

CRAIG GRAY  
(Appellee)

v.

PRUDENTIAL INSURANCE CO. OF AMERICA  
(Appellant)

and

TRAVELERS  
(Insurer)

Argued: September 17, 2014  
Decided: October 5, 2015

PANEL MEMBERS: Hearing Officers Goodnough, Knopf, and Stovall  
BY: Hearing Officer Goodnough

[¶1] Craig Gray suffered an injury while working for Prudential Insurance Company that rendered his preexisting paraplegia condition worse. The hearing officer (*Collier, HO*) granted Mr. Gray's Petition for Payment of Medical and Related Services in part, and ordered Prudential to pay for a variety of home modifications associated with making Mr. Gray's home more accessible. *See* 39-A M.R.S.A. § 206(8) (Supp. 2014). Prudential appeals, contending that the modifications are neither "medical" nor "mechanical" in nature and do not otherwise fall within the scope of section 206(8).

## I. BACKGROUND

[¶2] Craig Gray sustained a spinal cord injury in 1979 in a nonwork-related motor vehicle accident. As a result, he is a paraplegic and uses a wheelchair at all times. He began working for Prudential in January of 2007 as Vice President of Return to Life Programs. On April 17, 2008, while on a business trip, he injured his right arm (brachial plexus nerve injury) while transferring from his wheelchair to a van. As a result of this injury, Mr. Gray is less mobile in his transfers to and from the wheelchair and is not as independent as he had been with personal care. His physician recommended that Mr. Gray increase the level of accessibility to his home. He contracted with a builder to carry out a number of modifications to the kitchen, both bathrooms, and both bedrooms.

[¶3] Mr. Gray filed a Petition for Payment of Medical and Related Services, seeking reimbursement for the renovations to his home. Prudential had declined to pay for the modifications, contending that the costs incurred were neither reasonable nor proper medical or mechanical aids. *See* 39-A M.R.S.A. § 206. The hearing officer granted the petition in part, and ordered payment for the home renovations, less a differential for certain high-end materials.<sup>1</sup>

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<sup>1</sup> The hearing officer also ruled that the injury arose out of and in the course of employment, and awarded payment for certain assistive devices and medical bills. Prudential's contentions on appeal relate only to the award of payment for the home renovations.

[¶4] After the hearing officer denied Prudential’s Motion for Additional Findings of Fact and Conclusions of Law, Prudential filed this appeal. We affirm the decision.

## II. DISCUSSION

### A. Standard of Review

[¶5] The Appellate Division’s role on appeal is “limited to assuring that the [hearing officer’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.” *Comeau v. Me. Coastal Servs.*, 449 A.2d 362, 368 (Me. 1982) (quotation marks omitted). This case also presents issues of statutory construction. “When construing provisions of the Workers’ Compensation Act, our purpose is to give effect to the Legislature’s intent.” *Hanson v. S.D. Warren Co.*, 2010 ME 51, ¶ 12, 997 A.2d 730. “In so doing, we first look to the plain meaning of the statutory language, and construe that language to avoid absurd, illogical, or inconsistent results.” *Id.* We also consider “the whole statutory scheme of which the section at issue forms a part so that a harmonious result, presumably the intent of the Legislature, may be achieved.” *Davis v. Scott Paper Co.*, 507 A.2d 581, 583 (Me. 1986).

B. Medical, Mechanical, and Physical Aids

[¶6] Section 206 provides, in relevant part:

An employee sustaining a personal injury arising out of and in the course of employment . . . is entitled to reasonable and proper medical, surgical and hospital services, nursing, medicines, and mechanical, surgical aids, as needed, paid for by the employer.

. . . .

(8) The employer shall furnish artificial limbs, eyes, teeth, eyeglasses, hearing aids, orthopedic devices and other physical aids made necessary by the injury and shall replace or renew them when necessary from wear and tear or physical change of the employee.

[¶7] Prudential contends that Mr. Gray's home renovations are not compensable pursuant to the plain meaning of the preamble of section 206 because they are not medical in nature.

[¶8] The hearing officer determined that Mr. Gray's home modifications fit within the scope of section 206(8), citing *Brawn v. Gloria's Country Inn*, 1997 ME 191, ¶ 9, 698 A.2d 1067. In *Brawn*, the employee suffered a compensable injury that rendered her quadriplegic. *Id.* ¶ 2. Thereafter, she used a specially adapted wheelchair that was not readily transportable in ordinary vehicles. *Id.* The employer voluntarily purchased a van that was specially adapted to accommodate the wheelchair and the employee's disability. *Id.* Several years later, the employee filed a petition seeking payment for a replacement van and modifications to that van. *Id.* The hearing officer concluded that the modifications to the van were

medically necessary to accommodate the employee's wheelchair, but the van itself was not a physical aid pursuant to section 206 and therefore, the employer was required to pay for the adaptations but not the van. *Id.* ¶ 5.

[¶9] The Law Court concluded that section 206 required the employer to pay for both the replacement van and the adaptations. *Brawn*, 1997 ME 191, ¶¶ 9, 10. The Court reasoned:

Unlike the statutes in some jurisdictions, section 206 is not limited to medical apparatus or aids, but extends to all “reasonable and proper . . . mechanical. . . aids” and “physical aids made necessary by the injury.” 39-A M.R.S.A. § 206 (emphasis added). We conclude that the terms “mechanical” and “physical” “aids” in section 206 are broad enough to include a van.

*Id.* ¶ 9.

[¶10] The focus with respect to interpreting and applying section 206 is therefore not on whether the requested modifications or aids are sufficiently “medical” in nature as argued by Prudential; rather, the threshold inquiry as set forth in *Brawn* is properly focused on whether the requested items for payment in dispute are “mechanical” or “physical aids made necessary by the injury.” The hearing officer correctly undertook this threshold analysis, determining that the items in dispute were physical aids made necessary by the injury.

### C. Reasonable and Proper or Made Necessary by the Injury

[¶11] Prudential further contends the hearing officer erred when determining that the renovations were “reasonable and proper” pursuant to section 206(8). In

*Brawn*, the Court examined whether a modification reasonably facilitates the employee's use of an already-required mechanical apparatus such as a wheelchair. In so doing, the Court emphasized the importance to the employee of the requested modification in terms of reasonable participation in modern society; that is, whether it is "reasonable and proper":

Given the facts of this case, we conclude that a van is a reasonable and proper mechanical or physical aid. As the Board concluded, the van is reasonably necessary to facilitate the use of Brawn's wheelchair. The practical benefit of a 300-pound wheelchair is greatly diminished if Brawn is effectively precluded from traveling beyond the boundaries of her own home. Moreover, in Brawn's case, the van, like the wheelchair, is reasonably necessary to provide basic mobility. The days have long passed when transportation by car or similar vehicle could be considered a "luxury." This is especially true for severely handicapped individuals, like Brawn, who are greatly restricted in their choice of alternative transportation.

*Id.* ¶ 10. The *Brawn* Court ultimately recognized that "[e]ach case must be decided according to its own particular facts and according to the statute's ultimate purpose to provide reasonable relief from the effects of a work-related injury." *Id.* ¶11.

[¶12] When evaluating the propriety, reasonableness, and necessity of Mr. Gray's home renovations, the hearing officer stated:

The changes to the kitchen countertops and sink and to the kitchen floor enable him to prepare food and wheel himself in and out of the kitchen effectively. The changes to both bathrooms accommodate his wheelchair and enable him to perform his bathing, toileting, and personal hygiene even with reduced strength and functioning in his dominant right arm and hand. (Mr. Gray now uses a completely different approach to transfer onto the toilet, and he still cannot perform his bowel program as he did before this injury). The repair to

the bathroom floor was necessary to support the tiled shower stall. The new closet doors enable him to access the closet space more easily. These modifications assist Mr. Gray to eat, clean, and dress himself, use his wheelchair effectively within his home, and prepare himself for work and daily life. Like the specially adapted van in *Brawn*, I find and conclude that the vast majority of these home renovations are necessary to provide relief to Mr. Gray from the continuing effects of his work-related injury.

[¶13] We find no error in the hearing officer's application of section 206(8).

The renovations found by the hearing officer to be reasonable, proper, and necessary are all within the confines of Mr. Gray's home, including his bedroom, two bathrooms, and the kitchen. These are areas where very basic and private activities of daily living take place. Because the need for the home renovations in this case is analogous to the employee's need for the accommodated van in *Brawn*, we cannot say that the hearing officer misapplied or misconceived the law when determining that the renovations are payable by Prudential under section 206. The hearing officer carefully reviewed how each requested modification was causally linked to, and rendered necessary by, Mr. Gray's right arm injury. He also properly considered the reasonableness of each requested modification, accepting most of them, but also rejecting certain items as not within the statute. This is entirely consistent with the Law Court's holding in *Brawn*. The hearing officer's decision appropriately reflects consideration of the Law Court's view regarding the "ultimate purpose" of the section 206: "to provide reasonable relief from the effects of a work-related injury." *Brawn*, 1997 ME 191, ¶ 11.

D. Cost of Renovations

[¶14] Finally, Prudential contends that the hearing officer erred in his assessment regarding the adequacy of the evidence of the cost of the renovations. The hearing officer evaluated Mr. Gray's Exhibit 2, the Sterling Builders deposit detail, and explicitly found as fact that this exhibit accurately represented the cost of the renovation. Our review of the evidence shows this formed an adequate basis upon which to order payment. Accordingly, we cannot conclude that the hearing officer misconceived the law or misapplied the law to the facts, relative to the cost issue, in a manner that was arbitrary or without rational foundation.

III. CONCLUSION

[¶15] The hearing officer, correctly applying *Brawn*, neither misconceived nor misapplied the law when authorizing reimbursement of the cost of Mr. Gray's renovations, and competent evidence in the record supports the amount ordered.

The entry is:

The hearing officer's decision is affirmed.

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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. 2014).

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