weight and opined he was a poor candidate for surgery due to his obesity.

¶ 50 Third, the Commission's finding that Dr. Zelby determined the mechanism of claimant's injury was a distractive force on the spine correctly reflected Dr. Zelby's testimony even though he ultimately testified the force involved in claimant's accident was "of no great significance." Contrary to claimant's assertions, the record does not show the Commission relied on Dr. Zelby's "distractive force" testimony to the exclusion of his other opinions. In particular, the Commission noted Dr. Zelby opined claimant's "current condition and need for treatment [was] not related to the accident but [was] a result of an ongoing degenerative process due to [claimant's] obesity." Additionally, to the extent the Commission relied upon the wrong basis for Dr. Zelby's opinions, we note its decision may be affirmed on any legal basis supported by the record. *USF Holland, Inc. v. Industrial Comm'n*, 357 Ill. App. 3d 798, 803, 829 N.E.2d 810, 816 (2005) ("[A] reviewing court can affirm the Commission's decision if there is any legal basis in the record to support its decision, regardless of the Commission's findings or reasoning."). As discussed, the record supports the Commission's overall reliance on Dr. Zelby's opinions.

¶ 51 On appeal, claimant further argues the Commission erred in denying him prospective medical expenses for the surgery recommended by Dr. Goldberg in August 2009. "Section 8(a) of the Act entitles a claimant to compensation for all necessary first aid, medical and surgical services and all necessary medical, surgical and hospital services 'thereafter incurred' that are reasonably required to cure or relieve the effects of injury." *City of Springfield v. Illinois Workers' Compensation Comm'n*, 388 Ill. App. 3d 297, 317, 901 N.E.2d 1066, 1082 (2009) (quoting 820 ILCS 305/8(a) (West 2004)). "Prescribed services not yet performed or paid for are considered to have been 'incurred' within the meaning of the statute." *City of Springfield*, 388 Ill. App. 3d at 317, 901 N.E.2d at 1082. "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, 981 N.E.2d 1193.

¶ 52 Here, the Commission relied on Dr. Zelby's opinions to find claimant's work accident caused only a temporary aggravation of his preexisting degenerative condition and his current condition of ill-being and need for treatment, including the surgery recommended by Dr. Goldberg, were not causally related to his work accident. As stated, the Commission's reliance on Dr. Zelby and its findings as to causation were supported by the record and not against the manifest weight of the evidence. For the same reasons, the Commission's refusal to award prospective medical expenses was also not against the manifest weight of the evidence.

¶ 53 Finally, on appeal, claimant argues the Commission's award of past medical expenses was internally inconsistent with its finding of no causal relationship. He contends this inconsistency "is further evidence of the Commission's illogical analysis" and supports reversal of its decision as against the manifest weight of the evidence.

¶ 54           The record reflects claimant sought and was awarded by the Commission \$2,773.81 for medical expenses incurred on September 28, 2009, in connection with an epidural injection performed on that date. The Commission provided no rationale for that award and it does appear to be inconsistent with the Commission's reliance on Dr. Zelby's opinions and its determination that claimant suffered only a temporary aggravation of his preexisting condition. However, again, the Commission's causal connection findings were supported by the record and an opposite conclusion from the one reached by the Commission is not clearly apparent. At most, the inconsistency alleged by claimant would require reversal of the Commission's award of medical expenses, not its entire decision. Because the employer has not challenged the Commission's award of medical expenses, we do not disturb that award on appeal.

¶ 55   III. CONCLUSION

¶ 56           For the reasons stated, we affirm the circuit court's judgment.

¶ 57           Affirmed.