FOURTH DIVISION
DECEMBER 1, 2011

No. 1-10-2248

IN THE APPELLATE COURT
OF ILLINOIS
FIRST JUDICIAL DISTRICT

JENNIFER GOOD (Now Known as JENNIFER GOOD FLYNN),	)	Appeal from the Circuit Court of Cook County.
Plaintiff-Appellant,	)	
v.	)	No. 09 CH 32890
BOARD OF TRUSTEES OF THE NORTHBROOK FIREFIGHTERS' PENSION FUND, and its members, THOMAS SCHAUL, CLIFFORD WOODBURY, RICHARD BARTELT, MARK NOLAN, and JEFF ROWITZ,	)	Honorable Kathleen M. Pantle, Judge Presiding.
Defendants-Appellees.		

JUSTICE PUCINSKI delivered the judgment of the court.
Presiding Justice Lavin and Justice Sterba concurred in the judgment.

O R D E R

HELD: Trial court's order upholding the decision of the pension board to deny the plaintiff's petition for survivors pension benefits affirmed where the pension board heard and analyzed conflicting expert testimony and issued a detailed decision that found support in the record.

¶1 Plaintiff, Jennifer Good (now Jennifer Flynn) appeals an order of the circuit court upholding the decision of the Board of Trustees of the Northbrook Firefighters' Pension Fund (Board) to deny Jennifer's application for survivors pension benefits under section 4-114 of the Illinois Pension Code (Pension Code) (40 ILCS 5/4-114 (West 2008)). On appeal, Jennifer argues that the Board's finding that the evidence was "inconclusive" as to whether her husband Keith's death was the result of an illness was against the manifest weight of the evidence and maintains that she is entitled to benefits pursuant to section 4-114 of the Pension Code. For the reasons set forth herein, we affirm the judgment of the circuit court.

¶2 BACKGROUND

¶3 On May 11, 2007, Keith Good, a firefighter employed by the Northbrook Fire Department, committed suicide by overdosing on insulin. On July 27, 2007, his wife Jennifer submitted an application to the Northbrook Firefighter's Pension Fund for survivors pension benefits pursuant to section 4-114 of the Pension Code (40 ILCS 5/4-114(1) (West 2008)). Section 4-114 of the Pension Code permits a spouse to receive a pension in the amount of 54% of the firefighter's monthly salary if the firefighter died "as a result of any illness or accident." 40 ILCS 5/4-114(1) (West 2006). It was Jennifer's contention that her husband died as a result of illness, specifically mental illness. The Board conducted a hearing on Jennifer's application for pension benefits.

¶4 The hearing initially commenced on November 14, 2007. At the hearing, Jennifer testified that in 2007 Keith had difficulties sleeping and was frequently tired and short with her. On January 25, 2007, Keith saw Doctor Robertson, his primary care physician, and received a

prescription for Ambien CR, a sleeping medication to help relieve his insomnia. That evening, Keith ingested the entire bottle of sleeping pills. Aside from feeling extremely groggy the following morning, Keith's overdose did not cause him any adverse effects.

¶5 In April or May 2007, Jennifer's daughter from a prior relationship accused Keith of sexual misconduct. These allegations were investigated by criminal authorities and caused Keith a lot of stress. Sometime on Friday, May 11, 2007, Keith called Jennifer and told her he was having suicidal thoughts. Although she was concerned, Jennifer initially thought Keith was being overly dramatic and "thought it would blow over." In addition, Jennifer was reluctant to speak to anybody about Keith's suicidal thoughts because of the stigma associated with such thoughts and because she did not want to negatively affect Keith's job as a firefighter. When Keith failed to answer his cell phone that weekend, however, Jennifer filed a missing persons report with the Wheaton Police Department. Sunday evening, the police came to the house and informed Jennifer that Keith had died in a hotel room in Matteson, Illinois, and classified his death as a "probable suicide." After an autopsy was performed on Keith, Jennifer learned that Keith had committed suicide by overdosing on insulin.

¶6 Jennifer was aware that Keith had been seeing a counselor from the Northbrook Employee Assistance Program (EAP). Keith had informed Jennifer that he was receiving the counseling following a work mandate, but did not indicate the nature of what he discussed during his counseling sessions. Following Keith's death, Jennifer obtained reports from the EAP and learned that Keith had discussed issues concerning sick leave time abuse. Prior to April or May 2007, Jennifer was unaware that Keith suffered from any mental or emotional problems.

¶7 On cross-examination, Jennifer indicated that she advised Keith to see his doctor after he ingested the entire prescription of Ambien CR. He indicated that he would follow up with his doctor, but he never did so. Although Jennifer was unaware that there was an actual issue with Keith's excessive use of sick leave time, Jennifer did observe that Keith was frequently very tired and called in sick to work on many occasions. To her knowledge, Keith was never a diabetic and did not regularly take insulin. Jennifer also indicated that Keith learned about the allegations his step-daughter had made against him in April 2007 and that he was investigated by the State's Attorney's office. He was administered a lie-detector test, which he passed, and no criminal charges were brought against him; however, Keith was told by the Department of Child and Family Services (DCFS) that he could not stay at the residence with his step-daughter while DCFS continued to investigate the claim.

¶8 Doctor Richard Harris, a board certified psychiatrist, was retained by Jennifer to offer his opinion about Keith's mental state and the cause of his death. Doctor Harris opined that Keith suffered from a major depressive disorder. Doctor Harris acknowledged that he never treated Keith, and indicated that his opinion was based on conversations he had with Jennifer and his review of seven documents that were provided to him, including: Jennifer's application for pension benefits; Keith's death certificate; the police report; a post-mortem examination report completed by the Cook County Medical Examiner; notes from EAP counseling sessions; physician notes completed by Doctor Scott Robinson, Keith's treating physician during a January 25, 2007, visit; and a notice of a counseling session regarding Keith's use of sick days. Based on these documents, Doctor Harris noted that Keith had been experiencing stress following the

allegations that his step-daughter made against him and exhibited stress-related symptoms including sleep disturbances, anxiety, loss of appetite, and difficulty working.

¶9 Based on Keith's history of excessive use of sick time, Harris believed that Keith likely suffered from "stress in a general sense of the word" as well as "low-grade unhappiness, depression" prior to his death, and opined and that the allegations that Keith's step-daughter made against him possibly "set something off in him." Keith was likely suffering from both depression and anxiety when he ingested an entire bottle of Ambien CR sleeping pills in January 2007. Doctor Harris indicated that this could have been a manifestation of depression or it may have been an impulsive act. At the time of Keith's death, Doctor Harris believed that he was suffering from the illness of acute depression. Doctor Harris defined the term "illness" as an abnormal physical or mental state. Doctor Harris indicated that depression is "typically" involved in suicide and that suicide is sometimes the "end product" of depression. From a psychiatric perspective, Doctor Harris indicated that anyone who commits suicide suffers from "some sort of illness."

¶10 Doctor Harris observed that cocaine was found at the scene where Keith's body was discovered and acknowledged that suicides could be triggered by drug use. However, Dr. Harris indicated that he did not believe that Keith's death was the result of some impulsive act caused by drug use because it was evident that Keith's suicide was premeditated as he purchased insulin before checking himself into the hotel. Following the conclusion of Doctor Harris' testimony, Jennifer rested her case.

¶11 Instead of rendering a decision on Jennifer's application for pension benefits after hearing

Doctor Harris' testimony, the Board elected to retain additional medical professionals to render an opinion as to the cause of Keith's death. Doctor Alexander Obolsky and Doctor David Carrington, both board certified psychiatrists, were retained by the Board and authored written opinions as to Keith's cause of death. Doctor Obolsky and Doctor Carrington were provided with the same documents that Doctor Harris reviewed as well as the testimony from the prior evidentiary hearing. In addition, the doctors were provided with additional documents, which Doctor Harris had not seen, including: Keith's suicide note, in which he professed his innocence of the allegations that his step-daughter made against him, expressed his love for his wife, and stated that he did not want to subject his wife to a trial; a behavior disclosure list completed by Keith's step-daughter in which she acknowledged the lies she had told and the deviant behavior in which she engaged; and Keith's medical records completed by his family physician from April 4, 2000, to January 25, 2007. After reviewing the relevant documents and authoring written opinions, Doctor Obolsky and Doctor Carrington subsequently testified before the Board.

¶12 Doctor Obolsky testified that based upon his review of the records submitted by Jennifer, Keith’s death was not caused by an illness. In his opinion, Keith was not suffering from a psychiatric condition in January 2007 when he ingested a bottle of prescription sleeping pills or at the time of his death. In pertinent part, Doctor Obolsky observed that when Keith received the prescription for Ambien in January 2007, to treat the insomnia that resulted when Keith quit smoking, his primary care physician documented his mood and affect as being “normal.” Although EAP records indicated that Keith was worried and anxious about the allegations his step-daughter made against him, Doctor Obolsky believed that Keith’s response was “perfectly

normal" for someone accused of such misconduct.

¶13 Doctor Obolsky explained that his conclusion that Keith was not suffering from an illness at the time of his death was supported by evidence that Keith had a premeditated plan to kill himself. Dr. Obolsky observed that Keith purchased insulin and syringes even though he did not suffer from diabetes, and also locked the hotel room and disabled the room's phone in an effort to prevent rescue. According to Doctor Oblosky, Keith engaged in "very rational behavior with a goal in mind." Doctor Oblosky also found it significant that there was no evidence in Keith's medical records that Keith experienced a psychiatric condition prior to being accused of sexual misconduct by his step-daughter and had no prior history of psychiatric illness. Although Keith undisputably suffered from insomnia, Doctor Obolsky testified that this symptom alone is not sufficient to indicate that he suffered from a psychiatric condition. He opined that Keith's action in ingesting the bottle of Ambien in January 2007, merely demonstrated that he possessed difficulty with judgment and was not an indication that he had a psychiatric illness because Keith would have known as a paramedic that taking the bottle of pills would not have killed him, but would just have made him sick.

¶14 Although Doctor Obolsky acknowledged that the accusations made against Keith by his step-daughter were "traumatic," he believed that though Keith's loss of appetite, anxiety and sleep problems were appropriate, normal responses to the event and were not indications that he was developing a mental disorder. Instead, Doctor Oblosky believed that Keith's suicide was a result of being "stressed out" because of the sexual misconduct allegations rather than the result of an independent psychiatric condition. Doctor Oblosky clarified that it is a common

misconception that only people with psychiatric conditions commit suicide and testified that research has shown that more than 50% of people who commit suicide do not suffer from a diagnosable psychiatric illness; rather, they do so after experiencing a traumatic social event, like a break-up or loss of a job. Doctor Obolsky found Keith's suicide note explaining that he was committing suicide to avoid subjecting his wife to a trial to be "chillingly" rational. Keith's note evidenced concern for Jennifer's well-being as she had recently been hospitalized for stress.

¶15 On cross-examination, Doctor Oblosky explained that, in his opinion, the term “illness” is a condition that would be listed in the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association and would need to be severe enough to cause psychotic, mood, or anxiety symptoms. Although Doctor Oblosky had indicated that over 50% of people who commit suicide did not suffer from mental illness, he acknowledged that one of the articles which he submitted along with his written report, examined suicides and cited to a study that concluded that 98% of the people that were studied were clinically ill before their deaths. Doctor Oblosky indicated that he did not read the study that was cited in the article that he submitted with his report to the Board, but testified that the articles that he submitted were meant to demonstrate how people sometimes commit suicide in response to traumatic life events. Doctor Oblosky acknowledged that EAP reports indicated that the EAP counselor suggested that Keith seek additional psychological support; however, he did not believe this provided evidence that Keith suffered from a psychological condition. Instead, the EAP reports completed close to Keith's suicide reveal no evidence that he was suffering from a mental illness. Specifically, in EAP notes dated April 26, 2007, shortly after the accusation, Keith reported being tired, stressed,

anxious. He stated that he had ingested little food and was having problems concentrating on anything other than his step-daughter's allegations. However, Doctor Obolsky noted that in a later EAP note dated May 7, 2007, Keith reported that he was still anxious about the results of the police investigation but said he had been getting support from his wife and his sister and had been able to eat and sleep better.

¶16 Doctor Oblosky did admit that a sexual misconduct allegation could cause the accused to experience a major depressive episode, but testified that he did not believe that the medical, counseling or police records in this case supported a finding that Keith suffered from such an episode. Doctor Oblosky reiterated that he found it significant that there was no evidence that Keith suffered from a depressive disorder in the past and that he had no family history of depression. He also found it significant that Jennifer was not initially concerned about Keith when he called her and told her he was suicidal; rather, she thought he was being overly dramatic and did not observe any evidence that suggested that he was suffering from a psychiatric disturbance.

¶17 In contrast to Doctor Obolsky, Doctor Carrington opined that he believed that Keith's death was the direct result of a mental illness. Specifically, Doctor Carrington testified that he believed that Keith's death was "the direct result of an illness in the form of an adjustment disorder with depressed mood." He explained that an adjustment disorder is a major psychiatric diagnosis which results when an identifiable stressor produces behavioral or cognitive impairments that interfere with normal functioning. In Doctor Carrington's opinion, the fact that Keith's step-daughter made allegations against him was the stressor that impaired his

functioning.

¶18 On cross-examination, Doctor Carrington acknowledged that there is no universally agreed upon definition of mental illness; however, the term "illness" generally means a "derangement of the normal state of health that someone is in." More specifically, a mental illness, constitutes "an abnormality of emotional, behavioral, or cognitive functioning that results in either an impairment, a functional impairment, or in distress or both." Doctor Carrington explained that the most universally used standards for defining mental illness are contained in the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association, and that all of the standards contained therein include some degree of mental impairment, distress and disability. He nonetheless acknowledged the possibility that other psychiatrists could disagree with the definition of mental illness that he considered to be correct and that different psychiatrists could also disagree as to whether a person suffers from such an illness. In Doctor Carrington's opinion, however, suicide in our culture is "almost always the result of a mental illness." Doctor Carrington indicated that he believed that Keith's suicide was the result of illness rather than impulse. In making this conclusion, Doctor Carrington found the premeditated nature of Keith's method of suicide to be important. Moreover, in his opinion, Keith's suicide note expressed helplessness, hopelessness, and feelings of guilt, which are characteristics of someone suffering from a form of depression.

¶19 Doctor Carrington acknowledged that he did not "have a whole bunch of evidence to support" his conclusion regarding Keith's mental status, but based on Keith's history of insomnia and abuse of sick-leave, he opined that Keith probably suffered from mild depression for a while

and that his step-daughter's accusations ultimately "thr[ew] him over the edge" and caused his emotional condition to deteriorate to the point where he became so mentally ill that he took his life. Although Doctor Carrington acknowledged that at the time of Keith's death, he was aware that the State's Attorney had decided not to pursue criminal charges against him, Doctor Carrington indicated that people who suffer from an adjustment disorder with depressed mood have symptoms that persist even after the stressor that triggered those symptoms ceases. Thus, while Keith knew he would not be subject to criminal liability at the time of his suicide, Doctor Carrington believed that Keith still suffered from mental illness when he killed himself.

¶20 At the conclusion of Doctor Carrington's testimony, the Board agreed to permit Jennifer to submit a written closing argument in support of her application for pension benefits. After receiving the closing argument, the Board issued a written decision denying Jennifer's petition for pension benefits. In its decision, the Board found that Doctor Harris "based his conclusion on suspicion and hypothesis on a number of occasions, without sufficient facts to support that conclusion." Specifically, the Board noted that Doctor Harris "hypothesized" that Keith was desperate because he committed suicide and assumed that the majority of people who commit suicide suffer from illnesses. Similarly, the Board found that Doctor Carrington's conclusion that Keith suffered from an illness that resulted in his suicide was also "based on his assumptions," rather than evidence contained in the record. The Board found it significant that Doctor Carrington admitted that he did not "have a whole bunch of evidence to support" his opinion that Keith was "kind of a depressed dysfunctional person even before he was accused" and that the accusation triggered a mental illness. In contrast, the Board found that Doctor

Oblosky's conclusion that Keith had not been suffering from a mental illness at the time of his death to be based on "various items of evidence," including a January 2007 medical record completed by Keith's primary care physician at the time he issued the Ambien prescription to help with Keith's sleeping problems, in which he described Keith's mood as "normal," and EAP progress reports. Moreover, Doctor Oblosky based his opinion on Keith's lack of history of mental illness. The Board also found it notable that Doctor Oblosky cited several medical studies finding that more than 50% of people who commit suicide do not suffer from a diagnosable psychiatric illness. Ultimately, the Board concluded that Jennifer failed to "sufficiently demonstrat[e] that Mr. Good suffered from an illness and that the illness resulted in his death, as required by Section 4-114" of the Pension Code, noting: "[t]he three doctors who testified before the Pension Board did not all agree that Mr. Good was suffering from an illness. While two felt he did have an illness, Drs. Carrington and Harris, they did not agree on which illness he had and neither one could conclusively demonstrate that the presumed illness was the cause of Mr. Good's death. The third doctor, Dr. Obolsky, found that Mr. Good was not suffering from an illness, although Mr. Good was dealing with difficult circumstances." Based upon the divergent testimony of the medical experts, the Board found that "the record presented here is inconclusive as to whether Mr. Good suffered a mental illness, and does not support a finding that Mr. Good's death was the result of an illness or accident." Accordingly, the Board denied Jennifer's application for pension benefits.

¶21 Jennifer subsequently filed a complaint in the circuit court seeking administrative review of the Board's decision. In her complaint, she argued that the Board's decision was "arbitrary,

unreasonable, contrary to law and against the manifest weight of the evidence." In pertinent part, Jennifer argued that the term "illness," although not defined in the Pension Code, was commonly defined as having a physical and/or mental component. Moreover, the credible testimony of Doctor Harris and Doctor Carrington established that Keith suffered from a mental illness, which ultimately resulted in his suicide. Although Doctor Obolsky concluded otherwise, Jennifer argued that his opinion contained numerous contradictions and inconsistencies and that he did not use a commonly accepted definition of the term "illness" in reaching his conclusion.

¶22 The circuit court upheld the Board's decision, reasoning that "[t]he fact that more doctors concluded that Keith's death was caused by an illness is not enough by itself to overturn the Board's decision." Moreover, the court found that the Board's reliance on Doctor Obolsky's opinion was not unreasonable or arbitrary and observed that credibility determinations are within the unique province of the administrative agency. Ultimately, the circuit court concluded that the Board's decision was not against the manifest weight of the evidence. This appeal followed.

¶23 ANALYSIS

¶24 On appeal, Jennifer argues that the Board erred in its review of the medical evidence that was presented concerning the cause of Keith's suicide. She observes that Doctor Harris and Doctor Carrington, two of the three board certified psychiatrists who testified, opined that Keith's suicide was caused by a mental illness. Jennifer contends that the Board improperly disregarded their opinions, and erroneously assigned greater weight to Doctor Obolsky's opinion that Keith's death was not caused by a mental illness. She argues that Doctor Obolsky misstated the facts and evidence in making his conclusion and contends that his opinion contained a

number of inconsistencies. Given the flawed nature of Doctor Oblosky's testimony, she argues that it was against the manifest weight of the evidence for the Board to rely solely on his testimony in reaching its conclusion and denying her application for pension benefits.

¶25 The Board responds that its determination that the evidence was inconclusive as to whether or not Keith suffered from a mental illness that caused his death should not be overruled on the basis of a "majority rules theory." It further argues that the Board did not disregard the opinions of Doctor Harris and Doctor Carrington; rather, it carefully considered the conclusion of each psychiatrist and properly found that the opinions of Doctor Harris and Doctor Carrington were based on assumptions and conjecture.

¶26 Appeals from administrative hearings are governed by administrative review law. 735 ILCS 5/3-101 (West 2008); *Provena Covenant Medical Center v. Department of Revenue*, 236 Ill. 2d 368, 385 (2010). On appeal from a circuit court's judgment on administrative review, a reviewing court reviews the decision of the agency, not the circuit court. *Provena Covenant Medical Center*, 236 Ill. 2d at 386; *Ramirez v. Andrade*, 372 Ill. App. 3d 68, 73 (2007). In reviewing an administrative agency's decision, the applicable standard of review depends upon the type of question raised on appeal. *Cinkus v. Village of Stickney Municipal Officers Electoral Board*, 228 Ill. 2d 200, 210 (2008); *City of Belvedere v. Illinois State Labor Relations Board*, 181 Ill. 2d 191, 205 (1998). An administrative agency's factual findings and credibility determinations are deemed *prima facie* true and correct and a reviewing court is limited to ascertaining whether those findings are against the manifest weight of the evidence. *Cinkus*, 228 Ill. 2d at 210; *City of Belvidere*, 181 Ill. 2d at 205. A finding is against the manifest weight of the

evidence if " 'the opposite conclusion is clearly evident' " or if the finding is " 'unreasonable arbitrary, and not based upon any of the evidence.' " *Lyon v. Department of Child and Family Services*, 209 Ill. 2d 264, 271 (2004), quoting *Snelson v. Kamm*, 204 Ill 2d 1, 35 (2003). The mere fact that the agency could have ruled differently is not reason to reverse the administrative agency's findings; rather, as long as there is evidence in the record that supports the agency's decision, it should be upheld on appeal. *Robbins v. Pension Board of Trustees of Carbondale Police Pension Fund of the City of Carbondale*, 177 Ill. 2d 533, 538 (1997). An administrative agency's conclusions regarding questions of law, in contrast, are not subject to deference; rather, the court's review is independent and not deferential. *Cinkus*, 228 Ill. 2d at 211; *City of Belvidere*, 181 Ill. 2d at 205.

¶27 Here, Jennifer disputes the Board's factual finding that the record was "inconclusive" as to whether or not Keith suffered from a mental illness that caused his suicide. The Board's factual finding will not be reversed unless it is against the manifest weight of the evidence. *Marconi v. Chicago Heights Police Pension Board*, 225 Ill. 2d 497, 534 (2006). As a threshold matter, however, we observe that the Pension Code does not define the term "illness." Accordingly, before addressing the substantive merit of Jennifer's appeal, we must first determine whether the term, "illness" as used in the Pension Code, includes mental illness, or whether it is limited to purely physical ailments. This is a matter of statutory interpretation, which is subject to *de novo* review.

¶28 The normal rules of statutory construction are relevant when analyzing provisions in the Pension Code. *Tucker v. Board of Trustees of Police Pension Fund of the Village of Park*

Forest, 376 Ill. App. 3d 983, 988 (2007). The primary objective of statutory interpretation is effectuate the intent of the legislature. *Taddeo v. Board of Trustees of the Illinois Municipal Retirement Fund*, 216 Ill. 2d 590, 595 (2005); *Tucker*, 376 Ill. App. 3d at 988. The best indication of legislative intent is derived from the words of the statute itself. *Taddeo*, 216 Ill. 2d at 596. If the plain language of the statute is unambiguous, then the statute should be enforced as written. *Taddeo*, 216 Ill. 2d at 596. If the statute is ambiguous, however, the court may look beyond the language and consider the overall legislative purpose of the statute and the different consequences resulting from different statutory constructions. *Taddeo*, 216 Ill. 2d at 596. A statute is ambiguous if its meaning cannot be interpreted from its plain language or if it is capable of being reasonably interpreted in more than one manner. *Khroe v. City of Bloomington*, 204 Ill. 2d 392, 395-96 (2003). An ambiguous statute should be interpreted so that it is given "the fullest, rather than the narrowest, possible meaning" to which is it susceptible. *Landis v. Marc Realty, LLC.*, 235 Ill. 2d 1, 11 (2009). Ultimately, when called upon to interpret a statute, the enactment must be evaluated as a whole and the court must construe each provision in connection with the other sections contained therein. *Barnett v. Zion Park District*, 171 Ill. 2d 378, 388-89 (1996). As a general rule, provisions governing police and firemen's pension benefits are to be liberally construed in favor of those intended to benefit from them. *Taddeo*, 216 Ill. 2d at 596; *Hahn v. Police Pension Fund of the City of Woodstock*, 138 Ill. App. 3d 206, 211 (1985).

¶29 At issue in this case is Section 4-114 of the Pension Code, which provides:

"Pension to Survivors. If a firefighter who is not receiving a disability pension

> under Section 4-110 or 4-11.1 dies (a) as a result of *any illness* or accident, or (2) from any cause while in receipt of a disability pension under this Article, or (3) during retirement after 20 years service, or while vested for or in receipt of a pension payable under subsection (b) of Section 4-109, or (5) while a deferred pensioner, having made all required contributions, a pension shall be paid to his or her survivors, based on the monthly salary attached to the firefighter's rank on the last day of service in the fire department." (Emphasis added.) 40 ILCS 5/4-114 (West 2008).[1]

¶30 The Pension Code does not define the term "illness" and we find that the term is ambiguous as it is susceptible to multiple interpretations. Namely, illness could refer to an abnormal physical and/or mental condition. Given the ambiguity of the statute, it is permissible to look to extrinsic statutory construction aids, including common dictionary definitions, to construe the statute. *County of DuPage v. Illinois Labor Relations Board*, 231 Ill. 2d 593, 604-06 (2008); see also *Price v. Philip Morris, Inc.*, 219 Ill. 2d 182, 243 (2005) ("It is entirely appropriate to employ the dictionary as a resource to ascertain the meaning of undefined [statutory] terms"). Black's Law Dictionary does not define the term; however, Webster's New

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[1] Under the plain language of the statute, there are four requirements a petitioner must establish to be entitled to survivor's pension benefits under section 4-114(1). The first three requirements are not at issue in this case, as there is no dispute that Keith was a firefighter, that he was not receiving disability pension benefits at the time of his death or that he is deceased. Because petitioner does not claim that Keith's death was an accident, the sole issue is whether Keith's death was the result of an illness.

International Dictionary defines illness as "an unhealthy condition of the body *or mind*." (Emphasis added.) Webster's Third New International Dictionary 1127 (3d ed. 19993). Similarly, Stedman's Medical Dictionary includes "mental or emotional disease, disturbance, or disorder" within its definition of the term. Stedman's Medical Dictionary 692 (24th ed. 1982).

¶31 In addition to the dictionary definitions, other provisions within the Code provide additional support that the term "illness" encompasses a mental disorder. See *Wade v. City of North Chicago Police Pension Board*, 226 Ill. 2d 485, 511 (2007) (recognizing that "[i]t is appropriate statutory construction to consider similar and related enactments, though not strictly *in pari materia*" to resolve ambiguities in the Pension Code). For example, section 4-110 of the Code provides for the payment of line-of-duty disability benefits for any firefighter who suffers a "sickness, accident, or injury" that causes him to become "physically or *mentally*" disabled. (Emphasis added.) 50 ILCS 5/4-110 (West 2006); *Hammond v. Firefighter's Pension Fund of Naperville*, 369 Ill. App. 3d 294 (2006) (analyzing whether a firefighter who suffered from acute stress, depression and panic attacks was permanently disabled such that he was entitled to line-of-duty disability benefits pursuant to section 5/4-110 of the Pension Code). In addition, section 4-105(b) of the Pension Code defines the term "permanent disability" to include a mental component. Specifically it provides: " 'Permanent disability' ": any physical *or mental* disability that (1) can be expected to result in death, (2) has lasted for a continuous period of not less than 12 months, or (3) can be expected to last for a continuous period of not less than 12 months." (Emphasis added.) 40 ILCS 5/4-105(b) (West 2006). Based on dictionary definitions as well as the fact that other provisions in the Pension Code address mental maladies, we conclude that

mental illness is an “illness” contemplated by section 4-114 of the Pension Code.

¶32 Having so found, we must now address whether the Board’s factual finding that the record was inconclusive as to whether Keith suffered from a mental illness that caused his death was against the manifest weight of the evidence.

¶33 As we previously noted, an administrative agency's factual findings, including a petitioner's eligibility to receive pension benefits, are deemed " 'prima facie true and correct' " and will not be disturbed unless they are against the manifest weight of the evidence. *Marconi*, 225 Ill. 2d at 534, quoting 735 ILCS 5/3-100 (West 2008). A decision is against the manifest weight of the evidence only where the opposite conclusion is clearly evident. *Id.* "[T]he 'mere fact that an opposite conclusion is reasonable or that the reviewing court might have ruled differently will not justify reversal of the administrative findings.' " *Id.*, quoting *Abrahamson v. Illinois Department of Professional Regulation*, 153 Ill. 2d 76, 88 (1992). Accordingly, if the record contains some evidence to support the agency's decision, it's decision must be upheld. *Id.*

¶34 The mere fact that the number of doctors who concluded that a petitioner is entitled to receive pension benefits is greater than the number of doctors who came to the opposite conclusion, by itself, is not sufficient to overturn an administrative agency's decision to deny pension benefits. See, *e.g.*, *Marconi*, 225 Ill. 2d at 540-42 (upholding a pension board's denial the plaintiff's application for disability pension benefits even though only one of the four psychiatrists that examined the plaintiff concluded that plaintiff was not qualified to receive the benefits); *Trettenero v. Police Pension Fund of the City of Aurora*, 268 Ill. App. 3d 58 (1994) (finding that the board's decision to deny the plaintiff disability pension benefits was not against

the manifest weight of the evidence even though only two of the seven psychiatrists and psychologists provided testimony that supported that decision). However, where the administrative agency relies heavily on one medical expert's testimony to deny pension benefits, its decision will be deemed against the manifest weight of the evidence if that expert's conclusion is based on clear misstatements of evidence or a selective disregard of medical records. See, *e.g.*, *Wade v. City of North Chicago Police Pension Board*, 226 Ill. 2d 485 (2007) (Board's decision to deny pension benefits was against the manifest weight of the evidence where it relied heavily on the opinion of one of the five doctors who submitted written reports because the report contained misstatements of evidence and the doctor failed to provide a factual basis for his conclusion).

¶35 Here, the record contains contradictory medical testimony from three board certified psychiatrists about Keith's mental state at the time of his suicide. Doctor Harris and Doctor Carrington both agreed that defendant was mentally ill and that his mental illness caused his suicide. The doctors, however, did not agree on a diagnosis. While Doctor Harrington believe that Keith suffered from acute depression, Doctor Carrington opined that Keith likely suffered from an adjustment disorder with a depressed mood. The Board delivered a detailed 16-page order that discussed and evaluated the opinions of each of the three experts and ultimately determined that based on the testimony and the documentary evidence, the record was "inconclusive" as to whether Keith suffered from a mental illness that caused his death.

¶36 We are unable to conclude that the Board's finding was against the manifest weight of the evidence. Jennifer argues that Doctor Obolsky's testimony contained numerous contradictions and conjectures and was not based on medical records. A close examination of Doctor Obolsky's

testimony, however, reveals that he engaged in a thorough examination of Keith's medical records and noted that those records contained no evidence that Keith had a history of mental illness; rather, his affect had been found to be normal. Although Jennifer is correct that Doctor Obolsky affixed an article to his report that he did not read and that contradicted his opinion about the correlation between mental illness and suicide attempts, we observe that some perceived "flaws" could be found in the opinions delivered by each of the experts. Notably, Doctor Harris' opinion was delivered without reviewing Keith's suicide note or his prior medical records, exhibits which both Doctors Obolsky and Carrington found to be significant in their analyses of Keith's mental state. Moreover, Doctor Carrington admitted that his opinion regarding Keith's mental state and the effect of his step-daughter's accusations thereon, was not based upon specific pieces of documentary evidence and that there was "little information, little evidence" to provide direct support to his conclusion. In addition, Doctor Carrington ignored evidence that Keith's prior history of insomnia was a result of him quitting smoking, and instead, cited to Keith's prior sleep difficulties as support for his opinion that Keith was likely somewhat dysfunctional and mildly depressed before his step-daughter made her accusation.

¶37 Ultimately, the record reveals that the Board was presented with conflicting evidence about Keith's mental state by three board-certified psychiatrists. We emphasize that when faced with conflicting evidence, it was the Board's function as the finder of fact to assess the credibility of the witnesses and the documentary information and determine the appropriate weight to be afforded to each. *Marconi*, 225 Ill. 2d at 540. The mere fact that the Board could have come to the opposite conclusion based on the evidence it heard or that another conclusion is reasonable

does not justify the reversal of an administrative agency's finding (*Village of Stickney v. Board of Trustees of the Police Pension Fund of the Village of Stickney*, 363 Ill. App. 3d 58, 66 (2005)); rather, so long as the record contains some evidence to support the agency's ultimate conclusion, its decision must be affirmed (*Marconi*, 225 Ill. 2d at 540).

¶38 Here, the Board concluded that based on the conflicting testimony it heard, the record was "inconclusive" as to whether Keith suffered from a mental illness that caused his death. We acknowledge that the Board could have reached the opposite conclusion based on the contradictory evidence it heard. However, where as here, the Board heard conflicting medical testimony and the record contains some evidence supporting its decision, the Board's decision must be affirmed. *Marconi*, 225 Ill. 2d at 540-42.

¶39 CONCLUSION

¶40 For the reasons contained herein, we affirm the judgment of circuit court upholding the decision of the Board to deny plaintiff's petition for pension benefits.

¶41 Affirmed.