

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Department of Employment Services**  
**Labor Standards Bureau**

**Office of Hearings and Adjudication**  
**COMPENSATION REVIEW BOARD**



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**CRB (Dir.Dkt.) No. 01-47**

**HASSAN N. KANGARLOO,**

Claimant–Respondent

v.

**WATERGATE HOTEL AND ZURICH INSURANCE COMPANY,**

Employer/Carrier–Petitioner.

Appeal from a Compensation Order of  
Administrative Law Judge David L. Boddie  
OHA/AHD No. 00-140, OWC No. 9724

David O. Godwin, Jr., Esq., for Petitioner

Benjamin T. Boscolo, Esq., for Respondent

Before E. COOPER BROWN, *Chief Administrative Appeals Judge*, SHARMAN J. MONROE,  
*Administrative Appeals Judge*, and FLOYD LEWIS, *Administrative Appeals Judge*.

E. COOPER BROWN, *Chief Administrative Appeals Judge*, for the Compensation Review Panel:

**DECISION AND ORDER**

JURISDICTION

Jurisdiction is conferred upon the Compensation Review Board pursuant to Title 32 District of Columbia Code §§ 32-1521.01 and 32-1522 (2005), 7 DCMR § 230, and the Department of Employment Services Director’s Directive, Administrative Policy Issuance 05-01 (February 5, 2005).<sup>1</sup>

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<sup>1</sup> Pursuant to Administrative Policy Issuance No. 05-01, dated February 5, 2005, the Director of the Department of Employment Services realigned the Office of Hearings and Adjudication to include, *inter alia*, establishment of the Compensation Review Board (CRB) in implementation of the District of Columbia Fiscal Year 2005 Budget Support Act of 2004, Title J, the District of Columbia Workers’ Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004, *codified at* D.C. Official Code § 32-1521.01. In accordance with the Director’s Directive, the CRB replaces the Office of the Director in providing administrative appellate review and disposition of workers’ and disability compensation claims arising under the District of Columbia Workers’ Compensation Act of 1979, as amended, D.C. Code Ann. §§ 32-1501 to 32-1545 (2005), and the District of Columbia Government Comprehensive Merit Personnel Act of 1978, as amended, D.C. Code Ann. §§ 1-623.1 to 1-643.7 (2005), including

This case arises out of a claim for workers' compensation benefits filed under the District of Columbia Workers' Compensation Act of 1979, as amended and recodified at Title 32 D.C. Official Code §§ 32-1501 to 32-1543 (2005) (Act). An Administrative Law Judge (ALJ) with the Office of Hearings and Adjudication, now the Administrative Hearings Division (AHD), District of Columbia Department of Employment Services (DOES), held a Formal Hearing on September 21, 2000 at which the parties were represented by counsel. Based upon the evidence submitted of record at the hearing, the ALJ issued a Compensation Order on April 20, 2001, granting Claimant-Respondent's (Respondent's) claim that his conditions of paroxysmal atrial fibrillation, diabetes, diabetic neuropathy and Bells' palsy were related to his November 20, 1982 work-related back injury. Employer-Petitioner (Petitioner) now seeks reversal of the Compensation Order, challenging the ALJ's finding of a causal relationship between Respondent's occupational injury and the aforementioned medical conditions.

This case is before the Compensation Review Board on Petitioner's appeal filed with the Office of the Director on May 4, 2001.

#### DISCUSSION

We have reviewed the record and find that the ALJ's factual findings are supported by substantial evidence on the record as a whole, and are therefore conclusive. *Marriott Int'l. v. Dist. of Columbia Dep't. of Employment Servs.*, 834 a.2d 882 (D.C. 2003); § 32-1521.01(d)(2)(a) of the Act. Furthermore, the record fully supports the ALJ's well-reasoned decision. Consequently, and as hereafter more fully explained, the Board adopts the ALJ's reasoning and legal analysis, and affirms the compensation order in all respects.

Specifically, the act fully supports the ALJs decision to disregard the medical opinion concerning causation upon which petitioner relied, as a matter of law, because that opinion was rendered by a utilization review provider. D.C. Official Code § 32-1507(b)(6) (formerly D.C. Code § 36-307(b)(6)) provides for the review of any medical care or services furnished or to be furnished under the Act in order to determine the necessity, character and sufficiency of such care or services. As the Court of Appeals has explained, it was the intent of the District of Columbia City Council in providing for utilization review "to contain medical costs without diminishing the quality of health care." *Sibley Memorial Hospital v. D.C. Dept. of Employment Services*, 711 A.2d 105, 107 (D.C. 1998). Accordingly, it has been held that utilization review evidence "can only be proffered to determine the necessity, character or sufficiency of a claimant's medical treatment." *Monk v. Washington Metropolitan Area Transit Authority*, Dir. Dkt. No. 93-42, H&AS No. 92-196 (July 30, 1997). It is well settled in this jurisdiction that utilization review evidence cannot be used for such purposes as the determination of the causal relationship or nature and extent of a disability. *See e.g., Hensley v. Cheechi & Company*, OHA No. 92-359f, OWC No. 115568 (June 4, 2004); *Jaswant Rai v. Safeway Stores*, H&AS No. 97-551A, OWC No. 517081 (July 21, 1999); *Oliver v. George Washington University*, H&AS No. 95-376b, OWC No. 282517 (Jan. 15, 1999); *Abraha v. Au Bon Pain*, H&AS No. 93-378, OWC

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responsibility for administrative appeals filed prior to October 1, 2004, the effective date of the District of Columbia Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004.

No. 230861 (March 28, 1995); *Hall v. Washington Metropolitan Area Transit Authority*, H&AS No. 92-519, OWC No. 153482 (Feb. 12, 1993); *Smith v. Washington Metropolitan Area Transit Authority*, H&AS No. 92-269, OWC No. 188142 (Aug. 31, 1992).

We thus concur with the ALJ's decision to disregard the opinion of Dr. Grossman, an endocrinologist with the utilization review provider, upon whom Petitioner relied in an attempt to rebut the presumption of causation Respondent had successfully invoked under the Act, and are in full accord with the ALJ's conclusion that, "in the absence of any statutory authority [under the Act], the utilization report here, beyond speaking to the necessity, character, or sufficiency of medical treatment or services rendered or scheduled to be furnished, is of no probative value." *Kangaroo v. Watergate Hotel*, OHA No. 00-140, Compensation Order, slip op. 5 (Apr. 20, 2001). Because Petitioner did not submit any medical evidence beyond the utilization report, the ALJ's conclusion that the weight of medical evidence lay with the Respondent's treating physicians is thus both un rebutted and legally correct.

**ORDER**

The Compensation Order of April 20, 2001 is hereby AFFIRMED.

FOR THE COMPENSATION REVIEW BOARD:

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E. COOPER BROWN  
Chief Administrative Appeals Judge

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October 14, 2005  
DATE