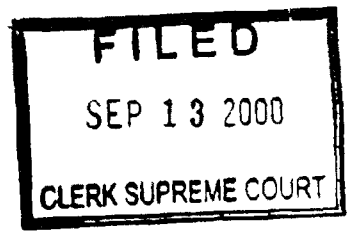
IN THE COURT OF APPEALS OF IOWA

No. 0-100 / 99-0649
Filed September 13, 2000

WILLIAM L. BROWN,
Petitioner-Appellant,

vs.

WAYNE BOOR and FARM BUREAU MUTUAL INSURANCE COMPANY,
Respondents-Appellees.



Appeal from the Iowa District Court for Polk County, Jack D. Levin, Judge.

The petitioner appeals from the district court's ruling on judicial review affirming the industrial commissioner's denial of additional worker's compensation benefits to the petitioner in a review-reopening proceeding. The petitioner claims that the commissioner erred in not determining that the petitioner suffered from chronic pain syndrome and a major reactive depression causally related to the compensable back injury which entitled him to the reopening of the original worker's compensation award. The petitioner also claims that the commissioner's decision is affected by errors of law. **AFFIRMED.**

Steven C. Jayne, Des Moines, for appellant.

Angela A. Swanson of Morain, Burlingame & Pugh, P.L.C., West Des Moines, for appellee.

Considered by Sackett, C.J., and Huitink and Vaitheswaran, JJ.

SACKETT, C.J.

The petitioner-appellant, William Brown, appeals after the district court affirmed the Industrial Commissioner's denial of his claim for additional worker's compensation benefits in a review-reopening proceeding. Brown claims he suffers from chronic pain syndrome and a major reactive depression that was caused by an April 17, 1991, back injury for which he received benefits. He contends on appeal that the Commissioner erred in denying this claim and failing to award additional benefits. Brown also claims that the Commissioner's made several errors of law. We affirm the district court.

Original compensation claim. Brown initially suffered a low back injury on April 17, 1991, while working as a farmhand for Wayne Boor. He filed a worker's compensation claim against Boor and his worker's compensation carrier, Farm Bureau Mutual Insurance Company. Brown claimed he suffered both an injury to his back and from a psychological disorder that he claimed was caused by the back injury. On October 14, 1994, after a hearing, a deputy found Brown failed to establish by a preponderance of the evidence his depressive disorder was work-related and no payment was made for it. The deputy further determined Brown sustained a 15 percent permanent partial disability to his back and awarded him healing period benefits.

Review-reopening proceedings. On November 15,1995, Brown petitioned for a review reopening claiming he suffered chronic pain and a major reactive depression. He alleged both were the result of his injury while working for Brown. A hearing was held. Dr. Hector Cavallin, who examined Brown in

June 1995, testified Brown at the time of this examination had a major depressive disorder, which differed from his prior "dysthymia." Dr. Cavallin's opinion as to Brown's prior depression was based on a review of Brown's medical records.

A deputy commissioner denied Brown's claim for reopening concluding Brown's physical injuries had not worsened and he was precluded from litigating again in the hearing on his petition for a review reopening the question of whether his mental condition was caused by his work related back injury. In reaching this result, the deputy found that Dr. Cavallin's opinion as to the change in Brown's mental condition was not entitled to weight because Cavallin did not examine Brown prior to the 1994 decision.

On appeal, the Industrial Commissioner affirmed the deputy commissioner's decision finding there was no evidence to support Brown's claim his depression was a change in condition that had been caused by the injury he received while Boor's employee.

Judicial review. Brown petitioned the district court for judicial review of the Industrial Commissioner's decision. The district court affirmed finding the Commissioner's decision was supported by substantial evidence.

Scope of review. In reviewing a district court's decision rendered in its appellate capacity, we apply the standards of Iowa Code section 17A.19(8) to the Commissioner's decision to determine whether our conclusions are the same as those of the district court. *Norland v. Iowa Dep't of Job Serv.*, 412 N.W.2d 904, 908 (Iowa 1987). The Commissioner's findings are binding on appeal "if the

evidence is in dispute or if reasonable minds could draw different inferences from it. The test is whether the Commissioner's decision is supported by substantial evidence." *Gallardo v. Firestone Tire & Rubber Co.*, 482 N.W.2d 393, 395 (Iowa 1992). The Commissioner, not the court, weighs the evidence and we are obliged to apply those findings broadly and liberally to uphold rather than defeat the Commissioner's decision. *Ward v. Iowa Dep't of Transp.*, 304 N.W.2d 236, 237 (Iowa 1981).

Brown claims the Commissioner erred in denying his claim he suffered from a chronic pain condition and major reactive depression. He asserts the Commissioner exceeded her statutory authority in making new findings from evidence presented at the 1994 hearing. He contends the Commissioner did not give uncontroverted medical evidence appropriate weight and she failed to rely on medical evidence explaining the difference between minor depression and major reactive depression. Brown advances the 1994 finding that his depression was not causally related to his injuries does not preclude him from establishing his major reactive depression is causally related and his chronic pain syndrome was not recognized or identified at the time of the 1994 arbitration hearing and provides a basis for reopening his case. Brown also claims the Commissioner's decision that he failed to establish a significant aggravation of his preexisting depression by chronic pain syndrome was not supported by substantial evidence and was arbitrary and unreasonable.

To justify an increase in compensation benefits, "[t]he claimant carries the burden of establishing by a preponderance of the evidence that, subsequent to

the date of the award under review, he or she has suffered an impairment or lessening of earning capacity proximately caused by the original injury." *Simonson v. Snap-On Tools Corp.*, 588 N.W.2d 430, 434 (Iowa 1999) (quoting *E.N.T. Assocs. v. Collentine*, 525 N.W.2d 827, 829 (Iowa 1994)).

The Commissioner concluded Brown failed to prove he suffered from a condition proximately caused by the initial injury. The district court concluded substantial evidence supported the agency's decision and affirmed. The district court correctly determined "the proper standard of review is not whether the evidence could support Brown's contentions, but rather, whether or not the decision actually made by the Industrial Commissioner was supported by substantial evidence." *See Quaker Oats Co. v. Ciha*, 552 N.W.2d 143, 150 (Iowa 1996). For the reasons set forth below, our conclusions are the same as those of the district court and we affirm the agency's decision not to reopen Brown's award. *See IBP, Inc. v. Iowa Employment Appeal Bd.*, 604 N.W.2d 307, 311 (Iowa 1999).

Brown's initial injury occurred on April 17, 1991. The deputy found that prior to the injury date, Brown "had numerous problems with his low back encountering severe back pain and sharp pain into his legs." The injury, which happened during heavy lifting, "aggravated that injury" (referring to the low back problems). At the time of the 1994 arbitration hearing, there was evidence Brown suffered depression prior to the April 1991 injury. The deputy found no causal connection between the back injury and the depression. These are nearly the

same symptoms Brown complained of at the time of the hearing on his petition for review reopening.

Brown claims in this proceeding that his back injury has caused severe "chronic pain syndrome," which in turn has caused a "major reactive depression." His expert witness opined his earlier symptoms of depression were merely "dysthymia" and that Brown's current depression is major and is reaction to the chronic pain syndrome.

In the review-reopening proceedings, the Commissioner determined Brown's current chronic pain and depression are just more of the same conditions he had at the time of the 1994 arbitration. Therefore Brown is not entitled to additional benefits. *See Williamson v. Wellman Fansteel*, 595 N.W.2d 803, 805 (Iowa 1999). Brown argues the chronic pain syndrome and major reactive depression are new and different conditions. He asserts the agency erred in not giving appropriate weight to his expert's uncontroverted testimony. The agency discounted Dr. Cavallin's opinions because he examined Brown only after the 1994 arbitration. His only knowledge of Brown's earlier condition came from a review of Brown's medical records and Brown's own statements. Given the similarity of symptoms, the Commissioner found, "It is very possible that if Dr. Cavallin had examined the claimant in 1994 he would have arrived at the same diagnosis in 1994 as he arrived at in 1995 and 1997." We conclude, as did the district court, that substantial evidence supports the agency's decision.

The agency decision concluded Brown was precluded from litigating again the issue of the causal connection between his depression and his injury

because the original arbitration decision determined there was no causal connection. Brown argues issue preclusion does not apply because his current depression is different and distinct from his earlier depression and is a reaction to his chronic pain. In affirming on judicial review, the district court noted the agency took into account the new evidence presented, even though the agency determined res judicata applied to Brown's claim concerning depression.

The initial award determined Brown's depression was not causally related to his injury. Although Brown claims his major reactive depression is a new condition proximately caused by the chronic pain syndrome he developed from his initial injury, a review of his symptoms led the agency to conclude that giving the same symptoms a new name did not merit reopening Brown's award. The district court applied the proper deferential standard of review and affirmed. We conclude the district court did not err in affirming the agency's decision that Brown was precluded from relitigating whether or not his depression was causally related to his injury.

AFFIRMED.