

C. CASEY FORBES, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

Therefore, WVOIC argues that the Board of Review and the ICA did not err in affirming the 10% permanent partial disability award for OP based on the OP Board's findings.

This Court reviews questions of law de novo, while we accord deference to the Board of Review's findings of fact unless the findings are clearly wrong. Syl. Pt. 3, *Duff v. Kanawha Cnty. Comm'n*, 250 W. Va. 510, 905 S.E.2d 528 (2024). Upon consideration of the record and briefs, we find no reversible error and therefore summarily affirm. *See* W. Va. R. App. P. 21(c).

Affirmed.

**ISSUED: September 10, 2025**

**CONCURRED IN BY:**

Chief Justice William R. Wooton  
Justice C. Haley Bunn  
Justice Charles S. Trump IV  
Justice Thomas H. Ewing  
Senior Status Justice John A. Hutchison

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and, within a two-year period, the OP Board uses the study having "the better volumes." The OP Board explained that it has "always taken the best test within a two-year period unless there [are] obviously findings radiographically of a worsening of, such as a progressive massive fibrosis or some other indication that correlates with that change in pulmonary function." The OP Board testified that the possibility that the claimant has worsening pathology that has not yet been detected was "extremely small." The OP Board further stated that its pulmonary function study from October 2020 showed a carboxyhemoglobin level of 6.0, which indicated that the claimant was still smoking cigarettes. The OP Board concluded that it would not be reasonable to attribute all of the claimant's pulmonary impairment to OP. Therefore, based upon its October 2020 pulmonary function study and the medical evidence, the OP Board found that the claimant had 10% pulmonary impairment attributable to OP and 5% pulmonary impairment attributable to non-occupational factors, including cigarette smoking and emphysema.