

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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CORNELIUS McLAURIN,

Plaintiff-Appellee,

v

CITY OF PONTIAC,

Defendant-Appellant.

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UNPUBLISHED  
March 10, 1998

No. 202221  
WCAC  
LC No. 94-000422

ON REMAND

Before: Gage, P.J., and Reilly and Jansen, JJ.

PER CURIAM.

This case is on remand from the Supreme Court for consideration as on leave granted. 454 Mich 885 (1997). Defendant appeals from a decision of the Worker's Compensation Appellate Commission (WCAC) which affirmed the magistrate's finding that plaintiff's lung condition (sarcoidosis) was aggravated by his employment and awarded plaintiff worker's compensation benefits. We affirm the WCAC.

Plaintiff was a police officer for defendant City of Troy from August 7, 1975 until May 16, 1991. Plaintiff contended that his lung condition deteriorated to the point where he could no longer work as of May 16, 1991. Plaintiff underwent a double lung transplant on October 31, 1991.<sup>1</sup> It was plaintiff's contention that the various pollutants he breathed over the years aggravated his preexisting sarcoidosis. Specifically, plaintiff pointed to the fact that he inhaled considerable cigarette smoke (from another police officer), smoke from a shooting range, exhaust fumes from automobiles, and paint fumes, which all aggravated his preexisting condition.

Plaintiff presented testimony from Dr. Joseph Lynch, who is board certified in internal and pulmonary medicine, that plaintiff's work environment could have aggravated plaintiff's condition and that it was possible for work to have aggravated plaintiff's condition. Dr. Fazal Ahmad treated plaintiff for his lung problems beginning in 1976 and suspected that environmental exposures contributed to plaintiff's condition. Further, Dr. Robert Aranosian treated plaintiff since the mid-1970's, and, although not a pulmonary specialist, he believed that plaintiff's exposure to smoke and other substances at work had aggravated plaintiff's condition.

The magistrate found that plaintiff's employment (his exposure to cigarette smoke, smoke from the firing range, and vehicle exhaust) contributed to the deterioration in plaintiff's condition. The magistrate ordered that defendant shall pay the "reasonable and necessary medical expenses associated with the Plaintiff's double lung transplant and the resultant convalescence." The WCAC affirmed the magistrate, finding that there was competent, material, and substantial evidence on the whole record to support the magistrate's finding that plaintiff's workplace aggravated his disease.

On appeal, defendant raises only one issue. It contends that the WCAC exceeded its powers and committed error requiring reversal when it found that plaintiff's lung transplant was work related. Defendant argues that there was no medical evidence to establish anything other than a symptomatic aggravation of a preexisting condition, i.e., sarcoidosis.

Factual findings made by a magistrate shall be considered conclusive by the WCAC if supported by competent, material, and substantial evidence on the whole record. MCL 418.861a(3); MSA 17.237(861a)(3). Our role is to determine whether the WCAC acted in a manner consistent with the concept of administrative appellate review that is less than de novo review in finding that the magistrate's decision was or was not supported by competent, material, and substantial evidence on the whole record. *Goff v Bil-Mar Foods, Inc (After Remand)*, 454 Mich 507, 516; 563 NW2d 214 (1997). A review of the evidence by the WCAC must be both a qualitative and quantitative analysis to ensure a full, thorough, and fair review. MCL 418.861a(13); MSA 17.237(861a)( 13). Factual determinations of the WCAC, if acting within the scope of its powers, shall be conclusive, absent any fraud. MCL 418.816a(14); MSA 17.237(861a)(14).

A plaintiff has the burden to show by a preponderance of the evidence that the injury or disability is work related. *Kostamo v Marquette Iron Mining Co*, 405 Mich 105, 135; 274 NW2d 411 (1979). The question of medical causation of a plaintiff's disability is a question of fact. *Dressler v Grand Rapids Die Casting Corp*, 402 Mich 243, 256; 262 NW2d 629 (1978). Moreover, a disability based only on increased symptoms is a compensable injury under the Worker's Disability Compensation Act, except that a plaintiff is entitled only to closed benefits where there is only an increase in symptoms. *McDonald v Meijer, Inc*, 188 Mich App 210, 215; 469 NW2d 27 (1991); *Siders v Gilco, Inc*, 189 Mich App 670, 673; 473 NW2d 802 (1991). Contrast *Cox v Schreiber Corp*, 188 Mich App 252, 259; 469 NW2d 30 (1991) (where the work has accelerated or aggravated the preexisting disease, the plaintiff is entitled to continuing benefits under the act).

We find that the WCAC properly concluded that there was competent, material, and substantial evidence on the whole record to support the magistrate's finding that plaintiff's workplace exposure to smoke and other fumes aggravated his preexisting disease. There was evidence indicating that smoke and other fumes that plaintiff was exposed to over the years aggravated the deterioration of his lungs. The WCAC specifically noted the testimony of Dr. Aranosian and Dr. Lynch, and found that their testimony established a causal link between the exposure to workplace smoke and fumes and the aggravation of plaintiff's lung disease. We find that the WCAC acted in a manner consistent with the concept of administrative appellate review. It is evident from the WCAC's opinion that it considered all the evidence, was duly cognizant of the deference to be given to the magistrate, and did not

misapprehend or grossly misapply the substantial evidence standard. *Holden v Ford Motor Co*, 439 Mich 257, 269; 484 NW2d 227 (1992).

Accordingly, we affirm the decision of the WCAC. The WCAC properly applied the substantial evidence standard and was justified in finding that the magistrate's decision was supported by substantial, material, and competent evidence on the whole record.

Affirmed.

/s/ Hilda R. Gage

/s/ Maureen Pulte Reilly

/s/ Kathleen Jansen

<sup>1</sup> Plaintiff's sarcoidosis was first diagnosed in 1972, and when plaintiff was hired in 1975, defendant was aware of plaintiff's lung condition. In 1990, plaintiff's lung condition became greatly aggravated.