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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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PATRICIA M. WOODS, *Petitioner,*

*v.*

THE INDUSTRIAL COMMISSION OF ARIZONA, *Respondent,*

VERDE VISTA CARE AND REHAB, INC., *Respondent Employer,*

SAFETY NATIONAL CASUALTY CORPORATION, *Respondent Carrier.*

No. 1 CA-IC 16-0061  
FILED 7-25-2017

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Special Action - Industrial Commission  
ICA Claim No. 20091-960448  
Carrier Claim No. E2583940VG  
C. Andrew Campbell, Administrative Law Judge

**AWARD AFFIRMED**

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COUNSEL

Schiffman Law Office, PC, Phoenix  
By Alan M. Schiffman  
*Counsel for Petitioner Employee*

Industrial Commission of Arizona, Phoenix  
By Jason M. Porter  
*Counsel for Respondent ICA*

Jones, Skelton & Hochuli, PLC, Phoenix  
By Gregory L. Folger, Jennifer B. Anderson  
*Counsel for Respondent Employer and Respondent Carrier*

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**MEMORANDUM DECISION**

Presiding Judge Kent E. Cattani delivered the decision of the Court, in which Judge Jon W. Thompson and Judge Paul J. McMurdie joined.

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**CATTANI**, Judge:

¶1 Patricia Woods seeks special action review of an Industrial Commission of Arizona (“ICA”) award and decision upon review denying her petition to reopen. For reasons that follow, we affirm.

**FACTS AND PROCEDURAL BACKGROUND**

¶2 In July 2009, Woods slipped and fell while employed as a caregiver for Verde Vista Care and Rehab, Inc. She filed a workers’ compensation claim, which the carrier accepted for benefits. Woods received conservative medical and surgical treatment for her industrial injuries, and when her medical condition eventually stabilized, the claim was closed effective October 2013 with an unscheduled permanent partial impairment.

¶3 One year later, the ICA entered an initial administrative award for a permanent and total loss of earning capacity (“LEC”). *See* Ariz. Rev. Stat. (“A.R.S.”) § 23-1047(A).<sup>1</sup> In August 2015, while the LEC litigation remained pending, Woods filed a petition to reopen alleging psychological injuries and depression related to the industrial injury.<sup>2</sup> The carrier denied Woods’s petition to reopen, and she timely requested a hearing.

¶4 An administrative law judge (“ALJ”) conducted a hearing at which Woods, psychologist Brent Geary, Ph.D., and psychiatrist Joel Parker, M.D., testified. Woods testified that she relates her depression to her industrial shoulder injury. She acknowledged having symptoms of

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<sup>1</sup> Absent material revisions after the relevant date, we cite a statute’s current version.

<sup>2</sup> The LEC litigation was thereafter held in abeyance pending resolution of the request to reopen.

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depression and seeking related care soon after the 2009 injury, but explained that her depression had developed gradually and had worsened after her claim closed in October 2013. She testified that she did not understand the reason doctors had prescribed the antidepressant medication she had been taking until Dr. Geary diagnosed depression in July 2015.

¶5 Dr. Geary testified regarding his evaluation of Woods and his diagnosis of major depressive disorder causally related to the 2009 industrial injury. He acknowledged that Woods's medical records included numerous references to depression and that she had been on antidepressant medications since 2010. Dr. Geary testified that Woods similarly had told him that she had been depressed since 2009, but that her depression had worsened during the previous year and a half.

¶6 Dr. Parker testified about his June 2015 evaluation of Woods. He noted that her medical records included references to anxiety and depression beginning in November 2009, but that Woods reported becoming distraught and sad in June 2014 when her pain management doctor told her that she would never be able to return to nursing.

¶7 Dr. Parker diagnosed Woods with persistent depressive disorder (a DSM-5 diagnosis encompassing dysthymic disorder and chronic major depressive disorder) and conversion disorder. He opined that Woods's depression—although causally related to the industrial injury—was not a new, additional, or previously undiscovered condition. Based on at least 14 references in Woods's medical records to anxiety and depression beginning in 2009, he opined that her depression predated the 2013 closure, and that Woods's condition had simply waxed and waned since 2009.

¶8 Dr. Parker further testified that Woods's elevated right shoulder was the focus of her conversion disorder, based on reports by other physicians unable to identify any medical basis for her symptoms. Dr. Parker opined that, absent a medical basis for Woods's elevated shoulder, the condition would represent a conversion disorder, characterized as symptoms of altered motor function incompatible with recognized neurological or medical conditions and not better explained by a medical or mental disorder, causing significant distress or impairment. But he further testified that Woods's elevated shoulder was present as early as December 2009, so was not a new, additional, or previously undiscovered condition. Although he was the first doctor to characterize the condition as a conversion disorder, other physicians had noted the issue

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in 2012, stating that Woods had “marked symptom embellishment compatible with significant psychogenic components.”

¶9 The ALJ, noting that both experts agreed that Woods’s depression was causally related to the industrial incident, assessed the conflicting medical evidence regarding whether Woods’s depressive disorder was a new, additional, or previously undiscovered condition. The ALJ credited Dr. Parker’s opinion over Dr. Geary’s and thus entered an award denying the petition to reopen. After Woods timely requested administrative review, the ALJ supplemented and affirmed the award.

¶10 Woods timely filed this statutory special action, and we have jurisdiction under A.R.S. §§ 12-120.21(A)(2), 23-951(A), and Arizona Rule of Procedure for Special Actions 10.

**DISCUSSION**

¶11 Woods argues that the ALJ erred by denying the petition to reopen. To reopen a workers’ compensation claim, the claimant must establish the existence of a “new, additional or previously undiscovered temporary or permanent condition” caused by the prior industrial injury. A.R.S. § 23-1061(H); *Stainless Specialty Mfg. Co. v. Indus. Comm’n*, 144 Ariz. 12, 18–19 (1985); *Lovitch v. Indus. Comm’n*, 202 Ariz. 102, 106, ¶¶ 18–19 (App. 2002). The claimant bears the burden to establish the existence of a new or previously undiscovered condition as well as its industrial causation, which generally must be proven by expert medical evidence. *Sun Valley Masonry, Inc. v. Indus. Comm’n*, 216 Ariz. 462, 465, ¶ 11 (App. 2007). It is the ALJ’s responsibility to resolve any conflicts between expert opinions. *Kaibab Indus. v. Indus. Comm’n*, 196 Ariz. 601, 605, ¶ 10 (App. 2000).

¶12 On review, we defer to the ALJ’s factual findings, but review questions of law de novo. *Young v. Indus. Comm’n*, 204 Ariz. 267, 270, ¶ 14 (App. 2003). We consider the evidence in the light most favorable to upholding the award, and will affirm if reasonable evidence supports it. *Lovitch*, 202 Ariz. at 105, ¶ 16.

¶13 Woods argues that she met her burden to show that her clinical depression was a proper basis to reopen her claim. Although the medical evidence was undisputed that her depression was caused by the industrial injury, the experts disagreed on whether the condition preexisted the claim closure in October 2013 or if it had objectively changed thereafter in light of Dr. Geary’s subsequent diagnosis. Taking into account the medical records – on which both experts relied – showing symptoms of and

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medication for depression beginning several years before closure, the ALJ reasonably resolved the conflict between the medical experts by adopting Dr. Parker's view that Woods had both a persistent depressive disorder and a conversion disorder, but that neither condition was new, additional, or previously undiscovered with respect to the 2013 closure. We defer to the ALJ's resolution of conflicts in expert medical testimony. *Perry v. Indus. Comm'n*, 112 Ariz. 397, 398-99 (1975).

¶14 Moreover, the administrative record provides further support for the conclusion that Woods's depression was known before her claim was closed in 2013. Woods's counsel wrote to the ALJ in January 2011 that Woods "is suffering from depression and we need to know if . . . [the carrier] is taking responsibility for that condition." Woods reiterated in March 2011 that "she still wants to claim that her current depression is related to the industrial injury," and the carrier subsequently agreed to pay for her depression medications.

¶15 Finally, Woods argues that the award is legally inadequate because the ALJ failed to make an express finding as to her credibility. Woods specifically requested such a finding on administrative review, but the ALJ supplemented and affirmed the award without making one. The ALJ is the sole judge of witness credibility and must resolve all conflicts in the evidence. *See Holding v. Indus. Comm'n*, 139 Ariz. 548, 551 (App. 1984); *Malinski v. Indus. Comm'n*, 103 Ariz. 213, 217 (1968). But the ALJ need not make a specific finding on every disputed factual issue as long as the ALJ resolves the ultimate issues. *See, e.g., Cavco Indus. v. Indus. Comm'n*, 129 Ariz. 429, 435 (1981). Here, based on the ALJ's resolution of the evidentiary conflict in favor of Dr. Parker, there was no basis to reopen, and a credibility finding was not necessary.

CONCLUSION

¶16 The award is affirmed.



AMY M. WOOD • Clerk of the Court  
FILED: AA