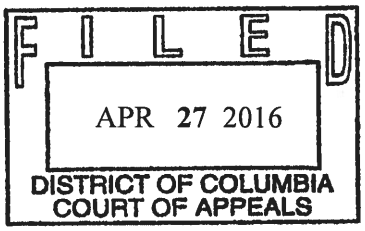
DISTRICT OF COLUMBIA COURT OF APPEALS



No. 15-AA-433

MAE TWYMAN, PETITIONER,

v.

DISTRICT OF COLUMBIA
DEPARTMENT OF EMPLOYMENT SERVICES, RESPONDENT,

and

IAP WORLDWIDE SERVICES, *et al.*, INTERVENORS.

On Petition for Review of Decision and Order
of the District of Columbia Department of Employment Services
Compensation Review Board
(CRB-146-14)

(Submitted March 1, 2016 Decided April 27, 2016)

Before WASHINGTON, *Chief Judge*, THOMPSON, *Associate Judge*, and KING, *Senior Judge*.

MEMORANDUM OPINION AND JUDGMENT

PER CURIAM: Petitioner Mae Twyman seeks review of an order of the Department of Employment Services ("DOES") Compensation Review Board (the "CRB" or the "Board") that affirmed the Compensation Order issued by a DOES Administrative Law Judge ("ALJ")[1] denying petitioner's claim for temporary total disability ("TTD") benefits under the District of Columbia Worker's Compensation Act, D.C. Code § 32-1501 *et. seq.* (2012 Repl.). For the reasons discussed herein, we remand the matter for further proceedings.

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[1] *Twyman v. IAP Worldwide Services, Inc.*, AHD No. 13-521A, OWC No. 704614 (November 10, 2014).

I.

Petitioner began working for the employer, intervenor IAP World Services, Inc. (the "Employer"), in 2007 as a project accountant. She testified at the hearing before the ALJ that in 2011, as a result of a staff reduction, her workload greatly increased, as she was assigned the work that previously had been assigned to three people. She further testified that she requested additional help, but this request was denied, causing the work to become extremely stressful. On June 15, 2012, petitioner's nose began to bleed while she was at work. Before she left the workplace to seek treatment for the nosebleed, a representative of the Employer handed her a Performance Improvement Plan (PIP) that cited various deficiencies in her work.[2] On June 25, 2012, petitioner visited her primary care physician, Dr. Dawne Carroll, complaining of head and hand tremors and other symptoms that Dr. Carroll's records refer to as "acute reactions to stress." Dr. Carroll initially diagnosed petitioner with (i) "late effects of cerebrovascular disease," (ii) "essential and other specified forms of tremor," and (iii) "essential hypertension[,] unspecified." Dr. Carroll ordered petitioner off work for two weeks and advised her to follow up with a neurologist.

Petitioner first saw neurologist Dr. Kenneth Kudelko on July 2, 2012. On various visits to Dr. Kudelko, she complained of tremors and "right-sided head pains."[3] Dr. Kudelko concluded that these tremors were likely "a conversion reaction due to underlying significant stressors and being overworked" and recommended "removing [petitioner] from [the] stressful work environment and treating her anxiety symptoms and restoring sleep[,]" but he also ordered various neurological tests to rule out other causes of petitioner's symptoms. After reviewing the various test results, Dr. Kudelko determined that petitioner had not suffered a recent stroke (although she had some small-vessel ischemic changes related to her hypertension and smoking), concluded again that petitioner's tremors

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[2] Petitioner testified that this was the first PIP she had received since working for the Employer. Previously, she had received several outstanding-performance recognition awards.

[3] She attributed her symptoms to the June 15, 2012, incident and reported her belief that she had a stroke on that day. She also acknowledged a history of hypertension and cigarette smoking.

were "due to [a] stress reaction/conversion reaction," and said that her right-sided headache could be a "tension type headache."[4] In subsequent reports, he repeated his conclusion that petitioner's symptoms were "likely triggered by increased stressors at work," and noted his suspicion that the tremors were "enhanced physiological tremors as a result of increased anxiety from work." Dr. Kudelko also concluded that petitioner "was overworked, likely contributing to the majority of her problems."

On August 23, 2012, petitioner reported to Dr. Kudelko that her tremors had improved by eighty percent. However, after she subsequently returned to work for a period of four days, she reported that "her workload [was] about three times as much as it was before" and that she had "worsening tremors."[5] Dr. Kudelko again concluded that petitioner's symptoms (including tremors, blurred vision, and right-sided headaches) were related to and "[l]ikely exacerbated by" stress and noted the possibility of an "underlying essential tremor."

Dr. Kudelko also advised petitioner to seek psychiatric treatment. On February 24, 2014, psychiatrist Dr. Thomas Green diagnosed petitioner with Posttraumatic Stress Disorder (PTSD) and severe Major Depressive Disorder (MDD) "with anxious distress." On March 13, 2014, psychotherapist Dolores Jones also diagnosed petitioner with MDD.[6]

On July 15, 2013, petitioner saw psychiatrist/independent medical examiner ("IME") Dr. Todd Christiansen for an independent medical examination. On the basis of that visit and a review of petitioner's test results and medical records, Dr.

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[4] Dr. Kudelko opined at one point that petitioner's blurred vision was "[l]ikely a result of [an] overall stress reaction[,]" but stated during his deposition that he could not "definitely say" that anxiety and stress were or were not playing a role in petitioner's vision symptoms.

[5] Petitioner testified that no one had been doing her job during her three month absence, which left her with three months of back data to process, which the Employer wanted complete in thirty days.

[6] Petitioner also sought treatment from psychiatrist Dr. Harvey Fernbach, but the notes from his consultation are illegible, and no other evidence was presented to the ALJ about his evaluation or opinions.

Christiansen concluded in a written report that petitioner "does not have a diagnosable psychiatric condition[,]" that "there is no causal relationship with her nosebleed on 6-15-12[,]" and that her "essential hypertension and essential tremor are biological conditions and were not caused by work stress or the alleged incident on 6-15-12."[7] Dr. Christiansen observed that, "[b]y definition[,] essential hypertension and essential tremor are diagnosed when there are no known causes of the conditions in a person." He acknowledged that it is "possible that work related stress may have exacerbated [petitioner's] underlying condition[,]" but stated that in his opinion, "the evidence presented supports that [petitioner's] symptoms are not casually related to work or the 6-15-12 incident."

Petitioner's claim for TTD benefits came before the ALJ for a hearing on September 29, 2014. The ALJ observed that the Employer provided no "evidence to challenge" petitioner's account that she "received the additional assignments of departed co-workers" and found that petitioner satisfied her burden of demonstrating that she sustained a workplace injury on June 15, 2012. The ALJ further found that petitioner's own testimony and the medical evidence from Dr. Kudelko sufficed to invoke the Act's presumption of compensability. The ALJ also found, however, that through Dr. Christiansen's opinion, the Employer had rebutted the presumption "regarding [the] causal relationship of [petitioner's] medical conditions."

Going on to weigh the evidence without the presumption, the ALJ acknowledged the preference accorded the opinion of a worker's compensation claimant's treating physician, but found that petitioner failed to meet her burden to show work-related causation by a preponderance of the evidence because she failed to provide "evidence from a competent physician to support her contentions that workplace stressors caused her psychological conditions resulting in tremors, headaches[,] and anxiety." The ALJ reasoned that Dr. Kudelko "[did] not offer neurological findings or [a] medical rationale explaining how the identified employment factors caused these conditions[,]" suggested that Dr. Kudelko merely "suspected" that petitioner's conditions "were the result of her significant psychological stress from work[,]" and found that "the psychiatric evidence does not establish [that] workplace stressors caused [petitioner's] tremors, numbness in

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[7] Dr. Christiansen also opined that the fact that petitioner received her PIP on the same day as her nosebleed "indicated that she was having performance issues prior to the alleged incident on 6-15-12 and ha[d] alternative motives to claim injury."

her hand, visual symptoms[,] and headaches." (The ALJ specifically noted that Dr. Fernbach's notes were illegible and that the reports by Dr. Green and therapist Jones "[did] not offer an opinion regarding whether the workplace stressors caused the diagnosed conditions"). The ALJ cited the fact that IME Dr. Christiansen, "the only psychiatrist who has offered an opinion regarding whether the workplace stressors caused [petitioner's] medical conditions[,]" opined that they did not. Accordingly, the ALJ denied petitioner's claim.

Petitioner appealed the ALJ's ruling to the CRB, arguing (1) that Dr. Christiansen's opinion and deposition testimony were not sufficiently specific and comprehensive to rebut the presumption of compensability or to explain the basis of his opinion; (2) that the ALJ erroneously concluded that Dr. Kudelko was not competent to provide an opinion on psychological stressors and failed to consider Dr. Kudelko's deposition testimony in which he explained the bases for his opinions; and (3) that the ALJ failed to provide sufficient reasons for rejecting the opinion of Dr. Kudelko and failing to accord it the treating-physician preference. The CRB affirmed the ALJ's ruling. This petition for review followed.

In her brief to this court, petitioner raises the same arguments she raised before the CRB and urges us to reverse the CRB's ruling. In the alternative, she argues that a remand is required because the ALJ failed to consider whether workplace stressors aggravated her symptoms (a point, the Employer emphasizes, she did not argue to the CRB).

II.

Under the Act, a worker's compensation claim "is compensable if the claimant proves both a work-related injury and an ensuing disability." *Washington Vista Hotel v. District of Columbia Dep't of Emp't Servs.*, 721 A.2d 574, 579 (D.C. 1998). A claimant is entitled to a statutory presumption of compensability, which operates to establish a causal connection between the disability and the work-related event. *See id.* "Once the presumption is triggered, the burden is upon the employer to bring forth 'substantial evidence' showing that [the disability] did not arise out of and in the course of employment." *Ferreira v. District of Columbia Dep't of Emp't Servs.*, 531 A.2d 651, 655 (D.C. 1987). "[T]he statutory presumption may be dispelled by circumstantial evidence specific and comprehensive enough to sever the potential connection between a particular injury and a job-related event." *Id.* (internal quotation marks omitted). Once the

presumption is successfully rebutted, the burden then shifts back to the claimant to establish causation by a preponderance of the evidence. *See Hensley v. District of Columbia Dep't of Emp't Servs.*, 49 A.3d 1195, 1200 (D.C. 2012).

In determining whether a claimant has met that burden, the ALJ must recognize a preference for a treating physician's opinion over that of a non-treating physician who has been retained to examine the claimant solely for the purposes of litigation. *See Georgetown Univ. v. District of Columbia Dep't of Emp't Servs.*, 985 A.2d 431, 432-33 (D.C. 2009). If the ALJ decides to reject the testimony of the claimant's treating physician, he or she must set forth "specific and legitimate reasons for doing so." *Jones v. District of Columbia Dep't of Emp't Servs.*, 41 A.3d 1219, 1222 (D.C. 2012) (internal quotation marks omitted).

"Although in a workers' compensation case, we review the decision of the CRB, not that of the ALJ, we cannot ignore the compensation order which is the subject of the Board's review." *District of Columbia Dep't of Mental Health v. District of Columbia Dep't of Emp't Servs.*, 15 A.3d 692, 698 (D.C. 2011) (internal quotation marks, alterations, and ellipsis omitted). We limit our inquiry to: "(1) whether the agency made a finding of fact on each material contested issue of fact; (2) whether substantial evidence in the record supports each finding; and (3) whether the conclusions of law follow rationally from the findings." *Georgetown Univ. v. District of Columbia Dep't of Emp't Servs.*, 862 A.2d 387, 391 (D.C. 2004) (internal quotation marks omitted). "Substantial evidence is more than a mere scintilla . . . [and] means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *Children's Def. Fund v. District of Columbia Dep't of Emp't Servs.*, 726 A.2d 1242, 1247 (D.C. 1999) (internal quotation marks omitted).

The Agency is required to consider the entire record, including deposition testimony that has been submitted for the record, in coming to a decision. *See Clark v. District of Columbia Dep't of Emp't Servs.*, 772 A.2d 198, 204 (D.C. 2001). Where the agency fails to do so, a remand generally is appropriate, "as it is for the [ALJ] examiner to evaluate the record in the first instance." *Id.* We may sustain an [a]gency order only on the grounds the agency relied upon. *See Benjamin v. Washington Hosp. Ctr.*, 6 A.3d 263, 267 (D.C. 2010).

III.

As described above, petitioner argues (1) that Dr. Christiansen's opinion "is neither comprehensive enough nor specific enough to sever the connection of causality"; (2) that the ALJ's reasoning that Dr. Kudelko did not offer neurological findings or a medical rationale explaining his conclusion that employment factors caused petitioner's conditions "is inconsistent with the record as a whole"; (3) that the ALJ erred by failing to follow the treating physician preference; and (4) that the ALJ erred by failing to consider whether petitioner's condition was aggravated by workplace stressors. In considering petitioner's arguments and the Employer's counter-arguments, we have observed that both parties rely in significant part on the deposition testimony of the physicians, treating physician Dr. Kudelko and IME Dr. Christiansen. Like petitioner, we find it "noteworthy that the ALJ made no reference to any of Dr. Kudelko's deposition testimony in [the] Compensation Order." We find it equally noteworthy that the ALJ made no reference to Dr. Christiansen's deposition testimony. Our considered view is that all of the issues petitioner raised — whether the Employer rebutted the presumption of compensability, whether Dr. Kudelko offered an adequate medical rational for his opinion, whether the ALJ had a legitimate basis for accepting Dr. Christiansen's opinion over Dr. Kudelko's, and whether there was evidence of aggravation — are issues that the ALJ could not properly resolve without considering the physicians' deposition testimony in addition to the physicians' written reports and their notations in petitioner's medical records. For that reason, our resolution of this matter is to order a remand so that the ALJ will have an opportunity to consider the deposition testimony and to weigh it along with the other evidence in resolving each of those issues — in petitioner's words, so that "Dr. Kudelko's reports and deposition testimony can [properly] be weighed against [those] of Dr. Christians[e]n."[8]

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[8] While the CRB was correct in stating that "the ALJ is not required to 'inventory the evidence and explain in detail why a particular part of it was accepted or rejected[,]'" the ALJ was required to consider the entire record in coming to a decision. *See Clark*, 772 A.2d at 204. The parties specified in the Joint Pre-Hearing Statement (which the ALJ incorporated into the record) that the depositions of the treating and examining physicians would be among the hearing exhibits; the depositions of Drs. Kudelko and Christiansen are listed in the hearing transcript; the deposition transcripts were admitted into evidence during the hearing; the parties referred to the deposition testimony in their opening arguments; and the deposition transcripts were identified (by number) in the "Statement of the Case" section of Compensation Order. Yet, while the "Discussion" section of the Compensation Order contains numerous citations to

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A remand is warranted because, when the deposition testimony is considered, the evidence in favor of each party's position is neither as paltry nor as one-sided as the parties' competing briefs suggest. It is not our task (or the CRB's) to weigh the evidence, we will not do so, and nothing in this opinion should be taken as giving any indication of how we might weigh the evidence if that were our task. However, we do note below some examples of the evidence the ALJ overlooked if he failed to consider the deposition testimony.

As petitioner emphasizes, Dr. Kudelko explained in his deposition the process by which he ruled out a number of physical causes of petitioner's tremors and other symptoms and came to the diagnosis of conversion reaction: he noted that petitioner does not have Parkinson's-type symptoms; looked to see whether she manifested the hand "posturing" that is associated with brain or cervical cord injury; tested her reflexes; ordered an EEG, a nerve conduction study, ultrasounds, MRIs of her head and neck, and carotid and transcranial Doppler tests to detect evidence of seizure activity or recent stroke or blockage in the arteries; checked for elevated blood pressure; looked for tumors or evidence of a "squashed spinal cord" or pinched nerves or arthritis in the neck; and found nothing remarkable from any of these tests.[9] At the same time, Dr. Kudelko noted that petitioner's symptoms "manifested after significant stressors" at work, took into account that her tremors worsened when she returned to work for four days, and explained that in his experience he had "seen folks develop these [physical] types of symptoms," such as "shaking episodes," as an "unconscious reaction to a significant underlying stressor." All of this testimony (along with other portions of Dr. Kudelko's deposition testimony) is relevant to whether Dr. Kudelko failed to offer a "medical rationale" for his opinion and whether through his testimony (and her own

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the parties' exhibits, there does not appear to be a single citation to the deposition transcripts. We recognize that this does not necessarily mean that the ALJ did not consider the deposition testimony, but the record leaves us without assurance that he did so.

[9] Notably, Dr. Christiansen agreed in his deposition there may be a "physical manifestation of stress" and that conversion disorder is "generally a rule out [diagnosis], so you do have to rule out every other potential cause of an issue[.]"

testimony), petitioner met her burden of proof of workplace causation by a preponderance of the evidence.

If the ALJ failed to consider Dr. Christiansen's deposition testimony, he overlooked the IME's specific explanation that petitioner reported to him that she was prescribed sleep medication but was not consistently taking it, sometimes skipped doses, and sometimes took it in the morning, and that petitioner did not appear to have disclosed this "important" information to her treating physicians. Dr. Christiansen testified that withdrawal from sleep medications (such as Lunesta, which, according to the record of petitioner's June 25, 2012, visit to Dr. Carroll, petitioner had been prescribed as early as March 2011) "can actually cause and contribute to tremors."[10] Dr. Christiansen opined that petitioner's tremors "may likely be the result of [her] inconsistent use of medication and self-induced sleeping schedule and poor sleep hygiene."[11] Dr. Christiansen also testified in his deposition that conversion disorder — "a physical manifestation of emotional stress" — is "an exceptionally[,] exceedingly rare phenomenon" Dr. Christiansen further testified that an effort to diagnosis the cause of petitioner's symptoms must include "questions about home" and "[s]ocial history," questions that he opined "it doesn't seem like the neurologist [Dr. Kudelko] asked[.]" Dr. Christiansen's observation was that petitioner "was not a very accurate historian or reporter" to Dr. Kudelko (something that "makes it very challenging [to opine] about causation") and was not "forthcoming" about other aspects of her life that could have been sources of stress, such as her relationship with her husband or children or "situations that happened in childhood," that "absolutely impact" psychiatric

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[10] If the ALJ did not review Dr. Kudelko's deposition, he overlooked Dr. Kudelko's testimony on the subject of drug effects: that he was not familiar with the drug Fexmid — which the record of petitioner's June 25, 2012, visit to Dr. Carroll indicates petitioner had been prescribed as early as February 2011, and which petitioner reported, during her July 2, 2012, initial visit to Dr. Kudelko, she was taking for insomnia — and whether it could cause tremors.

[11] Notably, Dr. Kudelko agreed during his deposition that a lack of sleep can cause tremors, suggested that petitioner's tremors could be traced to "the absence of sleep in the context of significant anxiety and stress," and opined that "restoring sleep would ultimately help [petitioner] most."

status, and "that would have made the report more complete."[12] All of this testimony (along with other portions of Dr. Christiansen's deposition testimony) is relevant to whether the IME gave "detailed reasons"[13] for his opinion, whether the Employer presented evidence that was specific and comprehensive enough to rebut the presumption of causation, whether (as petitioner argues) Dr. Christiansen "provide[d] no basis for []his conclusion" that petitioner's tremors were not "related to her work-related stress," and whether his statements afforded the ALJ a basis to accept his opinion over that of petitioner's treating physician.

A few other explanatory points are appropriate, in response to particular arguments that the parties advance, in order to guide the ALJ's reconsideration of the issues on remand. First, we reject petitioner's argument that because Dr. Christiansen did not perform a hands-on physical examination of petitioner, his opinion is legally insufficient to rebut the presumption of compensability. Dr. Christiansen was asked to opine on whether petitioner's symptoms were a psychological reaction to workplace stress, and he provided his opinion by conducting an in-person interview of petitioner, questioning her about her symptoms, her medical and social history, and her use of medication; by observing her tremors; and by reviewing her medical records. We have no basis for saying that Dr. Christiansen needed to examine petitioner through physical contact to have an adequate basis for his opinion, especially since he did not offer a counter-opinion to anything that Dr. Kudelko was able to discern only through physical contact (such as testing petitioner's strength and reflexes).[14]

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[12] Dr. Kudelko acknowledged during his deposition that his focus was on "the neurologic stuff" and said that while he "will ask about social history," in petitioner's case, "the work environment was always at the forefront." He asked petitioner "what are your symptoms now and where are you with work[,]" and "never really got too deep with her" regarding her social history, family, or things outside work. Dr. Kudelko also acknowledged that psychiatrist Dr. Green "might have got[ten] into something [presumably, something in petitioner's background] that [Dr. Kudelko] didn't" since psychiatry is "not [Dr . Kudelko's] specialty."

[13] *Washington Post v. District of Columbia Dep't of Emp't Servs.*, 852 A.2d 909, 914 (D.C. 2004).

[14] Nor did the fact that Dr. Christiansen acknowledged the possibility that workplace stress may have been a factor in petitioner's symptoms mean that his opinion was inadequate to rebut the presumption that there was a workplace cause

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Second, we address petitioner's argument that the ALJ erred in holding that she did not provide medical evidence from a "competent" physician on the issue of causation. We understand the ALJ's statement not as questioning Dr. Kudelko's competence as a neurologist, but as conveying the ALJ's apparent view that psychiatry is the medical specialty most relevant to a determination of whether workplace stress could have caused petitioner's tremors and other symptoms. We offer no opinion on which (if either) specialty is more relevant, but we do agree that whether the physician offering an opinion on causation is a specialist giving an opinion about his area of specialty is a factor that the ALJ may consider in determining how much weight to give to a medical opinion.[15] At the same time, we note that Dr. Kudelko testified during his deposition that his board certification examination included testing "on about a third of psychiatry," evidence that the ALJ may take into consideration in determining how much weight to give to his conclusion that workplace stress caused petitioner's physical symptoms.[16]

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of petitioner's symptoms. As petitioner acknowledges, our case law explains that the presumption of compensability is not "so strong" that an employer can rebut it only by proving that "causation is impossible[.]" *Washington Post v. District of Columbia Dep't of Emp't Servs.*, 852 A.2d 909, 911 (D.C. 2004) (internal quotation marks and emphasis omitted).

[15] *Cf. Turner v. Astrue*, 710 F. Supp. 2d 95, 105-06 (D.D.C. 2010) (noting that in Social Security disability cases, the "D.C. Circuit espouses a 'treating physician rule' that creates a presumption in favor of treating physicians' opinions of claimants' conditions[,]" but also noting that the Social Security disability regulations prescribe that the hearing officer take into account, in deciding how much weight to give to a medical opinion, a list of factors that includes "whether the physician is a specialist giving an opinion about his area of specialty") (internal quotation marks omitted).

[16] Petitioner argues that Dr. Green's report setting out his diagnosis that petitioner suffered from PTSD implied that her condition "had to have come from" workplace stressors, "the only trauma [petitioner] experienced" (a claim the Employer disputes). We do not resolve this dispute but note only that, in considering the deposition testimony, the ALJ will have an opportunity to consider Dr. Kudelko's skepticism about Dr. Green's PTSD diagnosis and Dr. Kudelko's comment that, for PTSD to develop, "it seems like there would be a little bit more [going on] than just . . . increased work stress."

Finally, as the Employer notes, petitioner did not raise before the CRB her claim that the ALJ failed to consider whether workplace stressors aggravated her symptoms. Generally, this court does not consider issues that were not first raised at the agency level. *See Moore*, 813 A.2d at 229 n.5; *Apartment & Office Bldg. Ass'n of Metro. Washington v. Pub. Serv. Comm'n of D.C.*, 129 A.3d 925, 930 (D.C. 2016). Nevertheless, we "'may show a measure of flexibility in this regard when the interests of justice so require[,]'" and "we think that the interests of justice counsel us not to ignore the plain error that infects" a compensation order. *Moore*, 813 A.2d at 229 n.5 (internal quotation marks omitted). Here, the ALJ's endorsement of the following language shows that it was plain and obvious to him that aggravation must be considered: "If the presumption [of compensability] is invoked, the burden shifts to the employer to show, through substantial evidence, the psychological injury was not caused *or aggravated* by workplace conditions or events."

Because we are remanding the case, we need not resolve the issue petitioner has raised before us about the ALJ's failure to consider aggravation. We do note, however, that Dr. Kudelko wrote that petitioner had a "possible underlying essential tremor, . . . worsened by increased anxiety from work," and that Dr. Christiansen acknowledged that it is possible (even if, in his opinion, unlikely) that workplace stress could [have] . . . exacerbate[d]" petitioner's tremors. DOES will be free on remand to consider whether there was evidence of aggravation, and, if so, whether petitioner proved by a preponderance of the evidence, that workplace stress aggravated her medical condition.[17]

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[17] *Cf. Johnson v. District of Columbia Office of Unified Communications*, CRB No. 15-122, 2015 WL 9809886, at *3 (D.C. Dep. Emp. Srvs. 2015) (noting that the ALJ determined that claimant's pre-existing respiratory conditions "were exacerbated by her work environment" but failed to reach a conclusion about whether the Claimant sustained aggravation, and remanding for the ALJ to determine whether claimant met her burden of proving she sustained a work-related aggravation of her pre-existing respiratory condition); *Gregory v. FCC*, 2000 WL 369675, at *1 n.2 (Fed. Cir. 2000) (citing Taber's Cyclopedic Medical Dictionary 2032 (17th ed. 1993) for the definition that "[a]n essential tremor is . . . made worse by anxiety"); *Henry v. Shinseki*, 2012 WL 602802, at *6 (Vet. App. Feb. 24, 2012) (citing Dorland's Illustrated Medical Dictionary 1958 (32d ed. 2012) for the definition that an essential tremor "is aggravated by emotional factors"); *but see Laplant v. Tradesman Int'l*, AHD No. 14-061, OWC No. 706474,

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IV.

For the foregoing reasons, the matter is remanded for further proceedings not inconsistent with this opinion.

So ordered.

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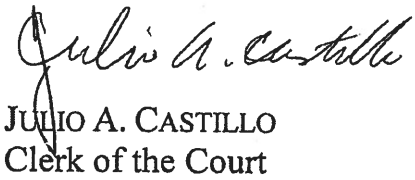

JULIO A. CASTILLO
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2015 WL 4734505, at *2 n.3 (D.C. Dept. Emp. Srvs. 2015) (citing an American Medical Association publication stating that exacerbation "generally impl[ies] worsening of a condition temporarily" and that "[e]xacerbation does not equal aggravation").