

RECEIVED JAN 14 2013

U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 50
LONDON, KY 40742-8300
Phone: (202) 693-0045

JAN - 9 2013

Date of Injury:
Employee:

Dear :

This is in reference to your workers' compensation claim. Pursuant to your request for a hearing, the case file was transferred to the Branch of Hearings and Review.

A hearing was held on 10/03/2012. As a result of such hearing, it has been determined that the decision issued by the District Office should be vacated and the case remanded to the district office for further action as explained in the enclosed copy of the Hearing Representative's Decision.

Your case file has been returned to the Jacksonville District Office. You may contact that office by writing to our Central Mail Room at the following address:

US DEPARTMENT OF LABOR
OFFICE OF WORKERS' COMP PROGRAMS
PO BOX 8300 DISTRICT 6 JAC
LONDON, KY 40742-8300

Sincerely,



Carol E. Adams
Hearing Representative

PAUL H FELSER
FELSER LAW FIRM, P.C.
PO BOX 10267
SAVANNAH, GA 31412

If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.

U.S. DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

DECISION OF THE HEARING REPRESENTATIVE

In the matter of the claim for compensation under Title 5, U.S. Code 8101 et. seq. of
, claimant; Employed by the ; Case
number . A hearing was held on October 3, 2012.

The issue for determination is whether the claimant has established that additional conditions should be accepted as injury-related.

The claimant, at the time of injury, was employed as a medical clerk. She filed an occupation claim of injury for date of injury of January 6, 1985. The claimant alleged that constant writing, stapling of labs and the use of the address-o-graph machine, caused pain in her wrists, back and neck. The claim was accepted for bilateral carpal tunnel syndrome and aggravation of lumbar degenerative spine or displaced lumbar intervertebral disc.

By letter dated March 30, 2012, the claimant's attorney contended that additional conditions should be accepted as injury-related.

Along with the March 30, 2012 letter, the claimant's attorney provided a medical report dated January 24, 2012 from Dr. Dr. diagnosed the claimant with hypothyroidism, hypertension, asthma, diverticulosis, irritable bowel syndrome, obstructive sleep apnea, osteoarthritis, hyperlipidemia, depression and anxiety, and frequent premature ventricular contractions (PVCs) and stated that as the result of the claimant's employment-related injuries that the conditions had exacerbated many of the claimant's chronic conditions. The doctor explained that often when the claimant experienced pain from her injuries; her blood pressure would elevate. The doctor also indicated that the claimant's depression and anxiety could be worsened by the pain. The doctor indicated that the claimant's stress level and anxiety condition worsened the claimant's irritable bowel syndrome and PVCs.

By letter dated April 19, 2012, the Office advised the claimant of the additional medical information that was needed to support that additional conditions were injury-related.

Additional information was received in the case record, which consisted of a letter dated April 30, 2012 from the claimant's attorney, a statement from the claimant dated May 11, 2012, a position description and a letter from Dr. dated May 2, 2012 in which the doctor requested an extension, so that a psychiatric examination could be performed.

The Office determined that the evidence was insufficient to support the claimant's contention that additional conditions should be accepted. By decision dated June 6, 2012, the Office denied the claimant's request for the expansion of the claim.

The claimant disagreed with the decision and requested, through her attorney, a hearing before an OWCP representative.

Since the Office made its decision, additional medical evidence was received. The evidence consisted of a report dated June 22, 2012 from Dr. [redacted] clinical psychologist; a letter dated August 21, 2012 from the claimant's attorney, requesting that the case be expanded to include depression, mixed anxiety and pain disorder as injury-related; and a letter dated September 18, 2012 from Dr. [redacted].

In the psychological evaluation dated June 22, 2012, Dr. [redacted] noted that the claimant reported that she was experiencing a significant amount of anxiety and depression related to her health issues. The doctor noted that the claimant also reported she had significant amount of pain in her joints. The doctor reported that the claimant revealed she had numerous health issues of sleep apnea, hypertension, hyperlipidemia, thyroid problems, hiatal hernia and gastrointestinal issues related to her excessive use of anti-inflammatory drugs (NSAID). The doctor indicated he administered an MMPI-2 test. The doctor noted that the (AXIS I) diagnoses were depressive disorder (mixed anxiety and depression); pain disorder associated with both psychological factors and a general medical condition. The doctor recommended that the claimant continue to be involved in therapy to assist with mood and improve pain management. The doctor stated that better management of the claimant's depression and anxiety would result in a better sense of control over her pain and an improvement in physical functioning.

In the letter dated September 18, 2012, Dr. [redacted] stated that she had reviewed the claimant's medical records and other documents related to the injury. The doctor also noted the conditions that had been accepted as work-related. The doctor stated that the claimant's permanent injuries had caused the claimant significant distress and she now had diagnoses of depressive disorder NOS (mixed anxiety and depression) and pain disorder associated with psychological factors and generalized medical condition. The doctor stated, "I feel that these occurred over time while dealing with the employment injuries." The doctor then stated as follows:

Ms [redacted] also has concomitant diagnoses of hypothyroidism, hypertension, asthma, diverticulosis, irritable bowel syndrome, GERD, OSA, osteoarthritis, hyperlipidemia, frequent PVCs. As a result of her employment related injuries, many of her chronic conditions are exacerbated on a routine basis. For example, often she suffers from pain and this causes elevations in her blood pressure. The pain also causes her to become anxious/stressed at times exacerbating her mental issues. The PVCs, IBS and GERD are also affected by her pain and increased stress and anxiety.

Her exam is basically unchanged at this time. On exam, she is pleasant and in no acute distress. She has muscle tenderness and soft tissue swelling. Muscle spasm is also noted in the neck area. She has bilateral wrist deformities, swelling and decreased grip strength. Tinel's remains positive. She is tender over her cervical spine and has pain with rotational movements of the neck. She has full flexion but limited extension of the neck with pain upon those movements as well. She was tender over her lumbosacral spine with mild paraspinal spasm noted. SLR testing was not performed at this encounter. Strength testing continues to reveal mildly diminished strength in proximal and distal muscle groups of bilateral upper and lower extremities. No new radiologic films have been performed since her last examination.

Recommendation for continued treatment: Ms _____ does still suffer from her employment related injuries as these are permanent conditions. They affect her quality of life and have caused undue emotional stress.

A hearing was held on October 3, 2012 at which the claimant was represented by Attorney Paul Felser.

A copy of the hearing transcript was sent to the employer for comments. No response was received.

The Office procedure manual provides when psychological factors affect a medical condition and the attending physician indicates that such a component is present and where such a *prima facie* case is established, the Office should refer the claimant to a Board-certified psychiatrist for evaluation and opinion concerning causal relationship.¹

After reviewing the evidence, to include the new evidence provided by the claimant, through her attorney, I find there is sufficient evidence to support a *prima facie* case that the conditions of depression, anxiety and pain disorders are related to injury-related conditions. In accordance with the procedure manual, the claimant must be referred to a psychiatrist to determine if the conditions are causally related to the claimant's work-related conditions. Therefore, the decision of the Office dated June 6, 2012 is set aside and the case is remanded for further development.

On remand, the Office should refer the claimant to a psychiatrist for a second opinion evaluation. The Office should send the second opinion doctor a Statement of Accepted Facts (SOAF) and all relevant medical evidence. The doctor should examine the claimant, review the records and provide a reasoned opinion as to whether the claimant has depression, anxiety or pain disorder that resulted (in part or in whole) from injury-related conditions. If the psychiatrist doctor determines that the depression, anxiety or pain disorder conditions are injury-related. The Office should make a decision as to whether the psychiatric conditions should be accepted. If accepted as work related, the conditions should be added to the SOAF. The Office should then refer the claimant to

¹ FECA Procedure Manual 2-0805-7

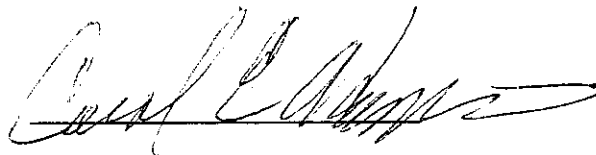
an appropriate specialists for a second opinion to address the other conditions. The Office should send a copy of all relevant medical evidence on record, to include the psychiatric evaluation and SOAF. The Office should ask the physician to provide a reasoned opinion as to whether the claimant's HBP, IBS and GERD were caused or aggravated or accelerated by the emotional conditions or from the drug treatment for her accepted conditions. If the doctor determines that the claimant's HBP, IBS or GERD were aggravated, he should provide a reasoned opinion as to whether the aggravation was permanent or temporary.

Once all necessary development has been completed, a new decision should be issued.

In accordance with the above findings, the decision of the Office dated June 6, 2012 is set aside and the case **remanded** for further medical development as set forth above.

Date: **JAN - 9 2013**

Washington, D.C.

A handwritten signature in black ink, appearing to read "Carol E. Adams", with a long horizontal flourish extending to the right.

Carol E. Adams
Hearing Representative
For
Director, Office of Workers'
Compensation Programs