2013 IL App (2d) 120424WC-U

NO. 2-12-0424WC

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

WORKERS' COMPENSATION COMMISSION DIVISION

SUNRISE ASSISTED LIVING,	)	Appeal from the
	)	Circuit Court of
Appellant,	)	Lake County.
	)	
v.	)	No. 11-MR-1348
	)	
ILLINOIS WORKERS' COMPENSATION	)	
COMMISSION, (Heather Banach),	)	Honorable
	)	Jorge L. Ortiz,
Appellees.	)	Judge, presiding.

JUSTICE STEWART delivered the judgment of the court.
Presiding Justice Holdridge and Justices Hoffman, Hudson and Harris concurred in the judgment.

ORDER

¶ 1 *Held:* The Commission's finding that the claimant's medical condition, which resulted in surgical intervention to her spine, was causally connected to her work accident is not against the manifest weight of the evidence. The Commission's decision that the claimant's medical bills were reasonable and necessary and causally connected to her work injuries is not against the manifest weight of the evidence. The Commission's award of temporary total disability benefits is not against the manifest weight of the evidence. The Commission's award of permanent partial disability benefits based on the claimant's loss of 45% of the person as a whole is not against the manifest weight of the evidence.

¶ 2 The claimant, Heather Banach, filed a claim against her employer, Sunrise Assisted Living, seeking benefits pursuant to the Workers' Compensation Act (Act) (820 ILCS 305/1 *et seq.* (West 2010), for a work-related injury that occurred on March 6, 2007. On June 17, 2010, the arbitrator entered a decision finding that the claimant's injury arose out of and in the course of her employment and that her current condition of ill-being was causally related to the accident. The arbitrator awarded her temporary total disability (TTD) benefits in the amount of $250 per week for 107 5/7 weeks (from April 16, 2007, through May 9, 2009), permanent partial disability (PPD) benefits in the amount of $225 per week for 225 weeks "because the injuries sustained caused the permanent partial disability to her person as a whole to the extent of 45% thereof," and ordered the employer to pay reasonable and necessary medical expenses of $322,921.78. On July 5, 2011, the Workers' Compensation Commission (Commission) affirmed and adopted the arbitrator's decision. On review, the circuit court of Lake County confirmed the Commission's decision. The employer filed a timely notice of appeal to this court.

¶ 3 BACKGROUND

¶ 4 The facts recited are derived from the arbitration hearing conducted on May 25, 2010. On March 6, 2007, the claimant, who was then 31 years old[1], was working as a certified nursing assistant (CNA) for the employer at its elderly care facility in Gurnee, Illinois. In addition to working for the employer, the claimant was also attending college and planning to become a registered nurse. The claimant testified that she was transferring a patient who weighed 300 pounds, and in the process, the patient pulled her, and, afterwards, her back was sore. The claimant did not seek medical attention that day. The claimant said that she had not had any difficulties with her back before this incident. The employer introduced medical records from before the claimant's work injury showing that she had inquired over several years about the possibility of breast reduction surgery in part to alleviate back pain.

¶ 5 The next day, March 7, 2007, the claimant sought medical attention at the Northern Lake Medical facility, where Dr. Robert Rhey, a chiropractor, treated her. On March 8, 2007, the claimant was still sore, so she reported her injury to her supervisor. The employer sent her to Gurnee Occupational Health, where she was diagnosed with acute low back pain. Gurnee Occupational Health referred her to Dr. David Zoellick.

[1] We note that the arbitrator found that the claimant was 32 years old on the date of the accident. However, her date of birth is March 26, 1975, making her 31 years old on March 6, 2007.

¶ 6 On March 22, 2007, Dr. Zoellick wrote a letter to the employer's claims examiner. In that letter, Dr. Zoellick stated that he had evaluated the claimant for a low back injury that occurred at work on March 6, 2007. Dr. Zoellick said that the claimant had told him that she had been working for the employer for about one and one-half years, and on March 6, 2007, she helped transfer a patient weighing over 300 pounds, and at the end of that day, she had pain in her back. She did not have any pain before going to work that day. Dr. Zoellick reviewed the claimant's x-rays, found that her overall alignment was normal, and found no evidence of a fracture, spondylolysis, or spondylolisthesis. He stated that his impression was that the claimant suffered a lumbar myofascial strain at work on March 6, 2007. He recommended that she wear a lumbar corset, continue with physical therapy, and continue working at light duty with a 15 pound lifting restriction.

¶ 7 On April 5, 2007, Dr. Zoellick re-evaluated the claimant. He found that she had increasing left lower extremity radicular complaints and recommended that she remain off work. He ordered a magnetic resonance imaging (MRI) test of her lumbar spine. On April 12, 2007, the claimant underwent the MRI, which Dr. Zoellick reviewed that day. He found that the MRI showed a bulging disk at L4-5 as well as possible annular tear at L5-S1. He recommended that she continue with physical therapy and remain off work.

¶ 8 On April 16, 2007, Dr. Marvin Fetter sent a letter to Dr. Rhey, stating that he had evaluated the claimant. Dr. Fetter stated that the claimant told him that she had been assisting a 300 pound patient and experienced a sudden onset of low back pain. Dr.

Fetter reviewed the claimant's March 7, 2007, x-ray, which he found to show "no evidence of osseous abnormalities." Dr. Fetter also reviewed the claimant's April 2007 MRI, from which he noted a "small central disk protrusion L4-L5, butting the origins of L5 nerve roots, no stenosis, small cental protrusion L5-S1 associated with small annular tear, patent foramina." His impression was that the claimant suffered from a lumbosacral strain. He advised her not to work as a CNA and asked Dr. Rhey to refer her to an anesthesia pain management specialist.

¶ 9 Dr. Michael Kornblatt evaluated the claimant at the employer's request on May 24, 2007. In a written report, Dr. Kornblatt noted that, on March 6, 2007, the claimant was assisting with the transfer of a 300 pound patient, and later that day noticed pain in her back. The claimant had been treated by a chiropractor and was participating in physical therapy. When the claimant returned to work after the injury, she was placed on light duty. At the time of Dr. Kornblatt's examination, the claimant complained of "central low back pain which related to the left and into the left buttock, thigh, and into her leg." Dr. Kornblatt stated that her pain was worse with a change of position from sitting to standing or vice versa, that she could walk with low back pain, and that she had back pain with twisting or bending.

¶ 10 Dr. Kornblatt stated that, in his opinion, the claimant "suffered a lumbosacral strain at the time of her work-related injury." He found that her April 12, 2007, MRI was "consistent with mild early degenerative disc disease." He did not find any surgical

indications and recommended that she perform aerobic and low back stabilization exercises. He thought she should receive only one epidural steroid injection, that she should discontinue treating with her chiropractor, and that she should "undergo aggressive physical therapy three times per week over the next two weeks, and then be enrolled in a work hardening program for three more weeks." He stated that when the claimant finished the work hardening program, she could then resume "full gainful employment without restrictions." He did not anticipate permanent disability as a result of her injury and predicted that she would reach maximum medical improvement (MMI) "upon completion of the work hardening program, which should take place within the next six weeks."

¶ 11 On August 23 and 24, 2007, the claimant participated in a basic work capacity assessment at Vista Health. In a report, the therapists who conducted the assessment wrote that the claimant had "demonstrated functional tolerances in the sedentary/light physical demand level with reports of high moderate to intense pain levels in the left low back and buttock region." The therapists recommended the claimant participate in a work hardening program for six weeks, which should focus on increasing her strength, flexibility, and capacity for the demands of her job as a CNA. They acknowledged that, in order for the claimant to work as a CNA, she would have to be able to perform at a medium physical demand level.

¶ 12 The claimant testified that instead of attending the work hardening program, she

went to see Dr. Jonathan Citow, a neurosurgeon. On September 21, 2007, Dr. Citow examined her and reviewed her records, including the April 2007 MRI, which he found remarkable for "central L4-5 and L5-S1 disc herniations with moderate stenosis." He noted that the claimant had sustained a work-related back injury on March 6, 2007, while lifting a heavy patient. He found that she had "already tried all conservative measures" but remained "quite dysfunctional due to her pain." He recommended surgical intervention in the form of a spinal fusion, specifically an "L4-S1 stabilization with peek rods to prevent further deterioration down the road."

¶ 13 On November 1, 2007, Dr. Kornblatt again evaluated the claimant at the employer's request. This time, he reviewed the work capacity assessment conducted in August 2007 and Dr. Citow's report of the September 21, 2007, examination. Dr. Kornblatt disagreed that the claimant required a spinal fusion or any other surgery. Instead, he recommended that she participate in a work hardening program and then "undergo a functional capacity evaluation and resume gainful employment" consistent with the results of that evaluation. He again stated that he believed the claimant would reach MMI with respect to her work injury "upon completion of the work hardening program." He noted, "There is no permanent disability as a result of the work related lumbosacral strain."

¶ 14 On April 11, 2008, the claimant underwent another MRI of her lumbar spine. On April 18, 2008, the claimant saw Dr. Citow, who stated that she continued to suffer from

severe back and buttock pain but no distal pain, numbness, weakness, or paresthesias. Dr. Citow stated that he strongly disagreed with Dr. Kornblatt's opinion that the claimant should not have surgery but should only participate in a work hardening program. Dr. Citow noted that the claimant had "obvious disc herniations and back pain" and that Dr. Kornblatt had performed disc fusions on many other "patients with the exact same presentation." Dr. Citow stated that he was "curious what motivates [Dr. Kornblatt] to suggest that this patient who obviously needs surgical intervention should not be treated." Dr. Citow again recommended that the claimant have "an L4-S1 fusion."

¶ 15 Dr. Kornblatt re-evaluated the claimant at the employer's request on May 22, 2008, and again on July 3, 2008. In his report dated July 3, 2008, Dr. Kornblatt stated that he had reviewed the claimant's April 11, 2008, MRI. He did not find any changes as compared to her April 12, 2007, MRI but found that both MRIs revealed "disc desiccation L4-5 and L5-S1 with small central L4-5 and L5-S1 annular protrusions without herniated disc, spinal stenosis or nerve root impingement."

¶ 16 On September 16, 2008, Dr. Citow performed an L4-S1 fusion surgery on the claimant. The claimant testified that the employer terminated her two days before this surgery. After the surgery, the claimant followed up with Dr. Citow. On December 19, 2008, Dr. Citow reported that a lumbar spine x-ray demonstrated that the screws, the rods, and the L4-5 cage placed in the claimant's back remained in the appropriate locations but that the L5-S1 cage had "migrated posteriorly into the canal." He noted that he explained

to the claimant that "if her symptoms were not bothersome," she could wait on surgical intervention to repair the cage migration problem. However, the claimant reported that she had significant leg pain, and Dr. Citow doubted that she would improve with conservative measures.

¶ 17 On February 3, 2009, Dr. Citow performed a second surgery on the claimant to repair recurrent L4 through S1 instability with cage migration. On February 27, 2009, the claimant followed up with Dr. Citow, who reported that she had "recovered nicely with relief of all of the sciatic pain she had prior to surgery," although she continued to have some numbness of the left lateral foot. On May 8, 2009, Dr. Citow allowed the claimant to begin physical therapy and attempt to resume full activities. On May 9, 2009, the claimant began working full time on light duty for Autozone, where she answered the phone and waited on customers.

¶ 18 By August 2009, the claimant was still experiencing numbness in her left foot and pain in the left leg. Dr. Citow ordered an MRI of the claimant's left hip. That MRI was conducted on August 25, 2009. Dr. Citow reviewed the MRI and found "no significant pathology that would require any specific intervention."

¶ 19 On September 17, 2009, Dr. Kornblatt re-evaluated the claimant on behalf of the employer. He noted that the claimant had undergone a spinal fusion surgery and a second surgery to repair the recurrent L4 through S1 instability with cage migration. Dr. Kornblatt stated his opinion that the claimant reached MMI "regarding the work related

lumbosacral strain at the latest by six months post injury." He stated that the fusion surgery and subsequent repair performed by Dr. Citow was unrelated to the work incident of March 6, 2007. Dr. Kornblatt acknowledged, however, that he felt the claimant would have "permanent restrictions regarding lifting, pushing, and pulling because of the history of having undergone two extensive lumbar spine fusions within a one-year period of time."

¶ 20 On February 23, 2010, the claimant participated in a functional capacity evaluation. The evaluator reported that the claimant's former job duties as a CNA required her to work at the medium physical demand level, meaning that she needed to be able to lift up to 50 pounds occasionally. However, at the time of this evaluation, the claimant could only perform up to the light physical demand level and was found capable of occasionally lifting and carrying no more than 20 pounds. The evaluator noted that the claimant had consistently reported low back pain with all lifting and balancing activities, whether she was sitting or standing.

¶ 21 On April 9, 2010, Dr. Citow determined that the claimant had reached MMI but continued to have persistent numbness in her left lateral foot. He stated that her restriction of working only up to the light duty level was likely to be permanent and that it was not likely that she would be able to pursue nursing school due to that restriction.

¶ 22 The claimant testified that she was able to do her job at Autozone but that she continued to have problems with simple tasks. She said that her left foot was numb from

two of her toes all the way to the back of her leg, which constantly caused her to stumble into things. She testified that she could not bend over, such as to drink water from a fountain, because it caused "very bad shooting pain." She could not vacuum, could perform only very limited twisting motions, had very limited mobility, and could sit in a car or elsewhere for no more than one hour. She noted that when the weather changed, especially when it was raining or humid, her symptoms worsened, and she had to stay in bed. She testified that she took Norco (a "painkiller"), Ibuprofen, and Naproxen every day, that she took a muscle relaxer as needed, and that she wore a Flexeril patch when the pain was unbearable.

¶ 23 In support of the awards of TTD benefits, PPD benefits, and the payment of the claimant's medical bills, the arbitrator found that Dr. Kornblatt had evaluated the claimant at the employer's request but that his findings contradicted "those of the treating physicians and the many tests performed, and as such are not deemed reliable enough" for her to rely upon in making her decision. The arbitrator found that the claimant's condition of ill-being of the lumbar spine along with the medical care rendered, including the two surgeries performed by Dr. Citow, was causally related to her work injuries of March 6, 2007. The arbitrator found that all of the medical bills the claimant submitted were for "reasonable and necessary medical care and treatment designed to cure or relieve the condition of ill-being as a result of this accidental injury." The arbitrator found that the claimant could work only on a light duty basis, which she based on Dr. Citow's surgeries,

the claimant's final functional capacity evaluation, the claimant's testimony about her abilities and limitations, and the fact that the medical restrictions Dr. Citow imposed were not being exceeded by her job duties at Autozone. The arbitrator determined that all of the claimant's conditions of ill-being were permanent in nature and indicated a loss of use of 45% of the person as a whole.

¶ 24 The Commission unanimously affirmed and adopted all of the arbitrator's decision, and the circuit court confirmed the Commission's decision. This appeal followed.

¶ 25 ANALYSIS

¶ 26 All of the issues raised in this appeal present questions of fact. It is the province of the Commission to resolve all disputed questions of fact, to judge the credibility of the witnesses, to draw reasonable inferences from the testimony, and to determine what weight to give each witnesses' testimony. *Setzekorn v. Industrial Comm'n*, 353 Ill. App. 3d 1049, 1055, 820 N.E.2d 586, 591 (2004). "It is within the prerogative of the Commission to decide disputed issues of fact involving diverse medical opinions, including those of causal connection." *International Harvester v. Industrial Comm'n*, 93 Ill. 2d 59, 64, 442 N.E.2d 908, 911 (1982). Determining the nature and extent of the claimant's injury is primarily the Commission's responsibility, and its findings will not be set aside unless they are contrary to the manifest weight of the evidence. *Wallace v. Industrial Comm'n*, 98 Ill. 2d 33, 36, 455 N.E.2d 92, 94 (1983). For a finding of fact to be against the manifest weight of the evidence, an opposite conclusion must be clearly

apparent. *Ming Auto Body/Ming of Decatur, Inc. v. Industrial Comm'n*, 387 Ill. App. 3d 244, 257, 899 N.E.2d 365, 378 (2008). "If there is sufficient factual evidence in the record to support the Commission's determination, it will not be set aside on appeal." *Id.*

¶ 27 The employer first argues that the claimant failed to establish that her medical condition which resulted in surgical intervention was causally related to her work accident. The employer asserts two grounds in support of this argument. First, the employer contends that the claimant's testimony that she did not have back pain before her March 6, 2007, work accident was "absolutely refuted" by her medical records dating back to several years before the accident showing that she had inquired about the possibility of breast reduction surgery. This argument is not persuasive because the medical records do not refute the claimant's testimony but merely indicate that she experienced some problems, including back pain, that she believed could be alleviated by breast reduction surgery. There is no testimony or any other evidence linking the information in the earlier records to the problems she experienced after the work accident. Additionally, there is nothing in the earlier records to show that the claimant's complaints before the work accident were the same as those after the work accident. Notably, although counsel for the employer was prepared to admit these records at the arbitration hearing, he failed to ask the claimant any questions about them on cross examination. Without some evidence linking the earlier complaints to her demonstrated back problems after the work accident, the Commission's decision to rely on the claimant's testimony that

she did not have back problems before the work accident is not against the manifest weight of the evidence.

¶ 28 "To obtain compensation under the Act, a claimant must show by a preponderance of the evidence that he or she has suffered a disabling injury arising out of and in the course of his or her employment. *Land and Lakes Co. v. Industrial Comm'n*, 359 Ill. App. 3d 582, 591-92, 834 N.E.2d 583, 591 (2005). In order to prove that the injury arose out of his or her employment, a claimant "need prove only that some act or phase of his or her employment was a causative factor in his or her ensuing injury." *Id.* at 592, 834 N.E.2d at 592. "An accidental injury need not be the sole or principal causative factor, as long as it was a causative factor in the resulting condition of ill-being." *Id.* The evidence that the claimant complained of back pain before her work accident does not preclude a finding by the Commission that the injury she received while helping to move a 300 pound patient was a causative factor in her resulting condition of ill-being.

¶ 29 The employer also argues that the claimant "offered no expert opinions to show that her condition that eventually warranted surgery was in any way related to her claimed work injury." This argument is also without merit. Dr. Zoellick found that the claimant suffered a lumbar myofascial strain at work on March 6, 2007. When the claimant did not respond to conservative treatments, and her pain progressed to include a radicular component, he ordered an MRI, which revealed a bulging disk at L4-5 and a possible annular tear at L5-S1. Dr. Fetter later reviewed the same MRI and determined that it

showed a small central disk protrusion at L4-5 and a small central protrusion associated with an annular tear at L5-S1. Finally, Dr. Citow found central L4-5 and L5-S1 disk herniations and, as a result, recommended that the claimant undergo spinal fusion surgery. Dr. Citow strongly disagreed with Dr. Kornblatt's opinion that the claimant should not have any surgery to treat her back problems. Dr. Citow, after noting the history of her work injury, specifically stated that the claimant had "obvious disc herniations and back pain," necessitating spinal fusion surgery. The second spinal fusion surgery was required to repair problems that occurred after the first surgery.

¶ 30 Apparently, the employer argues that the medical records of Dr. Zoellick, Dr. Fetter, and Dr. Citow which connect the claimant's back problems to her March 6, 2007, work injury are insufficient to overcome Dr. Kornblatt's opinion that the claimant needed only work hardening physical therapy in order to achieve MMI and be able to return to work full duty as a CNA. "Proof of prior good health and change immediately following and continuing after an injury may establish that an impaired condition was due to the injury." *Navistar International Transportation Corp. v. Industrial Comm'n.*, 315 Ill. App. 3d 1197, 1205, 734 N.E.2d 900, 906 (2000). "A causal connection between work duties and a condition may be established by a chain of events including petitioner's ability to perform duties before the date of the accident and inability to perform the same duties following that date." *Darling v. Industrial Comm'n.*, 176 Ill. App. 3d 186, 193, 530 N.E.2d 1135, 1140 (1988).

¶ 31 The claimant presented substantial evidence that she was able to perform her work duties prior to the March 6, 2007, injury but was unable to do so after that date. The medical records of her treating physicians reveal a consistent history of her injury, progressive treatment from physical therapy and other conservative measures to surgery, and diagnostic testing supporting the need for a surgical fusion. While Dr. Kornblatt opined that the surgery was not necessitated by the claimant's injury, the Commission was free to reject his opinion in light of the chain of events set forth in the treatment records. "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." *Land and Lakes Co. v. Industrial Comm'n.*, 359 Ill. App. 3d 582, 592, 834 N.E.2d 583, 592 (2005). "The test is whether the evidence is sufficient to support the Commission's finding, not whether this court or any other tribunal might reach an opposite conclusion." *Id.* There is sufficient evidence of record to support the Commission's determination that the claimant's condition of ill-being and her subsequent medical treatment were causally connected to her work injury.

¶ 32 The employer next asserts that the claimant failed to establish that her medical bills were necessary and causally connected to her work injury. The Commission awarded the claimant $322,921.78 for her reasonable and necessary medical bills. The employer did not object to the introduction of the claimant's medical bills, but objected to liability on the grounds of reasonableness, necessity, and causation. The arbitrator admitted the

medical bills and accepted the bills as reasonable because they had been adjusted to conform to the fee schedule of section 8.2 of the Act. 820 ILCS 305/8.2 (West 2010). As to necessity and causation, the arbitrator relied on her earlier findings that the claimant's condition of ill-being was causally related to her work injury. The Commission adopted and affirmed the arbitrator's decision. In support of its award of the payment of the claimant's medical bills, the Commission relied on the records of Dr. Zoellick, Dr. Fetter, and Dr. Citow, which established a causal connection between the claimant's work accident and her back injury and subsequent medical treatment.

¶ 33 The employer complains that the only evidence the claimant offered on the medical bills was her own testimony that the bills were unpaid. The employer acknowledges that the medical bills were adjusted according to the fee schedule and thus are presumptively reasonable. However, the employer argues that, in order to show that her medical bills were not only reasonable but also necessary, the claimant was required to establish a foundation that the bills were related to the claimed accident.

¶ 34 In *Shafer v. Illinois Workers' Compensation Comm'n*, 2011 IL App (4th) 100505WC, 976 N.E.2d 1, the court affirmed the Commission's finding of causal connection based upon a chain of events analysis. *Id.* at ¶39, 976 N.E.2d at 13. In that case, as here, the employer also argued that the claimant failed to present testimony or other evidence suggesting that her medical expenses were reasonable, necessary, or causally connected to her injuries. *Id.* at ¶51, 976 N.E.2d at 16. The court in *Shafer*

rejected the employer's argument that the evidence was insufficient to support the medical bills award. "Whether medical expenses are reasonable and necessary is a question of fact for the Commission, and the Commission's determination will not be overturned unless it is against the manifest weight of the evidence." *Id.* The court held that the medical records documenting the claimant's treatment were sufficient proof that the medical bills were necessary and causally connected to her work-related injury. *Id.*

¶ 35 As in *Shafer*, we also disagree with the employer in this case. Here, the claimant's medical records documented her back injury, the pain and disability she suffered as a result, and the medical procedures that her doctors believed were necessary and appropriate to treat her pain and injuries. The employer did not present any evidence except the opinion of Dr. Kornblatt to suggest that the services rendered were not necessary, and the Commission was free to disregard that testimony as unreliable. The Commission's decision on the issue of which medical bills are reasonable and necessary will not be overturned unless against the manifest weight of the evidence. *F & B Manufacturing Co. v. Industrial Comm'n*, 325 Ill. App. 3d 527, 534, 758 N.E.2d 18, 24 (2001). Based on our review of the record, we do not find that the Commission's award of medical expenses in the amount of $322, 921.78 is against the manifest weight of the evidence.

¶ 36 The employer finally argues that the Commission's awards of TTD and PPD are against the manifest weight of the evidence, but the employer essentially concedes in its

brief that these arguments do not stand on their own. Instead, the employer argues that the Commission's decisions awarding TTD and PPD benefits should be reversed if we find for the employer on its previous arguments. Since we have rejected those arguments, we need not address the employer's companion arguments that the TTD and PPD awards are against the manifest weight of the evidence. However, for the sake of clarity, we will briefly address those issues.

¶ 37 A worker who has been injured in the course and scope of her employment is temporarily and totally disabled from the time the injury incapacitates her until such time as she is as far recovered or restored as the permanent character of her injury will permit. *Archer Daniels Midland Co. v. Industrial Comm'n*, 138 Ill. 2d 107, 118, 561 N.E.2d 623, 627 (1990). Determination of the time during which a worker is temporarily totally disabled presents a question of fact to be resolved by the Commission, whose decision will not be disturbed unless it is against the manifest weight of the evidence. *Id.* at 118-19, 561 N.E.2d at 627-28. In the case at bar, all of the medical evidence, except Dr. Kornblatt's opinion, supports the Commission's determination that the claimant was entitled to TTD benefits from April 16, 2007, which was the date Dr. Fetter first told the claimant that she could no longer work, until May 9, 2009, which was the day after Dr. Citow found the claimant to be at MMI and on which she began working full time for Autozone.

¶ 38 As to the award of PPD benefits, the Commission found that the claimant was

entitled to 225 weeks of benefits due to a loss of 45 % of the person as a whole. The Commission based its permanency award on Dr. Citow's testimony that the claimant was only capable of light duty work, which he based on the surgeries he performed and the final functional capacity evaluation. The Commission also relied on the evidence that the claimant's work at Autozone was within her light duty capabilities and her testimony that she could no longer perform the heavy lifting required of a CNA. We also note that Dr. Citow determined that the claimant's on-going disability made her plan of continuing her nursing education and furthering her career in that field unlikely. All of that evidence supported the Commission's award of PPD benefits. The nature and extent of a claimant's permanent disability is a question of fact to be resolved by the Commission, whose finding is entitled to substantial deference and will not be disturbed on appeal unless it is against the manifest weight of the evidence. *Baumgardner v. Illinois Workers' Compensation Comm'n*, 409 Ill. App. 3d 274, 278-79, 947 N.E.2d 856, 860 (2011). The Commission's decision awarding the claimant PPD benefits in the amount of $225 per week for 225 weeks based on a loss of the use of 45% of the person as a whole is not against the manifest weight of the evidence.

¶ 39 CONCLUSION

¶ 40 For the foregoing reasons, we affirm the judgment of the circuit court of Lake County confirming the decision of the Commission.

¶ 41 Affirmed.