WORKERS COMPENSATION COMMISSION

STATEMENT OF REASONS FOR DECISION OF THE APPEAL PANEL IN RELATION TO A MEDICAL DISPUTE

Matter Number:	**M1-5820/19**
Appellant:	**Muriel Grieve**
Respondent:	**Serco Sodexo Defence Services Pty Ltd**
Date of Decision:	**30 April 2020**
Citation:	**[2020] NSWWCCMA 82**

Appeal Panel:	
Arbitrator:	**John Wynyard**
Approved Medical Specialist:	**Dr Drew Dixon**
Approved Medical Specialist:	**Dr Margaret Gibson**

BACKGROUND TO THE APPLICATION TO APPEAL

1. On 20 January 2020, Muriel Grieve, the appellant, lodged an Application to Appeal Against the Decision of Approved Medical Specialist. The medical dispute was assessed by Dr Yiu-Key Ho, an Approved Medical Specialist (AMS), who issued a Medical Assessment Certificate (MAC) on 14 January 2020.

2. The appellant relies on the following grounds of appeal under s 327(3) of the *Workplace Injury Management and Workers Compensation Act 1998* (1998 Act):

    - availability of additional relevant information (being additional information that was not available to, and that could not reasonably have been obtained by, the appellant before the medical assessment appealed against),
    - the assessment was made on the basis of incorrect criteria,
    - the MAC contains a demonstrable error.

3. The Registrar is satisfied that, on the face of the application, at least one ground of appeal has been made out. The Appeal Panel has conducted a review of the original medical assessment but limited to the ground(s) of appeal on which the appeal is made.

4. The WorkCover Medical Assessment Guidelines set out the practice and procedure in relation to the medical appeal process under s 328 of the 1998 Act. An Appeal Panel determines its own procedures in accordance with the WorkCover Medical Assessment Guidelines.

5. The assessment of permanent impairment is conducted in accordance with the *NSW Workers Compensation Guidelines for the Evaluation of Permanent Impairment, 4th* ed 1 April 2016 (the Guides) and the *American Medical Association Guides to the Evaluation of Permanent Impairment,* 5th ed (AMA 5). “WPI" is reference to whole person impairment.

RELEVANT FACTUAL BACKGROUND

6. Following Consent Orders made on 6 December 2019 the matter was referred on 9 December 2019 by a delegate of the Registrar to the AMS. The referral sought an assessment of WPI caused to the lumbar spine by an injury on 18 January 2016.

7. Ms Grieve was employed by the respondent as a Customer Service Assistant and Store Person. She had been working for the respondent since 2005, and on 18 January 2016 experienced a back injury when she tried to open a table. The event caused pain in the lower back and shooting down to the right calf. Her symptoms did not improve, and a CAT scan was performed on 22 February 2016 following which she continued to suffer symptoms. An MRI scan on 10 October 2016 demonstrated significant pathology in the L4/5 region with L5 nerve irritation on the right side.

8. She came under the care of Neurosurgeon Dr Jeffrey W Brennan, with whom she came to surgery on 22 October 2017. A microdiscectomy on the right side with rhizolysis of the L5 nerve root was carried out. While the operation may have eased some of the back pain for a short period, it did not change the leg pain or the drop foot which had developed.

9. Ms Grieve had a further MRI scan following further symptomatology on 21 May 2018. She had been recommended for further surgery, but in June 2018 she suffered an extensive bilateral pulmonary embolism.

10. She came to repeat MRI on 14 December 2018, but the risk involved with Ms Grieve now being on anti-coagulant medication, made surgery unviable.

11. The AMS calculated an entitlement of 15% WPI from which he deducted 1/10th pursuant to s 323 of the 1998 Act giving a combined table value of 14%.

PRELIMINARY REVIEW

12. The Appeal Panel conducted a preliminary review of the original medical assessment in the absence of the parties and in accordance with the WorkCover Medical Assessment Guidelines.

13. The appellant did not seek to be re-examined by a Panel AMS. Although we have found demonstrable error to have been made, it concerned the weight to be placed on existing evidence and accordingly no re-examination was required.

Additional evidence

14. Ms Grieve included two fresh statements with her appeal, calling them “supporting documents.” If a party to a Medical Appeal Panel wishes to include additional material that was not before the AMS, it is required to conform with the provisions of s 328(3) of the 1998 Act.

15. Section 328(3) of the 1998 Act provides as follows:

> “(3) Evidence that is fresh evidence or evidence in addition to or in substitution for the evidence received in relation to the medical assessment appealed against may not be given on an appeal by a party to the appeal unless the evidence was not available to the party before that medical assessment and could not reasonably have been obtained by the party before that medical assessment.”

16. We note that no submissions were made with regard to this ground. The respondent noted the application without either objecting or consenting to the reception of the additional evidence.

17. As the content of both statements dealt with alleged conversations during the assessment by the AMS, the evidence was clearly not available before the medical assessment.

The two statements

18. The additional evidence took the form of two short statements, one from the applicant, Ms Grieve, dated 17 January 2020 and the other from Ms Grieve's daughter, Ms Kerry Merrick, also dated 17 January 2020.

19. It was alleged that in answer to a question by the AMS whether Ms Grieve needed assistance with her personal care, Ms Grieve answered saying "I needed my daughter to cut my toe nails and anything foot related as I am unable to do it myself"[1].

20. Ms Merrick confirmed hearing that conversation in her statement.

21. The question of whether Ms Grieve could not reasonably have obtained the evidence before the medical assessment is easily answered in this case because at paragraph 93 of her statement she said: [2]

> "I have to get my daughter to come around and cut my toenails for me and anything else feet related."

22. It follows therefore that the evidence is not fresh, nor is it in substitution for the evidence received. It is however of probative additional value, as it confirms that the AMS was made aware specifically that Ms Grieve was struggling with this activity of daily living.

23. The statements are accordingly admitted.

EVIDENCE

Documentary evidence

24. The Appeal Panel has before it all the documents that were sent to the AMS for the original medical assessment and has taken them into account in making this determination.

Medical Assessment Certificate

25. The parts of the medical certificate given by the AMS that are relevant to the appeal are set out, where relevant, in the body of this decision.

SUBMISSIONS

26. Both parties made written submissions, which have been considered by the Appeal Panel.

FINDINGS AND REASONS

27. The procedures on appeal are contained in s 328 of the 1998 Act. The appeal is to be by way of review of the original medical assessment but the review is limited to the grounds of appeal on which the appeal is made.

[1] Appeal papers page 23.
[2] Appeal papers page 68.

28. In *Campbelltown City Council v Vegan* [2006] NSWCA 284 (*Vegan*), the Court of Appeal held that the Appeal Panel is obliged to give reasons. Where there are disputes of fact it may be necessary to refer to evidence or other material on which findings are based, but the extent to which this is necessary will vary from case to case. Where more than one conclusion is open, it will be necessary to explain why one conclusion is preferred. On the other hand, the reasons need not be extensive or provide a detailed explanation of the criteria applied by the medical professionals in reaching a professional judgement.

29. The appeal firstly challenges the findings of the AMS as to the appropriate level of the restrictions of activity of daily living which ought to have been applied, and secondly that an error has occurred in the application of s 323 of the 1998 Act.

Activities of daily living

30. The AMS noted in dealing with Ms Grieve's present symptoms, he said[3]:

> "….She still has pain shooting down to the right leg and it is not just to the calf, now it is shooting down to the top of the right foot together with pins and needles and numbness of the whole right leg from the knee downwards circumferentially. She certainly still has problem [sic] of dropped foot, so if she walks barefoot the right foot will catch and make her fall. She could only walk for 50 metres, sitting at the most is half an hour and she cannot drive because she cannot rest the back to the back support."

31. In dealing with the subject of Ms Grieve's social activities/ADL the AMS said: [4]

> "She has no major trouble with self-care but at home all the heavy duty work like vacuuming, cleaning the bath tub and hanging out the washing etc, has to be done by the family member."

32. On examination, the AMS found Ms Grieve to be overweight with obvious truncal obesity. He found significant muscle spasm and sensitivity to touch in the lumbosacral area. Ms Grieve could touch the mid-shin level on forward flexion but could not get back up, and she had no extension possible. The right foot compared to the left foot looked different in colour and was swollen. Neurologically the L5 and S1 nerve root on the right side was weaker than on the left. There was lost power in the great toe extension and the eversion of the right foot.

33. The AMS accepted that there was consistency on clinical presentation to the history of injury and the radiological findings.

34. In her statement, Ms Grieve said:[5]

> "86. I rely on my daughter's help a lot. She lives about 15 minutes away when she isn't working. She has a cleaning business, so she is not always available. Sometimes, I have to wait a few days to receive her assistance, but she tries to help me when she can.
> ……
>
> 93**.** I have to get my daughter to come around and cut my toenails for me and anything else feet related.
> ……
>
> 96. I have not had any pre-existing problems with my back. I was in a car accident when I was 16, for which I was compensated. I had facial injuries in this accident."

[3] Appeal papers page 10.
[4] Appeal papers page 11.
[5] Appeal papers pages 66 – 68.

35. In explaining his calculations at paragraph 10b, the AMS noted, applying chapter 4.34 of the Guides, that Ms Grieve had trouble with homecare and awarded 2% for ADL impairment (ADLs). [6]

SUBMISSIONS

Ms Grieve

36. Ms Grieve submitted that in awarding 2% for ADLs the AMS fell into error. Ms Grieve submitted that the assessment of the restrictions of activities of daily living (ADL) had to be based on all clinical findings and other reports, rather than simply the examination. It was alleged that the "touch stone" under the guides was the difference in activity level as compared to the worker's status prior to the injury.

37. Ms Grieve submitted that the allocation of 2% by the AMS overlooked the complaint made that she required help from her daughter to cut her toe nails. In view of the evidence it was submitted the AMS was under an obligation to explain why he had restricted the entitlement to 2%.

38. Ms Grieve referred to the description of present symptoms which we have reproduced above, and submitted that the assessment of ADLs by the AMS was contrary to the Guides "and inconsistent with the self-reporting of the Applicant which he accepted….".

39. It was alleged that the AMS accepted the self-reporting because he found Ms Grieve to be consistent in her presentation. This acceptance would then "allay any concerns which are raised in the guidelines" regarding the reliability of self-reporting.

40. We were referred to Chapter 4.35 and the examples given therein as to a person's capacity to undertake personal care activities. It was submitted that the list was not exhaustive, but divided the entitlement under three broad categories of self-care, home care and yard/garden/sport/recreation.

41. It was submitted (without any authority being cited) that the descriptions contained in Chapter 4.35 were not exhaustive but were designed as examples. The appellant submitted that the Guides is delegated legislation and the maxim noscitur a sociis applied.

42. It followed that the findings on examination, involving as they did restricted flexion, nil extension and drop foot, were the sort of activities more associated with incapacity to undertake personal care activities and should have yielded 3% WPI, it was argued. This Ms Grieve described as "inferred impairment" which could be validated through the results of findings on examination. The findings of the AMS that all movements were restricted and that there was a loss of power in the right foot made Ms Grieve's limited capacity to undertake personal care activities self-evident. We were invited to infer that the restrictions identified must have "inevitably" impaired Ms Grieve's ability to dress, including bending over, placing shoes on, reaching for and lifting clothes, and performing personal hygiene, including the use of a toilet or a bath.

43. It was submitted that the conclusion by the AMS was too vague and at odds with his own findings on examination.

The respondent

44. The respondent relied on the comments by the AMS and his finding, particularly, that there was no "major" trouble with self-care but there was with home care. We were referred to the definition of the categories of activities of daily living at chapter 4.35 of the guides.

[6] Appeal papers page 12.

45. Similarly, it was alleged that the "SIRA guides" provided for a limitation on that assessment, in that a difference in activity level had to be shown as compared to the pre-injury level.

46. There was, it was submitted, no evidence that Ms Grieve undertook cutting her toenails herself prior to the injury, and the Panel accordingly could not be satisfied that the required difference in activity had been demonstrated.

47. The respondent submitted that, as the MAC was issued on 14 January 2020 following the assessment hearing on 9 January 2020, the MAC was more likely to provide the most accurate record, the additional statements of Ms Grieve and Ms Merrick having been signed on 17 January 2020. This submission failed to address the complaint made in Ms Grieve's statement to the same effect, and the presumed fact that the AMS would have read it.

Discussion

48. Chapters 4.34 and 4.35 of the Guides provide:[7]

> "4.34 The following diagram should be used as a guide to determine whether 0%, 1%, 2% or 3% WPI should be added to the bottom of the appropriate impairment range. This is only to be added if there is a difference in activity level as recorded and compared to the worker's status prior to the injury.
>
> YARD/GARDEN/SPORT/RECREATION 1%
> HOME CARE 2%
> SELF CARE 3%
> (diagram omitted)
>
> 4.35 The diagram is to be interpreted as follows:
> Increase base impairment by:
>
> •• 3% WPI if the worker's capacity to undertake personal care activities such as dressing, washing, toileting and shaving has been affected
>
> •• 2% WPI if the worker can manage personal care, but is restricted with usual household tasks, such as cooking, vacuuming and making beds, or tasks of equal magnitude, such as shopping, climbing stairs or walking reasonable distances
>
> •• 1% WPI for those able to cope with the above, but unable to get back to previous sporting or recreational activities, such as gardening, running and active hobbies etc."

49. It can be seen that the test for the self-care category is whether a worker's capacity to undertake activities such as dressing, washing, toileting and shaving "has been affected". There is no requirement that it be affected in a "major" way, nor that the performance of the activities gives "major trouble", as the AMS found.

50. We accept that the AMS was aware of the difficulty Ms Grieve has in dealing with the self-care of her feet, as it was mentioned in Ms Grieve's statement of 4 October 2019, and we accept that it was mentioned in the assessment itself, as stated in the additional evidence which we have admitted. Whilst the AMS did not think the restriction to be significant, he erred in failing to consider whether it affected her personal care activities at all. We are satisfied that it did.

[7] Guides page 28.

51. Chapter 4.33 provides:

> "An assessment of the effect of the injury on ADL is not solely dependent on self-reporting, but is an assessment based on all clinical findings and other reports."

52. The clinical findings, the radiological investigations and the reports of the medical practitioners confirm that Ms Grieve is severely affected by her injury. The neurological finding that she has foot drop as a result of the injury is an indication that her condition is serious, and her situation is compounded as the necessary surgical treatment is not available to her because of her bilateral pulmonary embolism and consequent anti-coagulant medication.

53. We are accordingly satisfied that the AMS has fallen into error in misconceiving the test under which the effect of Ms Grieve's injury on her activities of daily living has to be assessed.

54. We also note that Ms Grieve said in her statement that she was symptom free prior to this injury, so that the respondent's submission that there was no evidence to establish that she cut her own toenails before her injury, fails. It is a reasonable inference that, if Ms Grieve was symptom free prior to the injury, she would have looked after her own personal care, including the cutting of her own toenails.

55. Accordingly, the MAC will be revoked and a 3% WPI assessment substituted in relation to the restrictions of ADL.

Section 323 of the 1998 Act

56. Section 323 provides relevantly:

> "(1) In assessing the degree of permanent impairment resulting from an injury, there is to be a deduction for any proportion of the impairment that is due to any previous injury (whether or not it is an injury for which compensation has been paid or is payable under Division 4 of Part 3 of the 1987 Act) or that is due to any pre-existing condition or abnormality.
>
> (2) If the extent of a deduction under this section (or a part of it) will be difficult or costly to determine (because, for example, of the absence of medical evidence), it is to be assumed (for the purpose of avoiding disputation) that the deduction (or the relevant part of it) is 10% of the impairment, unless this assumption is at odds with the available evidence."

57. The AMS found there to be a deduction of 1/10th from the assessment of the lumbar spine.

58. He said:[8]

> "…. I believe there should be contribution from pre-existing condition. At the time of injury the patient is well over 60 years with obvious obesity and wear and tear from constitutional factor that should be contribution from all this pre-existing condition . The patient seems to asymptomatic before, so it is fair to adopt a 1/10th policy and that will leave behind a 14% whole person impairment after we deduct 1/10th contribution of pre-existing condition." (As written).

[8] Appeal papers page 13.

Submissions

59. The appellant submitted that the AMS also fell into error in applying a deduction pursuant to s 323, as his conclusion had been based on assumption or hypothesis, rather than the evidence. We were referred to the well-known case of *Cole v Wenaline Pty*,[9] particularly the three stage approach to be applied as explained by Schmidt J at [29].

60. It was submitted that the evidence was not available upon which the AMS could apply Her Honour's test. The fact that Ms Grieve was over 60 was not a basis for the deduction, it was submitted. Rather, it indicated no more than a vulnerability or predisposition to the injury which, it was argued, did not give rise to a deductible proportion.

61. The respondent submitted that such evidence was available. It referred to the MRI scan of the lumbar spine on 10 October 2016, and the findings of a CT scan taken on 24 February 2016, a month following the subject injury. The respondent further submitted that the opinion of the AMS was consistent with that of the treating surgeon, Dr Brennan.

62. Whether the back had been asymptomatic or not was not determinative in considering the issue, it was submitted. We were referred to the Court of Appeal decision, *Vitaz v Westform (NSW) Pty Ltd*[10] in that regard.

Discussion

63. The passage relied upon by the respondent in *Vitaz* was by Basten JA, McColl JA and Handley AJA agreeing, at [43]:

> "….The resulting principle is that if a pre-existing condition is a contributing factor causing permanent impairment, a deduction is required even though the pre-existing condition had been asymptomatic prior to the injury. In the absence of any medical evidence establishing a contest as to whether the pre-existing condition did contribute to the level of impairment, the complaint about a failure to give reasons must fail. An approved medical specialist is entitled to reach conclusions, no doubt partly on an intuitive basis, and no reasons are required in circumstances where the alternative conclusion is not presented by the evidence and is not all shown to be necessarily available."

64. In *Ryder v Sundance Bakehouse*[11] Campbell J said at [45]:

> "What s 323 requires is an inquiry into whether there are other causes, (previous injury, or pre-existing abnormality), of an impairment caused by a work injury. A proportion of the impairment would be due to the pre-existing abnormality (even if that proportion cannot be precisely identified without difficulty or expense) only if it can be said that the pre-existing abnormality made a difference to the outcome in terms of the *degree* of impairment resulting from the work injury. If there is no difference in outcome, that is to say, if the *degree* of impairment is not greater than it would otherwise have been as a result of the injury, it is impossible to say that a proportion of it is due to the pre-existing abnormality. To put it another way, the Panel must be satisfied that but for the pre-existing abnormality, the *degree* of impairment resulting from the work injury would not have been as great."

65. This dicta was adopted by Harrison AsJ in *Broadspectrum (Australia) Pty Ltd v Fiona Louise Wills*[12] at [65].

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[9] [2010] NSWSC 78 (*Cole*).
[10] [2011] NSWCA 254 (*Vitaz*).
[11] [2015] NSWSC 526 (*Ryder).*
[12] [2018] NSWSC 1320 (*Broadspectrum*).

66. In considering the evidence, we had some difficulty firstly in establishing whether there was a pre-existing abnormality. The AMS did not only refer to the fact that Ms Grieve was over 60 years old, as was submitted by Ms Grieve. He also referred to her "obvious obesity" and to the "wear and tear" from her constitutional condition.

67. However, none of those factors could, without more, be said to be another contributing cause to the impairment due to the work injury. No attempt was made to explain how Ms Grieve's age constituted another cause for that impairment, neither were any reasons given for the opinion by the AMS that her body mass had been a further contributing cause of the impairment.

68. Further, a general allusion to the attritional effect (wear and tear) on her constitutional condition, without reference to the evidence or other material on which the finding was based, failed to refer to the facts and circumstances upon which it was said to be another cause of the impairment caused by the subject injury.

69. The respondent referred to two radiological investigations in an attempt to support the AMS's reference to Ms Grieve's constitutional condition. The CT scan taken on 24 February 2016 was said to be sufficiently contemporaneous to the subject injury to demonstrate that the pathology therein revealed was also causative of the impairment created by the subject injury. The CT scan showed normal discs at L3/4 and L5/S1. At L4/5 a broad-based disc bulge was noted which had a right paracentral prominence narrowing the right lateral recess of the central canal. There may have been impingement on the L5 nerve root.

70. In his first report of 12 April 2016, Dr Panjratan, the respondent's medico-legal referee, observed the report of the CT scan, saying that the most significant findings of the scan was the probability that the disc bulge at L4/5 was impinging on the L5 nerve root. However Dr Panjratan noted the opinion of the GP, Dr Andrew Bonnie that there was nothing in the CT that was contributing to Ms Grieve's pain, an opinion he did not disagree with.[13] Later in his opinion, Dr Panjratan said:[14]

> "Her symptoms do not relate to any underlying, pre-existing condition which is not work related.
>
> There is no previous injury.
>
> Her symptoms do not relate to her duties generally with this employer or any other employer.
>
> The symptoms are related to a particular incident at work."

71. An MRI scan of 10 October 2016 was also relied on by the respondent to explain the AMS's reasoning. Dr Panjratan in his second report of 23 November 2016 noted the results of the lumbar MRI scan of 10 October 2016 and reproduced its conclusion:

> "Significant changes L4/5 with high likelihood of L5 nerve root irritation on the right...."[15]

72. Dr Panjratan was specifically asked whether there was any evidence to suggest that Ms Grieves' injury was related to an underlying, pre-existing/degenerative condition which was unrelated to her employment. Dr Panjratan answered:[16]

> "There are pre-existing age-related degenerative changes, which would be consistent with a person of her age, unrelated to her employment but the disc lesion at L4/5 is not related to the pre-existing changes."

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[13] Appeal papers page 506-7.
[14] Appeal papers page 509.
[15] Appeal papers page 518.
[16] Appeal papers page 519.

73. The respondent also relied on the opinion of Dr Jeremy Brennan, the treating surgeon, to support the hypothesis relied on by the AMS. Dr Brennan's report was dated 23 March 2017. The respondent reproduced the following passage in its submissions:[17]

> *"The degenerative changes leading to the lateral recess narrowing occur over time and are likely to be pre-existing.. . In my opinion the degenerative changes predate the injury but at that stage she was asymptomatic. The injury is very likely the cause of the aggravated disc protrusion which has produced the nerve compression."* (As written).

74. It is appropriate to reproduce Dr Brennan's opinion in full. He in fact said:[18]

> "1. The degenerative changes leading to the lateral recess narrowing occur over time and are likely to be pre-existing. However Ms Grieve gives a clear history that she was involved in a lifting and twisting injury at work where she described having to lift an apparatus off the floor. It was this injury which heralded the beginning of her symptoms of low back and buttock pain. Her MRI did indeed show a disc protrusion as part of the cause of the nerve compression.
>
> In my opinion the degenerative changes predate the injury but at that stage she was asymptomatic. The injury is very likely the cause of the aggravated disc protrusion which has produced the nerve compression and therefore the symptoms. The recommendations for treatment related to the new symptoms of lumbar radiculopathy which began as a result of the injury at work."

75. We note the use of the ellipsis in the passage cited to us. The respondent has, it seems, sought to alter the sense of Dr Brennan's opinion by omitting his opinion that it was the lifting and twisting that was the cause of the injury. Dr Brennan's opinion, read in its entirety, does not suggest that any pre-existing abnormality contributed to the impairment caused by the injury.

76. There is no doubt that an AMS is required to assess a case referred to him/her using his/her own clinical experience, training and expertise to come to a determination that is independent of other opinions, whether they agree or differ. However, when the opinion of medical practitioners on both sides of the record is ad idem, and contrary to the conclusion of the AMS, he/she is required to give reasons.

77. We have adverted to this obligation at the outset of these reasons when referring to *Vegan*, and would note that this is an occasion where more than one conclusion was open, giving rise to the necessity for the AMS to explain why he has preferred his own conclusion. This obligation was also referred to the passage from *Vitaz*, which we reproduced above. In the present case there clearly is a contest as to whether the pre-existing condition contributed to the level of impairment. Reasons were required to be given, as an alternative conclusion was presented by the evidence to which we have just referred.

78. The evidence thus establishes that there was a pre-existing abnormality, being degenerative change, in Ms Grieve's lumbar spine. However, there is no evidence that the pre-existing abnormality made any difference to the degree of impairment that resulted from the subject work injury. The evidence to which we have alluded specifically discounted such a proposition.

79. In failing to give adequate reasons for the s 323 deduction, the AMS has made a demonstrable error. On considering the evidence available we are satisfied that no such deduction should have been made.

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[17] Appeal papers page 31.
[18] Appeal papers page 146.

80. Accordingly, we also revoke the MAC regarding the 1/10th deduction made by the AMS pursuant to s 323 of the 1998 Act.

Summary

81. For these reasons, the Appeal Panel has determined that the MAC issued on 14 January 2020 should be revoked, and a new MAC should be issued. The new certificate is attached to this statement of reasons.

I CERTIFY THAT THIS IS A TRUE AND ACCURATE RECORD OF THE REASONS FOR DECISION OF THE APPEAL PANEL CONSTITUTED PURSUANT TO SECTION 328 OF THE *WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION ACT 1998*.

H Mistry

Heena Mistry
Dispute Services Officer
As delegate of the Registrar

WORKERS COMPENSATION COMMISSION

APPEAL PANEL
MEDICAL ASSESSMENT CERTIFICATE

Injuries received after 1 January 2002

Matter Number: **5820/19**
Applicant: **Muriel Grieve**
Respondent: **Serco Sodexo Defence Services Pty Ltd**

This Certificate is issued pursuant to s 328(5) of the *Workplace Injury Management and Workers Compensation Act 1998*.

The Appeal Panel revokes the Medical Assessment Certificate of Dr Yiu-Key Ho and issues this new Medical Assessment Certificate as to the matters set out in the Table below:

Table - Whole Person Impairment (WPI)

Body Part or system	Date of Injury	Chapter, page and paragraph number in WorkCover Guides	Chapter, page, paragraph, figure and table numbers in AMA 5 Guides	% WPI	Proportion of permanent impairment due to pre-existing injury, abnormality or condition	Sub-total/s % WPI (after any deductions in column 6)
Lumbar spine	18.1.2016	Pages 28 and 29	Page 384 Table 15-3	16%	Nil	16%
Total % WPI (the Combined Table values of all sub-totals)					**16%**	

John Wynyard
Arbitrator

Dr Drew Dixon
Approved Medical Specialist

Dr Margaret Gibson
Approved Medical Specialist

30 April 2020

I CERTIFY THAT THIS IS A TRUE AND ACCURATE RECORD OF THE MEDICAL ASSESSMENT CERTIFICATE OF THE APPEAL PANEL CONSTITUTED PURSUANT TO SECTION 328 OF THE *WORKPLACE INJURY MANAGEMENT AND WORKERS COMPENSATION ACT 1998*.

H Mistry

Heena Mistry
Dispute Services Officer
As delegate of the Registrar