STATE OF MINNESOTA

IN SUPREME COURT

A20-0963

Workers' Compensation Court of Appeals — Moore, III, J.

William H. Johnson,

Respondent,

vs.

Filed: August 18, 2021
Office of Appellate Courts

Darchuks Fabrications, Inc.
and Harleysville Insurance,

Relators.

Dana L. Gerber, Atkinson Gerber Law Office, Arden Hills, Minnesota, for respondent.

Emily A. LaCourse and Christine L. Tuft, Arthur, Chapman, Kettering, Smetak & Pikala, P.A., Minneapolis, Minnesota, for relators.

S Y L L A B U S

Respondent's treatment with opioid medication, which is non-compliant with the long-term opioid treatment parameter promulgated by the Department of Labor & Industry, does not qualify as a rare exception to the treatment parameters and is, therefore, not compensable treatment under Minnesota's workers' compensation system.

Reversed.

O P I N I O N

MOORE, III, Justice.

This case asks us to decide whether the facts establish that Respondent William Johnson's treatment with opioid medication, which is non-compliant with the long-term opioid medication treatment parameter, is compensable under the workers' compensation laws as a "rare case" exception. We must determine whether the Workers' Compensation Court of Appeals (WCCA) erred in affirming the compensation judge's determination that Johnson's treatment with opioid medication for a work-related ankle injury that resulted in an intractable pain condition is compensable as a rare case exception despite its non-compliance with the parameter promulgated by the Department of Labor & Industry for that form of treatment. Because the circumstances of this case, as presented by the record before us, are not exceptional, the rare case exception to the treatment parameters does not apply. Therefore, we reverse.

FACTS

This is the second appeal to our court concerning respondent William Johnson's work-related injury and the proper application of the treatment parameters to his injury. *See Johnson v. Darchuks Fabrication, Inc.*, 926 N.W.2d 414 (Minn. 2019). Before we turn to the facts of this case, we provide a brief overview of the function of the treatment parameters in determining compensation for a work-related injury.

Minnesota's workers' compensation system requires employers to furnish such treatment "as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury." Minn. Stat. § 176.135, subd. 1 (2020).

"[T]he compensation judge is responsible for determining whether medical treatment is 'reasonably required' " within the scope of section 176.135, subdivision 1. *Jacka v. Coca-Cola Bottling Co.*, 580 N.W.2d 27, 32 (Minn. 1998) (quoting Minn. Stat. § 176.135, subd. 1).

At the direction of the Legislature, the Minnesota Department of Labor & Industry developed rules—treatment parameters—that set standards for particular types of treatment of workers' compensation injuries. *See* Minn. Stat. § 176.83 (2020); Minn. R. 5221.0200 (2019). These parameters are "used to determine whether a provider . . . is performing procedures or providing services at a level or with a frequency that is excessive, unnecessary, or inappropriate." Minn. Stat. § 176.83, subd. 5. Because the parameters establish standards for reasonable treatment, *see Jacka*, 580 N.W.2d at 34, treatment that is inconsistent with an applicable parameter may be excessive, Minn. R. 5221.6050, subp. 7(A) (2019), and, therefore, no longer reasonable. Treatment that is not reasonable and necessary is not compensable. Minn. R. 5221.0500, subp. 1D (2019).

Minnesota Rule 5221.6110 (2019), the parameter that governs treatment through long-term use of opioid medication, requires detailed medical records, assessments, and evaluations to establish that the patient cannot function in daily living activities given the level of pain without long-term use of opioid medications. *See id.*, subps. 3–6 (describing assessment tools, selection criteria, contraindications, and treatment program requirements).[1] Rule 5221.6110 states that long-term opioid treatment is "not indicated

[1] Rule 5221.6110 was adopted in 2015 at the Legislature's express direction, amidst growing awareness of the opioid epidemic and the risks associated with excessive and

for treatment of workers' compensation injuries" unless the requirements of the parameter are met. Minn. R. 5221.6110, subp. 2. The rule explicitly requires the provider to "document in the medical record" the patient selection criteria, assessments performed, any potential contraindications, the elements of the treatment program, the written treatment contract, an objective assessment of the success of the treatment, and the results of periodic monitoring and testing. *Id.* Further, these requirements must be completed pursuant to specified standards, as laid out in other subparts of the rule. For example, subpart 6B requires the provider to complete an opioid risk assessment using a tool validated in the peer-reviewed scientific literature, subpart 6H requires the provider to discuss the risks and possible side effects with the patient, and subpart 7 requires the patient to enter into a written contract, to be made part of the medical record, that includes the goals of the treatment, the treatment program, and the monitoring that will be done.

Subpart 10 specifically addresses patients who were receiving long-term opioid treatment on the date that Rule 5221.6110 went into effect. It requires the prescribing healthcare provider to, upon receipt of written notice of the rule from the employer's

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inappropriate use of these drugs. Minn. Stat. § 176.83, subd. 5(b)(7); Act of May 16, 2013, ch. 70, art. II, § 11, 2013 Minn. Laws 1, 12. The Statement of Need & Reasonableness for the rule noted that opioid overdose was a "leading cause of injury-related mortality in the United States" and that "[p]rescription opioids were involved in 67.8% of all overdoses." Minn. Dep't of Lab. & Indus., Statement of Need & Reasonableness (Mar. 12, 2015), at 17; *see also id.* at 23 ("The rules proposed . . . incorporate the accepted medical standards . . . for long-term treatment with opioid analgesic medication."). The detailed requirements in this rule directly correlate to the level of detail expected in the standards of care applicable to all patients receiving long-term opioid treatment. *Id.* at 24. Treatment that meets the requirement of the parameter "will improve the quality of the injured workers' life by improving function, reducing pain and minimizing risk." *Id.*

insurer, come into compliance with certain requirements of the parameter within 3 months after receipt of the notice to comply. Minn. R. 5221.6110, subp. 10.

Treatment parameters provide certainty as to treatment and serve as a "yardstick" to measure whether treatment is reasonable and appropriate. *Jacka*, 580 N.W.2d at 35. For the cases that do not fit fully within a particular parameter, a departure from a parameter that limits the duration or type of treatment may be appropriate under four circumstances outlined in Rule 5221.6050, subpart 8.[2] But if a departure is not warranted under subpart 8, the treatment is not compensable unless the commissioner or a compensation judge determines that the level, frequency, or cost is reasonable and not excessive. Minn. Stat. § 176.83, subd. 5(c).

In *Jacka v. Coca-Cola Bottling Co*., we recognized that "the treatment parameters cannot anticipate every exceptional circumstance," and, thus, compensation judges "may depart from the rules in those rare cases in which departure is necessary to obtain proper treatment." 580 N.W.2d at 35–36. This language from *Jacka* has been interpreted as creating an exception to the parameters under which treatment is compensable in "rare cases" even where that treatment neither complies with applicable treatment parameters nor meets the requirements for a departure under Rule 5221.6050, subpart 8. *See, e.g.*, *Asti v. Nw. Airlines*, 588 N.W.2d 737, 740 (Minn. 1999) ("We thus conclude that this is indeed one of those rare cases where a departure from the treatment parameter rules is

[2] Johnson made no argument before the compensation judge for a departure under subpart 8, and the compensation judge expressly found that none of the four circumstances under the rule applied. Neither party appealed this finding.

necessary."); *Martin v. Xerox Corp.*, 59 Minn. Workers' Comp. Dec. 509, 515 (WCCA 1999) (discussing "the 'rare case' departure contemplated by *Jacka*").

This appeal concerns whether our reference in *Jacka* to a departure in "rare cases" applies to Johnson's long-term opioid medication treatment. We turn now to the facts of this case.[3]

In September 2002, long before the opioid treatment parameter was promulgated, Johnson suffered a severe right ankle sprain when he stepped on a piece of scrap metal while working for the relator in this appeal, Darchuks Fabrication, Inc.[4] His ankle was casted for a brief time and then placed in a controlled-ankle-motion walking boot. Johnson experienced considerable pain, and soon afterwards, began to show signs of complex regional pain syndrome. The condition is characterized by several symptoms, including reduced range of motion, swelling, changes in skin texture or color, blistering, and abnormal skin temperature regulation. *See* Minn. R. 5221.6305, subp. 1A(2) (2019).

In an effort to control the pain, Johnson's providers tried a number of different treatment regimens, including OxyContin, narcotic patches, steroid injections, physical therapy, and sympathetic blocks. Johnson's pain did not respond to these forms of conservative treatment, he did not obtain relief from a pain clinic, and surgical treatment

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[3] The underlying facts concerning Johnson's injury, diagnosis, and medical care are undisputed. The parties contest only whether the ongoing opioid medication treatment is compensable as a rare case exception to the treatment parameters.

[4] Darchuks accepted liability for this injury, including responsibility for on-going medical expenses reasonably required to treat the injury, under a settlement agreement the parties reached in 2004. *Johnson*, 926 N.W.2d at 416.

was ruled out.[5] Johnson has not been able to return to work since his injury and has consistently reported numerous symptoms, including painful tingling or pricking sensations, hypersensitivity, intolerance to heat and cold, skin atrophy, and pain that is always present.

With no lasting relief from other treatment methods, by 2004 Johnson began treating with Endocet, a pain medication containing the opioid oxycodone. He has continued to use Endocet as part of his pain management regimen since that time. As recently as 2016, Johnson's pain was present twenty-four hours a day, limited his physical activity, and interfered with his sleep. Medical records note, however, that there "might be alternatives to his current treatment regimen," including a new referral to a pain clinic if Johnson is willing, but that his condition is likely to be of "longstanding duration."

Johnson's opioid treatment does not comply with all the requirements of the long-term opioid medication treatment parameter. The compensation judge found that Johnson's provider did not complete an opioid risk assessment using a tool validated in the peer-reviewed scientific literature and did not discuss the risks and possible side effects of long-term opioid use with Johnson. Minn. R. 5221.6110, subp. 6B, H. In addition, although Johnson's medical records indicate that he signed an opioid treatment agreement on April 22, 2016, that agreement is not contained in his medical records. Minn. R. 5221.6110, subps. 2, 7 (requiring the written contract to be made part of the patient's

[5] Our 2019 opinion in the first appeal states that Johnson did not consult with a pain specialist. *Johnson*, 926 N.W.2d at 416. The record before us in this appeal, however, contains medical records from pain clinic visits.

medical record).[6] On the other hand, Johnson's provider monitored, to some degree, his use of Endocet and its impact on his pain, occasionally verified with Johnson that he was not receiving prescriptions from other providers, and sometimes monitored whether Johnson was seeking early refill of his medications. It also appears from the medical records that the provider conducted a risk assessment in April 2016 and Johnson scored a 3, or a moderate/severe risk.

Johnson has undergone several independent medical examinations at the request of Darchuks, the most recent occurring in May 2016. The report from this exam was the first to doubt Johnson's diagnosis of complex regional pain syndrome; until this point, every physician who had examined Johnson agreed with this diagnosis. After the May 2016 report, Darchuks asked Johnson's provider to bring his opioid medication treatment into compliance with the long-term opioid medication treatment parameter. When the provider did not do so, Darchuks denied payment for treatment related to the complex regional pain syndrome diagnosis, including Johnson's Endocet prescription.

This denial of payment prompted the first round of proceedings in this matter after both parties requested a hearing under Minn. Stat. § 176.83, subd. 5(c), to determine if the treatment was excessive, unnecessary, or inappropriate. At the hearing, Johnson testified

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[6] Minnesota Statutes § 176.83, subd. 5(b)(7), specifically requires the Department of Labor & Industry to incorporate "the use of written contracts between the injured worker and the health care provider" into the long-term opioid medication treatment parameter. Darchuks has not challenged, in the two appeals taken in this case, the compensation judge's finding that a treatment agreement has been signed but continues to argue that the agreement is not contained in Johnson's medical records as required by the parameter.

that his normal Endocet use is two pills taken three times a day, and sometimes one pill during the night if his pain is severe enough. He described the effect of the Endocet as cutting the pain by about half "so it's tolerable so I can try to be normal with my life." He also stated that "sometimes the pain level is at a thirteen out of ten, I mean it's just unbearable." The compensation judge found that Johnson had signed an opioid medication contract and, apart from one isolated incident, did not use more Endocet than the prescribed amount. The judge also specifically found that Johnson's complex regional pain syndrome diagnosis has not resolved and that the treatment with Endocet is reasonable and necessary to cure and relieve the effects of Johnson's work injury. The judge ordered Darchuks to continue paying for the Endocet, concluding that the long-term opioid medication treatment parameter did not apply because Darchuks had disputed Johnson's complex regional pain syndrome diagnosis. *See* Minn. R. 5221.6020, subp. 2 (2019) (stating the parameters do not apply if an insurer denies liability for the injury).

On appeal, we reversed, concluding that Darchuks disputed only the complex regional pain syndrome diagnosis, not liability for the injury or the treatment reasonably necessary to cure and relieve that injury. *Johnson*, 926 N.W.2d at 421–22. Therefore, we remanded to the compensation judge to address Darchuks's assertion that the treatment prescribed by Johnson's provider was not reasonable and necessary because the regimen did not comply with the long-term opioid medication treatment parameter. *Id*. at 422.

On remand, the compensation judge held a second hearing, which consisted of only argument from counsel and did not include additional testimony or exhibits. The order from that hearing incorporated a number of the findings made in the previous proceeding,

including that Johnson's Endocet treatment was reasonable and necessary.[7] The compensation judge also found that Johnson's Endocet use was not compliant with the long-term opioid medication treatment parameter. Specifically, the judge noted the absence of documentation that an opioid risk assessment was performed, or that the risks and possible side effects were discussed with Johnson, and the lack of the written contract in Johnson's medical record. The judge also found that none of the departures from the parameters that are authorized by Rule 5221.6050, subpart 8, applied.

Nevertheless, the judge determined that the Endocet treatment was compensable as a rare case under our decision in *Jacka* because Johnson experienced unbearable pain without the Endocet and that medication reduced his pain by half, allowing him to engage more fully in the activities of daily living. The judge concluded that without the relief provided by the Endocet treatment, Johnson would be left with "virtually no quality of life." Therefore, the judge ordered Darchuks to continue paying for the treatment. Darchuks appealed and the WCCA affirmed, concluding that substantial evidence supported the compensation judge's determination that a rare case exception was warranted. *Johnson v. Darchuks Fabrication, Inc.*, No. WC19-6325, 2020 WL 4429009 (Minn. WCCA June 18, 2020). Darchuks petitioned for review by writ of certiorari to our court.

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[7] Darchuks appealed this finding in the first appeal, but none of the subsequent proceedings have addressed that finding. The compensation judge specifically incorporated the finding that the Endocet was reasonable and necessary into the remand order. Darchuks did not challenge this finding in the appeal now before us.

ANALYSIS

The sole issue in this appeal is a legal one: whether the facts before us are sufficient to establish a rare case exception to the long-term opioid medication treatment parameter so that Johnson's Endocet treatment is compensable under the workers' compensation system. We review issues of law de novo. *Gamble v. Twin Cities Concrete Prods*., 852 N.W.2d 245, 248 (Minn. 2014).

The compensation judge concluded, and the WCCA agreed, that Johnson's work-related injury presents a rare case that excuses the lack of compliance with the applicable treatment parameter. The treatment parameters draw on "medical standards for quality health care," Minn. Stat. § 176.83, subd. 5(a), and establish standards for reasonable medical care for work-related injuries. *Leuthard v. Indep. Sch. Dist. 912-Milaca*, 958 N.W.2d 640, 646 (Minn. 2021). Rather than prohibiting treatment, the parameters serve to control medical costs by suggesting when a change in treatment may be appropriate. *Jacka*, 580 N.W.2d at 35. Treatment that is inconsistent with an applicable parameter may be excessive, Minn. R. 5221.6050, subp. 7A, would no longer be reasonable, and thus would not be compensable. Minn. R. 5221.0500, subp. 1D.

We have explained that there are two possible departures from the treatment parameters: the departures the Department of Labor & Industry has authorized from parameters "that limit the duration or type of treatment," *Leuthard*, 958 N.W.2d at 648 (discussing Minn. R. 5221.6050, subp. 8); and, a judicial recognition that the parameters "cannot anticipate every exceptional circumstance," thereby warranting a departure from the parameter requirements in a rare case. *Jacka*, 580 N.W.2d at 35–36. *Jacka* did not,

however, address whether the treatment at issue in that case presented exceptional circumstances that warranted a rare exception to the parameters.[8]

The first—and only—time we have substantively addressed the concept of a rare case exception was in *Asti v. Northwest Airlines*. 588 N.W.2d 737 (Minn. 1999). In *Asti*, the treatment at issue, a health club membership that allowed for an on-going exercise regimen to treat a back injury, was authorized under the relevant treatment parameter for up to 13 weeks. *Id.* at 739–40. When the employer refused to pay for an on-going membership beyond that period, the compensation judge found that the treatment was reasonable and necessary because the exercise regimen at the health club was necessary to cure and relieve the effects of Asti's work injuries and without that treatment he would have been unable to continue his employment. *Id.* at 739. Therefore, the judge concluded that a departure under Rule 5221.6050, subpart 8, was warranted. *Id.* The WCCA reversed, holding that Asti failed to satisfy the requirements for a departure under the rule. *Id.*

On appeal, we agreed with the WCCA's determination that Asti had not satisfied the requirements for a departure under Rule 5221.6050, subpart 8, but we nonetheless reversed because we determined that it was "one of those rare cases" where a departure from the treatment parameters was necessary. *Id.* at 740. We noted that Asti's ongoing exercise regimen was an inexpensive treatment that enabled him to continue his employment, and that the alternative—permitting his health to decline to the point of

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[8] In *Jacka*, we addressed questions certified by the chief administrative law judge, specifically, the Department of Labor & Industry's authority to promulgate the treatment parameters, how the treatment parameters are applied by compensation judges, and the effective date for the parameter rules. *Id*. at 30–31.

inability to work despite the availability of treatment that would allow him to return to work—could not have been the result intended by the drafters of the treatment parameters. *Id.* Thus, we agreed that the specific circumstances presented—a treatment regimen consisting of a health club membership that continued beyond 13 weeks and that was necessary "to maintaining employment"—were exceptional and this was a rare case that warranted a departure from the 13-week parameter limit. *Id*. at 740–41. In other words, compliance with the parameter in *Asti* would have undermined the objectives of the workers' compensation system while non-compliance, through a departure, achieved those objectives.

Darchuks argues that the compensation judge erred in concluding that Johnson's case is compensable as a rare case exception because neither Johnson nor his provider have tried to comply with the treatment parameters. Darchuks asserts that no evidence in the record establishes that Johnson's failure to comply with the long-term opioid medication treatment parameter is necessary for him to obtain treatment that cures and relieves the effects of his injury. Finally, Darchuks maintains that Johnson's ongoing use of opioid medication, even without gaining substantial relief or progress, is "exactly the type of situation anticipated by the Treatment Parameters" and, therefore, not an exceptional case. Darchuks contends that allowing a departure in this case will eviscerate the treatment parameters and render them meaningless.

Johnson argues that any treatment that is reasonable and necessary satisfies the threshold requirement for compensation and that, therefore, the rare case exception necessarily applies when the treatment is found to be reasonable and necessary even if it

exceeds the treatment parameters and regardless of whether that regimen qualifies for a departure under Rule 5221.6050. But Johnson does not offer any well-founded explanation for why he could not comply with the long-term opioid medication treatment parameter with regard to his Endocet treatment—specifically, why an opioid risk assessment still has not been completed, why there is no evidence that the risks and possible side effects have been discussed, or why a written contract has not been made part of his medical record. Nor does he offer any factual reason why his treatment cannot become compliant with the parameter. Before the compensation judge, Johnson relied on amorphous assertions that the long-term opioid medication treatment parameter is "onerous" and "cumbersome" and that his Endocet treatment regimen has adhered to the "spirit" of the parameter because there is no evidence indicating that he has misused the opioid medication.

We conclude that merely demonstrating that the treatment at issue is reasonable and necessary to cure and relieve the effects of a work-related injury is not sufficient to warrant a rare case exception to the treatment parameters. We reach this conclusion for the following reasons.

First, we reject Johnson's contention that the only showing necessary for the rare case exception to apply is a finding that the treatment at issue is reasonable and necessary. A conclusion that treatment is reasonable and necessary is required for every injury subject to workers' compensation liability. Indeed, employer liability for the treatment required for a work-related injury is always, and only, that which is "reasonably . . . required . . . to cure and relieve from the effects of the injury." Minn. Stat. § 176.135, subd. 1(a). Johnson's argument, which would entitle any injured worker who shows that treatment is

reasonable and necessary to compensation regardless of whether that treatment complies with an applicable parameter or warrants a departure under Rule 5221.6050, subpart 8, would eviscerate the treatment parameters. Compliance with the parameters would be irrelevant in every case so long as the employee could show that the treatment at issue was reasonable and necessary. We cannot adopt an interpretation of the law that would so completely undermine the clear legislative intent to establish standards for medical care that describe what is—and, therefore, also what is not—reasonable medical care. *See* Minn. Stat. § 176.83, subd. 5 (instructing the Department of Labor & Industry to adopt standards that "apply uniformly to all providers" to determine the reasonableness and necessity of the proposed care).

Second, *Asti* does not support a different conclusion. It was clear there that continuation of the health club membership beyond 13 weeks was necessary to allow Asti to continue to work. 588 N.W.2d at 740. We assumed that the drafters of the treatment parameters did not consider "every possible scenario," that is, whether a 13-week limit is preferable to some other, shorter or longer, limit that might cure or relieve a workplace injury to a degree sufficient enough to allow continued employment. *Id.* Thus, *Asti* establishes only that exceptional circumstances may exist when the employee demonstrates that the particular parameter requirements at issue prevent the employee from obtaining the treatment that is necessary to cure and relieve the effects of the injury. It was under these exceptional circumstances that we determined that some degree of non-compliance—i.e., a health club membership exceeding 13 weeks—better achieved the objectives of the workers' compensation system than strict compliance with the parameter. *Id.*

Third, the very purpose of the parameter at issue here, Minn. R. 5221.6110, is to address when long-term use of opioid medication is reasonable and necessary and when that particular treatment plan—long-term use that extends beyond 90 days, *id*., subp. 1—is no longer reasonable or necessary. Multiple provisions in the rule guide the assessment of whether long-term opioid medication treatment is reasonable and necessary and require the provider to regularly revisit that assessment. *See id*., subp. 2 (stating that long-term use of opioid treatment is not indicated "unless the requirements of" the rule "are met"); *id*., subp. 5 (providing "potential contraindications" to long-term use of opioid medication); *id*., subp. 6A (requiring long-term use of opioid medication to "be part of an integrated program of treatment"); *id*., subp. 8B (requiring an assessment of "the success of the program treatment," with success defined as "improvement in both pain and function within six months" after the treatment is initiated). We cannot conclude as a matter of law that exceptional circumstances exist to justify a departure from the parameters when there is no explanation for non-compliance with the requirements that establish whether the treatment is reasonable and necessary.

Accordingly, this case is different from *Asti*. The reason for Asti's non-compliance—he had already used the allotted 13-weeks of the health club membership—and the impact of allowing Asti's treatment to exceed the parameter —he was able to return to work and "remain gainfully employed"—were clear. 588 N.W.2d at 740. The record here does not establish that Johnson's non-compliance with the opioid treatment parameter is an exceptional circumstance not contemplated by the parameter. Nor does the record show that Johnson's non-compliance with the parameter better

achieves the objectives of the workers' compensation system—to cure and relieve the effects of his injury. The review and assessment requirements of Rule 5221.6110 provide guidance as to when long-term opioid medication treatment is reasonable and necessary. Despite non-compliance with the parameter, nothing in the record establishes why Johnson (or his provider) has not complied with the parameter or why compliance is not obtainable.

In reaching this conclusion, we offer two other observations that we find relevant on the facts of this case, though neither are essential to our decision. Johnson's provider noted that there may be alternative treatment options available to Johnson, but there is no indication that these alternatives were pursued, evaluated, and eliminated. The record before the compensation judge also suggests that Johnson or his provider found the requirements of the opioid treatment parameters to be onerous and draconian, and that this view was an acceptable justification for non-compliance. But an unwillingness to comply with the parameters based on individual disagreement with or dislike of a particular parameter cannot justify a departure from the parameter. To condone non-compliance with the parameters in a situation when alternative treatment is an option noted by the employee's treating physician and the reason for non-compliance appears to simply be a disagreement with the parameters would certainly undermine the treatment parameters.

In addition, promulgation of a parameter to address long-term opioid medication treatment was expressly required by the Legislature when an epidemic of opioid use was underway across the country, and workers' compensation systems, in particular, were struggling with how to respond. *See* Debra L. Doby, *Forcing Compliance with National Standards: Opioids—Reducing Exposure in State Workers' Compensation Claims*, For

Def., Dec. 2018, at 50, 51. The rise of opioid prescriptions and associated increase of excessive opioid use was acknowledged at length by the Department of Labor & Industry when the long-term opioid medication treatment parameter was promulgated. Minn. Dep't of Lab. & Indus., Statement of Need & Reasonableness (Mar. 12, 2015), at 17–23. And the risk of injured employees becoming dependent on opioids when they receive inadequate monitoring is serious. Tekesha R. Brown & J.C. Roper, Jr., *The Solution is Evidence-Based Medicine: Overuse of Addictive Narcotics in Treating Injuries*, For Def., June 2010, at 59. The argument offered by Johnson would render meaningless this parameter, which is intended to specifically address these significant and serious concerns. Second-guessing the merits of a policy decision made by the Legislature and the Department of Labor & Industry under these circumstances is not an appropriate role for this court. *See* Minn. Stat. § 176.83, subd. 5(b)(7); Minn. R. 5221.6110. *See also In re Welfare of M.L.M.*, 813 N.W.2d 26, 35 (Minn. 2012); *Boedingheimer v. Lake Country Transp.*, 485 N.W.2d 917, 922 (Minn. 1992) (noting that the Legislature has "entrusted" the Department with promulgating the necessary rules that govern workers' compensation benefits).

We made clear in *Jacka* that a departure from the parameters that is not authorized by existing rules is reserved for "exceptional" circumstances that the drafters of the treatment parameters did not and could not anticipate when establishing standards for reasonable and necessary treatment. 580 N.W.2d at 35–36. The treatment parameters represent the standards of medical care for various treatment modalities. Minn. Stat. § 176.83, subd. 5. In all but the most exceptional circumstances, these parameters will best

achieve the objectives of the workers' compensation system. *See Jacka*, 580 N.W.2d at 35–36. A case in which non-compliance with the treatment parameters will serve the objectives of the workers' compensation system better than strict compliance with the parameters must be rare. And that non-compliance must be justified by some reason beyond an unwillingness to comply with the applicable parameter.

Johnson has provided no justification for why his treatment is not compliant with the long-term opioid medication treatment parameter, and, therefore, the compensation judge and the WCCA erred as a matter of law in concluding that his non-compliance could be excused under the rare case exception recognized in *Jacka*. Consequently, we hold that the facts before us do not present exceptional circumstances that warrant a rare case exception to the requirements of the treatment parameter for long-term use of opioid medication.[9]

CONCLUSION

For the foregoing reasons, we reverse the decision of the Workers' Compensation Court of Appeals.

Reversed.

[9] We note, however, as Darchuks's counsel conceded at oral argument, that Johnson is not necessarily barred from pursuing compensation for future Endocet use.