

STATE OF MICHIGAN  
COURT OF APPEALS

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JAMES A. PETERSON,

Plaintiff-Appellant,

v

STEELCASE, INC. and WAUSAU  
UNDERWRITERS INSURANCE COMPANY,

Defendants-Appellees.

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UNPUBLISHED

April 26, 2002

No. 231200

WCAC

LC No. 99-000530

Before: Cavanagh, P.J., and Sawyer and O'Connell, JJ.

MEMORANDUM.

Plaintiff appeals by leave granted from an order of the Worker's Compensation Appellate Commission (WCAC) affirming the magistrate's decision to grant plaintiff an open award of benefits with the modification that plaintiff is not eligible for any weekly benefits due to his new wage-earning capacity established as of his last day of work.

This Court granted leave to consider whether the WCAC properly construed the presumption of wage-earning capacity found in § 301(5)(d)(i) of the Worker's Disability Compensation Act, MCL 418.301(5)(d)(i). In *Maier v GTE*, per curiam opinion of the Court of Appeals, issued September 28, 2001 (Docket No. 227825), this Court recently decided that the WCAC erred in interpreting the plain language of MCL 418.301(5)(d)(i) as creating a conclusive presumption of wage-earning capacity following 250 weeks or more of reasonable employment. We are bound by the decision in *Maier*. See MCR 7.215. Accordingly, we reverse the WCAC's order in this case and remand to the WCAC for proceedings consistent with *Maier*.

Reversed and remanded. We do not retain jurisdiction.

/s/ Mark J. Cavanagh

/s/ David H. Sawyer

/s/ Peter D. O'Connell