KAREN L. HUMES
(Appellant)

v.

WALMART ASSOCIATES, INC.
(Appellee)

and

WALMART CLAIMS SERVICES, INC.
(Insurer)

Conference held: December 11, 2024
Decided: September 5, 2025

PANEL MEMBERS: Administrative Law Judges Stovall, Hirtle, and Rooks
BY: Administrative Law Judge Rooks

[¶1] Karen Humes appeals from a decision of a Workers' Compensation Board administrative law judge (*Chabot, ALJ*) granting her Petition for Award of Compensation in part and denying her Petition for Payment of Medical and Related Services. Ms. Humes contends the ALJ erred when adopting the independent medical examiner's findings and concluding that her November 11, 2020, work injury had resolved by December 2, 2020. We disagree and affirm the decision.

I. BACKGROUND

[¶2] Karen Humes began working for Walmart in 2005 as a hauler in the receiving department of the distribution center. In this role, she operated a "double jack" forklift machine, in a standing position. On November 11, 2020, she was involved in a collision with another forklift, causing her to fall onto the cement floor.

She was transported by ambulance to the emergency department where she was diagnosed with a back and head contusion. The following day, she treated at Concentra with Dr. Christopher Short, where she reported improvement and asked to be released to full duty.

[¶3] Ms. Humes was next seen by Dr. Rick Marden at Topsham Family Practice, where she reported tailbone pain. Dr. Marden issued an M-1 Practitioner's Report dated November 30, 2020, that recommended no lifting over twenty pounds and minimal stooping/bending, kneeling/crawling, and pushing/pulling. Ms. Humes testified she asked to be released so that she could return to the double-jack, which she felt was physically easier than the alternative work she had been given. In a letter dated December 3, 2020, Dr. Marden released Ms. Humes to regular-duty work.

[¶4] Ms. Humes terminated her employment with Walmart on January 1, 2021. Records from her annual medical exam on January 6, 2021, state that she left employment with Walmart because she felt it was unsafe. The records did not mention any complaints of back pain at this visit.

[¶5] Ms. Humes had a pre-existing history of kidney stones. On January 10, 2020, she underwent a cystoscopy with left ureteral stent placement. In June 2021, she sought treatment at Central Maine Urology for left-sided flank pain. She testified that she felt her pain was due either to a kidney stone or from bending while washing

her car. She underwent a CT scan that revealed multiple nonobstructive bilateral renal calculi (kidney stones).

[¶6] Ms. Humes saw her primary care provider, Jessica McConville, NP, on July 2, 2021. Ms. McConville indicated on an M-1 form that Ms. Humes had no restrictions and referred her to Dr. Matthew McLaughlin for physical therapy. Dr. McLaughlin opined that Ms. Humes's low back pain was due to the work accident and restricted her to lifting no more than twenty pounds, among other work restrictions. Dr. McLaughlin subsequently confirmed his opinion and placed Ms. Humes on permanent restrictions.

[¶7] Ms. Humes filed her Petitions for Award and for Payment of Medical and Related Services. Dr. Benjamin Branch performed an independent medical examination pursuant to 39-A M.R.S.A. § 312. The ALJ was required to adopt the medical findings of the independent medical examiner (IME) absent clear and convincing evidence to the contrary. 39-A M.R.S.A § 312(7). Dr. Branch diagnosed chronic myofascial pain of the left flank, which was caused by either muscular pain or referred pain from her kidneys. He opined that although Ms. Humes suffered soft tissue contusions on November 11, 2020, the effects of that injury ended by December 2, 2020. Dr. Branch also concluded that any current back complaints would not require work restrictions.

[¶8] Ms. Humes argued that she continued to suffer the effects of the work injury beyond December 2, 2020, and that Dr. McLaughlin's opinion constituted clear and convincing evidence contrary to that of Dr. Branch. The ALJ disagreed, and although he awarded Ms. Humes protection of the Act, he did not award incapacity benefits or payment of medical expenses.

[¶9] Ms. Humes filed a Motion for Further Findings of Facts and Conclusions of Law. The ALJ denied that motion, and this appeal followed.

II. DISCUSSION

[¶10] The role of the Appellate Division "is limited to assuring that the [ALJ's] findings are supported by competent evidence, that [the] decision involved no misconception of applicable law and that the application of the law to the facts was neither arbitrary nor without rational foundation." *Moore v. Pratt & Whitney Aircraft*, 669 A.2d 156, 158 (Me. 1995) (quotation marks omitted). Because Ms. Humes requested findings of fact and conclusions of law following the decision, the Appellate Division will "review only the factual findings actually made and the legal standards actually applied by the [ALJ]." *Daley v. Spinnaker Indus., Inc.*, 2002 ME 134, ¶ 17, 803 A.2d 446.

[¶11] The medical findings of an IME appointed pursuant to section 312 are entitled to increased weight in claims before an ALJ and must be adopted absent clear and convincing evidence to the contrary. 39-A M.R.S. § 312(7). The "clear and

convincing evidence to the contrary" standard requires a showing "that it was highly probable that the record did not support the IME's medical findings." *Dubois v. Madison Paper Co.*, 2002 ME 1, ¶ 14, 795 A.2d 696. However, when the ALJ adopts the IME's findings, as in this case, we reverse only if those findings are not supported by competent evidence, or the record discloses no reasonable basis to support the decision. *Dillingham v. Great N. Paper*, Me. W.C.B. No. 15-7, ¶ 3 (App. Div. 2015); *May v. Saddleback, Inc.*, Me. W.C.B. No. 16-2, ¶ 5 (App. Div. 2016). Further, "[w]hen an [ALJ] concludes that the party with the burden of proof failed to meet that burden, we will reverse that determination only if the record compels a contrary conclusion to the exclusion of any other inference." *Kelley v. Me. Pub. Employees Ret. Sys.*, 2009 ME 27, ¶ 16, 967 A.2d 676.

[¶12] Ms. Humes contends that the evidentiary record, specifically Dr. McLaughlin's medical opinion, compels a finding that the effects of her work-related low-back injury continue beyond December 2, 2020. We disagree.

[¶13] First, the ALJ points to evidence that supports Dr. Branch's findings regarding the duration of the injury, including: Dr. Marden's M-1 report releasing Ms. Humes to regular duty work as of December 3, 2020; the fact that she was under no medical restrictions from December 3, 2020, until September 17, 2021; and the gap in treatment from December 2, 2020, until June 2021. Further, the ALJ explained that Dr. McLaughlin's medical findings did not contradict Dr. Branch's

because Ms. Humes reported pain to Dr. Branch in different body parts than she reported to Dr. McLaughlin. Additionally, he noted that Dr. McLaughlin attributed Ms. Humes's flank pain in June 2023 to muscular pain, but in April 2022 had attributed it to radicular pain. These inconsistencies support the ALJ's conclusion that Dr. McLaughlin's opinion did not constitute clear and convincing evidence contrary to that of Dr. Branch.

[¶14] Ms. Humes also argues that the ALJ failed to adequately address whether her myofascial pain was causally related to the November 11, 2020, accident. This contention also lacks merit.

[¶15] The ALJ acknowledged that Dr. Branch diagnosed her with chronic myofascial pain of the left flank, which he stated could be caused by either muscular pain or referred pain from the kidneys. Dr. Branch testified at his deposition that "if there is no evidence of nephrolithiasis the most likely source of her myofascial pain would be the work injury." However, there was evidence of nephrolithiasis in the record—the ALJ specifically referenced a June 14, 2020, medical record that diagnosed bilateral nephrolithiasis to support his finding of no causal connection past December 2, 2020.

[¶16] Accordingly, we conclude that competent evidence supports the ALJ's factual findings and provides a reasonable basis for the ALJ's decision. *Dillingham*, Me. W.C.B. No. 15-7, ¶ 3. Moreover, the ALJ neither misconceived nor misapplied

the law when determining that Dr. McLaughlin's opinion did not amount to evidence of sufficient weight to contradict Dr. Branch's findings, *Dubois*, 2002 ME 1, ¶ 16 ("We give deference to the findings of [the ALJ], particularly with regard to the medical/factual issues").

The entry is:

The administrative law judge's decision is affirmed.

Any party in interest may request an appeal to the Maine Law Court by filing a copy of this decision with the clerk of the Law Court within twenty days of receipt of this decision and by filing a petition seeking appellate review within twenty days thereafter. 39-A M.R.S.A. § 322

Pursuant to board Rule, chapter 12, § 19, all evidence and transcripts in this matter may be destroyed by the board 60 days after the expiration of the time for appeal set forth in 39-A M.R.S.A. § 322 unless (1) the board receives written notification that one or both parties wish to have their exhibits returned to them, or (2) a petition for appellate review is filed with the law court. Evidence and transcripts in cases that are appealed to the law court may be destroyed 60 days after the law court denies appellate review or issues an opinion.

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