CASE NO. 6383 CRB-4-20-3 CLAIM NO. 400104145	:	COMPENSATION REVIEW BOARD
WILLIAM HATHAWAY CLAIMANT-APPELLEE	:	WORKERS' COMPENSATION COMMISSION
v.	:	SEPTEMBER 17, 2021

CITY OF BRIDGEPORT
EMPLOYER
SELF-INSURED

and

PMA MANAGEMENT CORPORATION
OF NEW ENGLAND
THIRD-PARTY ADMINISTRATOR
RESPONDENTS-APPELLANTS

APPEARANCES:

The claimant was represented by Jill M. Rydzik, Esq., Morrissey, Morrissey & Rydzik, LLC, 203 Church Street, P.O. Box 31, Naugatuck, CT 06770.

The respondents were represented by Joseph J. Passaretti, Jr., Esq., Montstream Law Group, LLP, 655 Winding Brook Drive, P.O. Box 1087, Glastonbury, CT 06033.

This Petition for Review from the March 10, 2020 Findings and Order by Randy L. Cohen, the Commissioner acting for the Fourth District, was heard June 25, 2021 before a Compensation Review Board panel consisting of Commission Chairman Stephen M. Morelli and Commissioners Brenda D. Jannotta and David W. Schoolcraft.[1]

[1] We note that two motions for extension of time and three motions for continuance were granted during the pendency of this appeal.

OPINION

STEPHEN M. MORELLI, CHAIRMAN. The respondents have appealed from the Findings and Order (finding) issued by commissioner Randy L. Cohen (commissioner) on March 10, 2020, which found the claimant, a Bridgeport firefighter, had filed a timely claim for benefits under General Statutes § 7-433c.[2] The respondents argue that the claimant had repeatedly been informed of having highly elevated blood pressure years prior to filing his claim and, pursuant to Ciarlelli v. Hamden, 299 Conn. 265 (2010), his claim is untimely. The claimant argues that this is a factual issue which the commissioner has resolved in a manner adverse to the respondents. We believe that there is sufficient evidence on the record to support the commissioner's decision and therefore, we affirm the finding.

[2] General Statutes § 7-433c states: "(a) Notwithstanding any provision of chapter 568 or any other general statute, charter, special act or ordinance to the contrary, in the event a uniformed member of a paid municipal fire department or a regular member of a paid municipal police department who successfully passed a physical examination on entry into such service, which examination failed to reveal any evidence of hypertension or heart disease, suffers either off duty or on duty any condition or impairment of health caused by hypertension or heart disease resulting in his death or his temporary or permanent, total or partial disability, he or his dependents, as the case may be, shall receive from his municipal employer compensation and medical care in the same amount and the same manner as that provided under chapter 568 if such death or disability was caused by a personal injury which arose out of and in the course of his employment and was suffered in the line of duty and within the scope of his employment, and from the municipal or state retirement system under which he is covered, he or his dependents, as the case may be, shall receive the same retirement or survivor benefits which would be paid under said system if such death or disability was caused by a personal injury which arose out of and in the course of his employment, and was suffered in the line of duty and within the scope of his employment. If successful passage of such a physical examination was, at the time of his employment, required as a condition for such employment, no proof or record of such examination shall be required as evidence in the maintenance of a claim under this section or under such municipal or state retirement systems. The benefits provided by this section shall be in lieu of any other benefits which such policeman or fireman or his dependents may be entitled to receive from his municipal employer under the provisions of chapter 568 or the municipal or state retirement system under which he is covered, except as provided by this section, as a result of any condition or impairment of health caused by hypertension or heart disease resulting in his death or his temporary or permanent, total or partial disability. As used in this section, "municipal employer" has the same meaning as provided in section 7-467.
(b) Notwithstanding the provisions of subsection (a) of this section, those persons who began employment on or after July 1, 1996, shall not be eligible for any benefits pursuant to this section."

The commissioner reached the following factual findings which are pertinent to our inquiry. The claimant was hired by the Bridgeport Fire Department in 1988 and was continuously employed by them since that time. He passed a pre-employment physical and had yearly physical examinations performed by the department. A majority of these examinations were performed by Donna Doxsey-McGrew, a nurse practitioner. The claimant testified he was not provided with a copy of the examination reports after they were performed. He did complete a form entitled "U.S. Department of Labor OSHA Respirator Medical Evaluation Questionnaire" at each examination where he claimed not to have hypertension. Findings, ¶ 5, see July 31, 2019 Transcript, pp. 12-13. He also testified that, as his father passed away at age 54 from a heart attack, he was attentive to his heart health. He stated that he had monitored his blood pressure at home and his readings at home had not exceeded 130/80. See Findings, ¶ 6, July 31, 2019 Transcript, pp. 13-15.

The various physicals the claimant had from 2009 to 2016 were reviewed by the commissioner. At a September 24, 2009 physical, the claimant had an initial blood pressure reading of 150/84 and a repeat examination reading of 128/80. The subsequent notes indicated the claimant had elevated blood pressure and type 2 obesity and that exercise and nutritional counseling were recommended.

On October 14, 2010, the claimant underwent his physical with Doxsey-McGrew. The claimant's blood pressure readings were 154/97 and 153/95. Doxsey-McGrew's assessment of the claimant noted class 2 obesity, elevated blood pressure, and mild-restriction on spirometry. It was recommended that the claimant lose weight and

exercise. The claimant was also referred to "cardiology for routine workup." See Findings, ¶ 8, *quoting* Respondents' Exhibit 1, p. 14.

Doxsey-McGrew was deposed and testified at her deposition that, typically, a normal blood pressure is defined at "140 – less than one forty over less than 90." Findings, ¶ 9, quoting Respondents' Exhibit 1, p. 9. Furthermore, she testified that both October 14, 2010 blood pressure readings were elevated. See Findings, ¶ 9, *citing* Respondents' Exhibit 1, pp. 10-14. After his 2010 physical, the claimant called out of work on November 30, 2010 and January 11, 2011. The out of work forms noted "elevated blood pressure." Findings, ¶ 10 *quoting* Respondents' Exhibits 4 & 5. The claimant testified at the formal hearing that on those two dates:

> [o]ne time I know I had a virus. I woke up, I wasn't feeling well, I took it, and I don't remember what the reading was but I'm going to say it was above 130, probably much higher than that, and I went back and laid down, took it again a few hours later and it was back to normal level, acceptable level.

Findings, ¶ 11, *quoting* July 31, 2019 Transcript, p. 19.

The claimant underwent another yearly physical on September 27, 2011, at which time his blood pressure was 142/96. It was recommended that the claimant lose 10 pounds by December 27, 2011 and "[check] BP 2x wk x 4 wks if remains elevated f/u [with] pcp." Findings, ¶ 12, *quoting* Respondents' Exhibit 2. Afterwards, Doxsey-McGrew sent a letter to the claimant dated December 20, 2011, as a reminder that he was referred to his doctor for elevated blood pressure. At the November 19, 2012 yearly physical, the claimant's blood pressure was 139/95. The claimant was assessed as having class 2 obesity and elevated blood pressure. Doxsey-McGrew recommended that the claimant lose 10 pounds by February 19, 2012, and the claimant was provided dietary

handouts. The claimant was referred to his primary care physician for elevated blood pressure and also received a referral for a sleep study. At her deposition, Doxsey-McGrew testified that this blood pressure reading was high and that it was a concern to her as the claimant continued to have elevated blood pressure readings year after year. See Findings, ¶ 15, *citing* Respondents' Exhibit 1, p. 18.

At his yearly physical on November 14, 2013, the claimant's blood pressure was 154/99. Doxsey-McGrew testified that this blood pressure was elevated. The claimant was assessed with elevated blood pressure. It was recommended at this examination that the claimant lose 10 pounds by February 14, 2014, check his blood pressure twice a week for four weeks, and follow up with his primary care physician if it remained over 140/85. The claimant was also referred to cardiology for a routine stress test and for a sleep study. The claimant was asked if he recalled discussing his blood pressure at the November 14, 2013 physical and testified:

> [a]t that time I believe so, and I told her I was monitoring it … she called it white coat syndrome, and why I would get so nervous when I would go in and it would be elevated and I would take it at home and it would be normal. She said as long as it's normal at home that there's no issue.

Findings, ¶ 17, July 31, 2019 Transcript, pp. 20-21. The claimant testified that he continued to monitor his blood pressure at home, and it continued to be normal.

When the claimant was examined at his October 28, 2014 physical, his blood pressure was 152/99 and he was diagnosed with class 2 obesity, mild restriction, and increased blood pressure. It was recommended that he lose 10 pounds by January 28, 2014. The claimant was also referred to cardiology for a routine stress test, his primary care physician for increased blood pressure and mild restriction on spirometry, a

nutritionist, and a sleep study. The claimant testified that he did not recall having a conversation with Doxsey-McGrew about his blood pressure at the October 28, 2014 physical nor did he recall a referral to his PCP for either blood pressure or mild restriction on spirometry. See Findings, ¶ 20, July 31, 2019 Transcript, p. 22.

On October 15, 2015, the claimant underwent his yearly physical and had a blood pressure reading of 155/95. The claimant was diagnosed with class 2 obesity, probably sleep apnea, and "HTN – not controlled." Findings, ¶ 21, *quoting* Respondents' Exhibit 2. Doxsey-McGrew recommended the claimant lose weight and referred the claimant to his primary care physician for hypertension. Similar to his prior examinations, the claimant testified that he did not recall having a conversation with Doxsey-McGrew about his blood pressure at the October 15, 2015 physical nor did he recall a diagnosis of hypertension being communicated to him by her at that visit. See Findings, ¶ 22, July 31, 2019 Transcript, pp. 23-24. Further, he continued to monitor his blood pressure at home and the readings continued to be normal.

The claimant underwent his yearly physical on December 12, 2016. The claimant's blood pressure was 187/96 and his spirometry was unable to be completed due to his blood pressure being so high. The claimant was diagnosed with uncontrolled hypertension. It was recommended that the claimant lose weight and Doxsey-McGrew "discussed risk of MI, stroke, death . . . ." as a result of uncontrolled blood pressure. Findings, ¶ 23, *quoting* Respondents' Exhibit 2. The claimant was referred to his primary care physician for uncontrolled hypertension and the report indicated that the claimant was to make an appointment for that day. The claimant testified that he did recall having a conversation with Doxsey-McGrew about his blood pressure at the appointment of

December 12, 2016. "[S]he said it was overwhelmingly high, it wasn't a white coat, and if I didn't make a doctor's appointment she was going to take me off the line and send me home. . . . I left the office, stopped the physical, and went and made an appointment." Findings, ¶ 24, *quoting* July 31, 2019 Transcript, p. 24. The claimant presented at the office of Robert D. Sackstein, M.D., on December 15, 2016, for a blood pressure check. The claimant's blood pressure for his right arm was 160/90 and his left arm was 156/90. The claimant was found to have an abnormal EKG and an echocardiogram was scheduled to assess "LV wall motion and overall function/valves." Findings, ¶ 25, *quoting* Claimant's Exhibit F, p. 14. The claimant was diagnosed with hypertension and a course of Amlodipine 5mg was prescribed. It was recommended that the claimant maintain a healthy, low sodium diet. Subsequent to this diagnosis and treatment, the claimant, on or around May 10, 2017, filed a form 30C listing Heart and Hypertension and a December 15, 2016 date of injury. The form 30C indicated that the claimant was placed on blood pressure medication.

The litigants presented differing interpretations of this narrative at the hearing. The respondents' position was that the claimant was aware of the diagnosis of hypertension by Doxsey-McGrew as early as 2010, but certainly no later than October 15, 2015. Meanwhile, the claimant testified that prior to December 15, 2016, there was never a diagnosis of hypertension communicated to him by any medical professional. Various expert witnesses presented evidence. The claimant underwent an examination with Donald Rocklin, M.D., on December 5, 2017. Rocklin noted that by "2010 [the claimant] was having intermittent elevation of blood pressures up to 154/99 and it was recommended that he have further evaluation." Findings, ¶ 29, *quoting* Claimant's

Exhibit B, p. 1. Rocklin assigned a 6 percent impairment rating to the claimant as a result of hypertension at that time. Rocklin also indicated that the claimant believed he had "white coat hypertension" and it was Rocklin's impression that it was "[the claimant's] doctor's thought that he had that white coat." Findings, ¶ 31, *citing* Claimant's Exhibit C, pp. 15-16. However, Rocklin agreed that the claimant's medical records were devoid of any mention of the phrase "white coat hypertension." Id., p. 16. Finally, Rocklin testified that he believed the claimant "was demonstrating a white coat effect…" prior to December of 2016. Id., p. 13. "I would be reluctant to say he had hypertension. His physicians didn't think he had hypertension. They didn't tell him that he had hypertension. They didn't institute therapy at that point. They told him to lose weight and to monitor his pressure at home, which he did." Findings, ¶ 32, *citing* Claimant's Exhibit C, p. 13. He was also asked whether a diagnosis of hypertension was made at the October 15, 2015 physical by Doxsey-McGrew and testified, "I'm not prepared to say that she had it right at that point in time." Findings, ¶ 33, *quoting* Claimant's Exhibit C, p. 29.

The deposition of Doxsey-McGrew was entered into evidence and she testified that when speaking to patients about their blood pressure she typically would say either "it is elevated or you have high blood pressure" because people misunderstand the term hypertension. Findings, ¶ 34, *quoting* Respondents' Exhibit 1, p. 23. Doxsey-McGrew also testified she could not recall whether she ever used the term "hypertension" when communicating with the claimant. Findings, ¶ 35, see Respondents' Exhibit 1, pp. 23-24. She further testified that she was not considered a treating provider by the individuals for whom she performed yearly exams. Id. The respondents also presented a medical

records review of the claimant's records performed by Martin J. Krauthamer, M.D. Krauthamer's April 28, 2018 report noted that there were "varied statements that indicate Mr. Hathaway was informed a number of times of this diagnosis. Particularly on 12/20/11 he was sent a letter noting that he was referred to his doctor because of his elevated BP." Findings, ¶ 37, *quoting* Respondents' Exhibit 3 [Exhibit A, p. 3]. Krauthamer further opined that the claimant had hypertension for many years prior to his filing a claim. It was his opinion that "hypertension was present from 2010 onward: A diagnosis was made on 10/15/15 and medication was started on 12/15/16." Findings, ¶ 38, *quoting* Respondents' Exhibit 3 [Exhibit A, p. 3]. He further noted on November 30, 2010, the claimant was specifically told to decrease his salt intake and exercise – the first step in treatment of hypertension. See Findings, ¶ 39. Krauthamer did concur with Rocklin as to the claimant's 6 percent level of impairment. Id.

Based on these facts, the commissioner concluded the claimant was among the class eligible for § 7-433c benefits based on his date of hire and successful pre-employment physical. On the central questions litigated, she concluded as follows:

> C. I find Ms. Doxsey-McGrew credible that she could not recall whether she ever used the term "hypertension" when communicating with the claimant.
>
> D. I find the claimant credible that the first time a diagnosis of hypertension was communicated to him by a medical professional was December 15, 2016.
>
> E. I find the testimony of Dr. Rocklin more persuasive than that of Dr. Krauthamer in that a formal diagnosis of hypertension was not communicated to the claimant prior to December 15, 2016.

Conclusions, ¶¶ C-E.

Accordingly, the commissioner awarded benefits under § 7-433c to the claimant. The respondents filed a motion to correct the finding which sought to modify certain factual findings and substitute new conclusions that establish Doxsey-McGrew diagnosed hypertension in 2015 and conveyed this diagnosis to the claimant. This motion also sought to find the claimant was not credible in his testimony that he had not been conveyed a diagnosis of hypertension prior to 2016. The motion to correct sought to dismiss the claim. The trial commissioner denied this motion in its entirety. The respondents also filed a motion for articulation seeking to have the commissioner explain how her conclusions as to the evidence comported with the holding in Ciarlelli, supra. The commissioner denied this motion as well. The respondents have appealed, arguing it was error for the commissioner to have denied both their motion to correct and motion for articulation.

The standard of deference we are obliged to apply to a commissioner's findings and legal conclusions on appeal is well-settled. "The trial commissioner's factual findings and conclusions must stand unless they are without evidence, contrary to law or based on unreasonable or impermissible factual inferences." Russo v. Hartford, 4769 CRB-1-04-1 (December 15, 2004), *citing* Fair v. People's Savings Bank, 207 Conn. 535, 539 (1988). Moreover, "[a]s with any discretionary action of the trial court, appellate review requires every reasonable presumption in favor of the action, and the ultimate issue for us is whether the trial court could have reasonably concluded as it did." Burton v. Mottolese, 267 Conn. 1, 54 (2003), *quoting* Thalheim v. Greenwich, 256 Conn. 628, 656 (2001). "This presumption, however, can be challenged by the argument that the trial commissioner did not properly apply the law or has reached a finding of fact

inconsistent with the evidence presented at the formal hearing." Christensen v. H & L Plastics Co., Inc., 5171 CRB-3-06-12 (November 19, 2007).

The central argument advanced by the respondents on appeal was that an articulation in this case was necessary as there were inconsistencies in the finding and the commissioner should be directed to resolve these inconsistencies. As they perceived the record, Doxsey-McGrew made multiple statements to the claimant prior to 2016 that he had elevated blood pressure and these statements should have been deemed a diagnosis of hypertension, consistent with their interpretation of footnote 18 of Ciarlelli, supra.[3] The respondents asserted that findings 21 and 22 cannot be reconciled and that it is not possible to ascertain as to how the claimant was not advised he had hypertension more than one year prior to filing his claim, and certainly no later than October 15, 2015. The claimant argued that the respondents were essentially rearguing the factual findings and the record reasonably supported the conclusion that the diagnosis of hypertension occurred no earlier than December 15, 2016. Given the deference we extend to a commissioner's fact-finding role we find the claimant's position more persuasive.

We note that, while we have remanded cases for an articulation when the findings were conclusory, see Smith v. Sedgewick Claims Management Services, 6351 CRB-1-19-10 (November 5, 2020), we have generally declined to grant such an articulation when it was possible to infer the commissioner's reasoning from the stated findings in the record. As we held in Cassella v. O & G Industries, 6017 CRB-4-15-5 (June 27, 2018).

[3] Footnote 18 of Ciarlelli v. Hamden, 299 Conn. 265 (2010), states: "Of course, this standard is not so inflexible as to require a finding in all cases that the medical professional used the term "hypertension" in communicating the diagnosis to the employee. For example, evidence that an employee was prescribed antihypertensive medication for the treatment of high blood pressure related to hypertension, and not some other illness, likely would support a finding that the employee formally had been diagnosed with hypertension and knew, or should have known, of that diagnosis."

In Anderson v. Target Capital Partners, 5615 CRB-6-10-12 (January 3, 2012), this board stated:

> In many ways this case is similar to Biehn v. Bridgeport, 5232 CRB-4-07-6 (September 11, 2008), [A.C. 30336, *appeal withdrawn* (March 9, 2011)] where the claimant sought a detailed explanation as to why her claim was denied. As we held in Biehn, the decision's rationale was clear enough that an articulation was not necessary since the decision was unambiguous. In the present matter the trial commissioner clearly stated he did not find the claimant fully credible and did not find his treating physicians persuasive. We find that this sufficiently complies with Administrative Regulation § 31-301-3 where a commissioner's findings must detail the facts that he or she found and the conclusions based on those facts he or she reached. "Thus, by the express terms of § 31-301-3 of the regulations, the scope of the commissioner's finding and award is limited to the 'ultimate, relevant and material facts essential to the case.'" Cable v. Bic Corp., 270 Conn. 433, 440 (2004), *quoting* Luciana v. New Canaan Cemetery Assn., 3644 CRB-7-97-7 (August 12, 1998). Biehn, supra. The trial commissioner's findings are therefore consistent with the legal standard promulgated by the Supreme Court in Cable, supra, and must be sustained on appeal.

Id.

We note that our Appellate Court has recently opined on when an articulation is needed in a workers' compensation finding, see Malinowski v. Sikorsky Aircraft Corp., 207 Conn. App. 266 (September 7, 2021). Malinowski found:

> [A]n articulation is appropriate where the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification. . . . [P]roper utilization of the motion for articulation serves to dispel any . . . ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal. . . . In workers' compensation cases, motions [for articulation] are granted when the basis of the commissioner's conclusion is unclear. (Citations omitted; internal quotation marks omitted.)

Id., 305, *quoting* Cable v. Bic Corp., 270 Conn. 433, 444-45 (2004). We find this case indistinguishable on that point from Malinowski.

In reviewing the finding, we can clearly ascertain how the commissioner arrived at her decision. She found the claimant credible in his testimony that prior to 2016 he had not been informed of a hypertension diagnosis. See Conclusion, ¶ D. The commissioner further found Doxsey-McGrew credible as to her testimony that she did not recall whether she ever used the term "hypertension" while communicating with the claimant.[4] Id. The commissioner also concluded, based on Rocklin's testimony, which she found more persuasive than Krauthamer's testimony, that the claimant was not informed of a hypertension diagnosis prior to 2016. Conclusion, ¶ E. We do not, therefore, believe an articulation herein is necessary to ascertain why the commissioner believed this claim fell within the jurisdictional bounds established by Ciarlelli, supra.[5]

While we believe we can ascertain the commissioner's rationale for her ultimate conclusion within the four corners of the finding, we must still ascertain if her conclusion comports with the law. The respondents argue that based on the terms of footnote 18 of Ciarlelli, the numerous incidents of the claimant being informed as to elevated blood pressure must be deemed the functional equivalent of a diagnosis triggering the obligation to file a claim. In regard to the 2010 incident, in which the claimant missed time from work, we note that the claimant testified that he was suffering a virus and his condition returned to a baseline level. See Findings, ¶ 11. This would not suggest, pursuant to Ciarlelli, the need to file a claim as the claimant was never directed to treat for high blood pressure as a result of the incident. In regards to the subsequent

[4] The respondents contend that Conclusion, ¶ C constitutes a blanket endorsement of Doxsey-McGrew's credibility. It does not, as it is clearly limited to a single issue. We, therefore, conclude to the extent the respondents contend various findings are inconsistent, we may reasonably infer that Doxsey-McGrew's testimony was not found persuasive on those issues.

[5] We reach this conclusion in part based on the legal standard delineated in cases such as Gambardella v. Apple Health Care, Inc., 291 Conn. 620, 636-37 (2009), which cited Saunders v. New England Collapsible Tube Co., 95 Conn. 40, 42 (1920), for the proposition that the individual findings in a legal decision must be read together as a whole to ascertain if they are supportive of the fact finder's conclusion.

examinations by Doxsey-McGrew, we note that she said she was not considered a treater, there was no evidence of her prescribing any medication to the claimant, nor any evidence that she advised the claimant he would be held out of work as a result of his blood pressure condition prior to 2016. See Findings, ¶ 35.

We reach this determination as a result of examining the one appellate decision which examined the impact of the Ciarlelli footnote, Wabno v. Derby, 133 Conn. App. 232 (2012). In Wabno, the trial commissioner determined, based on the evidence, that the claimant had knowledge of a hypertension diagnosis more than one year prior to filing his claim, and dismissed the claim as untimely. This evidence included the claimant being prescribed medication appropriate for treating high blood pressure. This tribunal affirmed the dismissal. Wabno v. Derby, 5283 CRB-4-07-10 (September 12, 2008), *aff'd*, 133 Conn. App. 232 (2012), *cert. denied*, 304 Conn. 931 (2012). The claimant appealed and, during the pendency of the appeal, Ciarlelli, supra, was decided by our Supreme Court. As a result, in the Wabno decision, our Appellate Court applied the standard in Ciarlelli, supra, to the facts herein.

> Thus, although the issue of when the limitation period of § 31-294c begins to run in any given case **remains a question of fact** for a workers' compensation commissioner, evidence that the employee merely knew of past elevated blood pressure readings, or was advised by his or her physician to make certain lifestyle changes in response thereto, is not sufficient to trigger the limitation period in the absence of evidence that the employee formally had been diagnosed with hypertension by a medical professional and advised of that diagnosis.

(Emphasis added.) Wabno, supra, 239-240 *quoting* Ciarlelli, 300-301.

Our Appellate Court then cited footnote 18 of Ciarlelli, supra, noting the relevance of the claimant having been prescribed medication in determining this question

of fact. Id., 240. The court then reviewed the facts found by the trial commissioner and applied them against the Ciarlelli, supra, standard.

> Contrary to the plaintiff's assertions, Ciarlelli does not require the commissioner to believe the plaintiff's testimony that he was not informed of his hypertensive condition until 2005, nor does Ciarlelli prohibit the commissioner from relying on expert testimony. Therefore, although the commissioner did not make a finding that a ''medical professional used the term 'hypertension' in communicating the diagnosis''; Ciarlelli v. Hamden, supra, 299 Conn. [265], 301, n.18; the record—especially the evidence of antihypertensive medication and medical records notations indicating a history of hypertension—supports the commissioner's finding.
>
> The facts of this case are readily distinguishable from Ciarlelli. Unlike in this case, Ciarlelli's physician testified that he did not consider Ciarlelli to be hypertensive until just before he filed his claim. Id., 271; see also Brymer v. Clinton, supra, 302 Conn. [755] 760. While Ciarlelli filed his claim within weeks of being prescribed antihypertensive medication; Ciarlelli v. Hamden, supra, 299 Conn. [265] 270; the plaintiff in this case filed his claim almost six years after the first documentation of antihypertensive medication treatment. Additionally, unlike in this case, the commissioner in Ciarlelli failed to identify a date of injury. Id., 296.

Wabno, supra, 243-244.

Reviewing the facts in this case, we note the claimant was never prescribed medication prior to 2016. While Doxsey-McGrew's earlier statements could have alerted the claimant to a significant health condition, the commissioner could credit from the other evidence that the claimant had a significant level of transitory "white-coat hypertension" and his condition remained well controlled. Respondents' Exhibit 1, pp. 12-13. Essentially whether the information presented to the claimant was sufficiently weighty to warrant his necessity to file a § 7-433c claim was a factual determination for the trial commissioner. As we do not believe, as a matter of law, the facts herein would

compel the claimant to file his § 7-433c claim prior to his December 15, 2016 examination, we must affirm the fact-finding prerogative of the commissioner.

Therefore, there is no error; the March 10, 2020 Findings and Order of Randy L. Cohen, the Commissioner acting for the Fourth District, is accordingly affirmed.

Commissioners Brenda D. Jannotta and David W. Schoolcraft concur in this Opinion.