

ELLEN F. WILSON
(Appellee)

v.

STILLWATER HEALTH CARE, INC.
(Appellant)

and

TRAVELERS INSURANCE
(Insurer)

Argued: July 9, 2025
Decided: October 3, 2025

PANEL MEMBERS: Administrative Law Judges Biddings, Hirtle, and Murphy
By: Administrative Law Judge Biddings

[¶1] Ellen Wilson appeals from a decision of a Workers' Compensation Board administrative law judge (*Chabot, ALJ*) denying her Petition for Restoration regarding an August 21, 1974, date of injury. Ms. Wilson contends that the ALJ erred in rejecting the opinion of the independent medical examiner (IME) appointed pursuant to 39-A M.R.S.A § 312, based on concerns regarding the IME's reliance on statements and records determined to be unreliable. Ms. Wilson asserts that even if the ALJ did not err in denying her claim for incapacity benefits, the conclusion that she had not met her burden with respect to "ongoing causation" was erroneous. We agree with Ms. Wilson's contention regarding use of the term "ongoing causation"

and we modify that portion of the decision to strike those words.¹ In all other respects, we affirm the administrative law judge's decision.

I. BACKGROUND

[¶2] Ellen Wilson injured her lower back on August 21, 1974, while working as a nurse's aide for Stillwater Health Care, Inc., formerly Paulson Homes (hereinafter, Stillwater). Ms. Wilson sustained herniated discs at L4-5 and L5-S1 as a result of the work injury and underwent surgery in October of 1974.

[¶3] On December 9, 1981, the parties signed an "Agreement Between Employer and Employee as to Permanent Impairment" establishing that Ms. Wilson had 15% permanent impairment to her low back due to the 1974 work injury. That agreement was approved by the Workers' Compensation Commission in January of 1982.

[¶4] Ms. Wilson was convicted on charges of embezzlement and served a sentence of incarceration from December 1, 2013, to May 2, 2017. After her sentence began, she filed Petitions for Restoration and for Payment of Medical and Related Services, seeking a closed-end period of total incapacity benefits and payment of medical bills. On September 11, 2015, a Workers' Compensation Board hearing

¹ Title 39-A M.R.S.A § 321-B(3) provides, in relevant part: "The division, after due consideration, may affirm, vacate, remand or modify a decree of an administrative law judge and shall issue a written decision."

officer (*Stovall, HO*)² issued a decree on those petitions.³ The hearing officer noted that there was no dispute regarding the occurrence of the injury and that “no argument has been advanced that the injury has resolved.” He ordered the employer to pay for some medical bills related to Ms. Wilson’s back condition but denied the claim for other services which he found to be fraudulent. The hearing officer went on to find that Ms. Wilson was not a credible witness. Addressing the evidence related to her work capacity, he wrote:

The problem with this evidence is that the doctors relied in part on Ms. Gunstone. She is not credible in my opinion save for her objective low back injury. The employee had already been found guilty of committing embezzlement two times and tried to commit fraud in the very case before the Board.

Thus, the hearing officer denied Ms. Wilson’s request for incapacity benefits.

[¶5] On September 21, 2023, Ms. Wilson filed the current Petition for Restoration, seeking total incapacity benefits beginning May 3, 2017, (the day after she was released from prison) to the present and continuing. Stillwater asserted that there had been no change in circumstances since the board’s September 11, 2015,

² Pursuant to P.L. 2015, ch. 297 (effective Oct. 15, 2015), Workers’ Compensation Board hearing officers licensed to practice law are now designated as administrative law judges (ALJ). The 2015 decision, made by now-ALJ Stovall, was made before this change.

³ The September 11, 2015, decree lists the claimant’s name as Ellen Gunstone. Ms. Wilson testified during a May 15, 2024, hearing that she has been known as both Ellen Gunstone and Ellen Wilson.

decree. As in the prior round of litigation, no argument was advanced suggesting that the effects of Ms. Wilson's work injury had ended.

[¶6] The board held a testimonial hearing on May 15, 2024. Ms. Wilson testified that she continues to experience chronic low back pain as well as occasional bilateral leg pain. Although Ms. Wilson testified that she continues to take Flexeril for her back condition, the medical records did not document any treatment for Ms. Wilson's back beyond 2020. The medical records reveal that Ms. Wilson mainly treated with her primary care provider following her release from prison.

[¶7] Dr. Gregory Taggart performed an independent medical examination pursuant to 39-A M.R.S.A § 312. The examination was performed via telehealth appointment because Ms. Wilson did not have transportation to Dr. Taggart's office. In his report, Dr. Taggart found that Ms. Wilson continues to suffer from the effects of the 1974 injury. With respect to her work capacity, Dr. Taggart opined that she was not capable of working outside the home but could work eight hours per day from home.

[¶8] The parties subsequently deposed Dr. Taggart. When asked whether a physical examination would have been helpful in deciding the issue of work capacity, Dr. Taggart stated that it was "extremely important." He went on to testify that his opinion on work capacity was based on his review of Ms. Wilson's medical records and her description of her difficulties. Dr. Taggart stated that he had not

questioned the validity of Ms. Wilson's statements regarding her complaints and limitations.

[¶9] The ALJ issued a decree on the Petition for Restoration on December 3, 2024. He noted that the board established in the 2015 decree that Ms. Wilson sustained a work-related injury to her low back on August 21, 1974. In addition, he pointed to specific language from the 2015 decree regarding the hearing officer's finding that Ms. Wilson was not a credible witness and that the medical records relying on her statements were problematic.

[¶10] The ALJ went on to address two specific arguments made by the parties. First, on the issue of changed circumstances, the ALJ concluded that because the prior litigation involved a claim only for a closed-ended period of compensation, Ms. Wilson was not required to show a change of circumstances from the prior decree in this round of litigation.

[¶11] Second, on the issue of incapacity, the ALJ noted that Ms. Wilson bore the burden of proof to establish all elements of her claim on a more probable than not basis. Reasoning that the medical opinions submitted by Dr. Williams and Dr. Taggart were problematic, and that Ms. Wilson was not a credible witness, the ALJ concluded that Ms. Wilson had not met her burden of proof and denied her Petition for Restoration.

[¶12] The ALJ stated:

Ms. Wilson's evidence of ongoing causation and incapacity is based upon past medical records which have been found not to be reliable, Ms. Wilson's statements which have been found not to be credible, and a § 312 report which relies on those unreliable records and statements. I likewise find she is not credible based upon her previous convictions for crimes of dishonesty and the previous finding of fraud in the previous Board case. Because the § 312 examiner based his opinion on unreliable information I find it unpersuasive.

[¶13] Ms. Wilson filed a timely Motion for Findings of Fact and Conclusions of Law and submitted proposed findings. Ms. Wilson argued that there was no contrary evidence to rebut Dr. Taggart's finding that she continues to suffer from the effects of the 1974 work injury. Counsel for Ms. Wilson wrote:

Finding no causation is inconsistent with all of the medical records, the prior decree and the permanent impairment award.

[¶14] The ALJ denied the Motion for Findings of Fact and Conclusions of Law by order dated January 10, 2025. This appeal followed.

II. DISCUSSION

A. Standard of Review

[¶15] In general, 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. Wilson requested findings of fact and conclusions of law following the decision, the Appellate Division is to “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 (quotation marks omitted).

B. Incapacity

[¶16] Ms. Wilson asserts that the ALJ erred in rejecting the IME’s opinion regarding her level of incapacity related to the work injury. Section 312(7) states:

The board shall adopt the medical findings of the independent medical examiner unless there is clear and convincing evidence to the contrary in the record that does not support the medical findings. Contrary evidence does not include medical evidence not considered by the independent medical examiner. The board shall state in writing the reasons for not accepting the medical findings of the independent medical examiner.

[¶17] As required, the ALJ stated in writing his reasons for rejecting the IME’s opinion. The ALJ cited Ms. Wilson’s significant credibility issues and the IME’s reliance on “unreliable records and statements.” Because the IME had based his opinion on unreliable statements from Ms. Wilson, as well as the suboptimal examination conducted via telehealth appointment, the ALJ found the opinion unpersuasive.

[¶18] When determining whether there is clear and convincing evidence sufficient to contradict the IME’s medical findings, the Appellate Division panel

looks to whether the ALJ “could reasonably have been persuaded that the required factual finding was or was not proved to be highly probable.” *Dubois v. Madison Paper Co.*, 2002 ME 1, ¶ 14, 795 A.2d 696. The case at hand presents a relatively novel situation in which the employee has a prior conviction for a crime of dishonesty and has previously been found to have committed fraud before the board. The hearing officer in the 2015 decree also concluded that medical opinions in the record at that time were problematic because they relied upon Ms. Wilson’s representations, determined not to be credible.

[¶19] In addition to Ms. Wilson’s credibility issues, the IME testified regarding the limitations of an examination completed via a telehealth appointment and his reliance on Ms. Wilson’s statements in the absence of a physical examination. The IME was also provided with medical records for review that the hearing officer in 2015 had determined to be problematic.

[¶20] The ALJ found that Ms. Wilson was not credible. The ALJ is the exclusive judge of witness credibility. *Gilbert v. S.D. Warren*, Me. W.C.B. No. 16-12, ¶ 11 (App. Div. 2016). He determined that her lack of credibility undermined the evidentiary value of the IME’s opinion, as that opinion relied on Ms. Wilson’s statements as well as medical records that a previous hearing officer had found to be problematic.

[¶21] Giving deference to the ALJ's findings with regard to credibility and factual medical issues, *see Dubois*, 2002 ME 1, ¶ 16, 795 A.2d 696, it is apparent that the ALJ could reasonably have been persuaded that it was highly probable that the IME's medical findings regarding Ms. Wilson's level of incapacity are unsupported. The reasons given were sufficient to support the ALJ's rejection of the IME's medical findings. *See Bean v. Charles A. Dean Mem'l Hosp.*, Me. W.C.B. No. 13-6, ¶ 20 (App. Div. 2013).

C. Ongoing Causation

[¶22] The petition pending before the ALJ was Ms. Wilson's Petition for Restoration, through which she sought an award of incapacity benefits based on her 1974 date of injury. An employee's burden on a Petition for Restoration is to show that the employee "is either totally or partially incapacitated to earn as a result, in whole or in part, of a work-related injury." *Hardy v. Hardy's Trailer Sales, Inc.*, 448 A.2d 895, 898 (Me. 1982). An employee can meet that burden "by demonstrating a causal relationship between his inability to find work and his work-related ... limitation." *Id.*; *see also Mathieu v. Bath Iron Works*, 667 A.2d 862, 864 (Me. 1995). As discussed above, the ALJ appropriately rejected the IME's opinion and other evidence that Ms. Wilson was incapacitated due to the work injury. Accordingly, the ALJ's determination that Ms. Wilson failed to meet her burden on the Petition for Restoration must be affirmed.

[¶23] On appeal, Ms. Wilson contends that even if we uphold the ALJ's conclusion that she failed to meet her burden with respect to incapacity, we should nonetheless vacate language in the decision that could be interpreted as a finding that the effects of the work injury have ended. Specifically, Ms. Wilson objects to the ALJ's inclusion of the term "ongoing causation" in the context of determining that she failed to meet her burden on the Petition for Restoration. At the oral argument, counsel for Stillwater acknowledged that his client could point to that language in the future to assert that the effects of the 1974 injury have ended.

[¶24] In 1981, the parties obtained board approval of an "Agreement Between Employer and Employee as to Permanent Impairment." The agreement indicated that Ms. Wilson suffers from 15% permanent impairment to her back as a result of the 1974 injury. While questions regarding Ms. Wilson's entitlement to benefits may persist in future litigation, we find that the board-approved 1981 agreement between the parties established that the effects of the 1974 work injury are permanent. Accordingly, Ms. Wilson did not have the burden of establishing ongoing causation for her back condition in litigating her Petition for Restoration. Rather, she had the burden of establishing that she suffers incapacity and that the incapacity is causally linked to her work-related back condition. The ALJ appropriately found that she had not met that burden. Because the inclusion of the term "ongoing causation"

regarding Ms. Wilson's failure to meet her burden is unnecessary and may cause confusion in future litigation, we modify the decision to strike that term.

III. CONCLUSION

[¶25] The ALJ's determination that Ms. Wilson failed to meet her burden on the Petition for Restoration due to credibility issues that undermined the reliability of the IME's opinion and other evidence was appropriate and we affirm it. The ALJ's inclusion of the term "ongoing causation" in his conclusion that Ms. Wilson had failed to meet her burden was unnecessary and contrary to a prior, approved agreement of the parties that the effects of the 1974 work injury are permanent. Accordingly, we modify the decision to strike that term.

The entry is:

The administrative law judge's decision is modified in part to strike the words "ongoing causation and" in paragraph eighteen. In all other respects, the 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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