GOVERNMENT OF THE DISTRICT OF COLUMBIA

Department of Employment Services

MURIEL BOWSER
MAYOR

ODIE DONALD II
ACTING DIRECTOR

COMPENSATION REVIEW BOARD

CRB No. 16-165

CAMILLE M. CAESAR,
Claimant-Petitioner,

v.

CACI INTERNATIONAL, INC.,
and AIG,
Employer/Third Party Administrator-Respondent

Appeal from a November 30, 2016 Compensation Order
by Administrative Law Judge Amelia G. Govan
AHD No. 16-435, OWC No. 721486

(Decided March 23, 2017)

Camille Caesar, *pro se* Claimant
Joel E. Ogden for Employer

Before GENNET PURCELL, LINDA F. JORY and HEATHER C. LESLIE, *Administrative Appeals Judges.*

GENNET PURCELL for the Compensation Review Board.

DECISION AND ORDER

FACTS OF RECORD AND PROCEDURAL HISTORY

Camille M. Caesar ("Claimant") was diagnosed with cardiomegaly and uncontrolled hypertension in 2007; a medical condition pre-existing her January 2014 employment with CACI International, Inc., ("Employer"). Claimant's medical records dated prior to her employment with Employer detail significant limitations in her ability to work due to her hypertensive condition and a comprehensive

list of medications prescribed by her treating physician at the time.

In October of 2008 Claimant began treating with the Cleveland Clinic, a research facility for cardiovascular medicine located in Weston, Florida. Her treating physician at the Cleveland Clinic was Dr. Dianne Sandy. In October of 2009, Dr. Sandy reported that Claimant had essential hypertension that appeared to have been aggravated by work-related stress. Claimant returned to see Dr. Sandy in November of 2013 as she continued to have uncontrolled essential hypertension.

Claimant began working for Employer in January of 2014. In 2014 Claimant also experienced hypertension-related symptoms of visual impairment and blurred vision, severe headaches in the morning, chest pain, and an inability to recall information immediately verbally. In February of 2014, Dr. Strong opined that Claimant's position working with Employer was consistent with her medical restrictions. On June 1, 2014, Dr. Sandy, opined the Claimant's position with Employer was a "low stress position with flexible hours and physical accommodations to meet her visual needs, [and] key to her continued improvement".

On September 27 and 28, 2014, Claimant attended a non-work-related golf tournament in which a work colleague, Mr. William Bittman, Jr., was participating. During the tournament Claimant was verbally berated, cursed and yelled at, and accosted by Mr. Bittman once it became clear he was losing the game. Claimant was stressed and in distress as a result of this interaction after which she went home and slept for approximately 12 hours.

On September 29, 2014, Claimant was called into a meeting with her supervisors where she was advised that as a result of complaints from Mr. Bittman, Claimant was to cease all contact with, and stay away from, Mr. Bittman. Claimant's access to the building was revoked and her removal from the Employer contract was instigated pursuant to the instructions from the Employer's contracting officer representative.

On October 12, 2014, Claimant made a written request to be moved to another position with Employer. Later that month, Claimant began working as a litigation support specialist with another employer.

On September 30, 2014, Claimant sought an evaluation and underwent an electrocardiogram ("ECG") with cardiologist Dr. Reginald Robinson. Dr. Robinson's report indicated Claimant was there to establish care for uncontrolled hypertension. Dr. Robinson's report did not mention any work-related stressors or any incident attendant to Claimant's visit and evaluation. The results of the ECG were abnormal.

In February 2015, Claimant commenced treatment with Dr. Michael J. Grady who provided permanent work restrictions related to her condition. Dr. Grady later noted in a July 18, 2016 report that Claimant's condition of uncontrolled hypertension "developed historically because of extreme work stress over time, according to her medical history."

On September 19, 2016, Claimant underwent an independent medical evaluation ("IME") conducted by Dr. Ross S. Myerson, an occupational medicine specialist. Dr. Myerson opined that there was no objective evidence in the medical records that Claimant's hypertension was specifically made worse by feeling stressed in her job. On October 5, 2016, upon reviewing Claimant's medical and ECG

test results, Dr. Myerson opined further that "there is nothing on that cardiogram that indicates any new or acute cardiac event had taken place" and that his earlier opinion was not changed by his review of the ECG.

A dispute arose as to whether Claimant sustained a compensable injury on September 29, 2014. A formal hearing was held before an Administrative Law Judge ("ALJ") in the Administrative Hearings Division ("AHD") of the Department of Employment Services ("DOES"). Claimant's claim for relief and the issues to be decided at the hearing and as described by the ALJ were:

> **CLAIM FOR RELIEF**
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> Claimant seeks an award under the Act for permanent partial disability benefits for wage loss for nine weeks annually from the present and continuing medical expenses associated with ongoing testing and monitoring; and employer-provided health insurance. HT 16.
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> **ISSUES**
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> 1. Whether there was an accidental injury on September 29, 2014 which arose out of and in the course of Claimant's employment?
> 2. Whether there is a causal relationship between Claimant's current condition and a work injury?
> 3. The nature and extent of disability, if any.

Caesar v. CACI, International, Inc., AHD No. 16-435 (November 30, 2016) ("CO") at 2.

The CO issued on November 30, 2016 denied Claimant's claim for relief.

Claimant timely appealed the CO to the Compensation Review Board ("CRB") by filing Claimant's Application for Review and Memorandum in Support of the Application for Review ("Claimant's Brief"). In her appeal Claimant asserts that the ALJ's conclusion that Claimant's right shoulder injury was not medically causally related to the work injury of May 25, 2015, was not based on substantial evidence and must be reversed.[1] Claimant's Brief at 3.

Employer opposed the appeal by filing Employer/Carrier's Memorandum in Opposition to Claimant's Application for Review ("Employer's Brief"). In its opposition, Employer asserts the ALJ properly concluded that the Claimant did not sustain a compensable injury arising out of and in the course of her employment and that her medical conditions are not medically causally related to her work injury. Employer's Brief at 6.

[1] Claimant also filed Petitioner's Motion Requesting Confidential Treatment. The CRB lacks express authority to consider the privacy interest of a party to a claim for workers' compensation benefits under the District of Columbia Workers' Compensation Act. Accordingly Petitioner's Motion Requesting Confidential Treatment is denied.

ANALYSIS[2]

In her appeal Claimant's argues that the CO's conclusions regarding legal causation disregard the expert opinions of her treating physicians "who are national authorities in cardiovascular medicine at the Cleveland Clinic and elsewhere . . . and are, therefore, unsupported by substantial evidence;". Claimant's Brief at 1. Claimant adds via a footnote that the ALJ also erred in that she concluded Claimant was a credible witness but failed "to credit Claimant's uncontroverted affidavit on dispositive factual issues related to causation." Claimant's Brief, footnote 2.

Addressing Claimant's second perceived error first, under the Act, in determining whether a claimant has met his or her burden of proof the ALJ is required to weigh and consider the evidence, as well as make credibility determinations. *McCamey v. DOES,* 947 A.2d 1191 (D.C. 2008). With regard to the ALJ's credibility determination, it is well settled that the credibility findings of an ALJ are entitled to great weight. *See Murray v. DOES*, 765 A.2d 980, 984-985 (D.C. 2001) citing *Dell v. DOES*, 499 A.2d 102, 106 (D.C. 1985).

We do not agree that by concluding that a claimant is credible it necessarily follows that all claimant evidence submitted is given the greater evidentiary weight; we know of no case dictating this standard of analysis and Claimant points us to none. The ALJ's duty to weigh the evidence is governed by the totality of the facts of the case as supported by the substantial evidence in the record when viewed as a whole and, after taking into consideration the reasonableness of the testimony, including whether or not any particular testimony has been contradicted or corroborated by other evidence. *Davis v. Western Union Telegraph,* Dir. Dkt. 88-84, (March 4, 1992). Determining that a claimant is credible, and deciding not to credit evidence submitted by that claimant is not an error. We reject Claimant's argument on this point.

Claimant also argues that the ALJ's discrediting of the treating physician opinion in this matter was in error, both due to his standing and position at the Cleveland Clinic (and elsewhere) and her extensive written testimony in support of her claim. In opposition, Employer argues:

> The only medical report that the Claimant introduced into evidence that draws a connection between her employment and her condition is a letter signed by Dr. Grady nearly two years after the injury date. This document was substantially (if not entirely) drafted by Claimant. See Claimant's Exhibit 13; Compensation Order, p. 8[4]. Judge Govan correctly found Dr. Grady's report insufficient to establish a causal relationship between the Claimant's condition and her employment.

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[2] The scope of review by the CRB as established by the District of Columbia Workers' Compensation Act, D.C. Code §§ 32-1501 *et. seq.*, ("Act") and as contained in the governing regulations is limited to making a determination as to whether the factual findings of a Compensation Order on appeal are based upon substantial evidence in the record, and whether the legal conclusions drawn from those facts flow rationally from those facts and are otherwise in accordance with applicable law. D.C. Code § 32-1521.01(d) (2) (A). "Substantial evidence" as defined by the District of Columbia Court of Appeals ("DCCA"), is such evidence as a reasonable person might accept to support a particular conclusion. *Marriott Int'l. v. DOES*, 834 A.2d 882 (D.C. 2003) ("*Marriott*"). Consistent with this scope of review, the CRB is also bound 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 members of the CRB review panel considering the appeal might have reached a contrary conclusion. *Marriott*, 834 A.2d at 885.

> None of the "national authorities" cited by the Claimant offered a causal relationship opinion supporting her contention.
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> * * *
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> The Claimant submitted reports from Dr. Sandy. These exhibits did not provide a causal relationship opinion. The Claimant alleges that these reports should have been given the treating physician preference. Regardless of the preference, they are simply irrelevant to the finder of fact in determining threshold determinations of causal relationship. They only speak to the severity of her condition and its ongoing nature and thus provide further support to the Employer's contention that the Claimant's condition is entirely attributable to pre-existing causes.
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> While the Claimant has been treating with Dr. Sandy for many years, her November 10, 2014 report does not provide a causal relationship opinion between the Claimant's activities at work on or about September 29, 2014 an her condition.
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> * * *
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> Even if Dr. Grady was considered a treating physician in this circumstance, and his reports were given greater weight, "[a] hearing officer, as the trier of fact, is entitled to reject the testimony of a treating physician, he may do so only 'if the examiner sets forth specific and legitimate reasons for doing so.' *Changkit v. D.C. Dep't of Employment Servs.*, 994 A.2d 380, 387 (D.C. 2010) (quoting *Olsen v. District of Columbia Dep't of Employment Servs.*, 736 A.2d 1032, 1041 (D.C. 1999)).

Employer Brief at 10-11.

We agree with Employer's opposition argument on this matter. Upon according treating physician status to the opinion of Dr. Grady and correctly citing to general rule regarding the treating physician standard and the specificity requirements associated with an ALJ's rejection of a treating physician opinion, *Stewart v. DOES*, 606 A.2d 1350 (D.C. 1992); *Golding-Alleyne v. DOES*, 980 A.2d 1209 (D.C. 2009), the ALJ set forth an analysis consistent with the governing law. In *Golding-Alleyne,* the court upheld the rejection by an ALJ of an opinion of a treating physician holding that even in the absence of a contrary medical record, "[w]hen the medical records call into question the basis and reliability of the opinion rendered by the treating physician, the ALJ may be justified in finding that opinion unpersuasive". *Id* at 1214.

The ALJ's iteration of the reasons for her rejection of Dr. Grady's opinion as support for Claimant's medical causal claim are clearly and reasonably explained, flow rationally from the facts, are based upon substantial evidence in the record and otherwise in accordance with applicable law. D.C. Code § 32-1521.01(d)(2)(A). The ALJ specifically points out that the report submitted by Dr. Grady did not opine to a work-related aggravation event. Indeed, none of the medical evidence submitted by Claimant and summarized by the ALJ in making her decision, reference the September 29, 2014 event as the causal workplace stressor of her ongoing condition.

The ALJ reasoned:

> There is no specific mention of any workplace, or work-related, events as the source of the aggravation in September/October 2014.
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> * * *
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> Dr. Myerson supplied an IME opinion that Claimant suffered from an on-going difficulty with hypertension that was not causally related to feeling stressed in her job. According to Dr. Myerson, due to Claimant's worsening medical condition, any subsequent examination of Claimant would show a worsening of her condition because of the progressive nature of her disease or factors outside of her employment. With this IME opinion, Employer sufficiently rebutted the presumption of compensability and the record evidence must be weighed without benefit thereof.
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> In the instant matter, the record does not support Claimant's argument that she sustained an actual injury that is medically causally related to the September 2014 events. The medical reports provided by Drs. Sandy and Grady only illuminate the fact that Claimant has hypertension that is essential, with no secondary medical causes, which developed because of workplace stressors. In fact, Dr. Sandy's medical reports date back to 2009, five (5) years before Claimant alleged that she sustained a work-related injury. CX3. Specifically, Dr. Sandy's November 10, 2014 medical report only stated that Claimant's blood pressure remained "above target", but failed to connect Claimant's elevated blood pressure with the September 2014 work-related events. CX9.

CO at 8.

The law is clear that to rebut the presumption the employer must proffer the opinion of a qualified independent medical expert who, having examined the employee and reviewed the employee's medical records, renders an unambiguous opinion that the work injury did not contribute to the disability. *Washington Post v. DOES and Raymond Reynolds*, 852 A.2d 909 (D.C. 2004) (*Reynolds*). We agree that Dr. Myerson's IME meets the standard set forth by the DCCA decision in *Reynolds*, *supra*, and conclude that the ALJ appropriately reviewed the medical records submitted to the record. The determination that Employer successfully rebutted the presumption of compensability is supported by substantial evidence and in accordance with the law. *Marriott, supra.*

Claimant dedicated a significant portion of her brief asserting that Dr. Myerson's opinion should have been excluded under 17 DCMR § 4612.5. Claimant is misguided however as this regulation, contained within the Business, Occupations and Professionals title of the District of Columbia Municipal Regulations, governs the Board of Medicine's regulation of medical licenses. Section 17 of the District of Columbia's Municipal Regulations has no binding authority over the jurisdiction of AHD or the review authority of the CRB and has no bearing on an administrative hearing to determine eligibility for workers' compensation benefits under the Act. We reject Claimant's argument on this issue.

Finally, Claimant alleges that Dr. Myerson's report required a sworn statement to be admissible under D.C. Superior Court Rule 26. Further, Claimant contends that admission requests were not responded to by Employer in a timely matter and as such, the ALJ erred as a matter of law in exercising her discretion in admitting discovery and overruling Claimant's objections on these issues. Section 32-1525 of the Act specifically provides that in making "an investigation or inquiry or conducting a hearing the Mayor shall not be bound by common law or statutory rules of evidence or by technical of formal rules of procedure." *Id.* Moreover, the AHD is not bound by the D.C. Superior Court Rules *per se*; our review of the record supports that the ALJ properly admitted Dr. Myerson's report and ruled judiciously on objections brought before her including her determination of the appropriate weight afforded to each evidentiary document in the record. We reject Claimant's argument on this issue and affirm the ALJ's use of reasonable judicial discretion on these matters.

CONCLUSION AND ORDER

The conclusions that Claimant did not sustain a compensable injury arising out of and in the course of her employment, and that any medical conditions she suffers is not medically causally related to the events that occurred on or about September 29, 2016 are based upon substantial facts in the record and are in accordance with the law. The Compensation Order is AFFIRMED.

So ordered.