WORKERS COMPENSATION COMMISSION

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

Matter Number:	**M1-6267/19**
Appellant:	**Qantas Ground Services Pty Ltd**
Respondent:	**Maria Liaci**
Date of Decision:	**28 May 2020**
Citation:	**[2020] NSWWCCMA 94**

Appeal Panel:	
Arbitrator:	**Mr William Dalley**
Approved Medical Specialist:	**Dr David Crocker**
Approved Medical Specialist:	**Dr Drew Dixon**

BACKGROUND TO THE APPLICATION TO APPEAL

1. On 10 March 2020, Qantas Ground Services Pty Ltd (Qantas/the appellant) lodged an Application to Appeal Against the Decision of Approved Medical Specialist. The medical dispute was assessed by Dr Rob Kuru, an Approved Medical Specialist (AMS), who issued a Medical Assessment Certificate (MAC) on 11 February 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):

   - 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 Guidelines) and the *American Medical Association Guides to the Evaluation of Permanent Impairment,* 5th ed (AMA 5).

RELEVANT FACTUAL BACKGROUND

6. Maria Liaci (Ms Liaci/the respondent) commenced employment with Qantas in about 2011. Her work entailed cleaning the interior of aeroplanes.

7. In early 2016, Ms Liaci began to experience painful symptoms and swelling in her right knee. An MRI scan of the right knee was performed in February 2016 and was reported to show a short tear of the medial meniscus, associated bone bruise in the medial femoral condyle with joint effusion, chondromalacia and Baker's cyst.

8. Ms Liaci's symptoms improved with physiotherapy and she continued with her regular employment as a cleaner.

9. On 25 May 2016, Ms Liaci fell while descending steps from the cabin of an aeroplane with an increase in symptoms in the right knee and low back pain (the subject injury). Ms Liaci consulted her general practitioner and was ultimately referred to an orthopaedic surgeon, Dr McDessi, who recommended conservative treatment.

10. Ms Liaci continued to experience symptoms in the right knee and was referred to another orthopaedic surgeon, Associate Professor Papantoniou who, after examination and consideration of the more recent MRI, recommended arthroscopy. The insurer denied liability. The dispute was determined in a hearing before a Commission Arbitrator who determined right knee arthroscopy, chondroplasty, partial medial meniscectomy and micro fracture to be reasonably necessary treatment as a result of the subject injury.

11. Dr Papantoniou performed that surgery on 16 June 2017. The surgery did not assist with the right knee symptoms and Dr Papantoniou performed a further right knee arthroscopy and lateral release on 2 February 2018. Ms Liaci continued to experience right knee pain and on 4 May 2018 Dr Papantoniou performed a right medial unicompartmental arthroplasty.

12. The surgery was reported as providing little benefit. In August 2019 Ms Liaci was examined by Dr Guirgis who assessed 15% whole person impairment (WPI) with respect to the right knee as a result of the subject injury. He reported that this figure should be reduced to 8% WPI, the deduction pursuant to section 323 of the 1998 Act being explained as due to "half replacement".

13. Dr Guirgis assessed the lumbar spine as falling within DRE II warranting 5% WPI with an additional 2% for interference with activities of daily living. He reduced this figure by one tenth to allow for a pre-existing condition.

14. Dr Guirgis also assessed other body parts as suffering whole person impairment resulting from injury, assessing 21% WPI in total.

15. Ms Liaci's solicitors then made a claim pursuant to section 66 of the *Workers Compensation Act 1987* (the 1987 Act) in accordance with Dr Guirgis's assessment. On 25 September 2019 Ms Liaci was examined by Dr Robert Breit, orthopaedic surgeon, at the request of the insurer's solicitors. Dr Breit also assessed 15% whole person impairment in respect of the right knee. He felt that this impairment should be reduced by one half pursuant to section 323 of the 1998 Act resulting in an assessment of 8% WPI in respect of injury to the right knee.

16. Dr Breit also assessed the additional body parts assessed by Dr Guirgis. He agreed that the lumbar spine was appropriately assessed as within DRE II, assessing 5% WPI and adding 1% WPI for interference with activities of daily living. Dr Breit assessed 0% WPI for the left leg and 1% WPI for scarring. He concluded that the total impairment resulting from the subject injury was 12% WPI.

17. The dispute as to the extent of impairment was referred to the AMS who examined Ms Liaci on 24 January 2020. The AMS was asked to provide an assessment of WPI in respect of Ms Liaci's right lower extremity, left lower extremity, lumbar spine and scarring. The AMS made the following assessment:

    (a) Right lower extremity (knee) 30%. The AMS deducted one tenth pursuant to section 323 of the 1998 Act yielding 27% WPI resulting from the subject injury.

(b) Left lower extremity (knee) – 0% WPI.

(c) Lumbar spine - 6% WPI.

(d) Scarring - 1% WPI.

The Combined Table value was 32% WPI.

18. The AMS agreed with Dr Guirgis and Dr Breit with respect to assessment of the lumbar spine as within DRE II and accordingly warranting an assessment of 5% WPI. The AMS agreed with Dr Breit that an assessment of 1% in respect of interference with activities of daily living was appropriate, yielding a total of 6% WPI for the lumbar spine.

19. The AMS made no deduction pursuant to section 323 of the 1998 Act with respect to the lumbar spine.

PRELIMINARY REVIEW

20. 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.

21. As a result of that preliminary review, the Appeal Panel determined that it was not necessary for the worker to undergo a further medical examination. The issues raised on appeal are confined to issues of deduction to be made pursuant to section 323 of the 1998 Act. Examination would not assist in the consideration of these issues. The Panel notes that re-examination is, in any event, only available if error is established[1].

EVIDENCE

Documentary evidence

22. 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

23. The AMS recorded in detail the history which is summarised above, noting the pre-existing problem with the right knee and the treatment and investigation of the knee prior to the subject injury.

24. The AMS recorded Ms Liaci's current complaints of pain in the right knee. He noted that she had been advised to use a knee brace "to try and stabilise her knee to allow her to stand on it". He recorded that Ms Liaci was unable to walk for longer than 15 minutes due to pain in the knee. She was taking Panadeine Forte to manage knee pain.

25. The AMS reported his findings on physical examination. With respect to the right knee, he noted that Ms Liaci walked with an antalgic gait affecting the right leg. She was using a knee brace. He reported that the right knee was in 3° valgus with minor effusion. The range of motion was from 0° of extension to 100° of flexion. He noted that the knee was stable in extension.

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[1] [1] *New South Wales Police Force v Registrar of the Workers Compensation Commission of New South* Wales [2013] NSWSC 1792 at [33].

26. The AMS noted that no imaging was available with regard to the right knee and noted the reports of the respective independent medical experts which contained references and images from radiological investigations.

27. The AMS assessed the right knee in accordance with the Guidelines and AMA 5. He assessed Ms Liaci as having had a “poor result” from her medial compartment arthroplasty and assigned 30% WPI in accordance with Table 17-35[2] and Table 17-33 of AMA5.

28. The AMS stated in paragraph 11:

> “a) in my opinion the worker suffers from the following relevant previous injuries, pre-existing conditions or abnormalities:
>
> (i) Medial compartment osteoarthritis right knee.
>
> b) The previous injury, pre-existing condition or abnormality directly contributes to the following matters that were taken into account when assessing the whole person impairment that results from the injury, being the matters taken into account in 10a, and in the following ways:
>
> the pre-existing arthritis had become symptomatic prior to the injury.
>
> c) The extent of the deduction is difficult or costly to determine so in applying the provisions of section 323 (2) I assess the deductible proportion as one tenth. (Can only be used when not at odds with available evidence).”

29. At paragraph 10 the AMS recorded his assessment of the right knee, explaining his calculations in accordance with the relevant tables and noting the reports of Dr Guirgis and Dr Breit. He assessed Ms Liaci as having a poor result from her medial compartment arthroplasty in the right knee and accordingly assessed 30% WPI for the right lower extremity.

30. With respect to the lumbar spine, the AMS noted the onset of back pain following the subject injury. He noted that the pain had increased over time. The AMS noted: “Imaging of the lumbar spine has apparently demonstrated degenerative disc disease and an ‘annular tear’. She has had epidural cortisone injections, which had not given her significant relief of her pain.” He noted complaints of continuing back pain and that Ms Liaci was unable to undertake an exercise based rehabilitation program for her back pain because of the right knee problem.

31. The AMS noted that no imaging was available for review but he considered the comments made by Dr Breit and Dr Guirgis with respect to the imaging contained in their reports.

32. The AMS diagnosed “non-specific back pain presumably due to aggravation of underlying degenerative disc disease.”

33. The AMS assessed the lumbar spine in accordance with the Guidelines as DRE II resulting in assessment of 5% WPI in respect of the lumbar spine. He assessed an additional 1% WPI in respect of interference with activities of daily living for a total of 6% WPI with respect to the lumbar spine.

34. The AMS assessed 0% WPI in respect of the consequential condition in the left lower extremity and 1% WPI in respect of scarring. Those assessments are not the subject of any submissions in the appeal.

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[2] as amended by the Guidelines, page 21.

35. The AMS deducted one tenth from the assessment of the right lower extremity. The AMS reported:

> "In my opinion the worker suffers from the following relevant previous injuries, pre-existing conditions or abnormalities:
>
> (i) Medial compartment osteoarthritis right knee.
>
> The previous injury, pre-existing condition or abnormality directly contributes to the following matters that were taken into account when assessing the whole person impairment that results from the injury, being the matters taken into account in 10 a and in the following ways:
>
> (i) The pre-existing arthritis had become symptomatic prior to the injury."

36. The AMS found that the extent of the deduction was difficult or costly to determine and, in applying the provisions of section 323(2) of the 1998 Act, assessed the deductible portion as one tenth (3%). The AMS noted that the deduction of one tenth pursuant to section 323(2) was not to be used when at odds with the available evidence.

37. When considering deductions to be made pursuant to section 323 of the 1998 Act, the AMS made no reference to any pre-existing condition or abnormality in the lumbar spine although noting that the injury was by way of aggravation of a degenerative condition.

38. The ultimate assessment by the AMS was as follows:

"Right lower extremity	27% WPI
Left lower extremity	0% WPI
Lumbar spine	6% WPI
Scarring (TEMSKI)	1% WPI."

Applying the Combined Table values the AMS assessed a total of 32% WPI resulting from the subject injury.

SUBMISSIONS

39. Both parties made written submissions. They are not repeated in full, but have been considered by the Appeal Panel.

40. In summary, the appellant submits that, upon proper consideration of section 323 of the 1998 Act, the AMS erred in failing to consider whether any proportion of the impairment in the lumbar spine was due to the existence of a pre-existing condition noted by the AMS as a degenerative condition.

41. The appellant also submitted that the AMS had failed to take into account a previous injury to the lumbar spine.

42. With respect to the right lower extremity the appellant submitted that the AMS had failed to explain why the deduction of one tenth pursuant to section 323(2) was not at odds with the available evidence. The appellant further submitted that the assessment by the AMS that Ms Liaci was experiencing "moderate continual pain" in respect of the right knee was not open on the evidence and constituted application of incorrect criteria.

43. In reply, the respondent submits that the matters complained of by the appellant were matters of clinical judgement which were open to the AMS on the evidence before him.

FINDINGS AND REASONS

44. 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.

45. In *Campbelltown City Council v Vegan* [2006] NSWCA 284 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.

46. The Panel accepts the submission by the respondent that the report of Dr Miniter referred to by the appellant in the background to its submissions was not before the AMS. The Panel has conducted the reconsideration without regard to the opinion of Dr Miniter.

Right Knee

47. The appellant submitted:

> "In relation to the right knee the AMS has made a 10% deduction for pre-existing conditions on the basis that it is difficult or costly to determine. The AMS does not expand on the relevant difficulty nor the cost. The AMS did not explain why he considers the 10% deduction is not at odds with the available evidence."

48. The Panel does not accept that submission. The reasons for the decision have to be read as a whole. The AMS accurately set out the history relevant to the right knee including the treatment preceding the subject injury and the subsequent surgical history.

49. The evidence noted by the AMS and accepted by him included the history of onset of pain in the right knee in February 2016 which was effectively treated with physiotherapy. The respondent was able to continue reasonably arduous employment as an aircraft cabin cleaner.

50. The subject injury in May 2016 resulted in a disabling aggravation which led to surgery in June 2017 with meniscectomy and chondroplasty, arthroscopic lateral release in February 2018 and a right knee medial uni-compartmental arthroplasty in May 2018.

51. The Guidelines direct assessment in terms of the outcome of the arthroplasty[3] . The surgery which Ms Liaci had undergone in respect to the right knee is the substantial cause of and contributor to the extent of impairment assessed by the AMS.

52. The AMS correctly assessed a pre-existing condition in the right knee. The history of onset of symptoms in February 2016, conservatively treated enabling Ms Liaci to continue with her employment, suggests a relatively minor contribution to the overall level of impairment.

53. The appellant, in its submissions, notes the report in respect of the MRI scan of the right knee completed on 24 February 2016 which demonstrated "a short tear of the medial meniscus; associated bone bruise in the medial femoral condyle. Joint effusion, chondromalacia and Baker's cyst." The pathology demonstrated in that investigation confirms a pre-existing condition but, in the opinion of the Panel, the pathology disclosed has contributed only to a minor degree to the need for the subsequent hemiarthroplasty.

[3] see Guidelines modified Table 17-35, page 21 and AMA5 Table 17-33, page 547

54. The subject injury set in train surgical interventions culminating in the hemiarthroplasty. The subject injury, viewed in this light, was the substantial factor contributing to the impairment assessed, with the pre-existing condition being relatively minor.

55. The Panel accepts that it is difficult to assess the degree of contribution of the pre-existing condition to the overall level of impairment. The scans themselves were not available to the AMS and he relied on the reports contained in the material supplied to him. Dr Papantoniou reported:

> "Mrs Liaci presents with MRI of her right knee from 24/02/2016, which demonstrates a medial meniscal tear in chondral damage of the medial femoral condyle and effusion of the knee. She also presents with MRI of the right knee from 30/05/2016 which demonstrates a medial meniscal tear as well as chondral damage of the medial femoral condyle. There is effusion present. The MRI from 08/08/2016 clearly demonstrates a medial meniscal tear with chondral damage of the medial femoral condyle and effusion.
>
> Mrs Liaci also presents with x-rays, which demonstrate medial compartment osteoarthritis, which is only moderate and some mild joint line loss of height."

56. Dr Papantoniou noted that, prior to the subject injury, Ms Liaci had been able to perform her work tasks without restrictions noting that she "would undertake heavy jobs including carrying garbage up and down stairs, leading into an aeroplane".

57. That observation accords with Ms Liaci's history as recorded by the AMS. The inference is that the pre-existing level of pathology was relatively minor and effectively treated with physiotherapy. The Panel accepts that the contribution from the pre-existing condition was relatively minor compared to the effects of the subject injury which in turn led to the need for surgery.

58. Although the AMS did not directly address the issue of whether a deduction of one tenth was at odds with the available evidence, the facts and observations recorded by the AMS sufficiently establish that the deduction of one tenth was not at odds with the evidence before the AMS on the balance of probabilities.

59. The AMS took into account the opinions of Dr Breit and Dr Guirgis. He noted that Dr Guirgis had "apparently" concluded that a deduction of 50% was appropriate on the basis of Ms Liaci "only having a hemi arthroplasty." That inference drawn from the report of Dr Guirgis dated 6 August 2019 was clearly open to the AMS. The deduction suggested by Dr Guirgis was inappropriate as it does not relate to a pre-existing condition or abnormality.

60. Dr Breit reported that one half of the level of impairment should be deducted for pre-existing disease but did not provide reasons.

61. It was open to the AMS, considering all the evidence, to make a clinical judgement with respect to contribution of the pre-existing condition to the assessed level of impairment. The Panel is satisfied that it was difficult on the evidence available to the AMS to assess the extent of contribution to the overall impairment and an assessment of one tenth was not at odds with the available evidence.

62. The appellant submitted that the AMS had applied incorrect criteria in assessing Ms Liaci as having "moderate continual pain" so as to warrant a score of 10 points in assessing Ms Liaci pursuant to the modified Table 17-35.

63. The Panel does not accept that submission. The appellant pointed to the history recorded by the AMS that Ms Liaci was able to walk for up to 15 minutes which was submitted did not indicate "continual pain".

64. The actual history recorded by the AMS includes the use of the brace on the knee "to try and stabilise her knee to allow her to stand on it". He recorded "She is unable to walk for anything longer than 15 minutes due to pain in her knee."

65. Dr Breit in his report dated 25 September 2019 noted:

> "She describes the right knee as 'horrible'; 'I feel nothing and I feel spiders up and down my leg'. There is said to be anterior pain and giving way but she does not fall. The knee does not lock but it does swell after 15 minutes of walking."

66. The report of the physiotherapist dated 21 March 2019 notes that "most days, Ms Liaci mobilises with a limp in her right knee as her knee pain increases".

67. Dr Guirgis noted walking tolerance of 15 minutes "and then she starts feeling aching in her back and right leg that builds up and eventually forces her to stop and rest before being able to resume her activities".

68. The AMS had the benefit of obtaining history directly from Ms Liaci when he examined her. That examination took place six months after the examinations by the respective independent medical experts, Dr Breit and Dr Guirgis. It was open to the AMS to conclude that Ms Liaci had continual pain as a result of injury to the right knee. The Panel does not accept that an ability to walk for 15 minutes indicates that this is not associated with pain throughout that time, with the pain increasing to the point where Ms Liaci was no longer able to continue walking.

69. The respondent submitted that there was a difference between the concept of "continuous" pain and "continual" pain. The Panel does not accept that there is a real distinction in this regard. The Macquarie Dictionary notes in respect of usage of the word "continual":

> **"Usage**: *Continuous* is the only term for spatial continuity, as in a *continuous walking track along the coast*. But *continual* or *continuous* can be used for temporal continuity, as in continual background noise or continuous background noise."[4]

70. The Panel accepts that it was open to the AMS on the history provided at the time of examination to make a finding of "continual pain" in the right knee.

71. The appeal with regard to the assessment of the right lower extremity is unsuccessful. No demonstrable error has been shown and the Panel is satisfied that the AMS did not apply incorrect criteria.

Lumbar Spine

72. The appellant submits that the MAC discloses error as it appears that the AMS did not consider whether a deduction should be made pursuant to section 323 of the 1998 Act with respect to the assessment of the lumbar spine.

73. The appellant further submitted that there was evidence of an earlier injury to the lumbar spine as noted in the report of Dr Papantoniou dated 7 September 2016.

74. The respondent submitted that the AMS had not identified any "pre-existing condition or abnormality" and this was consistent with the evidence.

75. The AMS had before him the opinions of Dr Breit and Dr Guirgis who had had the benefit of considering the relevant imaging. Both independent medical experts accepted that a deduction of one tenth was appropriate due to a pre-existing degenerative condition.

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[4] Macquarie Dictionary Online, 2016, Pan Macmillan Australia Pty Ltd, www.macquariedictionary.com.au

76. The Panel accepts the submission of the appellant with regard to the lumbar spine assessment. The report in respect of the MRI scan of the lumbar spine dated 30 August 2016 which formed part of the evidence provided to the AMS showed evidence of degenerative changes in the lumbar spine which would have been present prior to the subject injury. The AMS noted "imaging of the lumbar spine has apparently demonstrated degenerative disc disease and an 'annular tear'".

77. That MRI report provided a sound basis for the respective independent medical experts to conclude that there was a pre-existing condition. It is clear that the AMS considered the reports of the respective independent medical experts but provided no reasons for making no deduction pursuant to section 323.

78. Section 325(2)(c) of the 1998 Act requires that the AMS set the reasons for the assessment of impairment. The AMS has not provided reasons explaining the absence of a deduction pursuant to section 323 when the case presented by the respective parties both included evidence that such a deduction was appropriate.

79. The failure to provide reasons constitutes demonstrable error and the Panel is satisfied that this ground has been established.

80. Accordingly, it is necessary for the Panel to consider the issue of whether a deduction pursuant to section 323 is appropriate in the circumstances.

81. The evidence establishes complaint of an earlier injury to the low back which is described in the report of Dr Papantoniou dated 7 September 2016:

> "Approximately year ago, while she was at work, a group of employees were asked to undertake an exercise program with the physiotherapist. At that stage, she injured her lower back as did another employee. As a result of this, the program was stopped. She was put on light duties for two weeks, had no physiotherapy, and the pain settled. She was back to normal duties after that."

82. The report of the MRI scan of the lumbar spine dated 30 August 2016 was reported as showing findings:

> "At L1/2 level, no focal disc protrusion, central canal or foraminal stenosis is seen.
>
> At L2/3 level, no focal disc protrusion, central canal or foraminal stenosis is seen.
>
> At L3/4 level, no focal disc protrusion or central canal stenosis is seen. No foraminal stenosis is identified.
>
> At L/5 level, there is minimal disc desiccation. There is a small left lateral and far lateral annular Fisher associated with a minor disc bulge. There is mild encroachment of the left exit foramen resulting in mild foraminal stenosis. No focal nerve root compression is seen otherwise. No central canal or right foraminal stenosis is seen.
>
> At L5/S1 level, no focal disc protrusion, central canal, lateral recess or foraminal stenosis is identified.
>
> Conus medullaris ends at L1/2 level and has a normal appearance. Cauda equina appears unremarkable.
>
> No significant bone marrow oedema or acute compression fracture is seen. Vertebral haemangioma in L5 vertebral body is noted incidentally."

83. The radiologist commented:

> "L4/5 small left lateral and far lateral annular Fisher associated with minor annular disc bulge result in mild foraminal stenosis without focal nerve root compression otherwise. No focal because of right L5 radiculopathy is identified."

84. Dr Papantoniou commented in his report dated 7 September 2016:

> "Ms Liaci more than likely suffer disc injury at L4/5 as a result of the physiotherapist induced injury a year ago at work program. The annular tear may be new from this fall or may be old. If it is old, it has been aggravated and if it is new, it is directly caused from this fall. Either way, it is either aggravation of a pre-existing condition or a new condition."

85. Having regard to the history relating to the earlier injury referred to, with a return to normal duties after two weeks of light duties and no treatment by way of physiotherapy there is no basis to conclude that any part of the impairment assessed in respect of the lumbar spine was attributable to that injury. The Panel is satisfied that the annular tear is more likely to have resulted from the subject injury given that Ms Liaci was able to continue her normal duties following the earlier incident after a brief period on light duties.

86. The evidence of the MRI report suggests minor pre-existing pathology in the lumbar spine. There is no evidence that the effects of the injury reported one year earlier were anything other than transitory. The changes seen on MRI scan are largely age-appropriate and, in the opinion of the Panel, do not provide a basis for concluding that there was a pre-existing condition or abnormality which contributes to the assessed level of impairment in the lumbar spine.[5]

87. The Panel is satisfied that any pre-existing condition did not contribute to the assessment of impairment of the lumbar spine as DRE II, warranting the assessment of 5% WPI. An additional 1% WPI is attributable to interference with activities of daily living.

88. Although error has been demonstrated with respect to assessment of the lumbar spine the Panel agrees with the conclusion of the AMS and the findings of the Panel on reconsideration support the conclusions reached by the AMS as expressed in the MAC.

89. For these reasons, the Appeal Panel has determined that the MAC issued on 11 February 2020 should be confirmed.

H Mistry

Heena Mistry
Dispute Services Officer
As delegate of the Registrar

[5] A deduction of one tenth from the assessment of the lumbar spine would result in the assessment of the AMS being reduced from 6% to 5%. The overall assessment on the Combined Values Table would in fact not alter and would remain at 32%.