WORKERS COMPENSATION COMMISSION

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

Matter Number:	**M1-3061/19**
Appellant:	**Cherie Faulder**
Respondent:	**Tuggerah Lakes Memorial Club**
Date of Decision:	**31 March 2020**
Citation:	**[2020] NSWWCCMA 57**

Appeal Panel:	
Arbitrator:	**Carolyn Rimmer**
Approved Medical Specialist:	**Dr Richard Crane**
Approved Medical Specialist:	**Dr J Brian Stephenson**

BACKGROUND TO THE APPLICATION TO APPEAL

1. On 27 September 2019, Cherie Faulder (Mrs Faulder) lodged an Application to Appeal Against the Decision of Approved Medical Specialist. The medical dispute was assessed by Dr Robert Ivers, an Approved Medical Specialist (AMS), who issued a Medical Assessment Certificate (MAC) on 10 September 2019.

2. The respondent is Tuggerah Lakes Memorial Club (the respondent).

3. 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.

4. 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.

5. 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.

6. 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

7. In these proceedings, Mrs Faulder is claiming lump sum compensation in respect of an injury to the neck, back, left arm at or above the elbow, right arm at or above the elbow and sexual organs on 27 April 1999 that occurred in the course of her employment as a waitress with the respondent. Mrs Faulder also requested an assessment of whole person impairment (WPI) in relation to a threshold dispute for a work injury damages claim.

8. In the Terms of Settlement dated 19 August 2003 of the Compensation Court of New South Wales (Matter No 16616/2002), the respondent agreed to pay Mrs Faulder, pursuant to s 66 of the *Workers Compensation Act 1987* (1987 Act), $2,000 in respect of 5% permanent impairment of the neck, $3,000 in respect of 5% permanent impairment of the back, $4,000 in respect of 5% loss of efficient use of the left arm at or above the elbow, $3,750 in respect of 5% loss of efficient use of the right arm at or above the elbow and $4,700 in respect of 10% loss of sexual organs.

9. In a letter dated 17 September 2018, Mrs Faulder made a claim for a further 7.6% permanent impairment of the neck, a further 4% permanent impairment of the back, a further 8.5% permanent loss of efficient use of the left arm at or above the elbow, a further 4% permanent loss of efficient use of the right arm at or above the elbow and a further 8% permanent loss of sexual organs. Mrs Faulder claimed that she had been assessed as having 23% WPI.

10. In a section 78 Notice dated 25 January 2019, the insurer for the respondent, Employers Mutual Limited, advised that Mrs Faulder was not entitled to further lump sum compensation in respect of the injury on 27 April 1999.

11. In the Referral for Assessment of Permanent Impairment to Approved Medical Specialist dated 2 August 2019, the matter was referred to the AMS, Dr Ivers, for assessment under the Table of Disabilities of permanent impairment of the neck, permanent impairment of the back, loss of efficient use of the left arm at or above the elbow, loss of efficient use of the right arm at or above the elbow and loss of sexual organs as a result of the injury on 27 April 1999. The AMS was also requested to assess WPI of the cervical spine, left upper extremity, right upper extremity and lumbar spine, as a result of the injury on 27 April 1999.

12. The AMS examined Mrs Faulder on 3 September 2019. Under the Table of Disabilities, he assessed 10% permanent impairment of the neck, 10% permanent impairment of the back, 0% loss of efficient use of the left arm at or above the elbow, 0% loss of efficient use of the right arm at or above the elbow and 0% for loss of sexual organs. The AMS assessed 0% WPI of the cervical spine, 0% WPI of the lumbar spine, 0% WPI for the left upper extremity, and 0% for the right upper extremity. These assessments combined to produce a total assessment of 0% WPI.

PRELIMINARY REVIEW

13. 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.

14. The appellant did not request that Mrs Faulder be re-examined by an AMS, who is a member of the Appeal Panel.

15. As a result of that preliminary review, the Appeal Panel determined that it was necessary for the worker to undergo a further medical examination because there was an error in the MAC and insufficient evidence on which to make a determination.

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.

Further medical examination

17. Dr J B Stephenson of the Appeal Panel conducted an examination of the worker on 26 February 2020 and reported to the Appeal Panel.

Medical Assessment Certificate

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

SUBMISSIONS

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

20. Mrs Faulder's submissions include the following:

    (a) The AMS used AMA 5 to determine the assessment of sexual function, which was improper, there being no allowance for sexual assessment related to back pain or dysfunction under the AMA 5 guidelines.

    (b) The AMS simply had regard to whether there was any neurological impairment of the sexual organ, which was an incorrect test under the Table of Disabilities (*Roads and Traffic Authority v Malcolm* (1996) 13 NSWCCR 272).

    (c) The AMS failed to have regard to the evidence of Mrs Faulder that her sex life was impaired as a result of pain. He made no enquiry of the issues raised by Mrs Faulder in her evidence nor sought to clarify those issues. The AMS gave no reasons as to why Mrs Faulder's assertions that back pain interfered with her sex life was not compensable and as such fell into error for failing to make the relevant inquiry in that regard. Despite asking Mrs Faulder about other activities such as dressing, grooming, housework, gardening and driving, the AMS did not question Mrs Faulder about her sexual problems and the only reason he found against Mrs Faulder was that there was no neurological abnormality. This was an error in law.

    (d) The AMS fell into error by not finding an impairment of either her arm or leg. It was not a matter of finding radicular or neurological pain or pathology in the arm. It was sufficient that there had been a previously accepted injury and Mrs Faulder complained of a loss of efficient use of these parts as a result of pain in her various activities.

    (e) The medical evidence outlined difficulties in using her arms outstretched and overhead, difficulty gripping strongly, decreased grip strength, discomfort into the left arm and stiffness in both shoulders. It does not matter that there was no pathology from the neck to explain that, for if Mrs Faulder's complaints are accepted in relation to her arm, an assessment must be made under the Table of Disabilities. The AMS made the assessment of the arms using AMA 5 rather than the Table of Disabilities. The AMS was in error in giving no explanation as to why a previously assessable permanent loss had now disappeared entirely to become a 0% assessment without any explanation. The lack of explanation was an error.

    (f) Mrs Faulder should have been questioned in regard to this assessment for the purposes of procedural fairness. The AMS, when assessing permanent impairment of the arms, did not question her about difficulties using her arms as a result of the neck injury and simply found that without pathology there was no loss. This does not follow and was an error at law.

    (g) The AMS under his clinical findings made no notation on examination as to whether Mrs Faulder had muscle guarding either in relation to her neck or lumbar spine but under the WPI assessment stated that was no muscle guarding. The absence of muscle guarding should have been listed as a finding on clinical examination, and the failure to do so was an error.

21. The respondent's submissions include the following:

    (a) The AMS undertook a proper assessment of Mrs Faulder's sexual function and made appropriate enquiries in respect of this injury.

    (b) The fact that Mrs Faulder received lump sum compensation in the past in respect of a loss of sexual function had no effect on the assessment by the AMS. The AMS was required to make an assessment of Mrs Faulder as she presented on the day, on the evidence available to him and his clinical judgment.

    (c) It was clear that the AMS took Mrs Faulder's history and complaints into consideration when providing his assessment of loss of sexual function. The assessment should be confirmed. There is no evidence to support the submission that the assessment was made on the basis of incorrect criteria or contained a demonstrable error.

    (d) In respect of the arms, the AMS took a clear history of Mrs Faulder's complaints. He considered that the loss of movement in both shoulders was constitutional in nature and not related to the work event and was not assessable. An AMS is not required to provide an assessment of impairment in an area simply because Mrs Faulder indicated or reported that she was suffering pain in a particular area. There was no error in this assessment.

    (e) The AMS is required to make an assessment taking into account his clinical examination, the history, relevant medical evidence and clinical judgment. It is not sufficient for the AMS to simply accept that any complaints are related to the work injury, he is required to make his own enquiry and use his clinical judgment to make an assessment under the Table of Disabilities or AMA 5.

    (f) Simply because there was a prior settlement or award, does not mean that the AMS is required to assess impairment in accordance with the earlier assessment and/or arrive at the same assessment.

    (g) The AMS clearly recognised the difference between an assessment pursuant to the Table of Disabilities and AMA 5. He outlined his assessment in regard to each method and made no error.

    (h) In respect of the lack of muscle guarding not being referred to in the examination findings, the MAC should be read in its entirety. The findings of the AMS were clear and this does not amount to demonstrable error.

    (i) The MAC dated 10 September 2019 should be confirmed.

FINDINGS AND REASONS

22. 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.

23. 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.

24. The role of the Medical Appeal Panel was considered by the Court of Appeal in the case of *Siddik v WorkCover Authority of NSW* [2008] NSWCA 116 (*Siddik*). The Court held that while prima facie the Appeal Panel is confined to the grounds the Registrar has let through the gateway, it can consider other grounds capable of coming within one or other of the s 327(3) heads, if it gives the parties an opportunity to be heard. An appeal by way of review may, depending upon the circumstances, involve either a hearing de novo or a rehearing. Such a flexible model assists the objectives of the legislation.

25. Section 327(2) was amended with the effect that while the appeal was to be by way of review, all appeals as at 1 February 2011 were limited to the ground(s) upon which the appeal was made. In *New South Wales Police Force v Registrar of the Workers Compensation Commission of New South Wales* [2013] SC 1792 Davies J considered that the form of the words used in s 328(2) of the 1998 Act being, 'the grounds of appeal on which the appeal is made' was intended to mean that the appeal is confined to those particular demonstrable errors identified by a party in its submissions.

26. In this matter, the Registrar has determined that he is satisfied that at least one of the grounds of appeal under s 327(3)(d) is made out, in relation to the AMS's assessment of Mrs Faulder's impairment.

27. The Appeal Panel reviewed the history recorded by the AMS, his findings on examination, and the reasons for his conclusions as well as the evidence referred to above.

Discussion

28. Mrs Faulder submitted that the AMS used AMA 5 to determine the assessment of sexual function and made no allowance for sexual assessment related to back pain or dysfunction. The appellant argued that the AMS simply had regard to whether there was any neurological impairment of the sexual organ, which was an incorrect test for assessment of loss of sexual organs under the Table of Disabilities (*Roads and Traffic Authority v Malcolm* (1996) 13 NSWCCR 272). Mrs Faulder submitted that the AMS failed to have regard to her evidence that her sex life was impaired as a result of pain.

29. On page 2 of the MAC under "Present symptoms", the AMS wrote:

> "Low-back:
> Currently, she states that her low back pain, at rest, is at level 9, on a visual analogue scale, when 10 is the worst imaginable pain. At its worst, the pain may pass to level 10, on the same scale. The pain is in the mid-low back area and extends towards the coccyx and into the left para lumbar region. The pain extends into the left buttock and there is occasional pain extending into the posterolateral aspect of the left thigh extending towards the left knee. The discomfort does not pass below the knee. There are pins and needles involving the anterior thigh on each side which seem to be worse if standing. She states that she has to sit after standing for a few minutes. The dysaesthesia does not pass below the knee. The last occasion of dysaesthesia was about 8 months ago. She states that she has had difficulty with intimacy for a very long period of time and has been reviewed by her local GP regarding this in the past. There is no bladder or bowel dysfunction and no altered sensation in the region of the perineum."

30. Under "Reasons for Assessment" the AMS wrote;

> "My opinion and assessment of whole person impairment
> I have been instructed to provide assessments utilising both the Table of Disabilities and the Whole Person Impairment methodology.
> Method 1. Table of Disabilities: Workers Compensation Act 1987 section 66

> Consulting the Table of Disabilities, I find that there is an impairment of 10% of the neck and 10% of the back. I find that there is no impairment related to the right or left upper limb and there is no impairment related to sexual dysfunction.
> ….
>
> Method 2. Whole person impairment.
> …
>
> Sexual dysfunction:
> I do not have any evidence of a neurologic condition affecting the perineal region which could conceivably cause dysfunction of the sexual organs. I conclude that any dysfunction in this region is related to constitutional and psychosocial matters rather than an injury to the perineal nerves. I find that this condition is not assessable."

31. The Appeal Panel noted that the AMS assessed loss of sexual organs both under the Table of Disabilities (as referred) and also under the Guidelines. There was in fact no referral requiring the AMS to assess whole person impairment under the Guidelines in respect of loss of sexual organs.

32. The Appeal Panel considered that it was reasonably clear that the AMS when assessing loss of sexual organs under the Table of Disabilities concluded there was no impairment related to sexual dysfunction. The AMS did assess 10% permanent impairment of the back.
The AMS noted that Mrs Faulder reported that her low back pain, at rest, was at level 9, on a visual analogue scale, when 10 was the worst imaginable pain and that at its worst, the pain may pass to level 10, on the same scale.

33. The AMS in his assessment under the Guidelines of WPI concluded that there was no evidence of a neurological condition affecting the perineal region and that any dysfunction in this region was related to constitutional and psychosocial matters rather than an injury to the perineal nerves.

34. The Appeal Panel agreed with the appellant that the AMS failed to consider whether or not the pain experienced by Mrs Faulder resulted in impairment of her sex life and this failure was a demonstrable error and an assessment made on the basis of incorrect criteria application.

35. Dr Patrick in his report dated 11 September 2018 noted:

> "There has been further deterioration in sexual function and capacity largely as a consequence of her deteriorating back pain and significant pain radiating to buttock."

36. Dr Paul Robinson in his report dated 12 December 2018 noted that Mrs Faulder stated that her sexual activities had been reduced and impaired because of the low back pain. He considered that any impairment of sexual function related to spinal problems and not to her sexual organs.

37. Mrs Faulder, in her statement dated 5 April 2019, said that since the settlement on about 19 August 2003 she had continuing problems with her back, neck and arms and in her view the problems had deteriorated over the years. She wrote: "As a result of the increasing back pain I have also suffered loss of libido and reduced sexual activity and a loss of enjoyment related to same". She stated that the fall caused her back problems and her back problems caused the issues with her sexual function.

38. Further, the Appeal Panel considered that the AMS erred in failing to provide adequate reasons for dismissing Mrs Faulder's difficulties in using her arms as a result of the neck injury on the basis there was no pathology. Assessment under the Table of Disabilities is quite subjective and there was evidence that Mrs Faulder had difficulties using her arms.

39. Dr Patrick, in his report dated 11 September 2018, noted that Mrs Faulder had neck pain and stiffness with some limitation in movement, stiffness in both shoulders the left more than the right, discomfort going into her left arm, mild stiffness at the wrists, diminished grip strength and difficulty using her arms outstretched or overhead and difficulty gripping strongly.

40. Dr Paul Robinson, in his report dated 12 December 2018, noted Mrs Faulder complained of pain in the cervical region and stated that passed down into her arms. He noted that she said that neck pain intensified with excessive movement and passed mainly into the elbow region, more so the left than the right.

41. The Appeal Panel considered that re-examination was necessary as there was insufficient information on which to make a determination.

42. As noted above, Dr Stephenson re-examined Ms Faulder on 26 February 2020. Dr Stephenson provided the following report:

> **"1. The worker's medical history, where it differs from previous records**
>
> Cherie Faulder referred attended with her husband Terry who is a builder/demolisher of high raised buildings. Cherie Faulder referred to injury and symptoms at neck, lumbar spine and both arms including shoulders. Her present complaints include pain in neck, back, bilateral shoulders, elbows and wrist areas. Date of injury given as 27 April 1999.
>
> Employment history
>
> She was a cashier and involving service at the Tuggerah Lake Memorial Club. She worked there for six years. The club is now called The Diggers central coast. She stopped work on date of injury 27 April 1999. For two weeks she went back to work on light duties up to two weeks. She could not stand for long however. She was reviewed by the club's doctor. She said she could barely walk due to her symptoms. She has not had specialist advice. She has been off work since then.
>
> Previous employment
>
> She has previously had experience in accounts receivable and clerical work. Cherie Faulder said she brought up three sons. Her husband was and is often working away.
>
> History of injury
>
> On 27 April 1999 Cherie was carrying a large "*Dixie tray*" out of the oven in the kitchen, it was full of baked potatoes. She backed out through the swing doors and slipped on the tiles. The safety matt should have been there, but it was not, it was down in the basement. There was grease on the tiles due to the cooking of potato chips (French fries). The safety mat should have covered the area between the frying vats and the Bay Marie. She walked through the door and slipped and went flying on the tiles. The cheap shiny tiles were covered with cooking oil.
>
> Current medication
>
> She takes Mersyndol, Panadol and Panadol Osteo. She uses Voltaren ointment and has hot showers. She found physiotherapy useless. She has had a lot of physiotherapy on the central coast.
>
> She and her husband moved to Queensland in 2012.

Since the date of injury 27 April 1999, which is over 20 years ago now, I questioned Ms Cherie Faulder in the presence of her husband Terri as to matters of intimacy and she said that she has had no sex with her husband for 15 years. She said over the years her back pain has increased and got progressively worse. For pain she takes Mersyndol, Nurofen and also Panadeine Forte. She is prescribed Effexor for depression and once a month when she cannot sleep she will take half of a sleeping pill.
Ms Faulder said the back pain had resulted in loss of sexual relations.

Reference to previous award

I have now found 10% permanent impairment of the neck and of the back which is an increase of 5% above the previous award with 5% neck and back. I have now found permanent loss of efficient use of right arm at or above elbow and of left arm at or above elbow at 12% which is an increase of 7% above the previous award of 5% and for loss of sexual organs I have now found a 15% permanent loss of use. Dr Patrick found an 18% permanent loss of sexual organs which is an increase of 8%. I assessed the figure at 15% permanent loss of use of sexual organs. I refer to the history regarding those matters from the claimant. For Table 1, the values are neck 10%, back 10%, right arm and left arm each 12% and sexual organs 15%. Under AMA 5 with reference to Table 2 I found 5% whole person impairment for cervical. 5% WPI for lumbar spine. 12% WPI for right upper extremity and 11% WPI for left upper extremity with a total of 30% WPI being the total combined value.

I have given the history that is the worker's medical history which differs from previous records.

2. Additional history since the original medical assessment certificate was performed.

I have noted the reference from Cherie Faulder that she has not had sex with her husband for the last 15 years and the lumbar back pain has increased over those years.

3. Findings on clinical examination.

Examination

On examination of the upper limbs there a full range of motion of both elbows. There was a good but restricted range of motion of both wrists which is assessed with reference to AMA 5 Page 467-469, Figure 16-2a to 16-3.1 in terms of the AMA 5 component of the assessment. For right and left wrist:

Movement	Degree of movement	Upper Extremity Impairment
Radial deviation	10º	2%
Ulnar deviation	30º	0%
Palmar flexion	50º	2%
Dorsiflexion	50º	2%

This finding is equivalent in both wrists and therefore there is 6% upper extremity impairment for each wrist.

For the cervical spine there is asymmetric loss of range of motion but no objective findings of radiculopathy in the upper extremities where power and sensation were satisfactory and deep tendon reflexes were present and active.

Movement	Degree of Movement
Cervical flexion	40º
Cervical extension	30º

Cervical rotation right	40º
Cervical rotation left	30º
Cervical lateral flexion right	20º
Cervical lateral flexion left	20º

Assessment

Cervical spine DRE Category II 5% WPI. Assessment Table of Maims 10% permanent impairment of the neck.

Impairment of the shoulders, these were assessed with reference to AMA 5 Chapter 16, Page 476-479 at Figure 16-40 to Figure 16-4.6. Conversion to an upper extremity impairment to whole person impairment is made at Page 439 Table 16-3.

Right shoulder

Movement	Degree of Movement	Upper Extremity Impairment
Abduction	100º	4%
Adduction	20º	1%
Flexion	100º	5%
Extension	20º	2%
External rotation	50º	1%
Internal rotation	60º	2%

At the right shoulder there is a 15% upper extremity impairment which combines with the 6% upper extremity impairment right wrist which equals 20% UEI. That converts to 12% WPI.

Left shoulder

Movement	Degree of Movement	Upper Extremity Impairment
Abduction	100º	4%
Adduction	20º	1%
Flexion	100º	5%
Extension	20º	2%
External rotation	50º	1%
Internal rotation	70º	1%

The 14% upper extremity left should, combines with the 6% UEI for left wrist, which equals 19% WEI, which converts to 11% WPI.

On examination of the thoracic spine at the trunk there is two thirds range of trunk rotation and lateral flexion namely 20º to the right and 20º to the left in each case. In the lumbar spine there is a lordosis in the order of 20º, when standing she would forward flex so her fingers reached mid-thigh level with lateral flexion to mid-thigh level bilaterally. There was asymmetric loss of range of motion of the lumbar spine. There were no objective findings or radiculopathy in the lower extremities where power and sensation were satisfactory and deep tendon reflexes were present and active. There was no calf muscle wasting, both mid-calves measured 45cm in circumference. There was no increase in sciatic nerve tension. Straight leg raise performed at both lower limbs to 90º. Power of dorsiflexion and plantar flexion both feet and ankle were normal at 5/5.

Conclusion

For the lumbar spine there is a DRE Category II assessed at 5% impairment.

4. Results of any additional investigations to original medical assessment certificate.

There were no radiology reports to see. I note in the MAC (page 4) Dr Robert Ivers refers to report of a CT scan lumbar spine 13 February 2018:

"*Reports of broad based disc prolapse at the L4/5 level and a shallow broad based prolapse at the L5/S1 level. The disc spaces are generally preserved, a compressive disc lesion is not evident.*""

43. The Appeal Panel has adopted the report and findings of Dr Stephenson. The Appeal Panel agrees with the assessment made by Dr Stephenson in this matter.

44. As noted above, Dr Stephenson assessed Mrs Faulder at 5%WPI for the cervical spine, 5% WPI for the lumbar spine, 12% for the right upper extremity (shoulder and wrist) and 11% WPI for the left upper extremity (shoulder and wrist) in respect of the injury on 27 April 1999. The Panel therefore makes a total assessment of 30% in respect of the injury on 27 April 1999.

45. Under the Table of Disabilities, the Appeal Panel assessed 10% permanent impairment of the back, 10% permanent impairment of the neck, 12% for the permanent loss of efficient use of the right arm at or above the elbow), 12% for the permanent loss of efficient use of the left arm at or above the elbow, and 15% for permanent loss of use of sexual organs in respect of the injury on 27 April 1999.

46. For these reasons, the Appeal Panel has determined that the MAC issued on 10 September 2019 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*.

R Gray

Robert Gray
Dispute Services Officer
As delegate of the Registrar

WORKERS COMPENSATION COMMISSION

APPEAL PANEL
MEDICAL ASSESSMENT CERTIFICATE

Table 2 - Assessment in accordance with AMA5 and NSW workers compensation guidelines for the evaluation of permanent impairment for injuries received after 1 January 2002

This Certificate is issued pursuant to section 325 of the *Workplace Injury Management and Workers Compensation Act* 1998.

Matter Number: **3061/19**
Applicant: **Cherie Faulder**
Date of Assessment: **26 February 2020**

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 Ivers 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 NSW workers compensation guidelines**	**Chapter, page, paragraph, figure and table numbers in AMA5 Guides**	**% WPI**	**WPI deductions pursuant to S323 for pre-existing injury, condition or abnormality** (expressed as a fraction)	**Sub-total/s % WPI** (after any deductions in column 6)
1. Cervical Spine	**27/04/1999**	Chapter 4, Page 28, Paragraph 4.3.4	Chapter 15, Page 392, Table 15-5	5%	0%	**5%**
2. Lumbar Spine	**27/04/1999**	Chapter 4, Page 28, Paragraph 4.3.4	Chapter 15, Page 384, Table 15-3	**5%**	0%	**5%**
3. Right upper Extremity (shoulder/ wrist)	**27/04/1999**	Chapter 2, Page 10-12	Chapter 16, Page 476-479, Figure 16-28 to Figure 16-31, Page 476-479, Figure 16.0 to Figure 16-4.6. Page 439, Table 16-3	**12%**	0%	**12%**

4. **Left Upper Extremity (Shoulder/ Wrist)**	**27/04/1999**	Chapter 2, Page 10-12	Chapter 16, Page 467-469, Figure 16-28 to Figure 16-31. Page 476-479, Figure 16-40 to Figure 16-46. Page 439, Table 16-3.	**11%**	0%	**11%**
Total % WPI (the Combined Table values of all sub-totals)					**30%**	

WORKERS COMPENSATION COMMISSION

APPEAL PANEL
MEDICAL ASSESSMENT CERTIFICATE

Table 1 - Assessment in accordance with the Table of Disabilities for injuries received before 1 January 2002

This Certificate is issued pursuant to section 325 of the *Workplace Injury Management and Workers Compensation Act* 1998

Matter Number: **3061/19**
Applicant: **Cherie Faulder**
Date of Assessment: **26 February 2020**

Body Part (describe the body part as per Table of Disabilities) e.g. right leg at or above the knee	**Date of injury**	**Total amount of permanent % loss of efficient use or impairment**	**Proportion of permanent impairment due to pre-existing injury, abnormality or condition**	**Total permanent % loss of efficient use or impairment attributable to this injury** (after deduction of any pre-existing impairment in column 4.)
Neck	**27 April 1999**	**10%**	**0%**	**10%**
Back	**27 April 1999**	**10%**	**0%**	**10%**
Right Upper Extremity (Shoulder/Wrist)	**27 April 1999**	**12%**	**0%**	**12%**
Left Upper Extremity (Shoulder/Elbow/Wrist)	**27 April 1999**	**12%**	**0%**	**12%**
Sexual Organs	**27 April 1999**	**15%**	**0%**	**15%**

Carolyn Rimmer
Arbitrator

Dr Richard Crane
Approved Medical Specialist

Dr J Brian Stephenson

Approved Medical Specialist

31 March 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*.

R Gray

Robert Gray
Dispute Services Officer
As delegate of the Registrar