MIRANDA BICKFORD
(Appellee)

v.

CENTRAL MAINE HEALTCARE CORP.
(Appellant/Self-Insured)

Conference held: February 3, 2022
Decided: October 5, 2022

PANEL MEMBERS: Administrative Law Judges Stovall, Hirtle, and Knopf
BY: Administrative Law Judge Hirtle

[¶1] Central Maine Healthcare Corporation (CMHC) appeals from a decision of a Workers' Compensation Board administrative law judge (*Chabot, ALJ*) granting Miranda Bickford's petitions regarding an injury date of November 25, 2019. CMHC contends that the ALJ erred in determining that disability from the combined effects of a preexisting psychological condition and a work-related physical injury is within the coverage of the Workers' Compensation Act. In the alternative, CMHC argues that the ALJ erred in refusing to apply the heightened standard of proof applicable to work-related mental stress injuries, 39-A M.R.S.A. § 201(3-A). Finally, CMHC argues that the ALJ erred in awarding ongoing benefits because the effects of the physical injury had resolved. We disagree and affirm the decision.

I. BACKGROUND

[¶2] Miranda Bickford was working for CMHC as a certified nursing assistant on November 25, 2019, when a patient became agitated and struck her in the head with his fist. Ms. Bickford had preexisting anxiety, depression, and post-traumatic stress disorder (PTSD), and her psychological condition deteriorated after the work-related assault. Ms. Bickford filed petitions with the board, seeking compensation for incapacity and medical payments resulting from the combined effects of the incident at work and her worsened mental condition.

[¶3] The ALJ found that Ms. Bickford sustained a work-related head injury, and that the physical injury aggravated her preexisting psychological condition. Reasoning that Ms. Bickford's situation is neither governed by section 201(4) (providing a heightened causation standard applicable to cases involving the combined effects of a preexisting physical injury and a work injury) nor section 39-A M.R.S.A. § 201(3-A)(A) (requiring a more exacting standard of proof to establish a psychological injury caused by work-related mental stress), the ALJ applied the ordinary standard for compensability under the Act, found in 39-A M.R.S.A. § 201(1). The ALJ determined that Ms. Bickford had proven a causal connection between her physical work injury and her subsequent worsened psychological condition and found that although the effects of Ms. Bickford's physical work injury had resolved, the physical injury remained the cause of her worsened psychological

state. Ms. Bickford was awarded total incapacity benefits retroactively and on an ongoing basis, pursuant to 39-A M.R.S.A. § 212.

[¶4] CMHC moved for further findings of fact and conclusions of law pursuant to 39-A M.R.S.A. § 318. The ALJ declined to alter the decision in response to this motion. The appeal followed.

II. DISCUSSION

A. Standard of Review

[¶5] 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 CMHC requested 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. Preexisting Mental Conditions Aggravated by Physical Work Injuries

[¶6] CMHC argues that the ALJ erred in finding that the combined effects of a preexisting mental condition and a work-related physical injury are compensable under the Workers' Compensation Act. Because title 39-A M.R.S.A. § 201(4) sets

a distinct, heightened causation standard for compensating preexisting *physical* conditions that have been aggravated, accelerated, or have combined with a work injury—and makes no mention of preexisting *mental* conditions—CMHC asserts that compensation for the aggravation of a preexisting mental condition by a work injury is not available under the Act. Alternatively, CMhC contends that the heightened standard of proof in section 201(3-A), applicable to mental stress injuries, should apply in this case. We disagree with these contentions.

[¶7] Any causation analysis under the Workers' Compensation Act begins with 39-A M.R.S.A. § 201(1), which provides for potential compensation for any employee who "receives a personal injury arising out of and in the course of employment[.]" Section 201 then provides specific exclusions from coverage under the Act in section 201(2) (excluding coverage for an injury while participating in a rideshare program), and 201(5) (subsequent nonwork injuries); and heightened causation standards in section 201(3-A) (for mental injury caused by workplace mental stress), and 201(4) (work injuries that aggravate, accelerate, or combine with preexisting physical conditions).[1]

[1] Title 39-A M.R.S.A. § 201 provides, in relevant part:

> **§ 201. Entitlement to compensation and services generally**
> **1. Entitlement.** If an employee who has not given notice of a claim of common law or statutory rights of action, or who has given the notice and has waived the claim or rights, as provided in section 301, receives a personal injury arising out of and in the course of employment or is disabled by occupational disease, the employee must be paid

[¶8] In the absence of a specific provision in section 201 or elsewhere in the Act addressing the scenario presented by Ms. Bickford's claim—a preexisting psychological condition aggravated by a physical injury—the general causation standard of section 201(1) governs. Such an analysis is consistent with the directive to apply the plain language of the statute. *Graves v. Brockway Smith Co*., 2012 ME

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compensation and furnished medical and other services by the employer who has assented to become subject to this Act.

2. Injury while participating in rideshare programs. An employee injured while participating in a private, group or employer-sponsored car pool, van pool, commuter bus service or other rideshare program, having as its sole purpose the mass transportation of employees to and from work, for the purposes of this Act, may not be deemed to have received personal injury arising out of or in the course of employment. Nothing in the foregoing may be held to deny benefits under this Act to employees such as drivers, mechanics and others who receive remuneration for their participation in the rideshare programs.

. . . .

3-A. Mental injury caused by mental stress. Mental injury resulting from work-related stress does not arise out of and in the course of employment unless:

A. It is demonstrated by clear and convincing evidence that:

(1) The work stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee; and

(2) The work stress, and not some other source of stress, was the predominant cause of the mental injury.

The amount of work stress must be measured by objective standards and actual events rather than any misperceptions by the employee; or

B. . . .

A mental injury is not considered to arise out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination or any similar action, taken in good faith by the employer.

4. Preexisting condition. If a work-related injury aggravates, accelerates or combines with a preexisting physical condition, any resulting disability is compensable only if contributed to by the employment in a significant manner.

5. Subsequent nonwork injuries. If an employee suffers a nonwork-related injury or disease that is not causally connected to a previous compensable injury, the subsequent nonwork-related injury or disease is not compensable under this Act.

128, ¶ 9, 55 A.3d 456. It is also consistent with Law Court precedent.[2] We therefore find no error in the ALJ's application of the plain language of section 201.

[¶9] CMHC's argument is that the words of section 201(4) mean that *only* preexisting *physical* conditions may be brought under the coverage of the Act because that subsection provides a specific causation standard for such claims. As the ALJ reasoned, however, if that were the case, the Legislature could have explicitly provided for that exclusion, as it has in other provisions in the Act.

[¶10] For example, the Legislature used plain and direct language in 39-A M.R.S.A. § 213(1-A)(A) to limit the measurement of permanent impairment (which could result in extending or limiting the duration of partial incapacity benefit payments) to preexisting physical conditions, stating that permanent impairment includes "*only* permanent impairment resulting from: [t]he work injury at issue in the determination and any preexisting *physical* condition or injury that is aggravated or accelerated by the work injury at issue[.]" *Id.* (emphasis added). Thus, permanent impairment from preexisting mental conditions aggravated or accelerated by a work

[2] *See, e.g., Smith v. Dexter Oil Co.*, 432 A.2d 438, 441 (Me. 1981) (vacating a decision that terminated benefits when it was unclear if, pursuant to a prior agreement, the employer was paying benefits for a mental condition that either preexisted or resulted from a physical work injury, and the employer failed to produce comparative medical evidence showing a change since the agreement); *Baker's Case*, 143 Me. 103, 106, 55 A.2d 780 (Me. 1947) (affirming the denial of benefits but stating "A factual finding by the commission that the [mental] condition was caused by the [work-related] accident . . . or to a preexisting mental state accelerated or aggravated thereby, would have entitled the petitioner to further compensation."); *Reynold's Case*, 128 Me. 73, 74, 145 A. 455 (Me. 1929) (affirming award of incapacity benefits for a physical injury and mental disability that was either aggravated by or resulted from the physical injury);

injury may not be included in the permanent impairment calculation under section 213(1-A)(A).[3]

[¶11] The plain language of section 201 does not contain the same "only physical" limiting language of section 213. In the absence of specific legislative direction, we will not infer that disability resulting from the combined effects of a physical injury and a preexisting mental condition is excluded from coverage under other provisions of the Act.

[¶12] CMHC's alternative argument, that the ALJ erred in failing to apply the heightened standard of proof in section 201(3-A), also lacks merit. The plain language of section 201(3-A) does not apply to the facts of this case. *See Graves*, 2012 ME 128, ¶ 9, 55 A.3d 456. Section 201(3-A) limits its application to "mental injury resulting from work-related stress"; it does not apply to cases like Ms. Bickford's that involve the combined effects of a physical work injury and preexisting psychological condition.

[¶13] Finally, CMHC argues without citation to authority that it was error for the ALJ to find ongoing causation after finding the physical effects Ms. Bickford's work injury had resolved. In the decree, the ALJ cited to *Poitras v. R.E. Glidden*

[3] Incapacity and permanent impairment are distinct elements within the Workers' Compensation Act. *See Bailey v. City of Lewiston,* 2017 ME 160, ¶ 15, 168 A.3d 762. The Court stated in *Bailey*: "The permanent impairment determination does not, however, govern whether a claimant is actually entitled to receive benefits, either during or beyond the 260-week limit. Whether an employee actually *qualifies* to receive incapacity benefits is subject to a determination pursuant to 39-A M.R.S. § 205(9)." *Id.* (internal citations omitted). Section 205(9) describes the process for discontinuing or reinstating benefit payments.

Body Shop, Inc., 430 A.2d 1113, 1117 (Me. 1981), in which the Law Court held that an employer remains liable for the combined effects of a work injury and a preexisting condition so long as the work injury is a real factor in causation and incapacity. *Id.* The ALJ then cited to competent evidence from medical experts in the record that Ms. Bickford's physical head injury aggravated her preexisting anxiety and PTSD and that she continues to experience psychological symptoms related to the work injury. We find no error in the ALJ's findings.

III. CONCLUSION

[¶14] The ALJ's interpretation of section 201 is consistent with the plain language of the statute. Moreover, the ALJ's factual findings are supported by competent evidence in the record, and the ALJ neither misconceived nor misapplied the law when determining Ms. Bickford's disability, resulting from the combined effects of a physical injury and a preexisting psychological condition, is compensable under the Workers' Compensation Act.

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, ch. 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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