

2025 IL App (1st) 2432WC-U

No. 1-24-2432WC

Filed October 3, 2025

NOTICE: This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST DISTRICT
WORKERS' COMPENSATION COMMISSION DIVISION

THE CITY OF CHICAGO,)	Appeal from the
)	Circuit Court of
Appellant,)	Cook County.
)	
v.)	No. 2024 L 50155
)	
THE ILLINOIS WORKERS')	
COMPENSATION COMMISSION,)	Honorable
)	Daniel P. Duffy,
(Jacob Soto, Appellee.))	Judge, Presiding.

JUSTICE MARTIN delivered the judgment of the court.
Presiding Justice Holdridge, and Justices Mullen, Cavanagh, and Barberis concurred in the judgment.

ORDER

- ¶ 1 *Held:* The Commission's finding regarding causation was not against the manifest weight of the evidence and did not error in awarding benefits covering medical bills, a wage differential, and maintenance.
- ¶ 2 The City of Chicago appeals from the judgment of the circuit court, which confirmed the Illinois Workers' Compensation Commission's (Commission) decision awarding Jacob Soto benefits. For the following reasons, we affirm.

¶ 3

I. BACKGROUND

¶ 4

A hearing regarding Soto's application for worker's compensation benefits took place before an arbitrator in July 2022. We summarize the hearing evidence relevant to the issues raised on appeal as follows. Soto was employed as a laborer with the City and performed tasks related to street surfacing. While shoveling asphalt during a paving project on June 11, 2013, Soto suffered an injury to his left shoulder and neck. Initially, Soto was diagnosed with a torn labrum and underwent surgery to repair it in December 2013. Months after his shoulder surgery, Soto reported numbness in his left arm and hand, which had persisted since his injury.

¶ 5

Dr. Brian Cole performed an Independent Medical Examination (IME) in December 2014. Dr. Cole opined that Soto's shoulder was at maximal medical improvement and, as to the shoulder, he could return to work without restrictions. Dr. Cole noted, however, that Soto had impairing left upper extremity pain, "likely radicular in nature," and recommended evaluation by a cervical spine specialist.

¶ 6

An MRI revealed compression in Soto's cervical spine, and he began seeing spine specialists. Soto also began physical therapy at ATI.

¶ 7

Soto was referred to Dr. Edward Goldberg, a spine specialist, for an IME in February 2015. Dr. Goldberg diagnosed Soto with a herniated disc and stenosis (compression) in his cervical spine, which Dr. Goldberg found to be caused by Soto's work injury. Dr. Goldberg opined that Soto could return to work at light duty and would need therapy to treat his cervical spine condition.

¶ 8

Soto continued to see Dr. Goldberg for treatment. Since Soto's symptoms persisted, Dr. Goldberg performed a cervical discectomy and fusion of three vertebrae with plate and screws in August 2015. Two weeks after the surgery, Soto reported that he was "walking funny" and had numbness around his right knee. He also complained of ongoing pain in his left shoulder. Soto

continued physical therapy at ATI. ATI performed a functional capacity evaluation (FCE) in December 2015, which showed significant physical limitations. After reviewing the results of the FCE in February 2016, Dr. Goldberg opined that Soto was subject to permanent restrictions, including standing no more than five minutes, sitting for no more than 25 minutes, and working for no more than two hours a day. Dr. Goldberg referred Soto for chronic pain management.

¶ 9 Dr. Michael Kornblatt performed a third IME in April 2016. Dr. Kornblatt opined that X-rays revealed a delayed union of the fused vertebrae and Soto's chronic pain was consistent with failed cervical spine surgery. Dr. Kornblatt believed Soto's condition was permanent and causally related to his work accident. He did not find Soto to be at maximum medical improvement and believed further treatment would be needed. Dr. Kornblatt opined that Soto could work, restricted to light duty, and could increase his working hours as tolerated.

¶ 10 Soto began receiving treatment for chronic pain management with Pain Treatment Centers of Illinois in 2016. Dr. Larry Najera treated Soto initially. In mid-2017, his care was taken over by Dr. Faris Abusharif. Soto had regular visits for several years. Among other things, the pain physicians diagnosed Soto with postlaminectomy syndrome (failed back surgery syndrome). Soto was prescribed various pain medications.

¶ 11 A fourth IME was performed by Dr. Howard Konowitz in November 2016. The record does not contain Dr. Konowitz's findings. Soto testified that Dr. Konowitz also diagnosed him with postlaminectomy syndrome and his recommendations were consistent with Dr. Kornblatt's.

¶ 12 Soto was seen by Dr. Carl Graf for a fifth IME in December 2018. Dr. Graf opined that an MRI showed Soto's cervical vertebrae had fused and there was no nerve root compression. Although Soto reported pain throughout his body, Dr. Graf could not "objectively substantiate" Soto's complaints. Dr. Graf also opined that the FCE performed at ATI was invalid. He noted that

it was conducted by an athletic trainer instead of a licensed physical therapist and “every test was terminated secondary to subjective complaints of pain.” Dr. Graf disagreed that Soto was disabled and believed he could return to his job.

¶ 13 Following Dr. Graf’s IME, Soto’s temporary total disability (TTD) benefits were terminated. Soto attempted to return to his job with the City in October 2019. After two eight-hour days, Soto requested medical leave due to increased pain. Dr. Abusharif determined Soto could not return to work.

¶ 14 A new FCE was conducted by a physical therapist at NovaCare in January 2020. Following the evaluation, the physical therapist opined that Soto could not return to his job as a laborer and was restricted to a medium physical demand level.

¶ 15 Dr. Graf performed another IME, Soto’s sixth, in February 2021. Dr. Graf believed the more recent FCE was not “a valid effort” as the activities were “self-terminated.” Like the prior IME, Dr. Graf’s opined, “there [is] no objective reason why Mr. Soto could not return to his full duty level job.”

¶ 16 Dr. Goldberg reviewed Soto’s records and the NovaCare FCE results in June 2021. Dr. Goldberg agreed with the recommended restrictions.

¶ 17 Kari Stafseth, a vocational counselor, assessed Soto in 2016, 2019, and 2021. Following the first two assessments, Ms. Stafseth opined that Soto did not have access to a viable labor market. In a 2022 evidence deposition, Ms. Stafseth stated that if Dr. Graf’s opinion were accepted, Soto “would not sustain any vocational impairment or wage loss exposure.” But if Dr. Goldberg’s opinion were accepted, Soto has lost his line of employment as a laborer. Soto could potentially perform some jobs, such as assembly worker, machine operator, production worker, parts clerk, or cleaner or porter jobs. Such positions pay \$13 to \$16 per hour.

¶ 18 Julie Bose, also a vocational counselor, reviewed Ms. Stafseth's reports, as well as Soto's medical records and FCE. She agreed that Soto could perform the medium level jobs Ms. Stafseth listed. But she believed Soto's earning potential was greater, since the minimum wage in Chicago is \$15.40 per hour.

¶ 19 The arbitrator issued a written decision in June 2023. The arbitrator found Soto credible and noted that the majority of treating and examining physicians agreed his shoulder and neck injuries were causally connected to the 2013 work accident. The arbitrator rejected the City's argument that Soto's current condition was due to an unrelated lumbar spine issue. She found Dr. Goldberg more credible than Dr. Graf and concluded that Soto's "condition of ill-being regarding his left shoulder and neck are casually connected to the work accident of June 11, 2013." As for Soto's medical treatments, the arbitrator found they were reasonable and necessary. She also found Soto was entitled to maintenance benefits for the period from December 30, 2015, through July 22, 2022, which the City had already paid. In addition, the arbitrator awarded him a wage differential of \$399.33 per week until he reaches age 67.

¶ 20 The City petitioned for review of the arbitrator's decision with the Commission. The Commission affirmed and adopted the arbitrator's decision in February 2024. Thereafter, the City filed a petition for review in the circuit court of Cook County. The circuit court confirmed the Commission's decision in November 2024. The City filed a timely notice of appeal.

¶ 21 II. ANALYSIS

¶ 22 In workers' compensation proceedings, the Commission is the "ultimate decisionmaker." (Internal quotation marks omitted.) *McAllister v. Illinois Workers' Compensation Comm'n*, 2020 IL 124848, ¶ 30. Accordingly, we review the decision of the Commission, not the judgment of the circuit court. *Dodaro v. Illinois Workers' Compensation Comm'n*, 403 Ill. App. 3d 538, 543 (2010).

Our review of the Commission’s factual determinations is extremely deferential. *Id.* at 544. The Commissions’ factual determinations will not be disturbed unless they are against the manifest weight of the evidence. *Rechenberg v. Illinois Workers’ Compensation Comm’n*, 2018 IL App (2d) 170263WC, ¶ 39. The Commissions’ resolution of a factual question is against the manifest weight of the evidence only if the opposite conclusion is clearly apparent. *Tolbert v. Illinois Workers’ Compensation Comm’n*, 2014 IL App (4th) 130523WC, ¶ 39.

¶ 23 A. Causation

¶ 24 First, the City argues that the Commissions’ determination regarding causation was against the manifest weight of the evidence.

¶ 25 To obtain compensation under the Workers’ Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2022)), the claimant must establish by a preponderance of the evidence that he suffered a disabling injury that arose out of and in the course of his employment. *Sisbro, Inc. v. Industrial Comm’n*, 207 Ill. 2d 193, 203 (2003). “Accidental injury need not be the sole causative factor, nor even the primary causative factor, as long as it was *a* causative factor in the resulting condition of ill-being.” (Emphasis in original.) *Id.* at 205. Whether a causal connection exists is a question of fact for the Commission, and a reviewing court will overturn the Commission’s decision only if it is against the manifest weight of the evidence. *McDonald’s v. Illinois Workers’ Compensation Comm’n*, 2022 IL App (1st) 210928WC, ¶ 43.

¶ 26 Before the arbitrator, the City contended that Soto’s current complaints and condition were due to a lumbar spine condition, unrelated to his 2013 work accident. The arbitrator rejected the City’s assertion and found Soto’s condition was causally connected to his work accident. On appeal, the City argues “all evidence submitted at hearing shows that [Soto’s] low back and leg complaints/condition are unrelated to the alleged accident.” In support, the City points to records

from Dr. Abusharif diagnosing Soto with “postlaminectomy syndrome, lumbar” and noting that Soto reported lower back pain in 2017. The City also relies on Dr. Goldberg’s opinions that any lumbar complaints or leg issues were not due to Soto’s work accident.

¶ 27 We are unpersuaded. First, ample evidence showed Soto’s disabling condition is not limited to issues with his lower back and legs. He consistently complained of pain in his cervical spine, which is attributed to the work injury Soto sustained and for which he underwent spinal surgery. Although Dr. Goldberg believed some of Soto’s complaints are not attributable to his work injury, he opined that the effects of Soto’s cervical spine injury restrict his ability to work. So even if some nonwork-related factors contribute to Soto’s condition, sufficient evidence in the record supports that the cervical injury Soto sustained while working for the City is at least a causative factor in his condition.

¶ 28 Second, Soto’s medical records do not confirm that he suffered a separate, unrelated lower back injury. Although Dr. Abusharif listed Soto’s diagnosis as “postlaminectomy syndrome, lumbar” and noted that Soto reported lower back pain, he still considered Soto’s condition as resulting from the work accident. The same medical record the City cites notes that Soto reported, *inter alia*, pain in his cervical spine. Records from follow-up visits state, “This occurs in [the] context of an injury at work on 06/11/2013.”

¶ 29 Moreover, postlaminectomy syndrome, by definition, is a condition that only arises following spinal surgery. A laminectomy is a spinal surgical procedure. Merriam-Webster Online Medical Dictionary, www.merriam-webster.com/medical/laminectomy (last visited September 15, 2025). The medical record the City cites explains:

“[P]ostlaminectomy syndrome is characterized by residual or persistent pain *after spine surgery*. Some people refer to it as failed back syndrome. The cause of postlaminectomy

syndrome is variable. Some people have scarring around nerve roots while others have ongoing deterioration of the bone, joints, or soft tissues (disc) that further irritate adjacent nerves. Muscle deconditioning may also be a contributing cause. Patients generally experience back pain and/or pain in the arms or legs.” (Emphasis added.)

There is no evidence of Soto undergoing any other spinal surgery than the cervical discectomy and fusion Dr. Goldberg performed in 2015, which was done to treat Soto’s work injury.

¶ 30 It is unclear why the word “lumbar” appears after “postlaminectomy syndrome” on some of Soto’s records from Pain Treatment Centers of Illinois. Records from previous visits list a diagnosis of “postlaminectomy syndrome, cervical.” Beginning in July 2017, visit records list “postlaminectomy syndrome, lumbar” but continue using the same diagnostic code (M96.1). In 2019, the visit records revert to “postlaminectomy syndrome, cervical.” The records contain no explanation for interchanging “cervical” and “lumbar” and neither party elicited hearing testimony from Dr. Abusharif to explain. Later in 2019, the diagnosis changes to “cervical radiculopathy,” which is explained as a pinched nerve. In any event, the medical records consistently indicate treatment for issues stemming from Soto’s work injury and subsequent spinal surgery. Dr. Goldberg’s statements that the City relies on may reflect his disagreement with the diagnoses of the physicians at Pain Treatment Centers of Illinois, but do not establish that Soto suffered or received treatment for a separate, unrelated injury.

¶ 31 In sum, the City has not shown that the opposite conclusion regarding causation is clearly apparent. Thus, we find the Commission’s finding regarding causation was not against the manifest weight of the evidence.

¶ 32 B. Medical Bills

¶ 33 Next, the City argues that the Commission failed to distinguish between medical bills related to Soto's work injury and unrelated medical bills. For relief, the City requests that we remand the matter for the Commission to make this distinction. We reject this argument.

¶ 34 On this issue, the City relies on the same premise underlying its causation argument—that Soto suffered and received treatment for a separate, unrelated lumbar injury. As we explained, the evidence does not establish so.

¶ 35 The City notes that some 2019 bills from Pain Treatment Centers of Illinois indicate treatment for carpal tunnel syndrome, which the City asserts is unrelated to Soto's work injury. The visit records, however, indicate Soto was diagnosed with carpal tunnel syndrome in his upper arms during his continuing treatment for the issues following his spinal surgery. The City's argument would require us to assume this is an unrelated medical issue, but the evidence does not make that clearly apparent. To the contrary, the evidence indicates it is related to Soto's cervical injury.

¶ 36 C. Wage Differential Benefits

¶ 37 Next, the City contends that Soto failed to establish he was entitled to wage differential benefits. Like the previous issues, the City relies on the assertion that Soto suffers from an unrelated lumbar injury. Since we have rejected that notion, it is unavailing on this point as well.

¶ 38 Apart from that, the City relies on the opinions of Dr. Graf and Ms. Bose to assert that Soto's earning potential is not impaired as a result of his work injury. The City also asserts that surveillance refuted Soto's reported condition. The City's contentions, however, amount to no more than asking us to reweigh the evidence, which will not do. *Durand v. Industrial Comm'n*, 224 Ill. 2d 53, 64 (2006). By adopting the arbitrator's decision, the Commission resolved the

conflicting evidence and credited Dr. Goldberg’s and Ms. Stafseth’s opinions over those of Dr. Graf and Ms. Bose. The Commission also adopted the arbitrator’s assessment of the surveillance as depicting that Soto did not act contrary to his prescribed restrictions. We will not substitute our judgment for the Commission’s. The City does not direct us to evidence establishing that the opposite conclusion regarding wage differential is clearly evident. Accordingly, the Commission’s decision on wage differential is not against the manifest weight of the evidence and we reject the City’s argument on this issue.

¶ 39

D. Maintenance Benefits

¶ 40

Last, the City challenges the award of maintenance benefits for the period following December 30, 2015. The City contends that, beginning in 2016, Soto represented that he was unemployable, and some of his claimed limitations were due to an unrelated condition. In addition, the City asserts that Soto was not acting in good faith and had no intention of returning to work.

¶ 41

Section 8(a) provides that an employer “shall also pay for treatment, instruction and training necessary for the physical, mental and vocational rehabilitation of the employee, including all maintenance costs and expenses incidental thereto.” 820 ILCS 305/8(a) (West 2022). “A claimant is generally entitled to vocational rehabilitation when he sustains a work-related injury which causes a reduction in his earning power and there is evidence that rehabilitation will increase his earning capacity.” *Greaney v. Industrial Comm’n*, 358 Ill. App. 3d 1002, 1019 (2005). Rehabilitative efforts may be undertaken even though the extent of an employee’s permanent disability cannot yet be determined. *Nascote Industries v. Industrial Comm’n*, 353 Ill. App. 3d 1067, 1075 (2004). The Act permits the award of maintenance benefits while a claimant is engaged in some type of rehabilitation. *Greaney*, 358 Ill. App. 3d at 1019. “By its terms, the statute provides for physical rehabilitation as well as vocational rehabilitation, and mandates that the employer pay

all maintenance costs and expenses incidental thereto.” *Nascote Industries*, 353 Ill. App. 3d at 1075. However, an injured employee is generally not entitled to vocational rehabilitation if the evidence shows that he does not intend to return to work, although able to do so. *Beverage v. Illinois Workers' Comp. Comm'n*, 2019 IL App (2d) 180090WC, ¶ 29.

¶ 42 As with the previous issues, we reject the City’s reliance on an asserted separate, unrelated injury. Apart from that, the City fails to cite any evidence supporting its assertions that Soto was not acting in good faith and had no intention of returning to work. The arbitrator noted that physicians and evaluators opined that Soto could not return to his job as a laborer. The arbitrator also found Soto was continually engaged in physical rehabilitation and searched for work within prescribed restrictions. The City has failed to establish that the record makes the opposite conclusions clearly apparent. Accordingly, the Commission’s award of maintenance benefits was not against the manifest weight of the evidence.

¶ 43 III. CONCLUSION

¶ 44 Based on the foregoing, we affirm the judgment of the circuit court.

¶ 45 Affirmed.