STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse Choose reason	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☐ Modify Choose direction	☐ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

Carlos A. Pivaral,

Petitioner,

vs. NO: 12 WC 41424
14 IWCC 754

Chemi Flex,

Respondent.

ORDER OF RECALL UNDER SECTION 19(f)

Pursuant to Section 19(f) of the Act, the Commission finds that a clerical error exists in its Decision and Opinion on Review dated September 4, 2014, in the above captioned.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Decision and Opinion on Review dated September 4, 2014, is hereby vacated and recalled pursuant to Section 19(f) for clerical error contained therein.

IT IS FURTHER ORDERED BY THE COMMISSION that a Corrected Decision and Opinion on Review shall be issued simultaneously with this Order.

The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

DATED: SEP 11 2014
TJT:yl
51

Thomas J. Tyrrell

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

☐ Affirm and adopt (no changes)	☐ Injured Workers' Benefit Fund (§4(d))
☐ Affirm with changes	☐ Rate Adjustment Fund (§8(g))
☐ Reverse	☐ Second Injury Fund (§8(e)18)
	☐ PTD/Fatal denied
☒ Modify down	☒ None of the above

BEFORE THE ILLINOIS WORKERS' COMPENSATION COMMISSION

CARLOS A. PIVARAL,

Petitioner,

vs. NO: 12 WC 41424
14 IWCC 754

CHEMI FLEX,

Respondent.

CORRECTED DECISION AND OPINION ON REVIEW

Timely Petition for Review having been filed by the Respondent herein and notice given to all parties, the Commission, after considering the issues of causal connection, medical expenses, prospective medical care and temporary total disability benefits, and being advised of the facts and law, modifies the Decision of the Arbitrator as stated below and otherwise affirms and adopts the Decision of the Arbitrator, which is attached hereto and made a part hereof.

The Arbitrator awarded Petitioner, in pertinent part, all outstanding medical expenses and "further medical treatment." We modify the Arbitrator's decision by denying medical treatment and related expenses for the lumbar spine after September 14, 2012.

Petitioner suffered a work related accident on August 6, 2012, during which he injured his cervical and lumbar spine. Petitioner sought treatment at Concentra Medical Center the following day. After attending several physical therapy sessions, Petitioner followed up with Dr. Boarsma at Concentra on September 14, 2012. During that examination, Petitioner reported that his lumbar spine pain had resolved. Petitioner's medical treatment largely focused on his cervical spine and related complaints following that visit.

A month passed before Petitioner sought additional medical treatment for his lumbar spine with Dr. Salehi. During his treatment with Dr. Salehi, Petitioner's lumbar spine complaints varied. More importantly, Dr. Salehi diagnosed Petitioner with degenerative disc disease, which was not caused by Petitioner's work accident.

While Petitioner later sought treatment with other medical providers where he complained of intense low back pain that radiated into his legs, we find that treatment was not reasonable and necessary as related to his work injury. Therefore, we do not award Petitioner's medical expenses as related to his lumbar spine after September 14, 2012, when he reported that his lumbar spine pain had resolved quickly.

IT IS THEREFORE ORDERED BY THE COMMISSION that the Arbitrator's decision is modified as stated herein.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner the sum of $253.33 per week for a period of 26-5/7 weeks, that being the period of temporary total incapacity for work under §8(b) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner outstanding medical expenses per the medical fee schedule, excluding those to the lumbar spine after September 14, 2012, under §8(a) of the Act.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent pay to Petitioner interest under §19(n) of the Act, if any.

IT IS FURTHER ORDERED BY THE COMMISSION that Respondent shall have credit for all amounts paid, if any, to or on behalf of Petitioner on account of said accidental injury.

Bond for the removal of this cause to the Circuit Court by Respondent is hereby fixed at the sum of $66,800.00. The party commencing the proceedings for review in the Circuit Court shall file with the Commission a Notice of Intent to File for Review in Circuit Court.

DATED: SEP 11 2014
TJT: kg
O: 7/8/14
51

Thomas J. Tyrrell

Michael J. Brennan

Kevin W. Lamborn

ILLINOIS WORKERS' COMPENSATION COMMISSION
NOTICE OF 19(b) DECISION OF ARBITRATOR

PIVARAL, CARLOS A
Employee/Petitioner

Case# **12WC041424**

CHEMI FLEX
Employer/Respondent

14IWCC0754

On 9/25/2013, an arbitration decision on this case was filed with the Illinois Workers' Compensation Commission in Chicago, a copy of which is enclosed.

If the Commission reviews this award, interest of 0.05% shall accrue from the date listed above to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

A copy of this decision is mailed to the following parties:

1042 LAW OFFICE OF OSVALDO RODRIGUEZ PC
1010 LAKE ST
SUITE 424
OAK PARK, IL 60301

1739 STONE & JOHNSON CHARTERED
PATRICK J DUFFY
200 E RANDOLPH ST 24TH FL
CHICAGO, IL 60601

STATE OF ILLINOIS)
)SS.
COUNTY OF **DUPAGE**)

14IWCC0754

- [ ] Injured Workers' Benefit Fund (§4(d))
- [ ] Rate Adjustment Fund (§8(g))
- [ ] Second Injury Fund (§8(e)18)
- [x] None of the above

ILLINOIS WORKERS' COMPENSATION COMMISSION
ARBITRATION DECISION
19(b)

Carlos A. Pivaral
Employee/Petitioner

v.

Chemi Flex
Employer/Respondent

Case # **12** WC **41424**

Consolidated cases: _____

An *Application for Adjustment of Claim* was filed in this matter, and a *Notice of Hearing* was mailed to each party. The matter was heard by the Honorable **Kurt Carlson**, Arbitrator of the Commission, in the city of **Wheaton**, on **08-21-13**. After reviewing all of the evidence presented, the Arbitrator hereby makes findings on the disputed issues checked below, and attaches those findings to this document.

DISPUTED ISSUES

A. [ ] Was Respondent operating under and subject to the Illinois Workers' Compensation or Occupational Diseases Act?

B. [ ] Was there an employee-employer relationship?

C. [x] Did an accident occur that arose out of and in the course of Petitioner's employment by Respondent?

D. [ ] What was the date of the accident?

E. [ ] Was timely notice of the accident given to Respondent?

F. [x] Is Petitioner's current condition of ill-being causally related to the injury?

G. [ ] What were Petitioner's earnings?

H. [ ] What was Petitioner's age at the time of the accident?

I. [ ] What was Petitioner's marital status at the time of the accident?

J. [x] Were the medical services that were provided to Petitioner reasonable and necessary? Has Respondent paid all appropriate charges for all reasonable and necessary medical services?

K. [x] Is Petitioner entitled to any prospective medical care?

L. [x] What temporary benefits are in dispute?
[ ] TPD [ ] Maintenance [x] TTD

M. [x] Should penalties or fees be imposed upon Respondent?

N. [ ] Is Respondent due any credit?

O. [ ] Other _____

FINDINGS

On the date of accident, **08-06-12**, Respondent *was* operating under and subject to the provisions of the Act.

On this date, an employee-employer relationship *did* exist between Petitioner and Respondent.

On this date, Petitioner *did* sustain an accident that arose out of and in the course of employment.

Timely notice of this accident *was* given to Respondent.

Petitioner's current condition of ill-being *is* causally related to the accident.

In the year preceding the injury, Petitioner earned $**19,760.00**; the average weekly wage was $380.00 .

On the date of accident, Petitioner was **39** years of age, *single* with **1** dependent children.

Respondent *has not* paid all reasonable and necessary charges for all reasonable and necessary medical services.

Respondent shall be given a credit of $ **5,664.72** for TTD, $**0** for TPD, $**0** for maintenance, and $**0** for other benefits, for a total credit of $ **5,664.72**.

Respondent is entitled to a credit of $**0** under Section 8(j) of the Act.

ORDER

Respondent shall pay Petitioner temporary partial disability benefits of $253.33/week for 26 5/7 weeks, commencing 02-15-13 through 08-21-13 as provided in Section 8(a) of the Act.

Respondent shall pay reasonable and necessary medical services of $ 67,133.24, as provided in Section 8(a) of the Act.

The Arbitrator finds that the respondent shall approve further medical treatment.

No penalties are awarded in this matter.

In no instance shall this award be a bar to subsequent hearing and determination of an additional amount of medical benefits or compensation for a temporary or permanent disability, if any.

RULES REGARDING APPEALS Unless a party files a *Petition for Review* within 30 days after receipt of this decision, and perfects a review in accordance with the Act and Rules, then this decision shall be entered as the decision of the Commission.

STATEMENT OF INTEREST RATE If the Commission reviews this award, interest at the rate set forth on the *Notice of Decision of Arbitrator* shall accrue from the date listed below to the day before the date of payment; however, if an employee's appeal results in either no change or a decrease in this award, interest shall not accrue.

Signature of Arbitrator

09-23-13
Date

ICArbDec19(b)

SEP 25 2013

Carlos Pivaral v. Chemi Flex

FINDINGS OF FACT

14IWCC0754

The Petitioner, Carlos Pivaral, is a 40 year old laborer who worked for Chemi Flex. The parties have stipulated that the incident occurred on August 6, 2012. On that date, while at work, the Petitioner slipped on a plastic sheet and fell backwards landing onto his buttocks in a sitting position (PX 2, p. 23 & PX 3, p. 12). At Arbitration, the Petitioner testified that he had worked for Chemi Flex for approximately two years mixing ingredients to make bands. He testified that he was doing his job without any type of work restrictions.

On August 7, 2012, the Petitioner was seen at Concentra Medical Center and complained of sacral and coccyx pain and stated that he fell backwards and landed on his sacral/coccyx area. The Petitioner was diagnosed with a sacrum strain and coccyx sprain (PX 1, p. 51). The Petitioner was referred to physical therapy, three times per week for two to three weeks, and was given modified activity restrictions of no bending, squatting or kneeling (PX 1, p. 52).

On the August 8, 2012 follow up visit with Concentra Medical Center, the Petitioner complained of pain with very little improvement, "bad" headaches and neck pain. The Petitioner presented in mild distress secondary to pain. The Petitioner was diagnosed with a cervical strain (PX 1, pp. 46-47).

On the August 15, 2012 follow up visit with Concentra Medical Center, the Petitioner stated that he experienced pain when he lies down and pain in both sides of his neck with symptoms exacerbated by movement flexion and extension. The Petitioner was diagnosed with a back and lumbosacral strain. The Petitioner was ordered to continue

therapy and was given modified activity restrictions of no lifting over 20 pounds and no pushing/pulling over 20 pounds of force (PX 1, pp.35-36).

On the September 7, 2012 follow up visit, the Petitioner stated that his back pain had resolved but the neck pain was still present. The Petitioner stated that he had a cervical fusion in the past, which had not given him any problems until the fall at work on August 7, 2012. An MRI of the cervical spine was ordered. The Petitioner stated that he had attended therapy without any improvement. The Petitioner was diagnosed with cervicalgia and a sprain/strain of the neck (PX 1, pp. 28-29).

On the September 14, 2012 follow up visit, the Petitioner complained of neck pain without any feeling of improvement. The Petitioner stated that his pain was located on the lower and middle neck and that his symptoms were exacerbated by lying down. The Petitioner was again diagnosed with cervicalgia, cervical strain and sprain/strain of the neck. The Petitioner was to continue with physical therapy and was referred to a neurosurgeon (PX 1, pp.16-17).

On October 15, 2012, the Petitioner had an initial evaluation at Advanced Medical Specialists by Dr. Sean A. Salehi. The Petitioner complained of back and neck pain. The Petitioner stated that he experienced aches in his bilateral forearms and bilateral legs and that his legs felt tired. Also, the Petitioner stated that he experienced tingling in his bilateral feet. Dr. Salehi noted that the Petitioner had a motor vehicle accident in 2003 that resulted in a cervical fusion. Dr. Salehi reviewed the MRI, which indicated a prior cervical fusion at C4-5 and C5-6 without instrumentation and the position of the bone graft at C4-5 was out of the interbody space resulting in moderate to significant bilateral foraminal stenosis

(PX 3, p. 12). Dr. Salehi ordered a CT of the cervical spine to assess his prior fusion and an MRI of the lumbar spine to assess his low back and bilateral radicular complaints. Dr. Salehi opined that the Petitioner should hold off on physical therapy for the time being. The Petitioner was given light duty restrictions of no lifting greater than 20 pounds, no pushing or pulling greater than thirty five pounds, no repetitive bending and twisting, no overhead work, and to alternate sitting and standing every thirty-five to forty-five minutes (PX 2, p. 24).

On the October 19, 2012 follow up visit with Dr. Salehi, the Petitioner complained of pain in his lower back and (mostly) in his neck. The Petitioner stated that the pain became worse since he stopped physical therapy. The Petitioner stated that he was experiencing pain in his bilateral arms and tingling in his right hand. The Petitioner stated that the pain in his lower back radiated to both lower extremities. Dr. Salehi noted that the imaging he had ordered in the previous visit had not been performed since it had not been approved. The Petitioner was diagnosed with a cervical spondylosis status post anterior cervical discectomy and fusion. In the meantime, the Petitioner was to refrain from physical therapy, continue light duty work and take medications for pain control (PX 2, p.18).

On the November 2, 2012 follow up visit with Dr. Salehi, the Petitioner presented with the CT and MRI imaging. The Petitioner complained of severe pain in his neck radiating to his bilateral arms, and lower back pain radiating to his bilateral legs. The Petitioner also complained of headaches radiating to his neck region associated with nausea, vomiting and dizziness. The Petitioner stated that sitting and standing for prolonged periods of time worsened his pain and that he experienced whole body weakness.

The Petitioner also stated that he experienced pain more significantly in his right arm than his left, as well as numbness and tingling in his right hand (PX 2, p.14). Dr. Salehi reviewed the CT of the cervical spine, which revealed pseudoarthrosis and interbody cage displaced, and the MRI of the lumbar spine, which revealed a single-level disk disease at L4-5 manifested by slight T2 signal loss without significant height loss, left foraminal disk bulge at L4-5 causing mild foraminal stenosis. Dr. Salehi diagnosed the Petitioner with cervical spondylosis and lumbar disk degeneration. Dr. Salehi opined that the Petitioner should undergo a posterior cervical fusion at C4-6. The Petitioner agreed to the surgery recommendation. Dr. Salehi opined that the Petitioner should continue working light duty until the surgery was performed (PX 2, p.15).

On the November 30, 2012 follow-up visit, the Petitioner presented with worsening pain in neck and both arms, lower back pain down his legs, headaches, nausea and dizziness. The Petitioner stated that he becomes very tired at work and was currently awaiting surgery approval (PX 2, p.11).

On December 20, 2012, the Petitioner presented for an Independent Medical Examination with Dr. Avi J. Bernstein. Dr. Bernstein opined that the Petitioner's objective findings did not support his subjective complaints. Dr. Bernstein opined that the Petitioner suffered, at most, contusions and strains as a result of the work injury and that the Petitioner should be at maximum medical improvement. Dr. Bernstein opined that the chronic pseudoarthrosis had not been caused or aggravated as a result of the work related incident and that the Petitioner's flagrant diffuse symptoms cannot be related anatomically to the cervical spine (IME report).

On the January 11, 2013 follow up visit with Dr. Salehi, the Petitioner complained of pain down both arms and pain in lower back down both legs with tingling and that he also experienced tingling in his right hand and felt weakness in both arms and legs. Dr. Salehi noted that the Petitioner attended an IME by Dr. Bernstein. Dr. Salehi stated that he continued to recommend the posterior fusion C4-C6, and disagreed with the IME doctor's opinion, as the Petitioner was asymptomatic up until the August 6, 2012 work injury. Dr. Salehi opined that the Petitioner should work at a sedentary capacity (PX 2, pp. 6, 8).

On the February 8, 2013 follow up visit with Dr. Salehi, the Petitioner stated that he experienced pain in his neck and arms with numbness in his bilateral hands and severe pain in his lower back radiating down both legs. The Petitioner complained that the pain in his lower extremities and thighs felt like muscle aches and that he experienced weakness in his arms and legs. Dr. Salehi stated that if approval for surgery was not granted, he would send the Petitioner to an FCE to determine permanent work restrictions. The Petitioner was to continue taking medications for pain and his work restrictions remained at sedentary capacity (PX 2, p. 2).

On the February 20, 2013 follow up visit, Dr. Salehi noted that surgery had not been approved. The Petitioner complained of constant pain in his neck, lower back and increasing pain in his legs. Dr. Salehi noted that the Petitioner was experiencing muscle weakness and sciatica. The Petitioner stated that he was laid off work a week prior to this appointment and was not currently working (PX 3, p.15). The Petitioner was diagnosed with lumbar degenerative disk disease and Dr. Salehi continued to recommend surgery, a cervical fusion. The Petitioner was ordered to continue taking medication for pain and continue with sedentary work restrictions (PX 3, p. 17).

On March 5, 2013, the Petitioner sought emergency treatment due to pain at the Emergency Room at Elmhurst Memorial Hospital. The Petitioner presented with chronic pain down his neck and back (PX 5, p.1, 4). The Petitioner stated that he was taking medications but was not getting any relief (PX 5, p. 18). The Petitioner was diagnosed with acute chronic neck/back pain (PX 5, p. 23).

On the March 11, 2013 follow up visit with Dr. Salehi, the Petitioner complained of neck pain radiating down both arms and lower back pain radiating down both legs. The Petitioner stated that his arms fall asleep and he has weakness in his legs (PX 3, p.9).

On March 23, 2013, the Petitioner underwent a pseudoarthrosis at C4-5 and C5-6, lateral mass screw placement from C4 to C6, use of Osteocel allograft, use of intra operative fluoroscopy at the Center for Minimally Invasive Surgery (PX 6, p. 11).

On the March 27, 2013, post surgery follow up, the Petitioner reported nausea and vomiting, along with headaches in the back of the head, dizziness, fever and itching all over the body. However, the Petitioner stated that he no longer was having preoperative arm symptoms (PX 3, p.7). Dr. Salehi opined that symptoms were related to pain medication and should be discontinued. The Petitioner was to continue wearing the cervical collar and was given a spinal cord stimulator and instructed on its use (PX 3, p.8).

On the July 2, 2013 follow up, the Petitioner stated that his pain was significantly reduced. However, the Petitioner had complaints of some discomfort on the left side of his neck on to the left shoulder during physical therapy. The Petitioner also stated that he was experiencing tingling in his left forearm. The Petitioner stated that he was taking Tramadol & Xanax and was experiencing panic attacks when driving. The Petitioner stated that he

was experiencing lower back pain with some radiation to his legs (PX 3, p.4). The Petitioner was ordered to undergo physical therapy for C5 symptoms which were likely of muscular origin. The Petitioner was given medication for spasms and pain and could return to work with sedentary restrictions (PX 3, p.6). At Arbitration, the Petitioner testified that his pain symptoms improved approximately fifty percent.

On the July 30, 2013 follow up visit, the Petitioner stated that he was experiencing more pain in the sides of his neck with head turning. The Petitioner stated that he was attending physical therapy and Dr. Salehi opined that he should continue with additional three weeks for cervical conditioning. The Petitioner stated that the pain in his lower back sometimes radiated to his legs but described it as internal pain (PX 3, p. 1). The Petitioner was to follow up in a month and was given light duty restrictions. Dr. Salehi stated that in one month's time he would make further recommendations for the lumbar spine once he reviewed the Petitioner's imaging but the Petitioner would more likely begin a work conditioning program if there was no surgical intervention necessary for the lumbar spine (PX 3, p. 3).

CONCLUSIONS OF LAW

The Arbitrator adopts the above findings of material facts in support of the following conclusions of law.

C. <u>Did an accident occur that arose out of and in the course of petitioner's employment by the respondent?</u>

The Petitioner testified credibly to the accident of August 6, 2012. This testimony was uncontroverted and un-rebutted. Further, the medical records corroborate his

testimony. There were no conflicting medical records, reports or testimony entered into evidence.

The Arbitrator finds as a matter of material fact and as a matter of law that the Petitioner has proven by a preponderance of the evidence that the Petitioner sustained an accident in the course and scope of his employment on August 6, 2012.

F. Is the petitioner's present condition of ill-being causally related to the injury?

The Petitioner testified credibly that he sustained injuries to his back and neck on August 6, 2012. The Arbitrator finds that the accident of August 6, 2012, either caused or aggravated the Petitioner's pseudoarthrosis and interbody cage displacement, which necessitated the posterior cervical fusion at C4-C6. The medical evidence submitted into evidence document that the Petitioner had a pre-existing cervical fusion. The Petitioner also testified to this pre-existing condition. The medical records also document the Petitioner' s symptoms after the fall. The Arbitrator finds that the Petitioner was asymptomatic before the fall and had documented objective and subjective symptoms after the fall. The Arbitartor finds that the fall either caused or aggravated his condition of ill-being.

Even if the injury arose from Petitioner's pre-existing condition, the Act will not relieve Respondent from liability. The case law is well-settled that a work injury is compensable within the meaning of the Act if "a workman's existing physical structure, whatever it may be, gives way under the stress of his usual labor." Laclede Steel Co. v. Industrial Commission, 6 Ill 2d 296, 128 N.E. 2d 718 (1955). Further, a work injury is compensable within the meaning of the Act when it is traceable to a definite time, place,

and cause and occurs in the course of the Petitioner's employment. Mathiessen & Hageler Zinc Co. v. Industrial Board, 284 Ill 378, 120 N.E. 249 (1918). An employer is not relieved of liability under the Illinois Workers' Compensation Act because the injury arose from a preexisting condition. A.C. & S. v. Industrial Comm'n, 304 Ill.App.3d 875, 882, 710 N.E.2d 837, 842 (2000). The Respondent takes its employees as it finds them. General Refractories v. Industrial Comm'n, 255 Ill.App.3d 925, 930, 627 N.E.2d 1270, 1274 (1994). The Petitioner needs only show that some act of employment was a causative factor, not the sole or principal cause, of the resulting injury.

The Petitioner need only show that some act of employment was a causative factor, not the sole or principal cause, of the resulting injury. Teska v. Industrial Comm'n, 266 Ill.App.3d 740, 742, 640 N.E.2d 13 (1994). The claimant must show, *inter alia*, that some aspect of his employment was *a causal factor* that resulted in the complained of injury. Teska at 742. The fact that the employee had a preexisting condition, even though the same result may not have occurred had the employee been in normal health, does not preclude a finding that the employment was a causative factor. County of Cook v. Industrial Comm'n, 69 Ill.2d 10, 17, 370 N.E.2d 520, 523 (1977). Proof of the state of health of an employee prior to and down to the time of the injury, and the change immediately following the injury and continuing thereafter, is competent as tending to establish that the impaired condition was due to the injury. Kress Corp. V. Industrial Commission, 190 III. App. 3d 72, 82 (1989) p. 14. The Arbitrator finds that the workplace injury was a causative factor of Petitioner's current condition of ill-being. Based on the record, the Arbitrator, therefore, finds that the Petitioner established that his present condition of ill-being with regard to his Cervical neck and low back is causally related to his accident of August 6, 2012.

In order to obtain compensation under the Act, the Petitioner must show, by the preponderance of the evidence, that he suffered a disabling injury arising out of and in the course of his employment. Sisbro, Inc. v. Industrial Comm'n, 207 Ill.2d 193, 203, 797 N.E.2d 65, 278 Ill.Dec. 70 (2003). However, the Petitioner needs only show that some act of employment was a causative factor, not the sole or principal cause, of the resulting injury. Teska v. Industrial Comm'n, 266 Ill.App.3d 740, 742 640 N.E.2d 13 (1994).

The Illinois Workers' Compensation Act is a humane law of a remedial nature, and wherever construction is permissible, its language is to be liberally construed to effect the purpose of the Act. Shell Oil Co., v. Industrial Commission, 2 Ill. 2d 590, 119 N.E.2d 224 (1954), *citing* City of West Frankfort v. Industrial Commission, 406 Ill. 452, 94 N.E.2d 413 (1950) ; Lambert v. Industrial Commission, 411 Ill. 593, 104 N.E.2d 783 (1952). "Every injury sustained in the course of the employee's employment, which causes a loss to the employee, should be compensable." Id. at 596 , citing Petrazelli v. Propper, 409 Ill. 365, 99 N.E.2d 140 (1951); Lambert v. Industrial Commission, 411 Ill. 593, 104 N.E.2d 783 (1952).

The Arbitrator finds as a matter of fact and conclusion of law that the Petitioner's condition of ill-being is causally related to the work injury he sustained on August 6, 2012.

J. Were the medical services that were provided to petitioner reasonable and necessary?

The Arbitrator adopts his previous findings for disputed issues (C) and (F). The Petitioner submitted into evidence, the following outstanding medical bills, at the Medical Fee Schedule:

Premier Physical Therapy	$9,272.36
Elmhurst Emergency Medical Services	$279.59
Elmhurst Radiologists	$79.00
MD2X, S.C.	$75.77
Franciscan St. James Hospital and Health Centers	$35,474.80
Concentra Medical Centers (IL)	$493.31
Neurological Surgery and Spine Surgery, S.C.	$19,061.82
Elmhurst Memorial Healthcare	$2,396.59
Total Outstanding Balance	**$67,133.24**

The Arbitrator concludes, after reviewing the medical records introduced into evidence, that the medical bills submitted by petitioner for payment are as a matter of fact and law reasonable and necessary under 8(a). Since the Arbitrator has concluded that the Petitioner did sustain a compensable accident, and that his present condition is casually related to that injury, the Respondent is hereby found to be liable for those bills. The Arbitrator, therefore, orders the Respondent to pay to the Petitioner and his attorney $67,133.24 for medical services as provided in Section 8 of the Act.

L. <u>What amount of compensation is due for temporary total disability?</u>

The Petitioner was authorized off of work or on work restrictions for the time period from February 15, 2013 to August 21, 2013.

The Arbitrator concludes, after considering the Petitioner's un-rebutted testimony and the medical records, that as a matter of law the Respondent is liable for the TTD, and,

orders the Respondent to pay the Petitioner and his attorney temporary total disability benefits of $253.33 a week for 26 5/7 weeks, as provided in Section 8(b) of the Act.

Temporary total disability is the temporary period following an accident during which the employee is totally incapacitated by reason of the injury and it is considered temporary in the sense that the disabling condition exists until the employee is as far restored as the injury's permanent character will permit. Mount Olive Coal Co. v. Industrial Commission, 295 Ill. 429, 129 N.E.103 (1920). In order to recover temporary total disability benefits, a claimant must prove by a preponderance of the evidence that the injuries arose out of and in the course of his employment and that the claimant had a resultant incapacity to work. Pemble v. Industrial Comm's, 181 App.3d 409, 536 N.E.2d 1349 (1989). Under Illinois law, the inability to work is found where the employee cannot work without endangering his health. Swindle v. Industrial Comm's, 126 Ill.3d 793,467 N.E.2d 1074 (1984). The dispositive test is whether the claimant's condition has stabilized, that is, whether the claimant has reached maximum medical improvement. Freeman United Coal v. Industrial Commission, 318 App.3d 170, 741 N.E.2d 144 (2000). Section (b) of the Act states that weekly compensation shall be paid as long as the total temporary incapacity lasts.

K. Is Petitioner entitled to any prospective medical care?

Based on the above discussion and pursuant to Plantation Manufacturing Co. v. Industrial Commission, 294 Ill.App.3d 705, 691 N.E.2d 13 (2d Dist. 1997), the Respondent is ordered to provide written approval of the medical treatment requested by Dr. Salehi.

M. Should penalties or fees be imposed upon Respondent?

No penalties are awarded in this matter. Respondent reasonably relied on the medical opinion of Dr. Avi Bernstein, a board certified orthpaedic surgeon.