2016 IL App (4th) 160027WC-U

NO. 4-16-0027WC

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

CITY WATER LIGHT & POWER, Appellant, v. THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al*. (Mark James Egan, Appellee).	)	Appeal from Circuit Court of Sangamon County No. 15MR674 Honorable Rudolph M. Braud, Jr., Judge Presiding.

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 low back condition of ill-being and need for surgery were causally related to his July 2011 work accident was not against the manifest weight of the evidence.

¶ 2 Claimant, Mark James Egan, filed two applications for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 to 30 (West 2010)), seeking benefits from the employer, City Water Light & Power. He alleged work-related injuries to his lower back arising out of and in the course of his employment on July 13, 2011, and May 25, 2014. Following a consolidated hearing, the arbitrator determined claimant sustained accidental injuries arising out of and in the course of his employment on both dates. She found claimant entitled to (1) medical expenses for all treatment he received in connection with his lumbar spine

from the date of his July 2011 accident through the date of arbitration and (2) prospective medical expenses in the form of the surgery prescribed by claimant's doctors.

¶ 3 On review, the Illinois Workers' Compensation Commission (Commission) affirmed and adopted the arbitrator's decision. It also remanded the matter to the arbitrator for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327, N.E.2d 1322 (1980). On judicial review, the circuit court of Sangamon County confirmed the Commission. The employer appeals, arguing the Commission's finding that claimant's current low back condition of ill-being and need for surgery were causally related to his July 13, 2011, work accident was against the manifest weight of the evidence. We affirm and remand.

¶ 4 I. BACKGROUND

¶ 5 At arbitration, claimant testified he worked for the employer as a maintenance equipment operator (MEO) for approximately 13 years. He submitted evidence that his MEO position involved the "operation of a variety of equipment in the maintenance of city owned lake properties" and his job duties included mowing grass; snow removal; garbage and branch pick-up; planting trees and bushes; cleaning restrooms, parks, and other property of the employer; performing equipment maintenance; supervising seasonal employees; and performing other duties as required. Physical requirements for the MEO position included lifting and carrying "up to 100 pounds occasionally."

¶ 6 Claimant stated he generally performed multiple tasks during his work day and described a work accident occurring on July 13, 2011. He testified, on that day, he experienced a "sharp pain while lifting" a 55-gallon barrel of garbage out of a truck with another employee.

¶ 7 Claimant acknowledged having a back problem prior to July 2011 and stated he sought treatment from his primary care physician, Dr. Randy Western. He stated he also re-

ceived treatment from Dr. Windie McKay, a chiropractor, and Dr. Claude Fortin, a neurologist. At arbitration, the employer submitted medical records that predated claimant's July 2011 accident. Dr. Western's records reflected treatment for a range of ailments and made the following references to claimant's low back: complaints of low back pain after lifting a big log in October 2007; low back pain but no radiation to claimant's buttocks or lower extremities in April 2008; low back pain for about 30 years, which had recently worsened but with no radicular symptoms in May 2008; intermittent back pains in June 2008; a renewal of medication for claimant's "chronic back and neck pain" in April 2009; back issues over the past two years which had been treated intermittently in July 2009; a notation of a history of back and neck problems following complaints of headaches by claimant in December 2009; back pain that had "always been there" and "never really gotten any better" in May 2010; and a notation of chronic back pain in June 2010. Additionally, Dr. Western's records contain multiple notations that claimant's "current" medications included "Hydrocodone-Acetaminophen." The most recent notation that predated claimant's July 2011 accident was on May 13, 2011.

¶ 8 Records from Dr. Fortin's pre-accident treatment of claimant show he saw claimant on July 6, 2010, with complaints of "a several-year history of low back pain, nonradiating in both lower extremities, worsening over the past two years." The same month, claimant underwent a magnetic resonance imaging (MRI) of his lumbar spine at Dr. Fortin's request. The MRI report noted (1) a "[s]mall left paracentral disc protrusion without canal or forminal stenosis" at T11-T12; (2) "[d]isc height loss with minimal disc bulge" at T12-L1; (3) "[d]isc desiccation with small annular tear" at L4-L5; and (4) "[n]o significant disc bulge, canal stenosis or foraminal stenosis" at L5-S1. On August 17, 2010, Dr. Fortin performed a right L4-L5 facet block and right L5-S1 facet block on claimant. On September 14, 2010, claimant underwent electromyography

(EMG) and nerve conduction studies with Dr. Fortin. Dr. Fortin's impression was as follows:

> "Unremarkable nerve conduction study and EMG of the right leg and lumbar paraspinal muscles. There is no electrophysiologic evidence for a neurogenic lesion including a right lumbar radiculopathy, lumbosacral plexopathy or polyneuropathy."

¶ 9 Claimant testified that, following his July 13, 2011, accident, he sought medical treatment with Prompt Care at the Springfield Clinic. Medical records reflect claimant saw Dr. Agnes Woods and complained of lower back pain. He stated he lifted a 55-gallon barrel at work and experienced sharp pains going across his lumbar area. Claimant reported he had been having lumbar pain, was seeing a neurosurgeon, and was using muscle relaxers and pain killers at night. He further stated his pain was "more tense than what he had previously." Dr. Woods described claimant's pain as being located in his central lumbar area with no radicular pain, weakness, numbness, or tingling in his lower extremities. She prescribed medication and noted claimant had a follow-up appointment scheduled with his primary-care doctor. She took claimant off work until that appointment.

¶ 10 Claimant submitted Dr. Western's records at arbitration, showing claimant saw Dr. Western on July 15, 2011, two days after his accident. Dr. Western noted a history of claimant lifting a 55-gallon barrel on July 13, 2011, and experiencing sharp pains in his low back area. He described claimant as having "chronic back pain," prescribed medication, and recommended claimant follow up in three weeks. Dr. Western also recommended claimant stay off work "until next Wednesday," at which point he could return to work with a 20-pound weight restriction.

¶ 11 On July 15, 2011, claimant also sought treatment from Dr. McKay. He reported that he "hurt his lower back again" and was in pain. Dr. McKay's records reflect claimant re-

turned to see her in connection with his lower back on August 2 and 26, 2011, and on July 1, 2013.

¶ 12 On August 2, 2011, claimant followed up with Dr. Western and complained of continuing low back pain. Dr. Western noted claimant "went right back to his old job and they did not follow the restrictions and his back is just getting steadily more and more painful." He referred claimant to Dr. Brian Russell and took him off work for three weeks. On August 26, 2011, claimant returned to see Dr. Western and reported continuing lower back pain that had not "improved all that much." Dr. Western noted claimant was scheduled to see Dr. Russell and had experienced "some relief albeit temporary from the chiropractic visits."

¶ 13 On September 20, 2011, claimant saw Dr. Russell. He provided a history of lifting a heavy barrel at work approximately two months earlier and injuring his back. Claimant asserted he had constant low back pain but denied leg pain and Dr. Russell noted claimant did not have any significant radicular components. Dr. Russell also noted claimant had preexisting back injuries and underwent an MRI, which "failed to show any significant compressive lesion." He recommended claimant continue with conservative treatment.

¶ 14 On October 7, 2011, claimant followed up with Dr. Western and reported severe back pain. Dr. Western noted the pain was in the left paralumbar area of claimant's back and he experienced pain radiating down into his left buttocks and left leg. He recommended x-rays. On October 10, 2011, Dr. Western noted claimant was experiencing worsening pain and pain going down his left leg into his knee. He further stated as follows: "[Claimant] has had back pain for well over a year but this is the same back pain with a new character to it in that it has a radicular component now and that is different." He recommended an MRI of claimant's back and that he be off work for an additional two weeks. On October 13, 2011, claimant underwent an MRI of

his lumbar spine. The impression from the MRI report stated as follows:

> "Multilevel degenerative changes including interval new broad-based central disc protrusion at L4-L5 superimposed on a chronic mild diffuse disc bulge. There is interval new effacement of the descending L5 nerve roots bilaterally at the L4-L5 level by the new disc protrusion."

¶ 15 On October 18, 2011, claimant saw Dr. Fortin for EMG and nerve conduction studies pursuant to a referral from Dr. Western. Dr. Fortin noted claimant reported back pain with radiation into both legs, particularly the left, and that his condition was aggravated by activity. He further stated claimant was off work due to severe pain but had some interval improvement with oral prednisone. Dr. Fortin stated his findings were "consistent with a left lumbosacral radiculopathy." He stated claimant could be a candidate for an epidural steroid injection if his pain continued.

¶ 16 On October 27, 2011, claimant returned to Dr. Western and reported his pain was "notably better from the last time" and "back down to about baseline." Dr. Western stated claimant had "returned to work with restrictions" and he would "continue those same restrictions."

¶ 17 On November 14, 2011, claimant followed up with Dr. Fortin, who noted claimant's EMG demonstrated a left radiculopathy and that claimant was scheduled for a lumbar epidural steroid injection. He diagnosed claimant with low back pain with likely associated radiculopathy. On December 14, 2011, Dr. Fortin stated a review of claimant's October 2011 MRI showed claimant had "arthritis as well as [a] disc bulging in his back." Claimant reported severe pain at "an 8 out of 10" and stated his pain was in his low back with some radiation into his legs. Dr. Fortin increased claimant's medication, prescribed a fentanyl patch, and stated he would "try

to make a referral for Neurosurgery."

¶ 18 On March 7, 2012, claimant returned to see Dr. Western, who noted claimant continued to have "quite a bit of pain." He stated claimant underwent a myelogram, which was uncomfortable for claimant and "show[ed] a tear." In describing the history of claimant's back problems, he stated as follows:

> "The first notable injury was when [claimant] was hit in the head and neck with a big branch at work. This took some time to get over, but eventually it did heal, and then he hurt his back moving a log, and has had problems since then."

Dr. Western found claimant could return to work with restrictions and recommended a 50-pound weight restriction.

¶ 19 On May 8, 2012, Dr. Gunnar Andersson, an orthopedic surgeon, examined claimant at the employer's request. The employer submitted Dr. Andersson's deposition, taken September 10, 2012, at arbitration. Dr. Andersson testified claimant provided a history of his July 2011 accident, stating he lifted a 55-gallon barrel at work and developed back pain. He examined claimant and reviewed various imaging studies, including x-rays, MRIs, a discogram, and a CT scan, some of which were performed before claimant's July 2011 accident and some of which were performed after. From those studies, Dr. Andersson did not believe there was any significant change in claimant's condition after July 2011. Specifically, he testified he thought the studies "were essentially the same." Dr. Andersson testified he did not think claimant's condition at the time he saw claimant "originated" from claimant's July 2011 accident. He testified as follows:

> "[Claimant] had similar pain before the alleged accident, and actually within six weeks of the accident had been advised to consider additional studies. He had had an MRI a year before the alleged accident which was similar to the one obtained after the accident and did not have any evidence of radiculopathy.

At the time I saw him, I did not think his symptoms were related to the accident."

¶ 20 Dr. Andersson acknowledged that in his report, which he prepared following his examination of claimant, he stated he could "not exclude that [claimant] aggravated his preexisting degenerative condition on July 13th, 2011"; however, he testified he believed it was more likely that claimant suffered a strain to his back as a result of that accident. He defined a back strain as a soft tissue injury to the back and stated that type of injury would resolve over time with conservative medical treatment. Dr. Andersson also testified that claimant did not have radiculopathy at the time he saw him and it was his opinion that claimant had no neurologic symptoms whatsoever.

¶ 21 Dr. Andersson agreed that he recommended physical therapy for claimant to address a back strain. Although he testified he believed claimant was capable of returning to full-duty work, he "thought that it would be helpful to his work return to allow him to have some restrictions initially" and suggested claimant be limited to lifting 20 pounds occasionally for the first four weeks. Dr. Andersson did not feel claimant was a surgical candidate but stated he believed the treatment claimant received from his doctors had been appropriate.

¶ 22 Claimant testified the employer did not accommodate the work restrictions recommended by Dr. Andersson. He stated the employer told him to return to work with no restrictions or "don't come back to work." Claimant testified he returned to full-duty work because

he needed "to pay [his] bills."

¶ 23 On May 25, 2012, claimant followed up with Dr. Western, who noted claimant was concerned about returning to work without restrictions. In particular, claimant was concerned "that bouncing around in the tractor really seem[ed] to aggravate his back." Dr. Western stated claimant continued to report back pain and realized that he would probably "have to work with an element of back pain." The same day, Dr. Western authored a letter addressed "To Whom It May Concern," stating he believed claimant could return to work but that a 20-pound weight restriction "and perhaps limiting or eliminating such aggravating things as riding a tractor" would be reasonable for claimant. On June 26, 2012, he authored a second letter, stating claimant "had some chronic back, neck pains" but records from his July 15, 2011, visit with claimant reflected that claimant "sustained an injury within the previous couple of weeks lifting a 55-gallon barrel drum and had an acute flare[-]up of back pain and has had pain since then." Dr. Western stated he "would attribute the exacerbation of [claimant's] back pain to that work incident." Claimant testified Dr. Western released him to return to full-duty work in June 2012 and he had been working full duty as an MEO since that time.

¶ 24 On August 20, 2012, claimant returned to Dr. Western and reported right leg pain that would shoot from inside his upper right leg and down to his right foot and also "up through [his] neck and to his whole head." Dr. Western noted claimant had an abnormal MRI and had declined an offer for surgery because he was "only given a 50/50 chance of improvement."

¶ 25 At arbitration, claimant submitted Dr. Western's deposition, taken December 6, 2012. Dr. Western testified he had been a family practice doctor for 18 years. He stated he had been treating claimant for chronic back pain since 2010. Following claimant's July 2011 accident, he diagnosed claimant with back pain and opined that July 2011 lifting accident aggravated

claimant's preexisting back condition. Dr. Western did not believe claimant was a surgical candidate.

¶ 26 Dr. Western further testified that he reviewed MRIs of claimant's low back from both before and after his July 2011 accident. He found claimant's October 2011 MRI showed "more of a dis[c] bulge present" than the MRI performed in 2010. Additionally, he found differences in the EMG and nerve conduction studies performed both before and after claimant's July 2011 accident. Dr. Western testified as follows:

> "Well, just looking at the report from [October 2011,] the neurologist concluded that electrophysical findings were consistent with left lumbrosacral radiculopathy. The one [from September 2010], the impression was unremarkable nerve conduction study, and there's no evidence for radiculopathy by his testing at that date."

¶ 27 On October 23, 2012, claimant followed up with Dr. Fortin and reported that his pain was "much worse." Dr. Fortin noted that "[i]n regards to his disc disease, [claimant] does have an L5-S1 extensive annular disruption and neural foraminal stenosis, more so on the left than the right. He also has degenerative facet disease on L4-L5. That was based on his lumbar spine CT with contrast in March [2012]." Dr. Fortin prescribed hydrocodone and recommended claimant follow up in four to six weeks.

¶ 28 On January 15, 2013, claimant saw Dr. Leslie Acakpo-Satchivi, who noted claimant had requested a follow up for continuing and constant low back pain and, more specifically, L5-S1 discogenic pain syndrome. Dr. Acakpo-Satchivi stated claimant underwent a discogram demonstrating concordant pain, as well as multiple conservative measures. Further, he noted claimant was seen by Dr. William Payne as a second opinion and "was also offered an L5-S1

TLIF with the understanding that the outcome of this particular surgery with this particular indication is less than certain." (Dr. Payne's medical records were not submitted at arbitration.) According to Dr. Acakpo-Satchivi, claimant was "on the fence" about surgery. Additionally, he stated as follows:

> "I explained to [claimant] that while I cannot say with 100% certainty that his lumbar spine injury was a direct result of his work[-]related activities, there is clearly a temporal concordance (*i.e.*, he did not have any symptoms prior to that day at work). Conversely, discogenic pain syndromes can occur as a result of the expected degeneration of the spine with age and also due to certain genetic factors."

Dr. Acakpo-Satchivi stated he had no further conservative measures to recommend for claimant but did agree that he should be allowed restrictions for his work-related activities due to his ongoing pain complaints.

¶ 29 On March 19, 2013, claimant returned to Dr. Acakpo-Satchivi, who noted he was not getting any better and was worse. Claimant reported "a lot of sharp pains" and "lower back pain that goes down his legs." Dr. Acakpo-Satchivi stated he discussed the risks and benefits of an L5-S1 TLIF for discogenic pain syndrome, which he planned to perform jointly on claimant with Dr. Payne.

¶ 30 On April 2, 2013, claimant followed up with Dr. Fortin and complained of severe back pain and leg pain. Dr. Fortin noted claimant was "due for an Ameritox testing," which was "required every [six] months as part of monitoring in order for him to receive narcotics." He stated he would increase claimant's hydrocodone dose "at his next refill" and that claimant was to

follow up in six months "for repeat Ameritox testing."

¶ 31 Claimant's medical records also reflect that, on June 3, 2013, he sought treatment at the emergency department at St. John's Hospital in Springfield, Illinois. He reported a large tree branch fell on him at work and he complained of a headache and pain in his neck, low back, and elbow. He was diagnosed with a cervical spine strain and a minor head injury, prescribed pain medication, and told to follow up with his primary-care physician, which claimant did on June 5, 2013.

¶ 32 On July 9, 2013, claimant followed up with Dr. Acakpo-Satchivi, who noted he and claimant discussed the possibility of a dorsal column stimulator to relieve claimant's pain symptoms "in lieu of [a] L5-S1 fusion." Dr. Acakpo-Satchivi felt that was "a very reasonable option to explore" but stated he had no experience with that particular procedure. He referred claimant to Dr. Stephen Pineda, an orthopedic surgeon.

¶ 33 On August 12, 2013, claimant saw Dr. Pineda. Dr. Pineda's records show claimant complained of chronic back pain and pain in his legs but his back pain seemed "to be the overriding issue." Dr. Pineda stated as follows:

> "I explained to [claimant] that certainly a fusion may be an option. It has potential for failure. Another option is a spinal cord stimulator that I think is an option. It may or may not work. I discussed with [claimant] the notion of a trial and the permanent procedure. I explained to him that there are risks but they are lower, and I am going to organize him to see one of the members of the pain center, [to] proceed with a trial. I told him that, again, it is not as useful a tool to control back pain, it is much better for leg pain, but he is

> trying to avoid major surgery, so I think that is a reasonable option. Recommendations are he consider a spinal cord stimulator trial and see if it works. If it works, then I may be able to obviate major surgery. If it does not, then he has not really lost any specific ground."

Dr. Pineda referred claimant to Spineworks Pain Center.

¶ 34 On September 17, 2013, Dr. Acakpo-Satchivi noted claimant returned for an evaluation of increased back pain and wanted to discuss back surgery. He stated claimant was evaluated at the Pain Center and, according to claimant, was not deemed an appropriate candidate for a dorsal column stimulator. Dr. Acakpo-Satchivi stated claimant wanted to go forward with surgery.

¶ 35 On October 9, 2013, claimant underwent an MRI of his lumbar spine at Dr. Acakpo-Satchivi's recommendation. The impression from the MRI report showed "[c]hronic loss of disc height with chronic endplate deformity at T12-L1" and a "[s]mall broad-based non compressive central disc protrusion at L4-5."

¶ 36 On October 15, 2013, claimant returned to Dr. Fortin, who noted claimant's pain was improved with using narcotic medication but claimant could not use the medication at work. His impression was low back pain syndrome with associated lumbar radiculopathy. Further, he noted claimant was scheduled for lumbar surgery. On December 2, 2013, Dr. Fortin stated claimant's surgery had been denied by insurance. On December 18, 2013, he authored a letter addressed "To Whom It May Concern," stating claimant was under his care for discogenic low back pain syndrome with radiation to his legs. He stated he had consulted with Dr. Acakpo-Satchivi and Dr. Pineda and "both offered an L5-S1 TLIF to address [claimant's] otherwise re-

fractory pain syndrome." Dr. Fortin noted claimant failed conservative treatment and an October 2013 MRI of his lumbosacral spine "demonstrate[d] end plate deformity at T12-L1, noncompressive central disc protrusion at L4-5" with an October 2011 EMG "that demonstrated left lumbosacral radiculopathy." He considered surgical intervention for claimant a medical necessity and requested "reconsideration for insurance authorization."

¶ 37 On April 1, 2014, claimant followed up with Dr. Acakpo-Satchivi. Claimant reported that his pain symptoms were worsening over time. He stated his back pain was constant and more severe than his leg pain which came in waves. Dr. Acakpo-Satchivi recommended an EMG of the lower extremities.

¶ 38 On April 15, 2014, claimant underwent an EMG and nerve conduction studies with Dr. Fortin. Dr. Fortin's impression was that the studies were "[u]nremarkable" for "both legs." On April 21, 2014, claimant followed up with Dr. Fortin. He reported continued low back pain but that he was "partially improved with low-dose fentanyl." Dr. Fortin stated claimant had six months to retirement but claimant did not know if he could make it due to his low back pain. His impression was "[l]ow back pain with recent negative EMG."

¶ 39 Claimant testified he was involved in a second work-related accident on May 25, 2014. He stated he was working by himself and "picked up a couple of bags" that weighed approximately 70 pounds each and "had some pain," which worsened throughout the day. Claimant testified he sought emergency room treatment the same day and then returned to see his regular physicians. Emergency room records show claimant sought treatment on May 25, 2014, complaining of worsening low back pain after lifting heavy bags at work. The same day, claimant underwent a CT scan of his lumbar spine, which showed mild facet degenerative changes at L4-L5 with a "[m]inimal central disc protrusion without significant spinal canal stenosis" and no

"CT evidence of nerve root compression," and a "[m]inimal disc bulge at L5-S1" without significant spinal canal narrowing or evidence of nerve root compression. Claimant was told to follow up with Dr. Fortin.

¶ 40 On cross-examination claimant agreed he did not see Dr. Fortin until ten days later, on June 5, 2014, because "that was the earliest [he] could get" an appointment. On that date, Dr. Fortin noted claimant was recently seen in the emergency department after he picked up two bags at work that weighed approximately 70 pounds and experienced "increasing pain in his lower back." Claimant reported that he had difficulty walking, as well as "numbness and tingling." Dr. Fortin stated a CT scan performed on claimant "indicated mild facet degenerative changes at L4-5 with central disc protrusion. No evidence of nerve root compression. L5-S1 continued to show a mild disc bulge also with no evidence of nerve root compression." Dr. Fortin prescribed medication and recommended claimant keep a follow-up appointment they had scheduled in November 2014. At arbitration, claimant testified he had not yet been to his November 2014 appointment with Dr. Fortin but stated he had seen Dr. Fortin's physician's assistant, Christine, in the interim.

¶ 41 On November 14, 2014, the arbitrator issued her decision in the matter. As stated, she determined claimant sustained accidental injuries to his low back that arose out of and in the course of his employment in both July 2011 and May 2014. In particular, the arbitrator found claimant aggravated the preexisting condition of ill-being in his low back as a result of his July 2011 accident and that his current condition of ill-being was causally related to that accident. In reaching her decision, the arbitrator found Dr. Western's opinions more persuasive than those provided by Dr. Andersson "given the fact that the EMG and MRI taken after the [July 2011 accident] showed new diagnostic findings that were consistent with [claimant's] complaints and

were not present on the MRI and EMG performed before the [July 2011] accident." Additionally, the arbitrator found claimant's May 2014 accident temporarily aggravated his preexisting condition. Again, she relied on diagnostic tests, which she stated "showed no new findings" after the May 2014 accident when compared with those taken after claimant's July 2011 accident. The arbitrator awarded claimant (1) past medical expenses he incurred in connection with the treatment of his lower back from the date of claimant's July 2011 accident through October 14, 2014, the date of the arbitration hearing and (2) prospective medical expenses in the form of the surgery recommended by Dr. Acapko-Satchivi, Dr. Payne, and Dr. Pineda.

¶ 42 On June 22, 2015, the Commission affirmed and adopted the arbitrator's decision without further comment. It also remanded the matter to the arbitrator for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327, N.E.2d 1322. On December 14, 2015, the circuit court of Sangamon County confirmed the Commission.

¶ 43 This appeal followed.

¶ 44 II. ANALYSIS

¶ 45 On appeal, the employer challenges the Commission's finding that the current condition of ill-being in claimant's lower back was causally connected to his July 2011 work accident. It argues claimant had significant lower back problems prior to July 2011 and the evidence reflects his preexisting condition was only "temporarily aggravated" by his work accident. The employer also challenges the Commission's award of prospective medical expenses, contending there was a lack of evidence, and in particular medical opinion evidence or testimony, "indicating that the recommended surgery is related to [the July 2011] accident."

¶ 46 "[T]o recover under the Act, an employee must show that his or her condition of ill-being is causally related to his or her employment." *Compass Group v. Illinois Workers'*

Compensation Comm'n, 2014 IL App (2d) 121283WC, ¶ 17, 28 N.E.3d 181. "In cases involving a preexisting condition, recovery will depend on the employee's ability to establish that a work-related accidental injury aggravated or accelerated the preexisting disease such that the employee's current condition of ill-being can be said to be causally connected to the work-related injury." *Bolingbrook Police Department v. Illinois Workers' Compensation Comm'n*, 2015 IL App (3d) 130869WC, ¶ 50, 48 N.E.3d 679.

¶ 47 "Whether a causal connection exists between a claimant's condition of ill-being and [his or] her work related accident is a question of fact to be resolved by the Commission, and its resolution of the matter will not be disturbed on review unless it is against the manifest weight of the evidence." *University of Illinois v. Industrial Comm'n*, 365 Ill. App. 3d 906, 913, 851 N.E.2d 72, 79 (2006). "For a finding of fact to be contrary to the manifest weight of the evidence, an opposite conclusion must be clearly apparent." *Mansfield v. Illinois Workers' Compensation Comm'n*, 2013 IL App (2d) 120909WC, ¶ 28, 999 N.E.2d 832. Additionally, "[i]t is within the province of the Commission to resolve conflicts in the evidence, especially as they relate to medical opinion evidence." *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 538, 865 N.E.2d 342, 353 (2007). On review, "[t]he 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." *Id*. at 538-39, 865 N.E.2d at 353.

¶ 48 As stated, the Commission found claimant's current low back condition of ill-being was causally related to injuries he sustained at work in July 2011. The record contains sufficient evidence to support that finding.

¶ 49 First, although claimant undoubtedly had long-standing low back problems for which he sought medical treatment prior to July 2011, the record reflects increased treatment, as

well as new and different symptoms following his July 2011 accident. At arbitration, the employer submitted claimant's medical records predating his July 2011 work accident. Those records showed claimant intermittently sought treatment for his lower back. In the year preceding his accident, claimant saw Dr. Fortin with respect to his lower back condition in July, August, and September 2010, and Dr. Western's records reflect claimant was prescribed pain medication. Following his July 2011 accident, claimant's medical care relative to his low back increased in frequency with his records showing he sought treatment for his low back on a continuous basis. Additionally, claimant provided a history of his work accident and reported symptoms that were more severe and which worsened over time. In October 2011, he began reporting pain radiating into his lower extremities, symptoms he did not experience prior to July 2011.

¶ 50 On appeal, the employer maintains claimant's report of increased symptoms in October 2011, "should be considered an intervening event" that aggravated claimant's preexisting back condition "worse than any aggravation caused by" his July 2011 accident. However, there is nothing in the record to support a finding that claimant was involved in an intervening accident or event which increased symptoms. Rather, the evidence supports a finding that claimant's condition progressively worsened after his July 2011 accident. We note that in August 2011, Dr. Western stated claimant returned to work and "his back [was] just getting steadily more and more painful." The employer's argument with respect to claimant's increased symptoms has no merit.

¶ 51 Second, the Commission gave more weight to Dr. Western's opinions than those offered by Dr. Andersson. The record reflects no error in that determination. Dr. Western opined claimant's July 2011 accident caused an aggravation of his preexisting low back condition. He based his opinion on differences he found between claimant's pre- and post-accident

MRIs and EMG and nerve conduction studies. Dr. Western found claimant's post-accident MRI showed "more of a dis[c] bulge present" than the MRI performed on claimant in 2010. Additionally, he stated claimant's October 2011 "electrophysical findings were consistent with left lumbrosacral radiculopathy," while studies predating claimant's accident were unremarkable with no evidence of radiculopathy.

¶ 52 Dr. Andersson testified that he did not believe claimant's condition of ill-being "originated" from his July 2011 accident and found claimant's pre- and post-accident studies "were essentially the same." He also found claimant's pain complaints were similar both before and after his accident.

¶ 53 We note it was within the province of the Commission to resolve conflicts in the medical evidence and we find no error in its decision. Claimant's medical records support Dr. Western's opinions. Specifically, the report from claimant's July 2010 MRI showed "[d]isc desiccation with small annular tear" at L4-L5, while claimant's October 2011 MRI report stated as follows:

> "Multilevel degenerative changes including interval new broad-based central disc protrusion at L4-L5 superimposed on a chronic mild diffuse disc bulge. There is interval new effacement of the descending L5 nerve roots bilaterally at the L4-L5 level by the new disc protrusion."

Similarly, Dr. Fortin interpreted claimant's September 2010 EMG and nerve conduction studies as unremarkable while his October 2011 findings were "consistent with a left lumbosacral radiculopathy."

¶ 54 Conversely, the record contradicts Dr. Andersson's conclusion that claimant had

similar pain both before and after his accident. Rather, as stated, it shows claimant reported more severe and worsening pain after July 2011, as well as radiating pain, which the record fails to reflect he previously experienced. Further, Dr. Andersson acknowledged during his deposition that he could "not exclude that [claimant] aggravated his preexisting degenerative condition" at the time of his July 2011 accident.

¶ 55 Because the record contains sufficient support for the Commission's decision as to causation, an opposite conclusion is not clearly apparent. The Commission's causal connection finding was not against the manifest weight of the evidence.

¶ 56 Additionally, we find no error in the Commission's award of prospective medical expenses for the surgery recommended by claimant's doctors. "Section 8(a) of the Act entitles a claimant to compensation for all necessary medical, surgical, and hospital services 'thereafter incurred' that are reasonably required to cure or relieve the effects of the injury." *Land & Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 593, 834 N.E.2d 583, 593 (2005) (quoting 820 ILCS 305/8(a) (West 2002)). "Specific procedures or treatments that have been prescribed by a medical service provider are 'incurred' within the meaning of section 8(a) even if they have not been performed or paid for." *Dye v. Illinois Workers' Compensation Comm'n*, 2012 IL App (3d) 110907WC, ¶ 10, 981 N.E.2d 1193. "Questions regarding entitlement to prospective medical care under section 8(a) are factual inquiries for the Commission to resolve." *Id*. Again, "[t]he Commission's decisions on factual matters will not be disturbed on appeal unless they are against the manifest weight of the evidence." *Id*.

¶ 57 Here, the Commission found claimant entitled to prospective medical expenses for "surgery in the form of an L5-S1 TLIF." The record supports that finding, showing claimant received conservative treatment for his low back condition but his symptoms persisted. Evi-

dence further showed that, following his July 2011 accident, claimant was offered surgery by Dr. Payne and Dr. Acakpo-Satchivi. Dr. Pineda also noted that "certainly a fusion may be an option." Additionally, Dr. Fortin opined "surgical intervention for claimant [was] a medical necessity." Given these facts, an opposite conclusion from that reached by the Commission is not clearly apparent and its decision was not against the manifest weight of the evidence.

¶ 58 III. CONCLUSION

¶ 59 For the reasons stated, we affirm the circuit court's judgment, which confirmed the Commission's decision. Further, we remand to the Commission for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327, 399 N.E. 2d 1322.

¶ 60 Affirmed and remanded.