

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

VALLEY HEALTH SYSTEMS, LLC;
AND SEDGWICK CMS,
Appellants,
vs.
JULITA SORIANO,
Respondent.

No. 89520-COA

FILED

SEP 30 2025

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY *[Signature]*
DEPUTY CLERK

ORDER OF AFFIRMANCE

Valley Health Systems, LLC, and Sedgwick CMS (appellants) appeal from a district court order denying their petition for judicial review in a workers' compensation matter. Eighth Judicial District Court, Clark County; Jacob A. Reynolds, Judge.

Respondent Julita Soriano worked for Valley Health as a registered nurse at Spring Valley Hospital in Las Vegas. Soriano worked in the observation unit where she tended to patients experiencing chest pains. On January 4, 2021, Soriano was working in close contact with a patient while providing medical care; specifically, wetting the patient's lips and, at one point, swabbing that patient to test for COVID-19. Two days later, that patient was relocated to the COVID-19-positive floor of the hospital. The patient later tested positive for COVID-19 on January 14.

On January 9, Soriano went to the emergency room "with complaints of fatigue, body aches, shortness of breath and pain when coughing." At that time, she tested negative for COVID-19, although the treating physician opined that she was, in fact, sick with the virus. Soriano was discharged but returned to the hospital on January 12 complaining of "coughing, chills, right side and back pain and loss of taste." At that time,

25-42681

Soriano was diagnosed with pneumonia and discharged with instructions to follow up if her condition worsened.

Soriano returned to the emergency room on January 14 after her condition worsened. She tested positive for COVID-19 and was also diagnosed with pneumonia and hypoxia. Soriano was admitted to the hospital that same day, and she would remain in the hospital for over two months. During that time, Soriano underwent various medical procedures and difficulties. Roughly a week after being hospitalized, Soriano was upgraded to the intensive care unit (ICU). On January 24, Soriano was intubated and sedated into a medically induced coma. In February, Soriano underwent a tracheostomy and feeding tube placement. Soriano awoke from the medically induced coma in early March but remained ventilated. She was eventually discharged on March 24.

Soriano ultimately sought workers' compensation benefits for her COVID-19 and related health complications. On March 23, 2021, she completed a notice of injury or occupational disease form, and a C-4 claim form for workers' compensation. The C-4 form, however, was not signed by a treating physician until April 10, 2021. The parties agree that Soriano's notice to her employer and workers' compensation claim were not submitted within the respective 7- and 90-day time periods ordinarily required by statute.

On May 18, 2021, Sedgwick CMS, the insurer for Valley Health, denied Soriano's claim pending an investigation. Soriano requested a hearing on this denial, but the parties later stipulated to bypass the matter to the appeals officer. Thereafter, Sedgwick completed a field investigation where the investigator interviewed various individuals who worked at Spring Valley Hospital, as well as Soriano herself. Of note, Soriano told the investigator that she had "countless" interactions with a patient between January 1 and January 4 where Soriano had to be in close contact to wet

the patient's lips. According to Soriano, while she was undertaking this task, the patient would cling to her while coughing. Additionally, Soriano informed the investigator that she had not attended any social gatherings, holiday events, nor gone to any restaurants, used ridesharing, or used public transportation in the two weeks prior to getting sick. However, the investigator also spoke to the hospital's director of nursing who stated she believed Soriano went to a social gathering the week prior to being sick, although she was unable to provide any details. The nursing director further indicated that she believed Soriano was exposed to COVID-19 outside of work due to the number of days between her last day working and her positive test.

Dr. Jan Pring, a pulmonologist, completed Soriano's C-4 form as the treating physician, and indicated that, based on information given by Soriano, she could directly connect the injury as job-incurred. On June 9, Dr. Pring provided a letter opining that, based on her examination of Soriano's medical records, she believed that Soriano's "complaints of COVID related symptoms of acute respiratory failure with hypoxia" were related to the January 4, 2021, industrial injury "to a reasonable degree of medical probability." Dr. Pring additionally explained that "respiratory symptoms of acute respiratory [failure] with hypoxia are more likely than not due to COVID 19 pneumonia."

After the above investigation, Sedgwick again denied Soriano's claim. In their denial letter, Sedgwick noted that Soriano failed to abide by procedural requirements for seeking workers' compensation and that Soriano did not establish a causal link between her illness and her employment. Soriano requested a hearing before the hearing officer on this second denial, but the parties later stipulated to waive the hearing at that level and proceed to the appeals officer. Soriano's appeals from her two claim denials were then consolidated.

Following a hearing on the consolidated appeals, the appeals officer issued a decision and order reversing Sedgwick's denials of Soriano's claim.¹ The appeals officer found that Soriano presented sufficient evidence to show a compensable industrial injury claim because Soriano was exposed to a contagious disease while providing medical care to a hospital patient and therefore suffered an injury by accident while in the course and scope of her employment pursuant to NRS 616A.265(2). The appeals officer also noted that Dr. Pring's letter further supported finding a nexus between Soriano's work and her illness. As to the timeliness of her notice and claim, the appeals officer found that Soriano's injury and/or physical inability did not allow her to comply with the reporting and claim requirements. Accordingly, the appeals officer found that Soriano's failure to comply with the timeliness requirements was excused. Thus, the appeals officer reversed Soriano's claim denials and ordered Sedgwick to accept liability for the claim and issue all appropriate benefits.

Appellants then petitioned for judicial review of the appeals officer's decision. The district court denied that petition and appellants timely appealed. Before this court, appellants argue that the appeals officer abused her discretion by determining that Soriano's untimely notice and claim were excused and that the appeals officer abused her discretion by finding a causal link between Soriano's illness and her work. Upon review, we disagree and affirm the district court's order denying the petition for judicial review.

The appeals officer did not abuse her discretion by determining that Soriano's untimely reporting and claim were excused

¹Appellants did not provide this court or the district court with a copy of the transcript from this hearing.

Appellants argue that Soriano was not entitled to workers' compensation benefits because she failed to report her alleged industrial injury and file her workers' compensation claim within the timeframes provided by statute. More specifically, they contend that the appeals officer abused her discretion by excusing Soriano's noncompliance after finding that Soriano's extended hospital stay prevented her from timely reporting and filing her claim. In response, Soriano argues that the appeals officer properly determined that an exception to the timeliness requirements applied and that it was not practicable for her to provide notice to her employer or file a claim due to her incapacitation. We agree with Soriano.

When reviewing a decision of an administrative agency, this court's role "is identical to that of the district court: to review the evidence presented to the agency in order to determine whether the agency's decision was arbitrary or capricious and was thus an abuse of the agency's discretion." *United Exposition Serv. Co. v. State Indus. Ins. Sys.*, 109 Nev. 421, 423, 851 P.2d 423, 424 (1993). Appellate review of a final agency decision is "confined to the record before the agency." *Law Offices of Barry Levinson, P.C. v. Milko*, 124 Nev. 355, 362, 184 P.3d 378, 384 (2008). This court reviews purely legal questions de novo. *Id.* "While we do not defer to administrative constructions of statutes, we review an administrative agency's factual findings for clear error or an arbitrary abuse of discretion and will only overturn those findings if they are not supported by substantial evidence." *Gilman v. Clark Cnty. Sch. Dist.*, 139 Nev. 61, 65, 527 P.3d 624, 628 (Ct. App. 2023) (internal quotation marks omitted). "Substantial evidence exists if a reasonable person could find the evidence adequate to support the agency's conclusion." *Law Offices of Barry Levinson*, 124 Nev. at 362, 184 P.3d at 384.

Pursuant to NRS 616C.015(1), an employee must provide their employer with notice of an "injury that arose out of and in the course of

employment . . . within 7 days after the accident.” Under NRS 616C.020(1), “an injured employee . . . shall file a claim for compensation with the insurer within 90 days after an accident.” Generally, an employee “is barred from recovering compensation” if they fail to comply with these provisions. NRS 616C.025(1).

Here, both parties agree that Soriano’s notice of injury and her claim for workers’ compensation were untimely. Thus, Soriano would ordinarily be procedurally barred from recovering compensation unless an exception to these procedural requirements applied.

NRS 616C.025(2) provides such exceptions. Pursuant to that statute,

2. An insurer may excuse the failure to file a notice of injury or a claim for compensation pursuant to the provisions of this section if:

- (a) The injury to the employee or another cause beyond the control of the employee prevented the employee from providing the notice or claim;
- (b) The failure was caused by the employee’s or dependent’s mistake or ignorance of fact or of law;
- (c) The failure was caused by the physical or mental inability of the employee or the dependent; or
- (d) The failure was caused by fraud, misrepresentation or deceit.

NRS 616C.025(2).

In reversing the denial of Soriano’s claims, the appeals officer determined that Soriano “presented evidence sufficient to show her injury and/or physical inability did not allow her to comply with notice requirements.” More specifically, the appeals officer found that “the seriousness of [Soriano’s] symptoms requiring her admittance into the hospital, medically induced coma, intubation, placement on a ventilator, along with her other procedures, support that [she] was unable to physically comply with” the statutory notice requirements.

These findings are supported by substantial evidence. The record reflects that Soriano tested positive for COVID-19 and was admitted to the hospital on January 14, and that she remained hospitalized for more than two months receiving treatment for COVID-19, hypoxia and pneumonia. The record further reflects that, on January 23, Soriano had to be moved to the ICU and, the next day, she was intubated and placed in a medically induced coma. As the appeals officer found, Soriano subsequently had to undergo a tracheostomy and feeding tube placement because her prognosis was poor. While Soriano eventually awoke from her coma in early March, she was not discharged from the hospital until March 24. Nonetheless, the record shows that Soriano began the process of completing her workers' compensation paperwork on March 23, while she was still hospitalized.²

As detailed above, the medical evidence in the record overwhelmingly supports the appeals officer's conclusion that Soriano's hospitalization and treatment "prevented the employee from providing the notice or claim" within the statutory time periods such that her failure to comply with the timing requirements was caused by her injury or physical inability to do so. NRS 616C.025(2)(a), (c). Thus, the appeals officer's

²To the extent appellants argue that Soriano *could have* reported her injury and submitted her C-4 form at other times, their arguments do not provide a basis for relief as they ask this court to reweigh the evidence presented to the appeals officer, which we will not do. See *Elizondo v. Hood Mach., Inc.*, 129 Nev. 780, 784, 312 P.3d 479, 482 (2013) ("This court will not reweigh the evidence or revisit an appeals officer's credibility determination."). Moreover, to the extent appellants argue that Soriano's husband could have reported the injury and initiated the C-4 form sooner, we note that the notice and claim statutes do not impute the claimant's responsibility to timely notify the employer of an injury and file a claim onto a dependent except in the event of the employee's death. See NRS 616C.015(1); NRS 616C.020(2).

finding that an exception applied that excused Soriano's untimely notice and claim is supported by substantial evidence. *See Nev. Pub. Emps. Ret. Bd. v. Smith*, 129 Nev. 618, 624, 310 P.3d 560, 564 (2013) ("Substantial evidence is evidence which a reasonable mind might accept as adequate to support a conclusion." (quoting *Schepcoff v. State Indus. Ins. Sys.*, 109 Nev. 322, 325, 849 P.2d 271, 273 (1993))). As a result, the appeals officer's determination in this regard was not clearly erroneous or an abuse of discretion. *See Associated Risk Mgmt., Inc. v. Ibanez*, 136 Nev. 762, 766, 478 P.3d 371, 375 (2020) (holding that an appeals officer's conclusion was not clear error or an abuse of discretion where the decision was "closely related to the agency's view of the facts" (quoting *State Indus. Ins. Sys. v. Montoya*, 109 Nev. 1029, 1031, 862 P.2d 1197, 1199 (1993))).

The appeals officer did not abuse her discretion by finding a causal connection between Soriano's illness and her employment

Appellants next argue that Soriano's evidence showing causation was "pure speculation" such that the appeals officer abused her discretion in finding that Soriano's injury was connected to her employment. In so doing, appellants re-argue the facts and generally contend that the record does not support the appeals officer's conclusions. Soriano responds that she was entitled to workers' compensation benefits under NRS 616A.265(2)(b) because she was a medical professional exposed to a contagious disease while providing medical services. Soriano further contends that the evidence presented to the appeals officer demonstrates that she met her burden of showing that she contracted COVID-19 during the course and scope of her employment. We conclude that the appeals officer did not abuse her discretion by finding a nexus between Soriano's illness and her employment.

As discussed above, this court reviews an agency's decision for clear error or an arbitrary and capricious abuse of discretion. *Law Offices*

of *Barry Levinson*, 124 Nev. at 362, 184 P.3d at 383. An agency's fact-based conclusions are given deference and will not be disturbed if supported by substantial evidence. *Id.* at 362, 184 P.3d at 383-84. "Substantial evidence is evidence which a reasonable mind might accept as adequate to support a conclusion." *Nev. Pub. Emps. Ret. Bd.*, 129 Nev. at 624, 310 P.3d at 564 (quoting *Schepcoff*, 109 Nev. at 325, 849 P.2d at 273). In deciding whether there was substantial evidence, "we may not reweigh the evidence or revisit an appeals officer's credibility determination." *Law Offices of Barry Levinson*, 124 Nev. at 362, 184 P.3d at 384.

An injured employee seeking workers' compensation pursuant to the Nevada Industrial Insurance Act (NIIA) must "establish by a preponderance of the evidence that the employee's injury arose out of and in the course of his or her employment." NRS 616C.150(1). "An injury occurs within the course of employment when there is a causal connection between the injury and the nature of the work or the workplace." *Fanders v. Riverside Resort & Casino, Inc.*, 126 Nev. 543, 546-47, 245 P.3d 1159, 1162 (2010). The NIIA includes contagious diseases contracted under certain circumstances within its definition of "injury." Specifically, NRS 616A.265(2)(b) states:

For the purposes of chapters 616A to 616D, inclusive, of NRS . . . [t]he exposure of an employee to a contagious disease while providing medical services, including emergency medical care, in the course and scope of his or her employment *shall* be deemed to be an injury by accident sustained by the employee arising out of and in the course of his or her employment.

(Emphasis added).

Here, the appeals officer found that Soriano swabbed a patient to test for COVID-19 and that this event was witnessed by and confirmed by a coworker. The appeals officer further found that, two days later, this

patient was moved to the COVID-19 positive floor after testing positive for the virus. The appeals officer's decision and order found that the treating physician at Spring Valley Hospital completed Soriano's C-4 form and confirmed that her COVID-19 and related illnesses were "directly related to the described industrial mechanism of injury." The appeals officer went on to specify that Dr. Pring's responses to questions from Soriano's counsel further supported a causal link between Soriano's employment and her illness as "Dr. Pring connected [Soriano's] Covid related symptoms of acute respiratory failure with hypoxia to the January 4, 2021, event."

Each of these findings is supported by substantial evidence in the record. *Law Offices of Barry Levinson*, 124 Nev. at 362, 184 P.3d at 383-84. As a result, the appeals officer's findings provide the necessary support for her determination that Soriano "was exposed to a contagious disease while providing medical care to a hospital patient" such that Soriano satisfied NRS 616A.265(2)'s requirements to demonstrate that she "suffered an injury by accident while in the course and scope of her employment." See *United Exposition Serv. Co. v. State Indus. Ins. Sys.*, 109 Nev. 421, 424-25, 851 P.2d 423, 425 (1993) (stating that workers' compensation cannot be based upon speculative evidence and that "physician[s] must state to a degree of reasonable medical probability that the condition in question was caused by the industrial injury, or sufficient facts must be shown so that the trier of fact can make the reasonable conclusion that the condition was caused by the industrial injury"). Accordingly, we conclude that the appeals officer properly determined that Soriano was entitled to workers' compensation benefits for her industrial injury. NRS 616A.265(2)(b).

Based on the reasoning set forth above, we conclude that the appeals officer did not abuse her discretion in reversing the denial of Soriano's workers' compensation claims. *United Exposition Serv.*, 109 Nev. at 423, 851 P.2d at 424. As a result, the district court properly denied

judicial review of the appeals officer's decision, and we therefore affirm that determination.³

It is so ORDERED.


_____, C.J.
Bulla


_____, J.
Gibbons


_____, J.
Westbrook

³Appellants argue for the first time in their reply brief on appeal that the appeals officer “applied the incorrect law” by relying on NRS Chapters 616A-616D, which applies to industrial injuries, rather than NRS Chapter 617, which applies to occupational diseases. Appellants forfeited this argument by not raising it until their reply brief on appeal, and we need not consider it. *See State ex. rel. State Bd. of Equalization v. Barta*, 124 Nev. 612, 621, 188 P.3d 1092, 1098 (2008) (“Because judicial review of administrative decisions is limited to the record before the administrative body, we conclude that a party waives an argument made for the first time to the district court on judicial review.”); *Weaver v. State, Dep’t of Motor Vehicles*, 121 Nev. 494, 502, 117 P.3d 193, 198-99 (2005) (providing that this court need not consider issues raised for the first time in an appellant’s reply brief). Moreover, appellants provide no explanation as to why they believe Soriano’s contracting of COVID-19 was an “occupational disease” rather than an “injury” and they do not explain how, even if true, this argument provides a basis for reversal. Thus, this argument is not cogent, and it need not be considered. *See Edwards v. Emperor’s Garden Rest.*, 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (explaining that this court need not consider an appellant’s argument that is not cogently argued or lacks support of relevant authority).

Insofar as appellants have raised other arguments not specifically addressed in this order, we have considered the same and conclude that they do not present a basis for relief.

cc: Hon. Jacob A. Reynolds, District Judge
Hooks Meng & Clement
GGRM Law Firm
Eighth District Court Clerk