2025 IL App (1st) 231999WC-U
No. 1-23-1999WC
Order filed January 24, 2025

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

O'REILLY AUTO PARTS,	)	Appeal from the Circuit Court
	)	of Cook County.
Appellant,	)	
	)	
v.	)	No. 22-L-50579
	)	
THE ILLINOIS WORKERS'	)	
COMPENSATION COMMISSION,	)	Honorable
	)	Jean M. Golden,
(Yahaira Massa, Appellee).	)	Judge, Presiding.

JUSTICE MULLEN delivered the judgment of the court.

Presiding Justice Holdridge and Justices Hoffman, Cavanagh, and Barberis concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The Commission did not abuse its discretion in admitting the medical records of claimant's treating physician; (2) the Commission's finding that claimant proved a causal relationship between her work accident and the current condition of ill-being of her low back was not against the manifest weight of the evidence; and (3) the Commission's decision to award prospective medical treatment was not against the manifest weight of the evidence.

¶ 2 Claimant, Yahaira Massa, sought benefits pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2020)) for injuries she allegedly sustained while working for

respondent, O'Reilly Auto Parts. Following a hearing, the arbitrator determined that claimant sustained an accident that arose out of and occurred in the course of her employment and that claimant's current condition of ill-being was causally related to her work accident. The arbitrator awarded claimant reasonable and necessary medical expenses and prospective medical treatment. The Illinois Workers' Compensation Commission (Commission) modified the decision of the arbitrator in part, but otherwise affirmed and adopted the decision of the arbitrator and remanded the matter for further proceedings pursuant to *Thomas v. Industrial Comm'n*, 78 Ill. 2d 327 (1980). On judicial review, the circuit court of Cook County confirmed the decision of the Commission. On appeal, respondent challenges the admissibility of the medical records of one of claimant's treating physicians. Respondent also argues that the Commission erred in concluding that the current condition of ill-being of claimant's low back is causally related to her work accident and in awarding claimant prospective medical treatment. We affirm.

¶ 3 I. BACKGROUND

¶ 4 On May 28, 2020, claimant filed an application for adjustment of claim alleging an injury to her lower back on February 25, 2020, while working for respondent. The matter proceeded to a hearing before Arbitrator Joseph Amarilio on February 22, 2021. The issues in dispute included causation, reasonable and necessary medical expenses, and prospective medical treatment.

¶ 5 Claimant testified that she was employed by respondent in February 2020 as a store manager and had been performing that job for three years. Claimant's duties included managing her team and inventory, completing daily returns, sending out deliveries, attending to customers, and stocking and retrieving parts. Claimant testified that on February 25, 2020, she was injured as she was performing daily returns. She described picking up a caliper core weighing approximately 35-40 pounds and injuring her lower back. She reported the accident to her district manager.

¶ 6 Respondent referred claimant to Concentra Urgent Care. At claimant's initial visit on March 6, 2020, she saw Dr. Khojasteh Bahmanbeigi. Claimant described aching pain in her left-lower back following a work injury on February 25, 2020. Dr. Bahmanbeigi's records indicate that neither numbness of the lower extremity nor paresthesias was noted. Claimant denied lower extremity tingling and lower extremity weakness. X rays of the lower back were unremarkable. Tenderness was noted at the level L3 to S1 left paraspinal and at the left sacroiliac joint. Dr. Bahmanbeigi's assessment was a lumbosacral strain. He recommended cyclobenzaprine and ibuprofen, as well as physical therapy three times per week for two weeks. Dr. Bahmanbeigi released claimant to return to work the following day with restrictions consisting of working only 8 hours per day, lifting up to 10 pounds occasionally, pushing and pulling up to 20 pounds occasionally, performing activities with trunk rotation occasionally, and bending infrequently.

¶ 7 During her follow-up treatment with Dr. Bahmanbeigi, claimant did not progress beyond 50% achievement of her job's physical requirements. Throughout claimant's treatment, the lower back pain on the left side was consistent. Claimant also reported radiation of the back pain to the left buttock, leg, and toes with accompanying tingling and numbness of the left foot. However, the radiating symptoms fluctuated and were present at only about half of her appointments. She participated in physical therapy and home exercises. She consistently described the injury's onset as occurring when lifting a heavy part at work and then twisting and placing it down. On a scale 10-point scale, claimant described the pain as varying from a 4 or a 5 to an 8 or a 9. Claimant also reported that the injury and resulting pain caused her trouble sleeping and decreased her ability to participate in community, life, and recreational events.

¶ 8 At March 16 and 23, 2020, follow-up visits with Dr. Kristin Houseknecht and Dr. Bahmanbeigi, respectively, claimant reported bilateral lower back pain, greater on the left side. At

the March 23, 2020, appointment, claimant reported that her symptoms were "not much better," and she indicated that while her symptoms had been improving, the pain and back spasms had subsequently increased. Dr. Bahmanbeigi opined that claimant was about 25% towards recovery.

¶ 9 Dr. Bahmanbeigi's final diagnosis was lumbosacral strain with radiculopathy. In April 2020, the physical therapist charted that overall progress was slower than expected and that claimant reported radiating pain from her left sacroiliac joint down the back of her left leg. The therapist indicated that claimant had only reached 15% of her goal by her last appointment.

¶ 10 Claimant testified that during her treatment with Dr. Bahmanbeigi, she completed all the recommended physical therapy sessions. On April 10, 2020, claimant's last appointment with Dr. Bahmanbeigi, his notes indicated claimant's symptoms were left lower back pain with radiation to the left buttock and left thigh. Claimant testified that her symptoms at this visit were "lower back pain" and "shooting, radiating pain" down her left leg to her toes, as well as tingling and numbness in her toes. At the close of this appointment, Dr. Bahmanbeigi referred claimant to Dr. Sajjad Murtaza, a pain management doctor at the Metropolitan Institute of Pain.

¶ 11 Claimant first saw Dr. Murtaza on April 17, 2020. At that time, claimant reported "lower back pain with *** radiating and *** tingling *** shooting down [her] left leg to [her] toes." Dr. Murtaza recommended a lumbar MRI. Dr. Murtaza also placed claimant on work restrictions of no lifting more than 20 pounds, no pushing or pulling more than 30 pounds, bending limited to no more than 6 times per hour, limited squatting and kneeling, and alternating sitting and standing every 45 minutes as needed. Dr. Murtaza charted that claimant rated pain as significant, 6 to 7 out of 10 on average, and his physical exam indicated tenderness on claimant's left lumbosacral paraspinal musculature and over her left gluteal musculature and left sacroiliac joint. Further, Dr. Murtaza noted that claimant's pain increased with flexion, extension, and rotational maneuvers to

the left greater than to the right, there was a mild decrease in sensation to the left posterior leg, the left straight leg raise test was positive, and the right straight leg raise test was negative. Dr. Murtaza diagnosed lumbar radiculopathy with a component of sacroiliac joint pain.

¶ 12 On April 28, 2020, claimant underwent the lumbar MRI recommended by Dr. Murtaza. At a visit on May 1, 2020, Dr. Murtaza reviewed the MRI results, diagnosed a herniated disc, and recommended an epidural steroidal injection (ESI) for pain. Claimant received the ESI on May 21, 2020. Claimant testified that, in combination with her days off work, the ESI helped. But the symptoms soon returned, so claimant deemed it "just a temporary fix." Dr. Murtaza's notes from the May 1, 2020, appointment include his assessment of an L5-S1 herniated nucleus pulposus with left lower extremity radiculopathy. He also noted that claimant "states that work has not really been abiding by our restrictions and this definitely aggravates her pain."

¶ 13 At claimant's last appointment with Dr. Murtaza, on June 5, 2020, claimant described pain as an 8/10 with numbness to the entire left lower extremity and no overall relief with the ESI or physical therapy. Dr. Murtaza recommended that the work restrictions remain in place, and that claimant undergo an independent medical examination (IME) for further recommendations.

¶ 14 On July 20, 2020, at the request of respondent, claimant underwent an IME with Dr. Kern Singh pursuant to section 12 of the Act (820 ILCS 305/12 (West 2020)). Dr. Singh is a board-certified orthopedic spine surgeon. As part of his examination, Dr. Singh reviewed claimant's medical records, performed a physical examination, and authored reports of his findings. Claimant testified that Dr. Singh's examination took "like three minutes" and involved some bending maneuvers and Dr. Singh trying to lift both of her legs. In his initial reports, Dr. Singh described his physical examination as involving upper and lower extremities monofilament testing (results

were symmetric and equal without sensory loss) and an assessment of cervical and lumbar range of motion (showing full range at 40 degrees of flexion, extension, and axial rotation).

¶ 15 In one of the initial reports, Dr. Singh stated that claimant was able to work without restrictions, was at maximum medical improvement (MMI), and required no further testing or treatment. Also in the initial reports, Dr. Singh confirmed that the diagnosis was causally related to the alleged accident. Dr. Singh noted that the claimant's current symptoms included low back pain (rated as an 8/10), left lower extremity dysesthesias into the foot, and moderate-to-severe discomfort that was constant throughout the day and awakened her at night. Dr. Singh also noted that claimant reported no relief from the physical therapy or the ESI. He concluded that claimant sustained a soft tissue muscular strain of the lumbar spine that had resolved, the physical therapy she received was appropriate, reasonable, and causally related to the work injury, and neither work restrictions nor additional treatment was required. Dr. Singh further opined that claimant's subjective complaints, described as non-anatomical left lower extremity dysesthesias, were not supported by the objective findings of a "normal neurological examination with essentially a normal MRI scan." He believed claimant's treatment to be "excessive and prolonged in nature." He emphasized, however, that the initial physical therapy sessions were reasonable and necessary.

¶ 16 Claimant testified that because she was still experiencing symptoms of continuous lower back pain, left leg numbness, and tingling to the toes, she sought treatment with Dr. Mark Sokolowski on September 2, 2020. At the arbitration hearing, when claimant's counsel sought to introduce Dr. Sokolowski's records, respondent's counsel objected, stating:

> "Judge, *** I've got an objection to these. I've got—from my position, Judge, I contend that there's causation opinions in the records themselves. *I don't object to the records in their entirety being admitted. I'm just going to object to the specific causation opinions.*

> In order to expedite the process, to make sure both sides have an opportunity to address the issue fully, I request the opportunity to brief it in our proposed decision and deal with the causation opinions that way." (Emphasis added.)

The arbitrator acknowledged the objection and noted that since respondent's counsel did not have the proposed brief "in front of [him]," he would admit Dr. Sokolowski's records under section 16 of the Act (820 ILCS 305/16 (West 2020)). The arbitrator elaborated:

> "[I]f any of the records contain causation opinions that are directed towards the litigation and not the treatment, I recognize a hearsay objection.
>
> However, if there are causation opinions in part of the records, I will allow them in as the treating doctor has a duty to only submit bills to workers' comp that are work related * * * So I do allow it under those circumstances.
>
> * * * [I]f you wish to brief anything, of course, I will accept any guidance to make the right decision."

¶ 17 Dr. Sokolowski's chart notes from claimant's September 2, 2020, appointment indicated that claimant described back pain when lifting "a heavy box of car parts" on February 25, 2020, and that her symptoms "progressed to include left lower extremity numbness and pain despite a course of physical therapy." Dr. Sokolowski noted that claimant had received one lumbar ESI with short-term improvement (but no lasting relief), that symptoms were better controlled when she worked with restrictions, and that claimant rated the pain as 8/10 that day. Upon examination, Dr. Sokolowski noted tenderness over the left lumbosacral junction, significant axial back pain with flexion, left buttock and back pain, left S1 paresthesias during left-side straight leg raise, and paresthesias in her left S1 dermatome. His assessment of the MRI was single level disc disease at L5-S1 with mild foraminal narrowing. Dr. Sokolowski diagnosed claimant with axial back pain

and lumbar radiculopathy, which diagnoses were "causally related to [her] work injury." He recommended additional physical therapy focusing on core strength and work restrictions (10-pound lifting limit, limited bending and squatting, a helper as needed, and a maximum 8-hour workday).

¶ 18 At a follow-up visit on October 20, 2020, Dr. Sokolowski charted that claimant had, in addition to the back pain that radiated to the left leg, "several episodes where pain has radiated to the right leg." Dr. Sokolowski recommended continuation of physical therapy and work restrictions. Claimant was issued a semi-rigid lumbosacral orthosis for use as needed. Dr. Sokolowski recommended reevaluation in four to six weeks and an additional ESI if relief was unsatisfactory. At the time of the follow-up visit with Dr. Sokolowski, claimant had completed three physical therapy appointments. Although claimant testified that the physical therapy "work[ed]" for her, she was still experiencing the same symptoms. Of the work restrictions, claimant said they helped and made her 10-hour shifts "easier on her back."

¶ 19 On November 16, 2020, at respondent's request, Dr. Singh reviewed claimant's medical record from both her September 2, 2020, visit with Dr. Sokolowski and a utilization review. Dr. Singh's opinion remained unchanged. In an addendum report, Dr. Singh reiterated his diagnosis of a resolved soft tissue muscular strain of the lumbar spine, causally connected to the February 25, 2020, injury. As support, he referenced claimant's "normal neurological examination with essentially a normal lumbar MRI scan." Finally, Dr. Singh confirmed his opinions that no further treatment was recommended, no work restrictions were required, and claimant had reached MMI.

¶ 20 At appointments with Dr. Sokolowski, on December 3, 2020, and January 22, 2021, claimant's pain remained consistent. Dr. Sokolowski maintained his recommendations for an ESI and continuation of both the physical therapy and the work restrictions. Despite Dr. Sokolowski's

latter recommendation, claimant returned to full duty on December 21, 2020. At the January 22, 2021, visit, claimant testified that she was experiencing the same symptoms (lower back pain on the left side with tingling and numbness down to her toes). Claimant was working without restrictions, and had not received the recommended ESI because "insurance d[id not] approve it."

¶ 21 On cross-examination, claimant confirmed that she had been on 10-hour work shifts without restrictions since the middle of December 2020. She testified that although she had not re-injured her back, she had back pain and "a lot" of leg pain when standing. She communicated her condition to her district manager in December 2020. Claimant wished to receive the ESI recommended by Dr. Sokolowski and continue physical therapy. Claimant testified that she received an ESI on May 21, 2020. Despite that ESI providing relief only for five days, claimant stated that she wants another one because that is her doctor's recommendation "before he does anything else." Of the physical therapy, claimant testified that it helps when she is there, but once she returns to standing all day at work she is "back at square one" with lower back and leg pain. Claimant understood her condition to be a disc that's "sticking out and that's hitting—the tingling and numbness is obviously a nerve." Claimant stated that she tries not to lift heavier items at work.

¶ 22 Also on cross-examination, claimant confirmed that she had no injuries to her lower back prior to the February 2020 work accident. She confirmed she had been in motor vehicle accidents in 2010 and 2014, but testified that the incidents did not result in any lower back injury. Claimant acknowledged that she commenced a lawsuit for the 2010 motor vehicle accident, but it was settled and did not involve personal injuries. On redirect examination, claimant testified that, in the 2010 motor vehicle accident, she was rear-ended and received treatment for neck whiplash.

¶ 23 Julio Rocha, Jr., testified he has worked for respondent for 17 years, including stints as an assistant manager, a store manager, and, beginning in February 2020, a district manager. Rocha

oversees operations at the eight stores in his district, including the store managed by claimant. Rocha confirmed that claimant called him to report an accident in the "afternoon or a few hours before" on February 25, 2020 (the day of the accident). Claimant told Rocha that she thought the accident had to do with the morning returns. She declined to get medical care at that time because "she wasn't sure if it was something." Rocha told claimant to be careful, but did not remember if he instructed her to go home. He believed that claimant did bring up the accident later and recalled claimant telling him she still had pain in her lower back and down her leg. Rocha testified that in his capacity as district manager, he saw claimant in her store approximately 11 times since the accident. He testified that at each visit, he observed that claimant "moves around quickly." Rocha did not remember claimant complaining about pain during his store visits. He recalled that the last time she complained to him about pain was during a phone call in December 2020.

¶ 24 On cross-examination, Rocha acknowledged that he had not seen claimant carrying heavy items since the date of the accident. To the contrary, he recounted that on one occasion, claimant asked him to pick up some rotors for her. In his year of working with claimant, he agreed that she carried out her duties "pretty well." Rocha testified that in December 2020, when claimant had complained to him about working without restrictions, he told her that he had been informed by the company that restrictions were not allowed due to the information that was given by the doctor.

¶ 25 The arbitrator found that claimant had proved by a preponderance of evidence that the current condition of ill-being in her lower back, including the radicular pain down her left leg, was causally related to her work accident. In so concluding, the arbitrator found claimant to be a sincere and credible witness, elaborating that "[h]er testimony overall was corroborated by the stipulated facts, the medical records and the record as a whole." The arbitrator also noted the medical records demonstrated that the injury resulted in treatment and a subsequent disability, there was no

evidence of other trauma to claimant's low back and leg either before or after the work accident, and there had been no intervening or superseding accident to break the chain of causation. Finally, the arbitrator found causation supported by a "chain of events" analysis, in that the claimant was in prior good health, experienced an accident, and suffered a subsequent condition of ill-being.

¶ 26 Given the arbitrator's causation finding, he awarded claimant reasonable and necessary medical expenses. The arbitrator also determined that claimant had not reached MMI and awarded her prospective treatment in the form of an ESI and physical therapy. In so concluding, the arbitrator found the factual findings and opinions of the treating physicians to be more persuasive than that of respondent's section 12 examiner, Dr. Singh. Specifically, the arbitrator noted the outlying nature of Dr. Singh's opinion regarding claimant's achievement of MMI, an opinion not shared by the treating physicians, who described claimant's injury as requiring continued treatment. In fact, citing claimant's "credibly expressed lower back pain with radiculopathy," the arbitrator flatly refuted Dr. Singh's opinion that claimant had reached MMI. The arbitrator also pointed out that Dr. Singh was alone in his assessment that claimant's subjective complaints were inconsistent with the objective findings, and, significantly, none of the doctors (including Dr. Singh) found a positive Waddell test.[1]

¶ 27 The arbitrator found that the admission of Dr. Sokolowski's records pursuant to section 16 of the Act (820 ILCS 305/16 (West 2020)) was proper. The arbitrator reasoned that any defect in foundation was forfeited by respondent's counsel's statement that he did not "object to the records in their entirety being admitted" and that he was "just going to object to the specific causation

[1] A Waddell test is used to identify patients whose back pain is not organic, *i.e.*, more likely to be of psychological origin. *Cassens Transport v. Illinois Workers' Compensation Comm'n*, 2021 IL App (2d) 200662WC-U, ¶ 12, n. 1.

opinions." Furthermore, because respondent's counsel failed to specify exactly which opinions were objectionable according to a hearsay theory, the arbitrator found that respondent's counsel forfeited that issue as well. In addition, the arbitrator found that even if the causation objections had not been forfeited, the medical records would have been admissible under the holding of *RG Construction Services v. Illinois Workers' Compensation Comm'n*, 2014 IL App (1st) 132137WC, ¶ 39, in which the court found that the inclusion of medical opinions within a treating physician's records is not sufficient to exclude them from admission pursuant to section 16 of the Act.

¶ 28 On review, relevant to this appeal, the Commission modified the decision of the arbitrator in part to strike some language and correct typographical errors, but otherwise affirmed and adopted the decision of the arbitrator on the issue of causation. The Commission also affirmed the award of prospective medical expenses and ordered respondent to authorize the lumbar ESI and "continue[] reasonable, necessary and causally-related treatment with Dr. Sokolowski." Finally, the Commission remanded the matter for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327.

¶ 29 Regarding the admissibility of Dr. Sokolowski's medical records, the Commission concurred with the arbitrator that respondent's counsel forfeited any foundational objection. The Commission reasoned that respondent's counsel's failure to object to the certification of the records rendered moot respondent's arguments concerning the lack of foundation. Despite that finding, the Commission addressed respondent's additional arguments and found them to be without merit. Pointedly, the Commission noted that respondent failed to address the applicability of *RG Construction Services*, in which the appellate court found that it "stands to reason that the records and reports of a treating physician are likely to contain medical opinions" such that the Commission was not persuaded that "the simple inclusion of medical opinions within a treating physician's records is sufficient to exclude it [*sic*] from admission pursuant to section 16." *RG*

Construction Services, 2014 IL App (1st) 132137WC, ¶ 39. On judicial review, the circuit court of Cook County confirmed the decision of the Commission. This timely appeal followed.

¶ 30 II. ANALYSIS

¶ 31 On appeal, respondent raises three principal issues. First, respondent asserts that the Commission erred in admitting Dr. Sokolowski's medical records. Second, respondent contends that the Commission's finding that claimant's current condition of ill-being was causally related to her work accident was against the manifest weight of evidence. Third, respondent argues that the Commission erred in awarding prospective medical treatment.

¶ 32 Initially, we note that claimant has not filed a brief in this appeal. However, because the record is straightforward and the claimed errors are such that we can decide them without the aid of an appellee's brief, we will consider the merits of the appeal on respondent's brief only. See *First Capitol Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976).

¶ 33 A. Admissibility of Dr. Sokolowski's Records

¶ 34 We first address respondent's contention that the admission of Dr. Sokolowski's records was improper. Foremost, respondent maintains that it did not forfeit a foundational objection during the arbitration hearing. Respondent also claims that the admission of Dr. Sokolowski's records was contrary to section 16 of the Act (820 ILCS 305/16 (West 2020)), violated the rule against hearsay, was improper under the business record exception, and resulted in prejudice.

¶ 35 A court of review will not disturb an evidentiary ruling made during a workers' compensation proceeding absent an abuse of discretion. *RG Construction Services*, 2014 IL App (1st) 132137WC, ¶ 35. An abuse of discretion occurs if the Commission's ruling is arbitrary, fanciful, or unreasonable or no reasonable person would take the view adopted by the Commission. *Centeno v. Illinois Workers' Compensation Comm'n*, 2020 IL App (2d) 180815WC, ¶ 34.

¶ 36 1. Forfeiture of Foundational Objection

¶ 37 Regarding the admission of Dr. Sokolowski's records, respondent first maintains that it did not forfeit its foundational objection during the arbitration hearing. We disagree. An objection to evidence based upon a specific ground results in the forfeiture of the objection on all grounds not specifically relied on. *Town of Cicero v. Industrial Comm'n*, 404 Ill. 487, 495 (1949); *Ravenswood Disposal Services v. Illinois Workers' Compensation Comm'n*, 2019 IL App (1st) 181449WC, ¶ 20; *Barreto v. City of Waukegan*, 133 Ill. App. 3d 119, 130 (1985). Further, where the ground for objection is of a character that may be remedied or avoided, such as lack of foundation, the party objecting must point out the objection specifically, so that the opponent has the opportunity to correct it. See *Central Steel & Wire Co. v. Coating Research Corp.*, 53 Ill. App. 3d 943, 945-46 (1977); see also 50 Ill. Admin. Code § 9030.70 (stating that the Illinois Rules of Evidence shall apply to all proceedings before the Commission unless they conflict with the Act or the rules governing practice before the Commission) and Ill. R. Evid. 103(a)(1) (eff. Oct. 15, 2015) (providing that error may not be predicated upon a ruling which admits evidence unless a substantial right of the party is affected and a timely objection stating the specific ground of objection is made, if the specific ground was not apparent from the context).

¶ 38 The transcript of the arbitration proceedings shows that respondent did not raise a foundational objection. Rather, respondent's counsel said, "I don't object to the records in their entirety being admitted. I'm just going to object to the specific causation opinions." The failure to expressly object to the admission of Dr. Sokolowski's records on foundational grounds constitutes forfeiture of the objection on this basis for appeal purposes. See *Town of Cicero*, 404 Ill. at 495; *Ravenswood Disposal Services*, 2019 IL App (1st) 181449WC, ¶ 20; *Barreto*, 133 Ill. App. 3d at 130.

¶ 39 Respondent highlights that, when ruling on the admissibility of Dr. Sokolowski's records, the arbitrator stated that respondent's objection "could be briefed." Even so, our review of the record does not disclose that respondent submitted a written brief or other document to the arbitrator specifically raising a foundational objection to Dr. Sokolowski's records. Further, in its brief before this court, respondent does not direct us to any page in the record containing any such brief or other written document. Consequently, respondent's insistence that it did not forfeit its foundational objection to Dr. Sokolowski's records is unpersuasive.

¶ 40 2. Compliance with Section 16 of the Act

¶ 41 Respondent next contends that the admission of Dr. Sokolowski's records were inadmissible pursuant to section 16 of the Act (820 ILCS 305/16 (West 2020)) because they were not certified as true and correct.

¶ 42 Although medical records are " 'highly reliable,' *** 'a proper foundation' is still required 'before they will be admitted into evidence.' " *Ravenswood Disposal Services*, 2019 IL App (1st) 181449WC, ¶ 19 (quoting *National Wrecking Co. v. Industrial Comm'n*, 352 Ill. App. 3d 561, 567 (2004)). Thus, " '[w]hen a proper objection is raised, *** the certification requirement of section 16 must be observed.' " *Ravenswood Disposal Services*, 2019 IL App (1st) 181449WC, ¶ 19 (quoting *National Wrecking Co.*, 352 Ill. App. 3d at 567). Section 16 of the Act relaxes the foundational requirement for the admission of certain medical records by providing that "[t]he records, reports, and bills kept by a *** treating physician ***, certified as true and correct by the *** physician *** or by designated agents of the *** physician ***, shall be admissible without any further proof as evidence of the medical and surgical matters stated therein." 820 ILCS 305/16 (West 2020); *Ravenswood Disposal Services*, 2019 IL App (1st) 181449WC, ¶ 19. The Act also

creates "a rebuttable presumption that any such records, reports, and bills received in response to [a] Commission subpoena are certified to be true and correct." 820 ILCS 305/16 (West 2020).

¶ 43 As noted, at the arbitration hearing, respondent did not object to the admission of Dr. Sokolowski's records on foundational grounds. Thus, its claim on appeal that Dr. Sokolowski's records were not certified as true and correct is forfeited. *Ravenswood Disposal Services*, 2019 IL App (1st) 181449WC, ¶ 20.

¶ 44 Forfeiture aside, we cannot say that the admission of Dr. Sokolowski's records constituted an abuse of discretion. The certification page attached to Dr. Sokolowski's records states as follows: "In response to the subpoena issued by the law offices of ARGIONIS & ASSOCIATES, LLC, I hereby certify that the attached records are the only records in my/or [*sic*] possession or control in relation to the above-named patient." Respondent correctly notes that the certification page does not state that the records are "certified as true and correct." As noted above, however, the statute creates a rebuttable presumption that any records received in response to a Commission subpoena are certified to be true and correct. 820 ILCS 305/16 (West 2020). Although there is no subpoena attached to Dr. Sokolowski's records, the certification page specifies that the records were being produced "[i]n response to" a subpoena.[2] Moreover, there is no indication that respondent presented any evidence at the arbitration hearing to rebut the statutory presumption that the records are certified to be true and correct. Accordingly, Dr. Sokolowski's records were admissible without any further proof and respondent's argument to the contrary finds no basis in

[2] While the certification page attached to Dr. Sokolowski's records suggests that the subpoena was issued by Argionis & Associates (claimant's law firm), the other subpoenas in the record were issued by the Commission at the request of an attorney at the law firm representing claimant. Further, the subpoenas instruct the responding person or organization to mail the requested documents to Argonis & Associates.

the record. See *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, ¶ 50 (holding that medical bills were admissible without further proof where they were produced in response to a Commission subpoena and the employer presented no evidence to rebut the statutory presumption that they are certified to be true and correct).

¶ 45 3. Hearsay

¶ 46 Respondent next argues that Dr. Sokolowski's records were improperly admitted because they contain inadmissible hearsay. In this regard, respondent notes that while section 16 of the Act (820 ILCS 305/16 (West 2020)) eases the foundational requirements for the admission of treatment records, it "does not apply to reports prepared by treating providers for use in litigation." As such, respondent insists that claimant was required to establish the admissibility of Dr. Sokolowski's records pursuant to an exception to the rule against hearsay by "laying an adequate foundation for its admission into evidence." We reject this argument for three reasons.

¶ 47 First, as noted previously, respondent failed to object to the admission of Dr. Sokolowski's records on foundational grounds, thereby forfeiting this argument. Second, as discussed earlier, section 16 of the Act (820 ILCS 305/16 (West 2020)) provides a rebuttable presumption that records received in response to a Commission subpoena are certified to be true and correct. In this case, the certification page attached to Dr. Sokolowski's records indicate that they were produced in response to such a subpoena and respondent did not rebut the presumption at the arbitration hearing. Finally, we observe that while respondent suggests that Dr. Sokolowski's reports were prepared for use in litigation, it cites no evidence to support this theory. Indeed, in *RG Construction Services,* we recognized that the records and reports of a treating physician are likely to contain medical opinions relating to a variety of aspects in the care, treatment, and evaluation of the patient. As such, we rejected the notion that "the simple inclusion of medical opinions within a treating

physician's records is sufficient to exclude it from admission pursuant to section 16." *RG Construction Services*, 2014 IL App (1st) 132137WC, ¶ 39. Although the Commission cited this language from *RG Construction Services* in its decision, respondent makes no attempt to distinguish that case or otherwise explain why Dr. Sokolowski's records are different.

¶ 48 4. Business Records

¶ 49 Respondent argues that claimant failed to lay a sufficient foundation for admission of Dr. Sokolowski's records under the business records exception as there was no evidence to establish that the records were made at or near the time of the events they purport to reflect. See Ill. S. Ct. R. 236(a) (eff. Aug. 1, 1992); *Troyan v. Reyes*, 367 Ill. App. 3d 729, 733-34 (2006). Respondent failed to object to the admission of Dr. Sokolowski's records on this basis at the arbitration hearing. As such, it has forfeited this argument on appeal. See *Town of Cicero*, 404 Ill. at 495; *Ravenswood Disposal Services*, 2019 IL App (1st) 181449WC, ¶ 20; *Barreto*, 133 Ill. App. 3d at 130.

¶ 50 5. Prejudice

¶ 51 Lastly, respondent argues that the admission of Dr. Sokolowski's records "unfairly prejudiced" it. In support of this argument, respondent again asserts that Dr. Sokolowski's records lacked a foundation and were therefore inadmissible pursuant to section 16 of the Act (820 ILCS 305/16 (West 2020)). Having previously rejected this argument, we decline to address it further. Respondent also contends that it was prejudiced because claimant did not offer any evidence as to Dr. Sokolowski's credentials or qualifications. The Commission acknowledged that Dr. Sokolowski's *curriculum vitae* was not entered into evidence. It noted, however, that Dr. Sokolowski's records indicate that he is an orthopedic surgeon. More significant, as the Commission observed, the credentials of an expert are relevant with respect to the weight to be given the expert's opinion. See *Freeman United Coal Mining Co. v. Industrial Comm'n*, 286 Ill.

App. 3d 1098, 1103-04 (1997) (rebuffing argument that the Commission erred in rejecting testimonies of doctors with "more impressive" credentials, noting that credibility determinations and the weight to be given the opinions of medical experts are particularly within the domain of the Commission). Given the Commission's role in assessing expert testimony, we do not find that the failure of claimant to more fully develop Dr. Sokolowski's credentials resulted in prejudice to respondent. Finally, respondent maintains that it was prejudiced because it is apparent that Dr. Sokolowski's records are not complete because they do not contain claimant's physical therapy records. Respondent, however, forfeited this argument by failing to object to the admission of Dr. Sokolowski's records on foundational grounds. See *Town of Cicero*, 404 Ill. at 495; *Ravenswood Disposal Services*, 2019 IL App (1st) 181449WC, ¶ 20; *Barreto*, 133 Ill. App. 3d at 130.

¶ 52 For the reasons set forth above, the Commission's decision that the medical records of Dr. Sokolowski were properly admitted did not constitute an abuse of discretion.

¶ 53 B. Causation

¶ 54 Next, we address respondent's argument that the Commission erred in finding that the current condition of ill-being of claimant's low back is causally related to the work accident.

¶ 55 At the outset, we note that respondent's brief on appeal fails to cite any case law or other legal authority (other than the applicable statutory provision) in support of its causation argument. Illinois Supreme Court Rule 341(h)(7) (eff. Oct. 1, 2020) requires the appellant's brief to include an argument section "which shall contain the contentions of the appellant and the reasons therefor, *with citation of the authorities * * * relied on*." (Emphasis added.) As a reviewing court we are entitled to have the issues clearly defined, pertinent authority cited, and a cohesive legal argument presented. *Walters v. Rodriguez*, 2011 IL App (1st) 103488, ¶ 5. The appellate court is not a depository into which the appellant may foist the burden of argument and research. *Lewis v.*

Heartland Food Corp., 2014 IL App (1st) 123303, ¶ 5. Arguments that are not supported with citations to authority fail to meet the requirements of Rule 341(h)(7) and are forfeited. *TTC Illinois, Inc./Tom Via Trucking v. Illinois Workers' Compensation Comm'n*, 396 Ill. App. 3d 344, 355 (2009). By failing to cite any case law or other legal authority in support of its position, respondent has forfeited its claim that the Commission's causation finding was erroneous.

¶ 56 Forfeiture notwithstanding, respondent's position is unpersuasive. To recover, a claimant bears the burden of proving by a preponderance of the evidence that his or her condition of ill-being is causally related to the employment. *Sysco Food Services of Chicago v. Illinois Workers' Compensation Comm'n*, 2017 IL App (1st) 170435WC, ¶ 41. Causation is a question of fact. *Beattie v. Industrial Comm'n*, 276 Ill. App. 3d 446, 449 (1995). Therefore, we apply the manifest-weight standard and reverse only if an opposite conclusion is clearly apparent. *Beattie*, 276 Ill. App. 3d at 449. "The test is not whether this or any other tribunal might reach the opposite conclusion, but whether there was sufficient factual evidence in the record to support the Commission's determination." *Beattie*, 276 Ill. App. 3d at 450. "In resolving questions of fact, it is the province of the Commission to assess the credibility of witnesses, resolve conflicts in the evidence, assign the weight to be accorded the evidence and draw reasonable inferences from the evidence." *Beattie*, 276 Ill. App. 3d at 449. The Commission's expertise in medical matters is well recognized and entitled to great deference. *Long v. Industrial Comm'n*, 76 Ill. 2d 561, 566 (1979).

¶ 57 Respondent begins by asserting that the Commission's causation finding was improper because it relied on Dr. Sokolowski's medical records (the records respondent alleges were admitted in error). Because we have already determined that the Commission's admission of Dr. Sokolowski's records was not improper, that argument fails in the context presented here, and we need not address it further.

¶ 58 Next, respondent argues that Dr. Singh's opinions are more competent and reliable than those of Dr. Sokolowski and that the Commission's reliance on the latter was contrary to the manifest weight of evidence. Respondent specifically notes that the *curriculum vitae* of Dr. Singh, which was admitted into evidence without objection, was "17 pages long." In contrast, respondent complains that no evidence was submitted to establish Dr. Sokolowski's credentials. The differences in each doctor's credentials were simply a factor for the Commission to consider when determining the weight to assign to each physician's opinion. As noted earlier, assessing witness credibility, and assigning weight to evidence is primarily a matter for the Commission. *Beattie*, 276 Ill. App. 3d at 449; see also *Freeman United Coal Mining Co.*, 286 Ill. App. 3d at 1103-04 (rebuffing argument that Commission erred in rejecting testimonies of doctors with "more impressive" credentials, noting that credibility determinations and the weight to be given the opinions of medical experts are particularly within the domain of the Commission). On this point the Commission acknowledged that, though Dr. Sokolowski's *curriculum vitae* was not entered into evidence, the record reflected that Dr. Sokolowski's practice was "Orthopaedic Surgery of the Spine." To the extent that the doctors' credentials differed, it does not provide a sufficient basis to overturn the Commission's decision. Moreover, as noted, the Commission possesses expertise in medical matters. *Long*, 76 Ill. 2d at 566. Thus, it was capable of evaluating the doctors' testimony regardless of their respective expertise.

¶ 59 Respondent also asserts that Dr. Singh was more credible and competent than Dr. Sokolowski, Dr. Sokolowski "does not provide any basis for his opinions and merely couches his conclusions in generalized conclusory statements," and inconsistencies within Dr. Sokolowski's medical records "undercut his credibility" and render his records to be "of questionable veracity." Respondent complains that, despite these claims, the Commission found Dr. Sokolowski's opinion

that claimant's current condition of ill-being to her low back is causally related to her work accident to be persuasive. As we have repeatedly noted, it is the province of the Commission to assess the credibility of witnesses, resolve conflicts in the evidence, assign the weight to be accorded the evidence and draw reasonable inferences from the evidence. *Beattie,* 276 Ill. App. 3d at 449. This is especially true with medical matters. *Long*, 76 Ill. 2d at 566. Respondent's arguments represent an invitation to reweigh the evidence which the Commission has assessed. We decline respondent's invitation to engage in such a task as there was sufficient factual evidence in the record to support the Commission's decision to credit the opinion of Dr. Sokolowski over that of Dr. Singh. See *International Vermiculite Co. v. Industrial Comm'n,* 77 Ill. 2d 1, 4 (1979) (noting that it is for the Commission to decide which medical view is more persuasive, and the Commission "may attach greater weight to the opinion of the treating physician").

¶ 60 Respondent also attacks claimant's credibility on various points, complaining about Dr. Sokolowski's credentials and alleged inconsistencies between the medical records and claimant's testimony. In addition, respondent maintains that the testimony of Rocha, claimant's supervisor, supports its contention that claimant's testimony lacks credibility. However, the Commission rejected similar arguments, finding that respondent was "selectively focusing on certain records." Having reviewed the record, and given the Commission's role in assessing the credibility of witnesses, resolving conflicts in the evidence, assigning the weight to be accorded the evidence and drawing reasonable inferences from the evidence (*Beattie*, 276 Ill. App. 3d at 449), we find these arguments lack merit.

¶ 61 In sum, respondent has not persuaded us that the Commission's causation finding is against the manifest weight of the evidence. Thus, we affirm the Commission's finding that claimant's current condition of ill-being is causally related to her work accident.

¶ 62 C. Prospective Medical Treatment

¶ 63 Finally, respondent argues that the Commission erred in awarding prospective medical benefits to claimant. Respondent asserts that, in awarding prospective medical treatment, the Commission improperly relied on the records of Dr. Sokolowski because they are inadmissible. Regardless, respondent asserts that the opinion of Dr. Singh, who found that claimant had reached MMI by July 20, 2020, and that no further treatment was warranted, was more persuasive than the opinion of Dr. Sokolowski. Respondent also claims that "no competent proof" was offered at trial in support of the efficacy of Dr. Sokolowski's treatment recommendations.

¶ 64 Again, we note that respondent's brief on appeal fails to cite any case law or other legal authority (other than the applicable statutory provision) in support of its argument that prospective medical benefits are not warranted. As noted previously, this is a violation of Illinois Supreme Court Rule 341(h)(7) (eff. Oct. 1, 2020). *TTC Illinois, Inc./Tom Via*, 396 Ill. App. 3d at 355. By failing to cite any case law or other legal authority in support of its position, respondent has forfeited its claim that the Commission erred in awarding claimant prospective medical benefits.

¶ 65 Forfeiture notwithstanding, this contention of error also fails on the merits. Section 8(a) of the Act (820 ILCS 305/8(a) (West 2020)) governs medical care. That provision states in relevant part:

> "The employer shall provide and pay *** all the necessary first aid, medical, and surgery services, and all necessary medical, surgical and hospital services thereafter incurred, limited, however, to that which is reasonably required to cure or relieve from the effects of the accidental injury." 820 ILCS 305/8(a) (West 2020).

Specific procedures or treatments that have been prescribed by a medical service provider are "incurred" within the meaning of section 8(a) even if they have not been performed or paid for.

Bennett Auto Rebuilders v. Industrial Comm'n, 306 Ill. App. 3d 650, 655 (1999). A claimant bears the burden of proving by a preponderance of the evidence his or her entitlement to an award of medical care under section 8(a). *Westin Hotel v. Industrial Comm'n*, 372 Ill. App. 3d 527, 546 (2006). Questions regarding entitlement to prospective medical care under section 8(a) are factual inquiries for the Commission to resolve. *Max Shepard, Inc. v. Industrial Comm'n*, 348 Ill. App. 3d 893, 903 (2004). We owe great deference to the factual findings of the Commission, especially where medical issues are involved, as its expertise is well recognized in the medical field. *Long*, 76 Ill. 2d at 566. As such, it is within the purview of the Commission to judge the credibility of witnesses, to draw reasonable inferences from their testimony, and to determine what weight the testimony is to be given. *Paganelis v. Industrial Comm'n*, 132 Ill. 2d 468, 483 (1989). The Commission's decisions on factual matters will not be disturbed on appeal unless they are against the manifest weight of the evidence. *F & B Manufacturing Co. v. Industrial Comm'n*, 325 Ill. App. 3d 527, 534 (2001). A decision is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *Will County Forest Preserve District v. Illinois Workers' Compensation Comm'n*, 2012 IL App (3d) 110077WC, ¶ 15.

¶ 66 We initially note that respondent's argument that the Commission improperly relied on Dr. Sokolowski's records is premised on the success of its argument that his records were inadmissible. Because we have concluded that the Commission's finding that the records were properly admitted did not constitute an abuse of discretion, that argument fails, and we need not address it further.

¶ 67 We also reject respondent's assertion that the opinion of Dr. Singh, who found that claimant had reached MMI by July 20, 2020, and that no further treatment was warranted, was more persuasive than the opinion of Dr. Sokolowski and that "no competent proof" was offered to support the efficacy of Dr. Sokolowski's treatment recommendations. The Commission weighed

the evidence from the treating physicians and from Dr. Singh, and found the medical opinion of Dr. Sokolowski more persuasive. Resolving conflicts in the evidence is a matter for the Commission. *Paganelis*, 132 Ill. 2d at 483; *Long*, 76 Ill. 2d at 566. It is not our role to reweigh the evidence and substitute our judgment for that of the Commission. *ABF Freight System v. Illinois Workers' Compensation Comm'n*, 2015 IL App (1st) 141306WC, ¶ 19. Respondent has not shown that the Commission's decision regarding prospective medical benefits is against the manifest weight of the evidence.

¶ 68 III. CONCLUSION

¶ 69 For the reasons set forth above, we affirm the judgment of the circuit court of Cook County, which confirmed the decision of the Commission. This cause is remanded for further proceedings pursuant to *Thomas*, 78 Ill. 2d 327.

¶ 70 Affirmed and remanded.