STATE OF MINNESOTA

IN SUPREME COURT

A21-0893

Workers' Compensation Court of Appeals — Gildea, C.J.

Dennis Sershen,

Respondent,

vs.

Filed: May 11, 2022
Office of Appellate Courts

Metropolitan Council, self-insured,

Relator,

and

Streater, Inc. and MN Insurance Guaranty Association,

Respondents.

Mark J. Freeman, Thill and Freeman, PLLC, St. Louis Park, Minnesota, for respondent Dennis Sershen.

David O. Nirenstein, Kelly B. Nyquist, Fitch, Johnson, Larson & Held, P.A., Roseville, Minnesota, for relator.

Joshua W. Laabs, Schmidt & Salita, PLLC, Minnetonka, Minnesota, for amicus curiae Minnesota Association for Justice.

Evan W. Cordes, Sean B. Taylor, Hansen, Dordell, Bradt, Odlaug & Bradt, PLLP, Arden Hills, Minnesota, for amicus curiae Minnesota Defense Lawyers Association.

S Y L L A B U S

1. The employee established that workplace exposure to hazardous noise was a significant contributing factor in the development of his hearing loss, and substantial evidence supported the finding of the compensation judge that the employee sustained an occupational disease arising out of his employment.

2. Consistent with the plain language of Minn. Stat. § 176.135, subd. 5 (2020), it was not error to order the payment of medical benefits by the employer where the injured worker was last exposed to the hazard of the disease.

3. The compensation judge erred by concluding that all issues other than medical benefits are moot and not determining whether the last-exposure employer has a right to reimbursement against the last-significant-exposure employer under Minn. Stat. § 176.135, subd. 5, and Minn. Stat. § 176.66, subd. 10 (2020).

Affirmed in part, reversed in part, and remanded to the compensation judge.

O P I N I O N

GILDEA, Chief Justice.

Respondent Dennis Sershen worked for over 30 years as a safety manager for several employers, handling occupational safety and health compliance and monitoring workplace noise levels. Sershen developed hearing loss and filed a claim for workers' compensation benefits against his most recent employer, relator Metropolitan Council, and four former employers. After a hearing, the compensation judge found that Sershen sustained an occupational disease of hearing loss, ordered Metropolitan Council to pay medical benefits under Minn. Stat. § 176.135, subd. 5 (2020) and denied Sershen's claim

for permanent partial disability (PPD) benefits, concluding that the issue is moot. Metropolitan Council appealed to the Workers' Compensation Court of Appeals (WCCA). The WCCA affirmed and clarified that the PPD issue is moot because of a *Pierringer* settlement[1] between Sershen and one of his former employers. We agree that the occupational disease finding is supported by the evidence and that the award of medical benefits is appropriate under Minn. Stat. § 176.135, subd. 5. But because we conclude that the compensation judge did not properly apply our *Pierringer* settlement precedent, potentially prejudicing the interests of Metropolitan Council, we remand to the compensation judge for further proceedings consistent with this opinion.

FACTS

Sershen began his career as a safety manager in 1986 at Streater, Inc., a manufacturer of store fixtures. At Streater, he spent 10 to 15 hours per week doing daily walk-throughs in noisy areas and spent additional time in these areas investigating specific safety concerns.

In 1994, Sershen accepted a position with Truth Hardware Corporation, a company that manufactured window and door accessories. The noise level throughout the Truth Hardware facility averaged well above 90 decibels. It was during his time at Truth Hardware that Sershen first noticed hearing loss in the higher frequency ranges and experienced intermittent buzzing in his ears that eventually became constant.

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[1] *See Pierringer v. Hoger*, 124 N.W.2d 106 (Wis. 1963) (approving a plaintiff's right to maintain a cause of action against remaining defendants when other joint tortfeasors have been released). We approved the use of *Pierringer* releases in *Frey v. Snelgrove*, 269 N.W.2d 918, 921–22 (Minn. 1978).

Sershen then worked for SPX Corporation, a parts and tool manufacturer for the automobile industry, from 2001 to 2008. At SPX, Sershen was exposed to extremely loud noise for 8 to 10 hours per day. He claims that hearing tests at SPX showed that he suffered some hearing loss.

Sershen next worked for 3 months at ATEK Companies, an aluminum casting plant, where he was also exposed to very loud noise.

Finally, Sershen worked for Metropolitan Council from July 2008 until he retired in September 2017. Unlike his past employment, Sershen worked primarily in an office at Metropolitan Council where he was exposed to little or no potentially hazardous noise. He did, however, visit noisy job sites. Sershen estimates that he spent 8 to 10 hours per week at noisy job sites, while his supervisor estimated that Sershen was out of the office only 3 to 5 hours per week and that only a few job sites had high noise levels.

Less than a year before Sershen retired, he had a hearing test at Hear Now, Inc. This hearing test showed hearing loss. Sershen then obtained hearing aids from Hear Now that improved his hearing.

Sershen filed a workers' compensation claim against Streater, Truth Hardware, SPX, ATEK, Metropolitan Council, and their respective insurers, seeking compensation for medical expenses and PPD benefits. Hear Now intervened, seeking payment of $6,550 in medical expenses.

In connection with Sershen's claim, two medical professionals provided expert opinions regarding Sershen's hearing loss. Sershen offered an expert opinion from Dr. Gordana Mumovic, an ear, nose, and throat (ENT) specialist. Dr. Mumovic believed

that Sershen had been exposed to loud noise for 8 to 10 hours per day for 24 years during his career as a safety manager. Dr. Mumovic determined with reasonable medical certainty that Sershen suffered from hearing loss and that the substantial contributing factor "may have been high noise exposure in the workplace." Dr. Mumovic opined that other health conditions could have also contributed to Sershen's hearing loss. Ultimately, Dr. Mumovic concluded that Sershen's work at Metropolitan Council was a substantial contributing factor in his hearing loss, that Sershen suffered a 2 percent PPD rating, and that Sershen would benefit from digital hearing aids.

Metropolitan Council offered a medical opinion from Dr. Michael Hopfenspirger, another ENT specialist. Dr. Hopfenspirger also diagnosed Sershen with hearing loss, noting that this type of hearing loss "generally has a multifactorial etiology," but that "[n]oise exposure appears to be an obvious factor here." He identified age, other health conditions, and cigarette smoking as other possible contributing factors. Dr. Hopfenspirger opined that it was "impossible to know which of these factors is mostly to blame or even what the relative contribution of each may have been," but that Sershen's work with "Metropolitan Council was not a substantial contributing factor." Dr. Hopfenspirger concluded that Sershen had a 7 percent PPD rating and stated that "digital hearing aids are the only reasonable treatment option for [Sershen's] hearing loss."

At the hearing on Sershen's claim, the issues identified at the outset included whether Sershen sustained a hearing loss arising out of and in the course of his employment and, if so, at which employment his last significant exposure to noise occurred, and which

employer was responsible for medical benefits for that loss. Also at issue was whether Sershen sustained a 2 percent or 7 percent PPD rating for purposes of PPD benefits.

The parties at the hearing stipulated that Sershen had settled his claims against SPX and ATEK pursuant to *Pierringer v. Hoger*, 124 N.W.2d 106 (Wis. 1963), and *Frey v. Snelgrove*, 269 N.W.2d 918 (Minn. 1978). Hear Now was also a party to the *Pierringer* settlement and accepted $2,500 in exchange for "a full, final, and complete settlement of their claim for reimbursement of their intervention interest in this matter" as against SPX and ATEK. As part of the settlement, Sershen agreed to "hold harmless" the settling employers and insurers from "any claims for contribution and/or reimbursement" that might be brought by the nonsettling employers and insurers. The remaining parties did not challenge the applicability of the common-law *Pierringer* settlement in the context of the workers' compensation system, and there was no objection to the settlement. An award on stipulation was filed, dismissing SPX, ATEK, and their insurers.

The compensation judge found by a preponderance of the evidence that Sershen "sustained the occupational disease of hearing loss arising out of his employment as a safety manager." The compensation judge further found that Sershen "was exposed to the hazard of workplace noise" at all five employers and that "[h]is last significant exposure" was during his employment at SPX. Despite finding that Sershen's work at Metropolitan Council "did not contribute substantially to his hearing loss," the compensation judge ordered the Council to pay medical benefits associated with Sershen's hearing loss under the medical benefits statute, Minn. Stat. § 176.135, subd. 5, because he was last exposed to hazardous noise at the Council. The compensation judge summarily concluded that

"[a]ll other issues are moot." Therefore, the compensation judge did not make any determination about Sershen's PPD rating and claim for PPD benefits.

Metropolitan Council appealed to the Workers' Compensation Court of Appeals (WCCA).[2] The Council challenged the compensation judge's finding that Sershen sustained an occupational disease of hearing loss, as well as liability for his medical expenses. In addition, the Council argued that the compensation judge did not properly consider the liability of SPX as the employer where the last significant exposure occurred or the effect of the *Pierringer* settlement with SPX.

The WCCA affirmed the decision of the compensation judge. *Sershen v. Metro. Council*, No. WC21-6395, 2021 WL 2832942, at *1 (Minn. WCCA June 24, 2021). The WCCA concluded that "[s]ubstantial evidence supports the compensation judge's findings regarding medical causation." *Id.* at *4. The WCCA also concluded that the medical benefits statute, Minn. Stat. § 176.135, subd. 5, places liability for medical benefits on the employer where the employee was last exposed to the hazard of the occupational disease, regardless of whether that last exposure was significant. 2021 WL 2832942, at *4. The WCCA explained, however, that the last-exposure employer has a right to seek reimbursement from the employer and "insurer on the risk during the last significant exposure, but 'only in the case of disablement.' " *Id.* (quoting Minn. Stat. § 176.135,

[2] Sershen did not file any cross-appeal regarding the compensation judge's dismissal of his claim to PPD benefits. Thus, our opinion in this case only addresses the appropriateness of the compensation judge's mootness determination in the context of Metropolitan Council's appeal.

subd. 5). Therefore, the WCCA affirmed the compensation judge's award of medical benefits against Metropolitan Council. *Id.* at *5.

In addition, the WCCA rejected Metropolitan Council's argument that the compensation judge prejudiced its right to seek reimbursement from SPX, the employer where the last significant exposure occurred, by failing to determine whether Sershen "has a PPD rating, and if so, whether that rises to establish 'disablement.' " *Id.* at *6. The WCCA explained why the compensation judge had found Sershen's PPD rating and entitlement to PPD benefits moot. First, because of Sershen's *Pierringer* settlement with SPX, Sershen "had no further claims for any benefits from SPX and thus the compensation judge could not award PPD benefits to the employee to be paid by SPX." *Id.* at *5. Second, "[b]ecause of the compensation judge's finding that the noise exposure at the Metropolitan Council was not significant, the employee could not receive PPD benefits from the Metropolitan Council pursuant to Minn. Stat. § 176.66, subd. 10." *Id.* And "because the employee could not be awarded any PPD benefits in this proceeding, the compensation judge found that the issue of the exact nature and extent of the employee's PPD was moot." *Id.* The WCCA then explained that the "Council's arguments relate more to a potential future claim for reimbursement." *Id.* at *6. According to the WCCA, the issues related to reimbursement—whether the employee has a PPD rating, whether Sershen suffered disablement, and how the *Pierringer* "settlement affects the rights and responsibilities of SPX and the employee"—are all preserved for "future litigation." *Id.*

Metropolitan Council filed a timely petition for a writ of certiorari for review in our court.

ANALYSIS

Metropolitan Council raises three issues on appeal. First, the Council argues that Sershen did not sustain an occupational disease of hearing loss arising out of his employment. Second, the Council asserts that it is not liable for medical benefits under Minn. Stat. § 176.135, subd. 5, because Sershen's last significant exposure to the hazardous noise was at SPX, not Metropolitan Council. Third, the Council argues that the compensation judge misconstrued the implications of the *Pierringer* settlement between Sershen and SPX and that, had the law been properly applied, the Council would not be liable for Sershen's medical expenses. We address each issue in turn.

I.

We first address Metropolitan Council's argument that the compensation judge erred in finding that Sershen sustained an occupational disease of hearing loss arising out of his employment over the course of his career as a safety manager. We review a workers' compensation order to determine if "the findings of fact and order were unsupported by substantial evidence in view of the entire record as submitted." Minn. Stat. § 176.471, subd. 1(3) (2020). We will disturb the 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." *Hengemuhle v. Long Prairie Jaycees*, 358 N.W.2d 54, 61 (Minn. 1984).

Metropolitan Council argues that substantial evidence does not support the finding that Sershen suffered an occupational disease—a work-related hearing loss. To be entitled to compensation, the employee generally must show that the occupational disease can "be

traced to the employment as a direct and proximate cause." Minn. Stat. § 176.011, subd. 15(a) (2020) (defining "occupational disease"). But the employee need not show that the employment was "the sole factor." *Egeland v. City of Minneapolis*, 344 N.W.2d 597, 601 (Minn. 1984). Rather, the employee is only required to show that the employment was "a significant contributing factor in the development of the disease." *Id.* (upholding a finding of occupational disease where "the exact causative factors . . . are not understood and no single factor can be said to be responsible").

Our review of the record confirms the WCCA's conclusion that substantial evidence supports the compensation judge's finding that Sershen sustained an occupational disease. Both experts testified that multiple factors, including exposure to hazardous noise levels in the workplace, contributed to Sershen's hearing loss. The employer's expert, Dr. Hopfenspirger, opined that it was impossible to know which factor was mostly to blame or to know the relative contribution of each factor. But Dr. Hopfenspirger also stated that Sershen's exposure to noise at work was "an obvious factor." Dr. Hopfenspirger's conclusion that workplace noise was "an obvious factor" in the development of Sershen's hearing loss, coupled with Dr. Mumovic's opinion that "high noise exposure in the workplace" may have been the substantial contributing factor to Sershen's hearing loss, is sufficient to support the compensation judge's conclusion that Sershen sustained an occupational disease of hearing loss arising out of his employment as a safety manager. *See Golob v. Buckingham Hotel*, 69 N.W.2d 636, 639 (Minn. 1955) ("[U]ntil the time comes when medical knowledge has progressed to such a point that experts in the field of medicine can agree, causal relation in determining compensable injury or disease will have

to remain in the province of the trier of fact."). Because substantial evidence in the record supports the compensation judge's finding of an occupational disease, the WCCA properly affirmed that finding as not clearly erroneous.

II.

We next address Metropolitan Council's argument that the compensation judge erred in ordering it to pay Sershen's medical expenses because the compensation judge found that his last significant exposure to hazardous noise was at SPX. The dispute here involves two sections of the Workers' Compensation Act: the medical benefits statute, Minn. Stat. § 176.135, subd. 5, and the occupational disease statute, Minn. Stat. § 176.66 (2020). The Council asserts that when a compensation judge determines which employer represents the last significant exposure to the hazard of a disease and the evidence may support a finding of disablement, medical benefits should be awarded against the last-significant-exposure employer under the occupational disease statute, not the last-exposure employer under the medical benefits statute. Sershen urges us to affirm, contending that the medical benefits statute controls here.

We review de novo the interpretation of workers' compensation statutes. *Gilbertson v. Williams Dingmann, LLC*, 894 N.W.2d 148, 151 (Minn. 2017). When interpreting a statute, we seek to ascertain the Legislature's intent.[3] Minn. Stat. § 645.16 (2020); *Shire v. Rosemount, Inc.*, 875 N.W.2d 289, 292 (Minn. 2016). Our first step is to examine the

[3] The Legislature has instructed that the Workers' Compensation Act should "be interpreted so as to assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers." Minn. Stat. § 176.001 (2020).

statutory language to determine whether the statute is ambiguous, that is, whether the statute is susceptible to more than one reasonable interpretation. *Sumner v. Jim Lupient Infiniti*, 865 N.W.2d 706, 708 (Minn. 2015). When interpreting a section of the Workers' Compensation Act, we must consider that section "in light of related provisions." *Conwed Corp. v. Union Carbide Chems. & Plastics Co.*, 634 N.W.2d 401, 406 (Minn. 2001). If the statutory language is unambiguous, our analysis ends, and we apply the statute's plain meaning. *Sumner*, 865 N.W.2d at 708. It is only if a statute is ambiguous that we resort to canons of construction to determine which reasonable interpretation to adopt. *Id.*

Metropolitan Council disputes its liability to pay medical benefits for Sershen's occupational disease of hearing loss. The occupational disease statute provides that an employee's "disablement" resulting from an occupational disease is a compensable workers' compensation injury. Minn. Stat. § 176.66, subd. 1. The Workers' Compensation Act does not define "disablement," but we have said that a claim based on "disablement" from an occupational disease accrues when "the employee's illness has led to a wage loss, job transfer, or permanent impairment." *Conwed Corp.*, 634 N.W.2d at 409.

Metropolitan Council argues that it is not liable for Sershen's occupational disease under the occupational disease statute, Minn. Stat. § 176.66, because the compensation judge found that his employment at the Council "did not contribute substantially to his hearing loss" and that his last significant exposure was at SPX. Under the occupational disease statute, when there are multiple employers, "the employer in whose employment the employee was last exposed in a *significant way* to the hazard of the occupational

disease" is "liable for the compensation."[4] Minn. Stat. § 176.66, subd. 10 (emphasis added). In addition, the statutory definition of "occupational disease" addresses employer liability. Under the statutory definition, "[a]n employer is not liable for compensation for any occupational disease which cannot be traced to the employment as a direct and proximate cause and is not recognized as a hazard characteristic of and peculiar to the . . . employment." Minn. Stat. § 176.011, subd. 15(a).[5]

But the compensation judge did not make an award under the occupational disease statute, instead awarding Sershen medical benefits under the medical benefits statute.[6]

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[4] "Compensation" is generally defined as "all benefits provided by" the Workers' Compensation Act "on account of injury or death." Minn. Stat. § 176.011, subd. 6a (2020). But in the occupational disease statute, "compensation" is defined as "66-2/3 percent of the employee's weekly wage on the date of injury subject to a maximum compensation equal to the maximum compensation in effect on the date of last exposure." Minn. Stat. § 176.66, subd. 11.

[5] When there is a dispute among multiple employers as to liability, "the employer in whose employment the employee is *last exposed* to the hazard" must pay benefits. Minn. Stat. § 176.66, subd. 10 (emphasis added). This last-exposure employer must be reimbursed by the employer "subsequently determined to be liable for the occupational disease." *Id.* The parties do not contend that this provision is at issue in this case, and so we do not discuss it further.

[6] The medical benefits statute, Minn. Stat. § 176.135, subd. 5, reads in full:

> Notwithstanding section 176.66, an employee who has contracted an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.
>
> Payment of compensation under this section shall be made by the employer and insurer on the date of the employee's last exposure to the hazard of the occupational disease. Reimbursement for medical benefits paid under this subdivision or subdivision 1a is allowed from the employer and insurer liable under section 176.66, subdivision 10, only in the case of disablement.

According to the medical benefits statute, "[n]otwithstanding section 176.66"—the occupational disease statute—medical expenses must be paid "even if the employee is not disabled from earning full wages at the work at which the employee was last employed." Minn. Stat. § 176.135, subd. 5. Under the medical benefits statute, the employer where the employee was last exposed to the hazard "shall" pay the medical expenses. *Id.* The medical benefits statute further provides that the last-exposure employer is entitled to reimbursement from the last-significant-exposure employer, but "only in the case of disablement." *Id.*

The compensation judge concluded that Metropolitan Council is liable for Sershen's medical benefits under Minn. Stat. § 176.135, subd. 5, because the Council was the last place of employment where Sershen was exposed to hazardous noise. We agree.

The plain language of the medical benefits statute clearly states that the last-exposure employer is liable for medical expenses arising from an occupational disease, despite the alternative framework described in the occupational disease statute. This liability is clear, in part, from the medical benefits statute's broad introductory phrase: "[n]otwithstanding section 176.66," the occupational disease statute. *Id.* "Notwithstanding" is defined by both legal and general dictionaries as "in spite of." *See Notwithstanding*, *Black's Law Dictionary* (11th ed. 2019); *Webster's Third New International Dictionary of the English Language Unabridged* 1545 (1961). The medical benefits statute therefore instructs that, in spite of the occupational disease statute, "an employee who has contracted an occupational disease is eligible to receive compensation"

for medical benefits and that "[p]ayment . . . shall be made by the employer . . . on the date of the employee's last exposure to the hazard." Minn. Stat. § 176.135, subd. 5.

There is no limiting language regarding the payment obligation of the last-exposure employer and no requirement that the last exposure be significant. And the Legislature's use of the word "shall" when describing the payment obligation of the last-exposure employer makes it clear that this payment duty is mandatory. *See* Minn. Stat. § 645.44, subd. 16 (2020) (defining "shall" as "mandatory" when used in Minnesota Statutes). The lack of limiting language and the use of "shall" to describe the payment obligation show that the Legislature intended that the last-exposure employer—here, Metropolitan Council—pay medical benefits for an occupational disease in the first instance.[7]

In urging us to conclude otherwise, Metropolitan Council notes that the medical benefits statute is concerned with the prompt payment of medical expenses. *See, e.g.*, Minn. Stat. § 176.135, subd. 6 (2020) (requiring payment of medical expenses "[a]s soon as reasonably possible"). We do not disagree, but Metropolitan Council's interpretation of the medical benefits statute as a limited, pre-liability statute that gives way to the occupational disease statute when the requirements of the occupational disease statute are

[7] The medical benefits statute does, however, allow the last-exposure employer to be reimbursed by an employer "liable under section 176.66, subdivision 10"—meaning the last-significant-exposure employer liable under the occupational disease statute—but "only in the case of disablement." Minn. Stat. § 176.135, subd. 5. The compensation judge did not make a finding on disablement, apparently because Sershen and SPX had executed a *Pierringer* settlement. We discuss the effect of the *Pierringer* settlement in the next section.

met is not grounded in the text of the medical benefits statute.[8] Nor is that interpretation reasonable given the medical benefits statute's broad, specific disclaimer of the liability framework of the occupational disease statute. To interpret the medical benefits statute in the way that Metropolitan Council urges would require us to read in a pre-liability limitation that simply does not appear in the text of the statute. We will not "add words to an unambiguous statute." *328 Barry Ave., LLC v. Nolan Props. Grp., LLC*, 871 N.W.2d 745, 750 (Minn. 2015).

Metropolitan Council argues, however, that the definition of "occupational disease" in the Workers' Compensation Act impermissibly conflicts with any obligation on its part to pay medical benefits in this case. Specifically, the Council claims that the definition of "occupational disease" precludes employer liability "for compensation for any occupational disease" unless the employment was "a direct and proximate cause" of the disease. Minn. Stat. § 176.011, subd. 15(a). And here, the compensation judge specifically found that Sershen's exposure to hazardous noise at Metropolitan Council did not contribute substantially to his hearing loss.[9] The medical benefits statute, on the other

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[8] Metropolitan Council acknowledged the extensive plain language arguments of Sershen and amicus curiae Minnesota Association for Justice and does "not dispute the plain language of [the medical benefits] statute." Nevertheless, the Council continues to argue that the medical benefits statute "was never intended to apply in this situation" and that any medical benefits should have been awarded under the occupational disease statute.

[9] In the tort context, we have equated "direct, or proximate, cause of harm" with "substantial factor in the harm's occurrence." *George v. Est. of Baker*, 724 N.W.2d 1, 10 (Minn. 2006); *see also Christianson v. Chicago, St. P., M. & O. Ry.*, 69 N.W. 640, 641 (Minn. 1896) ("Consequences which follow in unbroken sequence, without an intervening efficient cause, from the original negligent act, are natural and proximate . . . .").

hand, requires only an "exposure to the hazard of the occupational disease" to trigger an employer's responsibility to pay medical benefits. Minn. Stat. § 176.135, subd. 5.

The differences in the statutes, however, do not mean that the compensation judge erred in ordering Metropolitan Council to pay Sershen's medical expenses under the medical benefits statute. The definition of "occupational disease" provides a general limit on employer liability. *See* Minn. Stat. § 176.011, subd. 15(a) ("An employer is not liable for compensation for any occupational disease *which cannot be traced to the employment as a direct and proximate cause* . . . ." (emphasis added)). The medical benefits statute provides, however, a different standard to impose liability for medical expenses arising from an occupational disease. *See* Minn. Stat. § 176.135, subd. 5 ("Payment of compensation under this section shall be made by the employer . . . on the date of the employee's last exposure to the hazard of the occupational disease."). The Legislature has directed that where a general provision and a special provision cannot be construed to give effect to both, "the special provision shall prevail and shall be construed as an exception to the general provision."[10] Minn. Stat. § 645.26, subd. 1 (2020); *see, e.g.*, *Barton v. Moore*,

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[10] The Legislature also instructs that this interpretive rule does not apply when "the general provision shall be enacted at a later session and it shall be the manifest intention of the legislature that such general provision shall prevail." Minn. Stat. § 645.26, subd. 1 (2020). This limit on the application of the rule does not apply here because the general definition of "occupational disease" limiting employer liability to those diseases that can "be traced to the employment as a direct and proximate cause" was adopted by the Legislature in 1953, *see* Act of Apr. 24, 1953, ch. 755, § 1, 1953 Minn. Laws 1099, 1101 (codified as amended at Minn. Stat. § 176.011, subd. 15(a)), while the special provision of the medical benefits statute requiring the last-exposure employer to pay medical expenses was adopted by the Legislature in 1992, *see* Act of Apr. 28, 1992, ch. 510, art. 4, § 10, 1992 Minn. Laws 589, 634 (codified at Minn. Stat. § 176.135, subd. 5).

558 N.W.2d 746, 752 (Minn. 1997) (applying Minn. Stat. § 645.26, subd. 1). To the extent that there is a conflict in the statutes here, as Metropolitan Council argues, the Legislature directs that we interpret "last exposure to the hazard" in the medical benefits statute, Minn. Stat. § 176.135, subd. 5, as an exception to the general liability limit found in the definition of "occupational disease," Minn. Stat. § 176.011, subd. 15(a).[11]

Under our interpretation of the medical benefits statute, Minn. Stat. § 176.135, subd. 5, an employee who has contracted an occupational disease is eligible for medical benefits paid by the employer where the employee was last exposed to the hazard of the occupational disease, regardless of where the employee had the last *significant* exposure to the hazard.[12] Based on this interpretation, the compensation judge did not err in ordering Metropolitan Council, the last-exposure employer, to pay Sershen's medical expenses.

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[11] To be clear, we are not implying that an employee may receive workers' compensation medical benefits for simply being exposed to an occupational disease hazard. Rather, a finding of an occupational disease—"a mental impairment . . . or physical disease arising out of and in the course of employment peculiar to the occupation in which the employee is engaged and due to causes in excess of the hazards ordinary of employment," as defined in Minn. Stat. § 176.011, subd. 15(a)—is a prerequisite to the application of the medical benefits statute, Minn. Stat. § 176.135, subd. 5.

[12] Metropolitan Council also argues that the legislative history does not support the application of the medical benefits statute when the compensation judge has determined the last-significant-exposure employer. Because the statute is not ambiguous, we do not look to legislative history. *See* Minn. Stat. § 645.16(7); *Laase v. 2007 Chevrolet Tahoe*, 776 N.W.2d 431, 435 n.2 (Minn. 2009) ("In the absence of a finding of ambiguity, we do not resort to legislative history to interpret a statute.").

Further, amicus curiae Minnesota Defense Lawyers Association argues that our interpretation of the medical benefits statute "creates an absurd extension of liability for injuries to all future employers of any employee that has had an occupational disease that has already culminated, for which they have no control, no ability to truly mitigate, and no apparent defenses." These policy arguments should be directed to the Legislature. Where

III.

We now turn to Metropolitan Council's arguments related to the *Pierringer* settlement between Sershen and SPX. We have never addressed whether a *Pierringer* settlement, which was a common-law development in tort cases, is properly used in the context of the workers' compensation system. *See Frey v. Snelgrove*, 269 N.W.2d 918, 921 (Minn. 1978) (holding that "[t]he use of a . . . Pierringer release is in accord with Minnesota practice and our law of comparative negligence in *tort* actions" (emphasis added)).[13] The parties did not brief that question, and they do not ask us to decide whether *Pierringer* settlements are proper in this context. Instead, the parties seem to assume that such settlements are appropriately used in the workers' compensation system and that the agreement here is in fact a *Pierringer* settlement.[14] Accordingly, we assume, without deciding, that the use of a *Pierringer* settlement was not improper here.

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the language of the statute is plain, as it is here, "[n]either the wisdom of the laws nor their adequacy to accomplish a desired purpose may be taken into consideration by courts in determining what interpretation the laws should have." *Norris Grain Co. v. Nordaas*, 46 N.W.2d 94, 105 (Minn. 1950); *see also State Farm Mut. Auto. Ins. Co. v. Lennartson*, 872 N.W.2d 524, 533–34 (Minn. 2015) (refusing to depart from the plain language of a statute based on public policy arguments).

[13] We summarily affirmed the WCCA's decision in *Hurd v. Northern Industrial Insulation*, a workers' compensation case involving similar issues related to a *Pierringer* settlement. 70 Minn. Workers' Comp. Dec. 365, 381–82 (WCCA 2009), *aff'd without opinion*, 771 N.W.2d 513 (Minn. 2009). But our "[s]ummary affirmances have no precedential value because they do not commit the court to any particular point of view." *Hoff v. Kempton*, 317 N.W.2d 361, 366 (Minn. 1982).

[14] The common-law *Pierringer* settlement was developed in the comparative negligence tort context and may not be a perfect fit for the statutory workers' compensation system. Nevertheless, the WCCA has allowed the use of *Pierringer* settlements for over

Metropolitan Council makes two primary arguments related to the *Pierringer* settlement. First, the Council argues that benefits should have been awarded as though the *Pierringer* settlement did not exist and, had this been done, SPX (rather than Metropolitan Council) would be liable for Sershen's medical benefits under the occupational disease statute, Minn. Stat. § 176.66. Second, the Council argues that because a *Pierringer* settlement cuts off cross-claims for contribution against settling parties as a matter of law, it is not required to file a contribution claim to preserve its rights. Accordingly, the Council asserts, the WCCA erred in characterizing its *Pierringer* argument as an issue of contribution to be dealt with in the future.

A *Pierringer* settlement typically involves a tort action with multiple defendants. *See Frey*, 269 N.W.2d at 921. Consistent with the rule we approved, the plaintiff can settle

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30 years. *See, e.g.*, *O'Neil v. Hickory Insulation Co.*, 41 Minn. Workers' Comp. Dec. 612, 616–17 (WCCA 1988) (approving a *Pierringer* agreement), *aff'd without opinion*, 435 N.W.2d 820 (Minn. 1989). As we recently recognized, *Pierringer* settlements include:

> (1) The release of the settling defendants from the action and the discharge of a part of the cause of action equal to that part attributable to the settling defendants' causal negligence; (2) the reservation of the remainder of plaintiff's causes of action against the nonsettling defendants; and (3) the plaintiff's agreement to indemnify the settling defendants from any claims of contribution made by the nonsettling parties and to satisfy any judgment obtained from the nonsettling defendants to the extent the settling defendants have been released.

Graff v. Robert M. Swendra Agency, Inc., 800 N.W.2d 112, 115 n.3 (Minn. 2011) (quoting *Frey*, 269 N.W.2d at 920 n.1). The settlement in this case does not precisely satisfy these three elements. But even if the release here does not include all of the elements of a *Pierringer* release, the settling parties intended that *Pierringer* principles would apply to the release. Those principles require that settling parties not prejudice the rights of nonsettling defendants and that nonsettling defendants not pay more than their fair share of liability.

with one or more of the defendants, while "reserv[ing] his right to proceed against the nonsettling defendants" and "agreeing to indemnify the settling defendants from the liability they might have for contribution or indemnity to the remaining litigants." *Id.* When there is a *Pierringer* settlement, "the settling defendants usually should be dismissed, but their negligence should nevertheless be submitted to the jury." *Id.* at 922. The plaintiff's recovery is then limited to the percentage of damages attributable to the causal negligence of the nonsettling defendants. *Id.*; *Frederickson v. Alton M. Johnson Co.*, 402 N.W.2d 794, 797 (Minn. 1987). Consequently, the nonsettling defendants will not pay more than their "fair share of the verdict." *Frey*, 269 N.W.2d at 922. Further, any claims for contribution brought by the nonsettling defendants against the settling defendants are barred as a matter of law "[b]ecause the legal effect of the *Pierringer* release is that each tortfeasor pays only its proportionate share of liability, and no more." *Alumax Mill Prods., Inc. v. Cong. Fin. Corp.*, 912 F.2d 996, 1009–10 (8th Cir. 1990) (applying Minnesota law).

Here, the compensation judge failed to fully apply our *Pierringer* principles, determining that all issues other than the award of medical benefits are moot. This determination was error. We have held in the tort context that juries generally should consider "the fault of all parties, including the settling defendants, even though they have been dismissed from the lawsuit." *Frey*, 269 N.W.2d at 923. Although workers' compensation liability is not premised on fault, the underlying principle that a settlement agreement should not prejudice the rights of a nonsettling party required the compensation judge to determine liability for all benefits as if the employers subject to the *Pierringer* settlement were still present. Only after the compensation judge has determined liability

for all benefits can the benefits that fall to a settling employer be eliminated from the employee's recovery. In other words, if a *Pierringer* settlement is used, all aspects of the *Pierringer* rule must be applied. Doing so helps to ensure that liability for workers' compensation benefits is not shifted to an employer that would not otherwise be liable for those benefits. *See id.* at 921.

The compensation judge here should have resolved whether Metropolitan Council has a right to be reimbursed by SPX, the last-significant-exposure employer.[15] Sershen argues that a claim for reimbursement must be pled for the compensation judge to make a reimbursement determination. *See* Minn. R. 1420.2400, subp. 1 (2021) ("Petitions for . . . reimbursement in cases pending before the office must describe in detail the basis of a claim for . . . reimbursement against the additional employer . . . ."). But such a requirement in this context runs counter to *Pierringer* principles. *See Alumax Mill Prods., Inc.*, 912 F.2d at 1010 (" '[T]here is no point in going through the circuity of ordering a judgment' against the nonsettling defendant only to have the plaintiff ultimately satisfy the judgment itself." (quoting *Fleming v. Threshermen's Mut. Ins. Co.*, 388 N.W.2d 908, 911 (Wis. 1986)); Peter B. Knapp, *Keeping the* Pierringer *Promise: Fair Settlements and Fair*

[15] Although Metropolitan Council had not paid any medical benefits at the time of the hearing, we use the statutory term "reimbursement" here. *See* Minn. Stat. § 176.135, subd. 5 (allowing for "[r]eimbursement . . . from the employer . . . liable under section 176.66, subdivision 10, only in the case of disablement"). The right to reimbursement under the medical benefits statute requires determinations regarding (1) which employer is the last-significant-exposure employer, and (2) whether the occupational disease resulted in "disablement." *See* Minn. Stat. §§ 176.135, subd. 5, 176.66, subd. 10. The compensation judge has already found that SPX was the last-significant-exposure employer.

Trials, 20 Wm. Mitchell L. Rev. 1, 35–36 (1994) ("As a practical matter, courts do not require nonsettling defendants to pay the plaintiff the entire judgment amount and then bring an action for contribution against the settling defendant, who is in turn indemnified by the plaintiff. Since the plaintiff is ultimately responsible for the settling defendant's share of liability, courts simply reduce the judgment by that amount."). A contrary rule would improperly prejudice nonsettling employers by cutting off their statutory right to reimbursement because claims for contribution against settling defendants are barred as a matter of law under *Pierringer*. *See Alumax Mill Prods., Inc.*, 912 F.2d at 1009–10; *Mude v. Fox Bros. of Sanborn*, 74 Minn. Workers' Comp. Dec. 277, 279 (WCCA 2014) (stating that "a settlement may not be reached to the prejudice of [a] non-settling party").[16]

On remand, the compensation judge must determine whether Sershen suffered "disablement" and whether Metropolitan Council is entitled to reimbursement, and if so, how that reimbursement is to be made consistent with *Pierringer* principles.

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[16] Sershen argues that even if Metropolitan Council is in a worse position than it would have been if Sershen had not settled with SPX, this result is acceptable under our decision in *Johnson v. Tech Group, Inc.*, 491 N.W.2d 287 (Minn. 1992). In *Johnson*, the employee suffered several low back injuries from work at prior employers. *Id.* at 287. The employee settled those claims. *Id.* The employee then suffered a separate, new injury to his low back with a different employer. *Id.* We refused "to reduce the award of wage loss benefits by a proportion of the disability attributable to the prior [settled] injuries" because the wage loss benefits were fixed by law and not subject to equitable apportionment. *Id.* at 288. But here we are dealing with one ongoing occupational disease, not multiple, "separate, new" injuries. *Id.* As a result, *Johnson* is inapposite.

CONCLUSION

For the foregoing reasons, we affirm the decision of the Workers' Compensation Court of Appeals in part, reverse in part, and remand to the compensation judge for proceedings consistent with this opinion.

Affirmed in part, reversed in part, and remanded to the compensation judge.