Commonwealth of Kentucky
Workers' Compensation Board

OPINION ENTERED: April 29, 2016

CLAIM NO. 201469918

LOUISVILLE JEFFERSON CO. METRO GOV. PETITIONER

VS. **APPEAL FROM HON. R. ROLAND CASE, ADMINISTRATIVE LAW JUDGE**

TAMARA BREDHOLD and
HON. RONALD R. CASE,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

AND

TAMARA BREDHOLD PETITIONER

V.

LOUISVILLE JEFFERSON CO. METRO GOV. and
HON. RONALD R. CASE,
ADMINISTRATIVE LAW JUDGE RESPONDENTS

OPINION
AFFIRMING IN PART,
VACATING IN PART, & REMANDING

* * * * * *

BEFORE: ALVEY, Chairman, STIVERS and RECHTER, Members.

ALVEY, Chairman. Both Louisville Jefferson Co. Metro Gov. ("Metro Gov.") and Tamara Bredhold ("Bredhold") appeal from the Opinion, Award and Order rendered November 30, 2015, by Hon. R. Roland Case, Administrative Law Judge ("ALJ") awarding temporary total disability ("TTD") benefits, permanent partial disability ("PPD") benefits, and medical benefits for a June 30, 2014 work injury. Both also appeal from the orders entered January 12, 2016 denying the petitions for reconsideration filed by each party.

On appeal, Metro Gov. argues because Bredhold offered no medical opinion establishing the work-relatedness of the right knee as required by Mengel v. Hawaiian-Tropic Northwest & Cent. Distributors, Inc., 618 S.W.2d 184 (Ky. Ct. App. 1981), the ALJ erred in finding it compensable, thereby invalidating the award of TTD and future medical benefits for that condition. Metro Gov. also argues as a matter of law, Bredhold failed in her burden of proving entitlement to future medical treatment for the right knee because an impairment rating greater than 0% was not assessed for that condition, and no medical evidence was presented supporting entitlement to such award. Metro Gov. additionally argues Bredhold did not prove the second injury caused greater than two weeks of disability as required by KRS 342.040(1). Therefore, the

award of TTD benefits from March 14, 2015 through March 21, 2015 was in error.

Bredhold argues the ALJ failed to apply the appropriate legal standard in determining she is not entitled to TTD benefits for certain periods of light duty prior to reaching maximum medical improvement ("MMI") or returning to her customary pre-injury job duties. We affirm in part, vacate in part, and remand for additional determination.

Bredhold filed a Form 101 on May 5, 2015 alleging she injured her left knee on June 30, 2014 while rescuing a child. She also asserted her left knee gave out on March 14, 2015 as she was climbing stairs causing her to fall and injure her right knee. Bredhold is a high school graduate who completed two years of college coursework. She also has an EMT certification and training in cosmetology. In the work history provided with the Form 101, Bredhold stated her employment included working as a grocery cashier, grocery office worker, school crossing guard, secretary, and recreation leader.

Metro Gov. filed a Form 111 accepting the left knee injury as compensable, but argued the right knee condition was not compensable because it occurred at the home of Bredhold's brother nine months after the work

injury. Metro Gov. also stated it was not provided due and timely notice of the alleged right knee injury. Metro Gov. also stated the claim was denied because Bredhold failed to establish she sustained an “injury” as defined by the Act. Metro Gov. additionally filed a Special Answer arguing Bredhold’s claim was barred for failure to follow reasonable medical advice pursuant to KRS 342.035(3). Metro Gov. paid TTD benefits from October 9, 2014 through November 1, 2014 and again from December 22, 2014 through January 24, 2015.

Bredhold testified by deposition on July 29, 2015 and at the hearing held September 25, 2015. Bredhold is a resident of Louisville, Kentucky. She previously had problems with both knees which resulted in arthroscopic surgery to the left knee in 2004, and the right knee in 2006. She testified she had no problems with her knees after 2006 until the June 30, 2014 accident.

Bredhold began working for Metro Gov. in 1997 as a recreation worker. She was eventually promoted to recreation leader. As a recreation leader, she plans, develops and implements programs for toddlers, children, youth, seniors and adults. She also maintains the safety of the building, the equipment, budgets, scheduling, and fills in for other workers when they are not present.

Bredhold continues to work as a recreation leader, and earns the same now as she did prior to her 2014 injury. She stated while on light duty, she did not supervise children, take money or greet people. Her duties included answering the telephone, as well as handling purchase orders and invoices.

On June 30, 2014, Bredhold was administering first aid to a child who was injured in the swimming pool. As she was kneeling, her left knee popped and became painful. She reported the incident and sought medical treatment. She was prescribed anti-inflammatory and pain medication, and assigned to light duty. She stated the light duty position did not include her normal job duties.

She eventually saw Dr. Akbar Nawab who had previously performed arthroscopic surgeries on her left knee in 2004 and her right knee in 2006. Dr. Nawab performed surgery on the left knee for a torn meniscus on October 9, 2014. She had physical therapy following surgery, and initially felt better, but the left knee became swollen and inflamed. She was released to unrestricted duty for four to six weeks following surgery, but did not do well, and restrictions were eventually imposed.

Bredhold wears a left knee brace prescribed by Dr. Nawab for stability. She stated her left knee collapsed on March 14, 2015 as she was descending stairs at home, despite wearing the brace. After the fall, she experienced pain in the right leg and knee. She went to the emergency room at Audubon Hospital the next morning, and was given a brace from thigh to ankle and another from ankle to toe. She eventually saw Dr. Nawab for her right knee complaints. She had Synvisc injections which she paid for out of her own pocket. She takes Naproxen due to ongoing arthritis.

In support of her claim, Bredhold filed records from Occupational Physician Services of Louisville, P.S.C. The note from July 16, 2014 states she had previous problems with her right knee. On June 30, 2014, she was assisting an injured swimmer when her left knee popped and she experienced immediate pain. She was provided a hinged brace, and an MRI was requested. She was limited to sit down duty only, and restricted from commercial driving. On July 30, 2014, Dr. Mario Maya noted Bredhold could work with restrictions.

Bredhold also filed the report of Dr. James Farrage who evaluated her on August 11, 2015. Dr. Farrage noted the history of her left knee popping on June 30, 2014

as she was kneeling on a pool deck. He noted she had left knee surgery on October 19, 2014. She initially did well with therapy after the surgery, until she developed knee pain and swelling. She was placed in an unloading knee brace, and has had multiple Synvisc and steroid injections. She continues to have left knee pain and intermittent swelling. She has trouble with long distance gait activities, but is able to negotiate stairs. Dr. Farrage stated she had reached MMI, and assessed a 1% impairment rating due to loss of range of motion pursuant to the 5th Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment ("AMA Guides"). Dr. Farrage also restricted her from occasionally lifting or carrying greater than thirty pounds, or more frequently lifting or carrying greater than fifteen pounds. He also imposed some positional restrictions. Dr. Farrage did not mention the right knee or the alleged falling episode of March 2015.

Metro Gov. filed treatment records from Dr. Daniel Arnold dated February 5, 2004 which indicates she had a left knee injury four weeks prior which resulting in swelling. The next records were from Ellis & Badenhausen regarding Bredhold's previous treatment for problems with her left knee beginning on April 16, 2004. At that time,

she was diagnosed with a partial tear of the medial meniscus in her left knee. She underwent surgical repair of that condition. The note of March 12, 2004 indicates she had general soreness and swelling of the left knee after surgery. She was sent to physical therapy. The next note is dated October 13, 2006 for evaluation of the right knee due to increasing pain. She underwent arthroscopic surgery of the right knee which consisted of a partial medial meniscectomy and removal of a loose or foreign body. The last note is dated November 13, 2006 which indicates she was post-op of the right knee.

MRIs were performed at Highfield Open and MRI on February 5, 2004 and October 23, 2006. The 2004 MRI of the left knee revealed fraying of the posterior horn of the medial meniscus with extensive pre-patellar and pre-tibial bursitis with a 9 cm popliteal cyst. The 2006 right knee MRI revealed a 4.5 cm Baker’s cyst and mild degenerative changes in the lateral compartment and patellofemoral joint with fraying midbody and posterior horn of the medial meniscus.

Metro Gov. filed the April 20, 2015 utilization review report of Dr. Peter Kirsch. Dr. Kirsch noted the left knee injury and the results of the MRI dated July 25, 2014. He further noted the October 9, 2014 surgery.

Regarding Bredhold's allegation she sustained a right knee injury when she fell down stairs on March 14, 2015, Dr. Kirsch stated, "As far as I can tell, by that late date (3/14/15), the active effects of the knee injury had ceased, the tissues were healed, and the patient had no significant objective residual at the time of her fall that would relate to the events of 6/30/14 (torn meniscus)." He stated there was no causal relationship of the right knee, calf and ankle to the June 30, 2014 work-related injury.

Dr. Andrew DeGruccio evaluated Bredhold on August 5, 2015 at Metro Gov.'s request. He related the events of June 30, 2014 when Bredhold's left knee popped as she was administering first aid to a camper. He noted she subsequently had an MRI, physical therapy, surgery, bracing, and multiple cortisone injections without getting better. He noted she had a history of previous surgery and previous long-standing problems in both knees. Dr. DeGruccio diagnosed bilateral knee osteoarthritis, moderate, with degenerative meniscal tears. He stated the large portion of this was clearly pre-existing. He suspected the left knee medial meniscus tear pre-existed the date of the accident. He stated the June 30, 2014 incident aggravated the underlying pre-existing arthritis which resulted in over-aggressive care, and her problem has

now resolved. He assessed a 1% impairment rating for the left knee injury and resulting surgery and none to the right knee. He stated Bredhold was at MMI, but the right knee condition was not related to the June 30, 2014 work injury. He stated the March 14, 2015 incident was neither induced nor prevented by the brace. Dr. DeGruccio recommended limitations on standing, walking, stair claiming, kneeling, and crawling, and restricted her from lifting over fifty pounds on a maximum basis. He also stated any additional treatment to either knee would be unrelated to the June 30, 2014 work injury.

In a supplemental x-ray report, Dr. DeGruccio stated Bredhold has moderate bilateral knee osteoarthritis.

A Benefit Review Conference ("BRC") was held on September 8, 2015. The BRC order and memorandum notes Bredhold allegedly sustained work-related injuries on June 30, 2014. The parties agreed Bredhold retains the physical capacity to return to the type of work performed at the time of the injury, and has returned to work. The issues preserved were benefits per KRS 342.730, unpaid or contested medical expenses, and failure to follow reasonable medical advice.

The ALJ rendered a decision on November 30, 2015 awarding PPD benefits based upon the 1% impairment rating

for the left knee assessed by both Drs. Farrage and DeGruccio. Regarding TTD benefits, the ALJ found as follows:

> Temporary total disability is defined in *KRS 342.0011(11)(a)* as the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement which would permit a return to employment. The Courts have noted that in order for temporary total disability benefits to be payable the plaintiff must not have reached maximum medical improvement and must not have reached a level of improvement that would permit a return to employment. *Magallan* [sic} *Health v. Helms, 140 SW2d 579* (Ky. App. 2004).
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> It would appear the plaintiff did not reach MMI until at least February, 2015 by some of the medical evidence or August 26, 2015 when she was released without restrictions by her treating physician. Even though not at MMI, the plaintiff did return to work for the employer earning the same wages. The essential issue then becomes whether the plaintiff is entitled to temporary total even during the periods when she had returned to work earning the same wages for the defendant-employer. There is no controversy for the periods of temporary total paid from October 9, 2014 through November 1, 2014 and December 22, 2014 and January 24, 2015.
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> Following the injury of June 30, 2014 the plaintiff came under medical care. As she indicated on page 28 of her discovery deposition the plaintiff was initially treated for a knee strain and given medication. She specifically testified "… because I was still doing

my normal jobs". (Deposition, p. 28) It would therefore appear that even though she was under active treatment and obviously not at MMI she continued doing her normal job. She was eventually taken off work for surgery and the employer paid temporary total from the date of the surgery until she returned to work on November 4, 2014. At that time she apparently was under restrictions but was earning her usual wage under accommodations made by the employer. Because of increasing pain she again was off work from October 22, 2014 through January 24, 2015 at which time she again returned to work earing the same wages.

During the periods after her surgery she was performing different work for the employer because her restrictions did not allow a full return. Hence, the issue is whether the plaintiff can receive temporary total during a period she was earning the same wages for the employer at a job with accommodations. The Administrative Law Judge has reviewed the court's directions in *Central Kentucky Steel v. Wise, 182 SW3d 657 (Ky. 2000)* and the more recent published decision of the Supreme Court, *Livingood v. Transfreight, _____ SW3d ____ (Ky. 2015).*

The Administrative Law Judge finds the plaintiff to be a very credible witness and accords her testimony full credibility. She obviously desired to return to work and the employer made reasonable accommodations to allow her to return to work. Thus, the Administrative Law Judge is faced with the problem of whether the plaintiff is to be penalized for her obvious desire to return to work or on the other hand whether the employer should be penalized for making very reasonable

accommodations to allow the plaintiff to return to work. In a close call, the Administrative Law Judge is not going to award temporary total during the periods she returned to work earning the same wages. The factors the Administrative Law Judge weighed are:

1. There was no coercion on the part of the employer for the plaintiff to return to work and the plaintiff desired to do so.

2. The work being performed on an accommodated basis was not punitive in nature.

3. The work was not degrading or menial in nature.

4. The work was reasonable within plaintiff's restrictions and not just "busy work".

5. The accommodated work by the plaintiff's own admission needed to be done.

6. She earned the same wages.

Quite simply, in this case the motive of the plaintiff was an admirable desire to return to work and the motive of the employer certainly was not nefarious and in fact was also admirable since very reasonable accommodations were made for the plaintiff doing meaningful work and paying the plaintiff her usual wages.

For the above reasons, the Administrative Law Judge will only award temporary total for the periods the plaintiff was off work during which temporary total was paid except the Administrative Law Judge will award an

> additional period of temporary total from March 14, 2015 through March 21, 2015 the week that she was off work because of a fall while off the job but which she attributed to her injury.

The ALJ additionally awarded unpaid mileage expense, out-of-pocket medical expenses, and unpaid medical bills. He also found the award of PPD benefits would not be enhanced pursuant to KRS 342.730(1)(c)1. The ALJ also determined Bredhold did not fail to follow reasonable medical advice.

Both Metro Gov. and Bredhold filed petitions for reconsideration. Bredhold requested the ALJ award TTD benefits for all periods of time she returned to light duty work. Metro Gov. argued the ALJ erred in awarding TTD benefits for the week of March 14, 2015 through March 21, 2015, because there was no determination the right knee condition was work-related. Metro Gov. also requested additional findings of which medical expenses are attributable to the alleged right knee injury. Metro Gov. also argued the ALJ's award of future medical benefits should be limited to the left knee injury only. The ALJ overruled both petitions for reconsideration.

As the claimant in a workers' compensation proceeding, Bredhold had the burden of proving each of the essential elements of her cause of action, including the

appropriate period of TTD benefits, and the entitlement of the multipliers contained in KRS 342.730(1)(c). *See* KRS 342.0011(1); Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Since she was successful in that burden, the question on appeal is whether there was substantial evidence of record to support the ALJ's decision. Wolf Creek Collieries v. Crum, 673 S.W.2d 735 (Ky. App. 1984). "Substantial evidence" is defined as evidence of relevant consequence having the fitness to induce conviction in the minds of reasonable persons. Smyzer v. B. F. Goodrich Chemical Co., 474 S.W.2d 367 (Ky. 1971).

As fact-finder, the ALJ has the sole authority to determine the weight, credibility and substance of the evidence. Square D Co. v. Tipton, 862 S.W.2d 308 (Ky. 1993). Similarly, the ALJ has the discretion to determine all reasonable inferences to be drawn from the evidence. Miller v. East Kentucky Beverage/Pepsico, Inc., 951 S.W.2d 329 (Ky. 1997); Jackson v. General Refractories Co., 581 S.W.2d 10 (Ky. 1979). The ALJ may reject any testimony and believe or disbelieve various parts of the evidence, regardless of whether it comes from the same witness or the same adversary party's total proof. Magic Coal Co. v. Fox, 19 S.W.3d 88 (Ky. 2000). Although a party may note evidence that would have supported a different outcome than

that reached by an ALJ, such proof is not an adequate basis to reverse on appeal. McCloud v. Beth-Elkhorn Corp., 514 S.W.2d 46 (Ky. 1974). The Board, as an appellate tribunal, may not usurp the ALJ's role as fact-finder by superimposing its own appraisals as to the weight and credibility to be afforded the evidence or by noting reasonable inferences that otherwise could have been drawn from the record. Whittaker v. Rowland, 998 S.W.2d 479, 481 (Ky. 1999). So long as the ALJ's ruling with regard to an issue is supported by substantial evidence, it may not be disturbed on appeal. Special Fund v. Francis, 708 S.W.2d 641, 643 (Ky. 1986).

TTD is statutorily defined in KRS 342.0011(11)(a) as "the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment[.]" In Central Kentucky Steel v. Wise, 19 S.W.3d 657, 659 (Ky. 2000), the Kentucky Supreme Court explained "It would not be reasonable to terminate the benefits of an employee when he is released to perform minimal work but not the type that is customary or that he was performing at the time of his injury." Thus, a release "to perform minimal work" does not constitute a "return to work" for purposes of KRS 342.0011(11)(a).

In Magellan Behavioral Health v. Helms, 140 S.W.3d 579 (Ky. App. 2004), the Court of Appeals instructed that until MMI is achieved, an employee is entitled to a continuation of TTD benefits so long as he remains disabled from his customary work or the work he was performing at the time of the injury. The Court in Magellan Behavioral Health v. Helms, supra, stated:

> In order to be entitled to temporary total disability benefits, the claimant must not have reached maximum medical improvement and not have improved enough to return to work.
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> . . .
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> The second prong of KRS 342.0011(11)(a) operates to deny eligibility to TTD to individuals who, though not at maximum medical improvement, have improved enough following an injury that they can return to work despite not yet being fully recovered. In Central Kentucky Steel v. Wise, [footnote omitted] the statutory phrase 'return to employment' was interpreted to mean a return to the type of work which is customary for the injured employee or that which the employee had been performing prior to being injured.
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> Id. at 580-581.

In Double L Const., Inc. v. Mitchell, 182 S.W.3d 509, 513-514 (Ky. 2005), regarding the standard for awarding TTD, the Supreme Court elaborated as follows:

> As defined by KRS 342.0011(11)(a), there are two requirements for TTD: 1.) that the worker must not have reached MMI; and 2.) that the worker must not have reached a level of improvement that would permit a return to employment. *See* Magellan Behavioral Health v. Helms, 140 S.W.3d 579, 581 (Ky. App. 2004). In the present case, the employer has made an 'all or nothing' argument that is based entirely on the second requirement. Yet, implicit in the Central Kentucky Steel v. Wise, supra, decision is that, unlike the definition of permanent total disability, the definition of TTD does not require a temporary inability to perform 'any type of work.' *See* KRS 342.0011(11)(c).
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> . . .
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> Central Kentucky Steel v. Wise, supra, stands for the principle that if a worker has not reached MMI, a release to perform minimal work rather than 'the type that is customary or that he was performing at the time of his injury' does not constitute 'a level of improvement that would permit a return to employment' for the purposes of KRS 342.0011(11)(a). 19 S.W.3d at 659.

In Livingood v. Transfreight, LLC, et. al., 467 S.W.3d 249 (Ky. 2015), the Kentucky Supreme Court addressed the ALJ's denial of Livingood's request for additional TTD benefits during the period he had returned to light duty work by stating, "Except for bathroom monitoring, Livingood had performed the other activities before the injury;

further they were not a make-work project." The Court specifically stated as follows:

> As the Court explained in *Advance Auto Parts v. Mathis*, No. 2004-SC-0146-WC, 2005 WL 119750, at (Ky. Jan. 20, 2005), and we reiterate today, **Wise does not "stand for the principle that workers who are unable to perform their customary work after an injury are always entitled to TTD.**" Livingood had the burden of proof on the issue. Where the ALJ finds against the party with the burden of proof, the standard of review on appeal is whether the evidence compelled a contrary finding. *FEI Installation, Inc. v. Williams*, 214 S.W.3d 313 (Ky. 2007). The Board and the Court of Appeals were not convinced that it did. Nor are we. "The function of further review in our Court is to address new or novel questions of statutory construction, or to reconsider precedent when such appears necessary, or to review a question of constitutional magnitude." *Western Baptist v. Kelly*, 827 S.W.2d 685, 688, 39 4 Ky. L. Summary 54 (Ky. 1992). (Emphasis added).

More recently, in Trane Commercial Systems v. Delena Tipton, 2014-SC-000561-WC, 2016 WL 671170 (Ky. February 18, 2016)(designated to be published), the Kentucky Supreme Court again addressed whether an employee was entitled to TTD benefits upon returning to light duty work prior to reaching MMI. The Court first noted:

> "'Temporary total disability' means the condition of an employee who has not reached maximum medical improvement

> from an injury and has not reached a level of improvement that would permit a return to employment." KRS 342.0011(11)(a). Or, to put it positively, an employee is entitled to receive TTD benefits until such time as she reaches maximum medical improvement (MMI) or has improved to the point that she can return to employment. There is no dispute that Tipton reached MMI on July 7, 2011. However, the parties dispute whether Tipton reached the point that she could "return to employment" when she returned to work for Trane assembling circuit boards. The ALJ and the Board concluded that her return to work and return to employment occurred at the same time. As noted above, the Court of Appeals disagreed. For the reasons set forth below, we disagree with the Court of Appeals.

The Court additionally stated the following:

> We take this opportunity to further delineate our holding in *Livingood,* and to clarify what standards the ALJs should apply to determine if an employee "has not reached a level of improvement that would permit a return to employment." KRS 342.0011(11)(a). Initially, we reiterate that "[t]he purpose for awarding income benefits such as TTD is to compensate workers for income that is lost due to an injury, thereby enabling them to provide the necessities of life for themselves and their dependents." *Double L Const., Inc.,* 182 S.W.3d at 514. Next, we note that, once an injured employee reaches MMI that employee is no longer entitled to TTD benefits. Therefore, the following only applies to those employees who have not reached MMI but who have reached a

> level of improvement sufficient to permit a return to employment.
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> As we have previously held, "[i]t would not be reasonable to terminate the benefits of an employee when he is released to perform minimal work but not the type [of work] that is customary or that he was performing at the time of his injury." *Central Kentucky Steel v. Wise,* 19 S.W.3d at 659. However, it is also not reasonable, and it does not further the purpose for paying income benefits, to pay TTD benefits to an injured employee who has returned to employment simply because the work differs from what she performed at the time of injury. Therefore, absent extraordinary circumstances, an award of TTD benefits is inappropriate if an injured employee has been released to return to customary employment, *i.e.* work within her physical restrictions and for which she has the experience, training, and education; *and* the employee has actually returned to employment. We do not attempt to foresee what extraordinary circumstances might justify an award of TTD benefits to an employee who has returned to employment under those circumstances; however, in making any such award, an ALJ must take into consideration the purpose for paying income benefits and set forth specific evidence-based reasons why an award of TTD benefits in addition to the employee's wages would forward that purpose.

That said, the ALJ set forth the appropriate analysis in determining Bredhold was not entitled to additional TTD benefits during the periods she had returned

to light duty work. In his decision, the ALJ merely stated, "The Administrative Law Judge will award an additional period of temporary total from March 14, 2015 through March 21, 2015 the week that she was off work because of a fall while off the job which she attributed to her injury." In the order denying Metro Gov.'s petition for reconsideration, the ALJ found as follows:

> For the period in question, namely March 14, 2015 through March 21, 2015, the award of TTD was appropriate since the plaintiff was not at MMI and had not returned to her customary job during that week [sic] did not make the same or equal wages. The Administrative Law Judge did not award TTD during the periods the plaintiff was working even though not at her customary job. However during the week in question she was no working and did not earn the same or equal wages.

Based upon this analysis, the ALJ did not err in awarding the additional week of TTD benefits, and that determination is therefore affirmed.

We note the Form 101 indicated June 30, 2014 as the date of injury. However, under the description of the injury, Bredhold stated, "Describe how the injury occurred: <u>While rescuing a child, twisted left knee. Knee later gave out on 03/14/2015 causing a fall and injury to the right knee.</u>" The ALJ, however, made no determination of whether

Bredhold sustained a right knee injury, despite awarding medical and mileage benefits some of which were purportedly for the right knee. Therefore, we vacate the ALJ's award of out-of-pocket medical expenses, as well as mileage and future medical benefits pursuant to KRS 342.020 insofar as the right knee is concerned. On remand, the ALJ must make a determination of whether Bredhold indeed sustained a work-related right knee injury and provide a basis for the determination.

We note, when the cause of a condition is not readily apparent to the lay person, medical testimony supporting causation is required. Mengel v. Hawaiian-Tropic Northwest & Central Distributors, Inc., supra. Medical causation must be proven by medical opinion within "reasonable medical probability." Lexington Cartage Company v. Williams, 407 S.W.2d 395 (Ky. 1966). The mere possibility of work-related causation is insufficient. Pierce v. Kentucky Galvanizing Co., Inc., 606 S.W.2d 165 (Ky. App. 1980).

If the ALJ determines from the evidence Bredhold's right knee condition is causally related to her work-related left knee injury, he must then determine whether she is entitled to medical benefits for that condition. It is well established an ALJ can award future

medical benefits for a work-related injury, although a claimant has reached MMI and no permanent impairment rating was assessed. The Kentucky Supreme Court has concluded, "Disability exists for the purposes of KRS 342.020(1) for so long as the work-related injury causes impairment, regardless of whether the impairment rises to a level that it warrants a permanent impairment rating, permanent disability rating, or permanent income benefits." FEI Installation, Inc. v. Williams, 214 S.W.3d 313, 318-319 (Ky. 2007).

Therefore, we remand the claim for the ALJ to determine whether Bredhold sustained a right knee injury caused by the work-related injury to her left knee, and provide the basis for such determination consistent with FEI Installation, Inc. v. Williams, supra. In reaching his determination, the ALJ must provide findings sufficient to inform the parties of the basis for the decision to allow for meaningful review. Kentland Elkhorn Coal Corp. v. Yates, 743 S.W.2d 47 (Ky. App. 1988); Shields v. Pittsburgh and Midway Coal Mining Co., 634 S.W.2d 440 (Ky. App. 1982); Big Sandy Community Action Program v. Chafins, 502 S.W.2d 526 (Ky. 1973).

This Board may not and does not direct any particular result because we are not permitted to engage in

fact-finding. *See* KRS 342.285(2); Paramount Foods, Inc. v. Burkhardt, 695 S.W.2d 418 (Ky. 1985). The ALJ may make any appropriate award of medical benefits and reimbursement. However, such determination must be supported by the appropriate evidence and analysis.

Accordingly, the November 30, 2015 Opinion, Award and Order and the January 12, 2016 Order on petitions for reconsideration rendered by Hon. R. Roland Case, Administrative Law Judge are hereby **AFFIRMED IN PART** and **VACATED IN PART.** This claim is **REMANDED** for additional findings of fact and an opinion in conformity with the views expressed herein.

ALL CONCUR.

COUNSEL FOR LOUISVILLE JEFFERSON CO. METRO GOV.:

HON TAYLOR A MAYER
HON ROBERT FERRERI
614 WEST MAIN ST, STE 5500
LOUISVILLE, KY 40202

COUNSEL FOR TAMARA BREDHOLD:

HON CHED JENNINGS
401 WEST MAIN ST, STE 1910
LOUISVILLE, KY 40202

ADMINISTRATIVE LAW JUDGE:

HON R ROLAND CASE
PREVENTION PARK
657 CHAMBERLIN AVENUE
FRANKFORT, KY 40601