Circuit Court for Prince George's County
Case No. CAL16-43188

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1451

September Term, 2017

THOMAS R. BROWN

v.

WASHINGTON SUBURBAN SANITARY COMMISSION

Fader, C.J.,
Kehoe,
Kenney, James A., III,
(Senior Judge, Specially Assigned)
JJ.

Opinion by Kehoe, J.

Filed: October 14, 2020

The Workers' Compensation Commission denied Thomas R. Brown's claim for permanent partial disability benefits on the basis that it was time-barred. He filed a petition for judicial review. The Circuit Court for Prince George's County, the Honorable Sean D. Wallace, presiding, affirmed the Commission's decision. Mr. Brown has appealed and presents us with two questions, which we have consolidated:

> Did the Commission err when it denied Mr. Brown's claim for permanent partial disability benefits on the basis that he did not assert his claim within the time limits set out in Lab. & Empl. § 9-736(b)?[1]

[1] In his brief, Mr. Brown articulates the issues as follows:

> 1. Did the Workers' Compensation Commission and the Circuit Court for Prince George's County, err as a matter of law in applying Labor and Employment Article §9-736 which stands for the proposition that a readjustment and continuing powers and jurisdiction for modifications of the rate of compensation rest with the Workers' Commission "if aggravation, diminution or termination of benefits takes place or is discovered after the rate of compensation is set or compensation is terminated." The Commission on application on any party of interest or on its own motion may readjust for future application or rate of compensation or if appropriate terminate the benefits. The continuing powers or jurisdiction for the above-mentioned purposes requires such modifications to be applied for within five (5) years of the date of accident or five (5) years from the date of last compensation payment. Here, there was never an initial rate of compensation passed by the Commission, the injured worker alleges that this code section is not applicable and dispositive of the Claimant's entitlement to indemnity benefits as a result of the compensable occupational disease.
>
> 2. If Labor and Employment Article §9-736 is applicable, did the Circuit Court for Prince George's County and Workers' Compensation Commission err in refusing to acknowledge the Employer/Self-Insured's voluntary payments of full wages in lieu of Workers' Compensation benefits over extensive periods of time in 2012, 2013 and 2014 are compensation payments for purposes of tolling the statute under §9-736[?]

Because we agree with Judge Wallace that the Commission correctly interpreted and applied Lab. & Empl. § 9-736, we will affirm the circuit court's judgment.

Background

Mr. Brown was a member of the Prince George's County Police Department from 1982 until his retirement in 2004. Upon his retirement from that department, he became a member of the Washington Suburban Sanitary Commission Police Department. In 2007, Mr. Brown injured his back. After recovering from his back injury later that same year, he continued to work for the WSSC but not in a law enforcement capacity. In November, 2009, Mr. Brown was hospitalized for heart surgery and hypertension. At various times from 2009 through 2016, Mr. Brown missed work because of tests and treatments for his cardiovascular and hypertension conditions. Throughout this period, the WSSC paid him full wages and paid his medical expenses.

On January 20, 2011, Mr. Brown filed a claim with the Commission. He asserted that he had developed an occupational disease, specifically, hypertension, over the course of his employment with the Prince George's County Police Department and that the date of his disablement was November 10, 2009. In response, and in addition to other contentions, the County asserted that the responsible employer was the WSSC.

On August 20, 2012, the Commission conducted a hearing. On September 5, 2012, it issued an order which stated in relevant part (emphasis added):

> The Commission finds on the issues presented that the date of last injurious exposure was January 24, 2007, therefore the proper employer is [the

> WSSC]; and [Prince George's County] is dismissed from the claim filed herein. The Commission further finds that the claimant sustained an occupation disease arising out of and in the course of employment and that claimant's hypertension and coronary artery disease is causally connected to the aforesaid occupational disease. Average weekly wage – $1397.50. heart disease.
>
> • • •
>
> [T]his *Award* is held subject to further consideration by this Commission; said case to be reset only on request; subject to the provisions of the Workers' Compensation Law of Maryland.

Although the Commission's order did not identify Mr. Brown's date of disablement, the parties agree that it was November 10, 2009.[2] The parties also agree that this order did not award compensation to Mr. Brown, although they do not agree as to whether this order constituted an "award" for the purposes of the Workers' Compensation Act.

The WSSC filed a petition for judicial review of the Commission's decision. The primary issue before the circuit court was whether the Commission erred when it dismissed Prince George's County from the proceedings. The judicial review proceeding was stayed for seven months to permit the WSSC to obtain a clarification of the statutory basis of its liability. After that matter was resolved, the stay in the circuit court was lifted and, after a trial, a jury returned a verdict affirming the Commission's September 5, 2012 decision. Judgment in the judicial review proceeding was entered on June 5, 2015.

[2] During the most recent hearing, the Commission indicated that Mr. Brown's actual date of disablement was January 24, 2007. Neither counsel suggested that this was incorrect. Be that as it may, the parties now agree that Mr. Brown's date of disablement was November 10, 2009. Mr. Brown's claim for benefits was filed on November 25, 2015.

On November 25, 2015, Mr. Brown filed issues with the Commission requesting temporary total disability benefits from October 6, 2015, through October 18, 2015 as well as a determination by the Commission of the nature and extent of permanent disability arising out of his hypertension and cardiovascular disease. In response, and among other contentions, the WSSC asserted that Mr. Brown's claim was barred by the statute of limitations set out in Lab. & Empl. § 9-736(b). As we will explain later in more detail, the statute provides that, absent fraud or estoppel, the Commission may not modify an award unless the modification "is applied for within 5 years after the latter of: (i) the date of the accident; (ii) the date of disablement; or (iii) the last compensation payment." The Commission held a hearing on Mr. Brown's issues on November 9, 2016.

The parties' contentions at the Commission's hearing were essentially the same as those presented to us and we will discuss them later. At this point, it is sufficient to say that the Commission concluded that the limitations argument was persuasive. After summarizing the procedural history, the Commission stated:

> Sometimes in occupational diseases there is no lost time, and then [counsel had] better tout suite claim permanency because you're rapidly running against the five years.
>
> • • •
>
> This is a complicated case where, for whatever reason, no [temporary total disability benefits were] requested. In my opinion, looking through the rearview mirror, there would have been no problem had there been a request for the hospitalizations and the [temporary total disability benefits] at the time of the original filing, which is what happens in 99% of the cases. I don't know why the decision was made to defer that until later.

> But now, you know great minds may disagree with me and in the Circuit Court and the Appellate Court, but I don't really see a basis for getting around the statute of limitations I think your arguments are going to have to be presented to another forum.

Mr. Brown filed a petition for judicial review. The parties filed cross-motions for summary judgment. The circuit court granted WSSC's motion and thus affirmed the Commission's decision. This timely appeal followed.

The Standard of Review

Lab. & Empl. § 9-745 permits two modes of judicial relief for a party aggrieved by a decision of the Workers' Compensation Commission. *Board of Education Montgomery County v. Spradlin*, 161 Md. App. 155, 166 (2005). Subsection (c) of the statute authorizes what is essentially a judicial review of the Commission's decision in which the circuit court "reviews the record of the proceeding before the Commission and decides, purely as a matter of law, whether the Commission acted properly." *Id.* at 169 (cleaned up). Additionally, Lab. & Empl. § 9-745(d) permits what we have termed "an essential *de novo* trial," in which the Commission's decision is presumed to be correct but the court (or the jury as the case may be) makes its own fact-finding. *Id.* at 188–90.

Mr. Brown and the WSSC chose the first modality. Therefore, the role of the reviewing court is to decide if the Commission "acted within its powers and correctly construed the law and facts." Lab. & Empl. 9-745(e)(1). If the court answers this question in the affirmative, then it will "confirm the decision of the Commission." *Id.* If the judicial

response is no, then it will "reverse or modify the decision or remand the case to the Commission for further proceedings." Lab. & Empl. 9-745(e)(2).

In the present case, the facts are not disputed and the issues are those of law. We exercise *de novo* review over the Commission's legal conclusions, although with appropriate deference to "its interpretations of the Workers' Compensation Act." *Hranicka v. Chesapeake Surgical, Ltd*., 443 Md. 289, 297 (2015) (cleaned up). Additionally, we review the decision of the Commission, as opposed to that of the circuit court. *Id; see also People's Counsel for Baltimore County v. Surina*, 400 Md. 662, 681 (2007) (In a judicial review proceeding, an appellate court "looks through" the circuit court's decision to make its own evaluation of the agency's decision.).

Analysis

1. Lab. & Empl. § 9-736 and the Commission's decision

The parties' contentions center on § 9-736 of the Labor and Employment Article. It states in pertinent part (emphasis added):

> (a) If aggravation, diminution, or termination of disability takes place or is discovered after the rate of compensation is set or compensation is terminated, the Commission, on the application of any party in interest or on its own motion, may:
>
> (1) readjust for future application the rate of compensation; or
>
> (2) if appropriate, terminate the payments.
>
> (b)(1) *The Commission has continuing powers and jurisdiction over each claim under this title.*

> (2) *Subject to paragraph (3) of this subsection*[3], *the Commission may modify any finding or order as the Commission considers justified.*
>
> (3) *Except as provided in subsection (c) of this section, the Commission may not modify an award unless the modification is applied for within 5 years after the latter of*:
>
> (i) *the date of the accident*;
>
> (ii) *the date of disablement*; or
>
> (iii) *the last compensation payment*.

Whether by direct statement or necessary implication, it is clear that, in its 2015 decision, the Commission concluded that: (1) its September 5, 2012 order constituted an "award" for the purposes of § 9-736(b)(3); (2) the date of Mr. Brown's disablement was January 24, 2007; (3) no compensation had been paid to Mr. Brown pursuant to the 2012 award; (4) Mr. Brown's claim for temporary and total disability benefits was a request to modify the 2012 award that was subject to § 9-736(b); and (4) his request for benefits was barred by limitations because it was filed on November 25, 2015, which was more than five years after Mr. Brown's November 10, 2009 date of disablement.

2. The parties' contentions

To this Court, Mr. Brown asserts that the Commission erred for several reasons.

[3] Lab. & Empl. § 9-736(c) authorizes the Commission to consider an untimely request to modify an award when the failure to file the request on a timely basis was the result of "fraud or facts and circumstances amounting to estoppel[.]" Neither party asserts that subsection (c) pertains to the questions raised in this appeal.

First, he argues that the relevant limitations statute is not § 9-736 but rather Lab. & Empl. § 9-711.[4] He argues that his date of disablement was November 10, 2009, and his claim was filed on January 5, 2011, which was within the two-year limitations period.

Second, he asserts that § 9-736(b) does not apply because his claim for permanent disability compensation did not become ripe until "the threshold questions of date of disablement, last injurious exposure[,] compensability and causal relationship of the occupational disease to the correct employer/insurer [were] established[.]" Mr. Brown contends that these issues were not resolved until the Circuit Court for Montgomery County affirmed the Commission's 2012 award, which was entered on June 5, 2015.

[4] Section 9-711 states in pertinent part:

> (a)(1) If a covered employee suffers a disablement or death as a result of an occupational disease, the covered employee or the dependents of the covered employee shall file a claim application form with the Commission within 2 years . . . after the date:
>
> (i) of disablement or death; or
>
> • • •

We can dispose of this contention quickly. Section 9-711 sets out a two-year time period for filing a claim for benefits arising out of an occupational disease. There is no dispute that Mr. Brown's claim was timely filed. The questions in this case are whether the Commission's disposition of Mr. Brown's initial claim constituted an "award," and, if it did, whether his request that the Commission modify that award to grant his disability benefits was timely filed. Section 9-711 does not speak to either of these issues. Section 9-736 is relevant to the latter. *See Mayor and City Co. of Baltimore v. Schwing*, 351 Md. 178, 180–82 (1998) (explaining relationship between § 9-711 and §9 -736).

Third, Mr. Brown asserts that § 9-736(b) authorizes the Commission to modify a prior finding or order as long as the modification is applied for within five years of the date of disablement. He argues that *Shelton v. Mona Electric*, 377 Md. 320 (2003) stands for the proposition "that the five-year statute of limitations does not apply unless there has at least been an initial Order of the Workers' Compensation Commission establishing compensability" and that no such order had ever been entered in this case.

Fourth, Mr. Brown argues that the WSSC paid him sick leave benefits[5] while he was hospitalized and that his claim for disability benefits was filed within two years and three months of that last payment of those benefits. He asserts that these payments should be treated as payment of compensation for the purposes of § 9-736(b)(3)(iii) and doing otherwise is unfair and inequitable.

The WSSC disagrees and raises a number of counter-contentions. Although we agree with the WSSC as to the ultimate result, we will structure our analysis a bit differently. From our perspective, the outcome of this appeal depends on how we answer two intertwined questions.

The first is whether we should treat the Commission's September 5, 2012 order as an award for the purposes of § 9-736(b). We conclude that we should.

[5] In fact, according to an affidavit signed by Mr. Brown that was filed in support of his opposition to the WSSC's motion for summary judgment in the circuit court, the WSSC kept Mr. Brown on full salary throughout these periods.

The second question is whether Mr. Brown's 2015 request for temporary total disability benefits and permanent partial disability benefits was barred by § 9-736(b). The plain language of the current version of § 9-736(b) indicates that the answer to this question is yes. To the extent that there is any doubt about the matter, the result we reach is consistent with the legislative history of the current version of the statute.

3. A "claim," a "finding or order," or an "award"?

Section 9-736(b)(1) grants the Commission "continuing powers and jurisdiction over each claim under this title." Subsection (b)(2) of the same statute authorizes the Commission to modify any "finding or order" as the Commission "considers justified." In pertinent part, subsection (b)(3) prohibits the Commission from modifying an award "unless the modification is applied for within 5 years after the latter of: (i) the date of the accident; (ii) the date of disablement; or (iii) the last compensation payment."

Mr. Brown's argument that the Commission's September 2012 order should not be treated as an award is based on *Mona Electric Company v. Shelton*, 377 Md. 320, 332–33 (2003).

At the time of the employee's injury in *Mona*, § 9-736(b) provided that the Commission could not modify an award unless the modification was applied for within five years of the date of the last compensation payment. *Id.* at 322. Asserting that he had been injured in an automobile accident while on company business, Shelton filed a claim for worker's compensation benefits. *Id.* In response, the employer filed a contesting issue

challenging whether Shelton's injuries had arisen out of the and in the course of his employment. *Id.* Before any hearing was held, the employer withdrew its issues and notified the Commission that "it had elected to accept the claim as compensable and that it had begun paying temporary disability benefits[.]" *Id.* at 323. The employer continued to make the payments until October 1994. All of this occurred without a formal order from the Commission. *Id.* In November of 1998, Shelton filed a claim for permanent partial disability benefits. The employer asserted that the claim had not been filed within five years of the date of its last compensation payment. In response, and just as Mr. Brown does in the present case, Shelton argued that there had never been an award and that therefore the five-year limitations period in § 9-736(b) did not apply. The Commission agreed with the employer and denied the claim. *Id.* at 324.

The Court of Appeals reversed the Commission's decision. The Court first identified the legislative purpose of § 9-736:

> The clear intent of the statute is to give the Commission broad continuing jurisdiction over claims, in order to respond to the improvement or worsening of a claimant's disability over time. Subsection (a) provides that, if aggravation, diminution, or termination of disability occurs or is discovered after the rate of compensation is set, the Commission may (1) readjust for future application the rate of compensation, or (2) if appropriate, terminate the payments. Subsection (b) contains three provisions. The first—subsection (b)(1)—gives the Commission "continuing powers and jurisdiction over each claim under this title." The second—subsection (b)(2)—provides that, subject to subsection (b)(3), the Commission may "modify any *finding or order* as the Commission considers justified." Subsection (b)(3) adds that the Commission may not modify "an award" unless the modification is applied for within five years after "the last compensation payment."

> The limitation in subsection (b)(3) is only on the modification of an "award." The ability to modify any other "finding" or "order" made by the Commission, not constituting an "award," is not dependent on when the last payment of compensation was made. By using different terms in the same section of the same statute, the Legislature is presumed to have intended that the condition of subsection (b)(3) on the Commission's exercise of the broad power of revision vested in it by subsections (a), (b)(1), and (b)(2) itself have a limited meaning, that it, indeed, be restricted to the modification of an "award."

377 Md. at 326–27 (cleaned up, emphasis in original).

The Court acknowledged that "the word 'award,' though used frequently in the Workers' Compensation Act, is not a defined term[.]" *Id.* at 327. After analyzing the relevant provisions of the Act, the Court concluded that, for the purposes of § 9-736(b), "award" meant an award by the Commission in contrast to a voluntary payment by an employer. *Id.* at 327. It explained:

> To construe payments made voluntarily by an employer as an "award," or even the equivalent of an award, as Mona urges, would be completely inconsistent with that legislative mandate and would necessarily erode the Commission's oversight authority. Upon being apprised of an accidental personal injury suffered by an employee in the course of employment, the employer could make a private arrangement with the employee, which may or may not provide the legally required benefits, with no Commission supervision, and later claim the benefit of § 9–736(b)(3).

Id.[6]

[6] As we previously noted, Mr. Brown contends that we should treat the WSSC's payments of sick leave benefits when he was unable to work because of his health problems as payments of "compensation" for purposes of § 9–736(b)(3). *Mona* is clear that "compensation" for purposes of subsection (b)(3) means money paid pursuant to an award

Finally, the Court noted that § 9-736(b) had been revised in 2002 and the amendment which "appears to have been a response to the decision of the Court of Special Appeals *in Zeitler–Reese v. Giant Food*, 137 Md. App. 593 (2001), is not applicable to this case." 377 Md. at 323 n.2.

The problem with *Mona* from Mr. Brown's perspective is that the WSSC is not asking the Commission to treat its salary payments to Mr. Brown after the date of his disablement as an award for purposes of calculating its liability to Mr. Brown for disability benefits. Instead, the WSSC is asserting that the 2012 order of the Commission should be treated as an "award" for the purposes of § 9-736(b). From our perspective, there are cogent reasons why the 2012 order should be.

First, the Commission's 2012 order expressly stated that it was an "award." Although this is not determinative, courts "recognize the Commission's expertise in the field of workers' compensation and consequently grant a degree of deference to the Commission's interpretation." *Pro-Football, Inc. v. McCants*, 428 Md. 270, 283 (2012) (quoting *Motor Vehicle Admin. v. Carpenter*, 424 Md. 401, 413 (2012)). Second, the 2012 order expressly stated that "this Award is held subject to further consideration by the Commission, said case to be reset only on request[.]" Third, the Commission's use of the term "award"

---

by the Commission. There was no Commission directive requiring the WSSC to pay compensation to Mr. Brown.

signaled to the parties that the five-year limitations period set out in § 9-736(b)(3) was beginning to run and operated to protect the WSSC's interests. *See Mona*, 377 Md. at 334–35 ("If Mona was looking for the protection of an award, for purposes of § 9–736(b)(3) or for any other purpose, it had the responsibility to see that one was entered."). Finally, and addressing Mr. Brown's appellate contention that the 2012 order was not an award for § 9-736(b) purposes because it was not ripe, the Commission observed that "there would have been no problem had there been a request for the hospitalizations and the [temporary total disability benefits] at the time of the original filing, which is what happens in 99% of the cases."

As we have noted, Mr. Brown also contends that he was unable to pursue his claim for compensation while the initial judicial review proceeding was pending. Portions of the Court's analysis in *Potomac Abatement, Inc. v. Sanchez*, 424 Md. 701 (2012) ("*Sanchez IV*"),[7] suggest otherwise.

The issue in *Sanchez IV* was the scope of the Commission's authority to modify an award while a judicial review proceeding was pending. The Commission concluded that

[7] As opposed to: *Sanchez v. Potomac Abatement*, Inc., 417 Md. 76, 82–84, 8 A.3d 737, 740–41 (2010) (*Sanchez I*") and *Sanchez v. Potomac Abatement, Inc*., 198 Md. App. 436, 443 (2011) (a consolidated appeal regarding two other judicial review proceedings arising out of the same workers' compensation claim. ("*Sanchez II and III*"). *See* 424 Md. at 708–09 (setting out the procedural history of Mr. Sanchez's compensation claim).

its revisory authority was limited by Lab. & Empl. § 9-742,[8] which grants the Commission authority to provide limited types of relief while a judicial review proceeding is pending. *Id.* at 708. After reviewing the relevant statutory history and caselaw, the Court of Appeals concluded otherwise: It stated that, under § 9-736, the Commission retained jurisdiction over a compensation proceeding as long as "no evidence was taken or decision made at the previously appealed hearing on the issues presented at the new hearing." *Id.* at 721. Mr. Brown's assertion that he was barred as a matter of law from requesting compensation while the first judicial review proceeding was pending is not correct.

4. The Proper Construction of Lab. & Empl. § 9-736

The parties' contentions require us to engage in a statutory analysis of § 9-736. Statutory construction involves:

> an examination of the statutory text in context, a review of legislative history to confirm conclusions or resolve questions from that examination, and a consideration of the consequences of alternative readings. "Text is the plain language of the relevant provision, typically given its ordinary meaning, viewed in context, considered in light of the whole statute, and generally evaluated for ambiguity. Legislative purpose, either apparent from the text

[8] The statute states in pertinent part:

> (a) The Commission retains jurisdiction pending an appeal to consider:
> (1) a request for additional medical treatment and attention;
> (2) a request for temporary total disability benefits, provided that the covered employee's temporary total disability benefits were granted in the order on appeal, and were terminated by the insurer or self-insurer pending adjudication or resolution of the appeal; and
> (3) a request for approval of a proposed settlement of all or part of a claim.
>
> • • •

> or gathered from external sources, often informs, if not controls, our reading of the statute. An examination of interpretive consequences, either as a comparison of the results of each proffered construction, or as a principle of avoidance of an absurd or unreasonable reading, grounds the court's interpretation in reality."

Blue v. Prince George's County, 434 Md. 681, 689 (2013) (quoting *Town of Oxford v. Koste*, 204 Md. App. 578, 585–86 (2012), *aff'd*, 431 Md. 14 (2013)).

Mr. Brown argues that § 9-736(b)(3) does not apply to this case because he never received compensation payments. In effect, he asks us to interpret subsection (b)(3) in precisely the same way that we did in *Zeitler-Reese v. Giant Food, Inc*., 137 Md. App. 593, 599 (2001). In that case, Zeitler-Reese developed an occupational disease, *viz*., carpal tunnel syndrome, during her employment, and the date of her disablement was July 1, 1994. In 1995, she filed a claim for compensation. The Commission issued an order that that Zeitler-Reese's condition was an occupational disease but found that the employee had lost no compensable time from work. The Commission ordered Giant to pay Zeitler-Reese's medical bills. *Id.* at 595–96.

On July 19, 2019, Zeitler-Reese requested temporary disability benefits. At the time, § 9-736(b) read as follows (emphasis added):

> (b)(1) the Commission has continuing powers and jurisdiction over each claim under this title.
>
> (2) Subject to paragraph (3) of this subsection, the Commission may modify any finding or order as the Commission considers justified.

> (3) Except as provided in subsection (c) of this section, the Commission *may not modify an award unless the modification is applied for within 5 years after the last compensation payment*.

Based on subsection (b)(3), the Commission denied the request for benefits. *Id.* at 596.

We reversed the Commission's decision. We started from the premise that the term "compensation" in the Workers' Compensation Act meant "the money payable under this title to a covered employee or the dependants of a covered employee." *Id.* at 597 (quoting Lab. & Empl. § 9-101(e)(1)). However, the term "compensation" did not include payment of medical expenses. *Id.* (citing *Holy Cross Hosp. v. Nichols*, 290 Md. 149, 161–63 (1981)). We concluded that:

> In the instant case, appellant has never received compensation payments. Under the original compensation award, appellant only received payment for medical bills. Therefore, under the plain language of LE section 9–736, the limitations has not expired because appellant has never received any compensation payments.

In reaching this result, we acknowledged that the appellees contended that:

> requiring payment of compensation to be made before limitations begin to run would frustrate the overall purpose of the Workers' Compensation Act because "an important purpose for a period of limitations is to insure that an employer and insurer are able to calculate future exposure and risk in a case." In their brief, appellees appear to suggest that in cases where no compensation is awarded, limitations should begin on either the alleged date of disablement or the date of the original award.

Id. at 599.

We recognized that "appellees' concerns are legitimate" and that "[t]he General Assembly could have chosen another means to calculate limitations [but] it is not the role of a court to read exceptions into a statute where none exist." *Id.* at 600–01.

The reaction of the General Assembly was prompt. In the next legislative session, it amended passed House Bill 1318, which was enacted into law as chapter 568 of the Laws of 2002. This law amended § 9-736(b) to its current form.

Applying the plain language of the statute to the facts of the present case points ineluctably to the conclusion that Mr. Brown's claim for disability benefits was not filed within five years of the date of the Commission's award. Nonetheless, Mr. Brown urges us to treat the salary and sick leave benefits that the WSSC paid him while he was hospitalized as a "payment of compensation" for the purposes of § 9-736(b)(3)(iii). In our view, the legislative history of the statute indicates that Mr. Brown's proffered interpretation of the statute is incorrect. *See State v. Roshchin*, 446 Md. 128, 140–41 (2016) ("But even when the language is unambiguous, it is useful to review legislative history of the statute to confirm that interpretation and to eliminate another version of legislative intent alleged to be latent in the language." (cleaned up)). We will turn to that history.

As we have indicated, the current version of § 9-736(b) came into being by means of chapter 568 of the Laws of 2002, which originated as House Bill 1318. In identifying legislative intent, a floor report is a "key legislative document." *Blackstone v. Sharma*, 461 Md. 87, 130 (2018).

HB 1318 was referred to the House Economic Matters Committee. Its floor report stated in pertinent part (emphasis in original):

> Under current law, a modification of a final award for an occupational disease claim may be made within five years of the date of the last compensation payment. The law does not expressly address a case in which a wage compensation payment was not made. . . .
>
> Under *Zeitler-Reese v. Giant Food, Inc.*, 137 Md. App. 593 (2001), the Court of Special Appeals agreed with the appellant's argument that the statute of limitations on award modifications could not begin to toll since only medical costs but no prior award of compensation has been paid for the injured worker. . . . The statute, in its current form, provides that the statute of limitations begins to toll only with the payment of last compensation. In rendering its decision, the court noted that it was not the judiciary's role to read exceptions into a statute where none exist.
>
> • • •
>
> HB 1318 addresses this issue by specifying that the 5 year limitations period on reopening begins on the date of last compensation payment (current law), the date of the accident, or the date of the disability.

In the Senate, House Bill 1318 was referred to the Senate Finance Committee. Its floor report discussed the *Zeitler-Reese* decision in language that was substantively identical to the House Economic Matters Committee and concluded:

> The bill provides that the Commission may not modify an award unless the modification is applied for within 5 years of the latter of: the date of the accident; the date of disablement; or the last compensation payment.
>
> Current law only considers the date of the last compensation payment. Medical benefits are unaffected under this bill.

(Formatting altered).

The fiscal note prepared by the Department of Legislative Services was substantively identical to both floor reports.

We conclude that the legislative history does not support Mr. Brown's proffered interpretation of the current version of § 9-736(b), which is that the five-year limitations period does not begin to run until compensation is actually paid pursuant to an award by the Commission. That is what we held in *Zeitler-Reese* and the legislative history of the 2002 amendment to § 9-736(b) makes it clear that the General Assembly intended to change the statute in light of our decision.

5. Unfairness and inequity

Mr. Brown's remaining arguments boil down to the propositions that *he* did not seek judicial review of the Commission's August 20, 2012 order, nor did *he* ask the circuit court to remand the case back to the Commission for further proceedings before the court addressed the merits of WSSC's judicial review proceeding. He points out that the circuit court in the first judicial review proceeding affirmed the Commission's original ruling. He argues that it is unfair and inequitable to deprive him of an opportunity to obtain benefits to which he is otherwise entitled because of the WSSC's litigation tactics.

We appreciate his position. However:

> Statutes of limitation . . . . are by definition arbitrary, and their operation does not discriminate between the just and the unjust claim, or the avoidable and unavoidable delay. They have come into the law not through the judicial process but through legislation. They represent a public policy about the privilege to litigate.

Walko Corporation v. Burger Chef Systems, Inc., 281 Md. 207, 210 (1977) (quoting *Chase Securities Corp. v. Donaldson*, 325 U.S. 304, 314 (1945)).

We reiterate what we said in *Zeilter-Reese*, "it is not the role of a court to read exceptions into a statute where none exist." 137 Md. App. at 601.[9]

THE JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY IS AFFIRMED. APPELLANT TO PAY COSTS.

[9] On August 20, 2020, Mr. Brown's counsel wrote to this Court calling our attention to a recent decision by the Circuit Court for Montgomery County that in his view supports some of his appellate contentions. He asked permission to submit a copy of the court's opinion "as a post-trial pleading to allow for consistency and clarification as to the pending issue" in the present case. We decline to do so.

The Maryland Rules do not allow for supplemental briefing after argument. In some cases, supplemental briefing might be appropriate but the way to accomplish is to file a motion with this Court asking for permission to submit a supplemental brief and, if the motion is granted, to file a supplemental brief. In addition, assuming for purposes of analysis that the opinion of the circuit court is properly before us, Mr. Brown presents no legal authority for the proposition that we should afford persuasive weight to an opinion by a circuit court.