RANDALL LANCASTER
(Appellee)

v.

S.D. WARREN CO.
(Appellant)

and

CCMSI
(Third Party Administrator/Appellant)

and

HELMSMAN MANAGEMENT SERVICES
(Insurer/Appellee)

Argued: February 7, 2019
Decided: May 13, 2020

PANEL MEMBERS: Administrative Law Judges Jerome, Hirtle, and Pelletier
BY: Administrative Law Judge Hirtle

[¶1] S.D. Warren, a self-insured employer with its third party administrator CCMSI, appeals a decision from an administrative law judge of the Workers' Compensation Board (*Knopf, ALJ*) denying Randall Lancaster's Petitions for Payment of Medical and Related Services regarding two injury dates: July 19, 1991, (a claim administered by CCMSI), and January 23, 1998, (a claim made when S.D. Warren was insured by Helmsman Management Services). The ALJ denied the petitions after finding that the disputed treatment was not "reasonable and proper" care related to the work injuries under 39-A M.R.S.A. § 206 (Pamph. 2020). CCMSI

contends that the ALJ committed reversible error by failing to adjudicate its statute of limitations defense to the 1991 claim and by making an unsupported, adverse factual finding. We affirm the decision.

I. BACKGROUND

[¶2] Randall Lancaster was injured twice in the course of his work for S.D. Warren at the company's Skowhegan paper mill: first on July 19, 1991, and again on January 23, 1998. After surgery and significant periods of recovery from each injury, Mr. Lancaster was able to return to work and remained working for S.D. Warren at the time of his testimony. Mr. Lancaster alleged that his injuries left him with ongoing pain that he treated through massage therapy. At a mediation in 2005, the parties reached an agreement that CCMSI and S.D. Warren/Helmsman would pay for massage therapy on a non-prejudicial basis, agreeing to apportion the costs 50% each pursuant to 39-A M.R.S.A. § 354 (Pamph. 2020).

[¶3] In December 2016 and January 2017, Mr. Lancaster filed his current petitions. During the litigation, CCMSI raised a statute of limitations defense pursuant to the applicable statute, 39 M.R.S.A. § 95.[1] Seeking to establish that the statutory period had run, CCMSI submitted an affidavit from its assigned claims handler stating that it last made any payments for Mr. Lancaster's claim on April 6,

[1] Title 39 M.R.S.A. § 95, P.L. 1989, ch. 256, § 4 (effective Sept. 30, 1989), was subsequently amended by P.L. 1991, ch. 615, § A-44 (effective October 9, 1991), then repealed and replaced by P.L. 1991, ch. 885 (effective Jan. 1, 1993) (codified at 39-A M.R.S.A. § 301 (Pamph. 2020)).

2006. Mr. Lancaster testified that until 2013, his massage therapy was paid for by one of the two workers' compensation insurers and that he never paid anything out of pocket until 2013. Mr. Lancaster's massage therapist testified that she has "always billed the workmen's comp." Although Helmsman itself introduced no evidence of payments it made in Mr. Lancaster's case, its position was that the evidence, including Mr. Lancaster's testimony, supports that it did make payments between 2006 and 2013.

[¶4] In the initial decree, the ALJ did not address the statute of limitations defense and instead denied Mr. Lancaster's petitions on the grounds that he had not met his burden of persuasion to demonstrate that the massage therapy was "reasonable and proper" medical care related to his work injuries as required by 39-A M.R.S.A. § 206 (Pamph. 2020). However, the ALJ made a finding that "until 2013, the costs [for Mr. Lancaster's massage therapy] were paid by S.D. Warren/Helmsman without issue."

[¶5] CCMSI moved for further findings of fact and conclusions of law pursuant to 39-A M.R.S.A. § 318 (Pamph. 2020), requesting that the ALJ address its statute of limitations defense. In an amended decree, the ALJ agreed that addressing a statute of limitations defense as a threshold issue would be consistent, typically, with past practice before the board, but found no persuasive authority that the practice must be followed as a matter of law, or that additional issues must be

decided after adjudicating the merits of a dispositive claim. She therefore did not address the statute of limitations defense and did not alter the result of the decree. CCMSI then filed this appeal.

II. DISCUSSION

A. Standard of Review

[¶6] In general, the role of the Appellate Division "is limited to assuring that the [ALJ's] 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." *Moore v. Pratt & Whitney Aircraft*, 669 A.2d 156, 158 (Me. 1995) (quotation marks omitted). Because CCMSI requested findings of fact and conclusions of law following the decision, the Appellate Division may "review only the factual findings actually made and the legal standards actually applied by the [ALJ]." *Daley v. Spinnaker Indus., Inc.*, 2002 ME 134, ¶ 17, 803 A.2d 446.

B. The ALJ's Obligation to Address Litigated Controversies

[¶7] CCMSI first contends that because the statute of limitations is an affirmative defense in both the arena of civil litigation[2] and in the administrative forum of workers' compensation,[3] the ALJ was obligated to decide the merits of its

[2] M.R. Civ. P. 8(c).
[3] *See Patriotti v. General Electric, Co.*, 587 A.2d 231 (Me. 1991).

defense as a threshold issue that could not be rendered moot by a judgment on the merits regarding medical treatment. It asserts that in the decree, the ALJ conceded that the board's normal practice is to rule on a statute of limitations defense before reaching the merits of a claim.

[¶8] It also contends that the language of 39 M.R.S.A. § 95, which provides in relevant part: "No petition of any kind may be filed more than 10 years following the date of the latest payment made under this Act," means that an untimely petition "cannot be maintained in the first place," and that therefore "there are no claims to be heard on the merits."[4] We disagree with these contentions.

[¶9] We read nothing in the language of section 95, nor any other authority, that requires prioritizing a statute of limitations defense as CCMSI suggests. Section 318 provides only that after receiving evidence furnished by the parties, the administrative law judge "shall in a summary manner decide the merits of the controversy." 39-A M.R.S.A § 318. The Act does not specifically require that an affirmative defense be addressed before the merits of a claim. *See Grubb v. S.D. Warren Co.*, 2003 ME 139, ¶ 19, 837 A.2d 117 (stating that practice before the Workers' Compensation Board is "uniquely statutory;" there are no powers of "general equity" available upon the request of the parties).

[4] To the extent that CCSMI argues that application of a statute of limitations is a jurisdictional matter, we conclude that the argument is contradicted by the Law Court's holding in *Norton v. Penobscot Frozen Food Lockers, Inc.*, 295 A.2d 32 (Me. 1972). In that case, the Court analyzed whether 39 M.R.S.A. § 95 is jurisdictional or procedural, and concluded that it is procedural. *Norton*, 295 A.2d at 33.

[¶10] Moreover, as Helmsman points out, the ALJ had to reach the merits of the medical treatment claim because Helmsman did not assert a statute of limitations defense to the petition on the 1998 date of injury. The facts and law relevant to both petitions for medical and related services were identical. Thus, the ALJ's decision to address the merits first is both supported by principles of judicial economy and falls within a reasonable range of appropriate decision-making. *See Smith v. Maine Coast Sea Vegetables*, Me. W.C.B. No. 20-01 (App. Div. 2020) ("Matters regarding the sequence and conduct of hearings, and the admission or exclusion of evidence, are reviewable for abuse of discretion."); *see also Sager v. Town of Bowdoinham*, 2004 ME 40, ¶ 11, 845 A.2d 567 (finding no abuse of discretion when the decisionmaker did not exceed the bounds of reasonable choices available to them).

C. Adequacy of the Findings of Fact and Conclusions of Law

[¶11] CCMSI next contends that the ALJ committed reversible error when failing to issue additional findings of fact and conclusions of law on the statute of limitations issue in response to its motion. It asserts that the ALJ was required to do so pursuant to section 318, and the failure to do so results in unnecessary administrative costs related to the continued potential viability of the 1991 date of injury. This contention lacks merit.

[¶12] When requested by a party, an ALJ has an obligation to make sufficient findings of fact and conclusions of law so that meaningful appellate review is

possible. *Gallant v. Boise Cascade Paper Group*, 427 A.2d 976, 977 (Me. 1981); *Coty v. Town of Millinocket*, 444 A.2d 355, 357 (Me. 1982). Sufficient findings include those that allow a reviewing body effectively to determine the basis of the ALJ's decision; that is, whether the decision is supported by competent evidence or the ALJ misconstrued or misapplied the law. *See Chapel Road Assocs., L.L.C. v. Town of Wells*, 2001 ME 178, ¶ 10, 787 A.2d 137.

[¶13] The findings of fact provided by the ALJ as they relate to the petitions for medical and related services are sufficient for appellate review. The ALJ found no medical evidence to support the reasonableness and propriety of continued massage therapy after 2013. Thus, the amended decree sets forth an adequate factual and legal basis for disposing of the petitions pursuant to section 206. The ALJ was not obligated to make additional findings of fact or conclusions of law on the statute of limitations issue.

D. Potential Harm from the Allegedly Unsupported Factual Finding

[¶14] Finally, CCMSI contends that the ALJ's finding that "until 2013, the costs [for Mr. Lancaster's treatment] were paid by S.D. Warren/Helmsman without issue" is unsupported by competent evidence. It asserts that this finding should be vacated—despite the overall disposition in its favor—because the finding could have preclusive effect in future litigation under the rules of collateral estoppel. Helmsman asserts that the issue is moot because the case was disposed of on other grounds, and

there was no controversy left for the board to decide. An issue is moot when there is "no real and substantial controversy, admitting of specific relief through a judgment of conclusive character." *Smith v. Hannaford Bros.*, 2008 ME 8, ¶ 6, 940 A.2d 1079.

[¶15] The Law Court discussed whether mootness bars a party's appeal from a favorable decision when "a judgment in his favor is a victory in name only" in *Sevigny v. Home Builders Assoc.*, 429 A.2d 197, 201 (Me. 1981). In that case, the defendant corporation appealed a judgment in its favor on what money was owed the plaintiff. *Id.* The judgment also contained a finding that the parties had entered into a termination agreement, ending the defendant's employment contract with the plaintiff. *Id.* In permitting the appeal, the Law Court noted the finding that the parties had entered a termination agreement was essential to the judgment and therefore could be used to collaterally estop the defendant corporation from disputing that finding in later litigation stemming from separate damages owed due to the termination agreement, and concluded, "[a]ccordingly, defendant is an aggrieved party, which has standing to appeal from the [judgment], even though apparently in its favor, because an essential finding on which that judgment is based might otherwise prejudice it through the use of collateral estoppel in a future proceeding." *Id.* at 202.

[¶16] CCMSI argues that it is similarly prejudiced despite the decision in its favor because the decision contains factual findings that may serve to bar future litigation of the statute of limitations defense.

[¶17] The finding in issue, however, is relevant only to the statute of limitations defense. Helmsman conceded during oral argument that the finding is not relevant to the issue of medical treatment on which the case was decided. Because the finding on which CCMSI bases its claim of prejudice is not essential to the judgment, it cannot have preclusive effect in later litigation. *See Beale v. Chisholm*, 626 A.2d 345, 347 (Me. 1993). Accordingly, we find no merit in the contention that the decision should be vacated on this ground.

III. CONCLUSION

[¶18] We conclude that the ALJ did not commit reversible error when adjudicating the merits of Mr. Lancaster's claim and declining CCMSI's request to adjudicate its statute of limitations defense. The findings and conclusions fully adjudicated the disputed claim and are sufficient for appellate review. Further, because the ALJ's findings regarding Helmsman's payment history were not essential to the judgment, there are insufficient consequences from those findings to merit appellate review from an otherwise favorable decision.

The entry is:

The administrative law judge's decision is affirmed.

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 (Pamph. 2020).

Pursuant to board Rule, chapter 12, § 19, all evidence and transcripts in this matter may be destroyed by the board 60 days after the expiration of the time for appeal set forth in 39-A M.R.S.A. § 322 unless (1) the board receives written notification that one or both parties wish to have their exhibits returned to them, or (2) a petition for appellate review is filed with the law court. Evidence and transcripts in cases that are appealed to the law court may be destroyed 60 days after the law court denies appellate review or issues an opinion.

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