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2014 IL App (1st) 13-2650WC

FILED: December 26, 2014

NO. 1-13-2650WC

IN THE APPELLATE COURT

OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

PAUL THOMAS,)	Appeal from
)	Circuit Court of
Appellant,)	Cook County
)	No. 12151299
v.)	
THE ILLINOIS WORKERS' COMPENSATION)	
COMMISSION <i>et al.</i> (DHL, Appellee).)	
)	Honorable
)	Patrick J. Sherlock,
)	Judge Presiding.

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

ORDER

¶ 1 *Held:* The Commission's determination that claimant's current conditions of ill-being were not causally related to the September 26, 2008, work accident was not against the manifest weight of the evidence.

¶ 2 On October 3, 2008, claimant, Paul Thomas, filed an application for adjustment of claim (docketed case No. 08WC43436) pursuant to the Illinois Workers' Compensation Act (Act) (820 ILCS 305/1 to 30 (West 2010)), seeking benefits from the employer DHL. He alleged that he sustained injuries to his head, back, and left leg in a work accident that occurred on September 26, 2008. On May 24, 2010, claimant filed a second application of adjustment of

claim (docketed case No. 10WC19784) pursuant to the Act, alleging injury to his body as a whole as a result of the September 26, 2008, work accident. The cases were consolidated in December 2010. Following a May 16, 2011, hearing, the arbitrator concluded that claimant's conditions of ill-being relating to his lumbar spine and left knee were causally related to the September 26, 2008, work accident. The arbitrator ordered the employer to pay (1) \$65,031.22 for outstanding medical bills, (2) \$502.10 for claimant's out-of-pocket payment of medical bills, and (3) the reasonable cost of back surgery recommended by claimant's treating physician. Additionally, the arbitrator awarded claimant 137 $\frac{3}{7}$ weeks' temporary total disability (TTD) benefits for the period of September 27, 2008, through May 16, 2011. The arbitrator concluded penalties and fees were not warranted.

¶ 3 On review, the Illinois Workers' Compensation Commission (Commission) unanimously reversed the arbitrator's decision on the issue of causation, reduced the award for medical bills to \$11,894.36 (the employer stipulated to liability for medical expenses incurred prior to September 29, 2009), reversed the award for prospective medical care, and reduced the TTD award to 52 $\frac{5}{7}$ weeks, for the period from September 26, 2008, through September 29, 2009. The Commission also remanded the matter to the arbitrator for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327, 399 N.E.2d 1322 (1980).

¶ 4 On judicial review, the circuit court of Cook County confirmed the Commission's decision. This appeal followed.

¶ 5 I. BACKGROUND

¶ 6 The following factual evidence relevant to this appeal was elicited at the May 16, 2011, arbitration hearing.

¶ 7 Claimant worked as a delivery driver for the employer for approximately 13

years. On September 26, 2008—the last date he worked—claimant was unloading packages from a delivery truck when he tripped over a box located on the floor of the truck. Claimant fell out the back of the truck, striking his knee on the truck's step and his back and head against a steel support beam that was holding up a conveyor belt. Directly after the accident, claimant felt dizzy and his head, back, and left knee hurt. Claimant reported the accident to his supervisor and immediately sought medical treatment at Concentra Medical Center (Concentra), the company-designated medical facility, where he was treated by Dr. Charles L. Carlton. According to Dr. Carlton's report, claimant presented with pain in the back of his head, left wrist, and left knee. Dr. Carlton noted claimant was suffering from a concussion without loss of consciousness, a face/scalp contusion, resolved blurred vision, persistent headache and a wrist sprain. Claimant refused transport to the emergency room for a computerized tomography (CT) scan. Dr. Carlton prescribed over-the-counter medications and ice.

¶ 8 On September 29, 2008, claimant returned to Concentra for a follow-up appointment. According to Dr. Carlton's report, claimant then complained "that his low back stiffness worsened and his lower back became very painful after leaving" the clinic on September 26, 2008, and that "[t]he back pain has been keeping him awake at night." Claimant's left knee pain had worsened and claimant reported his left knee "gave out" twice over the weekend. Claimant's headache and left wrist pain had improved. Dr. Carlton diagnosed lumbar strain, concussion without loss of consciousness, improved headache, improved face/scalp contusion, sprains and strains of the left knee and leg, and wrist pain. Physical therapy was prescribed. Dr. Carlton placed claimant on modified activity that included no lifting over 20 pounds, no prolonged standing or walking longer than tolerated, no bending when possible, no pushing or pulling over 20 pounds, no driving a company vehicle, and ground work only. We

note the employer was not able to accommodate claimant's restrictions and, therefore, claimant did not return to work following the September 26, 2008, accident.

¶ 9 On October 1, 2008, claimant returned to Concentra complaining of persistent left knee pain exacerbated by bending the knee, pivoting, and entering and exiting his personal vehicle. Claimant also complained of low back pain which was worse lying down and kept him awake at night. According to Dr. Carlton's report, claimant reported a prior left knee injury that occurred approximately 4 to 5 years before and still gave him intermittent pain and occasional episodes of "giving out." However, claimant reported since the September 26, 2008, injury, his left knee pain increased, was constant, and the episodes of giving out occurred more frequently. Dr. Carlton recommended "a short course of [physical therapy] to attempt to rehab the knee and the low back" and continued claimant on the modified activity noted above. Claimant began physical therapy at Concentra on October 1, 2008.

¶ 10 On October 4, 2008, claimant sought treatment at Advocate South Suburban Hospital's emergency department complaining of headache, dizziness, and blurred vision. A CT scan was performed. He was diagnosed with a headache and discharged.

¶ 11 At his October 6, 2008, physical therapy session, claimant reported that his "back feels better."

¶ 12 On October 8, 2008, claimant returned to Concentra. According to Dr. Carlton's report, claimant reported his headaches had improved but he still experienced blurred vision on occasion. Claimant's main pain complaint at that time was left knee pain and more frequent episodes of the left knee giving out. Dr. Carlton noted that claimant had "[p]re-existing atrophy at the [left] [q]uadriceps muscle groups." Claimant's lower back pain had improved although he noted back muscle soreness and stiffness. Claimant reported no pain in his left wrist. Dr.

Carlton continued claimant on modified activity restrictions and physical therapy. Dr. Carlton noted a second opinion from an orthopedic specialist for claimant's left knee problem would be reasonable.

¶ 13 At his October 16, 2008, physical therapy session, claimant reported that he had no pain in his back but that his left knee pain was not improving.

¶ 14 At his October 20, 2008, physical therapy session, claimant reported his "low back was feeling much better."

¶ 15 On October 23, 2008, claimant returned to Concentra for a follow-up appointment where he was treated by Dr. Dan Paloyan. Dr. Paloyan noted claimant continued to have moderate pain in his left knee and weakness in the distal thigh muscle. Dr. Paloyan continued claimant's modified activity restrictions and physical therapy. Dr. Paloyan also noted claimant was awaiting approval for magnetic resonance imaging (MRI) of his left knee.

¶ 16 On November 3, 2008, claimant returned to Concentra and Dr. Paloyan noted an MRI of claimant's left knee had been performed. With the exception of trace effusion, no abnormalities were present on the MRI. Claimant continued to complain of left knee pain and "buckling" of the knee. Dr. Paloyan attributed this to "an old injury which has left him with a weak quadriceps." Dr. Paloyan continued claimant's activity restrictions.

¶ 17 On November 10, 2008, claimant returned to Concentra for a follow-up visit. Dr. Paloyan noted that claimant continued to experience moderate pain in the lower distal thigh laterally and medially into the knee, with pain on walking and prolonged standing. Dr. Paloyan's report indicates claimant had been referred to the orthopedic department. Dr. Paloyan continued claimant's activity restrictions.

¶ 18 On November 12, 2008, claimant saw Dr. James Cohen, an orthopedic surgeon,

for a consultation on his left knee. Claimant testified that Dr. Carlton referred him to Dr. Cohen. Dr. Cohen's report from that consultation noted that he reviewed claimant's MRI results and "essentially they were normal." Dr. Cohen opined that claimant may have a contusion to his knee and that surgery was not indicated. Dr. Cohen performed an intra-articular left knee injection and recommended physical therapy. Dr. Cohen placed claimant on light-duty restrictions with no lifting, pushing or pulling over 25 pounds, and no squatting, kneeling, climbing, or crawling.

¶ 19 On November 26, 2008, claimant returned to see Dr. Cohen and reported the left knee injection did not help. Dr. Cohen scheduled a left knee arthroscopy for claimant although he opined the arthroscopy may not be helpful. At a January 16, 2009, follow-up appointment, Dr. Cohen noted claimant's arthroscopy that had been completed one week earlier "was completely normal." Dr. Cohen recommended physical therapy to help him rehab from the arthroscopy. Dr. Cohen further noted, "I do not believe that his giving out is related to a specific work injury."

¶ 20 On January 22, 2009, claimant treated with Dr. Robert J. Strugala at Midland Orthopedic Associates, complaining of continuing left knee pain. Dr. Strugala recommended physical therapy and noted if claimant failed to respond to therapy, an electrodiagnostic study to evaluate for a neuromuscular etiology of his left thigh weakness may be considered. On February 19, 2009, claimant returned to Dr. Strugala for a follow up. Claimant reported the left knee pain and weakness continued despite physical therapy. Dr. Strugala ordered an electrodiagnostic study.

¶ 21 On February 23, 2009, claimant treated with Dr. Kevin Fagan, a neurologist. Claimant testified that Dr. Cohen referred him to Dr. Fagan. In a February 23, 2009, letter to Dr.

Cohen, Dr. Fagan noted that claimant denied having back pain. Dr. Fagan further noted that he needed to obtain an EMG to rule out radiculopathy or a neuropathy in the lower extremities.

¶ 22 On March 11, 2009, claimant underwent a functional capacity evaluation (FCE). The evaluation indicated that claimant was "able to work at the LIGHT Physical Demand Level for an 8 hour day."

¶ 23 On April 2, 2009, claimant returned to Dr. Fagan for a follow-up visit. In an April 2, 2009, letter to Dr. Cohen, Dr. Fagan reported that claimant's EMG—performed sometime between February 23, 2009, and April 2, 2009—demonstrated a mild-to-moderate left L4 chronic radiculopathy which he opined may account for claimant's knee-buckling. The results of the MRI and EEG were normal. The letter also noted claimant informed Dr. Fagan he developed back pain during a work-hardening evaluation which has persisted, and claimant has been experiencing "occasional radiation from the lumbosacral junction down the buttock in the lateral aspect of the thigh, but not below the knee." Dr. Fagan ordered an MRI of claimant's lumbar spine as well as an EEG.

¶ 24 On April 17, 2009, claimant returned to Dr. Strugala for a follow-up visit. Claimant continued to have left knee weakness and, according to Dr. Strugala, had developed "chronic intermittent low back pain." Dr. Strugala also ordered an MRI of claimant's lumbar spine. During a May 22, 2009, follow-up appointment, Dr. Strugala noted claimant continued to experience left knee pain and weakness. According to Dr. Strugala, the May 20, 2009, lumbar MRI demonstrated some minimal degenerative disc disease at L5-S1, but no disc herniation or any obvious source for the left L4 radiculopathy.

¶ 25 Over the next several months, claimant continued to treat with Dr. Strugala and Dr. Fagan. On July 23, 2009, Dr. Strugala noted that no definite cause of the lumbar

radiculopathy had yet been identified.

¶ 26 On August 17, 2009, at the employer's request, claimant underwent an independent medical examination with Dr. Andrew Zelby, a neurosurgeon. After examining claimant and reviewing his medical records, Dr. Zelby concluded that claimant sustained a lumbar strain and a modest concussion as a result of the September 26, 2008, accident. However, Dr. Zelby noted that neurologically, claimant was normal, that he had a normal spine exam, and that his lumbar MRI was normal. Dr. Zelby opined that claimant's knee-buckling was a preexisting condition with no neurologic basis. Dr. Zelby found that claimant could return to normal activities without restrictions and was at maximum medical improvement (MMI) within 8-12 weeks of the injury.

¶ 27 On August 25, 2009, claimant returned to Dr. Strugala for a follow-up visit. Dr. Strugala noted "until we can strengthen the quadriceps, he will continue to experience issues with his left knee and leg, and unfortunately until the radiculopathy resolves, we may have difficulty strengthening the quadriceps."

¶ 28 On September 29, 2009, claimant returned to Dr. Fagan for a final follow-up visit. In a September 29, 2009, letter to Dr. Cohen, Dr. Fagan reiterated claimant's history of a prior left-knee injury which caused occasional buckling. Dr. Fagan noted claimant reinjured himself in September 2008, striking his knee, head, and back and that claimant's back pain started after the "last injury." Dr. Fagan wrote claimant had some "electrical evidence of an L4 radiculopathy and corresponding discomfort in the back down into the leg" which had been present for over six months. Dr. Fagan opined that, "[a]ssuming the voracity [*sic*] of his history, I would suggest that the problem is work related." Dr. Fagan had no objection to claimant returning to work but noted he should be cleared by cardiology first due to an unrelated heart condition.

¶ 29 On October 1, 2009, claimant returned to Dr. Strugala for a follow-up visit. Dr. Strugala again noted claimant's persistent left knee pain and leg weakness with L4 radiculopathy "of uncertain origin." Dr. Strugala opined that claimant's left leg weakness may not be reversible. Claimant returned to Dr. Strugala on February 18, 2010. In addition to left knee pain and leg weakness with L4 radiculopathy, claimant also complained of twitching in his right anterior thigh.

¶ 30 On April 21, 2010, claimant saw Dr. Leslie Schaffer, a neurologist. Dr. Schaffer ordered an MRI of claimant's lumbosacral spine. An MRI of claimant's cervical spine performed on April 25, 2010, revealed "mild multilevel degenerative changes without evidence of significant central or neural foraminal stenosis."

¶ 31 On May 25, 2010, claimant saw Dr. Sajjad Murtaza, a pain-management physician. Claimant initially testified he believed Dr. Cohen referred him to Dr. Murtaza. Later, claimant testified the referral might have been made by Dr. Fagan. According to Dr. Murtaza's report, the lumbar spine films were of such poor quality that he ordered a new lumbar spine MRI. According to the radiologist who read the June 3, 2010, MRI of claimant's lumbar spine, it demonstrated "some mild loss of normal hydration of its nucleus pulposus" at the L5-S1 level and "a 3-4 millimeter subligamentous posterior disk protrusion/herniation indenting the ventral surface of the thecal sac without significant spinal stenosis or neuroforaminal narrowing."

¶ 32 On June 28, 2010, Dr. Murtaza performed two lumbar epidural steroid injections at L3-4 and L4-5. At a follow-up appointment on July 13, 2010, claimant reported "he had approximately 30% relief from the injection." Claimant received an additional lumbar epidural steroid injection on July 19, 2010. At a follow-up appointment on August 17, 2010, Dr. Murtaza noted claimant continued to have pain down his left lower extremity and opined that claimant

would benefit from a surgical evaluation of his lower lumbar spine.

¶ 33 On September 24, 2010, claimant sought treatment with Dr. Martin D. Herman, a neurosurgeon. Claimant testified that Dr. Murtaza referred him to Dr. Herman. Following an examination of claimant, Dr. Herman noted, "[m]y impression is that he has low back pain and a disk herniation at L5-S1 based on the data that I have, which is very limited." On October 7, 2010, claimant returned to Dr. Herman who noted that after reviewing claimant's MRI scans, "only a mild annular tear at L5-S1" was demonstrated. Dr. Herman recommended a lumbar discogram and post discogram CT scan of claimant's lumbar spine and a CT scan of his abdomen and pelvis. On October 26, 2010, claimant returned to Dr. Herman for a follow-up appointment. Dr. Herman noted that claimant's discogram was "positive at L5-S1 and negative at L3-4 and L4-5 in terms of concordant pain." Dr. Herman discussed potential treatment options including axial lumbar interbody fusion versus posterior pedicle screw fusion, but thought claimant was a better candidate for posterior fusion. On November 30, 2010, claimant returned to Dr. Herman still complaining of low back pain. Dr. Herman recommended a laminectomy and posterior lumbar fusion at L5-S1. At the time of the arbitration hearing, claimant had not undergone back surgery.

¶ 34 During his testimony, claimant testified he had previously hurt his back 4 to 5 years ago, also while working for the employer. Claimant stated that he had no problems with his back between his return to work following the previous back injury until the September 26, 2008, accident at issue here. When asked to describe his knee pain, claimant stated, "[i]t's not always an on-going thing. Sometimes it's just like a sharp pain that comes through my legs and down in my knee, come [sic] from my back down to my knee." He further explained, "[s]ometimes it's a radiating pain. Sometimes you know it just comes in my knee and it goes and my knee swells up." Claimant further testified that in February 2009, he began experiencing the

same pain in his right leg, which he "never had a problem" with before, although the pain in his right leg was less severe and less frequent than the left leg pain. Claimant testified that since the September 26, 2008, injury, he has been unable to "walk as frequent as I used to," or play with his small children like he did before the accident.

¶ 35 On September 15, 2011, the arbitrator issued his decision in the matter. He concluded that claimant's condition of ill-being in his lumbar spine and his left knee were causally related to the September 26, 2008, work accident. The arbitrator ordered the employer to pay (1) \$65,031.22 in outstanding medical bills, (2) \$502.10 for claimant's out-of-pocket payment of medical bills, and (3) the reasonable cost of back surgery recommended by Dr. Herman. Additionally, the arbitrator awarded claimant 137 $\frac{3}{7}$ weeks' TTD benefits for the period of September 27, 2008, through May 16, 2011. The arbitrator concluded penalties and fees were not warranted.

¶ 36 On review, the Commission reversed the arbitrator's decision on the issue of causation. As a result of finding no causal connection between the September 26, 2008, work accident and claimant's L5-S1 disc herniation, the Commission reduced the award of medical bills to \$11,894.36, reversed the award for prospective medical care, and reduced the TTD award to 52 $\frac{5}{7}$ weeks, for the period from September 26, 2008, through September 29, 2009. The Commission also remanded the matter to the arbitrator for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327, 399 N.E.2d 1322.

¶ 37 On judicial review, the circuit court of Cook County confirmed the Commission's decision. This appeal followed.

¶ 38 II. ANALYSIS

¶ 39 On appeal, claimant asserts the Commission's (1) finding that his conditions of ill-

being in the lumbar spine and left knee were not causally connected to his September 2008 work accident was against the manifest weight of the evidence and (2) modification and/or reversal of the award of TTD benefits, medical expenses, and prospective medical care based on a finding of no causal connection was against the manifest weight of the evidence.

¶ 40 "To obtain compensation under the Act, a claimant bears the burden of showing, by a preponderance of the evidence, that he has suffered a disabling injury which arose out of and in the course of his employment." *Sisbro, Inc. v. Industrial Comm'n*, 207 Ill. 2d 193, 203, 797 N.E.2d 665, 671 (2003). "The phrase 'in the course of' refers to the time, place, and circumstances under which the accident occurred. [Citation.] The 'arising out of' component addresses the causal connection between a work-related injury and the employee's condition of ill-being." *National Freight Industries v. Illinois Workers' Compensation Comm'n*, 2013 IL App (5th) 120043WC, 993 N.E.2d 473.

¶ 41 "The determination of whether an injury arose out of and in the course of a claimant's employment is a question of fact for the Commission to resolve, and its finding in that regard will not be set aside on review unless it is against the manifest weight of the evidence." *Springfield Urban League v. Illinois Workers' Compensation Comm'n*, 2013 IL App (4th) 120219WC, ¶ 24, 990 N.E.2d 284. "For a finding of fact to be contrary to the manifest weight of the evidence, an opposite conclusion must be clearly apparent." *Id.*

¶ 42 The Commission is the "ultimate decisionmaker" in workers' compensation cases. *Roberson v. Industrial Comm'n*, 225 Ill. 2d 159, 173, 866 N.E.2d 191, 199 (2007). "It is within the province of the Commission to resolve disputed questions of fact, including those of causal connections, to draw permissible inferences from the evidence, and to judge the credibility of the witnesses." *National Freight Industries v. Illinois Workers' Compensation Comm'n*, 2013 IL

App (5th) 120043WC, ¶ 26, 993 N.E.2d 473. "[T]he Commission is not bound by the arbitrator's findings, and may properly determine the credibility of witnesses, weigh their testimony and assess the weight to be given to the evidence." *City of Chicago v. Illinois Workers' Compensation Comm'n*, 373 Ill. App. 3d 1080, 1096, 871 N.E.2d 765, 779 (2007). On review, "[t]he appropriate test is whether there is sufficient evidence in the record to support the Commission's finding, not whether this court might have reached the same conclusion." *Chicago Transit Authority v. Illinois Workers' Compensation Comm'n*, 2013 IL App (1st) 120253WC, ¶ 24, 989 N.E.2d 608.

¶ 43 In this case the Commission concluded claimant's conditions of ill-being in his lumbar spine and left knee were not causally related to the September 26, 2008, work accident. Specifically, the Commission concluded that (1) the causal connection opinion by Dr. Fagan—the only physician who offered an opinion on causation—was "equivocal and unsupported by the remaining medical evidence"; (2) claimant's initial lumbar strain had resolved "and any later lower back symptoms were attributable to a different and unrelated cause"; and (3) claimant's testimony was "insufficiently reliable to support a finding of causal connection" where he "demonstrated poor recall of which doctors he saw when and for what purposes" and "gave inconsistent histories to his treatment providers."

¶ 44 Claimant challenges the Commission's finding of no causal connection on several grounds. We find claimant's arguments to be without merit and determine the Commission's decision was not against the manifest weight of the evidence.

¶ 45 We first address claimant's contention that "[t]he Commission incorrectly determined that one medical opinion discussing causation was insufficient to establish causation." Our review of the Commission's decision reveals that, contrary to claimant's

assertion, the Commission concluded Dr. Fagan's causation opinion was not sufficiently persuasive to find causation—not that Dr. Fagan's opinion was insufficient to establish causation because it stood alone.

¶ 46 Dr. Fagan's causation opinion is contained in his September 29, 2009, letter to Dr. Cohen. In that letter, Dr. Fagan stated, in part, as follows:

"To reiterate his history, he had an injury of his left knee two or three years ago and would have occasional buckling of the leg after that. He reinjured himself in September of '08, striking his knee and also his head and his low back. His back pain started after the *last injury*. Dr. Zelby concluded that the buckling of his left knee was a preexisting condition. He had none of this before his initial injury. ***.

My impression is he has some electrical evidence of an L4 radiculopathy and has corresponding discomfort in the back down into the leg. This has been going on for over six months, so a chronic pain evaluation would be indicated. His problems started after his *initial injury*. Assuming the voracity [*sic*] of his history, I would suggest that the problem is work related." (Emphases added.).

The above excerpt comprises the sum and substance of Dr. Fagan's causation opinion in this case. The Commission determined that, based on Dr. Fagan's letter, it was unclear whether Dr. Fagan attributed claimant's injuries to his " 'initial injury' that predated the September 2008

accident" or his " 'last injury,' meaning the injury of September 2008." Thus, the Commission found Dr. Fagan's causation opinion unpersuasive. We further note that while the Commission noted the lack of causation opinion testimony from other treating physicians, this lack of supporting evidence did not serve as a basis for its finding of no causal connection. Rather, the Commission simply noted that no other physician offered a causation opinion, and thus, it could find no additional support for Dr. Fagan's causation opinion— opinion testimony it found to be ambiguous. Based on this evidence, the Commission's determination that Dr. Fagan's causation opinion was not persuasive is not against the manifest weight of the evidence.

¶ 47 We next address claimant's contention that "[t]he Commission based its determination of causation on an incomplete picture of the medical records where [claimant] complain[ed] of only leg pain and not back pain." According to claimant, he sufficiently established that the pain in his knee and legs was a direct result of the condition of ill-being in his back.

¶ 48 Our review of the record reveals the Commission concluded—based on the medical records before it—that any injury claimant sustained to his low back on September 26, 2008, had fully resolved over the following month. The evidence established that during an October 6, 2008, physical therapy session, claimant reported his "back feels better." At an October 8, 2008, follow-up appointment with Dr. Cohen, claimant reported his lower back pain had improved although he still had some soreness and stiffness. At his October 16, 2008, physical therapy session, claimant reported "no pain in his back." At his October 20, 2008, physical-therapy appointment, claimant reported his "low back was feeling much better." The next indication that claimant was experiencing any back pain was on April 2, 2009, when claimant reported to Dr. Fagan that he had developed back pain during a work-hardening

evaluation. On April 17, 2009, claimant reported to Dr. Strugala that he had developed chronic intermittent low back pain. Claimant's April 2009 reports of low back pain came after he underwent the EMG that revealed a mild-to-moderate left L4 radiculopathy. Thus, the medical records fail to demonstrate any low back complaints for a period of nearly six months after claimant reported in October 2008 they had resolved. The evidence sufficiently supports the Commission's finding that the back strain initially sustained by claimant on September 26, 2008, had fully resolved by October 16, 2008, and any back pain reported in April 2009 was unrelated to the work accident at issue in this case.

¶ 49 Claimant further contends the Commission erroneously concluded "the injury to the back *** was due to some prior incident of which there is no record." As pointed out above, the Commission concluded claimant's low back strain resolved in October 2008. Claimant reported low back pain to Dr. Strugala at a follow-up visit in April 2009 which claimant apparently attributed to work hardening. However, the Commission found "this unrelated to the September 2008 accident, and we find no evidence that [claimant] sustained an additional injury during work hardening." As pointed out by the employer, claimant was not participating in work hardening during this period of time. Thus, the Commission did not find that claimant's low back condition was caused by "some prior incident of which there is no record" as argued by claimant.

¶ 50 Last, we address claimant's contention that the Commission erred by finding his testimony was unreliable based on his inability to recall information about his medical providers. Specifically, the Commission noted that claimant: "demonstrated poor recall of which doctors he saw when and for what purposes"; "was confused regarding which doctors referred him to other doctors"; denied knowing one physician who treated him; and incorrectly identified the

facility where one physician worked. We find that while the Commission's observations regarding claimant's testimony do not necessarily support its characterization of the testimony as "unreliable," they served merely to supplement the Commission's other findings relative to causal connection and therefore do not impact our decision in this case.

¶ 51 Based on the evidence, we conclude the Commission's determination that claimant's conditions of ill-being in his low back and left knee were not causally related to the September 26, 2008, work accident is not against the manifest weight of the evidence. Because we find the Commission's causation determination was not against the manifest weight of the evidence, the Commission did not err in modifying and/or reversing claimant's TTD benefits, award for medical expenses, and prospective medical.

¶ 52 III. CONCLUSION

¶ 53 For the reasons stated, we affirm the circuit court's judgment, confirming the Commission's decision. We remand the matter back to the Commission for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327, 399 N.E.2d 1322.

¶ 54 Judgment affirmed; cause remanded.