

**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 No. 08-021**

**PATSY ABNEY,**

**Claimant – Petitioner, and**

**v.**

**CORRECTIONS CORPORATION OF AMERICA AND AIG CLAIMS SERVICE, INC.,**

**Employer/Carrier – Respondent.**

Appeal from a Compensation Order of  
Administrative Law Judge Amelia G. Govan  
AHD No. 04-182C, OWC No. 586376

Charles Krikawa, Esq., for the Petitioner

Joel E. Ogden, Esq., for the Respondent

Before E. COOPER BROWN, *Chief Administrative Appeals Judge*, LINDA F. JORY and SHARMAN J. MONROE, *Administrative Appeals Judges*.

SHARMAN J. MONROE, *Administrative Appeals Judge*, on behalf of the Review Panel:

**DECISION AND ORDER**

**JURISDICTION**

Jurisdiction is conferred upon the Compensation Review Board pursuant to D.C. Official Code §§ 32-1521.01 and 32-1522 (2004), 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 D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004, sec. 1102 (Oct. 1, 1994), *codified at* D.C. Code Ann. § 32-1521.01 (2005). In accordance with the Director's Policy Issuance, the CRB replaces the Office of the Director in providing administrative appellate review and disposition of workers' and disability compensation claims arising under the D.C. Workers' Compensation Act of 1979, as amended, D.C. Code Ann. §§ 32-1501 to 32-1545 (2005) and the D.C. Government Comprehensive Merit Personnel Act of 1978, as amended, D.C. Code Ann. §§ 1-623.1 to 1.643.7 (2005), including responsibility for administrative appeals filed prior to October 1, 2004, the effective date of the D.C. Workers' Compensation Administrative Reform and Anti-Fraud Amendment Act of 2004.

## BACKGROUND

This appeal follows the issuance of a Compensation Order from the Administrative Hearings Division (AHD) of the Office of Hearings and Adjudication (OHA) in the District of Columbia Department of Employment Services (DOES). In that Compensation Order, which was filed on September 24, 2007, the Administrative Law Judge (ALJ) denied the Claimant-Petitioner's (Petitioner) request for schedule permanent partial disability benefits pursuant to D.C. Official Code § 32-1508(a)(3) for a seventy-four percent (74%) impairment to the left lower extremity. On October 22, 2007, the Petitioner filed an Application for Review seeking a review of that Compensation Order.

As grounds for this appeal, the Petitioner alleges as error that the Compensation Order is not supported by substantial evidence in the record. The Respondent did not file an Opposition.

## ANALYSIS

As an initial matter, the standard of review by the Compensation Review Board (CRB) and this Review Panel, as established by the Act and as contained in the governing regulations, is limited to making a determination as to whether the factual findings of the Compensation Order are based upon substantial evidence in the record, and whether the legal conclusions drawn from those facts are in accordance with applicable law. D.C. Official Code § 32-1521.01(d)(2)(A). "Substantial evidence," as defined by the District of Columbia Court of Appeals, is such evidence as a reasonable person might accept to support a particular conclusion. *Marriott Int'l. v. District of Columbia Department of Employment Services*, 834 A.2d 882 (D.C. 2003). Consistent with this standard of review, the CRB and this Review Panel are constrained to uphold a Compensation Order that is supported by substantial evidence, even if there is also contained within the record under review substantial evidence to support a contrary conclusion, and even where the reviewing authority might have reached a contrary conclusion. *Marriott*, 834 A.2d at 885.

Turning to the case under review herein, the Petitioner alleges that the ALJ failed to accord great weight to the opinion of treating physician, Dr. Easton Manderson, that the Petitioner's left lower extremity impairment has increased from seven percent (7%), as awarded in a September 30, 2005 Compensation Order, to seventy-four percent (74%). The Petitioner maintains that Dr. Manderson provided sound reasoning and basis for increasing the impairment rating which took into account her physical condition and the impact of her impairment on her ability to work. The Petitioner argues that as the ALJ "clearly ignored" and "glossed over" Dr. Manderson's opinion, the Compensation Order must be reversed.

The Petitioner is correct in her assertion that in this jurisdiction there is a preference for the opinion of the treating physician and that opinion is accorded great weight. *See Stewart v. District of Columbia Department of Employment Services*, 606 A.2d 1350, 1353 (D.C. 1992). However, this preference is not absolute and an ALJ may reject the opinion as long as reasons

are given for rejecting the opinion. *See Short v. District of Columbia Department of Employment Services*, 723 A.2d 845, 851 (D.C. 1998).

Herein, the ALJ adequately explained her reasons for rejecting Dr. Manderson's opinion and, on review, the Panel determines that the reasons are supported by substantial evidence in the record. Indeed, the Panel finds that the ALJ's factual findings are supported by substantial evidence on the record as a whole, and are, therefore, conclusive. *Marriott Int'l, supra*; D.C. Official Code § 32-1521.01(d)(2)(A). Further, the ALJ's conclusions of law are in accordance with the law. The record fully supports the ALJ's thorough, well reasoned decision, and the Panel, therefore, adopts the reasoning and legal analysis expressed by the ALJ in that decision in affirming the Compensation Order in all respects.

#### CONCLUSION

The Compensation Order of September 24, 2007 is supported by substantial evidence in the record and is in accordance with the law.

#### ORDER

The Compensation Order of September 24, 2007 is hereby AFFIRMED.

FOR THE COMPENSATION REVIEW BOARD:

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SHARMAN J. MONROE  
Administrative Appeals Judge

January 16, 2008  
DATE