

PATRICIA THIBODEAU
(Appellee)

v.

COMMUNITY HEALTH & COUNSELING SERVICES
(Appellant)

and

WILLIS OF NORTHERN NEW ENGLAND
(Insurer)

Conference held: March 19, 2014
Decided: June 20, 2014

PANEL MEMBERS: Hearing Officers: Jerome, Stovall, and Goodnough
BY: Hearing Officer Stovall

[¶1] Community Health & Counseling Services appeals from a decision of a Workers' Compensation Board hearing officer (*Pelletier, HO*) granting Patricia Thibodeau's Petitions for Award and for Payment of Medical and Related Services. Ms. Thibodeau suffered a herniated disc while working as a physical therapist for Community Health, and ultimately underwent fusion surgery.

[¶2] Community Health contends that the hearing officer erred by not adopting the independent medical examiner's finding that Ms. Thibodeau's work activity did not cause the herniated disc. A hearing officer must adopt the medical findings of an independent medical examiner "unless there is clear and convincing

evidence to the contrary in the record that does not support the medical findings.”
39-A M.R.S.A. § 312(7) (Supp. 2013).

[¶3] The hearing officer gave specific reasons for rejecting the IME’s opinion and recited the evidence that contradicts it, including that two neurosurgeons and the 39-A M.R.S.A. § 207 examiner opined that Ms. Thibodeau’s work activity caused the injury or necessitated the surgery. In addition, the hearing officer explained that he did not find the IME’s opinion persuasive because the IME is not a neurosurgeon, and his report showed a mistaken understanding of a medical report on which the IME relied.

[¶4] Section 312(7) requires that the hearing officer “state in writing the reasons for not accepting the medical findings of the independent medical examiner.” The reasons stated by the hearing officer were sufficient for him to reasonably determine, from the contrary medical evidence, that it was highly probable that the IME’s medical findings were not supported by the record. *See Dubois v. Madison Paper Co.*, 2002 ME 1, ¶¶ 15-16, 795 A.2d 696.

The entry is:

The hearing officer’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 (Supp. 2013).

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