

ANTHONY DAVIS  
(Appellee)

v.

MAYO REGIONAL HOSPITAL  
(Appellant)

and

CROSS INSURANCE  
(Insurer)

Decided: December 17, 2024  
Conference held: December 11, 2024

Panel Members: Administrative Law Judges Chabot, Sands, and Smith  
By: Administrative Law Judge Sands

[¶1] Mayo Regional Hospital appeals from a decision of a Workers' Compensation Board Administrative Law Judge (*Hirtle, ALJ*) granting Anthony Davis's Petition for Award. The Hospital contends (1) the ALJ erred when finding that COVID-19, contracted by Mr. Davis at work, was a causal factor in the stroke he experienced shortly after his COVID-19 diagnosis; and (2) the evidence of Mr. Davis's skills and work experience compels the finding that his post-injury earning capacity is greater than found by the ALJ. We affirm the decision.

[¶2] First, there is competent evidence in the record that supports the ALJ's finding of causation. Dr. Karen Thibault expressed the medical opinion that "the COVID-19 infection caused Mr. Davis's cerebral vascular accident." Dr. Thibault's

causation finding is supported by medical research and not, as the Hospital asserts, temporal proximity alone. And, although there is a contrary medical opinion in the record, the choice between competing expert medical opinions is a matter soundly within the purview of the ALJ who hears the case. *Dolliver v. Pratt & Whitney*, Me. W.C.B. No. 23-11, ¶ 17 (App. Div. 2023).

[¶3] Second, evidence of Mr. Davis's work experience as a paramedic and his computer skills does not compel the conclusion that Mr. Davis is able to earn more than \$510.00 per week, as found by the ALJ. The ALJ considered his restrictions due to the stroke (including the inability to walk on uneven ground; no standing or walking for more than five minutes with the ability to sit down for five to ten minutes; and no lifting, carrying, pushing, or pulling greater than ten pounds), along with his vocational background, age, education level, and presentation at the hearing. These factors are appropriately evaluated when determining an employee's post-injury earning capacity. *See Morse v. Fleet Fin. Group*, 2001 ME 142, ¶ 9, 782 A.2d 769. Thus, the Hospital's contention regarding earning capacity lacks merit. *See, e.g., Gallant v. MSAD No. 49*, Me. W.C.B. No. 18-28, ¶ 14 (App. Div. 2018).

The entry is:

The administrative law judge's decision is affirmed.

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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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Attorneys for Appellant:  
Anne-Marie Storey, Esq.  
John K. Hamer, Esq.  
RUDMAN WINCHELL  
P.O. Box 1401  
Bangor, ME 04101-1401

Attorney for Appellee:  
Kevin M. Noonan, Esq.  
McTEAGUE HIGBEE  
P.O. Box 5000  
4 Union Park Road  
Topsham, ME 04086