

ANNE DUGAL
(Appellant)

v.

TWIN RIVERS PAPER COMPANY
(Appellee)

and

SEDGEWICK CMS

Argument held: April 7, 2016
Decided: January 10, 2017

PANEL MEMBERS: Administrative Law Judges Elwin, Goodnough, and Jerome
BY: Administrative Law Judge Jerome

[¶1] Anne Dugal appeals from a decision of a Workers' Compensation Board administrative law judge (*Pelletier, ALJ*) granting in part and denying in part her Petition for Payment of Medical and Related Services, regarding an October 30, 2008, work-related injury to her left knee. Ms. Dugal sought reimbursement for costs associated with purchasing medical marijuana, contending that it was necessary and proper to treat her work injury and its sequela.¹ The ALJ denied the request, finding that Ms. Dugal had failed to demonstrate a causal connection between the work injury and the need for the medical marijuana.

¹ Ms. Dugal also sought reimbursement for treatment for her right knee and depression, but those issues are not the subject of this appeal.

[¶2] Ms. Dugal does not challenge the ALJ’s conclusion on the compensability of medical marijuana, but contends that the ALJ erred in his analysis of the claim for reimbursement for medical marijuana by stating that Ms. Dugal’s neck and mid-back conditions were not related to the work injury. Ms. Dugal contends that she never argued that her neck or mid-back were related to her work injury and that therefore those conditions were not in dispute in this round of litigation.

[¶3] We find no error in the decision. The ALJ neither misconceived nor misapplied the law. *See Pomerleau v. United Parcel Serv.*, 464 A.2d 206, 209 (Me. 1983). To the extent that a question arises in the future concerning the compensability of Ms. Dugal’s neck and mid-back conditions, the parties will have recourse to address that concern and whether or not principles of res judicata and issue preclusion are implicated.²

The entry is:

The administrative law judge’s decision is affirmed.

² Ms. Dugal contends that the ALJ’s decision may serve to bar her from fully litigating in the future whether her neck and mid-back conditions are work-related, pursuant to the principles of res judicata and issue preclusion. *See Grubb v. S.D. Warren Co.*, 2003 ME 139, ¶ 9, 837 A.2d 117 (“[V]alid and final decisions of the Workers’ Compensation Board are subject to the general rules of res judicata and issue preclusion, not merely with respect to the decision’s ultimate result, but with respect to all factual findings and legal conclusions that form the basis of that decision.”). This issue may never arise. Should it arise, Ms. Dugal is free to argue, as she did in this appeal, that the issue was never pled, argued, or otherwise made part of the litigation and is thus not entitled to preclusive effect.

Any party in interest may request an appeal to the Maine Law Court by filing a copy of this decision with the clerk of the Law Court within twenty days of receipt of this decision and by filing a petition seeking appellate review within twenty days thereafter. 39-A M.R.S.A. § 322 (Supp. 2016).

Attorney for Appellant:
Kevin M. Noonan, Esq.
McTEAGUE HIGBEE, P.A.
P.O. Box 5000
Four Union Park
Topsham, ME 04086

Attorneys for Appellee:
Anne-Marie L. Storey, Esq.
John K. Hamer, Esq.
RUDMAN WINCHELL
P.O. Box 1401
Bangor, ME 04402-1401