# WORKERS COMPENSATION COMMISSION

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

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| **Matter Number:** | **M1-802/20** |
| **Appellant:** | **Karina Herrera** |
| **Respondent:** | **House With No Steps** |
| **Date of Decision:** | **13 August 2020** |
| **Citation:** | **[2020] NSWWCCMA 132** |

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| **Appeal Panel:** | |
| **Arbitrator:** | **Marshal Douglas** |
| **Approved Medical Specialist:** | **Dr Lana Kossoff** |
| **Approved Medical Specialist:** | **Dr Julian Parmegiani** |

### BACKGROUND TO THE APPLICATION TO APPEAL

1. On 28 May 2020, Karina Herrera (the appellant) lodged an Application to Appeal Against the Decision of Approved Medical Specialist. The medical dispute was assessed by Dr Samson Frederick Roberts, an Approved Medical Specialist (AMS), who issued a Medical Assessment Certificate (MAC) on 30 April 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. The appellant commenced employment as a disability support worker with House With No Steps (the respondent) in 2011. There is no dispute between the appellant and the respondent that the appellant suffered a psychiatric injury as a consequence of her employment with the respondent with that injury being deemed to have happened on 29 May 2018.

7. The appellant also suffered a physical injury to her knees and lumbar spine in her employment with the respondent when she was moving a large patient on 28 May 2018.

8. On 27 May 2019, the appellant's solicitors wrote to the respondent's insurer notifying it that the appellant claimed compensation under s 66 of the *Workers Compensation Act 1987* (the 1987 Act) of $41,610 for 16% whole person impairment resulting from her psychiatric injury. The appellant relied upon a report of psychiatrist Dr Mohammed Assem dated 17 May 2019.

9. The insurer wrote on 21 November 2019 to the appellant notifying her under s 78 of the 1998 Act that it disputed she was entitled to compensation for permanent impairment from her psychiatric injury because, according to it, the degree of her permanent impairment from her injury was less than 15%. It informed the appellant in its notice that s 65A(3) of the 1987 Act did not require it to pay her compensation unless the degree of her permanent impairment was at least 15%.

10. A medical dispute as defined in s 319(d) of the 1998 Act thereby arose between the parties. The appellant then registered with the Commission an Application to Resolve a Dispute seeking determination of her disputed claim for compensation for the permanent impairment she claimed had resulted from her psychiatric injury. A delegate of the Registrar referred the medical dispute to the AMS. The AMS examined the appellant on 20 April 2020 and, as mentioned above, issued the MAC on 30 April 2020 in response to the referral.

**PRELIMINARY REVIEW**

11. 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.

12. As a result of that preliminary review, the Appeal Panel determined, for reasons provided below, that the MAC contained a demonstrable error. This meant that the Appeal Panel would have to revoke the MAC and asses the medical dispute that was referred for assessment. The Appeal Panel considered that in order for it to be able to assess the medical dispute it would need to examine the appellant. AMS Dr Julian Parmegiani was appointed to do this.

**EVIDENCE**

13. 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**

14. The history the AMS obtained included the circumstances relating to both the psychiatric injury the appellant suffered and the physical injury she suffered on 28 May 2018.

15. The AMS also noted within the history he obtained that in October 2018 the appellant developed back pain, headaches and aches throughout her body and started to self-medicate with Panadeine and Oxycontin. The AMS noted that the appellant's GP prescribed her Tramadol and Endone. The AMS said that the appellant had acknowledged she was taking "excessive amounts" of these medications until her GP declined to prescribe them further.

16. The AMS also noted within the history he obtained that the appellant recalled that in the period between October 2018 and September 2019 "she was at her worse", "was not functioning at all", and "was not showering or eating". The AMS noted that the appellant attributed her symptoms at the time to Tramadol. The AMS also noted that at this time the appellant was also taking Cymbalta. The AMS commented that "Tramadol and Cymbalta potentially interact to produce serotonin syndrome".

17. The AMS noted that the appellant ceased taking Tramadol and Endone in August 2019 and that she had felt “20% better” from September 2019.

18. The AMS also noted that the appellant had attended a pain clinic where she was prescribed Lyrica and Panadeine.

19. The AMS noted that at the time of his assessment of the appellant, the appellant was taking Endep 25mg at night, Cymbalta 60mg at night, 6 tablets of Panadeine Forte a day and 6 tablets of Nurofen Plus a day. The AMS commented that the medication the appellant was taking in the form of Panedeine Forte and Nurofen Plus included 256.8mg of codeine a day.

20. The AMS recorded the appellant’s present symptoms in these terms:

> “Ms Hererra has not worked since 29 May 2018. Her son is in Year 4 but is currently on holidays and her daughter is in day care three days a week. Her niece who is in Year 10 or Year 11, she was unsure, is currently on holidays and had been living with Ms Hererra for three to four weeks. Usually, she lives with her mother or with Ms Hererra’s parents.
>
> Ms Hererra explained that she needs help managing her children and she needs emotional support and company. When her mother stays with her, she assists with housework and with parenting duties. When her mother is not there, Ms Hererra is required to oversee the household but she is compromised in her ability to attend to household tasks due to diminished energy, low motivation and physical pain. She nevertheless makes sure that her children do their homework, are bathed and attend school. She cooks when she has to and does the shopping if her mother is not available to do so. She does her shopping in the local area. She ensures that the bills are paid and the home finances are managed.
>
> Ms Hererra has no support from friends. She has isolated from them. They seek to keep in touch with her but she does not take their calls. A couple of her friends have persisted in contacting her.
>
> Ms Hererra goes for walks. She spoke of having done so with her son on the day before the assessment. She tends to plan activities but typically withdraws from participating on the day. She enrolled her son in soccer for 2020 but training was cancelled due to COVID-19. She takes her children to school when her mother is not around, a ten-minute drive from home. She acknowledged that her son misses one to two days of school a week because she will not take him. When she is at home, Ms Hererra lies on the couch and watches Spanish soap operas. She likes to study and commenced a course in October 2018, ceasing it due to financial constraints. She looks at Facebook and Instagram and she watches videos on her phone.
>
> Ms Hererra acknowledged that she eats too much. She exercises and seeks to maintain her hygiene and grooming but she is not as attentive in this regard as she was previously.
>
> Ms Hererra’s relationship ended in August 2018, namely during the period when she was at her worst. She stated, *“He just got sick of it and left.”* Although he left her before and returned in 2014, she does not expect that he would seek to resume the relationship on this occasion. He has expressed no interest in doing so. He remains involved in the children’s lives. Ms Hererra’s parents have been supportive. She spoke positively of her relationship with her children and with her brother’s four children. She has retained some long-term friendships but has not seen her friends since 2019.”

21. The AMS noted, with respect to the appellant's general health, that she is a diabetic and that her diabetes is not well controlled. The AMS noted that the appellant is not attentive to her diet and is not checking her sugars and that only takes her medication for her diabetes when she remembers.

22. With respect to the AMS's mental state examination of the appellant, the AMS recorded the following:

> "The assessment was undertaken using Skype. Ms Hererra was neatly groomed and appeared to be wearing makeup. She wore hoop earrings. Her brows appeared to be neatly shaped. She appeared overweight. She exhibited a generally restricted affect and became teary at times during the course of the assessment. She participated fully and effectively in a lengthy interview process. She described a pervasively depressed mood. No features of a psychotic nature were apparent."

23. With respect to how the appellant functioned with her social activities and her activities of daily living, the AMS recorded the following:

> "The account presented by Ms Hererra reflected the absence of significant psychiatric symptomatology in the period immediately after cessation of work such that she maintained the expectation that she would be returning, albeit with restrictions, until the onset of debilitating physical pain in October 2018. She was prescribed medication including an opiate Endone (oxycodone) and Tramal (tramadol) which she took in excessive quantities and which were combined with the selective serotonin reuptake inhibitor Cymbalta (duloxetine). Her account reflects the advent of serotonin syndrome, a known risk of the combination of the synthetic opioid tramadol and duloxetine. This condition evidently resolved on cessation of tramadol. It was during this time that Ms Herrera reported being at her worst and it is during this time that her partner left.
>
> Having ceased misuse of tramadol and oxycodone, Ms Herrera experienced an improvement in her overall condition but she described the persistence of a pervasively depressed mood and associated symptoms consistent with a Major Depressive Disorder. She continues to take analgesic medication containing codeine in sufficient quantities to impact cognition, mood and motivation. The pattern of analgesic use is such that she has developed Opiate Dependence secondary to the treatment provided for the physical injury which does not form the basis of the current matter.
>
> Ms Herrera has been stable only since September 2019 and there is a prospect for further improvement in the context of an evidence-based approach to treatment under the supervision of a specialist consultant psychiatrist. Specifically, she is on the minimum therapeutic dose of Cymbalta and has remained on this dose despite the absence of any improvement over a protracted period of time. Furthermore, she remains on a significant dose of codeine which is likely to be compromising her psychiatric condition and its treatment. The dose of Endep is prescribed below antidepressant dose and is therefore presumed to have been prescribed either as a hypnotic or analgesic. Considering the current treatment approach and the apparent absence of any plans to alter her treatment regime, it is appropriate to conclude that her condition has stabilised."

24. With respect to the appellant's function in those areas by which the AMS, in accordance with [11.11] of the Guidelines, was required to rate the appellant's impairment, the AMS recorded within Table 11.8 appended to the MAC that he had classified the appellant's impairment as follows:

| PIRS Category | Class | Reason for Decision |
|---|---|---|
| Self Care and personal hygiene | *2* | Ms Hererra maintains her personal hygiene and grooming. Her presentation at interview supported her account in this regard. She described overeating. She described being in receipt of support to manage the household. When her mother is not available, she is relatively self-sufficient. Her account indicated that pain represents a factor in her impairment in this area and the dose of codeine that she is ingesting would undermine her motivation. The overall impairment described by Ms Herrara was of a moderate degree of severity but the psychiatric condition contributed a mild degree impairment. |
| Social and recreational activities | 3 | Ms Hererra goes out for a walk in company. She goes on the internet to look at Facebook and other social media platforms. She watches soap operas. She does not go out to engage in any social or recreational activities however. |
| Travel | 1 | Ms Hererra continues to drive in the local area. Her current lifestyle is such that she has no need to travel beyond her local area. She did not attribute restrictions to psychiatric factors. She did not describe anxiety associated with travel. The use of codeine would represent a factor undermining concentration, attention and coordination. It would also undermine motivation to undertake outings. |
| Social functioning | 2 | Ms Hererra described the demise of her relationship at the time that she was at her worst. At that time, in addition to physical pain and mood symptoms, she was using opioid analgesics very heavily and experiencing a debilitating medication interaction. She reported an improvement in her overall condition since that time which is supported by the documents. It would be contrary to the Guidelines to base an assessment of current impairment on circumstances that arose prior to her improvement and on circumstances that were significantly influenced by non-psychiatric factors. She reported that she no longer sees her friends. Her relationships with family remain intact. On this basis, it is appropriate to conclude that she is currently mildly impaired by virtue of her psychiatric diagnosis alone. |
| Concentration, persistence and pace | 1 | It is inevitable that the dose of codeine that Ms Hererra is taking on a daily basis would impact on concentration, persistence and pace. She is evidently able to concentrate sufficiently to watch soap operas and read material on the internet. She also supports her son to do his homework although her account suggests that it is not undertaken with particular consistency. She participated effectively in a lengthy assessment. When she is required to, she attends to household tasks, albeit sub-optimally and she continues to manage the household finances. It is not apparent that her psychiatric condition alone is producing impairment beyond that which could be ascribed to significant codeine ingestion. |

| | | |
|---|---|---|
| Adaptability | 3 | The combination of physical pain, the effects of the opiates and Ms Hererra's psychiatric condition combined to render her unemployable. The assessment of psychiatric impairment in this area necessitates exclusion of the effects of excess codeine on energy, motivation and sleep pattern. The nature and severity of the psychiatric condition alone is expected to render Ms Herrera moderately impairment. |

The AMS also recorded in the earlier sections of that table that the appellant's psychiatric diagnosis was a major depressive disorder and that her psychiatric treatment was Cymbalta 60mg a day.

25. The AMS noted that the median of the scores of his classification of the appellant's impaired function was 2 and that the aggregate of the scores was 12. The AMS noted that that accorded with a whole person impairment of 6%. The AMS opined that it was appropriate to adjust that whole person impairment by 1% on account of the treatment the appellant was receiving for her psychiatric injury.

26. The AMS accordingly assessed the appellant to have a whole person impairment of 7% from her psychiatric injury and so certified in the MAC.

**SUBMISSIONS**

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

*28.* In summary, and paraphrasing somewhat, the appellant submits that the AMS's diagnosis that she had serotonin syndrome was not based on the evidence before the AMS. She submits that it was not open to the AMS to make that diagnosis. She also submits that the AMS had regard to irrelevant consideration when assessing her impairment. With respect to his assessment of her impairment in the areas of concentration persistence and pace and in the area of employability, she submits the AMS erred by having regard to her intake of Codeine. She submits that the AMS applied an incorrect test with respect to whether her impaired function was caused by her psychiatric injury, with the correct test being whether her psychiatric injury materially contributed to her impaired function. She submits the AMS did not explain his path of reasoning with respect to his rating of her impairment in the area of employability. She submits that the AMS failed to comply with s 65A(2) of the 1987 Act by not applying the two-step process outlined in *Mercy Connect Ltd v Kiely*[1].

29. In reply, and also in summary and paraphrasing, the respondent submits that it was open to the AMS based on his experience, training, skill and his review of the evidence to form the opinion that the appellant had suffered serotonin syndrome, which the respondent observes had resolved prior to the AMS's examination. The respondent submits that the AMS obtained a detailed history and reviewed all relevant evidence. The respondent submits that the AMS provided a detailed explanation for his diagnosis that the appellant had major depressive disorder. The respondent submits that the AMS provided an adequate explanation for his ratings of the appellant's impairment in the several areas of function required to be rated under the Guidelines. The respondent submits that the AMS noted that the appellant's Codeine ingestion was a factor in her impairment but was unrelated to her psychiatric injury. The respondent submits that there was no allegation of secondary psychological injury by either the appellant or the respondent and there was no finding by the Commission that the appellant had suffered a psychiatric injury or condition, and the AMS did not diagnose the appellant to be suffering from a secondary psychiatric condition. The authority provided by Kiely's case is therefore irrelevant.

[1] [2018] NSWSC 1421 (Kiely's Case) (The appellant provided the incorrect citation for this case in her submissions advising it as [2018] NSWWCCMA 111

**FINDINGS AND REASONS**

30. 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.

31. In *Campbelltown City Council v Vegan* [2006] NSWCA 284 the Court of Appeal held that the Appeal Panel is obliged to give reasons.

32. With respect to the issue of whether it was open to the AMS to make a finding that the appellant for a period of time was affected by serotonin syndrome, the Appeal Panel observes that the AMS had the necessary expertise and skills and was competent to do so. The Appeal Panel also notes that the AMS observed that this condition had resolved by the time of his assessment. It did not therefore affect the appellant's function at the time the AMS assessed the appellant's permanent impairment from her injury. It was of historical significance, but was not a factor in the AMS's assessment of the appellant's permanent impairment from her injury.

33. The Appeal Panel accepts the respondent's submissions with respect to the relevance of Kiely's case to the matter at hand. That is to say, any principle established in that case did not apply to the AMS's assessment of the appellant's impairment from her injury. That is simply because, as the respondent observed, there was no suggestion that the appellant suffered from a secondary psychiatric injury, nor did the AMS diagnose the appellant had a secondary psychological injury. Section 65A(2) of the 1987 Act, which was the issue in Kiely's case, played no part in this matter. The AMS was not required to "apply the two-step process" outlined in Kiely's case when assessing the degree of permanent impairment of the appellant resulting from her injury and hence, the AMS did not fall into error by not doing so.

34. The Appeal Panel is of the view that the AMS was in error insofar as he reduced the classifications he would otherwise have made with respect to the appellant's impaired function in the areas of self-care and personal hygiene, travel, and concentration, persistence and pace, and employability on account of the appellant's ingestion of codeine.

35. This is for two reasons. Firstly, the AMS's findings from his mental state examination of the appellant reveal that the appellant's ingestion of codeine did not have any clinical significance with respect to the appellant's function. It did not impair her function. The AMS found from his examination of the appellant over a lengthy interview process that the appellant was able to participate fully and effectively. In other words, she was alert and talking during the examination process which reveals her ingestion of codeine had no impact on her function.

36. Secondly, the task of the AMS was to establish the permanent impairment of the appellant resulting from her injury, and in doing that he was required to apply common law principles of causation in tort.[2] That meant that, as the appellant submitted, if her psychiatric injury materially contributed to her impaired function in the several areas of behaviour by which her permanent impairment is required to be assessed in accordance with [11.11] of the Guidelines, then it did not matter that her ingestion of codeine also contributed to her impairment. In other words, if as a matter of common sense her impaired function was the result of her psychiatric injury then there was no cause to discount the ratings for her impaired function on account of her ingestion of codeine, if it were the case that her ingestion of codeine did impact upon her function, which as said the Appeal Panel considers clinically it did not.

[2] Secretary, NSW Department of Education v Johnson [2019] NSWCA321 at [55]

37. This is not a situation to which the instruction within [11.5] of the Guidelines applies. If it were the case that the appellant's ingestion of codeine affected her function in the several areas of behaviour by which her permanent impairment is assessed, which to repeat, the Appeal Panel does not consider is the case, then it was not the pain that was affecting her function but rather her ingestion of codeine.

38. In any event, as the Appeal Panel has said, because the appellant's ingestion of codeine was not, in a clinical sense, a factor that affected her function in the several areas of behaviour that had to be rated to assess her permanent impairment, the AMS has erred in taking her ingestion of codeine into account when assessing her impairment. In other words, as the appellant has submitted, he took into account an irrelevant consideration.

39. The MAC therefore does contain a demonstrable error.

40. As indicated above, because of that, the Appeal Panel is required to revoke the MAC and reassess the medical dispute and, to that end, AMS Dr Julian Parmegiani was appointed by the Appeal Panel to examine the appellant and to report to the Appeal Panel his findings. AMS Dr Parmegiani did so on 4 August 2020.

41. His report to the Appeal Panel included the following:

> "Ms Herrera is a 35-year-old woman currently living in Oran Park with her son aged 10 and daughter aged 4. Ms Herrera separated from her partner Norman in July 2019, and she is not in a new relationship. Ms Herrera is not working, and she receives workers' compensation benefits. Her parents visit her 3-4 times per week, and on weekends.
>
> Ms Herrera reported persistent physical and psychiatric symptoms. She suffered pain in her neck and shoulders. She managed pain with Panadeine Forte, two tablets twice-daily, and Nurofen two tablets twice-daily. Ms Herrera also suffered insulin-dependent diabetes. She used Novorapid insulin 6 units in the morning, 8 units midday and 10 units at night and Lantus 10 units at night. She also took an oral hypoglycaemic, Diabex, 500mg at night. Ms Herrera was diagnosed with hypercholesterolaemia and hypertension.
>
> Ms Herrera felt depressed, especially at night. She slept poorly between 3am and 7am. At times she did not get up until 11am. She lacked energy and motivation. She was irritable and emotionally labile. She cried with minimal trigger every second day.
>
> Ms Herrera gained 14kg in weight over the past two years, due to excessive eating. She developed a craving for junk food, including chocolate and chips."

42. In terms of the function within the several areas of behaviour by which, in accordance with [11.11] of the Guidelines, the appellant's permanent impairment is to be rated, AMS Dr Parmegiani reported as follows:

> "Self-care and personal hygiene
> Ms Herrera did not shower daily, due to poor motivation. She did not maintain a healthy diet, and she did not check her blood sugar levels four times per day, as recommended by her doctors. She checked her blood sugar levels 2-3 times per week, when she felt thirsty. The levels were high, between 10 and 16 (mmol/L). She last saw an endocrinologist two years ago. She was told to attend appointments every six months, but she lacked the motivation. Ms Herrera's mother visited the house up to four days per week. She prepared meals and she performed other domestic tasks. She took Ms Herrera's son to school. Ms Herrera took her son to

school at other times, but not regularly. The school principal recently contacted her because of her son's poor attendance. Ms Herrera told me his attendance was 70%, and did not reach the minimum 90%. Ms Herrera was able to purchase groceries from time to time, and she prepared meals once or twice per week. On balance however, it is unlikely that Ms Herrera could live independently without regular support.

Social and recreational activities
Ms Herrera no longer visited recreational venues. She had no contact with friends. She did not identify significant social or recreational activities. She spent many hours watching YouTube videos, including telenovelas from Chile. She played Sudoku and Solitaire on her computer. These activities distracted her from negative thoughts and did not have the quality of a recreational activity. She derived minimal enjoyment from them.

Travel
Ms Herrera was able to take her son to school from time to time. She visited local shops. She did not however travel to unfamiliar areas alone, because of excessive anxiety. She explained she felt scared that something would happen to her, and that she felt more comfortable at home.

Social functioning
Ms Herrera's relationship with her partner ended in July 2019. She explained that Norman found it difficult to cope with her. He returned home at the end of the day and discovered that she had done little or no domestic work. She was irritable, emotionally labile and withdrawn. Ms Herrera and her partner had frequent contact because of their children. There was however no intention to reunite. Ms Herrera explained that she did not want him back, because he was unsupportive. She did not form new relationships, because she did not feel psychologically well enough. Ms Herrera had no contact with friends, and she did not form new friendships over the past 12 months.

Concentration, persistence and pace
Ms Herrera was able to provide a coherent history during the interview. She recalled the names and doses of medications, and the names of treating doctors. Ms Herrera was enrolled in two online courses. These included a course in medical transcription and a diploma course in legal services. She could no longer afford the cost of these courses and her enrolment was suspended in January 2020. Ms Herrera told me she could read for up to 20 minutes. She took a break and returned to her studies. She continued studying until about June 2020. She was however unable to submit work, and she decided to stop. Ms Herrera would find it difficult to concentrate for prolonged periods, because of her depression. She had a mild impairment of concentration.

Employability
Ms Herrera did not undertake productive activities that could reasonably attract remuneration in the open labour market. She was unable to look after her household and children without regular support. She neglected her health and appearance. In view of her depressed mood, lack of energy, reduced motivation and social withdrawal, it is unlikely that she could sustain any employment."

43. The Appeal Panel adopts the report of AMS Dr Parmegiani and accepts his observations and findings contained therein. Based on that, the Appeal Panel classifies the appellant's impairment in the several rating scales stipulated in [11.11] of the Guidelines as follows:

| | |
|---|---|
| Self-care and personal hygiene | Class 3 |
| Social and recreational activities | Class 3 |
| Travel | Class 2 |
| Social functioning | Class 3 |
| Concentration, persistence and pace | Class 2 |
| Employability | Class 5 |

44. The median of those scores is 3 and the aggregate is 18. That accords with a whole person impairment of 22%. The Appeal Panel considers that there ought to be no allowance for the affects of treatment as the Appeal Panel considers that there has not been an apparent substantial or total elimination of the appellant's permanent impairment, which is required by [1.32] of the Guidelines in order that the whole person impairment percentage can be increased.

45. For these reasons, the Appeal Panel has determined that the MAC issued on 30 April 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.

J Burdekin

Jenni Burdekin
Dispute Services Officer
**As delegate of the Registrar**

# WORKERS COMPENSATION COMMISSION

## APPEAL PANEL
## MEDICAL ASSESSMENT CERTIFICATE

**Injuries received after 1 January 2002**

**Matter Number:** **802/20**
**Applicant:** **Karina Herrera**
**Respondent:** **House With No Steps**

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 Samson Frederick Roberts 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 AMA5 Guides** | **% WPI** | **Proportion of permanent impairment due to pre-existing injury, abnormality or condition** | **Sub-total/s % WPI (after any deductions in column 6)** |
|---|---|---|---|---|---|---|
| Psychiatric | 29/5/18 | Chapter 11 | | | | 22% |
| **Total % WPI (the Combined Table values of all sub-totals)** | | | | | **22%** | |

**Marshal Douglas**
Arbitrator

**Dr Lana Kossoff**
Approved Medical Specialist

**Dr Julian Parmegiani**
Approved Medical Specialist

13 August 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.

J Burdekin

Jenni Burdekin
Dispute Services Officer
**As delegate of the Registrar**