

WORKERS COMPENSATION COMMISSION

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

Matter Number:	M1-4727/19
Appellant:	Shona Joy Crawford
Respondent:	United Disability Care Pty Limited
Date of Decision:	20 March 2020
Citation:	[2020] NSWCCMA 58

Appeal Panel:	
Arbitrator:	Ms Deborah Moore
Approved Medical Specialist:	Dr Lana Kossoff
Approved Medical Specialist:	Professor Nicholas Glozier

BACKGROUND TO THE APPLICATION TO APPEAL

1. On 19 December 2019, Shona Crawford lodged an Application to Appeal Against the Decision of Approved Medical Specialist. The medical dispute was assessed by Dr Christopher Bench, an Approved Medical Specialist (AMS), who issued a Medical Assessment Certificate (MAC) on 21 November 2019.
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 evidence that was not available to the appellant before the medical assessment appealed against or that could not reasonably have been obtained by the appellant before that medical assessment)
 - 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 Workers compensation medical dispute 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 Workers compensation medical dispute 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).

PRELIMINARY REVIEW

6. The Appeal Panel conducted a preliminary review of the original medical assessment in the absence of the parties and in accordance with the Workers compensation medical dispute assessment guidelines.
7. 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 because none was requested, and we consider that we have sufficient evidence before us to enable us to determine the appeal.

Fresh evidence

8. Section 328(3) of the 1998 Act provides that evidence that is fresh evidence or evidence in addition to or in substitution for the evidence received in relation to a medical assessment appealed against may not be given on an appeal by a party unless the evidence was not available to the party before the medical assessment and could not reasonably have been obtained by the party before that medical assessment.
9. The appellant seeks to admit the following evidence:
 - (a) Supplementary Statement of Shona Crawford dated 16 December 2019;
 - (b) letter from Kingscliff High School dated 22 November 2019;
 - (c) email from Feros Care dated 13 December 2019, and
 - (d) Mental Health Community Discharge/Transfer Summary of Emma Lewis dated 21 May 2019; full-stop?
10. The AMS assessed the appellant on 14 November 2019.
11. The appellant submits as follows:
 - "a. The statement by Ms Crawford was not available and could not have reasonably been obtained prior to the medical assessment as it addresses matters which arose immediately before, during and after the AMS assessment...
 - b. The statement addresses matters which are relevant to the Appellant's rating on the PIRS scale and which the Appellant submits could change the outcome of the case. Specifically, the statement addresses performance issues which have arisen in the Appellant's employment since the medical assessment which could change the assessment in respect of Concentration, persistence and pace, provides context to the Appellant's relationships with her partner and daughters, details of which were not elicited by the AMS at the time of the medical examination; and addresses matters which were not included as part of the history taken by the AMS in the MAC, but which were known to the AMS at the time of the assessment and which were relevant to the AMS's assessment in respect of Travel.
 - c. The letter from Kingscliff High School is dated after the AMS examination and is addressed to the appellant from her daughter's school. The letter relates to the Appellant's daughter's difficulties with school work, which is addressed further in the Appellant's supplementary statement dated 12 December 2019, and which the Appellant submits is relevant to her rating on the PIRS scale in relation to social functioning and which the Appellant submits could change the outcome of the case.

- d. The email from Feros Care dated 13 December 2019 is a warning email issued by the Appellant's employer in relation to performance issues, which arose after the medical assessment, and therefore it was not available prior to same. The Appellant submits the email is relevant to her rating on the PIRS scale with respect to Concentration, persistence and pace and which the Appellant submits could change the outcome of the case.
- e. The Mental Health Community Discharge/Transfer Summary of Emma Lewis dated 21 May 2019 is a discharge summary issued by community mental health in respect of the Appellant's daughter, Emma Lewis. While it is dated 21 May 2019, the Appellant did not possess a copy of same until 18 December 2019. The Appellant submits the email is relevant to her rating on the PIRS scale with respect to Concentration, persistence and pace and social functioning, and which the Appellant submits could change the outcome of the case."

12. The respondent does not consent to the admission of this evidence, and submits:

- "a. The appellant seeks to rely on a supplementary statement which simply outlines factual evidence that was available to her prior to the AMS's examination. It is submitted that it was open for the appellant to raise these issues in a formal statement prior to (or during) her examination with the AMS;
- b. It is not the intention of the appeal system to allow further comment following the issue of a medical assessment certificate: the statement is not of any significant probative value and is not 'additional relevant information' for the purposes of section 327(3)(b);
- c. Although the appellant submits that she was not in receipt of a copy of the Mental Health Community Discharge summary dated 21 May 2019 until 18 December 2019, her statement indicates that her daughter was discharged from Community care as a result of the appellant not returning the psychologist's phone calls. The AMS took a history of the appellant's daughter having recently been referred to mental health care. It is therefore submitted that the evidence was available to, and could reasonably have been obtained by, the appellant before the medical assessment and could have been prepared and served prior to the assessment;
- d. Furthermore, the AMS having taken a history of the appellant's daughter's referral to mental health care, would not indicate that such evidence would be 'of such probative value that it is reasonably clear that it would change the outcome of the case';
- e. As to the letter from Kingscliff High School dated 22 November 2019, it is submitted that the appellant would have been aware of her daughter's ongoing difficulties with school prior to the AMS examination. The AMS took a history of difficulties with school in the MAC;
- f. The appellant also seeks to rely upon an email from her current employer, Feros Care, dated 13 December 2019. This email refers to an accidental administrative error on behalf of the appellant resulting in a breach of privacy. It is noted that the AMS did take a history of making mistakes at work and nonetheless assessed a class 2 impairment. The further evidence would not be of significant probative value given that the AMS was already aware of the appellant making mistakes at work."

13. The Appeal Panel determines that the following evidence should be received on the appeal:
 - (a) The email from Feros Care dated 13 December 2019.
14. It post-dates the AMS appointment and is relevant to the issues on appeal.
15. The Appeal Panel determines that the other evidence referred to by the appellant should not be received on the appeal for the reasons stated by the respondent with which we fully concur in terms of availability and probative value.

EVIDENCE

Documentary evidence

16. 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.

SUBMISSIONS

17. Both parties made written submissions. They are not repeated in full, but have been considered by the Appeal Panel.
18. In summary, the appellant submits that the AMS erred in respect of his assessments with regard to a number of PIRS categories, namely travel, Concentration, persistence and pace (CPP) and Social functioning
19. In reply, the respondent submits that no errors were made.

FINDINGS AND REASONS

20. 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.
21. 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.
22. The appellant was referred to the AMS for assessment of whole person impairment (WPI) in respect of a primary psychiatric/psychological condition resulting from a deemed date of injury of 1 December 2016.
23. It is noted that the AMS was in possession of all documents including a Supplementary Statement from the appellant dated 11 October 2019.
24. The AMS obtained a comprehensive history of the appellant's duties as a disability support worker, an assault incident on 1 December 2016, and subsequent events when the appellant resumed work.
25. The AMS added:

"As noted above, the claimant initially had some time off work including a week off in December 2016 and January 2017. She had two months off from February to April 2017. She noted having returned to her pre-injury hours and pre-injury duties for a period of six months. It was subsequently determined she was unfit for face-to-face disability support work. She was promoted to a team leader and

a new house where she remained for a period of five months until March 2018. In March 2018, she started working in audits and as a facilitator for two months and then took on a position as a facilitator and project work with regard to the NDIS transition which she completed for approximately six months. She noted having been an intake officer for six weeks and then an administration worker for three to four months. She noted having ceased work in February 2019 'because work threatened me that they were going to get rid of me so take the redundancy'. In elaboration, she noted after the recurrence of her symptomatology in September 2018, she was subjected to significant bullying and harassment in the workplace that ultimately culminated in the employer attempting to terminate her employment either by redundancy or making her resign. She ultimately took a redundancy as she felt she had no other option."

26. The AMS then took a detailed history of the appellant's "psychiatric sequelae" before continuing as follows:

"She had difficulties with avoidance including avoiding work, work colleagues, her local shopping centre in order to avoid running into colleagues or clients, or individuals with disabilities. The claimant also reported some difficulties with depressive symptoms. She noted she has sadness provoked by life changes and how it has impacted upon her children. She has difficulties enjoying activities. She noted difficulties with insomnia, lethargy and tearfulness. She denied having ever had any suicidal ideation."

27. After then documenting the appellant's treatment, the AMS then noted her current symptoms as follows:

"The claimant is fully compliant with her medication. She noted various side-effects including headaches, dizziness, feeling faint and decreased libido. The claimant noted her mood as 'average, a bit irritable, a bit short'. She has been having difficulties with tearfulness 'a lot in the last little while'. She is sleeping anywhere from four to seven hours per night. She has poor concentration. She is able to enjoy some activities such as spending time with her children, going out for a meal with her partner or going for a walk on the beach. She has great difficulties with lethargy. She noted her appetite is impaired. On the other hand, she has put on a lot of weight which she attributed to eating a lot of poor quality food. Her libido was described as 'very low'; it has deteriorated since the increased dose of Efexor. She has never had any suicidal ideation. The claimant has had no nightmares in two months. She has intrusive thoughts and images of the work injury 'pretty much every day'. She has associated physiological symptoms of arousal such as shortness of breath, tremulousness and tearfulness 'almost every day'. She has ongoing difficulties with irritability, poor concentration, hypervigilance, being easily startled. She avoids reminders of the trauma."

28. As regards her personal history, the AMS said:

"The applicant noted she has had some significant stressors. One of her daughters has Turner's Syndrome and has been subjected to significant bullying in her mainstream education classes. She has been 'struggling to keep up'. Her other daughter has anxiety and depression, which she attributed to her own psychiatric illness. This causes her significant distress. She reported her mother has scleroderma 'she has exceeded her life expectancy; she was given five years and she has lasted ten'. She noted as a result of the work injury, she has suffered significant financial distress including at one time being given an eviction notice having to rely upon her partner and ex-husband to financially bail her out."

29. As regards social activities and ADL's the AMS said:

"The applicant was born and raised in Canada. She is now an Australian citizen. She has a twin sister who lives in North Vancouver. She has been estranged from her sister for some years. She has a brother in Canada. She has been estranged from her brother for three years...

She noted after being made redundant, she worked at the Australian Electoral Commission for two weeks on a full-time basis in May 2019 counting ballots. She has been employed with Feros Care from June 2019 to the present time on a full-time basis as a customer service representative. She denied being the subject of any work performance or disciplinary issues. On the other hand, she noted she is making some mistakes at work...

The claimant is living with her two children on 50% shared care basis in Tweed Heads West in rental accommodation.

The claimant noted her twin sister is an alcoholic. She noted two second degree relatives on her mother's side have Bipolar Disorder. One of her daughters has Turner's Syndrome and is suffering severe bullying at school. She has difficulties with tearfulness and anxiety. She has recently been referred to mental health care. Her other daughter suffers from anxiety and depression...

With regard to her day to day functioning, the claimant is living on an independent basis with her two children in Tweed Heads West in rental accommodation. With regard to her showering she noted 'I don't have an issue with my showering'. On the other hand, she noted 'I struggle with my teeth at night' being remiss with her dental hygiene. She noted 'I don't always wear clean clothes'. She is able to do the shopping by herself. She has employed a cleaner. She will do the laundry and dishes. She cooks once or twice per week otherwise relying on take away.

The claimant noted she has markedly restricted social and recreational activities. She does nothing by herself outside the family home. With her partner, they will go for a walk such as for twenty to thirty minutes... She will go to a café two to three times per fortnight with her partner. She listens to a meditation tape although doesn't meditate. She does 'nothing' with her children other than assisting with homework. She denied being a member of any clubs or associations. She has done no yoga in two years. She engaged in no other exercise.

The claimant noted that she drives the sixty to ninety minute trip from Tweed Heads to Brisbane to visit her partner on regular basis. She travelled from Tweed Heads to Newcastle independently to attend the evaluation. She went to Canberra in August 2019 for a work training conference.

The claimant noted her relationship with her partner is 'good, really good ... we get along very well ... he looks after me'. She specifically denied there being any arguments, tensions, separations or violence. She has had no physical contact with her mother in three years. They will occasionally message or have a phone call. She has been estranged from her siblings. She noted she is estranged from her sister due to her alcoholism. She was somewhat unclear as to why she has not spoken to her brother. She noted her relationship with one of her daughters is 'strained'. On the other hand, she is very close and very loving with her other daughter for who she provides a lot of supervision. She noted her daughter is very concrete and needs structure. She will have occasional outbursts. The claimant will assist her with her assignments. She has a loss of numerous friendships. She has had no physical contact with friends in nine months. She has rare phone calls or text messages.

The claimant noted she had difficulties with attention and concentration. She is making mistakes at work. She partakes in no reading, crosswords or sudoku. She noted having successfully completed the NDIS training for her employment in August 2019 which involved 'procedures and protocols'. She noted the training was a total of four weeks, including the two weeks in Canberra. She notes she had 'a lot of headaches' resulting from such.

The claimant is employed on a permanent full time basis as a call centre operator, booking appointments for clients. She noted she is 'answering phones all day'. She denied being the subject of any work performance or disciplinary issues in spite of having made some mistakes in the workplace..."

30. Findings on mental health examination were reported as follows:

"The applicant presented as a middle-aged woman casually dressed in yoga pants, sneakers and a t-shirt reading 'Killin It'. She wore glasses. She wore no makeup or jewellery. She was hyperventilating at times. There was no evidence of any motor disturbance. She was co-operative throughout the evaluation. She was able to participate in a ninety-minute evaluation without the need for a break or interruption. Her speech was of a normal rate and volume. Her thought processes were logical, relevant and coherent throughout. She described her recent mood as 'average ... a bit irritable ... a bit short'. Her observed emotional tone was constricted within the anxious and dysphoric range with objective evidence of anxiety and tearfulness at times. There were no overt delusional materials elicited. She was appropriately preoccupied with the matters at hand. She denied any auditory or visual hallucinations. She denied any suicidal ideation."

31. The AMS diagnosed Post-traumatic Stress Disorder chronic. He added:

"The work injury on 1 December 2016 was a potentially life-threatening injury with the applicant having been choked potentially to the point of unconsciousness... She has subsequently gone on to have re-experiencing phenomena in the form of nightmares, recurrent intrusive memories and images, a history of dissociative episodes, intense psychological distress and physiological reactions to the cues that remind her of the trauma. She engaged in avoidance of any reminders of the work injury. She avoids anything to do with her previous workplace including running into work colleagues. She has an inability to remember aspects of the trauma. She has a persistently negative emotional state with fear and guilt. She has symptoms of arousal including irritability, hypervigilance, exaggerated startle, problems with concentration and sleep disturbance... It is noted the applicant had an exacerbation of her illness in the context of an attempt to decrease her antidepressant medication, which was clearly premature...."

32. The AMS assessed 9% WPI. He added:

"Ms Crawford was injured some three years ago. She is engaged in appropriate psychiatric and psychological treatment. There have been some significant improvements..."

The applicant has engaged in evidence-based treatment for her psychiatric injury including mental health care monitoring, evidenced-based psychotherapy and psychopharmacology. It is the evaluator's opinion there has been a moderate elimination of her psychiatric impairments provoked by such treatment as evidenced by her capacity to form a new relationship and participate in full-time employment. On the other hand, she has had some on-going impairments. As such It is the evaluator's opinion there is a 2% adjustment for the effects of treatment as indicated."

33. The AMS then set out a lengthy analysis of the other medical opinions and findings submitted by the parties and the reasons for his opinion. It is not proposed to set this out in any detail: it is clearly apparent to both parties.

34. Turning now to the issues raised on appeal, the appellant submits that the AMS erred in awarding a class 1 for travel.

35. The AMS said:

“The claimant noted that she drives the sixty to ninety minute trip from Tweed Heads to Brisbane to visit her partner on regular basis. She travelled from Tweed Heads to Newcastle independently to attend the evaluation. She went to Canberra in August 2019 for a work training conference. As such, there is no assessable impairment under the... Guidelines... in that she is able to travel lengthy distances independently such as the frequent trips from Tweed Heads to Brisbane, Canberra and Newcastle to attend the evaluation.”

36. The appellant submits that the AMS erred by “placing undue weight upon the Appellant’s ability to travel to the AMS appointment for the assessment, and by supplying a class descriptor not found within the PIRS in respect of the assessment of the Appellant’s ability to travel ‘lengthy distances’”.

37. The PIRS descriptor for a class 1 rating is “No deficit, or minor deficit attributable to normal variation in the general population; can travel to new environments without supervision.”

38. A Class 2 is described as “Mild impairment: can travel without support person, but only in a familiar area such as local shops, visiting a neighbour.”

39. The appellant submits that a class 2 is more appropriate since she is familiar with the area between Tweed Heads and Brisbane, and further that the AMS

“erred in assessing the Appellant’s ability to travel to the AMS appointment on the basis that same was a requirement of her legal proceedings over which she had no control, and it is not appropriate to place undue weight upon the Appellant’s ability to travel to the AMS appointment in such circumstances.”

40. The appellant added: “The Appeal Panel ought to adopt the assessment in respect of Travel given by Associate Professor Michael Robertson in his report dated 29 May 2019 and Dr William Rowe in his report dated 18 July 2019.”

41. We do not agree. An AMS is required to make his or her own assessment on the day of the examination, and is not bound by the opinions of other medical experts.

42. Perhaps the best summary of the task of an Appeal panel is to be found in *Ferguson v State of New South Wales* [2017] NSWSC 887 where Campbell J said:

[23] By reference to *NSW Police Force v Daniel Wark* [2012] NSWCCMA 36, the Appeal Panel directed itself that in questions of classification under the PIRS: ‘... the pre-eminence of the clinical observations cannot be underrated. The judgment as to the significance or otherwise of the matters raised in the consultation is very much a matter for assessment by the clinician with the responsibility of conducting his/her enquiries with the applicant face to face’.

[24] The Appeal Panel accepted that intervention was only justified: if the categorisation was glaringly improbable; if it could be demonstrated that the AMS was unaware of significant factual matters; if a clear misunderstanding could be demonstrated; or if an unsupportable reasoning process could be made out. I understood that all of these matters were regarded by the Appeal Panel as interpretations of the statutory grounds of applying incorrect criteria

or demonstrable error. One takes from this that the Appeal Panel understood that more than a mere difference of opinion on a subject about which reasonable minds may differ is required to establish error in the statutory sense.

[25] The Appeal Panel also, with respect, correctly recorded that in accordance with Chapter 11.12 of the Guides ‘the assessment is to be made upon the behavioural consequences of psychiatric disorder, and that each category within the PIRS evaluates a particular area of functional impairment’...

[37] The descriptors, or examples, describing each class of impairment in the various categories are ‘examples only’...

43. The AMS’s assessment as regards travel was entirely consistent with the evidence, and there is no evidence that the rating ascribed by the AMS was “glaringly improbable,” and there is no evidence supporting the appellant having an impairment outside of the normal range of travel in the population
44. Turning now to the issue of CPP, the appellant submits that the AMS erred firstly “by making a finding that the course completed by the Appellant with her current employer was a basic retraining course, without providing any information or material to support the finding made,” and secondly, by “failing to assess whether the Appellant was able to read more than newspaper articles or was able to follow complex instructions in accordance with Class 3...”
45. The AMS assessed a class 2 impairment in this category, adding:
- “The claimant noted she had difficulties with attention and concentration. She is making mistakes at work. She partakes in no reading, crosswords or sudoku. She noted having successfully completed the NDIS training for her employment in August 2019 which involved ‘procedures and protocols’. She noted the training was a total of four weeks, including the two weeks in Canberra. She notes she had ‘a lot of headaches’ resulting from such. As such, it is evident the applicant was able to complete a basic retraining course however developed headaches. This is most consistent with a mild impairment.”
46. The appellant added:
- “[She] has given additional evidence that she has required additional training in respect of the procedures and protocols addressed in the NDIS training, and has recently been partially removed from duties by her current employer due to her inability to recall such procedures and protocols.”
47. This latter submission relates principally to the “additional evidence” the appellant sought to rely on and which we determined should be admitted on appeal.
48. The email from Feros Care to the appellant dated 13 December 2019 reads:
- “Following our meeting Thursday 5th December 2019, I would like to confirm the contents of our discussion. The meeting was called to discuss a breach of privacy for a participant.
- During the meeting we discussed that a Privacy Breach had occurred and discussed the implications for the participant, the organisation, the NDIA and yourself; we agreed the possible reasons for the administrative error... It was acknowledged that there was clearly no malicious intent in the error and it was an administrative error only.
- You have been offered support prior to the meeting around unrelated administration tasks which you stated you have found useful further increasing your confidence. In the meeting you felt there was nothing specific that you require training in point in time to further support you...

Supervision will continue regularly with yourself and I as administrative errors not only impact staff, they can impact participants, carers, families and our customers; they can also damage the organisation and the NDIA.

Please know that I fully believe that you can meet this expectation and performance standard. If there is anything I can do to assist you in meeting this expectation, please do not hesitate to let me know. It is my hope that bringing this matter to your attention and supporting you with identified training, you will take the appropriate actions to rectify the concerns , and be a completely successful Customer Service Liaison.”

49. The appellant submits that this email is relevant to her rating on the PIRS scale in this category.
50. Whilst we agree that it has relevance, we note that the AMS clearly acknowledged that the appellant had made mistakes at work.
51. The email simply confirms what the appellant told the AMS, and there was no suggestion that the appellant had fabricated this information.
52. The email of itself, and the fact that the appellant does indeed have some issues with CPP (as confirmed by the AMS) does not indicate an error by the AMS. It in fact in our view reinforces the rating he ascribed, namely a class 2.
53. A class 3 rating would be inconsistent with the evidence since there is no evidence that the appellant has consistent impairment (occasional difficulty with, for example, following complex instructions is a normal human variation) and she is employed full time in what we consider moderately demanding intellectual work.
54. This does not support a class 3 rating.
55. For these reasons, we are unable to find any error by the AMS in this category.
56. Turning now to the final issue in dispute, namely that of social functioning, the appellant submits that the AMS erred by “failing to assess whether the appellant’s relationship with one of her daughters was ‘severely strained, evidenced by periods of separation or domestic violence’ in accordance with Class 3...”
57. The AMS assessed a class 2, adding:

“The claimant has formed a new relationship since the work injury and noted her relationship with her partner is ‘good, really good ... we get along very well ... he looks after me’. She specifically denied there being any arguments, tensions, separations or violence. She has had no physical contact with her mother in three years. They will occasionally message or have a phone call. She has been estranged from her siblings. She noted she is estranged from her sister due to her alcoholism. She was somewhat unclear as to why she has not spoken to her brother. She noted her relationship with one of her daughters is ‘strained’. On the other hand, she is very close and very loving with her other daughter for who she provides a lot of supervision. She noted her daughter is very concrete and needs structure. She will have occasional outbursts. The claimant will assist her with her assignments. She has a loss of numerous friendships. She has had no physical contact with friends in nine months. She has rare phone calls or text messages. Such is most consistent with a mild impairment.”
58. The appellant’s submissions focus principally on her relationship with her daughters, and repeats many of the comments made by the AMS.
59. The AMS took a thorough and detailed history of the appellant’s family circumstances.

60. The appellant's submissions do not in our view identify any error by the AMS, but merely amount to commentary on the MAC with a clearly expressed dissatisfaction with the outcome.
61. Mere disagreement with the findings of an AMS is not a proper basis for appeal.
62. Indeed, we might add that all the appellant's submissions merely emphasise what the AMS should have done, or considered, when making his assessment, rather than any clear expression of error, when the AMS had provided strong reasons for his assessment of each class of the PIRS in the MAC.
63. In this case, we are not persuaded that any categorisation was glaringly improbable, or that the AMS was unaware of significant factual matters, or that a clear misunderstanding could be demonstrated, or an unsupportable reasoning process could be made out.
64. For these reasons, the Appeal Panel has determined that the MAC issued on 21 November 2019 should be confirmed.

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*.

G De Paz

Glicerio De Paz
Dispute Services Officer
As delegate of the Registrar

