

IN THE COURT OF APPEALS OF IOWA

No. 3-780 / 13-0160
Filed September 18, 2013

BARBARA ZAGLAUER,
Petitioner-Appellant,

vs.

**MERCY MEDICAL CENTER and
SEDGWICK CMS,**
Respondents-Appellees.

Appeal from the Iowa District Court for Polk County, Mary Pat Gunderson,
Judge.

Barbara Zaglauer appeals from the Iowa Workers' Compensation
Commissioner's finding her depression and complex regional pain syndrome
were not causally related to her work injury. **AFFIRMED.**

Jerry Jackson or Moranville & Jackson, P.C., West Des Moines, for
appellant.

Lee P. Hook and Joseph M. Barron of Peddicord, Wharton, Spencer,
Hook, Barron & Wegman, L.L.P., West Des Moines, for appellee.

Considered by Vogel, P.J., and Danilson and Tabor, JJ.

VOGEL, P.J.

This appeal arises from Barbara Zaglauer's workers' compensation claim regarding an injury that took place on March 11, 2008, while she was working for Mercy Medical Center. Zaglauer tripped on carpet, which caused her to fall and dislocate her right shoulder, resulting in a torn rotator cuff for which she received surgery on June 26, 2008. After receiving physical therapy, her pain did not decrease, and four doctors diagnosed her with complex regional pain syndrome (CRPS), though one doctor concluded she did not suffer from CRPS. She was also diagnosed with depression and anxiety from 2005 until the beginning of 2008. Zaglauer had a previous injury that occurred in 2000, while she was working for another employer. This injury was also to her upper extremities, and resulted in a settlement of her workers' compensation claim.

Zaglauer filed her petition relating to this injury with the Iowa Commissioner on December 15, 2009, and the hearing was held on November 3, 2010. The deputy issued a decision awarding Zaglauer fifteen percent industrial disability, and further concluded Zaglauer had not carried her burden to show her depression and CRPS were causally related to the March 2008 work injury. The deputy also found Zaglauer not to be a credible witness. The commissioner affirmed the deputy's decision on March 12, 2012, with some additional analysis. Zaglauer filed a petition for judicial review, and in a well-reasoned opinion, the district court affirmed the commissioner on January 17, 2013.

Zaglauer claims four bases of error: (1) the commissioner's determination that Zaglauer is not credible is not supported by substantial evidence, given the decision misinterprets medical evidence, (2) the decision that Zaglauer's injury

did not cause or aggravate her depression is not supported by substantial evidence, (3) error was committed when the commissioner accepted the opinion of Kenneth Pollack, M.D., regarding causation, but did not accept the opinion of Sunil Bansal, M.D., that Zaglauer's injury caused her depression, and (4) the commissioner erred when determining Zaglauer's previous injury prevented the finding of causation between her CRPS and work injury. Essentially, Zaglauer contests the commissioner's finding that neither her depression nor CRPS were causally related to her work injury, as well as the credibility determination.

Our review is governed by the Iowa Administrative Procedure Act, as set forth in Iowa Code chapter 17A. See Iowa Code § 17A.19 (2011). We apply the standards of this section to the commissioner's decision, then decide whether the district court correctly applied the law in exercising its function of judicial review. *Lakeside Casino v. Blue*, 743 N.W.2d 169, 172–73 (Iowa 2007).

When a finding of medical causation is challenged, we will affirm the decision if it is supported by substantial evidence. *Cedar Rapids Cmty. Sch. Dist. v. Pease*, 807 N.W.2d 839, 845 (Iowa 2011). Substantial evidence is defined as “the quantity and quality of evidence that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue when the consequences resulting from the establishment of that fact are understood to be serious and of great importance.” Iowa Code § 17A.19(10)(f)(1). When reviewing a finding of fact for substantial evidence, we judge the decision “in light of all the relevant evidence in the record cited by any party that detracts from that finding as well as all of the relevant evidence in the record cited by any party that supports it.” *Id.* § 17A.19(10)(f)(3). While we

carefully review the facts of the case, evidence is not insubstantial simply because reasonable minds could draw different conclusions. *Pease*, 807 N.W.2d at 845. Thus, our task is to determine if, viewing the record as a whole, the evidence supports the findings actually made. *Id.*

Upon review of the record, we find substantial evidence supports the commissioner's conclusion neither Zaglauer's depression nor CRPS were causally related to her March 2008 work injury. As both the commissioner and district court noted, Zaglauer was not forthcoming with respect to her medical history, and the doctors who opined her depression and CRPS were causally related to her injury admitted to not having her full history. Dr. Pollack, however, who did know her full medical background, stated he did not believe her depression and CRPS were causally related to her injury. The commissioner, as fact finder, is responsible for determining how much weight expert testimony carries. *Sherman v. Pella Corp.*, 576 N.W.2d 312, 321 (Iowa 1998). Therefore, it was well within the commissioner's discretion to rely on Dr. Pollack's testimony over that of other doctors, especially considering Dr. Pollack was the medical professional most fully apprised of Zaglauer's medical history. See *Pease*, 807 N.W.2d at 845 (observing one expert's opinion is enough to affirm the finding of causation). As such, substantial evidence supports the commissioner's finding neither Zaglauer's depression nor CRPS were causally related to her March 2008 work injury.

We also agree with the district court's determination any credibility findings are within the province of the commissioner, and substantial evidence supports the finding Zaglauer was not credible. See *Arndt v. City of LeClaire*, 728 N.W.2d

389, 394–95 (Iowa 2007) (stating it is the commissioner’s duty as the trier of fact to determine the credibility of witnesses, and the reviewing court must give deference to any credibility findings). Zaglauer did not give an accurate medical history to her doctors, particularly with respect to her prior injuries. The commissioner further relied on Zaglauer’s varying complaints of pain, and the fact that, when she testified, she failed to remember, until confronted with documentation, her previous injury. Zaglauer also offered contradictory testimony regarding her health issues before the March 2008 fall, and testimony that was at some points inconsistent with the medical record, including her previous depression and whether she was taking opiates for back pain. Consequently, we find there was substantial evidence supporting the commissioner’s finding of a lack of credibility on the part of Zaglauer. Therefore, we affirm the commissioner’s decision, as affirmed by the district court.

AFFIRMED.