2018 IL App (3d) 170182WC-U

FILED January 5, 2018

NO. 3-17-0182 WC

IN THE APPELLATE COURT

OF ILLINOIS

THIRD DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

TEQUILA SMITH, Appellant, v. THE ILLINOIS WORKERS' COMPENSATION COMMISSION *et al*. (Schneider National, Appellee).	)	Appeal from Circuit Court of Will County No. 16MR1306 Honorable John C. Anderson, Judge Presiding.

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

ORDER

¶ 1 *Held*: The Commission erred when it found no causal connection existed between claimant's work accident and her condition of ill-being after October 9, 2011, based only on claimant having reached maximum medical improvement on that date. The Commission's finding that claimant was entitled to temporary and total disability benefits from the date of her work accident only until October 9, 2011, was not against the manifest weight of the evidence.

¶ 2 On November 22, 2011, claimant, Tequila Smith, filed an application for adjustment of claim pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 to 30 (West 2010)), seeking benefits from the employer, Schneider National. Following a hearing, the arbitrator determined (1) claimant's condition of ill-being was causally related to her work

accident on May 10, 2011, but only through the date of the independent medical examiner's addendum report of October 9, 2011; (2) claimant was entitled to medical expenses from May 10, 2011, through October 9, 2011; (3) claimant was denied prospective medical expenses; and (4) claimant was entitled to temporary total disability (TTD) benefits from May 10, 2011, through October 9, 2011.

¶ 3 On review, the Illinois Workers' Compensation Commission (Commission) affirmed and adopted the arbitrator's decision. On judicial review, the circuit court of Will County confirmed the Commission's decision. Claimant appeals.

¶ 4 I. BACKGROUND

¶ 5 At arbitration, claimant testified she worked for the employer as a forklift driver. Her job duties included picking up pallets at a warehouse with a forklift and moving them from one location to another. Claimant alleged she was injured at work on May 10, 2011. She described the incident as follows:

> "Someone on a fork truck was pulling pallets out because it was so jam packed on a dock and they needed room to get in between to put the labels on. And they were moving because we have a 10 foot rule that we have to be within, you know, out of 10 feet away from the forklift driver. So when he pulled out, he *** pushed the pallets into my cart and the cart hit me and I hit the floor ***."

Claimant further testified that she was not operating her forklift at the time she sustained her injury; rather, she was "on [her] feet labeling."

¶ 6 That same day, claimant went to the Provena St. Joseph Medical Center emergency room. Medical records reflect that her chief complaint was "MVC/left sided pain." Claimant underwent x-rays that were negative for "fracture or other definite acute bony

pathology" in the pelvis or left hip. The attending physician, Dr. Rajeev Sareen, diagnosed claimant with "contusion L hip L thigh." Claimant was directed to follow up with her primary care physician, Dr. Azeem Ahsan.

¶ 7 On May 12, 2011, claimant followed up with Dr. Ahsan. She reported left hip pain that radiated down to her knee and pain in her low back, which she had never experienced before her work accident. Dr. Ahsan's medical records note that claimant's x-rays were negative for fracture, he diagnosed claimant with left hip pain, and he restricted claimant from driving or operating machinery.

¶ 8 On May 26, 2011, claimant underwent lumbar x-rays. The impression from the interpreting radiologist stated that "[t]here is minimal arthritic change of the lumbar spine without any radiographic evidence for acute bony abnormality."

¶ 9 On June 20, 2011, claimant underwent a lumbar magnetic resonance imaging (MRI) scan. The impression from the MRI showed a mild right-sided disc bulge at L5-S1 with associated mild right lateral recess stenosis and no evidence for significant spinal stenosis or foraminal stenosis.

¶ 10 On June 23, 2011, claimant followed up with Dr. Ahsan. His medical records reflect that he referred her to an "ortho" and kept her off work.

¶ 11 On June 28, 2011, claimant first met with Dr. William Farrell. Dr. Farrell's medical records note that claimant was tender over the left sacroiliac area. Dr. Farrell's impression was "[c]ontusion left low back secondary to the injury on 5/10/11." He placed claimant on light duty with sedentary restrictions and referred her to "Dr. Sharma or Dr. Patel" for an epidural injection.

¶ 12 On July 1, 2011, claimant met with Dr. Samir Sharma and received an epidural

injection, which temporarily relieved her symptoms. Dr. Sharma diagnosed claimant with low back pain and lumbar radiculopathy. Claimant received another epidural injection on July 8, 2011. When claimant returned to Dr. Sharma on July 26, 2011, she reported no relief from her last injection. The next month, claimant saw Dr. Sharma and she reported no change in her symptoms.

¶ 13 On August 30, 2011, claimant returned to Dr. Farrell. He prescribed a TENS unit and released claimant to work five hours per day.

¶ 14 On September 13, 2011, Dr. Thomas F. Gleason, an orthopedic surgeon, examined claimant at the employer's request. Dr. Gleason's report reflects that, on May 10, 2011, claimant was pushed by a cart at work, fell backwards off a stack of pallets, and landed on her left hip area. Dr. Gleason's report noted that claimant complained of left buttock and lateral upper pelvic pain. Dr. Gleason opined that the work accident on May 10, 2011, was causally related to her current condition "in terms of an aggravation of her preexisting condition." Dr. Gleason noted that he reviewed x-rays from September 13, 2011, that demonstrate "no evidence of fracture, dislocation, osseous or joint pathology." Dr. Gleason also reviewed the MRI scan performed on June 20, 2011, of the lumbar spine that reflected a "[m]ild right sided disc bulge at L5-S1 with associated mild right lateral recess stenosis." Dr. Gleason reviewed claimant's emergency room records as well as medical records from Dr. Ashan, Dr. Farrell, and Dr. Sharma. According to Dr. Gleason, the "lumbar back pain with radiculopathy" noted by Dr. Ahsan, Dr. Sharma, and Dr. Farrell was "accurate" with respect to claimant's bulging disc. Following an examination, Dr. Gleason diagnosed claimant as follows:

> "1. Findings as reflected in diagnostic studies noted above. 2. Left pelvic pain with positive left Fabere test as well as diminished range of motion of the left hip

secondary to left sided pelvic pain with local tenderness over the left upper outer pelvic area."

¶ 15 Dr. Gleason further opined that claimant was capable of working full time without restrictions. He recommended a home exercise program, weight loss, and that claimant undergo an MRI scan of her pelvis. He explained that he "will better be able to make a determination as to maximum medical improvement after review of the MRI scan of the pelvis ***." Dr. Gleason opined that no further treatment was anticipated or recommended.

¶ 16 On October 9, 2011, Dr. Gleason prepared an addendum report. In the addendum report, Dr. Gleason stated that he reviewed an MRI scan performed on September 30, 2011, of claimant's pelvis. He noted that the "[i]mpression *** [was] negative." Dr. Gleason opined that, after reviewing the MRI report, it was his opinion that claimant had reached maximum medical improvement. He noted that his opinions as stated in his first report of September 13, 2011, were otherwise unchanged.

¶ 17 In October 2011, claimant returned to Dr. Sharma. Dr. Sharma's medical records indicate that claimant was allowed to work 5 hours per day with no lifting over 20 pounds, no bending, no twisting, and no forklift driving.

¶ 18 Claimant saw Dr. George DePhillips, on October 12, 2011. Dr. DePhillips noted claimant's complaints of left buttock and left-side lower back pain with occasional mild pain radiating into the posterior thigh and knee. He noted that her neurological examination was unremarkable, she had a negative bilateral straight leg raise test, and she showed no Waddell signs or exaggerated tenderness to palpation. Dr. DePhillips recommended a lumbar discogram.

¶ 19 On December 1, 2011, Dr. Sharma performed the recommended discogram at the L3-S1 levels of claimant's spine. Dr. Sharma found that the discogram showed an L5-S1 annular

tear and he referred claimant for a neurosurgical evaluation. Claimant returned to Dr. DePhillips and he recommended lumbar disectomy and fusion. However, claimant indicated her desire to explore other options.

¶ 20 On February 13, 2012, claimant met with Dr. Sharma who ordered a functional capacity evaluation.

¶ 21 On February 20, 2012, claimant underwent a functional capacity evaluation. The evaluating physical therapist noted that claimant's position with her employer was considered a "medium" physical demand level position according to the U.S. Department of Labor Guidelines, and claimant's lifting capabilities fell below this level. The physical therapist also noted that the results of the evaluation were deemed conditionally valid based on claimant's efforts.

¶ 22 On March 12, 2012, claimant returned to Dr. Sharma. Based upon claimant's functional capacity evaluation results, Dr. Sharma released claimant for light duty work with no lifting over 25 pounds.

¶ 23 On March 22, 2012, claimant met with Dr. Mark Lorenz, an orthopedic surgeon. Dr. Lorenz's medical records note the following history:

> "[O]n May 10, 2011, [claimant] was hit by a forklift at work. She sustained a back injury that caused her back pain and leg pain. She has gone through a long course of conservative care including injections, medication. She has failed conservative care. *** [She] states her back pain ranges from a 6-10. She is not able to sit more than 5 minutes. Walking is [*sic*] about an hour where she gets increasing back pain. She gets pain radiating to her left hamstring, which stops at her knee."

Dr. Lorenz's medical records note that he reviewed claimant's MRI from June 20, 2011, and her

discogram from December 1, 2011. He opined that claimant's objective and subjective findings were "consistent with low back pain emanating [from] an injury where patient was working for Schneider Logistics [on] May 10, 2011, sustaining *** back pain and her ill-being." Dr. Lorenz recommended an L5-S1 posterior spinal fusion and kept claimant off work.

¶ 24 On May 29, 2012, Dr. Gleason conducted a second independent medical evaluation at the employer's request. Dr. Gleason's report reflects that claimant complained of low back pain with radiation into the posterior left thigh to the mid-thigh area with associated tingling. He opined that there were no positive objective findings on physical examination relative to the low back and pelvis. Dr. Gleason diagnosed claimant with "left low back pain based on subjective complaints in the absence of positive objective findings." Dr. Gleason further opined that claimant was at maximum medical improvement and that she could return to work. Dr. Gleason disagreed with Dr. Lorenz's recommendation for surgery and noted that claimant was receiving excessive medical treatment.

¶ 25 On June 10, 2012, Dr. Gleason provided an addendum report reiterating that claimant had "no positive objective findings on physical examination relative to the low back and pelvis." Dr. Gleason opined that claimant was capable of at least light level activity according to the Department of Labor Guidelines. Dr. Gleason noted that these restrictions were causally related to the work injury that claimant sustained in May 2011.

¶ 26 On September 24, 2012, claimant met with Dr. Lorenz. His medical records reflect that claimant requested to work limited duty. Dr. Lorenz released claimant back to work for a maximum of four hours per day, twenty hours per week, with no lifting over twenty pounds.

¶ 27 On November 9, 2012, claimant underwent lumbar fusion surgery performed by

Dr. Lorenz. According to Dr. Lorenz's operative report, he diagnosed claimant with an "L5-S1 disk protrusion with annular repair, first mobile segment, L5-S1."

¶ 28 On December 13, 2012, claimant saw Dr. Lorenz and reported improvement in her leg pain and overall improvement after the surgery.

¶ 29 Following her surgery, claimant underwent physical therapy. On March 4, 2013, claimant met with Dr. Lorenz. According to Dr. Lorenz's medical records, claimant reported physical therapy was increasing her pain and she was making "very slow progress." Dr. Lorenz's medical records further note that claimant's surgical wound healed "very well" but claimant "continues to have significant discomfort about her buttock on the left consistent with the graft donor site." Dr. Lorenz ordered continued physical therapy and kept claimant off work.

¶ 30 On March 15, 2013, claimant underwent a second "functional whole body assessment." In the assessment, the evaluating physical therapist opined that claimant demonstrated functional capabilities consistent with the sedentary-to-light physical demand level.

¶ 31 On May 29, 2013, claimant followed up with Dr. Lorenz. In his medical records, Dr. Lorenz noted that claimant "is restricted permanently to maximum lifting of 20 pounds desk to chair on an occasional basis" and her job falls into the "medium physical level position which is occasional lifting [of] up to 50 pounds." He noted that her functional capacity evaluation was conditionally valid, but he imposed permanent sedentary restrictions and stated that she may not return to her job.

¶ 32 Claimant continued her pain management with Dr. Sharma following her surgery. Claimant testified at arbitration that Dr. Sharma referred her to Dr. Krzysztof Siemionow.

¶ 33 On June 2, 2014, claimant met with Dr. Siemionow. His medical records reflect

that claimant reported some of her symptoms had improved after her surgery; however, claimant subsequently developed new symptoms, including "low back pain" that was worse than her "left lower extremity pain." Claimant reported that she experienced the symptoms three to four months after her surgery while she was in physical therapy. Dr. Siemionow's impression was "1. pseudoarthrosis; 2. status post L5-S1 fusion."

¶ 34 On June 24, 2014, claimant underwent a CT scan. The interpreting radiologist found no appreciable changes compared with claimant's previous CT scan.

¶ 35 On July 30, 2014, claimant returned to Dr. Siemionow and he reviewed claimant's CT scan from June 24, 2014. Dr. Siemionow's medical records note that the CT scan demonstrated that there was "no evidence of any bony union in the intervertebral space at L5-S1." Dr. Siemionow recommended revision surgery at L5-S1.

¶ 36 In a letter dated February 24, 2015, Dr. Ashan noted that claimant's condition had deteriorated and explained that claimant was unable to walk without a walker, bend, kneel, climb stairs, twist, or sit for long periods of time.

¶ 37 At arbitration, the employer submitted Dr. Gleason's deposition, taken November 18, 2014. Dr. Gleason testified that claimant had a pre-existing condition in her pelvis and sacroiliac joint. He explained that these conditions were aggravated by her work-related accident. He further testified that claimant was receiving excessive medical treatment to the low back. He explained that claimant had no evidence of radiculopathy and that she had left-sided and low back complaints while her MRI showed a mild right-sided disc bulge. He did not believe claimant was a surgical candidate.

¶ 38 Dr. Lorenz's deposition, taken on April 1, 2014, was also presented at arbitration. He testified that the findings in the June 20, 2011, MRI and claimant's subsequent discogram

were consistent with his clinical examination of claimant and her complaints. He acknowledged that he first met with claimant 10 months after her work accident occurred. He testified that he recommended claimant had two choices: "either live with this, and if she cannot, then she would be a candidate for surgical intervention."

¶ 39 Claimant testified that, at the time of the arbitration hearing, she intended to undergo the recommended revision surgery because of her continued symptoms.

¶ 40 On June 30, 2015, the arbitrator issued a decision finding claimant established that her conditions of ill-being in her low back and left hip were causally related to her work accident on May 10, 2011, but only through the date of Dr. Gleason's addendum report of October 9, 2011.

¶ 41 The arbitrator awarded claimant TTD benefits from May 10, 2011, through October 9, 2011. Additionally, the arbitrator awarded medical expenses from May 10, 2011, through October 9, 2011, and denied claimant's request for prospective medical care. The arbitrator further rejected the employer's argument that it was not liable for claimant's medical expenses because claimant exceeded her allotted choice of physicians under Section 8(a) of the Act (820 ILCS 305/8(a) (West 2010)).

¶ 42 On review, the Commission affirmed and adopted the arbitrator's decision. On May 2, 2016, the circuit court confirmed the Commission's decision.

¶ 43 This appeal followed.

¶ 44 II. ANALYSIS

¶ 45 A. Causation

¶ 46 On appeal, claimant first argues that the Commission erred by finding that she only established a causal connection between her condition of ill-being and her work accident for

the limited time period of May 10, 2011, through the date of Dr. Gleason's addendum report of October 9, 2011.

¶ 47 To recover under the Act, the claimant has the burden of establishing a causal connection between her employment and her condition of ill-being. *ABF Freight System v. Illinois Workers' Compensation Comm'n*, 2015 IL App (1st) 141306WC, ¶ 19, 45 N.E.3d 757. "Whether a causal connection exists between a claimant's condition of ill-being and her work related accident is a question of fact to be resolved by the Commission, and its resolution of the matter will not be disturbed on review unless it is against the manifest weight of the evidence." *University of Illinois v. Industrial Comm'n*, 365 Ill. App. 3d 906, 913, 851 N.E.2d 72, 79 (2006). "For a finding of fact to be contrary to the manifest weight of the evidence, an opposite conclusion must be clearly apparent." *Mansfield v. Illinois Workers' Compensation Comm'n*, 2013 IL App (2d) 120909WC, ¶ 28, 999 N.E.2d 832. "[D]espite the high hurdle that the manifest weight of the evidence standard presents, it does not relieve us of our obligation to impartially examine the evidence and to reverse an order that is unsupported by the facts." *Kawa v. Illinois Workers' Compensation Comm'n*, 2013 IL App (1st) 120469WC, ¶ 79, 991 N.E.2d 430.

¶ 48 In this case, we disagree with the Commission's causal connection analysis and determination. In finding claimant established causal connection only through October 9, 2011, the Commission relied on Dr. Gleason's addendum report of October 9, 2011, in which he opined that claimant had reached maximum medical improvement on that date. Based on Dr. Gleason's addendum report—which only referenced maximum medical improvement and not causal connection—the Commission concluded that claimant "established causal connection between her low back and left hip condition only through the date of Dr. Gleason's addendum report of October 9, 2011."

¶ 49 We find the Commission has conflated the issues of causal connection and maximum medical improvement. See *Interstate Scaffolding, Inc. v. Illinois Workers' Compensation Comm'n*, 236 Ill. 2d 132, 142, 923 N.E.2d 266, 271 (2010) ("[W]hen a claimant seeks TTD benefits, the dispositive inquiry is whether the claimant's condition has stabilized, *i.e.*, whether the claimant has reached maximum medical improvement."). The Commission only identified Dr. Gleason's addendum report in support of its determination that the causal connection between claimant's work accident and her condition of ill-being ended on October 9, 2011. We find the only other reference to the date of October 9, 2011, is contained in Dr. Gleason's deposition testimony where he stated as follows: "As of 10-9-2011 I was in receipt of a report of an MRI scan of the pelvis performed on 9-30-11 *** with [the] impression *** being negative ***." Dr. Gleason further testified "[i]t was my opinion that [claimant] had reached maximum medical improvement with respect to the 5-10-11 work injury." Nothing in Dr. Gleason's addendum report or deposition testimony identified any changes with respect to claimant's condition of ill-being or an intervening event breaking the causal chain of events as of October 9, 2011. See *e.g.*, *National Freight Industries v. Illinois Workers' Compensation Comm'n*, 2013 IL App (5th) 120043WC, ¶ 26, 993 N.E.2d 473 ("Every natural consequence that flows from an injury that arose out of and in the course of one's employment is compensable under the Act absent the occurrence of an independent intervening accident that breaks the chain of causation between the work-related injury and an ensuing disability or injury.").

¶ 50 Here, emergency room medical records establish claimant's left-sided symptoms began on the date of her work accident in May 2011. Medical records further reveal that claimant continued to complain of left-sided pain throughout her numerous medical appointments well after Dr. Gleason's second independent medical examination on October 9, 2011. In fact, in May

2012, Dr. Gleason conducted another independent medical evaluation at which time he noted claimant's complaints of low back pain with radiation into the posterior left thigh to the mid-thigh area with associated tingling. As stated, the Commission *did* find, as an initial matter, a causal connection existed between the work accident and claimant's complaints of low back and left hip pain. The Commission *did not* find these complaints had resolved by October 9, 2011, or were otherwise no longer causally related to claimant's work accident. Instead, it found a causal connection no longer existed after October 9, 2011, based only on Dr. Gleason's addendum report in which he stated claimant had reached maximum medical improvement, a finding which is irrelevant to the issue of causal connection. In other words, the Commission gave no valid reason for finding claimant's condition of ill-being in her low back and left hip after October 9, 2011, was no longer causally related to her work accident.

¶ 51 Given that the Commission's causal connection determination appears to have been premised on a flawed analysis, we must remand the matter for its consideration of the issue anew. By this decision, we express no opinion whether claimant's condition of ill-being in her low back and left hip is or is not causally related to her work accident.

¶ 52 B. TTD Benefits

¶ 53 Next, claimant challenges the Commission's determination that she was not entitled to TTD benefits after October 9, 2011.

¶ 54 "A claimant is temporarily and totally disabled from the time an injury incapacitates h[er] from work until such time as [s]he is as far recovered or restored as the permanent character of h[er] injury will permit." *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, ¶ 45, 976 N.E.2d 1. To establish entitlement to TTD benefits, a claimant must prove not only that she did not work, but also that she was unable to

work. *Id.*; *Holocker v. Illinois Workers' Comp. Comm'n*, 2017 IL App (3d) 160363WC, ¶ 40, 82 N.E.3d 658. When the claimant's physical condition stabilizes, she is no longer eligible for TTD benefits and may, instead, be entitled to some form of permanent disability benefits. *Archer Daniels Midland Co. v. Industrial Comm'n*, 138 Ill. 2d 107, 118, 561 N.E.2d 623, 627 (1990).

¶ 55 "Once an injured claimant has reached [maximum medical improvement], the disabling condition has become permanent and she is no longer eligible for TTD benefits." *Nascote Indus. v. Indus. Comm'n*, 353 Ill. App. 3d 1067, 1072, 820 N.E.2d 570, 575 (2004). The factors to consider in determining whether claimant has reached maximum medical improvement include a release to return to work, the medical testimony about the claimant's injury, and the extent of the injury. *Land & Lakes Co. v. Indus. Comm'n*, 359 Ill. App. 3d 582, 594, 834 N.E.2d 583, 594 (2005). A claimant's entitlement to TTD benefits and the period of time during which the employee is temporarily totally disabled presents a question of fact for the Commission and, on review, its decision on such matters will not be set aside unless it is contrary to the manifest weight of the evidence. *Archer Daniels Midland Co.*, 138 Ill. 2d at 118-19, 561 N.E.2d at 627. "A decision is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent." *Sunny Hill of Will County v. Workers' Compensation Comm'n*, 2014 IL App (3d) 130028WC, ¶ 22, 14 N.E.3d 16.

¶ 56 Here, as stated, the Commission found that claimant reached maximum medical improvement by October 9, 2011, based on Dr. Gleason's addendum report in which he opined that claimant had reached maximum medical improvement as of that date. The record supports this finding. In his addendum report, Dr. Gleason noted that claimant underwent a MRI scan of her pelvis on September 30, 2011, and found that the "[i]mpression *** [was] negative." Dr. Gleason opined that, after reviewing the MRI report, it was his opinion that claimant had reached

maximum medical improvement.

¶ 57 Further, in Dr. Gleason's prior independent medical examination dated September 13, 2011, he opined that claimant was capable of working full time without restrictions. The employer presented evidence that claimant did in fact work during portions of the claimed temporary total disability period in a document entitled "Time Detail" for hours worked between May 10, 2011, through December 9, 2012.

¶ 58 Based on this evidence, the Commission could have reasonably concluded that claimant reached maximum medical improvement by October 9, 2011. Thus, we cannot say the Commission's decision denying TTD benefits after that date was against the manifest weight of the evidence.

¶ 59 C. Medical Expenses

¶ 60 Claimant argues that her medical expenses after October 9, 2011, were reasonable and necessary. She further argues that she is entitled to prospective medical expenses after October 9, 2011.

¶ 61 Under section 8(a) of the Act, claimant is entitled to recover reasonable medical expenses that are causally related to the work accident. 820 ILCS 305/8(a) (West 2010); *University of Illinois v. Industrial Comm'n*, 232 Ill. App. 3d 154, 164, 596 N.E.2d 823, 830 (1992). "Whether an incurred medical expense was reasonable and necessary and should be compensated is a question of fact for the Commission, and the Commission's determination will not be overturned unless it is against the manifest weight of the evidence." *City of Chicago v. Illinois Workers Compensation Comm'n*, 409 Ill. App. 3d 258, 267, 947 N.E.2d 863, 870 (2011). Questions regarding entitlement to prospective medical expenses under section 8(a) are also questions of fact for the Commission to resolve. *Dye v. Illinois Workers' Compensation*

Comm'n, 2012 IL App (3d) 110907WC, ¶ 10, 981 N.E.2d 1193.

¶ 62 In this case, the Commission's finding that claimant was entitled to medical expenses for the limited time period of May 10, 2011, through October 9, 2011, was premised on the Commission's finding that claimant failed to establish causal connection between her condition of ill-being and her work accident after October 9, 2011. Based on the Commission's finding of maximum medical improvement, which we herein affirm, claimant's entitlement to an award of medical expenses after the date of maximum medical improvement would properly be limited to expenses relating to palliative care only. Accordingly, the Commission's decision to deny an award of medical expenses for non-palliative care, *i.e.* expenses for medical treatment, is affirmed. On remand, if the Commission finds a causal connection for claimant's condition of ill-being exists after October 9, 2011, it should consider whether claimant is entitled to any further medical expense award relating to palliative care only. Further, consistent with the above, we affirm the Commission's decision to deny an award for prospective medical treatment consisting of a revision surgery at L5-S1.

¶ 63 Finally, the employer contends that it was not liable for any medical expenses because claimant exceeded the two-physician choice limitation set forth in Section 8(a) of the Act (820 ILCS 305/8(a) (West 2010)). The employer did not file a cross-appeal as required by Supreme Court Rule 303(a)(3) (Ill. S. Ct. R. 303(a)(3) (eff. May 30, 2008)), and, therefore, the issue regarding the two-physician choice limitation is not properly before this court.

¶ 64 III. CONCLUSION

¶ 65 For the reasons stated, we reverse that part of the circuit court's judgment that confirmed the Commission's decision finding no causal connection existed between claimant's work accident and her condition of ill-being after October 9, 2011, vacate that same portion of

the Commission's decision, and remand the matter for further proceedings consistent with our decision. We otherwise affirm.

¶ 66 Reversed in part and cause remanded.