IN THE COMMONWEALTH COURT OF PENNSYLVANIA

County of Allegheny (Sheriff) and UPMC Benefits Management Services, Inc.,	:	
Petitioners	:	No. 311 C.D. 2010
	:	Submitted: August 13, 2010
v.	:	
	:	
Workers' Compensation Appeal Board (Butkus),	:	
Respondent	:	

BEFORE: HONORABLE RENÉE COHN JUBELIRER, Judge
HONORABLE P. KEVIN BROBSON, Judge
HONORABLE ROCHELLE S. FRIEDMAN, Senior Judge

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE BROBSON **FILED:** December 29, 2010

Petitioners County of Allegheny (Sheriff) and UPMC Benefits Management Services, Inc., (collectively referred to as Employer) petition for review of an order of the Workers' Compensation Appeal Board (Board). The Board affirmed a decision and order of a Workers' Compensation Judge (WCJ), dismissing Employer's termination, suspension, and modification petitions and denying the review petition of Claimant Stanley Butkus (Claimant). For the reasons stated below, we affirm.

Claimant filed a claim petition for a September 7, 2006 work-related injury to his left wrist and right ankle that occurred when he fell down the steps

during the course and scope of his employment with Employer. On February 1, 2007, Employer issued a notice of compensation payable (NCP) for temporary total weekly disability benefits. On July 10, 2007, Employer filed petitions to terminate, suspend, and modify compensation benefits. In support of these petitions, Employer averred, in part, that Claimant was fully recovered from his work injury and was able to return to unrestricted work as of February 26, 2007, based upon an independent medical examination (IME) of Claimant by Daniel Kelly Agnew, M.D. (Dr. Agnew), on that date. Employer averred that it offered Claimant his pre-injury job, but Claimant did not return despite being medically cleared by Dr. Agnew. Employer also averred that its request for modification of benefits was based on an offer of modified duty work with a wage loss as of July 2, 2007, within physical capabilities identified by William H. Lenz, D.P.M. (Dr. Lenz). Employer further averred that the surgery on Claimant's right peroneal longus tendon, which was performed subsequent to February 26, 2007, was unrelated to Claimant's work injury. Additionally, Employer also sought to amend the work-related injury from a "left wrist TFCC injury" to a "left wrist sprain."

On August 10, 2007, Claimant filed a review petition, alleging that the NCP should be amended to include a lower back injury. (Reproduced Record (R.R.) at 7a.) On September 10, 2007, a notification of suspension or modification

pursuant to Sections 413(c) and (d) of the Workers' Compensation Act[1] (Act) was issued based upon a notice of ability to return to work.[2] (*Id*. at 374a.) Claimant filed a petition to reinstate Compensation benefits on or about October 12, 2007, based on an alleged worsening of his condition. (*Id*. at 33a.) A WCJ conducted several hearings on Employer's petition to terminate, suspend, and modify compensation and Claimant's review petition.

During the hearings, Employer introduced the deposition testimony of Dr. Agnew, a board certified orthopedic doctor, who conducted IMEs of Claimant on February 26, 2007, and October 22, 2007. (*Id*. at 384a-385a.) Dr. Agnew

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[1] Act of June 2, 1915, P.L. 736, *as amended*, 77 P.S. §§ 774.2 and 774.3. Section 413(c) was added by the Act of July 1, 1978, P.L. 692. Section 413(d) was added by the Act of June 24, 1996, P.L. 350. Sections 413(c) and (d) of the Act permit the employer or insurer, upon written notification to the employee, to suspend or modify compensation during the time the employee has returned to work without or with a wage loss.

[2] Section 306(b)(3) of the Act, 77 P.S. § 512(3), provides, in pertinent part:

> If the insurer receives medical evidence that the claimant is able to return to work in any capacity, then the insurer must provide prompt written notice, on a form prescribed by the department, to the claimant, which states all of the following:
>
> (i) The nature of the employe's physical condition or change of condition.
> (ii) That the employe has an obligation to look for available employment.
> (iii) That proof of available employment opportunities may jeopardize the employe's right to receipt of ongoing benefits.
> (iv) That the employe has the right to consult with an attorney in order to obtain evidence to challenge the insurer's contentions.

reviewed the medical records of Dr. Lenz, who performed surgery on Claimant's ankle on May 8, 2007. (*Id*. at 33a.) Dr. Agnew determined that the surgery performed by Dr. Lenz was not related to Claimant's work injury. (*Id*. at 402a, 407a-408a.) Dr. Agnew noted that two days after Claimant had an MRI on April 2, 2007, Dr. Lenz's records indicate that Claimant had some pain free days and then twisted his ankle again while playing Frisbee with his son. (*Id*. at 402a.) Dr. Agnew testified that he thought it was important that there was a game of Frisbee documented around the time Claimant's new MRI revealed some non-specific changes in Claimant's peroneus longus tendon. (*Id*. at 432a.) Dr. Agnew testified Claimant had fully recovered from his soft tissue injury to his right ankle based on the prior MRI and physical examination findings documented by prior physicians as well as the results of his initial examination of Claimant. (*Id*. at 362a-364a.) Employer issued a notice of ability to return to work based on Dr. Agnew's medical report. (*Id*. at 366a-367a.) On October 22, 2007, Dr. Agnew performed an IME of Claimant's lower back and reevaluated Claimant's right ankle. (*Id*. at 385a.) Dr. Agnew testified that there was no evidence in the medical records to support the contention that Claimant injured his back at work on September 7, 2006. (*Id*. at 430a.)

Employer also presented the testimony of Marc J. Adelsheimer, M.D., Board certified in physical Medicine and Rehabilitation, who also conducted an

IME of Claimant. (*Id*. at 727a-729a.) Dr. Adelsheimer testified that he felt the original injury was the right ankle sprain with an injury to the peroneal tendon. (*Id*. at 744a.) Dr. Adelsheimer testified that Claimant eventually had surgery, and, as a result of the surgery, he developed complex regional pain syndrome.[3] (*Id*. at 744a.) Dr. Adelsheimer viewed Claimant's original MRI and noted there was no damage to any of the tendons or ligaments of the right ankle based on his review of the films. (*Id*. at 730a.) Dr. Adelsheimer noted that Claimant had undergone a second MRI on April 2, 2007, which showed a probable tear of the peroneus lingus tendon. (*Id*. at 736a.) Dr. Adelsheimer testified that based upon his examination, Claimant could perform the clerical worker/modified duty position for Employer. (*Id*. at 745a.) Dr. Adelsheimer placed Claimant on sedentary duty level. (*Id*.)

Testifying in support of his review petition, Claimant stated after he fell down steps while working for Employer, he sustained a left wrist tear and right ankle sprain. (*Id*. at 85a.) Claimant testified he attempted to return to a number of modified work positions, but he was unable to continue working due to swelling of his leg. (*Id*. at 94a-95a.) Claimant testified he sought treatment with Dr. Lenz due to ongoing ankle complaints. (*Id*. at 90a.) Claimant testified Dr. Lenz sent him for

[3] Complex regional pain syndrome is also referred to in the record as reflex sympathetic dystrophy (RSD). (R.R. at 222a.) RSD symptoms are described in the record as an overactivity of the nerves in Claimant's leg. (*Id*. at 228a.)

an MRI and later performed surgery on Claimant on May 8, 2007, to repair his peroneus longus tendon. (*Id*. at 91a-93a., 340a.)

Claimant submitted the medical report of Barbara E. Swan, M.D., in support of his review petition, seeking to expand his injury to include an aggravation of a low back condition. (*Id*. at 213a.) Dr. Swan reported that she had been treating Claimant since 2000 for chronic low back pain due to facet osteopathy and L5-S1 degenerative disc disease. (*Id*.) Dr. Swan noted that Claimant's right ankle injury increased his low back pain due to "gait mechanics" and limitation on his ability to do more strenuous working out. (*Id*. at 214a.) Dr. Swan reported that she did not find that Claimant sustained any permanent or lasting harm or injury to his back as a result of the ankle sprain. (*Id*. at 215a.)

Claimant also presented the deposition testimony of Stephen F. Conti, M.D., a Board certified orthopedic surgeon. (*Id*. at 221a.) Dr. Conti testified he personally reviewed Claimant's October 9, 2007, MRI, which showed scarring around the peroneal tendon. (*Id*. at 227a.) Dr. Conti stated that Claimant had mechanical problems with his ankle and a diffuse overactivity of the nerves in that leg, which he called RSD. (*Id*. at 228a.) He testified that the mechanical problems experienced by Claimant were related to his work injury. (*Id*. at 230a.) He further testified that Claimant's RSD was severe and recommended a spinal cord stimulator that is designed to break the pain impulses to treat Claimant's RSD. (*Id*.

at 233a.) Dr. Conti testified the surgery performed by Dr. Lenz to repair Claimant's peroneal tendon tear was related to Claimant's work injury. He based his conclusion on Dr. Lenz's finding of a peroneal tendon tear. According to Dr. Lenz, when someone suffers an ankle sprain and tears a ligament, such an injury is known to have associated peroneal tendon tears. (*Id*. at 236a-37a.)

By decision and order dated May 27, 2009, the WCJ dismissed Employer's modification, suspension, and termination petitions, concluding that Employer failed to prove that Claimant was fully recovered from his work injury. (*Id*. at 27a-28a.) The WCJ concluded, however, that Claimant was recovered from his left wrist injury. (*Id*. at 28a.) In addition, the WCJ dismissed Claimant's review petition, concluding that Claimant had not submitted evidence to support a back injury. (*Id*. at 28a.)

Employer appealed to the Board. By order dated February 3, 2010, the Board affirmed the WCJ, concluding that the WCJ did not err in relying on the testimony of Dr. Conti. (*Id*. at 65a.) The Board reasoned that the WCJ met the requirements of issuing a reasoned decision and concluded that the record revealed substantial competent evidence to support the WCJ's findings of fact. (*Id*.) Employer filed the subject petition for review with this Court.

On appeal,[4] Employer argues that the Board erred by not addressing the issue of whether the testimony of Claimant's physician, Dr. Conti, was legally competent. Employer further argues that the Board erred in affirming the WCJ's decision and order when the WCJ improperly relied upon incompetent evidence and rejected legally competent evidence. Finally, Employer argues that the Board erred in concluding that the WCJ issued a reasoned decision regarding Claimant's capabilities of working in a modified capacity.

First, Claimant argues that the Board erred in awarding Claimant benefits based upon legally incompetent evidence. Employer maintains that the Board misconstrued Employer's appeal as challenging the WCJ's credibility determinations when, in fact, Employer challenged the legal competency of Dr. Conti's expert testimony. Our review of the Board's opinion reveals that the Board determined that Claimant provided a history of his work injury and past medical care to Dr. Conti, and that Employer's contentions were more in the nature of arguing the weight of the evidence to be considered by the WCJ as the finder of

[4] Our standard of review in a workers' compensation appeal is limited to determining whether an error of law was committed, constitutional rights were violated, or whether necessary findings of fact are supported by substantial evidence. Section 704 of the Administrative Agency Law, 2 Pa. C.S. § 704. We acknowledge our Supreme Court's decision in *Leon E. Wintermyer, Inc. v. Workers' Compensation Appeal Board (Marlowe)*, 571 Pa. 189, 812 A.2d 478 (2002), wherein the Court held that "review for capricious disregard of material, competent evidence is an appropriate component of appellate consideration in every case in which such question is properly brought before the court." *Wintermyer*, 571 Pa. at 203, 812 A.2d at 487.

fact, rather that any proper objection to the legal competency of such testimony as evidence. (*Id.* at 65a.) The Board concluded that substantial competent evidence existed to support the WCJ's findings and that the WCJ committed no error of law. (*Id.*)

"Competency when applied to medical evidence is merely a question of whether a witness's opinion is sufficiently definite and unequivocal to render it admissible." C*erro Metal Prods. v. Workers' Comp. Appeal Bd.* (*Plewa*), 855 A.2d 932, 937 (Pa. Cmwlth. 2004), *appeal denied*, 582 Pa. 678, 868 A.2d 1202 (2005). Where medical testimony is required relating to causation, it must be unequivocal to support an award. *Haney v. Workmen's Comp. Appeal Bd.*, 442 A.2d 1223 (Pa. Cmwlth. 1982). The question of competency of the evidence is one of law and fully subject to appellate review. *Id.* Medical evidence is unequivocal as long as the medical expert, after providing a foundation, testifies that in his professional opinion he believes or thinks the facts exist. *Id.*

Our Supreme Court has held that the medical witnesses' entire testimony must be reviewed and taken as a whole and a final decision should not rest upon a few words taken out of context of the entire testimony. *Farquhar v. Workmen's Comp. Appeal Bd. (Corning Glass Works)*, 515 Pa. 315, 327, 528 A.2d 580, 586 (1987). "While an expert may base his opinion on facts of which he has no personal knowledge, those facts must be supported by evidence of record."

Newcomer v. Workmen's Comp. Appeal Bd. (Ward Trucking Corp.), 547 Pa. 639, 647, 692 A.2d 1062, 1066 (1997).

Inaccurate information will not defeat an expert's opinion as long as the opinion is not dependent upon the inaccuracies. *See Indus. Recision Svcs. v. Worker's Comp. Appeal Bd. (Farbo)*, 808 A.2d 994 (Pa. Cmwlth. 2002). In other words, a medical expert's opinion is not rendered incompetent unless it is solely based on inaccurate or false information. *Casne v. Workers' Comp. Appeal Bd. (Stat Couriers, Inc.)*, 962 A.2d 14, 16 (Pa. Cmwlth. 2008). Such inconsistencies go to the weight and credibility of the evidence, not its competency. *Id*., 962 A.2d at 17. We have explained that "the fact that a medical expert does not have all of a claimant's medical records goes to the weight given the expert's testimony, not its competency." *Marriott Corp. v. Workers' Comp. Appeal Bd.* (*Knechtel*), 837 A.2d 623, 631 n.10 (Pa. Cmwlth. 2003). Moreover, specifically with regard to an expert medical opinion premised on an assumption that the expert received an accurate medical history from the claimant, this Court has stated that "medical causation testimony is not rendered equivocal because it is based on the medical expert's assumption of the truthfulness of the information provided; however, the supposed facts forming the basis of that determination must be proven by competent evidence and accepted as true by the [WCJ]." *Somerset Welding and Steel v.*

Workmen's Comp. Appeal Bd. (Lee), 650 A.2d 114, 118 (Pa. Comwlth. 1994), *appeal denied*, 54 Pa. 652, 659 A.2d 990 (1995).

Employer points out that in reaching his medical opinion, Dr. Conti relied on the medical history as orally provided to him by Claimant and did not review medical records,[5] which Employer contends contradict the history Claimant provided to Dr. Conti. Employer argues that Claimant informed Dr. Conti that he had not sustained any other ankle injuries, but Claimant's medical records establish that Claimant injured his ankle while playing frisbee with his son. This alleged ankle injury occurred *subsequent* to Claimant's work injury and initial MRI (which did not show any problems with the peroneal tendon) and *prior* to the second MRI (which showed a peroneal tendon tear). Employer contends that because Dr. Conti was not aware of the injury that occurred while Claimant was playing frisbee, Dr.

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[5] Dr. Conti testified regarding his knowledge of Claimant's medical records:

> Q. Did you get any records from the physicians who treated him immediately following the September 7, 2006 incident?
>
> A. I don't think so.
>
> Q. So those sets of records help to formulate a medical opinion concerning the history provided to you as to the nature of an injury and the claimant's condition following the injury?
>
> A. Well, it sometimes helps me to answer your questions in deposition, but it doesn't really help me to take care of a patient as a doctor.

(R.R. at 243a.)

Conti based his medical opinion on a false medical history. Employer points to Dr. Conti's statement that, "the only significant trauma I know to Claimant's ankle is the work injury." (R.R. at 238a.)

In support of its argument, Employer relies upon *Newcomer*, wherein the Supreme Court considered whether certain medical testimony was incompetent because it was based on a false medical history. The claimant in *Newcomer* sustained a work-related injury to his abdomen, causing a perforated bowel and torn stomach and chest muscles. Several years later, the claimant experienced shoulder discomfort and told the orthopedic surgeon that his shoulder had been injured in the same workplace accident that caused the injuries to his stomach and chest. The claimant filed a claim for reinstatement of temporary total disability benefits. The orthopedic surgeon testified that in his opinion the claimant's shoulder problem was caused by the workplace accident. The orthopedic surgeon, however, acknowledged that he did not review any of the hospital records relating to the original injury. The WCJ, relying on the testimony of the orthopedic surgeon, found that the shoulder injury was caused by the workplace accident and reinstated the claimant's total disability benefits as well as reimbursement for medical expenses related to the shoulder injury. The Board reversed the award of total disability benefits based upon the rationale that the claimant's medical expert's opinion had no basis in fact and was incompetent as a matter of law

because it was based on a false medical history supplied by the claimant. This Court reversed the Board's order to the extent that it denied the claimant benefits related to his shoulder injury. The Pennsylvania Supreme Court, however, reversed this Court, noting that the claimant did not complain of a shoulder injury until two-and-a-half years after the time of his original work-related injury, and the opinion of the orthopedic surgeon was based on the claimant's false medical history. *Newcomer*, 547 Pa. at 647, 692 A.2d at 1066.

In reaching that conclusion, the Supreme Court in *Newcomer* focused on several significant points. First, the Supreme Court noted that the orthopedic surgeon had not reviewed any of the hospital records relating to the original injury and had not been involved in any of the treatment that immediately followed the injury. Instead, his opinion was based solely on the medical history provided by the claimant. Additionally, the Supreme Court determined that although the claimant told the orthopedic surgeon that his shoulder was injured in the same workplace accident that caused the injuries to his chest, his description of the accident to his surgeon plainly and significantly differed from his earlier descriptions of the workplace accident. Finally, the Supreme Court found it significant that the claimant neither received treatment for nor made mention of a shoulder injury until two-and-a-half years after the workplace accident. The Supreme Court concluded that the claimant had provided a false medical history to

his orthopedic surgeon and that the false medical history was the sole basis for the surgeon's opinion that the shoulder injury was work-related. Under those circumstances, the Supreme Court concluded that the orthopedic surgeon's testimony was incompetent.

Although both *Newcomer* and the case presently before this Court involve a medical opinion as to causation offered by a physician based on the information supplied by a claimant and without benefit of the review of medical records, this is where the similarities end. Specifically, unlike the claimant in *Newcomer*, Claimant in this case did not offer a plainly different description of the workplace accident to Dr. Conti, and Claimant's complaints of ankle problems are not new. To the contrary, Claimant's description of the workplace accident has been consistent and his original injuries included a right ankle injury. For those reasons, *Newcomer* is distinguishable and not controlling in the case now before us.

We agree with the Board that Dr. Conti's testimony was competent. The fact that Dr. Conti did not review all of the medical records and did not know of every incident affecting Claimant ankle following Claimant's initial work injury does not render his testimony incompetent as a matter of law. Dr. Conti reasonably relied on Claimant's recitation of his medical history as it related to the ankle history. Unlike in *Newcomer*, we cannot conclude that the medical history

provided by Claimant was blatantly false, nor can we conclude that Dr. Conti's opinion was dependent on inaccurate information such as to render it incompetent. While the medical history provided by Claimant could have been more complete, any deficiencies in that area go to the weight of Dr. Conti's opinion and not its competency. *See Marriott Corp.*, 837 A.2d at 631 n.10. Additionally, the facts relied upon by Dr. Conti in reaching his medical opinion were consistent with the findings of the WCJ.[6] *See Somerset Welding and Steel*, 650 A.2d at 118. Viewing Dr. Conti's testimony in its entirety, we cannot conclude it is incompetent.

Next, Employer argues that the Board erred in affirming the WCJ's decision and order by relying improperly upon the incompetent opinion of Dr. Conti to reject the competent opinion of Dr. Adelsheimer. A WCJ may not rely upon incompetent evidence to reject competent evidence. *U.S. Steel Mining Co. v. Workers' Comp. Appeal Bd. (Sullivan)*, 859 A.2d 877 (Pa. Cmwlth. 2004). Because we have concluded that Dr. Conti's testimony was competent, there can be no merit to Employer's argument that the WCJ relied upon incompetent evidence to reject legally competent evidence.

Finally, we will address Employer's argument that the Board erred in concluding that the WCJ issued a reasoned decision regarding Claimant's

[6] We note that there was no finding by the WCJ that Claimant injured his ankle while playing frisbee subsequent to his work injury, and we further note that Employer's other expert medical witness, Dr. Adelsheimer, makes no reference of such an event in his testimony either.

capabilities of working in a modified capacity. Section 422(a) of the Act, 77 P.S. § 834, imposes a requirement that a WCJ explain the rationale for her decision and the reasons for rejecting or discrediting competent evidence. Section 422 (a) of the Act provides that parties in a workers' compensation case are entitled to a reasoned decision.[7] Section 422(a) of the Act does not require the WCJ to discuss all of the evidence presented. *Dorsey v. Workers' Comp. Appeal Bd.* (*Crossing Construction Co.*), 893 A.2d 191, 195 (Pa. Cmwlth. 2006), *appeal denied*, 591 Pa. 667, 916 A.2d 635 (2007). Nonetheless, where medical experts testify by deposition, a WCJ's resolution of conflicting evidence must be supported by more than a statement that one expert is deemed more credible that another. *Id.* at 194-95. The WCJ must articulate an objective basis for the credibility

[7] Section 422(a) of the Act provides, in pertinent part:

> All parties to an adjudicatory proceeding are entitled to a reasoned decision containing findings of fact and conclusions of law based upon the evidence as a whole which clearly and concisely states and explains the rationale for the decisions so that all can determine why and how a particular result was reached. The workers' compensation judge shall specify the evidence upon which the workers' compensation judge relies and state the reasons for accepting it in conformity with this section. When faced with conflicting evidence, the workers' compensation judge must adequately explain the reasons for rejecting or discrediting competent evidence. Uncontroverted evidence may not be rejected for any reason or for an irrational reason; the workers' compensation judge must identify that evidence and explain adequately the reasons for its rejection. The adjudication shall provide the basis for meaningful appellate review.

determination. *Id*. A decision is reasoned "if it allows for adequate review by the appellate courts under applicable review standards." *Daniels v. Workers' Comp. Appeal Bd. (Tristate Transport)*, 574 Pa. 61, 76, 828 A.2d 1043, 1052 (2003). This means that where the WCJ considers medical testimony given by deposition, the WCJ must explain her credibility determination. *Id*. at 78, 828 A.2d at 1053.

Section 422(a) of the Act, however, does not permit a party to challenge or second guess the WCJ's reasons for credibility determinations. *Id*., 828 A.2d at 1053. A reasoned decision does not require the WCJ to give a line-by-line analysis of each statement by each witness, explaining how a particular statement affected the ultimate decision. *Id.*, 828 A.2d at 1053. It is well established in Pennsylvania that the WCJ is the ultimate finder of fact and the exclusive arbiter of credibility and evidentiary weight. *Thompson v. Workers' Comp. Appeal Bd.* (*USF&G Co.*), 566 Pa. 420, 426-427, 781 A.2d 1146, 1150 (2001), *appeal denied*, 572 Pa. 717, 813 A.2d 848 (2002).

Employer asserts that all evidence of record supports the fact that Claimant was capable of working in a modified duty capacity under sedentary duty restrictions. Employer argues the WCJ failed to base her decision on sufficient competent evidence of the record by failing to state and explain the rational for her decision. Employer also argues that the Board erred in finding the WCJ issued a reasoned opinion because the WCJ failed to address the issue of whether Claimant

was capable of performing the modified duty work made available by Employer. In furtherance of its argument, Employer directs us to the testimony of Dr. Adelsheimer, which the WCJ found to be not credible. Employer also points to a document submitted during the deposition of Dr. Conti, suggesting that one of Claimant's other treating physician's, Abraham Kabazzie, M.D., had opined that Claimant could work in a sedentary capacity.

On this question, the WCJ summarized and discussed the witnesses' testimony. The WCJ found Dr. Conti's testimony more credible than Dr. Agnew's because he had additional credentials regarding treatment of the foot, ankle, and lower legs. (R.R. at 27a.) The WCJ found that Claimant was not fully recovered from his work injury based upon Dr. Conti's testimony that Claimant had mechanical problems of the ankle and based upon Dr. Adelsheimer's testimony that Claimant has ongoing ankle problems and RSD. (*Id.*) The WCJ also accepted Dr. Conti's opinion that the surgery performed by Dr. Lenz was related to the work injury and the RSD was related to the surgery. (*Id*.) The WCJ accepted "the opinions of Dr. Conti that [Claimant] was unable to perform the modified duty employment because of his medication and treatment."[8] (*Id.*) The WCJ noted the

[8] With respect to Claimant's work abilities, the WCJ found that Dr. Conti testified that Claimant "could have done sedentary duty, but because he has such severe RSD even sedentary duty would be difficult." The WCJ further found that Dr. Conti "explained that sedentary duty would be difficult, because the leg tends to swell and [he is] on enough that [he] cannot concentrate for any period of time at any kind of clerical position." (R.R. at 26a.)

modified duty positions were made available to Claimant close in time to when he underwent surgery by Dr. Lenz and began treatment for RSD, and that Claimant will be capable of returning to modified duty work at some point with Employer. (*Id*.)

In affirming, the Board acknowledged that a decision is reasoned for purposes of Section 422(a) of the Act if it allows for adequate review without further elucidation and it allows for adequate appellate review. (*Id.* at 64a.) The Board determined that the WCJ met the reasoned decision requirements and did not commit an error of law in relying on the testimony of Dr. Conti. (*Id*. at 65a.) We agree with the Board.

Dr. Conti, a board certified orthopedic surgeon, began treating Claimant, obtained a history from Claimant, and determined that Claimant had not fully recovered from his work-related injury and was presently incapable of any type of employment, including the offered modified duty position. (*Id*. at 63a.) Dr. Conti opined that he believed Claimant was capable of returning to work ten to twelve months following spinal cord stimulator treatment. (*Id*.) The WCJ was free to accept the testimony of Dr. Conti over the contradictory testimony of Dr. Adelsheimer. Moreover, as the WCJ was not required to address each and every bit of evidence presented, we cannot conclude that the WCJ's failure to mention a report by a non-testifying physician that reaches a contrary opinion as to

Claimant's ability to perform modified work that was submitted during cross-examination of Dr. Conti, constitutes a failure to issue a reasoned decision. Again, the WCJ is not required "to give a line-by-line analysis of each statement by each witness explaining how a particular statement affected the ultimate decision." *Gumm v. Workers' Comp. Appeal Bd. (Steel)*, 942 A.2d 222, 228 (Pa. Cmwlth. 2008).

When considered in entirety, we do not believe the evidence of record requires a determination that the WCJ failed to issue a reasoned decision. The WCJ's decision is adequate and allows for meaningful appellate review, and, as such, it meets the requirements of a reasoned decision under Section 422(a) of the Act. *Daniels*, 574 Pa. at 76, 828 A.2d at 1052.

Accordingly, we affirm the Board's order.

P. KEVIN BROBSON, Judge

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

County of Allegheny (Sheriff) and UPMC Benefits Management Services, Inc.,	:	
Petitioners	:	No. 311 C.D. 2010
v.	:	
Workers' Compensation Appeal Board (Butkus),	:	
Respondent	:	

O R D E R

AND NOW, this 29th day of December, 2010, the order of the Workers' Compensation Appeal Board, dated February 3, 2010, is AFFIRMED.

P. KEVIN BROBSON, Judge