

Commonwealth of Kentucky  
Workers' Compensation Board

OPINION ENTERED: July 13, 2020

CLAIM NO. 201900205 & 201785280

APPLE VALLEY SANITATION, INC.

PETITIONER

VS.

APPEAL FROM HON. RICHARD E. NEAL,  
ADMINISTRATIVE LAW JUDGE

JON STAMBAUGH AND  
HON. RICHARD E. NEAL,  
ADMINISTRATIVE LAW JUDGE

RESPONDENTS

OPINION  
AFFIRMING & REMANDING

\* \* \* \* \*

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

**ALVEY, Chairman.** Apple Valley Sanitation, Inc. ("Apple Valley") appeals from the September 18, 2019 Opinion, Order, and Award rendered by Hon. Richard E. Neal, Administrative Law Judge ("ALJ"). The ALJ awarded Jon Stambaugh ("Stambaugh") permanent partial disability ("PPD") benefits (enhanced by the three-multiplier contained in KRS 342.730(1)(c)1) and medical benefits for a work-related injury he sustained on April 17, 2017 when he twisted his right knee. The ALJ also

awarded PPD benefits and medical benefits for left knee and low back injuries Stambaugh sustained while working for Apple Valley caused by cumulative trauma, also enhanced by the three-multiplier. Apple Valley also appeals from the October 31, 2019 Order denying its Petition for Reconsideration.

On appeal, Apple Valley argues the ALJ erred in enhancing both awards of PPD benefits by the three-multiplier contained in KRS 342.730(1)(c). It argues the holding by the Kentucky Supreme Court in Plumley v. Kroger, 557 S.W.3d 905 (Ky. 2018) precludes combining disability ratings for multiple injuries. Apple Valley also argues, “Stambaugh could not have possibly had a disability on July 11, 2017 due to cumulative trauma since he had never even been diagnosed as having a cumulative trauma injury until November 28, 2018, when he was sent to Dr. Guberman by his legal counsel.” Because we determine the ALJ appropriately addressed each injury separately; did not combine disability ratings from the distinct injuries; and substantial evidence supports his decision, we affirm. We remand this claim to the ALJ for the sole purpose of entering an order deconsolidating the claims.

Stambaugh filed a Form 101 on February 22, 2019 alleging he injured his right knee on April 17, 2017, when he twisted it as he was stepping out of a garbage truck while working for Apple Valley. On the same date, he filed a Form 101 alleging he sustained injuries to multiple parts of his body caused by cumulative trauma he sustained while working for Apple Valley. The claims were subsequently consolidated. The Form 104 indicates Stambaugh had worked as a garbage truck

driver and loader for Apple Valley from April 1994 to July 11, 2017. He worked briefly as a drilling laborer in 2018.

Stambaugh testified by deposition on April 11, 2019, and at the hearing held on July 22, 2019. Stambaugh was born on October 16, 1974, and he resides in Lowmansville, Lawrence County, Kentucky. He last worked for Apple Valley on July 11, 2017, and has neither worked nor applied for work since that date. Stambaugh is a high school graduate, and has no specialized or vocational training. He began working for Apple Valley in 1994. He operated a garbage truck on a residential route in Johnson and Lawrence Counties. This required driving and loading residential garbage at two hundred and fifty to two hundred and eighty stops per day. He took the garbage to a transfer lot then worked on the lot during the remainder of the workday. He worked as a driver and loader on both injury dates.

On April 17, 2017, Stambaugh climbed down from his truck to load garbage. His right knee twisted when he slipped while stepping on loose pavement. He immediately experienced pain, and his knee continued to swell until he sought medical treatment the next day. He reported the injury to Charles Luck, his supervisor, and the owner's son, on April 17, 2017. After he got home, he iced his swollen knee. Stambaugh testified he had no previous right knee problems, but had treated with a chiropractor for low back pain for several years. He previously injured his low back and ribs in 2012 when he slipped and fell while working for Apple Valley. He missed no time from that incident.

Stambaugh initially treated with Tracy Hamilton Hedrick, APRN ("Nurse Hedrick"). She administered a steroid injection and prescribed a steroid

dose pack. Stambaugh then saw Dr. Donald Arms, an orthopedic surgeon, who drained fluid from his right knee. While on light duty, Stambaugh drove the truck and an assistant loaded the garbage. Dr. Arms permitted Stambaugh to attempt to return to regular duty at the end of May 2017. Stambaugh worked until July 11, 2017. He testified his multiple physical problems prevented him from continuing to work afterward. Stambaugh has neither worked nor applied for work since that date. He testified that Drs. Bruce Guberman and Ira Potter both advised him his conditions are work-related.

Stambaugh filed Dr. Guberman's Form 107-I report dated November 28, 2018, in support of his claim. Dr. Guberman noted Stambaugh's complaints of an acute injury to his right knee on April 17, 2017, and cumulative trauma injuries to his neck, back, both shoulders, and both knees on July 11, 2017. Dr. Guberman diagnosed Stambaugh with a chronic post-traumatic strain and aggravation of pre-existing dormant degenerative changes of the right knee on April 17, 2017. He also diagnosed Stambaugh with cumulative trauma injuries to the left knee, both shoulders, the cervical spine, and the thoracic spine. Dr. Guberman stated Stambaugh had reached maximum medical improvement ("MMI") by November 28, 2018. He opined all of the conditions he diagnosed were caused by Stambaugh's work for Apple Valley.

Dr. Guberman assessed a 27% impairment rating pursuant to the 5<sup>th</sup> Edition of the American Medical Association, Guides to the Evaluation of Permanent Impairment ("AMA Guides"). Of this rating, he assessed 4% for the right knee, 8% for the left knee, 2% to the right shoulder, 7% to the left shoulder, 5%

for the cervical spine, and 8% for the lumbar spine. He also stated Stambaugh does not have the capacity to return to the work performed on the date of his injuries. He recommended Stambaugh not sit for more than twenty to thirty minutes at a time, and no more than four to five hours in an eight hour work day. He also advised against repetitive arm or leg use, and no lifting of more than twenty-five to thirty pounds occasionally, or more than five to ten pounds frequently.

In a supplemental report dated July 15, 2019, Dr. Guberman noted he had reviewed the report of Dr. Daniel D. Primm, Jr., who evaluated Stambaugh at Apple Valley's request. He stated he disagreed with Dr. Primm's opinions, and reiterated his findings from his November 28, 2018 report.

Stambaugh also filed Dr. Jack Steel's February 28, 2018 office note. Dr. Steel diagnosed patellofemoral osteoarthritis of both knees, hamstring tightness of both lower extremities, and obesity. He recommended physical therapy to treat the hamstring tightness.

Stambaugh filed multiple records and reports from Dr. Potter. On February 19, 2019, Dr. Potter completed a disability insurance form. He noted he had diagnosed Stambaugh with low back pain, degenerative joint disease in both knees, bilateral shoulder pain, and osteoarthritis. He noted Stambaugh had severe impairment of his functional capacity, and was incapable of even minimal sedentary activity. He noted Stambaugh was unable to lift, stoop, carry, sit, or stand for long periods, and he is totally disabled. In his treatment notes from October 9, 2018 to November 19, 2018, Dr. Potter indicated he had treated Stambaugh for right knee, low back, and right shoulder pain. On April 11, 2019, Stambaugh filed Dr. Potter's

treatment plan. He noted he had treated Stambaugh from October 9, 2018 to February 2, 2019 for low back pain, degenerative joint disease, shoulder impingement, and obesity. Dr. Potter indicated the treatment he provided was designed to increase Stambaugh's quality of life and capacity of daily living. He stated Stambaugh is able to stand or walk for up to two hours per day, at no more than half an hour at a time. He indicated Stambaugh is able to sit for up to three hours during a workday, at no more than one hour at a time. He also stated Stambaugh should never climb, kneel, or crawl. In his May 23, 2019, report, Dr. Potter noted Stambaugh continued to complain of pain with his osteoarthritis and degenerative joint disease.

Dr. John Gilbert evaluated Stambaugh on November 28, 2017, at the request of his attorney. Dr. Gilbert diagnosed him with multilevel foraminal stenosis at L4-L5, degenerative joint disease, spondylosis at L3-S1, chronic spinal pain and bilateral radiculopathy, and numbness. He indicated he would proceed with an L3-L5 facet block. Knee x-rays from the Highlands Regional Medical Center indicated Stambaugh had bilateral knee osteoarthritis.

Dr. Arms' record from April 18, 2017 indicates he treated Stambaugh for his April 17, 2017 right knee injury. He also noted Stambaugh had a chronic worsening of his low back pain. On April 25, 2017, Dr. Arms suspected Stambaugh had sustained a medial meniscus tear. On May 8, 2017, he indicated Stambaugh had moderate right knee chondromalacia with arthrosis. On May 22, 2017, he indicated Stambaugh could continue to work on his route with assistance. On May 30, 2017, he indicated Stambaugh could work on his regular route with no assistance. On

October 19, 2017, he noted Stambaugh's complaints of right shoulder pain for six to twelve months, left shoulder pain for six months, and low back pain into the buttocks and thighs. He saw Stambaugh again on November 28, 2018 and February 2, 2019.

Stambaugh also filed records from Nurse Hamilton. The February 15, 2019 note indicates she had treated Stambaugh since the spring of 2017 for osteoarthritis, low back pain, and knee pain. She stated Stambaugh was taking Mobic and Ultram to decrease his pain to allow him to tolerate activities of daily living. She recommended restrictions similar to those suggested by Drs. Potter and Gilbert. She also completed a disability report on October 16, 2018. Her statements in that report were similar to that prepared by Dr. Potter. She also indicated Stambaugh is totally disabled. On May 21, 2019, she indicated he has lumbar disc degeneration and joint pain.

Stambaugh filed a functional capacity evaluation report from the Ashland Clinic dated August 30, 2018. The report indicates he can perform sedentary work only during an eight-hour workday.

Dr. Primm evaluated Stambaugh on May 21, 2019 at Apple Valley's request. He diagnosed a right knee sprain/strain occurring on April 17, 2017, primary osteoarthritis of both knees (right greater than left), rotator cuff tendonitis and impingement syndrome of both shoulders, age-related mechanical low back and neck pain with no radiculopathy. He stated the right knee problem had resolved with no permanent injury. He opined Stambaugh had reached MMI from that injury within eight weeks. He stated Stambaugh has no impairment of the knee due to the work injury. He disagreed with Dr. Guberman's assessments. Dr. Primm stated

Stambaugh has a 5% impairment rating for his right shoulder condition, and a 6% impairment rating for his left shoulder condition, both based upon the AMA Guides, but neither is related to his work. He stated Stambaugh has no impairment rating for his left knee. He found no cumulative trauma injury to the neck, thoracic spine, low back, right shoulder, left shoulder, or left knee.

Dr. Russell Travis performed a records review and issued a report at Apple Valley's request dated June 11, 2019. He stated Stambaugh has no impairment rating to either his cervical or thoracic spine. He stated Stambaugh has a 5% impairment rating in accordance with the AMA Guides for his lumbar spine due to his congenital pars defect, and spondylolisthesis, unrelated to cumulative trauma. He agreed with Dr. Primm's assessment. He stated Stambaugh did not sustain cumulative trauma injuries.

In the Benefit Review Conference Order and Memorandum prepared July 9, 2019, the parties noted whether Stambaugh sustained work-related injuries, and his capacity to return to the type of work performed at the time of injury remained in dispute. Other issues preserved included work-relatedness/causation, permanent income benefits per KRS 342.730, TTD, exclusion for pre-existing impairment, credit for unemployment, unpaid/contested medical expenses, MMI, proper use of the AMA Guides, and the applicability of HB2.

The ALJ rendered a decision on September 18, 2019, finding Stambaugh sustained an acute right knee injury on April 17, 2017 while stepping from the garbage truck he was driving. Relying upon the opinions of Dr. Travis, the ALJ determined Stambaugh did not sustain a work-related cervical injury. Relying

upon Dr. Guberman, the ALJ determined Stambaugh sustained a work-related lumbar spine injury caused by cumulative trauma. Relying upon the opinions of Drs. Primm and Travis, the ALJ determined Stambaugh did not sustain work-related shoulder injuries. Relying upon the opinions of Drs. Guberman and Potter, the ALJ determined Stambaugh sustained a cumulative trauma injury to his left knee. The ALJ determined Stambaugh was not entitled to an award of temporary total disability benefits. The ALJ additionally determined Stambaugh is entitled to medical benefits for his work-related right and left knee, and low back injuries. He awarded PPD benefits based upon a 4% impairment rating for the April 17, 2017 right knee injury. He then awarded PPD benefits based upon an 8% impairment for the left knee injury, and 8% impairment for the lumbar condition, combined to 14% for the July 11, 2017 cumulative trauma injuries. The ALJ enhanced both PPD benefit awards by the three multiplier contained in KRS 342.730(1)(c)1. Regarding the application of the three multiplier, the ALJ found as follows:

The Plaintiff's job was very physical in nature and required him to lift bags weighing up to 100-pounds, as well as get in and out of the garbage truck 250 to 280 times per day. His abilities shown at the time of his functional capacity evaluation would easily prevent him from being able to perform this job, Dr. Guberman has stated that the Plaintiff lacks the physical capacity to perform the job, and the Plaintiff did not believe that he could return to the job he performed at the time of injury. The ALJ finds these opinions most credible given the totality of the evidence. The ALJ specifically finds that the Plaintiff lacks the physical capacity to return to his job due to both the April 17, 2017, acute injury to the right knee, and the July 11, 2017, cumulative trauma injury, individually and independently. Further, it is undisputed that he currently is earning less than he earned at the time of his injury. As such, he is entitled

to have his benefits enhanced by the three multiplier for both injuries.

Stambaugh filed a Petition for Reconsideration, arguing the combined impairment for the left knee and low back should have been 15% instead of 14%. Apple Valley filed a Petition for Reconsideration, arguing the ALJ erred by enhancing both awards the three multiplier pursuant to Plumley v. Kroger, Inc., supra. It also requested the ALJ to find a specific manifestation date. It also requested calculations of Stambaugh's average weekly wage for each injury date. Finally, it argued the ALJ was required to address "excess disability".

On October 31, 2019, the ALJ sustained Stambaugh's Petition for Reconsideration, and amended the award of PPD benefits based upon 15% impairment, rather than 14%, for the July 11, 2017 injury. The ALJ denied Apple Valley's Petition for Reconsideration, finding *verbatim* as follows:

The ALJ has reviewed the Defendant's arguments and continues to find that the Plaintiff lacks the physical capacity to return to the job that he performed at the time of both the April 17, 2017, acute injury to the right knee, and the July 11, 2017, cumulative trauma injury, individually and independently. The ALJ would note that multiple physicians have credibly opined that the Plaintiff cannot currently perform the job that he performed at the time of his injury due to his work injuries. In fact, some of the physicians believed that the Plaintiff was totally disabled due to his work injuries. The physicians did not, however, address each injury individually when reaching this conclusion, and instead generally opined that the Plaintiff lacked the capacity based on the work injuries. Nevertheless, the ALJ finds that there is convincing and persuasive evidence in the record that supports a finding that the Plaintiff lacks the physical capacity to return to the job he performed at the time of his April 17, 2017, acute injury to the right knee,

and the July 11, 2017, injury cumulative trauma injury respectively.

Concerning the Plaintiff's April 17, 2017, acute right knee injury, the Plaintiff testified that he continues to have constant right knee pain, especially when sitting for long periods. Dr. Guberman noted during his evaluation of the Plaintiff in November 2018 that the Plaintiff continued to have constant right knee pain and that his right knee swelled an average of four to five times per week. Dr. Guberman did not believe that the Plaintiff could use his leg in a repetitive fashion, and that the Plaintiff further had functional limitations in his knee. Dr. Potter, the Plaintiff's treating physician, documented the Plaintiff's knee pain as 7/10 as late as May 2019. Dr. Gilbert and Dr. Potter thought that the Plaintiff would eventually require a knee replacement, showing the significance of his condition. The Plaintiff's FCE evaluation concluded that the Plaintiff should never climb stairs or ladders - a mechanism that is similar to getting in and out of a truck. Further, it was further documented that during the FCE that the Plaintiff had knee pain when sitting, standing, walking, climbing, and repetitive trunk rotations while standing. Again, the Plaintiff's job required him to get in and out of his garbage truck 250 to 300 times a day, as well as stand, walk, and perform repetitive trunk rotations while standing. Given the totality of the above circumstances, the ALJ continues to find that the Plaintiff lacks the physical capacity to perform the job that he performed at the time of his April 17, 2017, injury due to his acute right knee injury alone.

Considering the Plaintiff's cumulative trauma cervical spine and low back conditions, the Plaintiff testified that he continues to have constant low back, as well as neck pain to a lesser extent. He stated that he is currently unable to throw garbage bags into the back of a garbage truck. The Plaintiff's lumbar and cervical x-rays showed degenerative disc disease, and his examination with Dr. Guberman showed range of motion abnormalities. He stated that the Plaintiff had functional limitations in the cervical and lumbar spine. Dr. Guberman credibly opined that the Plaintiff is not able to lift, carry, push, or pull objectives over 25-30 pounds, or 5-10 pounds frequently. The Plaintiff's FCE evaluation showed that

the Plaintiff could only lift 20 pounds from floor to waist occasionally, 10 pounds from waist to eye level occasionally, and twohanded carry 20 pounds. Further the Plaintiff had low back pain when lifting 20 pounds from floor to waist, low back pain when lifting 10 pounds from waist to eye level, low back pain when carrying 20 pounds, low back pain when while sitting and standing, and low back pain with repetitive trunk motion. Again, the Plaintiff's job required him to get in and out of his garbage truck 250 to 300 times a day, as well as stand, walk, perform repetitive trunk rotations while standing, and lift garbage bags weighing up to 100 pounds. Given the totality of the above circumstances, the ALJ continues to find that the Plaintiff lacks the physical capacity to perform the job that he performed at the time of his July 11, 2017, cumulative trauma injury due to low back and neck injury alone. The ALJ notes that the Defendant, in its Petition, indicates that the Plaintiff was working light duty after the acute work injury. However, while the Plaintiff did return to light duty initially, he eventually returned to full duty. It is the Plaintiff's full-duty job duties that the ALJ has considered when determining whether the Plaintiff is entitled to the three multiplier for the cumulative trauma injury.

The Defendant has asked for a finding of fact as to whether the Plaintiff had an acute injury followed by a successive cumulative trauma injury, and when the cumulative trauma injury manifested. The ALJ finds that the Plaintiff had an April 17, 2017, acute injury to the right knee, and the cumulative trauma injury to his neck and low back manifested on July 11, 2017.

The Defendant has asked for finding of fact with regards to wages upon return to work after the acute injury. The wage certification supports a finding of an average weekly wage of \$603.46 for the cumulative trauma claim (high quarter AWW was \$603.08 for both injuries). Frankly, it was the ALJ's understanding that this was the stipulated AWW for both injuries. The Plaintiff only worked from April 17, 2017, through July 11, 2017, after the acute work injury. He continued to work after the acute injury on light duty initially, but then returned to full-duty in late May or early June. His last day of work was July 11, 2017. The wage certification does not

encompass this time period, however, the payroll earnings records attached to the certification show that the Plaintiff earned only \$600.00 per week on each of the 14 weekly checks. As such, he never returned to work earning the same or greater after acute injury and has not returned to work after the manifestation of the cumulative trauma injury.

We initially note that, as the claimant in a workers' compensation proceeding, Stambaugh had the burden of proving each of the essential elements of his claims. Snawder v. Stice, 576 S.W.2d 276 (Ky. App. 1979). Since Stambaugh was successful in his burden, we must determine whether substantial evidence of record supports 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).

In rendering a decision, KRS 342.285 grants an ALJ as fact-finder the sole discretion to determine the quality, character, and substance of evidence. Square D Co. v. Tipton, 862 S.W.2d 308 (Ky. 1993). An ALJ may draw reasonable inferences from the evidence, 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. Jackson v. General Refractories Co., 581 S.W.2d 10 (Ky. 1979); Caudill v. Maloney's Discount Stores, 560 S.W.2d 15 (Ky. 1977). Although a party may note evidence supporting a different outcome than 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). Rather, it must be shown there was no

evidence of substantial probative value to support the decision. Special Fund v. Francis, 708 S.W.2d 641 (Ky. 1986).

The function of the Board in reviewing an ALJ's decision is limited to a determination of whether the findings made are so unreasonable under the evidence they must be reversed as a matter of law. Ira A. Watson Department Store v. Hamilton, 34 S.W.3d 48 (Ky. 2000). The Board, as an appellate tribunal, may not usurp the ALJ's role as fact-finder by superimposing its own appraisals as to weight and credibility or by noting other conclusions or reasonable inferences that otherwise could have been drawn from the evidence. Whittaker v. Rowland, 998 S.W.2d 479 (Ky. 1999).

The ALJ's decision encompasses separate injuries involving different injury dates, filed on separate Form 101s. The ALJ appropriately made separate PPD awards for the two injury dates, as required by Plumley v. Kroger, Inc., *supra*, cited by Apple Valley. The ALJ concluded, based upon the evidence, and in his discretion, that each injury independently precludes Stambaugh from performing the work he performed at the time of each injury. The ALJ performed the appropriate analysis. Apple Valley argues the holding in Plumley v. Kroger, Inc. *supra*, precludes the assessment of the three multiplier for both injuries. We find Apple Valley's reliance on Plumley is misplaced.

The ALJ made separate awards of PPD benefits for the separate injuries. While the Kentucky Supreme Court indicated in Plumley that it is permissible to find differing multipliers in separate injuries, it does not require such a finding. The ALJ appropriately reviewed the evidence and determined each injury

precludes Stambaugh from returning to the work he performed at the time of his injuries. After the April 17, 2017 injury, Stambaugh was briefly placed on modified duty. Dr. Arms permitted him to attempt a return to regular work, based upon Stambaugh's testimony, but he could no longer continue after July 11, 2017 based both upon the residuals from his April 2017 injury, and his July 2017 cumulative trauma injury. We find no error in the ALJ's analysis or determination, and therefore affirm.

We additionally note Apple Valley's assertion at the end of its brief regarding the manifestation of Stambaugh's cumulative trauma injuries. It accurately notes there is no evidence Stambaugh was advised his cumulative trauma injuries were work-related until he saw Dr. Guberman on November 28, 2018. He last worked on July 11, 2017. We find no merit to Apple Valley's argument on this issue.

Manifestation is a separate issue from when the injury occurred. Significantly, a manifestation date is only necessary for providing notice and determining whether a claim is timely filed. KRS 342.185(1) requires providing notice of an injury "as soon as practicable". Any claim for benefits to a resulting injury must be filed within two years "after the date of accident" or following the suspension of payment of income benefits, whichever is later. The Kentucky Court of Appeals, in Randall Co. v. Pendland, 770 S.W.2d 687 (Ky. App. 1989), adopted a rule of discovery regarding injuries caused by cumulative trauma, holding the date of injury is when the disabling reality of the injuries becomes manifest. Therefore, in injury claims caused by cumulative trauma, the date for giving notice and for

clocking the statute of limitations is triggered by the date of manifestation. Special Fund v. Clark, 998 S.W.2d 487 (Ky. 1999).

An injury caused by cumulative trauma manifests when, "a worker discovers that a physically disabling injury has been sustained [and] knows it is caused by work." Alcan Foil Products v. Huff, 2 S.W.3d 96, 101 (Ky. 1999). Consequently, "for cumulative trauma injuries, the obligation to provide notice arises and the statute of limitations does not begin to run until a claimant is advised by a physician that he has a work-related condition." Consol of Kentucky, Inc. v. Goodgame, 479 S.W.3d 78, 82 (Ky. 2015). A worker is not required to self-diagnose the cause of a harmful change as being a work-related cumulative trauma injury. *See* American Printing House for the Blind v. Brown, 142 S.W.3d 145 (Ky. 2004). Rather, a physician must diagnose the condition and advise it is work-related. As noted by Apple Valley, Stambaugh was not notified by any physician that his injuries caused by cumulative trauma are work-related until he saw Dr. Guberman. The injury occurred on July 11, 2017, his last day of employment. Stambaugh's duty to provide notice did not arise until November 28, 2018, the manifestation date. This does not negate the July 11, 2017 injury as argued by Apple Valley. We find the ALJ did not err, and affirm.

Accordingly, the Opinion, Order & Award rendered September 18, 2019 and the October 31, 2019 Order denying Apple Valley's Petition for Reconsideration, issued by Hon. Richard E. Neal, Administrative Law Judge, are **AFFIRMED**. This claim is **REMANDED** to the ALJ for entry of an order deconsolidating the claims.

ALL CONCUR.

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