

Circuit Court for Baltimore County
Case No. C-03-CV-23-004125

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2026

September Term, 2024

JENNIFER REMMES

v.

STATE OF MARYLAND

Graeff,
Tang,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Tang, J.

Filed: January 14, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Under Maryland Code Annotated, Labor and Employment (“LE”) § 9-736, a claimant who was previously awarded compensation may apply to the Workers’ Compensation Commission (the “Commission”) to modify the award, so long as the claimant does so within the five-year statute of limitations.

The appellant, Jennifer Remmes, applied to the Commission for modification of her award, but filed the application after the limitations period had expired. The Commission denied her request for modification as time-barred. The appellant petitioned for judicial review in the Circuit Court for Baltimore County. After a bench trial, the court affirmed the Commission’s decision.

On appeal, the sole issue presented is whether the court erred in affirming the Commission’s denial of the appellant’s application for modification under LE § 9-736 on the basis that it was time-barred. For the reasons set forth below, we affirm the judgment of the circuit court.

I.

BACKGROUND

The facts in this case are not in dispute. The appellant was injured while working for her employer, the Maryland State Police (“Employer”),¹ in 2011. The Commission determined the injury was compensable and authorized medical treatment under the Maryland Workers’ Compensation Act (*see* LE § 9-101 through -1201).

¹ The other appellee is the State of Maryland, through the Injured Workers’ Insurance Fund, the third-party administrator of Maryland workers’ compensation benefits. For simplicity, we refer to the appellees collectively as the “Employer.”

In 2018, the appellant reopened her claim to modify her award, which resulted in an additional award. The appellant’s last compensation payment was in May 2018. Thus, if she wanted to further modify her award based on a worsening of her condition, she would have had to file an application to modify within five years of that payment, i.e., by May 2023.² *See* LE § 9-736(b)(3)(iii).

On April 26, 2023—before the deadline for the appellant to file an application for modification—the appellant’s counsel attempted to file the application electronically with the Commission. *See* COMAR 14.09.01.04 (allowing forms and documents to be filed with the Commission electronically). As discussed below, although counsel believed he had submitted the application electronically, he had not. Counsel ultimately filed the application for modification on June 8, 2023, past the statutory deadline.

A.

Commission Hearing

On September 18, 2023, the Commission held a hearing on the appellant’s modification request. The Employer challenged the application on the ground that it was barred by the five-year limitations period under LE § 9-736(b).

² Before the Commission, the parties agreed that the last payment occurred on May 24, 2018. However, in the circuit court, the parties stipulated that the last payment was on May 14, 2018. The discrepancy between these two dates (May 14 and May 24) is immaterial to the analysis.

Appellant’s counsel responded, in relevant part, that he had personally “attempted to file” the claim, he thought he filed the claim with the Commission on April 26, 2023, and “[i]t was [his] intent to file it” timely using the Commission’s online filing system.³

When the Commissioner inquired whether counsel had received any acknowledgment from the Commission or whether there was “something [he] printed that indicated that [he] submitted it” on April 26, counsel conceded there was no such proof of timely submission. He explained that, whether the claim was successfully submitted or not, the system generated a “PDF, an electronic copy of the document[.]” Based on that generation, he mistakenly believed the application had been filed. However, he later realized the copy of the generated document lacked a timestamp, which would have indicated that it was actually filed.⁴

On October 6, 2023, the Commissioner denied the appellant’s request for modification by written order, explaining that the request was barred by the statute of limitations.

³ During all relevant times, the Commission utilized an electronic filing system that is now defunct.

⁴ The appellant also argued that the deadline for filing the claim had been suspended due to the Commission’s closure during the COVID-19 pandemic. However, the Commissioner rejected the argument. The appellant presented the same argument to the circuit court, which also rejected it. She does not pursue this argument on appeal. Therefore, we will not address the argument or the related procedural history.

B.

Judicial Review in the Circuit Court

The appellant filed a petition for judicial review in the Circuit Court for Baltimore County.⁵ The Employer filed a motion for summary judgment, arguing, in relevant part, that the appellant’s modification request was barred by the five-year statute of limitations.

The appellant opposed the motion and filed a cross-motion for summary judgment. The appellant argued that her counsel attempted to file the modification request on April 26, 2023, but “due to inadvertence and/or clerical error” of the Commission’s electronic filing system, the filing was not docketed by the Commission. The appellant argued that the “situation is analogous to a clerical error of the courthouse clerk,” which trial courts have broad latitude to correct under Maryland Rule 2-535(b) and (d). Accordingly, she argued that the late filing should be deemed timely filed.

After a hearing, the court determined that whether the Commission had committed a clerical error was a factual issue that remained in dispute. As a result, the court denied the appellant’s cross-motion for summary judgment and the Employer’s summary judgment motion related to that issue.

Thereafter, the appellant waived her request for a jury trial, and the court held a bench trial. The court stated, and the parties agreed, that the only issue was whether “the

⁵ In Maryland, a party aggrieved by a decision of the Commission may appeal to the circuit court and request a bench or jury trial. LE § 9-737. The scope of such a trial “is essentially *de novo*” and “encompasses ‘any question of fact involved in the case.’” *Gales v. Sunoco, Inc.*, 440 Md. 358, 361 (2014) (quoting LE § 9-745(d)).

filing of the claim in April of '23 that the [appellant] maintains was filed” was “not accepted for reasons to be explained by the [Commission].”

The court heard testimony from the appellant’s counsel and the Chief Executive Officer for the Commission, Theresa Cornish. The appellant’s counsel testified that it was his belief that he had timely filed the claim electronically on April 26. He explained that, once a user clicks the “Submit” button to file a pleading, the system gives the user the option to either print the document or save it as a PDF. Counsel testified that he remembered submitting the document and saving it as a PDF:

[N]ot only do I fill out the form, I went through that whole process and saved the document as a PDF. So, from my perspective I filed it with the Commission. I know obviously that it was not received and docketed by the Commission, but I went through all of those steps and saved the document.

On cross-examination, the appellant’s counsel acknowledged that the form he saved after the attempted filing on April 26 differed from the one produced after the successful filing on June 8, in that the former did not contain a timestamp of receipt and the space that normally would have indicated whom the form was “Filed By” was blank.

Ms. Cornish testified, in pertinent part, that she was not aware of any technological flaw or clerical error on the Commission’s part. She explained that she did not know how a user could have filed the form without the Commission receiving it, but she confirmed that the PDF generated on April 26 did not indicate a successful filing. Ms. Cornish also testified that the Commission’s IT department had “scrubbed the logs” for “the whole month of April of 2023 to see if there were any system failures” and that there were none.

In the end, the court found that appellant’s counsel had committed excusable neglect but concluded that excusable neglect was not a basis to extend the limitations period:

I find that in the case here I think the filing of the April 26th, 2023 request for modification and the fact that it was not filed and then later determined on June the 8th to be omitted to be one of what I would call excusable neglect on the part of [appellant’s counsel] and his staff. There was obviously an error made. It could have been discovered earlier but wasn’t, but that is a lot to ask to say it could have been discovered earlier. So, I think for this record I find that there is excusable neglect.

Having [] said that, I don’t know that that assists the [appellant]. I found no authority anywhere to permit the [c]ourt to interpret this five year limitation in a way to extend it beyond five years in a case of excusable neglect on the part of counsel.

This is not a case, and I distinguish the Maryland Rule 2-535(b) where the [c]ourt may revise a judgment . . . of the Circuit Court in the event of fraud, mistake or irregularity. Of those three irregularity is the only one that really applies here and that is basically an irregularity of process or procedure.

But that is as to a Circuit Court judgment. I do not believe that that permits the [c]ourt to go back, even if I were to find so, that there was an error on the part of the Commission. I don’t believe the [c]ourt is permitted under that rule to take that step.

Accordingly, the court entered an order affirming the Commissioner’s decision and denying the appellant’s application for modification. The appellant noted this timely appeal.

II.

DISCUSSION

LE § 9-736 gives the Commission the authority to modify a claimant’s existing award. However, the statute provides a limitations period within which a claimant must apply for such modification:

(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 latter of:*

- (i) the date of the accident;
- (ii) the date of disablement; or
- (iii) *the last compensation payment.*

LE § 9-736(b) (emphases added).

Subsection (c) expressly provides only two bases for tolling the limitations period:

(c)(1) If it is established that a party failed to file an application for modification of an award *because of fraud or facts and circumstances amounting to an estoppel*, the party shall apply for modification of an award within 1 year after:

- (i) the date of discovery of the fraud; or
- (ii) the date when the facts and circumstances amounting to an estoppel ceased to operate.

Id. § 9-736(c) (emphasis added). The parties agree that neither fraud nor estoppel applies in this case.

The appellant argues that the circuit court erred in affirming the Commissioner’s determination that the application for modification was barred by the five-year statute of limitations under LE § 9-736(b)(3). Specifically, she asserts that the court erred in concluding that there was no “judicial remedy” for the “clerical error” that resulted in late filing. She contends that the Commissioner and the circuit court, on judicial review, had the authority to correct the error. The appellant argues that it would defy logic and basic

fairness for the filing party to bear the responsibility for a failure of the filing system, particularly when “a court fails to receive and docket a filing because of the existence of a flaw or shortcoming in the court-created filing system.” The appellant also points out that the Employer was not prejudiced by the late filing. Therefore, she requests that we reverse the circuit court’s decision and remand the matter for a finding that the appellant was not barred by the statute of limitations from re-opening her claim.

A.

Standard of Review

A determination that a claim is barred by a statute of limitations “is ordinarily a mixed question of law and fact.” *Dove v. Montgomery Cnty. Bd. of Educ.*, 178 Md. App. 702, 712 (2008) (citation omitted). Here, because the relevant facts are not in dispute, the limitations issue is a pure question of law. “In an appeal of a workers’ compensation case, when the issue presented is an issue of law, ‘we review the decision *de novo*, without deference to the decisions of either the Commission or the circuit court.’” *Zakwieia v. Balt. Cnty. Bd. of Educ.*, 231 Md. App. 644, 648 (2017) (citation omitted).

When analyzing a statute, we seek to determine the intent of the legislature first by looking to the plain meaning of the words of the statute. *See McLaughlin v. Gill Simpson Elec.*, 206 Md. App. 242, 253 (2012). When there is ambiguity, the Workers’ Compensation Act generally “should be construed as liberally in favor of injured employees as its provisions will permit in order to effectuate its benevolent purposes. Any uncertainty in the

law should be resolved in favor of the claimant.” *Gang v. Montgomery Cnty.*, 464 Md. 270, 279 (2019).

“Despite the general tendency toward liberal interpretation of the Workers’ Compensation Act, the statute of limitations in [LE] § 9-736(b)(3) is to be strictly construed.” *McLaughlin*, 206 Md. App. at 254; *accord Stevens v. Rite-Aid Corp.*, 340 Md. 555, 568 (1995) (“The general rule of liberal construction of the Workers’ Compensation Act is not applicable to the limitations provision of § 9-736.”). “[B]y enacting a limitations provision, the General Assembly restricted the Commission’s ability to exercise its authority to reopen prior awards.” *McLaughlin*, 206 Md. App. at 255. That is, “[a]fter five years from the last payment of compensation, LE § 9-736(b)(3) divests the Commission of any authority to exercise its otherwise broad reopening powers.” *Id.* (citation modified); *accord Seal v. Giant Food, Inc.*, 116 Md. App. 87, 95, 95–96 (1997) (explaining that “[s]tatutes of limitations must be construed without resort[ing] to strained construction that belie the statute’s plain meaning” and that “the very existence of a limitations provision in the act indicates that the [Assembly] has deliberately compromised the general compensation purpose in the interests of the purposes served by the limitations provision”).

B.

Analysis

The appellant tacitly acknowledges that excusable neglect is not one of the enumerated bases that allows for an extension of the limitations period. If the General Assembly intended for excusable neglect or other circumstances to toll the limitation

period, it would have expressly included such language in the statute.⁶ As the Supreme Court of Maryland explained, “where the legislature has not expressly provided for an exception in a statute of limitations, the court will not allow any implied or equitable exception to be engrafted upon it.” *Booth Glass Co., Inc. v. Huntingfield Corp.*, 304 Md. 615, 623 (1985).

Instead, the appellant focuses on whether the Commissioner or the circuit court had the authority to correct “the type of error that led to the untimely filing in this case.” She cites authorities to argue that the Commissioner or circuit court could have deemed her April 26, 2023 request for modification timely due to clerical and technological errors by the Commission that prevented its proper filing. *See, e.g.*, COMAR 14.09.01.06 (“When

⁶ The General Assembly has used language such as “for good cause” to provide courts and administrative agencies discretion to excuse late filings in a given context. *See, e.g.*, Md. Code Ann., Cts. & Jud. Proc. (“CJP”) § 5-304(d) (permitting court to entertain a suit under Local Government Tort Claims Act despite plaintiff’s failure to satisfy notice requirement “for good cause shown”); *Harris v. Hous. Auth. of Balt. City*, 227 Md. App. 617, 639 n.14 (2016) (noting that a court may consider, *inter alia*, “excusable neglect or mistake” when making a “good cause” determination under CJP § 5-304(d)); *see also* LE § 8.3-701(b)(3)(i) (requiring claimants to file application for benefits under Family and Medical Leave Insurance Program within 60 days before the anticipated start of leave, but providing that Maryland Department of Labor shall waive filing deadline “for good cause”); CJP § 3-8A-13(b) (requiring State’s Attorney to file delinquency petitions within 30 days of receipt of referral from intake officer, “unless that time is extended by the court for good cause shown”); Md. Code Ann., Crim. Proc. § 11-809(a)(4) (providing that an individual seeking award from Criminal Injuries Compensation Board “may file a claim at any time if the Board determines that there was good cause for failure to file a claim within the [four-year statutory] time limits”); Md. Code Ann., Tax-Gen. § 10-823 (authorizing Comptroller to extend the time for an individual or corporation to file an income tax return if “good cause exists”); Md. Code Ann., Est. & Trusts § 3-407(a) (requiring surviving spouse to take elective share before the later of two deadlines, but permitting court to extend time for election “[f]or good cause shown”).

justice so requires, the Commission may waive strict compliance with these regulations.”); COMAR 14.09.01.07 (enumerating the powers the Commissioner has to regulate the course of hearings); Md. Rule 2-535 (granting the court revisory power over a judgment); *Crawford v. Richards*, 193 Md. 236, 241, 244 (1949) (explaining that when an attorney delivered a filing for one case to the court clerk and the clerk erroneously filed it in another case, it should have been considered as timely filed in the proper case; characterizing clerical error as a mistake or irregularity); *Estime v. King*, 196 Md. App. 296, 308–09 (2010) (explaining that the clerk’s failure to send the court’s order to party’s new address constituted an irregularity of process under Rule 2-535(b)); *Cave v. Elliott*, 190 Md. App. 65, 76–77 (2010) (affirming court’s decision to accept filing *nunc pro tunc* where filing was timely filed but was rejected by the clerk because of an incorrect caption; explaining that the purpose of a *nunc pro tunc* order is to correct a clerical error or omission).

None of these authorities apply to the circumstances in this case. The COMAR regulations and the Maryland Rules do not allow the Commissioner or the court to circumvent the statute of limitations under LE § 9-736. Moreover, the appellant’s argument and reliance on these authorities are premised on the appellant’s view that counsel “filed” the modification request on April 26, 2023 and that a clerical or technological error by the Commission prevented the acceptance of the form. However, the court did not make any such findings. To the contrary, the court found that the request for modification “was not filed” on April 26, 2023, due to the “excusable neglect” of the appellant’s counsel. The

court did not find that counsel’s failure to file on time was caused by any clerical or technological error on the Commission’s part.⁷

The appellant cites *Wormwood v. Batching Systems Inc.*, 124 Md. App. 695 (1999), to argue that her modification request should not be barred because she substantially complied with LE § 9-736 by attempting to file it in April 2023. In that case, the circuit court dismissed a petition seeking judicial review of the Commissioner’s decision because the record was not transmitted to the circuit court in a timely manner as required by Maryland Rule 7-206. *Id.* at 697. The petitioner had made a timely request for the transcript and showed that the delay was caused by someone else. *Id.* at 698, 701. Although the transcript was filed with the Commission’s appeals clerk by the deadline, the full record was not received by the circuit court until ten days later. *Id.* at 698.

On appeal, the issue was whether dismissal of the petition for judicial review was mandatory when the petitioner substantially complied with the Rule and the record was ultimately before the court in a timely manner. *Id.* at 699–700. We concluded that those facts amounted to substantial compliance because “the delay was not solely attributable to [the petitioner], and the entire record, including the transcript, was before the circuit court at the time it was asked to dismiss the appeal because of [the petitioner’s] non-compliance with Rule 7-206.” *Id.* at 705.

⁷ The appellant makes no argument that the evidence was insufficient to support the court’s findings or that the court’s findings were clearly erroneous.

Wormwood does not assist the appellant. In that case, we explained that the transmittal of a record is not “in the nature of a statute of limitations,” and the rule for transmitting the record (Rule 7-206) is “subject to substantial compliance.” *Id.* However, unlike Rule 7-206, LE § 9-736(b) is a statute of limitations that must be “strictly construed.” *McLaughlin*, 206 Md. App. at 254. In other words, the limitations period and the tolling exceptions under LE § 9-736 leave no room for substantial compliance.

CONCLUSION

We hold that the circuit court did not err in affirming the Commissioner’s decision and denying the appellant’s application for modification. While we are sympathetic to the unfortunate circumstances that have led to the appellant’s modification request being barred, LE § 9-736 does not allow the Commissioner or the court to deem a late filing timely or to extend the limitations period in this case. As the Supreme Court of Maryland aptly explained,

While we must acknowledge some seeming unfairness in the instant case, we have also recognized the legitimate purposes of limitations periods, and noted that all bright-line rules will occasionally result in some individual unfairness. That the result in a[] particular case seems harsh is thus not enough to overcome the bar on reopening a claim after five years.

Waskiewicz v. Gen. Motors Corp., 342 Md. 699, 712 (1996) (citations omitted), *overruled on other grounds*, *Mayor of Balt. v. Schwing*, 351 Md. 178 (1998). If the permissible bases for tolling the modification period are to be expanded beyond their current statutory contours, the task is one for the General Assembly rather than the judiciary. *See In re Zukowski*, 260 Md. App. 220, 245 (2024); *Rogers v. Welsh*, 113 Md. App. 142, 156 (1996).

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED.
COSTS TO BE PAID BY THE APPELLANT.**