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NOTICE
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2013 IL App (2d) 120860WC-U

NO. 2-12-0860WC

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

ALDI, INC.,	) Appeal from the
	) Circuit Court of
Appellant,	) Kane County.
	)
v.	) No. 11 MR 182
	)
THE ILLINOIS WORKERS' COMPENSATION COMMISSION, *et al.,* (Christie Stridde, Appellee).	) Honorable) Thomas E. Mueller) Judge, presiding.

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

ORDER

¶ 1 *Held*: Even though conflicting medical evidence was presented, sufficient evidence was presented to support the Commission's decision that the

claimant's condition of ill-being was causally related to her employment. Thus, the Commission's decision is not against the manifest weight of the evidence. The medical expense award for services provided by a chiropractor is not against the manifest weight of the evidence where the claimant's physicians prescribed physical therapy, the physicians knew the chiropractor was providing physical therapy, and the therapy she provided fell within the broad scope of services a chiropractor can provide.

¶ 2 The claimant, Christie Stridde, filed an application for adjustment of claim against her employer, Aldi Inc., seeking workers' compensation benefits for an injury to her right shoulder and thoracic outlet syndrome she allegedly sustained at work on April 1, 2009. The claim proceeded to an expedited arbitration hearing under section 19(b) of the Workers' Compensation Act (the Act) (820 ILCS 305/1 *et seq*. (West 2008)). The arbitrator found that the claimant's condition did arise out of her employment and was causally related to her workplace accident on April 1, 2009. The employer was ordered to pay $15,731.54 for medical expenses. The employer was given credit for $24,164.62 for the payment of temporary total disability (TTD) benefits and for $194.40 for payment of temporary partial disability (TPD) benefits.

¶ 3 The employer appealed to the Illinois Workers' Compensation Commission (Commission), which affirmed and adopted the decision of the arbitrator. The Commission noted two mistakes in the arbitrator's decision. The employer filed a timely petition for review in the circuit court of Kane County. The circuit court confirmed the Commission's decision, and the employer appealed.

¶ 4 BACKGROUND

¶ 5 The claimant testified that she started working for the employer in February 2007. She was employed as an order selector in the employer's Batavia warehouse and was responsible for filling warehouse orders sent by local Aldi grocery stores. To perform her job she drove a tugger, which is a one-person machine with two

forks on the back side. The claimant would drive the tugger up to the pallets, reach to manually lift and pull down two pallets, and place them on the tugger. She would then pull, reach, and bend to pick the product and stack it on the pallets. She was responsible for boxes and crates of produce, yogurt, cheese, and meats. The items ranged in weight from one pound to approximately forty pounds. She was required to work at a rate of 246 crates or boxes per hour. Once the pallets were full, she would wrap them in plastic, label them with the store number, and place them in a row for a truck driver to pick up. The claimant stated that her work day varied in length from three to eleven hours.

¶ 6 The claimant testified that on April 1, 2009, she noticed a sensation in her upper back that she thought was a pinched nerve. The parties stipulated that the claimant sustained an accident. The employer accepted liability and causation as it related to the claimant's shoulder injury. At dispute is whether the claimant also sustained thoracic outlet syndrome and whether the treatment provided by Dr. Delilah Anderson, a chiropractor, was a necessary and reasonable treatment to cure or relieve the claimant's occupational injuries.

¶ 7 The claimant was examined by chiropractor Dr. J. David Tejada on April 9, 2009. On June 21, 2009, she went to the Provena Mercy Medical Center emergency room complaining of right shoulder pain since April. She was diagnosed with upper back sprain. The following day she started physical therapy at Precision Health Care Center. She continued treatment with Dr. Tejada.

¶ 8 On August 6, 2009, the claimant had a magnetic resonance imaging scan (MRI) of her cervical spine. Dr. Alex Krasny wrote in his report that the claimant had "mild, early degenerative change within the C5-6 disc with minimal, early annular bulging at this level, but otherwise no evidence of significant spinal

stenosis or foraminal stenosis." In August 2009, the claimant participated in a work hardening program at Provena Mercy Medical Center.

¶ 9 On September 15, 2009, Dr. Richard Erickson of Sportsmed/Wheaton Orthopaedics examined the claimant. He diagnosed her with a possible long thoracic nerve injury and a possible labral injury of the right shoulder. He recommended continued therapy and indicated that an electromyograph/nerve conduction velocity (EMG/NCV) test would be appropriate if her symptoms remained consistent with an underlying nerve problem. He prescribed below shoulder-level work and a 25-pound lifting restriction.

¶ 10 The claimant saw Dr. Erickson again on October 7, 2009, and he recommended an MRI arthrogram of her right shoulder. On October 22, 2009, she had an MRI of her right shoulder. Dr. Krasny wrote that the "diminution/absence of the anterior-superior labral substance from the 12:00 to the 3:00 is thought to more likely represent anatomic variation as opposed to a labral tear. The remainder of the labrum and the biceps tendon are intact. No evidence of rotator cuff tear."

¶ 11 On October 27, 2009, Dr. Erickson examined the claimant and wrote in his office notes that she had positive O'Brien's, Roos, and Adson's maneuver tests, a negative Speed's test, and a minimally positive impingement sign. Additionally, she had a loss of the pulses bilaterally with lateral rotation of the cervical spine away from the affected shoulder. Dr. Erickson diagnosed the claimant with a right shoulder superior labral tear, right upper extremity radiculopathy, and possible thoracic outlet syndrome. He recommended that she have an EMG/NCV. He explained that there were probably two different etiologies to her pain.

¶ 12 The claimant had an EMG performed by Dr. Constantine Dzamashvilli. His impression was that there was electrophysiologic evidence suggestive of irritation of the lower C7-T1 nerve roots on the right, but no evidence of peripheral entrapment or polyneuropathy.

¶ 13 Dr. Henry Echiverri, a neurologist, examined the claimant on November 10, 2009. In his history and physical report, he wrote that the claimant's chief complaint was neck pain radiating to the right shoulder, shoulder blade, and arm. He assessed the claimant with radiculitis, cervical and brachial.

¶ 14 Dr. Erickson examined the claimant on November 18, 2009, and wrote in his office notes that she had positive Adson's and Roos tests, and tenderness in the cervical spine over the trapezius and along the medial scapula. He diagnosed her with degenerative disc disease of the cervical spine, possible right shoulder superior labral tear, and possible intermittent radiculopathy, right upper extremity versus thoracic outlet syndrome. He recommended that "she see Dr. Anderson who is a chiropractor who has some interest in thoracic outlet syndrome to see if she can help her with exercises."

¶ 15 Chiropractor Dr. Delilah Anderson starting treating the claimant on November 20, 2009. On December 28, 2009, she wrote to Dr. Erickson thanking him for referring the claimant and stating that based on the claimant's history and her examination of the claimant, she concurred with his suspicions of thoracic outlet syndrome. She informed him that she referred the claimant to Dr. Pearce, a vascular surgeon with expertise in the field of thoracic outlet syndrome.

¶ 16 Dr. William Pearce, a board-certified vascular surgeon, examined the claimant on December 15, 2009. In a chart note he wrote that the claimant's chief complaint was right upper extremity pain, numbness, and tingling. Dr. Pearce

wrote that he "beleive[d] there is evidence for thoracic outlet syndrome in this patient related to her work injury." He based this opinion on her positive EMG and his physical examination of the claimant, which showed tenderness over the scalene muscle and reproduction of the symptoms with her arm abducted and externally rotated.

¶ 17 Dr. Pearce testified by evidence deposition that Dr. Anderson was with the claimant at her visit and he recommended that they go to physical therapist Theresa Eiden. He stated he had worked with Ms. Eiden and he wanted to make sure the claimant's physical therapy was in line with successful treatments used on other patients.

¶ 18 On December 29, 2009, Dr. Erickson examined the claimant. He wrote in his office notes that the claimant had a positive O'Brien's test and a mildly positive Speed's test. He diagnosed her with a right shoulder superior labral tear, right shoulder impingement syndrome, and possible thoracic outlet syndrome versus radiculopathy of the right upper extremity.

¶ 19 On December 31, 2009, the claimant saw Dr. Meghan Rodes and Dr. Honorio Benzon on referral from Dr. Pearce and received right anterior and middle scalene muscle injections.

¶ 20 On January 21, 2010, the claimant was examined by Ms. Eiden. In her incident history Ms. Eiden noted that Dr. Pearce diagnosed the claimant with thoracic outlet syndrome in December 2009, and a subsequent scalene block that significantly decreased her pain confirmed the diagnosis. With respect to treatment, Ms. Eiden wrote that she "[p]rovided Dr. Anderson with a framework to help sequence her manual therapy." Her assessment was that the claimant's complex musculoskeletal and subjective complaints were consistent with thoracic

outlet syndrome. She wrote that she thought the claimant would do well with manual therapy provided by Dr. Anderson and recommended that the claimant continue manual therapy once per week for six to nine months.

¶ 21 On January 26, 2010, the claimant had an EMG/NCV. Dr. Echiverri diagnosed the claimant with thoracic outlet syndrome. On February 25, 2010, Dr. Echiverri performed a somatosensory evoked potential (SSEP) study.

¶ 22 The claimant returned to Dr. Erickson on February 9, 2010. After examining her, he wrote in his office notes that due to the duration of her symptoms and her failure to progress, he recommended proceeding with an arthroscopy of the right shoulder. Dr. Erickson examined the claimant on April 13, 2010, and again recommended a right shoulder arthroscopy.

¶ 23 On April 6, 2010, at the request of the employer, the claimant underwent an independent medical evaluation by Dr. Guido Marra. He found that the claimant had negative Hawkin's, O'Brien's, and crank tests. He diagnosed her with shoulder pain. He wrote that "I do not feel that there is any significant shoulder injury which is attributing to this, but would not exclude the possibility of thoracic outlet syndrome or cervical spine pathology and would defer to a specialist in these areas."

¶ 24 Dr. Pearce examined the claimant on April 16, 2010. He wrote in his patient notes that "I do believe there is evidence for thoracic outlet syndrome in this patient related to her work injury." He based this opinion on a positive EMG and her physical examination. The features of the physical examination that were consistent with this diagnosis were tenderness over the scalene muscle and reproduction of the symptoms with her arm abducted and externally rotated.

¶ 25 Dr. Alexander Ghanayem testified by evidence deposition that he is a board-certified orthopaedic spine surgeon. He testified that he examined the claimant on May 12, 2010, at the request of the employer. He stated that his exam found her to be neurologically normal with regard to any cervical spine problems, some pain with shoulder testing, no evidence of scapular winging, and a negative Adson's maneuver test. He testified that the Adson's maneuver test is the most accurate test on an objective basis for thoracic outlet syndrome because it does not rely on subjective input from the patient. He stated that the Adson's maneuver test had a seven percent false positive result rate and the EAS test had a sixteen percent false positive result rate. He stated that the Adson's maneuver test allows the physician to isolate the findings typical of thoracic outlet syndrome from those findings typical from other conditions of pathology.

¶ 26 Dr. Ghanayem testified that he reviewed the claimant's cervical spine MRI, the two EMGs, and one SSEP study. The first EMG showed some nonspecific irritation of the lower cervical nerves on the right, the second EMG was normal, and the SSEP tests were normal. He stated that he effectively ruled out a long thoracic nerve problem and felt that she did not have thoracic outlet syndrome. He also felt that she did not have a pinched nerve. He felt that her problem was "some sort of shoulder problem, isolated shoulder joint as the issue at hand."

¶ 27 Dr. Ghanayem testified that he ruled out thoracic outlet syndrome because the claimant's subjective complaints were in the wrong distribution, and her Adson's maneuver test was negative. He testified that a scalene block is not diagnostic of thoracic outlet syndrome because as an anaesthetic procedure used to numb the entire shoulder girdle and arm it is a nonspecific test. He went on to state that palpating the scalene muscle as part of the diagnostic workup for thoracic

outlet syndrome was one of the worst tests in terms of false positives because an individual can have pain in his or her scalene muscle just from a soft tissue strain. Dr. Ghanayem testified that while he diagnosed the claimant with some sort of shoulder problem, he was not sure whether it was a labral tear, rotator cuff tear, or subacromial impingement. He deferred to a specialist for an exact diagnosis of the shoulder problem. Dr. Ghanayem testified that thoracic outlet syndrome is treated by orthopaedic surgeons, neurosurgeons, cardiac surgeons, vascular surgeons, plastic surgeons, and general surgeons.

¶ 28 On August 5, 2010, Dr. Pearce examined the claimant. In his office notes he wrote that "she was also seeing a chiropractor, Dr. Anderson, who was helping her with her symptoms." He wrote that "[o]verall, I believe the patient continues to have symptoms and signs consistent with thoracic outlet syndrome."

¶ 29 Dr. Pearce testified that to a reasonable degree of medical certainty, he thought that the claimant had thoracic outlet syndrome and believed it was related to her work activities, specifically repeated activities above her head. He based this diagnosis on the results of the claimant's EMG along with her physical symptoms, the reproduction of the symptoms with the arm externally rotated, and her response to the scalene block. He stated that the scalene block is "generally held as the most accurate way of making the diagnosis or has been labeled the way of making the diagnosis of Thoracic Outlet Syndrome." He went on to say that the "diagnosis often doesn't have any positive test, EEGs, CT scans, spine x-rays. Most of the time it's negative images." He testified that in making the diagnosis of thoracic outlet syndrome the physician looks for tenderness over the scalene muscle, and the "reproduction of the system and external rotated and positive response to the scalene block."

¶ 30 Dr. Pearce testified that he disagreed with the conclusions drawn by Dr. Ghanayem. He stated that he did not think that Dr. Ghanayem examined the claimant appropriately because he did not look for scalene tenderness or do the 90 degrees of abduction externally rotating maneuvers that he relied upon. Dr. Pearce testified that the Adson's maneuver was a test for thoracic outlet syndrome, but it was not a reliable test because 20 to 30 percent of the normal population tested positive. He stated that he uses the EAS test (Elevation and Abduction Symptoms).

¶ 31 Dr. Pearce recommended that the claimant avoid surgery because surgery could result in scar tissue that would make the symptoms worse. He hoped that she could overcome her problem with physical therapy to the point where she could return to work.

¶ 32 Dr. Pearce stated that he was not the primary physician, but was a consultant. He testified that the shoulder surgery performed by Dr. Erickson would not relieve the thoracic outlet syndrome, but could improve the mechanics of her shoulder and upper extremity, which could make the symptoms better or worse. He stated that he would have to re-evaluate the claimant after she was released from Dr. Erickson's care before he could determine whether surgery would ever be indicated to treat the claimant's thoracic outlet syndrome.

¶ 33 On August 9, 2010, Dr. Richard Erickson performed an arthroscopy of the right shoulder, an endoscopic superior labral tear repair, debridement of rotator cuff tear, subacromial decompression, and distal clavicle resection on the claimant. At a follow-up appointment to her surgery on August 18, 2010, Dr. Erickson wrote in his patient notes that he wanted the claimant to begin therapy for her neck, shoulders, and stabilizers. On November 11, 2010, Dr. Erickson examined the

claimant and wrote in his office notes that she had some problems that were not directly related to her shoulder, but which "include some issues regarding possible thoracic outlet syndrome."

¶ 34 On January 11, 2011, Dr. Erickson examined the claimant and wrote in his office notes that she had a diagnosis of thoracic outlet syndrome. He noted that her thoracic outlet syndrome was being managed by Dr. Echiverri. He wrote that he explained to the claimant that therapy for her shoulder was not necessary at that time. He opined that she had "pretty much reached maximum medical improvement." He prescribed permanent restrictions of below shoulder-level work and ten pounds lifting.

¶ 35 In his office report dated January 27, 2011, Dr. Echiverri wrote that he discussed the claimant's case "with Dr. Anderson who is the chiropractor currently treating this patient for [thoracic outlet syndrome.] Dr. Anderson stated that patient is nowhere near being able to do functional capacity."

¶ 36 Dr. Erickson examined the claimant again on February 15, 2011. His impression was that the claimant had a stable labral repair, right shoulder with subacromial decompression and distal clavicle resection, and residual thoracic outlet syndrome. He advised her to continue with her exercises on her own as it pertained to her shoulder and that any additional therapy for the thoracic outlet syndrome should be prescribed by Dr. Echiverri. He restricted her from lifting more than 10 pounds to waist level and 5 pounds to chest level, and ordered no repetitive lifting above chest level. He wrote that "these are basically permanent restrictions."

¶ 37 The claimant testified that she was still under the care of Dr. Anderson. Dr. Anderson's treatment included adjustments, electrical stimulus, and

ultrasounds. Following her shoulder surgery, the claimant stated that her treatment changed to include Wii Fit including yoga, strength, balance, stability, and aerobics. The record reveals that Dr. Anderson treated the claimant approximately 175 times between November 20, 2009, and March 7, 2011. The treatment included manipulations, ultrasounds, interferential therapy, electrical stimulation, therapy exercises, and neuromuscular reeducation.

¶ 38 The claimant testified that prior to April 2009, she had only had minor muscle strain in her upper back approximately one year after starting to work for the employer. Since April 2009, she had not had any new injuries to her upper back or right shoulder. The claimant stated that her pain limits her activities. The pain in her thoracic area makes her tired and increases the pain in her neck. She used to play softball once per week and is no longer able to participate in the sport. Chores, sleeping, and driving present challenges.

¶ 39 The arbitrator found that the claimant sustained an accident that arose out of and in the course of her employment with the employer and that her condition of ill-being was causally related to the accident. The arbitrator based her finding of a causal connection on the opinion of Dr. Pearce. She further found that Dr. Pearce's opinion was supported by Dr. Erickson and Dr. Marra, who both suggested that the claimant suffered from thoracic outlet syndrome. The employer was given a credit of $24,164.62 for TTD and $194.40 for TPD. The employer was ordered to pay $15,731.54 for reasonable and necessary medical services. The arbitrator did not award bills for medical treatment after January 15, 2011, the date on which Dr. Erickson found the claimant to be at maximum medical improvement for her shoulder and prescribed permanent restrictions. The arbitrator found that, after examining Dr. Anderson's voluminous records, she could not distinguish between

treatment for the shoulder as opposed to treatment for the thoracic outlet syndrome. The arbitrator found that the claimant failed to prove she was entitled to any specific further treatment for thoracic outlet syndrome, but noted her medical rights are open.

¶ 40 The employer sought review of the arbitrator's decision. The Commission affirmed and adopted the arbitrator's decision. The Commission noted that the arbitrator inferred that Dr. Pearce opined that the claimant had arterial thoracic outlet syndrome, but that he, in fact, did not specifically label and attribute an arterial thoracic outlet syndrome condition to the claimant's work injury, but rather used a more generic diagnosis of thoracic outlet syndrome as a label for her condition. The Commission further noted that the arbitrator erroneously indicated that after Dr. Ghanayem testified, Dr. Pearce clarified his own diagnosis and there was no contrary opinion. It found that a review of the record indicated that the reverse occurred and that Dr. Ghanayem provided testimony and offered a contrary opinion to Dr. Pearce after Dr. Pearce had testified.

¶ 41 The employer appealed the Commission's decision to the circuit court. The circuit court confirmed the Commission. The court found that the Commission's decision regarding the medical diagnosis was not against the manifest weight of the evidence. It further found that the services provided by Dr. Anderson were not outside the scope of her chiropractic license. The employer filed a timely notice of appeal.

¶ 42 ANALYSIS

¶ 43 The employer argues that the Commission's determination that the claimant's condition of thoracic outlet syndrome was causally related to an occupational injury is against the manifest weight of the evidence. A reviewing

court will set aside the Commission's decision only if its decision is contrary to law or its fact determinations are against the manifest weight of the evidence. *Durand v. Industrial Comm'n*, 224 Ill. 2d 53, 64, 862 N.E.2d 918, 924 (2006). "A reviewing court will not reweigh the evidence, or reject reasonable inferences drawn from it by the Commission, simply because other reasonable inferences could have been drawn." *Id.* The Commission's decision is not against the manifest weight of the evidence when there is sufficient evidence in the record to support the Commission's determination. *R & D Thiel v. Illinois Workers' Compensation Comm'n*, 398 Ill. App. 3d 858, 866, 923 N.E.2d 870, 877 (2010).

¶ 44 The employer argues that the claimant failed to prove that she suffered from thoracic outlet syndrome. The Commission found that the arbitrator erred in finding that Dr. Pearce diagnosed a neurological but not a vascular thoracic outlet syndrome, and erred in her opinion that Dr. Pearce testified after Dr. Ghanayem and that Dr. Ghanayem did not refute Dr. Pearce's opinion. The employer argues that this modification effectively struck the arbitrator's decision because it struck her reasoning for the decision. The employer argues that once the Commission rejected the arbitrator's reasoning, it failed to provide any other credible explanation for finding that the claimant proved she had thoracic outlet syndrome. The employer further argues that "[t]he Arbitrator's reasoning after the deletion of two bases for her decision" was that Dr. Erickson and Dr. Marra suggested that the claimant might have had thoracic outlet syndrome and those records were extremely weak as neither physician actually diagnosed the claimant with the condition. The employer asserts that once the Commission struck the gist of the arbitrator's reasoning, the only remaining diagnosis was Dr. Ghanayem's diagnosis that the claimant did not have thoracic outlet syndrome.

¶ 45 The Commission did not strike the gist of the arbitrator's reasoning. It merely stated that the arbitrator's inference about Dr. Pearce's diagnosis was an error because Dr. Pearce did not specifically label and attribute arterial thoracic outlet syndrome to the claimant's work injury, but used a more generic diagnosis of thoracic outlet syndrome as a label for her condition. The failure to identify the claimant's condition as neurological or arterial thoracic outlet syndrome does not invalidate Dr. Pearce's diagnosis.

¶ 46 The Commission also found that the arbitrator erroneously indicated that after Dr. Ghanayem testified, Dr. Pearce clarified his own diagnosis and there was no contrary opinion. The Commission found that a review of the record indicated that Dr. Ghanayem testified and offered a contrary opinion to Dr. Pearce after Dr. Pearce had testified. This finding does not negate Dr. Pearce's testimony. Dr. Pearce reviewed Dr. Ghanayem's independent medical evaluation report prior to testifying, and he responded to questions about why he disagreed with Dr. Ghanayem's conclusions. Dr. Ghanayem testified after Dr. Pearce, and he offered an opinion about the claimant's condition that differed from Dr. Pearce's opinion. This merely means that conflicting medical evidence was presented. While the arbitrator erroneously stated that Dr. Pearce clarified his diagnosis at his deposition after Dr. Ghanayem had testified and that there was no contrary opinion, she went on to state that Dr. Pearce's opinion was supported by Dr. Erickson and Dr. Marra, who both suggested that the claimant had thoracic outlet syndrome. She concluded that "the preponderance of medical opinion supports the [thoracic outlet syndrome] diagnosis." By stating the preponderance of medical opinion as opposed to all the medical opinion, the arbitrator acknowledged that there was conflicting medical evidence.

¶ 47 The Commission's decision merely corrected some errors made by the arbitrator. These corrections did not have the effect of striking Dr. Pearce's opinion that the claimant suffered from thoracic outlet syndrome and that her condition was causally related to her employment with the employer. A reviewing court will affirm the Commission's decision if there is any legal basis in the record which would sustain that decision, regardless of whether the findings contained in the decision are correct or sound. *Comfort Masters v. Illinois Workers' Compensation Comm'n*, 382 Ill. App. 3d 1043. 1045-46, 889 N.E.2d 684, 686 (2008).

¶ 48 It is the Commission's function to judge the credibility of the witnesses, determine the weight to be given their testimony, and resolve conflicting medical evidence. *Tower Automotive v. Illinois Workers' Compensation Comm'n*, 407 Ill. App. 3d 427, 435, 943 N.E.2d 153, 161 (2011). Dr. Pearce testified that, based on a reasonable degree of medical certainty, the claimant had thoracic outlet syndrome and that it was causally related to her work activities. He stated that he based his diagnosis on the claimant's EMG, her physical symptoms, the reproduction of the symptoms when her arm was externally rotated, and the results of the claimant's response to the scalene block. Dr. Ghanayem testified that the claimant did not have thoracic outlet syndrome. He based his diagnosis on the negative results of her Adson's maneuver test and on her subjective complaints which were in the wrong distribution for thoracic outlet syndrome.

¶ 49 Dr. Ghanayem testified that the Adson's maneuver test is the most accurate test for thoracic outlet syndrome. Dr. Pearce testified that the Adson's maneuver was not a reliable test for thoracic outlet syndrome. Dr. Pearce testified that, through his participation in a thoracic outlet consortium with 20 to 30 experts from

across the country who met weekly to diagnose thoracic outlet syndrome, he learned the best way to diagnosis the syndrome. He testified that because often the tests such as EEGS, CT scans, and spine x-rays are negative, the physician looks for tenderness over the scalene muscle, reproduction of the symptoms when the arm is externally rotated, and positive response to the scalene block. He testified that "in our world, [the scalene block] is generally held as the most accurate way of making the diagnosis or has been labeled the way of making the diagnosis of Thoracic Outlet Syndrome." Dr. Ghanayem testified that a scalene block is not diagnostic of thoracic outlet syndrome.

¶ 50 Dr. Ghanayem and Dr. Pearce had conflicting opinions about the claimant's diagnosis. Dr. Pearce testified that he disagreed with Dr. Ghanayem's conclusion that the claimant did not have thoracic outlet syndrome because he felt Dr. Ghanayem did not appropriately examine the claimant in that he did not look for scalene tenderness and he did not do the 90 degrees of abduction externally rotating maneuvers. Both physicians explained why their diagnosis was more accurate.

¶ 51 On October 27, 2009, Dr. Erickson diagnosed the claimant with possible thoracic outlet syndrome. In November 2009, he recommended the claimant see Dr. Anderson "who has some interest in thoracic outlet syndrome to see if she can help her with exercises." On December 28, 2009, Dr. Anderson wrote to Dr. Erickson stating that based on the claimant's history and her examination of the claimant, she concurred with his suspicion and felt that the claimant had thoracic outlet syndrome. Theresa Eiden examined the claimant on January 21, 2010. In her patient notes, she wrote that the claimant's complex musculoskeletal and subjective complaints were consistent with thoracic outlet syndrome. Dr.

Echiverri performed an EMG/NCV on January 26, 2010, and diagnosed the claimant with thoracic outlet syndrome. On April 6, 2010, Dr. Marra performed an independent medical evaluation at the request of the employer. He diagnosed the claimant with shoulder pain and wrote in his report that he "would not exclude the possibility of thoracic outlet syndrome."

¶ 52 The Commission resolved the conflicting medical evidence in favor of Dr. Pearce. It found that Dr. Pearce's opinion was supported by Dr. Erickson and Dr. Marra. It concluded that the preponderance of the medical evidence supported the thoracic outlet syndrome diagnosis. There is sufficient medical evidence to support the Commission's determination that the claimant has thoracic outlet syndrome and that there is a causal relationship between her condition and her employment.

¶ 53 The employer next argues that the medical cost award is contrary to law because the Commission awarded Dr. Anderson, a chiropractor, charges for treatments that a physical therapist was ordered to provide. The employer argues that this is an issue of statutory construction subject to *de novo* review. The employer asserts that "[t]he statutory phrase to be interpreted, is that the employer's liability for medical costs is, 'limited however to that which is reasonably required to cure or relieve the employee of the accidental injury.' " 820 ILCS 305/8(a) (West 2008). "Whether a medical expense is either reasonable or necessary is a question of fact to be resolved by the Commission, and its determination will not be overturned on review unless it is against the manifest weight of the evidence." *Absolute Cleaning/SVMBL v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 463, 470, 949 N.E.2d 1158, 1165 (2011).

Thus, we review the award for medical costs under the manifest weight of the evidence standard.

¶ 54 The employer argues that Dr. Pearce ordered physical therapy not chiropractic care for the treatment of the claimant's thoracic outlet syndrome. It asserts that because physical therapists and chiropractors have different qualifications and licensing requirements under Illinois law, Dr. Anderson was not qualified to carry out Dr. Pearce's prescription.

¶ 55 Dr. Pearce testified that he examined the claimant in December 2009 and August 2010. He stated that he wanted to avoid surgery for the claimant and to instead relieve her symptoms through therapy. Dr. Pearce testified that he was not sure what type of doctor Dr. Anderson was and that he thought she was a physical therapist or a physical medicine doctor.

¶ 56 The record reveals that Dr. Pearce examined the claimant on December 15, 2009. In a letter he wrote that day describing his examination of the claimant, he wrote that Dr. Anderson accompanied the claimant to her appointment. He noted that the claimant had been treated by Dr. Anderson with "good results." At the end of the letter he recommended "continued chiropractic treatment by Dr. Anderson."

¶ 57 Dr. Pearce testified that he told the claimant and Dr. Anderson to go to Theresa Eiden to make sure the physical therapy she was receiving was appropriate for her condition. In a letter to Dr. Erickson, Dr. Anderson wrote that she was meeting with Ms. Eiden for an evaluation/recommendation on the most appropriate rehabilitation protocol for the claimant's needs. On January 21, 2010, the claimant and Dr. Anderson met with Ms. Eiden. In her patient notes, Ms. Eiden recorded that Dr. Anderson was a chiropractor. Ms. Eiden wrote that she provided Dr. Anderson with a framework to help sequence her manual therapy and

stated that the plan was for the claimant to continue manual therapy with Dr. Anderson.

¶ 58 Dr. Pearce examined the claimant again on April 16, 2010. In his office notes he wrote that the claimant was being treated by Dr. Anderson with good results and that Dr. Anderson accompanied her to the appointment. Dr. Pearce examined the claimant on August 12, 2010. In his office notes he wrote that the claimant "was also seeing a chiropractor, Dr. Anderson, who was helping her with her symptoms." While Dr. Pearce could not remember what type of doctor Dr. Anderson was at the time of his deposition, it is clear from the record that when he was providing treatment to the claimant he knew Dr. Anderson was a chiropractor and that she was providing the physical therapy. He recommended Dr. Anderson meet with Ms. Eiden to ensure she was using therapy techniques that had proven successful in Ms. Eiden's treatment of patients with thoracic outlet syndrome. The claimant was following a therapy plan approved by Dr. Pearce.

¶ 59 The employer further argues that Dr. Erickson ordered physical therapy after the claimant's shoulder operation and that Dr. Anderson, as a chiropractor, was not qualified to provide the therapy. At her appointment with Dr. Erickson on November 18, 2009, Dr. Erickson referred the claimant to Dr. Anderson "who is a chiropractor who has some interest in thoracic outlet syndrome to see if she can help her with exercises." On August 18, 2010, Dr. Erickson examined the claimant as a follow-up to her shoulder surgery. He recommended that the claimant "begin therapy for her neck, shoulders and stabilizers." On September 27, 2010, there is a note in Dr. Erickson's files that "Dr. Anderson the therapist treating [the claimant] called." Dr. Erickson was aware that the physical therapy he prescribed for the claimant's shoulder following her surgery was being provided

by Dr. Anderson. He was also aware that Dr. Anderson was a chiropractor as he had originally referred the claimant to her and specifically stated in his office notes that she was a chiropractor.

¶ 60 The employer argues that a chiropractor is not qualified to perform physical therapy. The Medical Practice Act of 1987 defines a chiropractic physician as "a person licensed to treat human ailments without the use of drugs and without operative surgery." 225 ILCS 60/2 (West 2008). The claimant testified that her treatment with Dr. Anderson included electrostimulation, ultrasounds, and adjustments. She stated that after her shoulder surgery, her therapy changed to include increased activity and exercises. Dr. Anderson's records show that the claimant's treatment also included interferential therapy, therapy exercises, and neuromuscular reeducation. While physical therapy does not include chiropractic technique, it does include alleviating impairments through the use of effective properties of physical measures and heat, cold, light, water, radiant energy, electricity, sound, and air and use of therapeutic massage, therapeutic exercise, mobilization, and rehabilitative procedures, with or without assistive devices. 225 ILCS 90/1 (West 2008). The treatments provided by Dr. Anderson fit within the definition of physical therapy and were aimed at alleviating the claimant's impairments through the use of therapeutic interventions that did not include the use of drugs or surgery. Thus, the treatments fit within the broad scope of care that can be provided by a chiropractor.

¶ 61 The employer next argues that the award of medical costs was against the manifest weight of the evidence because Dr. Anderson's bills were not proven to be reasonable or necessary. It asserts that because Dr. Ghanayem testified that the claimant did not have thoracic outlet syndrome, treatment for it was not necessary

or reasonable. This argument fails because the Commission's determination that the claimant had thoracic outlet syndrome was not against the manifest weight of the evidence.

¶ 62 The employer further agues that chiropractic care was not reasonable or necessary for the treatment of the claimant's shoulder injury. Dr. Erickson ordered therapy after the claimant's shoulder injury. He was aware that Dr. Anderson was her therapist and that Dr. Anderson was a chiropractor. As discussed, the type of therapy provided by Dr. Anderson fit within the broad scope of treatments a chiropractor can administer. When Dr. Erickson first prescribed physical therapy he set goals for the claimant. He periodically examined the claimant to test her progress and to establish new therapy goals. On January 11, 2011, when Dr. Erickson examined the claimant and found she no longer needed physical therapy because she had reached maximum medical improvement, she had progressed to the point where she had full range of motion of her right shoulder, she had no shoulder instability, and her O'Brien's and Speed's tests were negative. There is sufficient evidence in the record to support the Commission's determination that Dr. Anderson's care was reasonable and necessary for the treatment of the claimant's shoulder injury.

¶ 63 The employer takes issue with the type of exercises Dr. Anderson employed, specifically the Wii Fit, yoga, balance, stability, and aerobic exercises, and an exercise involving the abduction of the arm with internal and external rotation with a weight. It argues that some of these exercises could be performed at home or at a park district or fitness center, and that the exercise with the weight was inappropriate. The employer states that Dr. Anderson's bills were excessive. Other than its personal opinion, the employer provides no evidence to show that

the bills were excessive or that the treatment was not necessary to cure or relieve the effects of the claimant's injury. Accordingly, the Commission's finding that the medical expenses were reasonable and necessary was not against the manifest weight of the evidence.

¶ 64 As the trier of fact, the Commission resolved the issue of whether a causal relationship exists between the claimant's condition of ill-being and her employment. While there was conflicting medical evidence about her diagnosis, we cannot say based on the record before us that the Commission's decision is contrary to the manifest weight of the evidence. The medical expense award for services provided by Dr. Anderson was not against the manifest weight of the evidence. The claimant's physicians prescribed physical therapy, the physicians knew Dr. Anderson was providing the physical therapy, and the therapy she provided fell within the broad scope of services a chiropractor can provide.

¶ 65 CONCLUSION

¶ 66 For the foregoing reasons, we affirm the judgment of the circuit court confirming the decision of the Commission.

¶ 67 Affirmed.