

MAEVE W. O'REILEY
(Appellant)

v.

THE HOME DEPOT, INC.
(Appellee)

and

HELMSMAN MANAGEMENT SERVICES, INC.
(Insurer)

and

PLANET FITNESS, INC.
(Appellee)

and

PMA C/O GALLAGHER BASSETT SERVICES, INC.
(Insurer)

Argued: September 23, 2025
Decided: March 31, 2026

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

[¶1] Maeve O'Reiley appeals a decision of a Workers' Compensation Board administrative law judge (*Elwin, ALJ*).¹ Ms. O'Reiley contends the ALJ erred (1) in

¹ The ALJ granted, in-part, Ms. O'Reiley's Petition for Award related to her May 13, 2019, date of injury, against Home Depot; granted her Petition for Payment of Medical and Related Services against Home Depot; and granted, in-part, her Petition for Review and Request for Provisional Order related to her October 12, 2022, date of injury, against Planet Fitness. However, the ALJ denied Ms. O'Reiley's Petition to Remedy Discrimination against Home Depot, her Petition for Payment of Medical and Related Services against Planet Fitness, her Motion for Enhanced Interest against Home Depot, and Home Depot's Petition for Award and Apportionment against Planet Fitness.

the application of the “fourteen-day rule,”² and (2) in finding that Ms. O’Reiley has full-time, light duty work capacity. We disagree with her contentions and affirm the decision.

I. BACKGROUND

[¶2] Ms. O’Reiley was hired by Home Depot in April 2019. About a month later, on May 13, 2019, she was struck in the left hip by a bundle of decking as she was helping a customer load his vehicle. She sought treatment at Concentra on June 17, 2019, and started a course of physical therapy. A subsequent MRI revealed a labral tear. Ms. O’Reiley continued to work for Home Depot with restrictions until her employment was terminated on August 1, 2019.

[¶3] Ms. O’Reiley subsequently found employment with several different employers for short periods. On August 22, 2022, she began working for Planet Fitness. On October 12, 2022, she experienced an onset of increased left hip pain while pushing a mop bucket. Planet Fitness began paying her total incapacity benefits voluntarily, and she has not returned to work since that injury. Planet Fitness later sought to discontinue benefits pursuant to 39-A M.R.S.A § 205(9)(B), and Ms. O’Reiley filed a Petition for Review and Request for Provisional Order.

[¶4] Ms. O’Reiley filed her Petitions for Award and for Payment of Medical and Related Services against Home Depot in February 2023. Home Depot

² See Me. W.C.B. Rule ch. 1, § 1.

contended this was the first time Ms. O'Reiley asserted a claim for workers' compensation benefits. Home Depot did not file a timely Notice of Controversy.

[¶5] Ms. O'Reiley underwent an independent medical examination with Dr. Bamberger pursuant to 39-A M.R.S.A. § 312. In his report, Dr. Bamberger stated that Ms. O'Reiley "had and likely continues to have a full-time light duty work capacity at the very least." He also stated that the incident at Planet Fitness was not a significant aggravation of her preexisting left hip condition. Dr. Bamberger issued a supplemental report revising his opinion and finding that the incident at Planet Fitness was a significant aggravation. Dr. Bamberger was subsequently deposed, providing additional testimony regarding Ms. O'Reiley's work injuries and her work capacity.

[¶6] After a testimonial hearing, the ALJ found that Ms. O'Reiley had sustained a work-related left hip injury at Home Depot, the effects of which are ongoing, and a work-related injury at Planet Fitness which had resolved as of January 2023. Based on Dr. Bamberger's findings, the ALJ determined that she retains a light-duty work capacity. The ALJ rejected her claim for 100% partial incapacity benefits, finding that she had not performed a good-faith work search, and imputed a full-time, minimum wage-earning capacity of \$566 per week. The ALJ also found that when terminating her employment, Home Depot did not discriminate against Ms. O'Reiley for asserting a workers' compensation claim.

[¶7] Additionally, the ALJ determined that Home Depot violated the fourteen-day rule beginning on February 16, 2023, the date Ms. O’Reiley filed her petitions. However, because Planet Fitness had been paying total benefits to Ms. O’Reiley during the course of the fourteen-day rule violation, the ALJ ordered Home Depot to pay the penalty amount to Planet Fitness as reimbursement.

[¶8] Ms. O’Reiley filed a motion for further findings of facts and conclusions of law pursuant to 39-A M.R.S. § 318. The ALJ granted the motion and amended the decision but did not alter the outcome. Ms. O’Reiley appeals.

II. DISCUSSION

A. Standard of Review

[¶9] 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). The Appellate Division will not disturb a factual finding made by the ALJ absent a showing that it lacks competent evidence to support it. *Dunkin Donuts of Am., Inc. v. Watson*, 366 A.2d 1121, 1125 (Me. 1976). A judgment regarding the weight or degree of significance to attach to pieces of evidence is within the ALJ’s authority, and we will defer to that judgment. *McLaughlin v. Community Living Assoc.*, Me. W.C.B.

No. 19-15, ¶ 11 (App. Div. 2019); *see also* Donald G. Alexander, *Maine Appellate Practice* at 257 (4th ed. 2013). Moreover, ALJs, as the fact-finders and sole judges of witness credibility, are within their authority to choose between conflicting versions of the facts. *Gilbert v. S.D. Warren*, Me. W.C.B. No. 16-12, ¶ 11 (App. Div. 2016).

B. Fourteen-Day Rule Violation

[¶10] Ms. O’Reiley argues that the ALJ erred in determining that Home Depot did not violate the fourteen-day rule until she filed her petitions in February 2023. Additionally, she asserts that the penalty assigned to Home Depot should be paid to her—not to Planet Fitness as apportionment against the total benefits already paid for the same period.

1. Date of the Fourteen-Day Rule Violation

[¶11] Ms. O’Reiley contends the evidentiary record compels a finding that she made a claim for benefits sufficient to trigger application of the fourteen-day rule on the date her employment was terminated, August 1, 2019, as opposed to the date she filed her petitions, February 16, 2023.

[¶12] The Maine Workers’ Compensation Board Rules require an employer or insurer to accept, pay, or deny a claim and file a Notice of Controversy “within 14 days of notice or knowledge of a claim for incapacity . . . benefits.”³ “[A]n

³ Me. W.C.B. Rule, ch. 1, § 1(1) provides:

employer's notice that an employee may have suffered an injury is not synonymous with an employer's notice of an employee's claim for incapacity benefits." *Pearson*

§ 1. Claims for Incapacity and Death Benefits

1. Within 14 days of notice or knowledge of a claim for incapacity or death benefits for a work-related injury, the employer or insurer will:
 - A. Accept the claim and file a Memorandum of Payment checking "Accepted"; or
 - B. Pay without prejudice and file a Memorandum of Payment checking "Voluntary Payment without Prejudice"; or
 - C. Deny the claim and file a Notice of Controversy.
2. Notice of the claim must be provided consistent with 39-A M.R.S.A. §301, or to the employer's insurance carrier at the address registered with the Bureau of Insurance.
3. If the employer fails to comply with subsection 1 of this section, the employee must be paid total benefits, with credit for earnings and other statutory offsets, from the date the claim is made in accordance with 39-A M.R.S.A. §205(2) and in compliance with 39-A M.R.S.A. §204. The employer may discontinue benefits under this subsection when both of the following requirements are met:
 - A. The employer files a Notice of Controversy; and
 - B. The employer pays benefits from the date the claim is made. If it is later determined that the average weekly wage/compensation rate used to compute the payment due was incorrect, and the amount paid was reasonable and based on the information gathered at the time, the violation of subsection 1 of this section is deemed to be cured.
4. Payment under subsection 3 of this section requires the filing of a Memorandum of Payment.
5. Benefits paid under this section are indemnity payments and are credited toward future benefits in the event that benefits are ordered or paid.
6. Failure to comply with the provisions of subsection 1 of this section may also result in the imposition of penalties pursuant to 39-A M.R.S.A. §§ 205(3), 359, and 360.
7. This rule applies to all dates of injury and all pending claims.

v. Freeport School Dep't, 2006 ME 78, ¶ 17, 900 A.2d 728. The Law Court stated in *Pearson*:

In *Carroll v. Gates Formed Fibre Products*, 663 A.2d 23 (Me. 1995), we addressed whether an employee had given notice sufficient to trigger the employer's obligation to pay or controvert a claim pursuant to a former version of the Act. We stated that although the statute did not necessarily require the employee to file a formal claim, it nevertheless contemplated

some sort of claim or request by an employee. It would be impossible for an employer to know how much to pay . . . without some indication of an employee's demand. And clearly there must be something to controvert before an employer can know what to file in its notice of controversy.

Id. ¶ 17 (footnotes omitted). Thus, to trigger a fourteen-day violation, a claim for incapacity benefits must be clearly and specifically asserted by the employee. *Id.*

[¶13] Ms. O'Reiley contends that Home Depot had notice of her claim for incapacity benefits before February 16, 2023, because the record shows: the store manager, assistant store manager, and head of her department were immediately aware that she had been injured on the date of the injury; she was treated, referred to physical therapy, diagnosed with a torn labrum of the left hip, and given work restrictions by Home Depot's chosen provider; the restrictions remained in place until her employment was terminated; she had complained to her managers about being asked to work beyond her restrictions; they were aware she had lost time from work because she had been sent home when in pain; and at her termination meeting

on August 1, 2019, she informed the managers that she was being asked to perform full job duties despite her restrictions.

[¶14] In *Pearson*, the employee contended that the employer had knowledge of her claim sufficient to invoke the penalty provisions of the fourteen-day rule when she informed the employer that she had been hospitalized due to work-related stress and had requested an unpaid leave of absence. *Id.* ¶¶ 3, 16. Although the hearing officer found that, at that time, the employee had given adequate notice of her injury pursuant to 39-A M.R.S.A. § 302, the hearing officer also concluded that she had not given notice of a claim for benefits under the fourteen-day rule until a later date, when she clearly expressed that she was asserting a claim for workers' compensation benefits, *id.* ¶¶ 17-18. The Law Court affirmed that decision. *Id.* ¶ 18.

[¶15] Like in *Pearson*, competent evidence in this case supports the ALJ's finding that Home Depot had notice that Ms. O'Reiley sustained a work injury as of the date of injury, but the evidence does not compel a finding that she was asserting a claim for benefits at that time. The ALJ also found that Home Depot terminated her employment not because she was asserting a claim for benefits, but because her anticipated seasonal term of employment had ended. This finding is based on evidence that Ms. O'Reiley was aware of the seasonal nature of her employment.

[¶16] It was within the ALJ's purview to resolve conflicts in the evidence. *Gilbert*, Me. W.C.B. No. 16-12, ¶ 11. Because the ALJ's finding that the fourteen-

day rule violation began in February 2023 is supported by competent evidence, we find no error.

2. Payment of Fourteen-Day Rule Penalty

[¶17] As noted above, Maine W.C.B. Rule, ch. 1, § 1(5) provides: “Benefits paid [pursuant to the fourteen-day rule] are indemnity payments and are credited toward future benefits in the event that benefits are ordered or paid.” Under the apportionment statute, 39-A M.R.S.A § 354, Planet Fitness, as the most recent employer, was initially responsible for paying the total workers’ compensation benefit owed to Ms. O’Reiley. Planet Fitness then became subrogated to Ms. O’Reiley’s rights for any amounts that Home Depot, the earlier employer, became liable to her. *See id.*; *Trottier v. Thomas Messer Builders*, 2007 ME 64, ¶ 14, 921 A.2d 163. Because the amount paid to Ms. O’Reiley by Planet Fitness exceeded what is owed by Home Depot,⁴ the ALJ ordered Home Depot to apply the penalty towards the amount already paid by Planet Fitness.

[¶18] Ms. O’Reiley contends this was error, and the fourteen-day penalty should be paid directly to her. She argues it should not be credited against benefits already paid because the penalty payments are not workers’ compensation benefits,

⁴ Ms. O’Reiley’s average weekly wage was \$241.40 at Home Depot and \$419.40 at Planet Fitness. Planet Fitness’s rights as against Home Depot are determined with reference to the average weekly wage at the time of the prior injury. *Trottier v. Thos. Messer Builders*, 2007 ME 64, ¶ 14, 921 A.2d 163.

nor are they analogous to an award of workers' compensation benefits, citing *Estate of Joyce v. Commercial Welding Co.*, 2012 ME 62, 55 A.3d 411.

[¶19] At issue in *Estate of Joyce* was whether the employer was required to pay pre-decree interest on a fourteen-day rule payment. 2012 ME 62, ¶ 18. The Law Court construed the language in title 39-A M.R.S.A § 205(6)⁵ to determine whether the penalty constitutes “weekly compensation . . . paid pursuant to an award,” thereby subjecting the penalty to interest. *Id.* The Law Court determined that interest was not due because it was not provided for in the statute or rule governing fourteen-day violations; and even though the payment is designated as an indemnity payment by rule, it is not analogous to an award of compensation because it is payable without regard to the employee's incapacity or success on the merits. *Id.* ¶ 22.

[¶20] Whether interest can be applied to the penalty, however, is a different question from whether credit can be taken for benefits already paid. Rule, ch. 1, § 1(5) specifically addresses this situation, and plainly embodies the Law Court's often-expressed policy disfavoring double recoveries. Accordingly, the ALJ did not err when determining that Home Depot must reimburse Planet Fitness for benefits already paid.

⁵ Title 39-A M.R.S.A § 205(6) provides:

Interest. When weekly compensation is paid pursuant to an award, interest on the compensation must be paid at the rate of 10% per annum from the date each payment was due, until paid.

C. Work Capacity

[¶21] The ALJ found, based on Dr. Bamberger's report and deposition testimony, that Ms. O'Reiley continued to experience the effects of the work injury sustained at Home Depot, but she retained a full-time, light duty work capacity. She also found the aggravation injury sustained at Planet Fitness had resolved as of January 2023. Ms. O'Reiley contends the ALJ erred by not giving proper consideration to contrary statements in Dr. Bamberger's deposition, which according to Ms. O'Reiley, compel a finding that she continues to experience total incapacity due to both work injuries.

[¶22] We agree that Dr. Bamberger's opinions expressed in his reports and testimony can be viewed as ambiguous. Although Dr. Bamberger stated in his report and deposition that Ms. O'Reiley has at least light-duty earning capacity on a full-time basis, some of his deposition testimony could be read to indicate a higher level of incapacity. With respect to the Planet Fitness injury, Dr. Bamberger opined in his initial report that the injury did not constitute a significant aggravation of the preexisting left hip condition. It was in his supplemental report and deposition that he expressed the opinion that the later injury constituted a significant exacerbation. The ALJ concluded that the Planet Fitness injury had resolved based on records from Dr. Huffard dated January 3, 2023. The ALJ also based her findings regarding incapacity on her assessment of Ms. O'Reiley's credibility.

[¶23] When a medical opinion is ambiguous, the ALJ may “consider the larger context in which those statements are offered to construe the intent of the examining physician.” *Smith v. Me. Coast Sea Vegetables, Inc.*, Me. W.C.B. 20-1, ¶ 11 (App. Div. 2020) (quotation marks omitted); *see also Tardiff v. AAA N. New England, Inc.*, Me. W.C.B. No. 18-11, ¶ 13 (App. Div. 2018). The ALJ considered the larger context in which Dr. Bamberger’s statements were offered and construed his overall intent to mean that Ms. O’Reiley’s Planet Fitness injury aggravated the preexisting hip condition but had resolved, and that she suffers only partial incapacity on an ongoing basis. She did not err in her interpretation of the evidence.

III. CONCLUSION

[¶24] We conclude that the ALJ did not commit reversible error in the application of the fourteen-day rule, Me. W.C.B. Rule ch. 1, § 1, or in finding that Ms. O’Reiley retains a full-time, light-duty earning capacity.

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 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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