STATE OF MINNESOTA

IN SUPREME COURT

A22-0090

Workers' Compensation Court of Appeals | Hudson, J.
Concurring, Anderson, J, Thissen, J.

Douglas Juntunen,

Respondent,

vs. | Filed: December 21, 2022
Office of Appellate Courts

Carlton County, Self-Insured,

and

Minnesota Counties Intergovernmental Trust,

Relators.

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Mark J. Schneider, Scott Higbee, Brooklyn Center, Minnesota, for amici curiae Law Enforcement Labor Services, Inc. and Minnesota Police and Peace Officers Association.

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S Y L L A B U S

1. Under Minn. Stat. § 176.011, subd. 15(e) (2022), an employee who works in one of the designated occupations and who had not been previously diagnosed with post-traumatic stress disorder (PTSD) is presumptively entitled to workers' compensation benefits upon presenting a diagnosis of PTSD by a licensed psychiatrist or psychologist, which the employer can rebut by presenting "substantial factors."

2. The Workers' Compensation Court of Appeals did not err by finding that a former deputy sheriff was presumptively entitled to workers' compensation benefits after presenting a diagnosis of PTSD and that the deputy's employer did not rebut the presumption.

Affirmed.

O P I N I O N

HUDSON, Justice.

Respondent Douglas Juntunen was employed as a deputy sheriff for relator Carlton County. In September 2019, Juntunen was diagnosed with post-traumatic stress disorder (PTSD) by a licensed psychologist. The day after he received the diagnosis, Juntunen informed his supervisors at the County of his diagnosis and was placed on leave. The

County filed a First Report of Injury and denied primary liability for Juntunen's PTSD. A subsequent psychological evaluation requested by the County resulted in a diagnosis of major depressive disorder but not PTSD.

The compensation judge ruled that Juntunen was not entitled to workers' compensation benefits, finding that the County's medical expert was more persuasive than Juntunen's. The Workers' Compensation Court of Appeals (WCCA) reversed.

The WCCA held that under Minn. Stat. § 176.011, subd. 15(e) (2022), employees in certain occupations (including deputy sheriffs) are entitled to a presumption that PTSD is an occupational disease if they present a diagnosis of PTSD, regardless of whether their employer offers a competing diagnosis. The WCCA held that Juntunen was entitled to the benefit of the presumption that he had a compensable occupational disease and that the County failed to rebut the presumption. Because the WCCA properly interpreted the statutory presumption's requirements, and its findings are not manifestly contrary to the evidence, we affirm.

FACTS

Respondent Juntunen was hired by relator Carlton County as a deputy sheriff in August 2001. Juntunen testified that he had never been diagnosed with or treated for any mental health condition before he began working for the County. Juntunen passed a pre-employment psychological evaluation as part of the hiring process with the County.

During his time as a law enforcement officer, Juntunen responded to many traumatic events involving violence, death, and sexual abuse. We do not detail his extensive traumas here, but two events were central in Juntunen's subsequent treatment.

A fatal accident early in Juntunen's career involved a 16-year-old boy who had just passed his driving test. The boy's mother watched as his car collided with a truck on the street in front of their house. Juntunen responded to the scene and saw that the boy's "head was caved halfway into the steering wheel." Juntunen's son had recently passed his driving test, and all he could think was that "this could have been him."

A few years later, Juntunen responded to a domestic violence call that led to an automobile pursuit. The suspect driver eventually stopped his pickup truck, and Juntunen and his partner approached the truck. The suspect pointed a gun at them, and Juntunen and his partner retreated to their squad cars. Juntunen talked to the suspect from his car—they "had a rapport" because they had worked together at Juntunen's family business and attended fire department trainings together. Juntunen noted that "he had known the suspect most of his life." The suspect then looked at Juntunen and said, "Tell my kids that I love them." The suspect put the gun in his mouth and pulled the trigger. Afterward, Juntunen was tasked with photographing the scene. The medical examiner told Juntunen and his partner that it was their fault the suspect was dead.

In addition to the work-related trauma that he experienced, Juntunen also experienced challenges in his personal life. For example, in 2016, Juntunen helped a former work partner move from Minnesota to Ohio. A day or two later, Juntunen received a phone call in the middle of the night: his partner committed suicide.

After his partner's suicide, Juntunen got a referral from the County's Employee Assistance Program to a counselor, who then referred him to Beth Jordan, a licensed professional clinical counselor. Juntunen met with Jordan four times during the next

3 months. Jordan noted that Juntunen was concerned about his mother's death that had occurred nearly 20 years prior when she was hit by a car while walking with his father, a family history of alcoholism, "trauma from work," and his partner's suicide.

Juntunen did not meet with Jordan again for almost 2 years but returned in December 2018 because he had been feeling "more and more anxious at work and when thinking about or getting ready for work." Over the next few months, Jordan worked with Juntunen to provide eye movement desensitization and reprocessing (EMDR) therapy to process the pursuit and suicide, his partner's suicide, his mother's death, and the death of the 16-year-old boy. Juntunen continued to see Jordan a few times per month.

At the request of his attorney, Juntunen met with Dr. Michael Keller, a licensed psychologist, for a forensic evaluation on August 20, 2019. Dr. Keller asked Juntunen about his symptoms in the past 30 days. Dr. Keller also administered several diagnostic tests, including the Beck Depression Inventory, 2nd Edition (BDI-II); Beck Anxiety Inventory (BAI); PTSD Checklist for DSM-5 (PCL-5); Clinician-Administered PTSD Scale for DSM-5 – Past Month (CAPS-5); Minnesota Multiphasic Personality Inventory – Second Edition – Restructured Format (MMPI-2-RF); Minnesota Multiphasic Personality Inventory – Second Edition (MMPI-2); and Millon Clinical Multiaxial Inventory-IV (MCMI-IV). Dr. Keller asked Juntunen about the symptoms that he experienced within the past 30 days. Based on the evaluation, Dr. Keller diagnosed Juntunen with PTSD, major depressive disorder, and anxiety disorder. Dr. Keller opined that Juntunen was "not currently fit for duty as a Police Officer/Deputy Sheriff" and "is unable to work in any capacity at this time, including any form of light duty." Dr. Keller opined that Juntunen's

"condition is likely to persist for not less than 1-2 years, and maybe lifetime in nature." Dr. Keller issued his report on September 12, 2019.

The next day, Juntunen told his supervisors about his diagnosis. Within hours, all of his County-issued equipment was taken from him, and he was placed on leave. The County filed a First Report of Injury with the Minnesota Department of Labor and Industry, noting the date of injury as August 20, 2019—the date of Dr. Keller's evaluation. The County, through Minnesota Counties Intergovernmental Trust (MCIT), denied primary liability for Juntunen's injury "pending the results of an IME [independent medical examination] with a psychologist or psychiatrist of MCIT's choosing." The denial noted that MCIT was "in the process of scheduling an IME." Approximately 5 months later, Juntunen formally resigned from his position with the County.

On February 24, 2020, Juntunen filed a claim petition challenging the County's denial of responsibility and seeking temporary total and permanent partial disability benefits, along with medical benefits. The County answered by denying that Juntunen suffered from an occupational disease, "[p]ending additional investigation."

To support its denial of workers' compensation benefits, the County arranged for a psychological evaluation of Juntunen by Dr. Paul Arbisi on July 20, 2020. As part of the evaluation, Dr. Arbisi reviewed records from counselor Jordan, Dr. Keller, and Juntunen's primary care physician. Dr. Arbisi administered the CAPS-5 and MMPI-2-RF tests. In a report dated September 8, 2020, Dr. Arbisi opined that Juntunen suffered from major depressive disorder but that it was not related to his employment with the County. Dr. Arbisi noted that Juntunen "does not report current symptoms associated with

posttraumatic stress disorder," particularly because he "does not avoid contact with other law enforcement officers and indeed does not report any hesitancy to discuss incidents that have occurred over his career." Although Dr. Arbisi recognized that Juntunen "prefers not to drive past sites or scenes where calls took place," Juntunen "acknowledged that he does so if he needs to." Dr. Arbisi concluded that "Juntunen does not meet criteria for posttraumatic stress disorder given the fact he does not engage in active avoidance." His diagnosis, like Dr. Keller's, was based on reported symptoms for the 30 days before the evaluation. Dr. Arbisi testified that it was possible that someone would meet the criteria for PTSD during a different 30-day period even if they did not meet the criteria for the last 30 days, noting that "PTSD can be cured."

Part of Dr. Arbisi's report included a critique of Dr. Keller's interpretation of PTSD diagnostic tools. Dr. Arbisi contended that Dr. Keller misinterpreted the test results and "suggest[ed] the presence of symptom magnification." Despite these criticisms, Dr. Arbisi did not opine on whether Dr. Keller's diagnosis was correct.

After a hearing on the claim petition, the compensation judge denied all benefits for Juntunen. The compensation judge found that Juntunen had been working as a deputy sheriff and "had no mental health treatment or diagnosis before he began working for Carlton County." But the judge concluded that "[b]y a preponderance of the evidence, the employee did not sustain PTSD arising out of and in the scope of his employment on August 20, 2019."[1]

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[1] Although the findings are sparse on reasoning, the compensation judge's memorandum provided more detail about the analysis behind her decision. We stress the

The judge noted that "[a]lthough the Workers' Compensation Act provides that PTSD in certain categories of workers is presumed to be causally related to their work, the employee still has the initial burden to prove that he or she has the occupational disease of PTSD to trigger the statutory presumption." The judge cited Minn. Stat. § 176.011, subd. 15(a) (2022), which is the general statute on "occupational disease." The judge found Dr. Arbisi's report "more persuasive" because Juntunen's symptoms "best fit a diagnosis of major depressive disorder," rather than PTSD. The judge adopted "Dr. Arbisi's opinion that [Juntunen's] depression and his difficult experiences are not sufficiently linked to justify a diagnosis of PTSD." The compensation judge determined that the suicide of Juntunen's partner was the catalyst for him to seek mental health treatment, which Dr. Arbisi opined was not a "traumatic event" that met the criteria for PTSD. The judge found the opinions of Dr. Keller and counselor Jordan to be "less persuasive" because they "did not closely correlate [Juntunen's] symptoms to his traumatic events, as required by the DSM-5."[2] Juntunen appealed.

The WCCA reversed and remanded. *Juntunen v. Carlton County*, No. WC21-6418, 2021 WL 6206798, at *1 (Minn. WCCA Dec. 28, 2021). The WCCA held that the PTSD presumption in Minn. Stat. § 176.011, subd. 15(e), applies "when the statutory factors [are] met," those being: employment in one of the listed occupations, disability from the

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importance of a compensation judge, acting as a fact-finder, detailing the reasoning behind their decisions for the benefit of the parties and reviewing courts.

[2] The "DSM-5" is the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*. Published by the American Psychiatric Association, the DSM-5 defines the criteria for mental disorders, including PTSD.

occupation due to a diagnosis of PTSD by a licensed psychologist or psychiatrist, and no previous PTSD diagnosis. *Id.* at *7. The WCCA disagreed with the compensation judge's conclusion that the presumption does not apply unless the judge makes a finding that the employee has PTSD. *Id.* The PTSD presumption applies in this case, the WCCA held, because Juntunen presented a PTSD diagnosis from Dr. Keller. *Id.* Further, the WCCA held that the County failed to rebut the presumption that Juntunen's diagnosis is a compensable occupational disease. *Id.* The WCCA stated that the County "needed to offer evidence that at the time of the employee's disablement, he did not have a PTSD diagnosis." *Id.* The WCCA held that because Dr. Arbisi opined as to whether Juntunen *currently* suffered from PTSD, he "failed to address the issue surrounding the statutory presumption, specifically whether the employee had a diagnosis of PTSD in September 2019." *Id.*

The County petitioned for a writ of certiorari, and we granted review.

ANALYSIS

In this case, we are asked to determine how the PTSD presumption in Minn. Stat. § 176.011, subd. 15(e), applies when an employee and an employer offer competing expert opinions. Then we must determine whether the WCCA erred by setting aside the compensation judge's findings that Juntunen did not suffer from PTSD and by finding instead that the PTSD presumption applied and that the County did not rebut the presumption.

I.

The parties disagree about when the PTSD presumption in Minn. Stat. § 176.011, subd. 15(e), applies—specifically, whether it applies when an employee presents a diagnosis of PTSD or only after a legal determination that the employee's diagnosis of PTSD is more credible than a competing expert opinion offered by the employer. This is an issue of statutory interpretation, which we review de novo. *Smith v. Carver County*, 931 N.W.2d 390, 395 (Minn. 2019). This is also an issue of first impression.

Under the workers' compensation statute, a "mental impairment" is a compensable occupational disease when it "aris[es] out of and in the course of employment." Minn. Stat. § 176.011, subd. 15(a). The definition of "mental impairment" is limited to "a diagnosis of post-traumatic stress disorder," which is "the condition as described in the most recently published edition of the Diagnostic and Statistical Manual of Mental Disorders by the American Psychiatric Association." Minn. Stat. § 176.011, subd. 15(d) (2022). Such a diagnosis must be made "by a licensed psychiatrist or psychologist." *Id.*

Generally, an employee has the burden to prove the elements of a workers' compensation claim, including that the employee has an occupational disease. *See* Minn. Stat. § 176.021, subd. 1 (2022) ("Every employer is liable for compensation according to the provisions of this chapter and is liable to pay compensation in every case of personal injury or death of an employee arising out of and in the course of employment . . . . *The burden of proof of these facts is upon the employee*." (emphasis added)). When an employee and employer offer conflicting expert medical opinions, the compensation judge must determine which opinion is more persuasive. *Smith*, 931 N.W.2d at 396 (stating the

general rule that when competing diagnoses are presented, the compensation judge must determine "which of the professional diagnoses is more credible and persuasive").

The PTSD presumption in Minn. Stat. § 176.011, subd. 15(e), relieves certain employees of at least part of the burden of proving that they suffer from a compensable occupational disease. Employees in certain occupations (generally, first responders[3]) who have been "diagnosed with a mental impairment as defined in paragraph (d), and [who] had not been diagnosed with the mental impairment previously," are entitled to the benefit of a rebuttable presumption. Minn. Stat. § 176.011, subd. 15(e). In those cases, "the mental impairment is presumptively an occupational disease and shall be presumed to have been due to the nature of employment." *Id.* Once the presumption has been triggered, the "presumption may be rebutted by substantial factors brought by the employer or insurer." *Id.* The presumption "is effective for employees with dates of injury on or after January 1, 2019." Act of May 20, 2018, ch. 185, art. 5, § 1, 2018 Minn. Laws 374, 389. The question here is whether the presumption displaces the compensation judge's typical role in choosing which diagnosis is more persuasive, thus implementing a presumption in favor

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[3] Specifically, an employee may benefit from the presumption if they are one of the following:

> a licensed police officer; a firefighter; a paramedic; an emergency medical technician; a licensed nurse employed to provide emergency medical services outside of a medical facility; a public safety dispatcher; a correctional officer or security counselor employed by the state or a political subdivision at a corrections, detention, or secure treatment facility; a sheriff or full-time deputy sheriff of any county; or a member of the Minnesota State Patrol.

Minn. Stat. § 176.011, subd. 15(e).

of the employee's diagnosis, or whether the presumption only relieves the employee of the burden to prove causation, that is, that their PTSD arose out of and in the course of their employment.[4]

Because this issue presents a question of statutory interpretation, we first focus on the plain language of the statute. *See Rodriguez v. State Farm Mut. Auto. Ins. Co.*, 931 N.W.2d 632, 634 (Minn. 2019). If the language is subject to only one reasonable interpretation, our inquiry ends there. *Id.* Only when the language is ambiguous do "we look to other interpretative tools." *Id.*

To invoke the PTSD presumption in Minn. Stat. § 176.011, subd. 15(e), an employee must (1) be employed in one of the enumerated occupations, (2) be "diagnosed" with PTSD "by a licensed psychiatrist or psychologist," and (3) not have been diagnosed with PTSD previously. Minn. Stat. § 176.011, subd. 15(d)–(e).

The statute does not define "diagnosis" or "diagnosed." *See* Minn. Stat. § 176.011 (2022). But a dictionary definition for diagnosis is "the art or act of identifying a disease from its signs and symptoms." *Diagnosis*, *Merriam-Webster's Collegiate Dictionary* 344 (11th ed. 2014); *see also Diagnosis*, *Black's Law Dictionary* (10th ed. 2014) ("[t]he determination of a medical condition . . . by physical examination or by study of its symptoms"). The statutory requirement of "a diagnosis," then, requires that an employee satisfies their burden by presenting exactly that—a diagnosis by a licensed psychiatrist or psychologist identifying their disease as PTSD. Nothing in the statute suggests that a

[4] The County does not challenge that Juntunen worked in one of the listed occupations and had not been previously diagnosed with PTSD.

compensation judge needs to specifically determine that an employee's PTSD diagnosis is more credible than any competing diagnoses *before* the presumption applies.

The County and Juntunen point to our decision in *Smith v. Carver County* as an aid in interpreting the PTSD presumption. In *Smith*, we considered the role of a compensation judge in deciding whether an employee suffers from PTSD under Minn. Stat. § 176.011, subd. 15(d), when the parties present competing medical opinions. *Smith*, 931 N.W.2d at 396. The compensation judge determined that the employer's expert was more credible than the employee's experts and denied benefits. *Id.* at 394–95. The WCCA reversed, holding that the expert opinion presented by the employer did not conform to the DSM-5 criteria. *Id.* at 395. The WCCA held that under Minn. Stat. § 176.011, subd. 15(d), "a determination of whether a claim for PTSD is compensable must go beyond the weighing and choosing between competing expert medical opinions." *Id.* (quoting *Smith v. Carver County*, No. WC18-6180, 2019 WL 235685, at *5 (Minn. WCCA Jan. 4, 2019)).

In reversing the WCCA's decision, we held that a compensation judge is not required to validate a medical expert's opinion by assessing whether it conforms to the DSM-5 before adopting that expert's opinion. *Id.* at 397 (stating that the judge need not "lay each expert's report on the desk next to the DSM-5 and assess whether the medical professional's opinion conformed with the precise wording of the DSM-5 as the compensation judge interprets those words"). Rather, when competing diagnoses are offered by the employee and the employer, "the job of the compensation judge is to determine whether the expert diagnoses have adequate foundation and, if both have

adequate foundation, decide which of the professional diagnoses is more credible and persuasive." *Id.* at 396.

The County reads our decision in *Smith* as holding that the term "diagnosis" in Minn. Stat. § 176.011, subd. 15(d), means a proven diagnosis, as opposed to a "paper" diagnosis.[5] Therefore, the County contends, the PTSD presumption does not apply until a compensation judge finds that the employee's PTSD diagnosis has been proven. Juntunen advocates for a plain language interpretation of "diagnosis" using the *Black's Law Dictionary* definition cited in *Smith* as "[t]he determination of a medical condition . . . by physical examination or by study of its symptoms." *See Smith*, 931 N.W.2d at 397 (alterations in original) (quoting *Diagnosis*, *Black's Law Dictionary* (10th ed. 2014)). Juntunen also quotes our statement in *Smith* that medical expert opinions "are entitled to a presumption of validity." *See id.* (quoting *Jarvis v. Levine*, 418 N.W.2d 139, 147 (Minn. 1988)).

Both parties overstate *Smith*'s applicability to this case. *Smith* does not reference the PTSD presumption in Minn. Stat. § 176.011, subd. 15(e), because it did not apply to the employee in that case. That employee, also a deputy sheriff, was diagnosed with PTSD in July 2016, *Smith*, 931 N.W.2d at 393–94, but the PTSD presumption applies only to those with injuries on or after January 1, 2019, Act of May 20, 2018, ch. 185, art. 5, § 1, 2018 Minn. Laws 374, 389. So, our explanation that "the job of the compensation judge

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[5] Our understanding of the County's distinction between a paper diagnosis and a proven diagnosis is that every diagnosis is a paper diagnosis until a compensation judge adopts the diagnosis or deems it credible. Once a compensation judge has done so, according to the County, the diagnosis becomes a proven diagnosis.

is to determine whether the expert diagnoses have adequate foundation and, if both have adequate foundation, decide which of the professional diagnoses is more credible and persuasive" does not necessarily apply to a judge's role in determining whether the PTSD presumption applies. *Smith*, 931 N.W.2d at 396. We were concerned about "legalistic analysis" from compensation judges that usurped "the professional judgment of psychiatrists and psychologists." *Id.* at 397. We did not hold that the term "diagnosis" means a proven diagnosis, and neither did we hold that a compensation judge's role in choosing between competing diagnoses was the same when a statutory presumption applied to the case. On those points, *Smith* does not dictate a result in this case.

The County also argues that the other presumptions in Minn. Stat. § 176.011, subd. 15 (2022), require an employee to prove that they suffer from a designated disease before the presumption applies. It contends that we should interpret the PTSD presumption as requiring the same. For example, Minn. Stat. § 176.011, subd. 15(b), provides that "myocarditis, coronary sclerosis, pneumonia or its sequel" in certain employees "is presumptively an occupational disease and shall be presumed to have been due to the nature of employment." But conspicuously absent from subdivision 15(b) is the term "diagnosis." *See id.* Instead, subdivision 15(b) requires that "the disease *is that of* myocarditis, coronary sclerosis, pneumonia or its sequel." *Id.* (emphasis added). Likewise, the presumption in Minn. Stat. § 176.011, subd. 15(c), applies when a firefighter "is unable to perform duties . . . *by reason of* a disabling cancer." (Emphasis added.) Again, subdivision 15(c) does not include the word "diagnosis." *See id.* Because we normally presume different meanings when the Legislature uses different words, *Nelson v. Schlener*, 859 N.W.2d 288,

294 (Minn. 2015), the language in subdivisions 15(b) and 15(c) does not inform our interpretation of subdivision 15(e)'s requirement that an employee be "diagnosed with a mental impairment."

Based on the plain language of the statute—"is diagnosed with a mental impairment"—we hold that there is a single reasonable interpretation: that an employee need only present a diagnosis for the presumption to apply, not that the diagnosis is determined by a compensation judge to be more credible or persuasive than any competing diagnosis offered by an employer.

The compensation judge's analysis, then, was incorrect. The judge seemed to understand the presumption as requiring a proven diagnosis before the presumption was triggered. The judge explained that "[a]lthough the Workers' Compensation Act provides that PTSD in certain categories of workers is presumed to be causally related to their work, the employee still has the initial burden to prove that he or she has the occupational disease of PTSD to trigger the statutory presumption" and cited to Minn. Stat. § 176.011, subd. 15(a). The PTSD presumption in subdivision 15(e), though, requires that the employee be *diagnosed* with PTSD. That is all. The statute does not require such a diagnosis to be more credible or persuasive than any competing diagnosis offered by an employer.[6] Accordingly, the compensation judge erred by failing to apply the presumption

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[6] The County asks us to consider statements made by legislators when the presumption was debated to argue that the presumption operates solely in regard to causation. Although the concurrence also details this legislative history, such considerations are not appropriate when, as here, the statutory language is unambiguous. *See Goodman v. Best Buy, Inc.*, 777 N.W.2d 755, 761 (Minn. 2010) (holding that when a statute "is unambiguous, there is no need for us to turn to legislative history").

once Juntunen offered a diagnosis of PTSD from a licensed psychologist. Thus, the WCCA correctly set aside the compensation judge's finding that the PTSD presumption did not apply in this case; the compensation judge's finding was based on an erroneous application of law, and there is no evidence in the record that a reasonable mind might accept as adequate to support the compensation judge's finding that the presumption was not triggered. *See Lagasse v. Horton*, No. A21-1745, __ N.W.2d __, 2022 WL 17332366, at *7 (Minn. Nov. 30, 2022) (WCCA need not defer to a compensation judge's finding that is not supported by substantial evidence).

Accordingly, the WCCA's finding "that the factors to invoke the presumption were met" was not manifestly contrary to the evidence. *See Juntunen*, __ N.W.2d at __, 2021 WL 6206798, at *7 (WCCA's finding); *see also Lagasse*, 2022 WL 17332366, at *7 (affirming WCCA findings that are not "manifestly contrary to the evidence"). As discussed above, Juntunen provided a diagnosis of PTSD from a licensed psychologist. That fact (along with the unchallenged findings of the compensation judge that Juntunen was a deputy sheriff and had no previous PTSD diagnosis) triggers the presumption that Juntunen had a compensable occupational disease.

II.

Next, we must decide whether the WCCA properly found that the County did not rebut the PTSD presumption here. When a statutory presumption applies, the presumption "governs decision on unopposed facts and . . . is rebuttable but only by substantial proof to the contrary." *Linnell v. City of St. Louis Park*, 305 N.W.2d 599, 601 (Minn. 1981). An employer must "make a strong showing," *id.*, by introducing "substantial evidence to rebut

the presumption," *Jerabek v. Teleprompter Corp.*, 255 N.W.2d 377, 380 (Minn. 1977). When the PTSD presumption applies, the employer faces a higher burden than in a case in which no presumption applies; the "presumption may be rebutted by substantial factors." Minn. Stat. § 176.011, subd. 15(e). If rebutted by the employer, the presumption "disappear[s]." *Jerabek*, 255 N.W.2d at 380.

The employer argues that Dr. Arbisi's opinion from July 2020 was sufficient to rebut the presumption. We disagree. The WCCA determined that the County did not rebut the presumption for the following reason:

> The presumption [based on Dr. Keller's diagnosis in September 2019] established that at the time of his disablement from work, the employee had compensable PTSD. To rebut, the employer needed to offer evidence that at the time of the employee's disablement, he did not have a PTSD diagnosis. The employer failed to do so as Dr. Arbisi's opinion was, at the time of his July 2020 evaluation and for the 30 days preceding that evaluation, that the employee did not have a PTSD diagnosis. His opinion, in both his report and his deposition testimony, failed to address the issue surrounding the statutory presumption, specifically whether the employee had a diagnosis of PTSD in September 2019.

Juntunen, 2021 WL 6206798, at *7 (footnote omitted). Essentially, the WCCA's decision turns on a finding that Dr. Arbisi's opinion covered only the period 30 days prior to the July 2020 evaluation: although he criticized Dr. Keller's opinion, Dr. Arbisi "did not indicate whether he agreed or disagreed with Dr. Keller's August 2019 diagnosis of PTSD." *Id.* at *3. The compensation judge did not make a finding on that issue.

The applicable standard of review is unique to workers' compensation proceedings. *Hengemuhle v. Long Prairie Jaycees*, 358 N.W.2d 54, 59 (Minn. 1984). We will overturn the WCCA's findings "only if, viewing the facts in the light most favorable to the findings,

it appears that the findings are manifestly contrary to the evidence or that it is clear reasonable minds would adopt a contrary conclusion." *Id.*; *see also Lagasse*, __ N.W.2d at __, 2022 WL 17332366, at *7 (affirming this standard of review as to additional findings by the WCCA).[7]

The WCCA's finding that Dr. Arbisi's opinion did not rebut Dr. Keller's opinion because it covered a different time period is not manifestly contrary to the evidence, and it is not clear that reasonable minds would adopt a contrary conclusion. On its face, Dr. Arbisi's opinion is limited to the period 30 days before his July 2020 evaluation. And Dr. Arbisi testified that his opinion was limited to that time period. He offered no opinion as to whether Juntunen had PTSD before that period. Therefore, we affirm the WCCA's findings.[8]

We acknowledge the concurrence's concern about employers' ability to challenge a PTSD diagnosis and the financial implications of the burden imposed by the

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[7] This is not a case where the WCCA substituted its own findings for findings made by the workers' compensation judge. The WCCA made an additional finding. Accordingly, our substituted findings analysis described in *Hengemuhle* and its progeny, including *Lagasse*, does not apply. The only standard of review question before us is whether the WCCA's findings are manifestly contrary to the evidence.

[8] Juntunen argues that the WCCA's findings on the credibility of the medical experts "did not overturn the credibility determinations of the compensation judge, because she made none," so the WCCA did not exceed its authority by overturning the compensation judge's credibility determination. This argument is unpersuasive. As discussed in the prior section, however, that determination by the compensation judge was based on an erroneous application of law as to the statutory presumption's operation. And the compensation judge did not make any finding as to whether, once the statutory presumption was triggered, the employer had rebutted that presumption by substantial factors.

presumption.[9] Nothing in the record suggests that psychiatrists and psychologists cannot determine whether someone had PTSD in their lifetime, even if they have not exhibited symptoms in the previous 30 days. The tools employed by Dr. Keller and Dr. Arbisi in this case assist in making a current diagnosis by considering a 30-day window, but those are not the only tools available. Ultimately, the PTSD presumption represents a balancing between two competing policies: prompt payment of employees' medical expenses for PTSD treatment and stewardship of public monies. The Legislature determined that employees suffering from PTSD need timely access to medical care, and the PTSD

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[9] Amicus League of Minnesota Cities also notes a concern about the costs of providing benefits for PTSD claims and argues that we should reverse the WCCA's decision because cities (and by extension, taxpayers) will bear the burden of an increase in workers' compensation claims due to PTSD. The League also argues that employers must be given the "opportunity to challenge a contested PTSD diagnosis" because the Legislature intended this provision to cover "not alleged PTSD, not potential PTSD, but actual PTSD."

Even under the interpretation we adopt here, employers *do* have an opportunity to dispute a PTSD diagnosis. The statute allows employers to rebut the presumption and challenge an employee's diagnosis with "substantial factors." *See* Minn. Stat. § 176.011, subd. 15(e). The statute does not provide benefits for "alleged" or "potential" PTSD if the compensation judge determines that the employer has rebutted the employee's offered diagnosis. The employee's initial burden to invoke the presumption is to present a diagnosis; the burden then shifts to the employer to rebut the presumption, which it may do with a competing diagnosis or with other evidence. Further, the Legislature built measures into the "mental impairment" definition to ensure that an employee's diagnosis has a degree of reliability, including that the diagnosis must be made by a licensed psychiatrist or psychologist and that the diagnosis must be in accordance with the current version of the DSM.

Municipal employers can also mitigate their financial exposure in these cases. If a compensation judge decides that a competing diagnosis offered by the employer is more credible than the employee's offered diagnosis, the benefit period would be limited either to the date of the employer's diagnosis or even earlier if the employer's expert opines on the employee's history of PTSD. As Dr. Arbisi noted, PTSD can be cured, so an employer can also limit its costs by ensuring that an employee receives appropriate treatment in a timely manner.

presumption puts the onus on employers to quickly resolve such claims. Dr. Arbisi did not evaluate Juntunen until 10 months after Juntunen notified the County of his diagnosis. That is too long to leave employees' benefits claims unresolved.

Additionally, we must clarify one aspect of the WCCA's opinion. The WCCA stated that to rebut the PTSD presumption, the County "needed to offer evidence that at the time of the employee's disablement, he did not have a PTSD diagnosis." *Juntunen*, 2021 WL 6206798, at *7. To the extent that the WCCA suggests that the County needed to rebut the *fact* that Juntunen received a diagnosis of PTSD in 2019 by Dr. Keller, this suggestion is incorrect. An employer may rebut a diagnosis by proving that the employee did not in fact receive such a diagnosis (for example, if the employer had evidence that the employee fabricated the records), but the employer could also demonstrate that the employee's diagnosis was invalid or not credible.

Here, though, the WCCA's reversal was not based on the County's failure to rebut the fact of Juntunen's 2019 diagnosis but rather because the competing opinion offered by Dr. Arbisi did not relate to the same time period as Dr. Keller's. Dr. Arbisi specifically opined that Juntunen did not have PTSD as of the date of the evaluation and for the preceding 30 days. His report offered no opinion as to whether Juntunen had PTSD in August 2019, when he was evaluated by Dr. Keller. Nor did Dr. Arbisi opine that Dr. Keller's evaluation was inaccurate; Dr. Arbisi specifically stated that he was not offering any opinion on the validity of Dr. Keller's diagnosis. This evidence does not

amount to “substantial factors” that can overcome the PTSD presumption.[10] Accordingly, the WCCA’s error on this point does not affect the ultimate outcome. We remand this case so that the compensation judge can determine benefits in accordance with this decision.

CONCLUSION

For the foregoing reasons, we affirm the decision of the Workers’ Compensation Court of Appeals and remand to the compensation judge for a determination of benefits.

Affirmed.

[10] As the WCCA correctly pointed out, in *Smith*, we instructed compensation judges to avoid supplanting the judgment of medical professionals with their own evaluation of whether a medical expert complied with the DSM. *Smith*, 931 N.W.2d at 397. That still holds true. When there are competing diagnoses, compensation judges are to focus on “whether the expert diagnoses have adequate foundation and, if both have adequate foundation, decide which of the professional diagnoses is more credible and persuasive.” *Id.* at 396. They are not to “lay each expert’s report on the desk next to the DSM-5 and assess whether the medical professional’s opinion conformed with the precise wording of the DSM-5 as the compensation judge interprets those words.” *Id.* at 397. The DSM is meant to be “a guideline for medical and health professionals, not a checklist for judges.” *Id.* at 397–98.

C O N C U R R E N C E

ANDERSON, Justice (concurring).

Respondent Douglas Juntunen worked for many years as a deputy county sheriff before claiming disability from post-traumatic stress disorder (PTSD). Minnesota Statutes, section 176.011, subd. 15(e) (2022), states that if certain classes of employees, including deputy county sheriffs, are "*diagnosed* with a mental impairment . . . then the mental impairment is presumptively an occupational disease and shall be presumed to have been due to the nature of employment." (Emphasis added.) "Mental impairment," in turn, means "a *diagnosis* of post-traumatic stress disorder by a licensed psychiatrist or psychologist." *Id.*, subd. 15(d) (2022) (emphasis added). Juntunen supported his claim for disability with a PTSD diagnosis from Dr. Michael Keller, a licensed psychologist.

I agree with the court that, under the plain language of the statute, Dr. Keller's diagnosis was sufficient to invoke the presumption of Minn. Stat. § 176.011, subd. 15(e), in favor of the claim of the employee. And once it applies, the presumption is rebuttable only if the employer presents "substantial factors." *Id.* I further agree with the court that the employer, relator Carlton County, failed to present "substantial factors" rebutting Juntunen's diagnosis. The County relies on an independent medical examination by Dr. Paul Arbisi, another licensed psychologist, conducted on July 20, 2020—nearly a year after Dr. Keller rendered his initial PTSD diagnosis. Dr. Arbisi, however, stated that he performed the evaluation to "[r]ender an opinion as to whether Mr. Juntunen suffers from any psychological or psychiatric conditions," not to evaluate whether Juntunen's initial diagnosis was valid. Dr. Arbisi rendered an opinion limited to the conclusion that Juntunen

did not have PTSD *on July 20, 2020*, or within the 30 days preceding July 20, 2020. At a later deposition, Dr. Arbisi did not offer an opinion on the validity of Dr. Keller's previous diagnosis. Dr. Keller's diagnosis therefore stands undisputed as of the time at which it was rendered, and under the PTSD presumption from Minn. Stat. § 176.011, subd. 15(e), it was error for the compensation judge to disregard that diagnosis.

I write separately to note the potentially untenable position in which this statute leaves government employers. PTSD is a mental illness and cannot be diagnosed by objective laboratory testing. Rather, it is diagnosed through examination of the presence or absence of a checklist of specific categories of symptoms. Am. Psych. Ass'n, *Diagnostic and Statistical Manual of Mental Disorders* 271–72 (5th ed. 2013) (hereinafter DSM-5); *see also* Minn. Stat. § 176.011, subd. 15(d) (mandating that PTSD be defined as it is in the most recent edition of the DSM). This process requires the exercise of professional skill and judgment, and Dr. Arbisi noted the need for face-to-face patient evaluation in rendering a medical opinion.

PTSD symptoms also evolve over time. All parties agree that PTSD symptoms fluctuate and can respond to treatment; a patient could have PTSD at one point and be in remission given sufficient time or treatment. The DSM-5 diagnostic criteria recognize this fluctuation by making duration of symptoms an explicit factor in the diagnosis. DSM-5 at 272. Both Dr. Keller and Dr. Arbisi therefore examined Juntunen in light of his symptoms for the 30-day period before their respective evaluations.

Because these two diagnoses do not cover the same time periods, the PTSD presumption from Minn. Stat. § 176.011, subd. 15(e), governs. The court is correct that,

logically, an employer could still dispute the initial diagnosis using an independent medical expert, and that the County did not do so here. But given that the DSM-5 requires an evaluation of current symptoms and the duration of those symptoms, and the need for observation as the basis for the diagnosis, it is not clear whether it is possible *in practice* for an independent medical examination to analyze the same time period as the initial diagnosis unless the two examinations are performed on the same day. We need not decide that issue here.[11]

This leaves local government units, and by extension, taxpayers, potentially required to pay disability compensation to any covered employee who is diagnosed with PTSD from the time the employee files the claim until the employer can schedule an independent medical examination, regardless of the validity of the initial diagnosis.

Because the language of the statute is clear, we look no further in our interpretation. *Goodman v. Best Buy, Inc.*, 777 N.W.2d 755, 761 (Minn. 2010). Although the statutory language controls here, some legislative history indicates that the Legislature may have believed it was enacting a more limited statute. The language that became Minn. Stat. § 176.011, subd. 15(e), was initially proposed in a standalone bill in 2017. S.F. 125, § 1, 90th Minn. Leg. 2017. That bill was later incorporated into a larger bill. S.F. 1293, art. 1, § 1, 90th Minn. Leg. 2017. In a floor debate, one of the authors of the legislation compared the new PTSD presumption to Minn. Stat. § 176.011, subd. 15(b), which uses similar—

[11] Same day examinations by physicians retained by both the employee and employer are usually *not possible* given that the employer generally does not know that an employee is going to assert a claim of PTSD until after the employee has already obtained a diagnosis.

though not identical—language to establish that if certain employees can prove they suffer from one of the listed ailments, that disease is presumed to have been caused by their employment. Sen. debate on S.F. 1293, 90th Leg., May 1, 2017 (audio tape at 21:39–22:01) (statement of Sen. Schoen). Another author said that the new law would create "a presumption that [an employee's PTSD is] an occupational illness." *Id.* at 28:21–28:32 (statement of Sen. Frentz). S.F. 1293 did not pass, but identical language was proposed again the following year. S.F. 3656, art. 13, § 1, 90th Minn. Leg. 2018. Representative Zerwas, the sponsor of S.F. 3656, stated that the language had been adopted from the earlier S.F. 1293. H. debate on S.F. 3656, 90th Minn. Leg., May 3, 2018, 6:17 p.m. (video tape at 1:19:56–1:20:05) (statement of Rep. Zerwas). Representative Zerwas stated that the purpose of the legislation was to reduce the burden on employees to prove *causation*; the issue to be solved was that first responders who *had* PTSD were unable to establish that the condition was caused by their employment. *Id.* at 32:05–35:03.

In addressing this problem of causation, the Legislature adopted Minn. Stat. § 176.011, subd. 15(e). As discussed, the language of this statute as enacted goes beyond just the issue of causation. What amendments, if any, are necessary to clarify the operation of Minn. Stat. § 176.011, subd. 15(e), are within the purview of the Legislative and Executive branches of our government. I write separately only to highlight some potential issues that may, or may not, require further action by those branches.

THISSEN, Justice (concurring).

I join in the concurrence of Justice Anderson.