DIANE McKEEN
(Appellee)

v.

HEALTHSOUTH CORPORATION
(Appellant)

and

ARCH INSURANCE COMPANY
(Insurer)

Argued: April 10, 2019
Decided: July 11, 2019

PANEL MEMBERS: Administrative Law Judges Goodnough, Elwin, and Jerome
BY: Administrative Law Judge Goodnough

[¶1] HealthSouth Corporation appeals from a decision of a Workers' Compensation Board Administrative Law Judge (*Stovall*, *ALJ*) granting Diane McKeen's Petitions for Award and for Payment of Medical and Related Services. HealthSouth contends that the ALJ's finding that Ms. McKeen's heart attack resulted from work-related stress is not supported by competent evidence. We affirm the decision.

I. BACKGROUND

[¶2] Diane McKeen, a licensed practical nurse, began working for HealthSouth in 2004. In 2014, she was employed on a per diem basis, working three to four days per week at the New England Rehabilitation Hospital. Her duties

included caring for the needs of a designated group of residents, passing out medications, and supervising CNAs.

[¶3] On April 11, 2014, Ms. McKeen was having a busy, somewhat stressful day at work. She had to track down patients who were not in their rooms to test their blood sugars before mealtime. When she entered the room of a patient who had recently undergone a carotid endarterectomy, she noticed he was having neurological problems that required immediate attention. She went to find a nurse qualified to further evaluate the situation.

[¶4] When she returned with the nurse, Ms. McKeen noticed a sense of heaviness across her shoulders, which soon spread to her arms and chest. This sensation worsened quickly, and she excused herself from the room. After an evaluation by New England Rehabilitation staff, she was transported to Maine Medical Center, where she remained for about a week. She was diagnosed as suffering from a myocardial infarction (MI) and underwent cardiac catheterization and stent placement.

[¶5] Ms. McKeen thereafter filed her Petitions with the board. The record contains conflicting expert opinions as to what caused Ms. McKeen's MI. Dr. Teufel conducted an independent medical examination pursuant to 39-A M.R.S.A. § 312 (Supp. 2018). He issued a report pursuant to section 312 and was subsequently deposed. Although conceding that the precise cause of the MI was "unknowable,"

he ultimately opined that it most likely occurred due to a plaque rupture. Noting an absence of preexisting symptoms, he also opined that

> I think it is more likely than not that her cardiac event is directly related to the stress of work that day. The occlusion of the diagonal branch vessel is in the setting of plaque rupture and acute thrombosis, though it is possible that it may have been a coronary dissection. Either way, this occurred in the setting of a stressful situation. There is literature to support stressful situations and encounters leading to plaque rupture and causing acute myocardial infarction, and I think that is likely the case here.

[¶6] Dr. Teufel also noted that although the arterial plaque was preexisting, a stressful situation can "subsequently accelerate an event that can cause the plaque rupture and myocardial infarction." The ALJ was required to adopt Dr. Teufel's medical findings absent clear and convincing contrary evidence in the record. 39-A M.R.S.A. § 312(7).

[¶7] Dr. Wiseman examined Ms. McKeen pursuant to 39-A M.R.S.A. § 207 (Supp. 2018). Dr. Wiseman opined that the MI resulted not from a plaque rupture but from a spontaneous coronary artery dissection (SCAD), "an infrequent (but by no means rare)" condition that could not have been caused by the level of stress Ms. McKeen experienced at work on the day in question. Dr. Wiseman suggested that stress must be "extreme" in order to trigger a SCAD, a position rejected by Dr. Teufel.

[¶8] The ALJ, after weighing the medical opinions, adopted Dr. Teufel's view that Ms. McKeen's work stress on April 11, 2014, more probably than not caused

a plaque rupture, which in turn led to the MI. The ALJ also found that Dr. Wiseman's diagnosis of SCAD caused by spontaneous rupture without extreme stress did not amount to clear and convincing contrary evidence. Accordingly, the ALJ granted Ms. McKeen's petitions and awarded a close-ended period of incapacity benefits. HealthSouth filed a Motion for Further Findings of Fact and Conclusions of Law. The ALJ issued an amended decree but did not alter the result. This appeal followed.

II. DISCUSSION

A. Standard of Review

[¶9] The Appellate Division's role on appeal is "limited to assuring that the [ALJ's] factual 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." *Pomerleau v. United Parcel Serv.*, 464 A.2d 206, 209 (Me. 1983) (quotation marks omitted). "When a party requests and proposes additional findings of fact and conclusions of law, as was done in this case, 'we review only the factual findings actually made and the legal standards actually applied by the [ALJ].' *Daley v. Spinnaker Indus.*, 2002 ME 134, ¶ 17, 803 A.2d 446 (quotation marks omitted).

[¶10] Additionally, when considering whether clear and convincing medical evidence contrary to the IME's findings permitted a rejection of those findings by the ALJ, "we determine whether the [ALJ] could reasonably have been persuaded

by the contrary medical evidence that it was highly probable that the record did not support the IME's medical findings." *Dubois v. Madison Paper Co*., 2002 ME 1, ¶ 14, 795 A.2d 696. When, as in this case, the ALJ adopts the IME's findings, we will reverse only if those findings are not supported by any competent evidence, or the record discloses no reasonable basis to support the decision. *See Pomerleau*, 464 A.2d at 209; *Dillingham v. Great N. Paper*, Me. W.C.B. No. 15-7, ¶ 3 (App. Div. 2015).

B. Evidence of Causation

[¶11] HealthSouth argues that the ALJ lacked competent evidence to find that Ms. McKeen sustained an MI due to work-related stress. HealthSouth contends that there is insufficient evidence to support two key factual findings: (1) that a plaque rupture, as opposed to a SCAD, more likely than not caused the MI; and (2) that work-related stress likely caused the plaque rupture.

1. Plaque Rupture

[¶12] HealthSouth contends that because Dr. Teufel testified that it is essentially "unknowable" whether the employee's MI was brought on by plaque rupture or a SCAD, the ALJ erred when adopting Dr. Teufel's opinion that the cause was a plaque rupture. We disagree.

[¶13] Dr. Teufel also testified that "the more common diagnosis would be plaque rupture" and that Ms. McKeen's MI was more probably than not caused by

a plaque rupture. Dr. Teufel looked at the entire medical picture, specifically considered the SCAD diagnosis, and recognized it as a possible cause but not as likely as a plaque rupture. Although Dr. Teufel could not be certain regarding the inciting mechanism of the MI, absolute certainty is not required. Dr. Teufel's testimony that Ms. McKeen's MI was more likely than not triggered by plaque rupture constitutes competent medical evidence upon which the ALJ could have reasonably based his decision.

[¶14] The ALJ also considered Dr. Wiseman's contrary medical opinion that the cause of the MI was a SCAD that did not arise out of employment. The ALJ found that Dr. Wiseman's opinion did not amount to clear and convincing contrary evidence to that proffered by Dr. Teufel. The choice between competing medical opinions is a matter for the ALJ who hears and decides the case. *See Davis v. Boise Cascade*, Me. W.C.B. No. 17-41, ¶ 21 (App. Div. 2017). The ALJ's decision, based on Teufel's medical findings, has a reasonable basis and is grounded in competent evidence.

2. Work Stress

[¶15] HealthSouth's second argument hinges on this panel determining that the ALJ's finding regarding causation by plaque rupture is unsupported by competent evidence, and that we are compelled to find that the cause was a SCAD. If so, HealthSouth contends, the evidence is insufficient to support a finding that Ms.

McKeen's work stress was at a level high enough to cause a SCAD. Because we determine that competent evidence supports the ALJ's factual finding that plaque rupture caused the MI, we do not need to reach this issue.

[¶16] Nevertheless, the evidence supports a finding that Ms. McKeen's stress level was high enough to cause an MI, whether due to a plaque rupture or a SCAD. Dr. Teufel specifically rejected Dr. Wiseman's opinion that extreme stress was a necessary predicate to the occurrence of a SCAD or a plaque rupture and opined that the stress she experienced on the day in question was a sufficient trigger. Dr. Teufel noted that at the onset of the MI, Ms. McKeen was attending to a neurologically compromised patient who had just undergone a carotid endarterectomy, and that this was a stressful situation for her.[1] Evidence that the inciting events were stressful or somewhat stressful was sufficient to support a finding by the ALJ, relying upon the section 312 opinion, that work-related stress caused the MI.

[1] Dr. Diaz, Ms. McKeen's treating cardiologist, also expressed an opinion, credited by the ALJ, that is consistent with Dr. Teufel's analysis. Dr. Diaz stated: "It is clear that Mrs. McKeen was experiencing stress immediately prior to her myocardial infarction. … In Mrs. McKeen's case, it was quite clear that she had a significant amount of stress occurring during her shift at work prior to the incident (myocardial infarction) which likely played a role in inciting her event."

III. CONCLUSION

[¶17] The ALJ's decision to adopt the opinion of the independent medical examiner that Ms. McKeen sustained a myocardial infarction due to work stress and plaque rupture is supported by competent evidence in the record.

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 (Supp. 2017).

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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