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Cite as 2012 Ark. App. 570

ARKANSAS COURT OF APPEALS

DIVISION II
No. CA12-329

LINO SANCHEZ
APPELLANT

V.

PORK GROUP, INC., and TYNET, INC.
APPELLEES

Opinion Delivered October 10, 2012

APPEAL FROM THE ARKANSAS WORKERS' COMPENSATION COMMISSION
[NO. F803408]

AFFIRMED

RITA W. GRUBER, Judge

Lino Sanchez appeals a 2012 decision of the Arkansas Workers' Compensation Commission that denied his claim for additional medical benefits related to a compensable injury. He sustained the injury while working for appellee Pork Group, Inc., at a hog-production farm on March 4, 2008. The Commission found that Mr. Sanchez failed to prove that his low-back problems were causally related to his original compensable injury, as opposed to a motor-vehicle accident of April 12, 2010. Mr. Sanchez contends on appeal that substantial evidence supports his entitlement to additional medical treatment for the 2008 compensable injury.

The issue for the appellate court is not whether the evidence would have supported a contrary finding or whether we might have reached a different result; if reasonable minds could reach the Commission's conclusion, we will affirm. *White v. Frolic Footwear*, 59 Ark. App. 12, 952 S.W.2d 190 (1997). The substantial-evidence standard of review requires us to

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affirm if the Commission's decision displays a substantial basis for the denial of relief. *Frances v. Gaylord Container Corp.*, 341 Ark. 527, 20 S.W.3d 280 (2000); *Williams v. Ark. Oak Flooring Co.*, 267 Ark. 810, 590 S.W.2d 328 (Ark. App. 1979). There may be substantial evidence to support the Commission's decision even though we might have reached a different conclusion had we been sitting as the trier of fact or heard the case de novo. *Maupin v. Pulaski Cnty. Sheriff's Office*, 90 Ark. App. 1, 203 S.W.3d 668 (2005). Applying this standard of review to the case now before us, we affirm the Commission's decision.

Arkansas Code Annotated section 11-9-508(a) (Supp. 2009) requires an employer to promptly provide an injured worker such medical and surgical treatment "as may be reasonably necessary in connection with the injury received by the employee." The employee may be entitled to ongoing medical treatment after the healing period has ended if the treatment is geared toward management of the compensable injury. *Patchell v. Wal-Mart Stores, Inc.*, 86 Ark. App. 230, 184 S.W.3d 31 (2004). The claimant bears the burden of proving entitlement to additional medical treatment. *Id.*

Mr. Sanchez sustained his compensable back injury in March 2008 while attempting to walk down the ramp of a truck where he had spread wood shavings. The same day, his employer sent him to the company doctor, Dr. Vandergriff, who treated him conservatively and released him to work with lifting restrictions. Mr. Sanchez left work the next day because of pain and went to his family physician, Dr. Clemens. Mr. Sanchez continued to receive treatment from Drs. Vandergriff and Clemens and from Dr. DeYoung, a physician in Dr. Clemens's clinic. Mr. Sanchez was referred by Dr. Vandergriff to neurosurgeon Luke

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Knox, who referred him to Dr. Ennis for injections.

At some point, Mr. Sanchez was granted a change of physician to Dr. Blankenship, a neurosurgeon, who treated him conservatively until performing a one-level spine fusion on February 18, 2009. Respondents accepted the 2008 back injury as compensable, accepted and paid for a nine-percent impairment rating by Dr. Blankenship, and paid for treatment by Dr. Vandergriff, Dr. Knox, and pain specialist Dr. Ennis. Other medical care was controverted, and a law judge found in September 2009 that respondents were not liable for the unauthorized medical treatment of Drs. Clemens, DeYoung, and Routsong. In April 2010, the Commission adopted and affirmed the law judge's opinion. The Commission's 2010 decision was not appealed.

Dr. Blankenship noted at a January 14, 2010 follow-up visit that Mr. Sanchez ranked his pain as fifty percent of the worst pain imaginable and reported being laid off from work the previous month; Dr. Blankenship instructed him to return only as needed. On April 12, 2010, Mr. Sanchez was rear-ended while stopped in his car and was taken by ambulance to the local emergency room in Fairview, Oklahoma, where he had moved. Records from the emergency room note a low-speed vehicular accident, a chief complaint of low-back pain, and a history of chronic back pain. Medical treatment afterward, directed by Dr. Blankenship and by Oklahoma physicians, included sessions of physical therapy, an injection, and home exercises.

Respondents controverted Mr. Sanchez's subsequent claim that medical treatment after the car accident was related to the 2008 compensable back injury. Evidence at an October

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12, 2011 hearing before the administrative law judge included Mr. Sanchez's medical records and testimony. The law judge denied the claim in an opinion dated November 9, 2011, which the Commission affirmed and adopted on January 19, 2012.

Mr. Sanchez contends on appeal that the Commission's opinion is not supported by substantial evidence. He argues that it is not logical to conclude that the minor vehicular accident some two years after his compensable injury caused his continuing complaints and need for treatment. He recounts his testimony at the hearing—in which he stated that his pain never completely left after the February 2009 surgery, despite subsiding for a time, and he acknowledged that injections and physical therapy helped. He points to Dr. Blankenship's clinic notes of September 2009, which reported that Mr. Sanchez had pain in the lower back and down the right leg, and of January 2010, which reported previous permanent restrictions, impairment rating, and the persistence of pain, albeit diminished. He notes his own explanation at the hearing that, although his pain continued after the January visit, he did not return to Dr. Blankenship until after the car accident because he (Mr. Sanchez) had lost his job when the hog farm closed and he lacked financial means to pay. He also relies on the April 2010 emergency-room record of his chronic back pain and the low impact, minor vehicular accident.

Mr. Sanchez points to Dr. Blankenship's September 16, 2010 clinic note, which reflects that Mr. Sanchez reported doing fairly well until about three months earlier when right-sided pain increased in his low back, buttock, and leg, and that

> [t]he gentleman states that he was rearended about a month prior to that but didn't have any immediate exacerbation of pain.

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. . . .

> His current pain is in the same distribution as well as his radicular findings, being in the S1 distribution. This would all fit with his work-related injury and radiculopathy that he had.

Finally, he points to Dr. Blankenship's note of November 4, 2010, that Mr. Sanchez had improvement from injections and was continuing to work with the physical therapist. Mr. Sanchez concludes that the opinion of his long-time treating physician, a specialist, should be given great weight concerning causation of continuing pain and need for treatment, and that there is no reasonable explanation other than the work-related injury.

In its opinion, the Commission weighed other evidence against Dr. Blankenship's belief that Mr. Sanchez had no immediate exacerbation of pain after the vehicular accident:

> [T]he medical records contain a physical therapist note dated October 15, 2010. That report states:
>
> > The patient was injured in a work-related accident several years ago which eventually led to surgical procedure. He states he was doing well until approximately six months ago began having back pain again that progressively got worse [sic].
>
> Six months prior to the physical therapist report would have been April 15, 2010, the time period immediately after claimant's motor vehicle accident.
>
> While claimant testified that he has continued to have low back pain, the medical records indicate that claimant was released by Dr. Blankenship on January 14, 2010. Claimant did not seek any additional medical treatment from Dr. Blankenship or any other treating physician for low back complaints until April 12, 2010 when he was taken by ambulance to the emergency room for complaints of low back pain following a motor vehicle accident. At that time the claimant rated his back pain as 8/10. A subsequent physical therapist note dated October 15, 2010 indicates that claimant was doing well until approximately six months earlier when he began having back pain again that progressively worsened. This would have been at the time of the motor vehicle accident.

Based on the evidence summarized above, the Commission assigned little weight to Dr.

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Blankenship's belief that Mr. Sanchez did not have any immediate exacerbation of pain following the motor-vehicle accident, and thus gave little weight to Dr. Blankenship's opinion that the continued pain and need for treatment were causally related to the work-related accident of 2008.

What constitutes reasonably necessary treatment is a question of fact for the Commission, which has the duty to use its expertise to determine the soundness of medical evidence and to translate it into findings of fact. *Hamilton v. Gregory Trucking*, 90 Ark. App. 248, 205 S.W.3d 181 (2005). It is within the Commission's province to weigh all of the medical evidence and to determine what is most credible. *Minn. Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). In reviewing decisions from the Commission, we view the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings. *Cedar Chem. Co. v. Knight*, 372 Ark. 233, 273 S.W.3d 473 (2008). The reviewing court is foreclosed from determining the credibility and weight to be accorded to each witness's testimony. *Id.*

In the present case, the denial of Mr. Sanchez's claim turned on the Commission's interpretation of the medical evidence and its resolution of conflicting medical records regarding pain that continued after the surgery and after the vehicular accident. We hold that, by resolving these conflicts, the Commission's decision displays a substantial basis for the denial of Mr. Sanchez's claim.

Affirmed.

ROBBINS and WYNNE, JJ., agree.

Tolley & Brooks, P.A., by: *Evelyn E. Brooks*, for appellant.

Ledbetter, Cogbill, Arnold & Harrison, LLP, by: *E. Diane Graham* and *Rebecca D. Hattabaugh*, for appellees.