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ARKANSAS COURT OF APPEALS

DIVISION II
No. CV-22-699

BARBARA HOWELL

APPELLANT

V.

ARKADELPHIA HUMAN
DEVELOPMENT CENTER AND
PUBLIC EMPLOYEE CLAIMS
DIVISION

APPELLEES

Opinion Delivered October 4, 2023

APPEAL FROM THE ARKANSAS
WORKERS' COMPENSATION
COMMISSION
[NO. H004972]

AFFIRMED

WENDY SCHOLTENS WOOD, Judge

Barbara Howell appeals a decision of the Arkansas Workers' Compensation Commission (Commission) denying her claim for benefits and finding that she failed to prove she sustained a compensable injury to her back supported by objective medical findings. Howell argues that the Commission's decision is not supported by substantial evidence. We affirm.

At the time of her injury, Howell was fifty-seven years old and had worked for appellee Arkadelphia Human Development Center (AHDC) for over thirty years. She claimed that she was injured on July 8, 2020, less than a month before she was scheduled to retire. Howell testified that the injury occurred when she was assisting an obese client who needed to get up from a couch. She was helping the client move from the couch into a standing position

when the client's legs began "buckling," so she grabbed the client to ease her to the ground and help break her fall. Howell said that she immediately felt "tight" in her back and hoped it would pass.

According to the medical records, Howell was treated at the Arkadelphia Medical Clinic on July 9, the day after the incident, by her family doctor, Dr. Noland Hagood, and his APRN, Charity Lowdermilk. Lowdermilk reported that Howell had "dizziness with left-sided chest discomfort," a history of dizziness and syncope, and admitted "lifting some clients at her work off the floor." On July 10, Howell went to the emergency room at Baptist Health in Arkadelphia for chest pains and palpitations, which were determined to be caused by pulled muscles in her chest. On July 16, at a follow-up appointment from the emergency-room visit, Dr. Hagood diagnosed Howell with "[a]cute midline low back pain without sciatica" and "[l]ower abdominal pain." In addition to various other prescriptions, including Claritin, Prilosec, and meloxicam, Dr. Hagood prescribed Robaxin "as needed for Muscle spasms."

On July 22, Howell reported the work incident to her employer on "Form AR-N." She claimed that she had been injured on July 8 while she was assisting a resident of the employer's facility get up and that she later "felt pain to her lower abdomen, hips, and thighs." She did not indicate on the form that she had suffered a back injury. AHDC initially accepted the injury as compensable and provided medical treatment.

Howell's authorized treating physician was Dr. Mark Larey at CHI St. Vincent Hot Springs, who first examined her on July 22. He reported that Howell told him she had been

injured while preventing a heavysset client from falling and then lifting the client to a standing position. After examining Howell, Dr. Larey diagnosed “[l]ow back pain”; prescribed Celebrex, Flexeril, and Ultracet; and reported that the cause was work related. He specifically noted “[n]o palpable spasm.” On July 28, Howell underwent an MRI of her lumbar spine/lower back, which revealed no evidence of an acute injury; no significant findings; normal spine alignment; no nerve root impingement; and only moderate and mild facet arthrosis.

On August 12, Dr. Larey responded to questions from the insurance carrier investigating Howell’s claim. Dr. Larey provided the following answers to the program manager’s questions:

Have you at any time since 07/08/2020 palpated or observed muscle spasms while evaluating and/or treating the above-referenced patient?

I did not palpate/observe muscle spasms.

I did palpate/observe muscle spasms. What body part(s) _____
Through diagnostics or observation, were acute objective findings of an injury noted? In workers’ compensation “objective” means something not under the control of the patient. Examples of objective findings would be passive movement which is verifiable by some specific measure or test, or visual/physical injury.

Other acute objective findings none

On August 14, Howell was notified by letter from the insurance carrier that her claim for workers’-compensation benefits had been denied due to “lack of objective medical findings” and that her medical expenses would be covered only through the date of the letter. The

program manager told Howell that her file would be reviewed if objective findings were discovered at a later date.

After her employer controverted her claim, Howell continued to see Dr. Hagood and APRN Lowdermilk for treatment for low-back pain and continued to take Aleve, meloxicam, and Flexeril as needed. An MRI of her lumbar spine taken on October 15, 2021, was normal, revealing persistent degenerative changes across the L5-S1 level, bulging at L4-5 level, and alignment unchanged without acute osseous abnormality.

On January 28, 2022, an administrative law judge held a hearing on the claim and entered an order on April 28 finding that Howell failed to meet her burden of proving that she sustained a compensable injury as a result of the July 8 incident. In a separate opinion after a de novo review, the Commission found that Howell had failed to “establish a compensable injury by medical evidence supported by objective findings,” and it denied and dismissed her claim. Howell appeals the Commission’s decision.

When the Commission denies benefits because the claimant has failed to meet his or her burden of proof, the substantial-evidence standard of review requires that we affirm if the Commission’s decision displays a substantial basis for the denial of relief. *Osburn v. Pepsi Cola Metro Bottling Co.*, 2021 Ark. App. 157, at 6. The issue is not whether the appellate court might have reached a different result from the Commission but whether reasonable minds could reach the result found by the Commission; if so, the appellate court must affirm. *Id.* Credibility questions and the weight to be given to witness testimony are within the Commission’s exclusive province. *Pack v. Little Rock Convention Ctr.*, 2013 Ark. 186, 427

S.W.3d 586. It is also within the Commission's province to weigh all the medical evidence and to determine what is most credible. *Minn. Mining & Mfg. v. Baker*, 337 Ark. 94, 989 S.W.2d 151 (1999). We have long held that the Commission's decision to accept or reject medical opinions and how it resolves conflicting medical evidence has the force and effect of a jury verdict. *St. Edward Mercy Med. Ctr. v. Chrisman*, 2012 Ark. App. 475, 422 S.W.3d 171.

Howell argues that substantial evidence does not support the Commission's decision that she failed to set forth objective findings supporting compensable injuries to her back. Howell, as the claimant, had the burden of proving by a preponderance of the evidence that she sustained compensable injuries. *Rodriguez v. M. McDaniel Co.*, 98 Ark. App. 138, 144, 252 S.W.3d 146, 152 (2007). A compensable injury must be established by medical evidence supported by objective findings. Ark. Code Ann. § 11-9-102(4)(D) (Supp. 2023). Objective findings cannot come under the voluntary control of the patient. Ark. Code Ann. § 11-9-102(16).

While neither MRI revealed evidence of an acute back injury and there is no evidence in the record establishing an objective finding of a back injury, Howell contends that the record does establish that she suffered from muscle spasms, which can constitute objective findings necessary to establish compensability. *Cont'l Express, Inc. v. Freeman*, 339 Ark. 142, 4 S.W.3d 124 (1999) (holding that muscle spasms constitute objective medical findings). She claims that both Dr. Hagood and Dr. Larey prescribed muscle relaxants, and although neither specifically diagnosed Howell with muscle spasms, Dr. Hagood's notes provide that

he prescribed Robaxin “as needed for Muscle spasms.” Because of the statement in Dr. Hagood’s prescription, Howell contends that this case is governed by the supreme court’s analysis in *Estridge v. Waste Management*, in which the court specifically stated that a doctor would not prescribe medication for muscle spasms if he or she did not believe that muscles spasms existed. 343 Ark. 276, 281, 33 S.W.3d 167, 171 (2000). She argues that this statement requires us to reverse the Commission’s decision.

In *Estridge*, the supreme court reversed the Commission’s denial of a claimant’s benefits for failure to prove objective findings when the claimant had been diagnosed with low-back strain and radicular pain. Although the treating physician failed to document any objective medical findings to support the diagnosis, he prescribed Valium “as needed for muscle spasms.” *Id.* at 281, 33 S.W.3d. at 171. Part of the court’s reasoning included a statement that a doctor would not prescribe medication to be taken for muscle spasms “if he did not believe that muscle spasms were existent.” *Id.*, 33 S.W.3d. at 171.

We disagree with Howell, however, that the above-quoted statement in *Estridge* requires us to reverse the Commission’s decision in the case at bar. There was much more to the court’s analysis in *Estridge* than a prescription. In *Estridge*, the claimant’s treating physician also noted straightening of the lordotic curve in his report, which, the court said, was “a sign that is normally associated with muscle spasm in the straightened area” and “is an objective medical finding.” *Id.* at 282, 33 S.W.3d. at 171. Further, when the medication did not relieve the claimant’s pain in *Estridge*, an MRI was performed that showed possible herniated discs. And, although it was determined during surgery to treat this condition that

no herniations were present, the neurosurgeon still attributed 50 percent of the claimant's need for treatment to the work accident.

Unlike the facts in *Estridge* and a critical distinction in the case at bar, Howell's treating physician's notes from his examination of Howell specifically state, "No Palpable spasm noted." That is, it is clear from these notes that Dr. Larey did not prescribe Celebrex, Flexeril, and Ultracet for muscle spasms. And if there was any confusion about this, Dr. Larey confirmed it in his response to the carrier's request for information, stating that he "did not palpate/observe muscle spasms" or diagnose or observe any other "acute objective findings of an injury." And finally, Howell's two lumbar MRIs were normal.

The Commission interpreted and weighed the medical evidence and concluded that the prescription for muscle spasms was not an objective finding of an injury in light of all the evidence. The Commission specifically found Howell's testimony that she suffered from muscle spasms as a result of the July 8 injury not credible and found "no probative evidence of record demonstrating that the claimant was suffering from muscle spasms." We defer to the Commission's findings of credibility and to its resolution of conflicting evidence. *City of El Dorado v. Smith*, 2017 Ark. App. 307, at 13, 521 S.W.3d 523, 531. Because there were no objective medical findings to support Howell's claim that she sustained a compensable injury, we hold that the Commission's opinion displays a substantial basis for the denial of relief.

Affirmed.

BARRETT and THYER, JJ., agree.

Gary Davis, for appellant.

Charles H. McLemore Jr., Public Employee Claims Division, for appellee.