Bulletin

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Independent Review Office

RECENT CASES

These case reviews are not intended to substitute for the headnotes or ratios of the cases. You are strongly encouraged to read the full decisions. Some decisions are linked to AustLii, where available.

Decisions reported in this issue

1. Kiama Municipal Council v Manning [2022] NSWPICPD 35
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PIC - Presidential Decisions

Disease injury under ss 4(b)(i) and (ii) WCA – skin cancer – competing medical opinions regarding cause – "main contributing factor" – adequacy of reasons

Kiama Municipal Council v Manning [2022] NSWPICPD 35 – Acting Deputy President Parker SC – 31/08/22

The worker claimed continuing weekly payments from 15/05/2019 with respect to aggressive cutaneous squamous cell carcinoma (SCC) (deemed date of injury: 11/09/2018). He had been employed by the appellant for 33 years when he was diagnosed with SCC. He alleged that his duties included driving various machinery for the purpose of mowing lawns and maintaining the appellant's parks and gardens.

On 25/10/2021, ***Member Young*** issued a COD, which found in the worker's favour and awarded him weekly payments under s 36 *WCA* from 5/07/2019 to 4/10/2019 and thereafter under s 37 *WCA*.

The Member found that the worker was exposed to UV radiation while working outdoors in the course of employment between 1986 and 15/05/2019, which resulted in acceleration or exacerbation of skin damage being an injury within the meaning of s 4(b)(ii) *WCA*. He also found that employment was the main contributing factor and that the worker had no capacity for work during the period claimed. There was no dispute regarding PIAWE.

The appellant appealed and alleged that the Member erred: (1) in his finding that the worker suffered injury within the meaning of s 4(b)(ii) *WCA*; (2) in his treatment of the medical evidence and his conclusion that employment was the main contributing factor within the meaning of s 4(b) WCA; and (3) in failing to provide adequate reasons.

Acting Deputy President Parker SC determined the appeal on the papers. He confirmed the COD and his reasons are summarised below:

- He rejected ground (1). He noted that the worker sought to rely on a Notice of Contention under r 125 of the PIC Rules 2021, namely: that the Member's decision should be affirmed on the basis that he suffered a disease injury under s 4(b)(i) *WCA* that was contracted in the course of employment.
- However, the appellant argued that the medical evidence strongly pointed to injury falling within the ambit of s 4(b)(i) and his categorisation of the injury as a disease under s 4(b)(ii) is flawed and unexplained and demonstrates clear error of fact and law.
- He observed that if the appellant's argument was accepted, its contention would make no difference to the outcome of the dispute. He found that the Member seems to have based his conclusion on the evidence of Dr Lobel and based on Dr Schumack's opinion, the conclusion was open to him. In any event, the real matter in dispute is that of "main contributing factor".

- He dismissed ground (2) and stated, relevantly (citations excluded):

  114. In *AV v AW* Snell DP provided a detailed analysis of the test for main contributing factor. The Deputy President said that the test involved the broad evaluative consideration of potential competing causative factors which should be decided on the evidence overall and was not purely a medical question. The Deputy President quoted other decisions, in particular:

  > In *El Achi* Roche DP, considering the application of the test in s 4(b)(ii) in its current form, said:
  >
  > > That a doctor does not address the ultimate legal question to be decided is not fatal ... In the Commission, an Arbitrator must determine, having regard to the <u>whole of the evidence</u>, the issue of injury, and whether employment is the main contributing factor to the injury. That involves an evaluative process.' (emphasis added by Snell DP)

  115. Deputy President Snell said:

  > It follows that the test of 'main contributing factor' involves consideration of whether there were competing causal factors (both work and non-work related) of the aggravation, and whether on a consideration of relevant causal factors the employment represented the main contributing factor.

  116. The following may be taken from the above:

  > (a) The test of 'main contributing factor' in s 4(b)(ii) is more stringent than that in s 4(b)(ii) in its previous form, which applied in conjunction with the test in s 9A. There will be one 'main contributing factor' to an alleged aggravation injury.
  >
  > (b) The test of 'main contributing factor' is one of causation. It involves consideration of the evidence overall; it is not purely a medical question. It involves an evaluative process, considering the causal factors to the aggravation, both work and non-work related. Medical evidence to address the ultimate question of whether the test of 'main contributing factor' is satisfied is both relevant and desirable. Its absence is not necessarily fatal, as satisfaction of the test is to be considered on the whole of the evidence.
  >
  > (c) In a matter involving s 4(b)(ii) it is necessary that the employment be the main contributing factor to the aggravation, not to the underlying disease process as a whole.

- A/Prof Schumack did not provide a detailed explanation for his opinion relating to the percentage contributions to the worker's specific exposure and a general conclusion that childhood and teenage exposure may be 40–50% says nothing at all about the worker's particular exposure.
- Furthermore, the Member was correct when he suggested that there was no scientific analysis for the conclusion that only the first six years of the worker's exposure in the course of employment was relevant.
- He rejected the appellant's submissions that the Member attached weight to the opinions of Drs Wykes and Lobel and insufficient weight to the opinion of A/Prof Schumack. The Member was entitled to rely upon the evidence of Drs Lobel and Wykes and his rejection of A/Prof Schumack's evidence is not an error.
- The Member's finding that the respondent's employment was the main contributing factor to the injury was based on the evidence available to him. It does not amount to error.
- He rejected ground (3) and stated, relevantly:

  141. The substance of the Member's reasoning focussed on the medical issue in dispute between the parties. His analysis is to be found at paragraphs [25] to [34] of the reasons. I have set out above at [19] and [20] the critical passages from the reasons.

142. It is true that Meagher JA in *Beale* set out the obligation to provide reasons for a decision; the purpose of providing reasons for decision and the content of an adequate statement of reasons, including the passage relied upon by the appellant at [59] of its submissions. It is unnecessary to set out the passages from the judgment in Beale in any detail.

143. It is important, however, to note what Meagher JA said in two further passages, namely:

> Whilst it is desirable to address these elements in giving reasons for decision, it is the purpose which the reasons serve which assumes primary importance in determining the content of the reasons. That purpose must be weighed against other considerations. It has been noted by this court that the content required of a statement of reasons is to be measured against the burden that the provision of reasons imposes on the judicial system: *Sincik v Tess* (Court of Appeal, unreported, 15 March 1995). The reason for this is that the giving of overly elaborate reasons can serve to undermine public confidence in the judiciary and in the judicial system in the same way that insufficient reasons can. On the one hand, the provision of inadequate reasons can lead to a sense of injustice and a reduced appreciation or understanding of legal rights and obligations. On the other hand, an overly onerous duty to provide reasons increases costs and delay in the judicial system which has the effect of undermining public confidence in the judicial system ... In the end, the balancing act which needs to be undertaken in considering the sufficiency of a statement of reasons involves the adoption of, at the least, a minimum standard which places the parties in a position to understand why the decision was made sufficiently to allow them to exercise any right of appeal.

144. The second passage of importance appears on the same page and is as follows:

> It does not automatically follow that because the reasons for decision are inadequate then an appealable error has occurred. Examination of nearly any statement of reasons with a fine-tooth comb would throw up some inadequacies. Indeed, an appeal court will reserve any intervention to these situations in which it is left with no choice: where no reasons have been given in circumstances where there was an obligation to provide them and in circumstances where a statement of reasons is so inadequate as to constitute a miscarriage of justice. In other words, the statement of reasons must be looked at as a whole and the material inadequacies identified and considered.

- The Member's statement of reasons adequately fulfils the primary function of reasons as identified by Meagher JA, namely, sufficient to enable the parties to understand why the decision has been made and to allow the parties to exercise any right of appeal. Further, as the only substantial issue between the was that of the main contributing factor, it is difficult to see how more extensive reasons were required.
- There is a difference between reasons which are subject to challenge as being wrong and the failure to give reasons at all or to give inadequate reasons. The Member's reasons were relied on by the appellant to show error, but the reasons were sufficient to satisfy the requirements for reasons on the part of the PIC, namely that the reasons should demonstrate the Member's reasoning sufficient for the parties and the appeal court to understand the basis of the decision.

Psychological injury - error in applying s 789FD of the Fair Work Act 2009 (Cth) in the application of s 11A(1) WCA

Williams v Cubbyhouse Childcare NSW Pty Ltd [2022] NSWPICPD 36 – Deputy President Snell – 7/09/2022

The appellant was employed by the respondent as a childcare worker from 2010. She sustained primary psychological injury (deemed date: 22/01/2021 - she last worked on 21/01/2021).

On 19/02/2021, the respondent accepted provisional liability, but it disputed the claim on 19/05/2021. While it accepted that the appellant suffered a work-related psychiatric condition, it decided that this was wholly or predominantly caused by action taken or proposed to be taken by it with respect to

performance appraisal and/or discipline and that the appellant was not entitled to compensation. It rejected subsequent applications for review of that decision.

Member Moore conducted a conciliation and arbitration and on 11/11/2021, she issued a COD. She found that she was satisfied that the injury was wholly or predominantly caused by reasonable actions of the employer with respect to discipline within s 11A(1) *WCA* and she entered an award for the respondent.

The appellant appealed and alleged that the Member erred as follows: (1) in fact and law in failing to find that her injury was caused by the bullying and harassment occasioned to her by the general manager of the respondent, Ms Abby Revill; (2) in fact and law in finding that her injury was wholly or predominantly caused by reasonable actions of the respondent with respect to discipline within the meaning of s 11A WCA; and (3) in fact in the acceptance of, and weight placed on, the statement of Ms Abby Revill dated 29/03/2021.

Deputy President Snell determined the appeal and allowed it. He revoked the COD and remitted the matter to a different Member for re-determination. His reasons are summarised below:

- Although the issue of 'injury' was conceded by the respondent, it was necessary to identify the actions of the respondent that caused the psychological injury before the s 11A(1) defence could be considered. The appellant submits the Member failed to consider the issue of whether the injury resulted wholly or predominantly from relevant action or proposed action by the respondent.
- The respondent relied on the opinion of Dr Smith, that there was a work-related condition of adjustment disorder and that its predominant cause "was her perception that she was subject to unreasonable allegations of poor performance in the context of an unreasonable workload without adequate support." Dr Smith said this diagnosis "was predominantly caused by the actions taken or proposed to be taken by her employer with respect to performance review".
- Dr Hong, psychiatrist, was qualified in the appellant's case and reported on 4 June 2021. He said:

  > Ms Williams developed an adjustment disorder. Her symptoms started in late 2020 and steadily escalated in correlation with a number of workplace changes, particularly since January 2021.
  >
  > Much of the described workplace dispute relates to performance and discipline matters and I agree this is the whole and predominant cause of the injury. Whether such administrative action is reasonable or not, is a matter for the appropriate expert to determine.

- The Member relied on the evidence of Dr Hong and Dr Smith, saying:

  > 108. I also note that Dr Hong concluded that most of the issues described by the [appellant] 'relate to performance and discipline matters and I agree this is the whole and predominant cause of the injury. Whether such administrative action is reasonable or not, is a matter for the appropriate expert to determine.
  >
  > 109. Dr Smith was of a similar view, such that there was medical evidence to satisfy the requirements referred to in *Hamad*.

- The appellant submitted that the opinion of Dr Hong was not necessarily determinative (see [38] above). The Member did not treat it as necessarily determinative, she simply agreed with and accepted Dr Hong's opinion on this topic. This was open to her on the evidence.
- The Member referred to the fact that the appellant "had significant responsibilities given the nature of the respondent's business, and that failures in the proper management of the various child-care centres would be extremely serious". She referred to "issues at Prestons" described in an email dated 22 October 2020. She said:

  > It is with this in mind that I am persuaded that the respondent's actions in 'drawing the [appellant's] unsatisfactory work performance to her attention, in asking her to improve that performance, of suggesting ways that could achieve that end, of offering assistance

and or training was 'discipline' using the wider sense of that word' as Neilson J said in *Kushwaha*.

- In *Kushwaha* Neilson CCJ discussed the meaning of 'discipline' in s 11A(1) of the 1987 Act. His Honour referred to some decisions of the Compensation Court of New South Wales together with dictionary definitions and said:

> It can be seen, therefore, that the primary meaning of 'discipline' is learning or instruction imparted to the learner and the maintenance of that learning by training, by exercise or repetition. The narrow meaning of punishment, chastisement is secondary to the primary meaning although this word is often used in this sense in popular speech. It is this narrow meaning which weighed on my mind in Bottles' case. However, the word used in an Act of Parliament must be given its full meaning, unless the context otherwise requires. Such a context does not appear to me to be called for in the interpretation of s 11A(1).

- The correctness of his Honour's interpretation of the meaning of 'discipline' in s 11A(1) is not challenged on this appeal.
- The Member dealt with the issue of whether the psychological injury was caused wholly or predominantly from actions or proposed actions of the respondent with respect to discipline and he rejected the argument that the Member failed to deal with this issue.
- A number of the submissions supporting Ground No. 1 deal with whether the relevant actions that caused the conceded injury were appropriately characterised as 'reasonable' actions or should rather have been characterised as 'bullying and harassment'. There is overlap between those submissions and the submissions dealing with Ground No. 2 and it is convenient to deal with them together below.
- In relation to ground (2), in *Jeffery* Basten JA, dealing with s 11A(1) *WCA* in the context of 'transfer', said:

> There is a clear distinction to be drawn between a statutory test which requires an objective assessment by the Commission of the reasonableness of the action of the employer and a test by which it is sufficient for the employer to demonstrate to the Commission that, in all the circumstances, the action appeared to it to be reasonable. In my view, the present statutory provision engages the former test ... If it were sufficient that the employer took action because it appeared to the employer, on grounds upon which it was reasonable to rely, to be reasonable action, the legislature could have said so. However, it did not. In my view, if, in the view of the Commission, the action taken by the employer in transferring an employee is not reasonable in all the circumstances, the employer cannot rely upon s 11A because it held a genuine belief, based on reasonable grounds, that its action was reasonable.
>
> The reasonableness of the action should properly be assessed by reference to the facts giving rise to the transfer, rather than the contractual relationship between the employer and a third party. The contractual relationship is not, of course, irrelevant: it may mean that the conduct of the third party becomes a relevant factor in assessing the reasonableness of the transfer.

- Dr Hong's opinion did not suggest any relevant causal factors beyond those that were the subject of the appellant's allegation of work-related psychological injury. Therefore, the remaining issue in determining the success of the respondent's defence pursuant to s 11A(1) was whether its relevant actions, on objective assessment, were 'reasonable'. This determination is different to the test described in *Chemler* (at [62] of the decision), which applies to the proof of psychological injury by a worker.
- This issue of 'reasonableness' was complicated by the references in the Member's reasoning to 'bullying and harassment' and to what she described as the definition of that phrase in the Fair Work Act. The Member in her reasons at [87] referred to the fact that the respondent had conceded the occurrence of "a psychological injury, identified as an adjustment disorder, arising

out of and in the course of her employment with the respondent". In her reasons at [88], the Member described the question before her in the following terms:

> The real issue is whether that injury was wholly or predominantly caused by the actions of the respondent with respect to performance appraisal and/or discipline within the meaning of s 11A or whether it was caused by the 'bullying and harassment' by Ms Revill as claimed by the [appellant].

- he way in which the Member formulated the question, described as the "real issue" in the reasons at [88], would have been unobjectionable if the word 'reasonable' was inserted before the word "actions" and if the question had concluded after the words "within the meaning of s 11A". The balance of the question formulated an additional inquiry that was not part of the causation test in s 11A(1). Additionally, the "real issue" formulated did not acknowledge that the respondent carried the onus on the issue and the appellant did not.
- The Member described the definition of 'bullying and harassment' in the Fair Work Act as "a useful starting point" in answering the question posed. Mr Perry submitted that, given the way in which the appellant addressed on 'bullying and harassment' (see the following paragraph) it was not inappropriate that the Member took this as a "starting point" in her consideration of the defence (see [61] above). The definition as quoted in the reasons at [89] read:

  > A worker is bullied at work if:
  >
  > - a person or group of people repeatedly act unreasonably towards them or a group of workers
  > - the behaviour creates a risk to health and safety.
  >
  > Unreasonable behaviour includes victimising, humiliating, intimidating or threatening....
  >
  > Reasonable management action that's carried out in a reasonable way is not bullying.
  >
  > An employer or manager can:
  >
  > - make decisions about poor performance
  > - take disciplinary action
  > - direct and control the way work is carried out.

- The definition in s 789FD of the Fair Work Act that applied as at the date of deemed injury was as follows:

  > **789FD When is a worker bullied at work?**
  >
  > (1) A worker is bullied at work if:
  >
  > (a) while the worker is at work in a constitutionally-covered business:
  >
  > (i) an individual; or
  >
  > (ii) a group of individuals;
  >
  > repeatedly behaves unreasonably towards the worker, or a group of workers of which the worker is a member; and
  >
  > (b) that behaviour creates a risk to health and safety.
  >
  > (2) To avoid doubt, subsection (1) does not apply to reasonable management action carried out in a reasonable manner.
  >
  > (3) If a person conducts a business or undertaking (within the meaning of the Work Health and Safety Act 2011) and either:
  >
  > (a) the person is:
  >
  > (i) a constitutional corporation; or
  >
  > (ii) the Commonwealth; or

(iii) a Commonwealth authority; or

(iv) a body corporate incorporated in a Territory; or

(b) the business or undertaking is conducted principally in a Territory or Commonwealth place;

then the business or undertaking is a constitutionally-covered business.

- The term 'bullying and harassment' is not to be found in the New South Wales Workers Compensation legislation. The appellant's pleading of 'injury' in the ARD did not rely on an allegation of 'bullying and harassment'. The way in which the appellant's case was opened before the Member did make positive allegations dealing with the respondent's behaviour towards the appellant:

> The respondent relies on section 11A of the 1987 Act to say that a psychological work injury was wholly or predominantly caused by reasonable action taken or proposed to be taken by or on behalf of the employer with respect to performance appraisal and discipline, as such pleading a 'defence to the claim'. This is rejected by the [appellant]. It is the [appellant's] case that the predominant cause of psychological work injury was the conduct of the general manager on behalf of the employer, amounting to bullying, micromanagement, amounting to harassment, unfair treatment and personal criticisms of the [appellant]. This takes the cause of the work injury outside of the bounds of section 11A ...
>
> Should the Member be against the [appellant] on this matter, it is the [appellant's] case that any performance appraisal or proposed discipline to be taken by or on behalf of the employer was entirely unreasonable and unsupported by facts.

- The Member returned on a number of occasions to the concept of 'bullying and harassment'. The reasons at [90] read:

> I have some doubts as to whether the actions of Ms Revill in particular (and others as referred to in her statement) could be regarded as bullying and harassment for reasons that follow.

- The appellant relied on a statement of Ms Sprod (another employee of the respondent) dated 22 July 2021.[110] Ms Sprod described Ms Revill's dealings with another employee, "Marilyn", who she said Ms Revill "took an instant dislike to". Ms Sprod described attending a disciplinary meeting involving Ms Revill and Marilyn which left Marilyn "very distraught"; she said that Ms Revill "made Marilyn's life a misery". Ms Sprod referred to Ms Revill reducing staffing numbers (arguably below Departmental guidelines) after "Covid hit" in 2020. Ms Sprod referred to the respondent losing two tenders because of the quality of the tender documents submitted. Ms Sprod referred to Ms Revill's dealings with the Department regarding a staff member driving while unlicenced. Ms Sprod said that her centres were ultimately divided between "Nancy" and the appellant. Ms Sprod said that eventually she (Ms Sprod) was made redundant, and her role was taken over by Ms Revill's friend Gada, under a different title. Ms Sprod's statement was generally critical of Ms Revill's actions. The reasons at [106] dealt with Ms Sprod's statement:

> I am also mindful of the statement of Ms Sprod who clearly felt that Ms Revill took 'an instant dislike' to many members of staff, but I cannot accept that her comments can be construed as amounting to confirmation that Ms Revill 'bullied and harassed' the [appellant]. It is merely a statement of her own opinion of Ms Revill.

- At [91] to [114] of the reasons the Member set out multiple references to evidence on which she commented. At [110] the reasons say:

> In short, the evidence overall and indeed the tone of the [appellant's] evidence suggests to me that it was she who developed a serious gripe or grudge against Ms Revill, becoming unhappy with her management style. There is nothing in the evidence of Ms Revill that

suggested that she 'bullied' the [appellant] with a view to forcing her to quit her job as the [appellant] claimed.

- At [117] it is said:

  The [appellant] I think did indeed feel 'unfairly treated by her employer', and this constantly played on her mind as she told Dr Hong. But this in itself is not evidence of bullying or harassment, rather a statement of how she felt about Ms Revill.

- At [119] the Member concluded:

  I am not persuaded that she was bullied or harassed either within the definition in the Fair Work Act referred to previously (victimising, humiliating, intimidating or threatening ...) or in what may be described as a lay definition. Rather, her own conduct and behaviour warranted 'reasonable management action' which required the making of decisions about 'poor performance' and 'disciplinary action' which I am satisfied was carried out in a reasonable way.

- This passage tended to invert the onus of proof. There was no onus on the appellant to establish that she was 'bullied or harassed', either within a definition in the Fair Work Act or within a "lay definition". The reasons did not nominate any "lay" definition of 'bullying and harassment' or 'bullying or harassment' (both terms are used) that should be applied in the absence of that in the Fair Work Act being appropriate. The Member found that the appellant's "conduct and behaviour" warranted 'reasonable management action'. The phrase 'reasonable management action' was to be found in s 789FD of the Fair Work Act, in both the section as quoted in the reasons at [89] and in the definition as at the deemed date of injury (see [92] above). It was not part of the test in s 11A(1) of the 1987 Act, which referred to 'reasonable action' taken or proposed to be taken by the employer in respect of one of the categories set out in s 11A(1). Section 11A(1) did not deal with 'reasonable management action, in circumstances where a worker's "conduct and behaviour" warranted it. The section provided a defence to the payment of compensation in certain specified circumstances (in which the employer carried the onus of proof).

- The reasons at [120] referred to the decision in *Minahan* as authority that "whether the action is reasonable should be attended in all the circumstances by a question of fairness". This was a reference to a passage in *Minahan* in which Foster AJA quoted with approval from a decision of Geraghty CCJ in *Irwin v Director-General of School Education* (unreported, 18 June 1998):

  The question of reasonableness is one of fact, weighing all the relevant factors. The test is less demanding than the test of necessity, but more demanding than a test of convenience. The test of 'reasonableness' is objective and must weigh the rights of employees against the objective of the employer. Whether an action is reasonable should be attended, in all the circumstances, by a question of fairness.

- The Member made formal findings at [121]:

  I am satisfied that the [appellant's] accepted psychological injury was wholly or predominantly caused by the reasonable actions of her employer with respect to discipline within s 11A of the 1987 Act such that there will be an award for the respondent.

- The discussion and formal findings in the reasons at [120] to [121] is unexceptionable. However, it is necessary that the reasons be read as a whole.[112] The "real issue" referred to in the reasons at [88] raised the issue of whether the injury was caused by 'bullying and harassment'. The definition of that term was described at [89] of the reasons as a "useful starting point". The question requiring answer was not whether the appellant had been bullied and/or harassed but rather whether the respondent had discharged its onus of establishing that the appellant's conceded psychological injury was wholly or predominantly caused by the reasonable actions of the respondent with respect to discipline. The Member reasoned towards her ultimate factual conclusion in the context of whether the evidence established that the appellant was bullied and/or harassed. This consideration was raised in the reasons at [88], [90], [106], [110], [117] and

[119]. This was not the statutory test. It was not a test that appeared in the New South Wales workers compensation legislation. The inappropriateness of the test is accentuated when one has regard to what the Member adopted as the definition of those words in her reasons at [89]. The reasoning at [119] considers whether the appellant was 'bullied or harassed', or rather whether her "conduct or behaviour warranted 'reasonable management action'". This suggests that in the absence of a finding of 'bullying or harassment' the available alternative finding was that the appellant's "conduct or behaviour warranted reasonable management action". This misstates the test in s 11A(1) and where the onus lay to satisfy that test.

- The Member dealt with the application of s 11A(1) of the 1987 Act by reference to an incorrect test. This affected the result and constituted appealable error.

PIC – Member Decisions

Workers Compensation

Medicinal cannabis – Held: prescription is recently necessary medical treatment so long as approval is obtained from the TGA as a result of the back injury – The evidence only allows the PIC to order payment for the costs of and incidental to the prescription of medicinal cannabis for a period of 73 days into the future.

French v Harwood Slipway Pty Ltd & others [2022] NSWPIC 473 – Member Whiffin – 25/08/2022

The worker injured his back at work on 20/07/2009. Liability was accepted by the respondent.

One of the worker's doctors recommended the prescription of medicinal cannabis, but the respondent disputed that this is reasonably necessary.

Member Whiffin determined the dispute and on 25/08/2022 he issued a COD which determined that the prescription of medicinal cannabis was reasonably necessary. He awarded the worker compensation under s 60 *WCA* with respect to past prescriptions and also ordered the respondent to pay the costs of prescriptions for a period of 73 days into the future. However, an award beyond that period was not supported by the medical evidence.