ROBERT CAITO
(Appellee)

v.

CHEP SERVICES, LLC
(Appellant)

and

CORVEL CORPORATION
(Insurer)

Conference held: February 5, 2025
Decided: August 7, 2025

PANEL MEMBERS: Administrative Law Judges Chabot, Hirtle, and Murphy
BY: Administrative Law Judge Hirtle

[¶1] CHEP Services, LLC, appeals from a decision of an administrative law judge of the Workers' Compensation Board (*Stovall, ALJ*) granting Robert Caito's Petitions for Award and for Payment of Medical and Related Services, which listed the date of injury as June 1, 2021. CHEP Services appeals, contending mainly that the ALJ erred in adjudicating injury dates that were not pleaded and by awarding benefits on the merits of an injury date that was not pleaded. We agree in part and vacate the decision in part, but we affirm the outcome.

I. BACKGROUND

[¶2] Mr. Caito filed one Petition for Award and one Petition for Payment of Medical and Related Services with the Maine Workers' Compensation Board. On the face of each petition, he alleged an injury date of June 1, 2021. The parties

engaged in mandatory mediation pursuant to 39-A M.R.S.A. § 313, and the mediator created a written report listing the date of injury as a disputed issue. The petitions led to a formal hearing before an ALJ at which Mr. Caito testified that he was hurt at work on March 15, 2021, and April 23, 2021. Mr. Caito testified that the date of injury listed on his petitions, June 1, 2021, was the date he provided notice of the injuries to CHEP Services. At the time, no party objected to the sufficiency of the pleadings or the procedure.

[¶3] The parties submitted written arguments on the merits of the March 15, 2021, and April 23, 2021, injury dates. Specifically, Mr. Caito argued that his disabling work-related injury occurred on April 23, 2021, and characterized the March 15, 2021, injury as minor. CHEP Services argued that Mr. Caito's disabling work-related injury occurred on March 15, 2021, and characterized the April 23, 2021, injury as minor. Neither party argued that a work-related injury occurred on June 1, 2021.

[¶4] The ALJ issued a decision, now on appeal, finding as follows:

> Pending before the Board are the employee's Petitions for Award of Compensation and Petitions for Payment of Medical and Related Services regarding an alleged back and left hip injury on approximately March 15, 2021 and a left quadricep and left hip injury on April 23, 2021. [Begin footnote.] The Petitions were originally mistakenly filed with a date of injury of June 1, 2021. That was the date that the employee reported his injuries. However, the evidence is clear that he is alleging a March 15, 2021 and an April 23, 2021 date of injury. [End footnote.]

[¶5] The ALJ found that the claimed injury date of March 15, 2021, was barred by the notice requirements of 39-A M.R.S.A. § 301, and denied the claim. The ALJ found that timely notice was provided for the claimed injury date of April 23, 2021. Further, the ALJ chose from among competing medical opinions to find that the effects of April 23, 2021, injury continued, and that Mr. Caito met the additional causation requirements of 39-A M.R.S.A. § 201(4) regarding a pre-existing condition. Finally, the ALJ found that Mr. Caito had conducted a good faith work search within the requirements of *Monaghan v. Jordan's Meats*, 2007 ME 100, 928 A.2d 768, before awarding retroactive and ongoing 100% partial incapacity benefits pursuant to 39-A M.R.S.A. § 213(1)(C).

[¶6] CHEP Services filed a Motion for Additional Findings of Fact and Conclusions of Law. The ALJ granted the motion and issued additional findings, but did not change the outcome. This appeal followed.

II. DISCUSSION

A. Standard of Review

[¶7] 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 CHEP

Services requested additional 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.

B. Sufficiency of the Pleadings: Date of Injury

[¶8] CHEP Services argues that it was error for claims to go forward on two dates of injury, neither of which was pleaded, when the filed pleading listed only one date of injury. Specifically, CHEP Services points to written argument asking the ALJ to find that one injury occurred and the parties simply disagreed about when the injury occurred: March 15, 2021, or April 23, 2021. When the ALJ instead found that two injuries occurred, CHEP Services argued the ALJ erred by providing an unexpected and unpleaded second basis for an award. To support this argument, CHEP Services cites to 39-A M.R.S.A. § 305, arguing that the statutory language implies a requirement that each alleged injury date be named with a separate pleading.[1]

[1] Title 39-A M.R.S.A § 305 provides:

> **Petition for award; protective decree.**
> In the event of a controversy as to the responsibility of an employer for the payment of compensation, any party in interest may file in the office of the board, a petition for award of compensation setting forth the names and residences of the parties, the facts relating to the employment at the time of the injury, the knowledge of the employer or notice of the occurrence of the injury, the character and extent of the injury and the claims of the petitioner with reference to the injury, together with such other facts as may be necessary and proper for the determination of the rights of the petitions.

[¶9] Mr. Caito argues that CHEP Services is alleging error in the process only after a loss on the merits of the case. Both Mr. Caito and the ALJ (in response to the motion for further findings) point to multiple quotations from CHEP Services' position paper and proposed findings to demonstrate that the parties had briefed and argued the issue of the date on which Mr. Caito was injured before the ALJ. Further, the parties included alternative arguments covering the merits of both injury dates that the ALJ addressed.

[¶10] The date of injury is the axis around which the procedures of the Workers' Compensation Act turn. The date of injury, with some statutory exceptions, begins the notice and filing periods for claims, may determine which insurer is on the risk for the claim, and sets the remedies available to the injured employee. *See Jensen v. S.D. Warren,* 2009 ME 35, ¶ 13, 968 A.2d 528. We agree with CHEP Services that the best practice, and in fact the overwhelmingly common practice, before the Board is for claimants to file one petition for each alleged date of injury. However, nothing in the plain language of 39-A M.R.S.A. § 305 *requires* that a party file one petition per date of injury. Further, parties before the Board are under an obligation to present arguments to the ALJ before a decision is issued. 39-A M.R.S.A. § 318; Me. W.C.B. Rule ch. 12, § 14.

[¶11] In this case, the ALJ's finding that two petitions for award and two petitions for payment of medical services were filed is unsupported by the facts.

Only one petition for award and one petition for payment of medical services were filed and both alleged the injury date of June 1, 2021. The ALJ's finding to the contrary, that two petitions were filed on two dates of injury, is unsupported by competent evidence and is therefore vacated.

[¶12] However, we find no reversible error in the ALJ adjudicating what turned out to be the two dates of injury based on the pleadings submitted when: the actual date of injury was raised as a disputed issue at mediation; neither party objected until after the decision; and the parties fully briefed the merits of the two injury dates that the ALJ adjudicated. Although the Maine Rules of Civil Procedure do not govern proceedings before the Workers' Compensation Board, we note that the parties in this case effectively tried the adjudicated injury dates by consent in a manner consistent with M.R. Civ. P. 15(b).[2]

[¶13] In sum, we find no reversible error in the ALJ's decision to adjudicate the merits of two alleged injury dates that were briefed by the parties. We reiterate

[2] M.R. Civ. P. 15(b) provides:

> **(b) Amendments to Conform to the Evidence.** When issues not raised by the pleadings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings. Such amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues may be made upon motion of any party at any time, even after judgment; but failure so to amend does not affect the result of the trial of these issues. If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice the party in maintaining an action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence.

for the bar, however, that the better practice is to file separate petitions pleading each alleged date of injury. Failing to do so in other situations, when the parties have not so clearly tried multiple injury dates in front of the ALJ, may result in denial of the claims. *See, e.g., Jackson v. Pratt-Abbott Cleaners*, Me. W.C.B. No. 14-13, ¶¶ 13-16 (App. Div. 2014) (vacating a hearing officer's decision that had discontinued benefits for three previously established work injuries because the employer had filed only one petition for review related to one date of injury).

C. Sufficiency of the Evidence: Causation, Work Capacity, and Work Search

[¶14] CHEP Services argues that competent evidence does not support the ALJ's findings that: (1) the injury date of April 23, 2021, meets the heightened causation standard of 39-A M.R.S.A. § 201(4); (2) the injury date of April 23, 2021, is responsible for activity restrictions resulting in partial incapacity to earn; and (3) Mr. Caito's work search efforts were adequate to support an award of 100% partial incapacity benefits. The ALJ neither misapplied nor misconstrued the law with respect to each of these issues, and cited to competent evidence in support of the relevant factual findings. We therefore reject these arguments without further discussion.

III. CONCLUSION

[¶15] Because we conclude that the ALJ's findings that Mr. Caito filed two petitions for award and two petitions for payment of medical and related services are

unsupported in the record, we vacate those findings. The ALJ's decision is modified in part to reference only the petitions actually filed, bearing the alleged injury date of June 1, 2021. Because the parties fully developed evidence and argument and tried other injury dates without objection, and because the ALJ's findings are supported by competent evidence, the outcome of the case is affirmed.

The entry is:

> The ALJ's decision is modified in part to reference only the petitions actually filed, bearing the alleged injury date of June 1, 2021. Because the parties fully developed evidence and argument and tried other injury dates without objection, and because the ALJ's findings are supported by competent evidence, the outcome of the case is affirmed. The wherefore provision of the decree is modified to reflect that the Petition for Award and Petition for Payment of Medical and Related Services are granted, in part. They are granted as they relate to the April 23, 2021, date of injury, but denied as they related to the March 15, 2021, date of injury.

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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