

ARKANSAS COURT OF APPEALS

DIVISION III

No. CA11-811

CEDARVILLE PUBLIC SCHOOLS and
ASBA RISK MANAGEMENT PROGRAM
APPELLANTS

V.

JAN MARSHALL

APPELLEE

Opinion Delivered January 18, 2012

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[No. F907767]

AFFIRMED

LARRY D. VAUGHT, Chief Judge

Appellant Cedarville Public Schools appeals from a decision of the Workers' Compensation Commission affirming and adopting the finding of the administrative law judge (ALJ) that appellee Jan Marshall proved by a preponderance of the evidence that she was entitled to additional medical treatment from her chiropractor for her admittedly compensable work-related injury. We find no error and affirm.

Marshall, a teacher for over thirty years, suffered a compensable injury to her low back on March 12, 2009, when a custodial cart struck her, causing her to fall. She was referred by appellant for medical treatment to be provided by Dr. Keith Holder. X-rays showed degenerative changes. She was diagnosed with a lumbar strain, given a prescription for pain, and returned to work the following day. Marshall returned to Dr. Holder on March 23, 2009, reporting stiffness and "popping" in her back. In June 2009, Marshall asked the occupational therapist at her school about returning to Dr. Holder, but Marshall's request was denied. As



such, Marshall sought low-back treatment from her chiropractor, Dr. Elliott Hays. Marshall testified that she had been seeing Dr. Hays since the 1980s for pain in her neck, upper back, and shoulders due to teaching stress.

Dr. Hays testified by deposition at the hearing that he treated Marshall for low-back complaints after her compensable injury. Prior to that, other than generalized treatment to the spine, Dr. Hays only treated Marshall for her neck and shoulder complaints. He opined that her low-back pain was caused by the March 2009 work incident. And while he agreed that she had some preexisting conditions in her low back, he added that the compensable incident aggravated them. Dr. Hays said Marshall's MRI showed a herniated disc along with degenerative disc disease. He also noted muscle spasms in Marshall's low back.

The ALJ found in favor of Marshall and awarded her additional medical treatment provided by Dr. Hays. In support of the decision, the ALJ cited (1) the records of Dr. Hays demonstrating that his prior treatment of Marshall did not involve her lower spine; (2) the MRI results showing a herniated disc; (3) the testimony of Dr. Hays that the herniated disc was caused by Marshall's work injury and that Marshall was still in need of treatment for her herniated disc; and (4) Marshall's testimony that since the accident, she has continued to seek treatment from Dr. Hays because it relieved her pain and her testimony denying low-back pain prior to her injury. Significantly, the ALJ found Marshall's testimony credible. The Commission affirmed and adopted the ALJ's decision. On appeal, appellant argues that there is a lack of substantial evidence supporting the Commission's decision.

Memorandum opinions may be issued in any or all of the following cases:

- (a) Where the only substantial question involved is the sufficiency of the evidence;



Cite as 2012 Ark. App. 55

- (b) Where the opinion, or findings of fact and conclusions of law, of the trial court or agency adequately explain the decision and we affirm;
- (c) Where the trial court or agency does not abuse its discretion and that is the only substantial issue involved; and
- (d) Where the disposition of the appeal is clearly controlled by a prior holding of this court or the Arkansas Supreme Court and we do not find that our holding should be changed or that the case should be certified to the supreme court.

In re Memorandum Opinions, 16 Ark. App. 301, 302, 700 S.W.2d 63, (1985). This case falls within categories (a) and (b). The substantial question on appeal is whether the Commission's decision was supported by sufficient evidence. The Commission's opinion, which we affirm, adequately explains its decision.

Affirmed.

ROBBINS and HOOFFMAN, JJ., agree.

Bassett Law Firm, LLP, by: *Curtis L. Nebben*, for appellants.

Walker, Shock & Harp, PLLC, by: *Eddie H. Walker, Jr.*, for appellee.