

File Number:
Merit Review3-D-NO

RECEIVED NOV 20 2011

U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 6 JAC
LONDON, KY 40742-8300
Phone: (904) 366-0100

November 17, 2011

Date of Injury:
Employee:

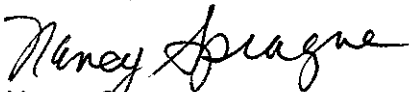
Dear Mr. :

This concerns your compensation case and your request for reconsideration received 10/12/11.

We have evaluated the evidence submitted in support of your request for review. Your case has been reviewed on its merits under Title 5, United States Code, Section 8128, in relation to your application including supporting evidence. It is determined that sufficient evidence has been provided. The reasons for this decision are outlined in the enclosure.

Therefore, the decision dated 10/21/10 is vacated and your case is accepted for right cubital tunnel syndrome.

Sincerely,


Nancy Sprague
Senior Claims Examiner

PAUL H FELSER, ESQ
POST OFFICE BOX 10267
SAVANNAH, GA 31412

Employee:

NOTICE OF DECISION

ISSUE:

The issue for determination is whether you have provided sufficient information to warrant merit review of the prior decision dated 10/21/10

REQUIREMENTS FOR ENTITLEMENT:

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. Ruth Seuell, 48 ECAB ___ (Docket No. 95-504, issued November 14, 1996)

BACKGROUND:

You are employed by the _____ as an _____ in _____, _____.
You filed a notice of occupational disease and claim for compensation on _____ for the condition of right cubital tunnel syndrome.

You were advised that additional factual information and medical evidence was required to adjudicate your claim on 09/07/10 and you were given 30 days to provide them. You did provide your statement regarding factors of your employment and you provided medical evidence from Dr. Gerald Shealy and Dr. _____.

A decision was issued on 10/21/10 denying your claim because the medical evidence did not address the relationship between the newly diagnosed condition and factors of your employment

On 10/03/11 your legal representative submitted a request for a reconsideration review of your claim and he presented new factual and medical evidence in support of your claim

DISCUSSION OF EVIDENCE:

You are entitled to a merit review because you have provided new medical evidence.

Your legal representative noted that you have another occupational disease claim that was accepted for bilateral carpal tunnel syndrome and left cubital tunnel syndrome. You also provided a new medical report from Dr. _____.

You provided a new statement regarding the development of your upper extremity neuropathies. You state that you worked for 14 years in public works using jack hammers, jumping jacks and other heavy equipment and hand tools. You also worked for the last five years inspecting large military vehicles that required climbing in and out of trucks – you state you had to use your right arm to pull up on the handle of the trucks.

The report from Dr. _____ states that your right cubital tunnel should be considered a work injury. He added, "A though description of his job duties was provided for review and clearly these job duties could result in ulnar neuropathy. Also, since his job duties were deemed to have been the cause of

his left ulnar neuropathy/cubital tunnel syndrome there is no reason to believe that his work duties would not have caused his symptoms.”

Although Dr. _____ does not specifically state the work factors that caused or precipitated your right cubital tunnel syndrome, I believe that your statements concerning the regular use of vibratory tools and pulling yourself up into large vehicles is consistent with your right arm condition. Therefore, Dr. _____ marginal statement regarding causal relationship is being accepted in this case.

BASIS FOR DECISION:

The Employees' Compensation Appeals Board has held,

It is not necessary that the evidence be so conclusive as to suggest causal connection beyond all possible doubt in the mind of the medical scientist. The evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound, and logical. Robert P. Bourgeois, 45 ECAB ____ (Docket No. 93-1155, issued July 1, 1994)

Your statements and Dr. _____ treatment note together are sufficient in this case to accept your claim. It is recommended that this claim be doubled with your prior upper extremity claim, case file number _____

CONCLUSION:

The decision issued on 10/21/10 is vacated and your claim is accepted for right cubital tunnel syndrome

Nancy Sprague
Senior Claims Examiner
November 17, 2011

File Number:
CA-1008 OD-D-ACC

U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 6 JAC
LONDON, KY 40742-8300
Phone: (904) 366-0100

November 17, 2011

Date of Injury:
Employee:

Dear Mr. :

This is to notify you that your claim for an occupational disease has been accepted for the following condition(s):

<u>Diagnosed condition(s)</u>	<u>ICD-9 code(s)</u>
LESION OF ULNAR NERVE, RIGHT	354.2

Please advise all medical providers who are treating you for this injury of the accepted ICD-9 code(s). Accurate coding facilitates timely bill processing.

If the current accepted condition(s) need to be revised or additional complications related to the current accepted condition(s) need to be added, your physician should explain in writing, with medical rationale, the relationship between any additional condition and the work injury or the current accepted condition(s) noted above.

If you lose time from work due to your work related condition, you may claim compensation using Form CA-7.

Please refer to the attachment entitled "Now That Your Claim Has Been Accepted" for important information pertaining to how to contact us, medical authorizations, payment of bills, and returning to work.

Sincerely,


Nancy Sprague
Senior Claims Examiner

Enclosure: NOW THAT YOUR CLAIM HAS BEEN ACCEPTED

DEPARTMENT OF THE NAVY
SPACE NAVAL WAR SYS CMD-CNTRS
HRO-SPAWARS
PO BOX 190022
NORTH CHARLESTON, SC 29419

File Number:
CA-1008 OD-D-ACC

PAUL H FELSER, ESQ
POST OFFICE BOX 10267
SAVANNAH, GA 31412

NOTICE TO EMPLOYING AGENCY:

If Form CA-7 claiming compensation for wage loss is filed, you are reminded that 20 C.F.R. §10.111(c) requires the submission of a CA-7 within 5 working days. Please fully complete any form submitted and provide contact information to avoid delay of payment

NOW THAT YOUR CLAIM HAS BEEN ACCEPTED

CONTACT INFORMATION

General Information - Information can be obtained on the Department of Labor website at <http://www.dol.gov> under the Office of Workers' Compensation, Division of Federal Employees' Compensation. You may directly access the Division of Federal Employees' Compensation portion of the web site at <http://www.dol.gov/owcp/dfec/index.htm>

Claimant Query System (CQS) – You can view your case and compensation claim status, billing updates (including reimbursements), coverage limitations, and other information online at <http://owcp.dol.acs-inc.com>

Medical Authorizations and Billing Inquiries – All medical providers should contact our medical authorization and bill processing contractor (ACS) for all authorizations and billing questions. Automated information is available 24 hours per day at 1-866-335-8319 or online at <http://owcp.dol.acs-inc.com>. The medical authorization fax line is 1-800-215-4901. If you, your doctor, or other medical providers require direct contact with a customer service representative, you may call 1-850-558-1818, Monday – Friday, 8am – 8pm EST (this is a toll call).

Compensation Payments - Automated information regarding compensation payments is available 24 hours per day by phoning 1-866-OWCP IVR (1-866-692-7487).

Questions about your claim - If you have any questions regarding your FECA claim, you may contact the Office at the phone number and address listed on the front page of this letter. If you write to us, please put your case file number on each page.

Forms - Most of the billing and claim forms described below are available at: <http://www.dol.gov/owcp/dfec/regs/compliance/forms.htm>

Change of Address - If your contact information changes (i.e. mailing address or telephone number), notify us promptly in writing over your signature. We cannot accept these changes over the telephone.

Attorneys and Authorized Representatives - You do not need the services of an attorney or representative to claim benefits under the FECA. However, you may obtain such services if you wish to do so, at your own expense. Before we can release information to, or discuss your case with, any representative, including a family member, we will need a statement signed by you, stating that you designated someone to represent you in your OWCP claim. The contact information for that party is also required.

MEDICAL AUTHORIZATIONS AND EXPENSES

General Information - This acceptance letter (first page) describes the medical condition(s) OWCP accepts as work-related, and only treatment for those conditions should be billed to the Office. Your case file number must appear on all bills.

Authorizations – OWCP must approve in advance any surgery or procedure other than emergency surgery (that is, a procedure which must be performed right away to preserve life or the function of an organ or body part). You (or your medical provider) should contact OWCP for authorization at least 30 days before the intended date of the procedure. We will advise you of the information needed to determine whether OWCP can authorize the requested procedure

Fee Schedule - You are not responsible for charges over the maximum allowed in the OWCP fee schedule. Our regulations provide that by submitting a bill and/or accepting payment, the provider signifies that the service for which reimbursement is sought was performed as described and was necessary. In addition, the provider thereby agrees to comply with all regulations concerning the rendering of treatment and/or the process for seeking reimbursement for medical services, including the limitation imposed on the amount to be paid for such services. If a provider's bill is reduced by OWCP in accordance with its fee schedule, the provider is not allowed to charge you for the remainder of the bill. [20 C.F.R. §10 801 (d)]

Time Limitations - Bills and travel vouchers must be received within the calendar year following the year in which the medical service was rendered or the claim was accepted, whichever occurs later

Providers – All medical providers must be enrolled with our Central Bill processing contractor (ACS) so that services can be authorized and medical bills can be processed. You may use the Provider Search function at <http://owcp.dol.acs-inc.com> to find medical providers who accept FECA cases. Note, however, that this tool only lists those physicians who opted to be included in the look-up, which means it may not capture every physician in a particular area who will accept FECA cases.

Physicians and Other Medical Providers (Except for Hospitals and Pharmacies) - Bills for your accepted condition must be submitted on the standard American Medical Association (AMA) billing form HCFA-1500, also known as OWCP-1500, to the address noted in the letterhead. Providers must itemize services for each date separately; use AMA (not state) CPT codes to describe the services performed; and provide their tax identification number (EIN) and ACS provider number. The provider must sign the form (a signature stamp may also be used)

Hospitals - These bills must be submitted on Form UB-04, also known as OWCP-04. These bills must be fully itemized, and the admission and discharge medical summaries should also be sent.

Pharmacies - These bills should be submitted electronically by your pharmacy via Point of Sale. If this is not available, bills must be submitted on the Universal Claim Form or equivalent. The pharmacy should include the following items: the case file number, the nine-digit tax ID number, the NDC number, the prescription number, the quantity of medication prescribed, the name of the prescribing physician, and the date of purchase. Pharmacies must complete the following fields: 403-D3 (Fill Number), 405-D5 (Days Supply), 408-D8 (Dispense as Written), 415-DF (Number of Refills Authorized) and 442-E7 (Quantity Dispensed). Your physician's clinical notes or reports should show that the medications prescribed were needed to treat your work-related injury. Pharmacies can obtain decisions on coverage of medications by calling 1-866-335-8319.

Medication (Schedule II Narcotics) - Please note that there is a limitation as to the day's supply of any Schedule II narcotic medication. The "days supply" limitation of Schedule II is limited to only a 30-day supply per each prescription fill. You will be limited to only four (4) refills within a 90-day period; claimants with an accepted cancer condition will not be affected by this limitation on refills.

Chiropractors - We will only pay for chiropractic treatment consisting of manual manipulation of the spine to correct an accepted work-related spinal subluxation demonstrated by x-ray, or if a medical doctor has prescribed physical therapy to be administered by a chiropractor.

Reimbursements - If you have paid authorized medical expenses, you may request reimbursement by attaching Form CA-915, or a similar form, on the same required billing forms (such as HCFA-1500 or UB-04) specified above. In all cases, the medical provider's tax identification number (EIN) and proof of payment (cancelled check or receipt) must be provided. If a health benefits carrier has paid medical bills for your accepted condition, the carrier may submit a completed NALC-200 form with appropriate supporting documentation (HCFA-1500 or UB-04) to OWCP for consideration. Reimbursements are limited to the fee schedule amount.

Reimbursement for Medical-Related Travel - Travel expenses should be submitted on form OWCP-957, Medical Travel Refund Request. Travel expenses that exceed \$75 must be submitted with an accompanying receipt to support the charges claimed and will be subjected to prior approval.

COMPENSATION PAYMENTS

Claims for Compensation - Any claim for lost wages must be submitted through your employing agency on Form CA-7. Your employing agency will complete its portion of this form and forward it to our Office. In cases of intermittent wage loss, Form CA-7a is also needed. Medical documentation substantiating that the lost time is due to the accepted work-related condition(s) is required prior to payment. You must report any employment or employment activities on this form.

Claims for Leave Buy-Back - Reinstatement of leave is subject to the approval of your employing agency. Prior to using your personal leave to cover injury-related absences from work, you are urged to review the instructions for Form CA-7b. To claim a leave buy-back, you must file Form CA-7b through your employing agency, along with Form CA-7 and Form CA-7a.

Schedule Award - The FECA provides for the payment of schedule awards when the injury causes a permanent impairment involving total or partial loss, or loss of use, of certain organs or members of the body. The spine and brain are not included unless the condition causes permanent impairment to the extremities. All impairment ratings are evaluated in accordance with the Sixth Edition of the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment. A schedule award may be claimed using Form CA-7 after maximum medical improvement has been reached.

When Your Injury is Caused by a Third Party - If your injury was caused by a third party, you may be required to seek damages from the third party, and you must reimburse the government from your recovery in accordance with the statutory formula. See 5 U.S.C. 8131, 8132; 20 CFR §10.705-719.

Penalty - Any person who knowingly makes any false statement, misrepresentation, concealment of fact, or any other act of fraud to obtain compensation, or who knowingly accepts compensation to which he or she is not entitled, is subject to criminal prosecution.

RETURNING TO WORK

Responsibilities –

- You are expected to return to work (including light duty or part-time work, if available) as soon as you are able, and it is your responsibility to advise your agency once your physician finds you capable of returning to work in some capacity. Full compensation is payable only while you are unable to perform the duties of your regular job because of your accepted employment-related condition.
- Once you return to work, or obtain new employment, notify this office immediately
- If you receive a compensation check which includes payment for a period you have worked, return it to us immediately to prevent an overpayment of compensation. Checks may be returned to the following address: US Department of Treasury, 13000 Townsend Road, Philadelphia, PA 19154
- If you receive compensation via Electronic Funds Transfer (EFT), a notification of the date and amount of payment will appear on the statement from your financial institution. You are expected to monitor your EFT deposits carefully, at least every 2 weeks. If you have worked for any portion of the period for which a deposit was made, advise OWCP immediately so that the overpayment can be collected.

Job Offers - You are legally obligated to accept work which is within your medical restrictions. OWCP may terminate your benefits if you refuse suitable employment without good cause.

Nurse Intervention and Vocational Rehabilitation – OWCP may assign a registered nurse or a vocational rehabilitation counselor to contact you to facilitate your recovery and return to work. Under the FECA, you are required to cooperate with vocational rehabilitation efforts