

No. 1-16-2468WC

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IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT

VIRGILIO CARRENO,)	Appeal from the
)	Circuit Court of
Appellant,)	Cook County
)	
v.)	No. 15 L 50555
)	
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION <i>et al.</i> ,)	Honorable
)	Carl Anthony Walker,
(Cambridge Homes, Appellee).)	Judge, Presiding.

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

ORDER

- ¶ 1 *Held:* The Commission's finding that the claimant failed to prove that his current condition of ill-being is causally related to his work accident and its resulting denial of his petition under section 19(h) Workers' Compensation Act (820 ILCS 305/19(h) (West 2004)) is not against the manifest weight of the evidence.
- ¶ 2 The claimant, Virgilio Carreno, appeals from an order of circuit court of Cook County which confirmed a decision of the Illinois Workers' Compensation Commission (Commission)

denying his petition under section 19(h) of the Workers' Compensation Act (Act) (820 ILCS 305/19(h) (West 2004)) which sought additional compensation for injuries he received to his low back on March 8, 1995, April 25, 1996, and September 25, 1996, while in the employ of Cambridge Homes. For the reasons which follow, we affirm the judgment of the circuit court.

¶ 3 The following factual recitation is taken from the evidence presented at the claimant's original arbitration hearings on April 19, 2001, May 14, 2001, and May 23, 2001, and at a section 19(h) hearing conducted by the Commission on July 10, 2014.

¶ 4 On March 8, 1995, the claimant was employed by Cambridge Homes and was performing his job as a laborer when he slipped on a patch of ice and fell backwards. The claimant testified that he felt immediate pain in his low back. The claimant presented to the emergency department at Elmhurst Memorial Hospital and was subsequently referred to Dr. Bartucci at West Suburban Orthopedics. An MRI of the claimant's low back, taken June 21, 1995, revealed a mild degenerative condition in the lumbar spine, but was otherwise unremarkable. The claimant was treated conservatively and returned to work without restrictions.

¶ 5 On April 25, 1996, the claimant was at work, carrying a heavy oak handrail in strong winds, when he twisted and experienced "a lot of pain" in his low back. The claimant reported the accident to his superintendent and was eventually referred to Kaplan Chiropractic Associates for treatment.

¶ 6 The claimant was seen by Dr. George Arnold of Kaplan Chiropractic on June 1, 1996. According to Dr. Arnold's "Initial Report," dated June 7, 1996, the claimant complained of constant right lumbosacral pain radiating into the right posterolateral thigh, lateral leg pain and right medial knee pain. Dr. Arnold restricted the claimant to light-duty work and prescribed conservative treatment, consisting of physical therapy. On July 31, 1996, the claimant returned to

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Dr. Arnold with continued complaints of low-back pain radiating into the right leg. Dr. Arnold referred the claimant to Dr. Echiverri, a neurologist.

¶ 7 The claimant saw Dr. Echiverri on August 19, 1996. The doctor performed an EMG-NCV study, which showed a “[s]ignificant delay of the right H-reflex” and “denervation potentials from the right S1 myotomes.” Dr. Echiverri recorded a clinical impression of “S1 radiculopathy on the right” and ordered an MRI of the claimant’s lumbar spine. The claimant underwent an MRI of the lumbar spine on September 18, 1996, which the radiologist interpreted as showing mild disc degeneration at L1-L2, but no herniations.

¶ 8 On September 25, 1996, the claimant was at work on restricted duty when he sustained his third work-related injury. The claimant testified that he was lifting a 75-pound box of “scrap” when he noticed pain in his low back and left inguinal area. The claimant sought medical treatment later that same day, at Alexian Brothers Medical Center Emergency Room, where he was given medication and advised to see his primary care physician.

¶ 9 The record reveals that the claimant returned to Dr. Arnold, his chiropractor, on September 25, 1996, and treated with him on seven occasions through October 18, 1996.

¶ 10 On October 2, 1996, the claimant returned to Dr. Echiverri and reported that he injured himself at work while lifting a “big box.” The doctor took the claimant off of work and referred him to Dr. Jit Kim Lim, a neurosurgeon at Edward Hospital.

¶ 11 On October 14, 1996, the claimant was seen by Dr. Lim, who ordered another MRI of the lumbar spine. On October 21, 1996, the claimant underwent an MRI of his lumbar spine at Edward Hospital. The scan was interpreted as showing a disc herniation at L4-L5 and “small diffuse annular bulging at L2-L3 and L3-L4.” After reviewing the MRI scan, Dr. Lim diagnosed the claimant with “sciatic pain” and “herniated intervertebral disc L4-L5 left.” He recommended

a course of conservative treatment, consisting of epidural injections and physical therapy. Should the conservative treatment fail, Dr. Lim recommended a microlumbar discectomy. The record shows that the claimant underwent a course of three epidural injections, which were administered by Dr. Lim at Edwards Hospital on October 29, 1996, November 14, 1996, and November 26, 1996.

¶ 12 On January 6, 1997, the claimant returned to Dr. Lim and reported no improvement. Having failed conservative treatment, Dr. Lim recommended surgical intervention. On March 6, 1997, Dr. Lim operated on the claimant, performing a “microlumbar discectomy and microlumbar foraminotomy L5-S1 bilaterally and L4-5 left.” The claimant was discharged from Edward Hospital on March 8, 1997, and treated with Dr. Lim postoperatively.

¶ 13 Between March 17, 1997, and February 15, 1999, a period of almost two years, the claimant’s condition initially improved. In October of 1997, however, he developed radiculopathy in his right leg. The record reveals that the claimant saw Dr. Lim approximately 29 times for continuing symptoms in his low back and right leg following surgery. During that two-year period, he had three epidural injections, three MRIs, and two Myelogram and post-CT scans in an attempt to diagnose and treat his low-back condition of ill-being. The claimant also attended 17 sessions of physical therapy at HealthSouth between October 15, 1998, and February 2, 1999. According to a treatment note, dated October 12, 1998, the claimant continued to experience low-back pain and “right-sided paraspinal spasms.”

¶ 14 On February 16, 1999, Dr. Lim performed a second surgery on the claimant’s low back—a “microlumbar decompression laminectomy and microlumbar discectomy L4-5” on the left side and “removal of the protruding disc” at L4-L5 on the right side. Dr. Lim’s pre- and post-operative diagnosis was “recurrent herniated intervertebral disc and spinal stenosis with cauda

equina claudication.” The claimant followed-up with Dr. Lim postoperatively and, on November 29, 1999, Dr. Lim concluded that the claimant had reached maximum medical improvement (MMI). Dr. Lim released the claimant to light-duty work with restrictions of no lifting more than 25 pounds.

¶ 15 At the arbitration hearing, the claimant testified that he never returned to work after the September 25, 1996, accident. He stated that his back is weak and he experiences pain whenever he lifts objects, walks, or stands for more than 20 or 30 minutes.

¶ 16 Based upon the evidence presented, the arbitrator found that the claimant suffered injuries to his low back, which arose out of and in the course of his employment with Cambridge Homes. Specifically, the arbitrator determined that the accidents of March 8, 1995, April 25, 1996, and September 25, 1996, aggravated his preexisting degenerative disc disease. Regarding the accident of March 8, 1995, the arbitrator awarded the claimant permanent partial disability (PPD) benefits in the amount of \$186 per week for 12.5 weeks, representing a 2.5% loss of use of a person-as-a-whole. As to the accidents of April 25, 1996, and September 25, 1996, the arbitrator awarded the claimant temporary total disability (TTD) benefits from September 25, 1996, through November 29, 1999, and PPD benefits in the amount of \$186 per week for 250 weeks, representing a 50% loss of use of a person-as-a-whole. In addition, the arbitrator ordered Cambridge Homes to pay the reasonable and necessary medical expenses incurred by the claimant.

¶ 17 Cambridge Homes filed a petition for review of the arbitrator’s decisions before the Commission. On September 13, 2002, the Commission issued a unanimous decision, modifying the arbitrator’s decision in part and affirming and adopting it in part. In that portion of the decision modified, the Commission reduced the award of medical expenses by \$589. The

Commission otherwise affirmed and adopted the arbitrator's decision. Thereafter, Cambridge Homes sought a judicial review of the Commission's decision in the circuit court of Cook County. On August 31, 2004, the circuit court confirmed the Commission's decision and neither party appealed from that decision.

¶ 18 On February 11, 2005, the claimant timely filed a petition pursuant to section 19(h) of the Act (820 ILCS 305/19(h) (West 2004)), and section 8(a) of the Act (820 ILCS 305/8(a) (West 2004)), seeking to reopen his case on the basis that his condition had recurred or worsened within 30 months of the Commission's final decision. He requested an increase in his PPD award and further reimbursement for post-arbitration medical expenses.

¶ 19 After numerous continuances, a section 19(h) hearing was held on July 10, 2014, at which the following evidence was adduced.

¶ 20 On March 14, 2002, more than two and a half years after Dr. Lim found the claimant to be at MMI, the claimant presented to Dr. Lopez, an orthopedic surgeon, with complaints of low-back pain and shooting paresthesias down the lateral aspect of his left thigh to his calf. Dr. Lopez noted that a prior MRI scan showed an old laminectomy with early degenerative disc disease. He ordered a new MRI of the claimant's lumbar spine, which was taken on March 20, 2002, and disclosed post-surgical changes at L4-L5 and L5-S1, but did not reveal any evidence of a disc re-herniation. Dr. Lopez prescribed a course of physical therapy, which the claimant began on March 27, 2002.

¶ 21 On May 8, 2002, during the claimant's physical therapy re-evaluation, he reported that his low back feels much better and he rated his pain a 0 out of 10. He also stated that he only had minimal discomfort if he stood for more than 20 minutes. The assessment noted that the claimant no longer exhibits significant deficits in his lumbar spine.

¶ 22 On August 9, 2002, the claimant again went to the Elmhurst Hospital's emergency department with complaints of severe low-back pain and blood in his urine. He was hospitalized for two days and the treatment focused on the blood in his urine. X-rays showed degenerative osteophytosis in his lumbar spine and mild levoscoliosis.

¶ 23 The record demonstrates that the claimant saw Dr. Kalsi, his primary care physician, on several occasions between 2001 and 2003, but Dr. Kalsi's records do not reflect complaints of low-back or leg pain. On February 13, 2004, the claimant presented to Dr. Kalsi with complaints of low-back pain. Dr. Kalsi diagnosed the claimant with chronic back pain and referred him to Dr. Frank at the Chicago Institute of Neurosurgery and Neuroresearch.

¶ 24 On May 16, 2004, the claimant went to Elmhurst Hospital's emergency department complaining that he woke up with pain in his low back that was radiating down his left leg and that he had numbness from his knee to his ankle. X-rays taken of the claimant's low back showed degenerative arthritis of the lumbar spine.

¶ 25 On May 27, 2004, the claimant began treating with Dr. Frank. He complained of pain in his low back and left leg, which started two weeks ago. On physical exam, the claimant had some weakness over his ankle and some numbness over the "great toe," his left leg straight-leg raise was positive, and his lumbar range of motion was more painful with forward flexion than extension, but he had pain in both directions. Dr. Frank ordered an MRI to rule out recurrent disc herniation and prescribed a course of physical therapy. The MRI of the claimant's lumbar spine, taken on June 8, 2004, showed disc degeneration at L2-L3, L3-L4, L4-L5, and L5-S1. The scan also showed a left-sided disc herniation at the site of the previous surgery.

¶ 26 On June 10, 2004, Dr. Frank gave the claimant a prednisone taper, but it did not relieve the claimant's left leg pain. The doctor's notes of that visit stated that the claimant continued to

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exhibit signs of L5 radiculopathy. Dr. Frank recommended left L5 transforaminal epidural steroid injections, which were administered on June 14, 2004, August 5, 2004, and January 27, 2005. The claimant followed-up with Dr. Frank after each injection and reported that he had no back pain, that the injections resulted in 80% improvement, and that he still had intermittent cramping and numbness in the foot. Dr. Frank's records also state that the claimant did not regularly perform exercises, did not take medication, and declined surgery.

¶ 27 On February 15, 2005, the claimant began treating with Dr. Brown. According to Dr. Brown's medical records, the claimant injured his back 10 to 11 years ago and his condition remained unchanged until mid-May of 2004 when, without injury, he awoke in bed with left-sided low-back pain going down the left leg to the ankle. The claimant stated that he experiences left-sided low-back and left-lateral-calf pain that is intermittent and mainly associated with walking, and has numbness and tingling in his left foot and toes. The claimant told Dr. Brown that, after his steroid injection in June 2004, his overall pain improved 75 to 80%, but the two injections he received in August 2004 and January 2005 were not as helpful. Dr. Brown noted that multiple MRIs of the claimant's lumbar spine showed disc degenerative changes at L4-L5, more so than L5-S1, but no other significant findings were noted except for a developmentally narrow canal. Dr. Brown recorded a clinical impression of "chronic left L5 radiculopathy" and ordered another MRI of the claimant's lumbar spine.

¶ 28 On February 17, 2005, the claimant underwent the lumbar spine MRI ordered by Dr. Brown. Compared to the MRI scan of June 8, 2004, the radiologist found no changes at L3-L4, L4-L5, and L5-S1. Regarding the disc herniation at L4-L5, the radiologist noted that the size of the disc herniation had decreased relative to the previous exam. The radiologist also observed "mild right lateral recess narrowing with disc approaching, but probably not impinging right L5

nerve root in lateral recess.” Dr. Brown reviewed the MRI, diagnosed the claimant with chronic left lumbar radiculopathy due to recurrent herniated disc at L4-L5, and recommended surgery.

¶ 29 On April 11, 2005, Dr. Brown operated on the claimant’s back, performing a left L4-L5 laminoforaminotomy and excision of recurrent herniated disc.

¶ 30 The claimant followed-up with Dr. Brown post-operatively on May 23, 2005, and reported that his bilateral low-back pain worsened after walking two to three blocks and he could stand for about 10 minutes before having to sit. The claimant also complained of left lateral leg pain down to his ankle. Dr. Brown’s impression was that the claimant is only slightly better than before surgery and he did not seem to be doing as well as when he was in the hospital.

¶ 31 By November 11, 2005, Dr. Brown noted that the claimant had improved and his pain was occasional and activity-related, mainly caused by prolonged standing and walking. Dr. Brown wrote in his notes that the claimant had plateaued during the past two months.

¶ 32 Throughout 2008, the claimant continued to see Dr. Kalsi for his low back as well as depression.

¶ 33 On March 16, 2009, the claimant presented to Dr. Kanter with a chief complaint of low-back pain and some discomfort into the left leg. The doctor’s notes state that the claimant experienced low-back pain and numbness in his left leg after walking four blocks. The claimant also stated that, if he sat for more than 20 or 30 minutes, he had to get up and stretch. Dr. Kanter wrote in his notes that the claimant had degenerative disc disease at L4-L5 and L5-S1 and “slight degenerative scoliosis.” Dr. Kanter opined that this “represented degenerative disc disease with a *** non-nerve root type of pain.” The doctor ordered an MRI of the claimant’s lumbar spine, which was taken the following day. The MRI showed “multilevel degenerative changes with

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foraminal narrowing, disc bulging, and degenerative spurring with a superimposed left lateral/foraminal disc herniation at L4-L5 not excluded.”

¶ 34 On January 18, 2010, the claimant presented to the emergency department at Alexian Brothers Medical Center where he reported having woke up with pain in his neck, shoulders and back. He was diagnosed with a strain to his thoracic spine.

¶ 35 On September 13, 2010, the claimant followed-up with Dr. Kalsi, complaining of general pain in his body, being stiff in the morning, difficulty sleeping, and feeling depressed. From 2010 to 2013, the claimant continued to see Dr. Kalsi for low-back and left leg pain.

¶ 36 In 2012, the claimant was in Texas when a tree fell on him. The claimant testified that he injured his cervical spine, face, and head, but the doctors in Texas said he was fine and that no further treatment was necessary.

¶ 37 In May 2013, the claimant was cleaning gutters from the fourth step of a ladder when he fell approximately two feet. The claimant testified that the Fire Department came and provided emergency treatment, but he denied receiving further medical treatment for that incident. Medical records from Elmhurst Memorial Hospital, however, show that the claimant sought treatment later that same day.

¶ 38 At the section 19(h) hearing, Cambridge Homes sought to introduce an independent medical examination (IME) report prepared by Dr. Michael Kornblatt, as well as the transcripts of his deposition testimony from December 2, 2013, and May 19, 2014. The claimant objected to Dr. Kornblatt’s IME report on grounds that it contained inadmissible hearsay, and also objected to his deposition testimony of December 2, 2013, on grounds that his attorney was not present at that deposition and could not cross-examine the doctor. Commissioner Tyrell took the matter under advisement and subsequently sustained the claimant’s objections to Dr. Kornblatt’s IME

report and December 2, 2013, deposition testimony. A transcript of Dr. Kornblatt's deposition testimony of May 19, 2014, however, was admitted into evidence.

¶ 39 On May 19, 2014, Dr. Kornblatt was deposed and testified that he performed an IME of the claimant on September 9, 2013. During the IME, the claimant reported a history of having worked as a laborer for four years until he injured his low back in 1996. Since 2005, he continued to seek medical evaluation and treatment for his low-back pain one to two times per year. The claimant complained of constant low-back pain and intermittent left-leg pain and numbness, which worsened with sitting, standing, or walking for more than 20 to 30 minutes. Dr. Kornblatt took an x-ray of the claimant's lumbar spine, which showed degenerative disc disease at all levels, but mostly at L4-L5, which was secondary, in part, to the multiple surgeries he had at that level.

¶ 40 Dr. Kornblatt opined that the claimant's current complaints are not related to his work accidents and that his work-related disability ceased one year after the first surgery, which was performed in March 1997. Although the claimant presented with subjective complaints of mechanical low-back and left-leg pain, his physical examination failed to reveal any abnormal objective findings, except for slight atrophy of the left leg. Dr. Kornblatt opined that the claimant is not permanently disabled and could work within the light to medium physical demand level, frequently lifting 15 pounds and occasionally lifting 30 pounds. He opined the claimant's disability has not increased since 2001 and that the claimant's medical treatment after the consolidated arbitration hearing was unrelated to the work accidents. He concluded that, as of 2001, the claimant's lumbar spine condition was consistent with multi-level degenerative disc disease and, while it is possible that the degenerative disc disease has worsened over the past 12

years, it would be related to the natural course of his lumbar degenerative disc disease, and not related to previous trauma or treatment.

¶ 41 At the section 19(h) hearing, the claimant testified that the pain in his low back has worsened since April 2001. He described the pain as constant, hot and numb. The claimant stated that he can walk for 15 minutes, stand for 10 to 15 minutes, and sit for 20 minutes before he experiences a hot sharp pain in his low back and numbness in his left leg. He also has trouble lifting more than 15 to 20 pounds. The claimant described the difficulties he has with daily living activities, including using the bathroom, sneezing, bending, walking and driving for extended periods of time. He stated that he has difficulty mowing the lawn, performing yard work, washing dishes, and mopping the floors. The claimant also testified that he takes medication (Hydrocodone and Gabapentin) and performs stretching exercises to ameliorate the pain.

¶ 42 On July 6, 2015, the Commission issued a decision, finding that the claimant failed to prove that his disability had materially increased and, therefore, denied the claimant's section 19(h) petition. In addition, the Commission found that the claimant's current condition of ill-being is not causally connected to any of the work accidents. As such, the Commission denied the claimant's request for post-arbitration medical expenses pursuant to section 8(a) of the Act.

¶ 43 Thereafter, the claimant sought a judicial review of the Commission's July 6, 2015, decision in the circuit court of Cook County. On August 25, 2016, the circuit court entered an order confirming the Commission's decision and this appeal followed.

¶ 44 We first address the claimant's contention that the Commission erred when it considered Dr. Kornblatt's IME report, which was excluded from evidence on grounds that it contained inadmissible hearsay. In support of his argument that the Commission relied upon the IME report

in issuing its decision, he cites to a single sentence in the Commission's decision, which appears to have been taken verbatim from page four of Dr. Kornblatt's IME report.

¶ 45 For purposes of our analysis, we assume, without deciding, that Dr. Kornblatt's IME report was properly excluded from evidence and that the Commission nevertheless relied upon the report in issuing its decision. We note, however, that the Commission's consideration of incompetent evidence does not automatically require reversal. In *Greaney v. Industrial Comm'n*, 358 Ill. App. 3d 1002, 1013 (2005), we pointed out that, when an examination of the record as a whole demonstrates that the erroneously admitted evidence is cumulative and does not otherwise prejudice the objecting party, any error in its admission is harmless.

¶ 46 In this case, having reviewed the content of Dr. Kornblatt's IME report, and having examined the record as a whole, it is clear that the IME report was cumulative and did not prejudice the claimant. More specifically, the Commission's findings as to causation and whether the claimant's disability materially increased is supported by other competent evidence, including Dr. Kornblatt's deposition testimony, in which he testified consistently with his IME report. Because the content of Dr. Kornblatt's IME report was cumulative of his deposition testimony, any error in the Commission's reliance on the IME report was harmless.

¶ 47 We next address the claimant's argument that the Commission erred as a matter of law by failing to award him additional benefits pursuant to section 19(h) of the Act. He asserts that he met his burden of establishing a material change in his disability since the Commission's September 13, 2002, decision. We disagree.

¶ 48 As a preliminary matter, the claimant maintains that we should apply the *de novo* standard of review because the Commission's decision to award additional benefits under section 19(h) involves a question of law. We disagree. Our supreme court has stated that "[t]he question

whether an increase in disability has occurred is one of fact and not of law.” *Board of Trustees of the University of Illinois v. Industrial Comm’n*, 71 Ill. 2d 287, 295 (1978). Accordingly, the manifest-weight-of-the-evidence standard of review governs our analysis. See *Franklin v. Industrial Comm’n*, 211 Ill. 2d 272, 279 (2004).

¶ 49 Turning to the merits, the purpose of a section 19(h) proceeding is to determine whether a claimant’s disability has “recurred, increased, diminished or ended” since the time of the original award or settlement. *Howard v. Industrial Comm’n*, 89 Ill. 2d 428, 429 (1982); *Gay v. Industrial Comm’n*, 178 Ill. App. 3d 129, 132 (1989). “To warrant a change in benefits, the change in a [claimant’s] disability must be material.” *Gay*, 178 Ill. App. 3d at 132. In reviewing a section 19(h) petition, the evidence presented in the original proceeding must be considered to determine if the claimant’s disability has changed materially since the time of the original decision. *Id.* Whether there has been a material change in a claimant’s disability is an issue of fact to be resolved by the Commission. *Id.*; *Howard*, 89 Ill. 2d at 430. In addition, the issue of whether a causal relationship exists between a claimant’s condition of ill-being and his employment is a question of fact. *Certi-Serve, Inc. v. Industrial Comm’n*, 101 Ill. 2d 236, 244 (1984). The resolution of factual disputes is squarely within the province of the Commission and its determination should not be disturbed unless against the manifest weight of the evidence. *Franklin*, 211 Ill. 2d at 279; *Howard*, 89 Ill. 2d at 430. For a finding of fact to be contrary to the weight of the evidence, an opposite conclusion must be clearly apparent. *Caterpillar, Inc. v. Industrial Comm’n*, 228 Ill. App. 3d 288, 291 (1992).

¶ 50 In the present case, the Commission found that the claimant’s medical records did not present any objective findings to establish a material change in his disability caused by the workplace accidents. The claimant’s medical records admitted at the arbitration hearing showed

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that the claimant complained of low-back pain radiating to the left leg. MRI scans taken of the claimant's low back disclosed mild degenerative disc disease throughout the lumbar spine and also revealed that he had a herniated disc at L4-L5. The claimant underwent surgery on March 6, 1997, and February 16, 1999. The claimant's medical records after the surgery document generalized pain in the low back and numbness in the left leg. Dr. Lim's medical records state that the claimant reached MMI on November 29, 1999. The claimant testified at the arbitration hearing that he continued to experience pain in his low back, was limited in his daily living activities, and could not stand, walk or sit for more than 20 or 30 minutes.

¶ 51 At the section 19(h) hearing, the claimant testified that he has been in constant pain since 2001, takes Hydrocodone and Gabapentin to relieve his pain, and can walk and stand for only 10 or 15 minutes and sit for 20 minutes. The Commission specifically found, however, that the claimant's testimony was not credible. It noted that Dr. Kalsi's medical records from 2001 to 2003 reveal that the claimant never complained of low-back pain and the claimant's medical treatment from 2005 through 2012 was "sporadic with large gaps of time between visits of non-specific pain complaints." Although the claimant testified regarding the progression of his low-back condition and how it limited his daily activities, the Commission questioned his credibility, noting that he was able to travel to Texas in 2012 and clean gutters in 2013. The claimant's medical records also show that he was "drastically improved to about 80%" and his physical therapy records reflect that he can perform his daily living activities with only some minor issues. The Commission also noted that no doctors limited the claimant's physical capabilities during treatment. The Commission concluded, therefore, that the claimant failed to prove a material increase in his disability.

¶ 52 In further support of its decision to deny the claimant's section 19(h) petition, the Commission found that the claimant failed to prove that his current condition of ill-being remained causally connected to his work accidents. The Commission noted that none of the claimant's treating physicians offered an opinion that his low-back condition is related to or a direct result from his work injury, or worsened since 2001. Although Dr. Brown diagnosed the claimant with a "recurrent herniated disc at L4-L5" and operated on the claimant's low back in April 2005, the Commission observed that the doctor gave no opinion as to causation and failed to explain how the claimant's herniated disc recurred. Instead, the Commission found Dr. Kornblatt's opinion to be persuasive. In his deposition, Dr. Kornblatt testified that the claimant had degenerative disc disease in the lumbar spine and that his current condition of ill-being is the result of the aging process and not related to any workplace accidents.

¶ 53 Based on the record before us, we cannot find that the Commission's findings are against the manifest weight of the evidence. The Commission reviewed the evidence presented in the original proceeding and determined that the claimant's current condition of ill-being in his low back was not causally related to the workplace accidents. The Commission was faced with conflicting medical evidence on the issue of whether the claimant's low-back pain was causally related to the work accidents and whether the pain was the result of a material change in the claimant's work-related disability. The Commission considered the opinions of Dr. Kornblatt, the claimant's medical records, and the claimant's testimony, and resolved the conflicting evidence in Cambridge Homes' favor. Since the evidence presented at the section 19(h) hearing is sufficient to sustain the Commission's finding that the claimant's workplace accidents are unrelated to his subjective complaints of low-back pain, we cannot find that a conclusion opposite to the Commission's is clearly apparent.

¶ 54 Finally, the claimant contends that the Commission erred by failing to award him post-arbitration medical expenses under section 8(a) of the Act. We disagree.

¶ 55 At all times relevant to this case, section 8(a) of the Act obligated employers to “provide and pay *** for all the necessary first aid, medical and surgical services, and all necessary medical, surgical, and hospital services thereafter incurred, limited, however, to that which is reasonably required to cure or relieve from the effects of the accidental injury.” 820 ILCS 305/8(a) (West 2014). The claimant’s burden of proof includes the burden of proving that section 8(a) expenses were necessary to diagnose, relieve, or cure the effects of the claimant’s work-related injury. *City of Chicago v. Illinois Workers Compensation Comm’n*, 409 Ill. App. 3d 258, 266-67 (2011). The Commission’s determination with respect to an award of expenses under section 8(a) is a question of fact that will not be overturned unless it is against the manifest weight of the evidence. *Id.*

¶ 56 In the present case, we agree with Cambridge Homes that the claimant failed to prove that the post-arbitration medical expenses that he submitted at the section 19(h) hearing were necessary to relieve or cure the effects of his accidental injuries. The Commission’s decision to deny the claimant post-arbitration medical expenses is supported by Dr. Kornblatt’s deposition testimony in which he specifically opined that the claimant’s subjective complaints of low-back pain and medical treatment is not related to the work accidents. Dr. Kornblatt reviewed the claimant’s medical history and MRI scans, performed a physical examination of the claimant, and took x-rays of his low back. He concluded that the claimant’s subjective complaints were not the result of the workplace accidents, but were the result of the natural progression of his degenerative disc disease. Accordingly, we cannot reverse the Commission and make our own

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factual finding that the claimant's post-arbitration medical care was necessary to relieve or cure the effects of his work-related accidents.

¶ 57 For the reasons stated, we affirm the circuit court's judgment which confirmed the Commission's decision denying the claimant's section 19(h) petition.

¶ 58 Affirmed.