

IN THE INTERMEDIATE COURT OF APPEALS OF WEST VIRGINIA

**WEST VIRGINIA UNITED HEALTH SYSTEM, INC.,
Employer Below, Petitioner**

v.) No. 26-ICA-63 (JCN: 2026004942)

**TINA BEST,
Claimant Below, Respondent**

**FILED
August 27, 2026**

ASHLEY N. DEEM, CHIEF DEPUTY CLERK
INTERMEDIATE COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner West Virginia United Health System, Inc., (“WVUHS”) appeals the January 21, 2026, order of the Workers’ Compensation Board of Review (“Board”). Tina Best filed a response.¹ WVUHS did not reply. The issue on appeal is whether the Board erred in reversing the claim administrator’s order, which rejected the claim.

This Court has jurisdiction over this appeal pursuant to West Virginia Code § 51-11-4 (2024). After considering the parties’ arguments, the record on appeal, and the applicable law, this Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision affirming the Board’s order is appropriate under Rule 21 of the West Virginia Rules of Appellate Procedure.

On September 8, 2025, Ms. Best completed an Employees’ and Physicians’ Report of Occupational Injury or Disease indicating that she injured her left knee that day when she was walking into work at Potomac Valley Hospital (“PVH”) and fell over the curb onto her knee. She was treated in the PVH Emergency Department, where she was diagnosed with an occupational injury to her left patella. She was unable to bear weight on the left knee due to pain. An x-ray of the left knee showed a minimally displaced fracture of the patella, suprapatellar effusion, and bone infarct of the proximal tibia.

Ms. Best followed up for treatment at PVH Orthopedics, Rehabilitation Services Center on September 9, 2025. Hamed Vahedikafshgari, M.D., noted that Ms. Best reported her pain was located anterior to her left knee, and that she denied any pain around the calf, foot, and ankle. Ms. Best denied any history of previous knee issues. Dr. Vahedikafshgari

¹ WVUHS is represented by H. Dill Battle III, Esq. Ms. Best is represented by Christopher J. Wallace, Esq.

assessed a patella fracture. Ms. Best agreed to proceed with surgical intervention, a left patellar fracture open reduction internal fixation.

On December 2, 2025, Ms. Best testified that she worked as a phlebotomy technician at PVH for three and a half months. Ms. Best testified that on September 8, 2025, she arrived at the hospital and parked in the employer's lower parking lot, where she parks daily, and walked her usual path across the parking lot. Ms. Best testified that she tripped when stepping onto the raised curb onto the sidewalk, lost her balance, and fell forward onto her left knee. Ms. Best stated that she did not know what caused her to trip. She further stated that she did not know if another employee saw her fall, but an employee retrieved a wheelchair for her and took her to her lab. She testified that she was treated in the emergency room.

On September 16, 2025, the claim administrator issued an order rejecting the claim, finding that the injury was not due to an injury or disease received in the course of and resulting from employment. Ms. Best protested this order. On January 21, 2026, the Board reversed the claim administrator's order, which rejected the claim. The Board found that the preponderance of the evidence establishes that Ms. Best's injury occurred in the course of her employment. WVUHS now appeals the Board's order.

Our standard of review is set forth in West Virginia Code § 23-5-12a(b) (2022), in part, as follows:

The Intermediate Court of Appeals may affirm the order or decision of the Workers' Compensation Board of Review or remand the case for further proceedings. It shall reverse, vacate, or modify the order or decision of the Workers' Compensation Board of Review, if the substantial rights of the petitioner or petitioners have been prejudiced because the Board of Review's findings are:

- (1) In violation of statutory provisions;
- (2) In excess of the statutory authority or jurisdiction of the Board of Review;
- (3) Made upon unlawful procedures;
- (4) Affected by other error of law;
- (5) Clearly wrong in view of the reliable, probative, and substantial evidence on the whole record; or
- (6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Syl. Pt. 2, *Duff v. Kanawha Cnty. Comm'n*, 250 W. Va. 510, 905 S.E.2d 528 (2024).

WVUHS argues that, while Ms. Best was injured in the course of her employment, she was not injured as a result of her employment. WVUHS further argues that Ms. Best failed to prove by a preponderance of evidence that stepping onto a curb when she tripped and fell was a risk peculiar to her job as a phlebotomy technician. We disagree.

WVUHS relies on *Hood v. Lincare Holdings, Inc.*, 249 W. Va. 108, 894 S.E.2d 890 (2023), wherein the Supreme Court of Appeals of West Virginia (“SCAWV”) held: “In the context of workers’ compensation law, there are four types of injury-causing risks commonly faced by an employee at work: (1) risks directly associated with employment; (2) risks personal to the claimant; (3) mixed risks; and (4) neutral risks.” *Id.* at 110, 894 S.E.2d at 892, syl. pt. 4. The Court outlined an increased-risk assessment to apply when an activity falls into the category of a neutral risk. *Id.* at 110, 894 S.E.2d at 892, syl. pt. 5. Further, the Court in *Hood* distinguishes slip, trip, and fall cases from those arising from neutral risk activities that warrant application of the increased-risk test. *Id.* at 116, 894 S.E.2d at 898. Thus, we find no merit in WVUHS’ arguments related to *Hood*, in which the claimant suffered an injury when his knee popped while descending a short set of stairs.

Three elements must coexist in workers’ compensation cases to establish compensability: (1) a personal injury (2) received in the course of employment and (3) resulting from that employment. *Barnett v. State Workmen’s Comp. Comm’r*, 153 W. Va. 796, 172 S.E.2d 698, syl. pt. 1 (1970); *Sansom v. Workers’ Comp. Comm’r*, 176 W. Va. 545, 346 S.E.2d 63, syl. pt. 1 (1986).

Here, the Board found that, because Ms. Best tripped and fell while walking into her workplace, on her way to clock in, the injury was sustained in the course of and resulting from her employment. Further, the Board found that the facts in the current claim are similar to the facts in *Am. Med. Facilities Mgmt. v. Parsons*, No. 19-1174, 2021 WL 1595434 (W. Va. April 23, 2021) (memorandum decision). In *Parsons*, the SCAWV found that Ms. Parsons sustained a compensable injury when she slipped and fell while walking to an employer-owned breakroom. Finally, the Board found that it is unrefuted that Ms. Best was diagnosed with a fractured left patella resulting from her work-related fall.

As a threshold matter, the Court notes that workers’ compensation provides employers immunity from tort liability for injuries to covered employees when an employer maintains workers’ compensation insurance. *See* W. Va. Code § 23-2-6 (2022). Petitioner’s position is inconsistent with that statutory bargain. Employers are protected from tort liability in exchange for assuming responsibility for the medical expenses and other benefits for injuries sustained arising out of and in the course of their employment.

The Board found that Ms. Best’s injury occurred in the course of and resulted from her employment and specifically found the facts comparable to *Parsons*. This finding is

consistent with this Court's recognition that injuries sustained during work-related transitional activities may arise in the course of and result from employment. In *Perrine v. West Virginia Department of Health and Human Services*, No. 25-ICA-232, 2026 WL 797910, at *3 (W. Va. Ct. App. Feb. 3, 2026) (memorandum decision), this Court found that a nurse's fall on a wet parking stripe in the hospital parking lot during an unpaid lunch break was compensable. In *State Agencies of West Virginia v. Johnson*, No. 25-ICA-448, 2026 WL 1718960, at *3 (W. Va. Ct. App. June 2, 2026) (memorandum decision), this Court likewise recognized compensability where an employee was injured during employer-directed travel. Ms. Best was engaged in an activity necessarily incident to her employment when she was injured.

Upon review, we conclude that the Board was not clearly wrong in finding that Ms. Best established that she sustained a personal injury in the course of and resulting from her employment. As the SCAWV has set forth, "[t]he 'clearly wrong' and the 'arbitrary and capricious' standards of review are deferential ones which presume an agency's actions are valid as long as the decision is supported by substantial evidence or by a rational basis." Syl. Pt. 3, *In re Queen*, 196 W. Va. 442, 473 S.E.2d 483 (1996). With this deferential standard of review in mind, we cannot conclude that the Board was clearly wrong in reversing the claim administrator's order, which rejected the claim.

Accordingly, we affirm the Board's January 21, 2026, order.

Affirmed.

ISSUED: August 27, 2026

CONCURRED IN BY:

Chief Judge Daniel W. Greear
Judge Charles O. Lorensen
Judge S. Ryan White