

ARKANSAS COURT OF APPEALS

DIVISION II
No. CA09-527

KIMBERLY GRIFFITH
APPELLANT

V.

MEDCATH, INC. and LIBERTY
MUTUAL INSURANCE COMPANY
APPELLEES

Opinion Delivered NOVEMBER 18,
2009

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. F512919]

AFFIRMED

M. MICHAEL KINARD, Judge

Appellant, Kimberly Griffith, appeals from a decision of the Arkansas Workers' Compensation Commission denying her claim for additional medical and temporary-total disability (TTD) benefits. We affirm.

Appellant, who worked as a nurse at Arkansas Heart Hospital, sustained a compensable injury to her back on October 26, 2005, while repositioning a patient in a bed. She received non-surgical treatment from Dr. John Adametz, which included pain medication, physical therapy, and trigger point injections. In addition to pain in her back, appellant eventually began to experience pain and numbness in her right leg and foot. Appellant underwent an MRI of her lumbar spine on December 6, 2005. The MRI report states that the image shows asymmetric diffuse disc bulges, greater on the left, at L4-5 and L5-S1. Appellant was referred to Dr. Brent Sprinkle, who performed trigger point injections on appellant and fit

her with a TENS unit. On April 10, 2006, Dr. Sprinkle stated that appellant was at maximum medical improvement and assigned a zero-percent impairment rating.

The medical records reveal that appellant did not receive any further treatment for her back until December 22, 2007, when she reported to an emergency room with a sore throat and low back pain. Appellant testified that, on that date, she was getting out of the shower and bent down to dry off her legs when she experienced a sudden sharp pain going down her leg. Appellant further testified that her pain changed following the December 2007 incident. Appellant underwent a second lumbar spine MRI on January 7, 2008. The MRI report states that the image shows a minimal diffuse degenerative bulge at L4-5 and a left paracentral protrusion at L5-S1. An addendum to the report states that the left paracentral disc protrusion was not present on the December 6, 2005 MRI. A report by Dr. Sprinkle dated February 6, 2008, states that appellant was complaining of pain in her low back that was radiating down her left leg. In the report, Dr. Sprinkle states that he believes appellant's pain is due to her disc herniation on the left at L5-S1.

Appellant filed a claim for additional medical and TTD benefits, which was controverted by appellees. A hearing was held before an administrative law judge (ALJ), and in an opinion filed July 24, 2008, the ALJ found that appellant was entitled to additional medical and TTD benefits. Appellees appealed to the Commission, and in an opinion filed April 16, 2009, the Commission reversed the decision of the ALJ and found that appellant

failed to prove entitlement to additional medical and TTD benefits. Appellant filed a timely notice of appeal to this court.

The Commission found that appellant did not sustain a recurrence of her compensable injury. A recurrence exists when the second complication is a natural and probable consequence of the prior injury; it is not a new injury, but merely another period of incapacitation resulting from a previous injury. *King v. Peopleworks*, 97 Ark. App. 105, 111, 244 S.W.3d 729, 734 (2006). An aggravation is a new injury resulting from an independent incident and, being a new injury with an independent cause, must meet the requirements for a compensable injury. *Id.* Benefits are not payable for a condition which results from a nonwork-related independent intervening cause following a compensable injury which causes or prolongs disability or a need for treatment. Ark. Code Ann. § 11-9-102(4)(F)(iii) (Supp. 2009).

This case turns on the January 7, 2008 MRI report, specifically the addendum. In its opinion, the Commission placed great weight on the statement in the addendum that the paracentral disc protrusion shown at L5-S1 on the 2008 MRI was not present on the 2005 MRI. The Commission reasoned that because the 2008 MRI shows new objective findings that were not present on the 2005 MRI and appellant testified that her pain changed following a non work-related incident in December 2007, appellant sustained an aggravation of her compensable injury and is not entitled to additional benefits.

The addendum to the 2008 MRI report is an interpretation of the 2005 MRI by a different radiologist. Therefore, there were differing medical opinions in the record as to what was present on the 2005 MRI. The Commission has the duty to weigh those competing opinions and translate the medical evidence into findings of fact. See *Hamilton v. Gregory Trucking*, 90 Ark. App. 248, 205 S.W.3d 181 (2005). In this case, the Commission chose to credit the opinion of the doctor who determined that there were new objective findings on the 2008 MRI. Because there were new objective findings on the 2008 MRI, according to the radiologist who reviewed both MRIs, and Dr. Sprinkle related appellant's need for treatment to the new injury, the Commission had a substantial basis upon which to deny benefits.

In reversing the decision of the ALJ, the Commission points out that appellant failed to prove her present condition was causally connected to her compensable injury sustained October 26, 2005. Whether there is a causal connection between an injury and a disability and whether there is an independent intervening cause are questions of fact for the Commission to determine. *Smith-Blair, Inc. v. Jones*, 77 Ark. App. 273, 277, 72 S.W.3d 560, 563 (2002). If there is a causal connection between the primary injury and the subsequent disability, there is no independent intervening cause unless the subsequent disability was triggered by activity on the part of the claimant which was unreasonable under the circumstances. *Broadway v. B.A.S.S.*, 41 Ark. App. 111, 114, 848 S.W.2d 445, 447 (2003). Here, the Commission, reviewing the evidence de novo, found that no causal connection

between the primary injury and the subsequent disability was shown, eliminating the need to address appellant's conduct. See *Guidry v. J & R Eads Const. Co.*, 11 Ark. App. 219, 223, 669 S.W.2d 483, 485 (1984).

In reviewing a decision of the Arkansas Workers' Compensation Commission, this court views the evidence and all reasonable inferences deducible therefrom in the light most favorable to the Commission's findings and affirms those findings if they are supported by substantial evidence, which is evidence a reasonable person might accept as adequate to support a conclusion. *Parker v. Comcast Cable Corp.*, 100 Ark. App. 400, 269 S.W.3d 391 (2007). We will not reverse the Commission's decision unless we are convinced that fair-minded persons with the same facts before them could not have reached the same conclusions reached by the Commission. *Cedar Chem. Co. v. Knight*, 99 Ark. App. 162, 258 S.W.3d 394 (2007). In a case such as this one, where the Commission denies benefits because a claimant failed to meet his or her burden of proof, we affirm if the Commission's decision displays a substantial basis for the denial of relief. *Crudup v. Regal Ware, Inc.*, 341 Ark. 804, 20 S.W.3d 900 (2000). Based on the standard of review mandated in workers' compensation cases, we are compelled to affirm the decision of the Commission.

Affirmed.

PITTMAN and BAKER, JJ., agree.