MIRANDA A. MERCHANT
(Appellant)

v.

MAINE DEPARTMENT OF HEALTH
AND HUMAN SERVICES
(Appellee)

and

STATE OF MAINE WORKERS'
COMPENSATION DIVISION
(Insurer)

Conference held: February 5, 2025
Decided: April 29, 2025

PANEL MEMBERS: Administrative Law Judges Chabot, Smith, and Murphy
BY: Administrative Law Judge Smith

[¶1] Miranda Merchant appeals from a decision of a Workers' Compensation Board administrative law judge (*Hirtle, ALJ*) granting in part her Petitions for Award and denying her Petitions for Payment of Medical and Related Services. Ms. Merchant contends that the ALJ erred when failing to consider the M-1 Diagnostic Medical Reports relevant to her work injuries, including one submitted after the decision had been issued. She also contends the evidence, including her testimony and timecards showing time off from work, compels a finding that she is entitled to benefits for lost time. We disagree and affirm the decision.

I. BACKGROUND

[¶2] Miranda Merchant has worked for the Maine Department of Health and Human Services as a licensing case aide since 2019. Her duties include transporting children, licensing specialists, licensing foster homes, scheduling transportation, and supervising visits. She sustained injuries at work on three occasions. On October 21, 2020, she injured her back when she lifted a heavy tote; on October 27, 2020, she injured her left hip when heavy totes fell on her; and on July 12, 2021, she injured her left hamstring when she caught a child who was falling from a hospital bed.

[¶3] Ms. Merchant filed her petitions seeking lost time benefits and payment of related medical bills. A hearing was held on April 8, 2024, at which Ms. Merchant represented herself. Ms. Merchant testified that she missed work due to her injuries and attending related medical appointments. She submitted timecards on which she designated time out of the office due to her work injuries as either "workers' comp sick," "sick," or "vacation." She testified that she no longer has any restrictions due to her work injuries and has not missed work due to the injuries since 2022 or 2023. Ms. Merchant did not offer any medical bills or medical records related to her treatment for the work injuries.

[¶4] The ALJ determined that although Ms. Merchant established that she sustained work injuries on the claimed dates, in the absence of an opinion from a qualified medical expert, she did not meet her burden to prove that her injuries

resulted in symptoms or restrictions that caused her to lose time from work. *See Wickett v. University of Me. Sys.*, Me. W.C.B. No. 17-27, ¶ 13 (App. Div. 2017). In the absence of itemized medical bills or a claim for prospective payment, the ALJ also denied the Petitions for Payment of Medical and Related Services, citing Me. W.C.B. Rule ch. 12, § 2 ("Itemized bills, liens, co-pays, and out of pocket expenses must be filed with petitions for payment of medical and related expenses.").

[¶5] In conjunction with a Motion for Additional Findings of Fact and Conclusions of Law, *see* 39-A M.R.S.A § 318*,* Ms. Merchant proffered an M-1 form dated March 3, 2022, signed by Mary White, PA-C. Ms. White indicated on the form that the July 2021 left hamstring injury is work-related and resulted in a modified work capacity with restrictions on lifting greater than ten to fifteen pounds. Ms. Merchant contended this medical form, along with her testimony and the timecards, was sufficient to meet her burden to prove that she lost time from work due to the work injuries.

[¶6] The ALJ issued additional findings but did not alter the outcome of the case. He excluded the M-1 form from evidence on the basis that it was submitted too late, citing provisions of the Act and Board Rules that require evidence to be submitted before a decision is issued. Ms. Merchant appeals.

II. DISCUSSION

A. Standard of Review

[¶7] The Appellate Division's role on appeal is "limited to assuring that the [ALJ'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." *Moore v. Pratt & Whitney Aircraft*, 669 A.2d 156, 158 (Me. 1995). When a party requests and proposes additional findings of fact and conclusions of law, as was done in this case, the Appellate Division reviews "only the factual findings actually made and the legal standards actually applied" by the ALJ. *Daley v. Spinnnaker Indus*., *Inc*., 2002 ME 134, ¶ 17, 803 A.2d 446 (quotation marks omitted). "When an [ALJ] concludes that the party with the burden of proof failed to meet that burden, we will reverse that determination only if the record compels a contrary conclusion to the exclusion of any other inference." *Anderson v. Me. Pub. Employees Ret. Sys*., 2009 ME 134, ¶ 28, 985 A. 2d 501.

B. Burden of Proof

[¶8] Ms. Merchant contends the evidence compels the finding that she is entitled to compensation for lost wages and payment of her medical bills. We disagree.

[¶9] There is no dispute that Ms. Merchant, as the petitioning party, bore the burden of proof to establish all elements of her claim on a more probable than not basis. *Rowe v. Bath Iron Works Corp.*, 428 A.2d 71, 73 (Me. 1981) ("An employee petitioning for an award of compensation . . . has the burden of proof by a preponderance of competent and probative evidence on all essential elements of [the] claim."). Proof of a causal relationship between an employee's work injury and lost time from work is an essential element of a petition for award of compensation. *See Lavoie v. Re-Harvest, Inc.,* 2009 ME 50, ¶ 13, 973 A.2d 760 ("The focus of the Workers' Compensation Act is to ensure that employees who are unable to work, or are limited in that capacity, *as a result of a work-related injury* receive compensation for lost wages." (Emphasis added)).

[¶10] Further, except in cases where "causation is clear and obvious to a reasonable [person] who had no medical training[,]" an employee must rely on the opinion of a qualified medical expert to meet their burden of proof on the issue of whether the work injury causes incapacity for work. *See Wickett*, Me. W.C.B. No. 17-27, ¶ 8 (quoting *Brawn v. Bangor Tire Co.*, Me. W.C.C. 97, 101 (Me. App. Div. 1983)). The determination of causal connection is a question of fact. *See Bruton v. City of Bath*, 432 A.2d 390, 392 (Me. 1981). However, whether a party has or has not met their burden of proof is reviewable as a question of law. 39-A M.R.S.A. § 318.

[¶11] The ALJ rationally determined that it would not be clear and obvious to a reasonable person that Ms. Merchant lost time from work due to her work injuries. Because Ms. Merchant did not timely submit admissible medical evidence in support of her claim, it was neither irrational nor arbitrary to conclude that she did not meet her burden of proof on that issue.

C. Lack of Medical Evidence

[¶12] Ms. Merchant asserts that it was her understanding that all M-1 reports completed by her providers in the course of her treatment had been forwarded to the board, and that the ALJ had access to those records. She cites no authority for this proposition, however, and we know of no basis in the statute or rules that would support this assumption.

[¶13] Ms. Merchant was not represented by counsel in this litigation. It nevertheless remained her obligation to abide by applicable statutes and rules. Her mistaken assumption does not excuse the failure to adduce evidence in support of her claim. *Richards v. Bruce,* 1997 ME 61, ¶ 8, 691 A.2d 1223 ("We have long recognized the principle that pro se litigants are held to the same standards as represented litigants. Neither civil nor criminal litigants are afforded any special consideration because of their pro se status." (citations omitted)).

[¶14] To the extent Ms. Merchant contends the ALJ erred when failing to consider the M-1 report from PA White, this contention lacks merit. Matters

regarding the admission and exclusion of evidence are reviewable for abuse of discretion. *Smith v. Me. Coast Sea Vegetables, Inc.,* Me. W.C.B. No. 20-1, ¶ 13 (App. Div. 2020). Both the Workers' Compensation Act and Board rules require that to be considered, medical reports must be served on the opposing party in advance of the scheduled hearing. 39-A M.R.S.A § 309(3) (requiring service of a copy of the medical record fourteen days in advance of the hearing); Me. W.C.B. Rule ch. 12, § 12(1) (requiring the parties to exchange proposed exhibits seven days in advance of the hearing). Ms. Merchant submitted the M-1 form after the hearing and after the decision had been issued in this case. There is no assertion that the M-1 form was newly discovered evidence that might provide cause to reopen the evidence. *See* 39-A M.R.S.A § 319. It was well within the bounds of the ALJ's discretion to exclude it.

III. CONCLUSION

[¶15] The ALJ did not err when determining that Ms. Merchant failed to meet her burden to prove that any lost time from work was due to her work injuries. Moreover, the ALJ acted within the bounds of his discretion when excluding the M-1 report submitted by Ms. Merchant after the decision had issued.

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.

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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