

File Number:
HR11-D-H

RECEIVED SEP 15 2014

U.S. DEPARTMENT OF LABOR

SEP - 9 2014

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

Date of Injurv:
Employee:

Dear Mr.

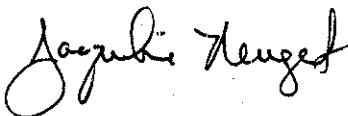
This is in reference to your workers' compensation claim. Pursuant to your request for a hearing, the case file was transferred to the Branch of Hearings and Review.

A preliminary review has been completed, and it has been determined that the case is not in posture for a hearing at this time. The decision of the District Office has been vacated and returned to the district office for further action as explained in the attached Remand Order.

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,



Jacqueline Neugent
Hearing Representative

PAUL FELSER
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 No.

Merit consideration of the case file was completed on September 4, 2014 in Washington, D.C. Based on this review, the March 11, 2014 decision of the District Office is vacated for the reason set forth below.

The claimant, _____, born _____ is employed by the _____
_____, as a _____ On _____
he filed form Ca-1, Notice of traumatic injury and claim for compensation indicating that
on _____ he sustained a neck injury while performing training exercises.

By letter dated _____ the claimant was advised to submit detailed factual and
medical evidence to support his claim.

In support of the claim the Office received a statement from the claimant describing the
_____ incident. Also received were medical records, treatment notes and
diagnostic test results from _____ and Dr. _____ intermittently
from _____ to _____. The medical records received failed to
provide an opinion regarding causal relationship.

By decision dated _____ the Office denied the claim for the reason that the
evidence of record failed to demonstrate that the claimant sustained an injury on
_____ as alleged.

The claimant disagreed with the decision and requested a hearing. Hearings and
Review in their decision dated _____ remanded the case file back to the
District Office for further development. The Office was advised that the additional
medical report received from Dr. _____ dated _____ was sufficient to
require the Office to refer the claimant for a second opinion evaluation.

On _____ the Office referred the claimant to Dr. _____ for an
evaluation. He provided a history of the injury and his findings on examination. He

concluded that the claimant sustained a temporary aggravation of cervical HNP C6-C7 as a result of the

By letter dated _____ the claimant was advised that his claim was accepted for temporary aggravation of cervical HNP C6-C7.

By decision dated March 11, 2014 the claimant was advised that the temporary aggravation of the cervical herniated disc ceased as of

Subsequent to the denial the Office received a letter from the claimant's representative, Paul Felser dated June 13, 2014. Also received was a medical report from Dr. _____ dated _____. He provided a history of the injury and his findings on examination. He concluded that the claimant did not have any symptoms of radiculopathy witnessed in his left arm until the _____ incident. He advised that an MRI performed on _____ revealed that the claimant had a focal disk extrusion herniation along the left aspect of C6-C7 impinging on the exiting C7 nerve root with degenerative disk disease at C5-C6 with mild left foraminal stenosis. The claimant continues to suffer from the effects of the work injury.

The claimant disagreed with the decision and requested a hearing however I find that the case file is not in posture for a hearing at this time.

Section 8123(a) of the Act provides that when there is a disagreement between the physician making the examination for the United States and the physician of the employee, a third physician shall be appointed to make and examination to resolve the conflict. _____, 42 ECAB 172.

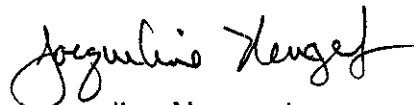
In the instant case the claimant has submitted sufficient evidence to require further development of the case file. The additional medical report received from Dr. _____ is sufficient to create a conflict of medical opinion regarding whether the temporary aggravation of the claimant's cervical HNP C6-C7 ceased as of _____. Dr. _____ states that the claimant sustained a temporary aggravation of his cervical disc herniation as a result of the _____ incident while Drs. _____ supports that the aggravation to the claimant's cervical condition was not temporary. Because the reports are of virtually equal weight an impartial examination is needed to resolve the conflict of opinion regarding whether the aggravation of the cervical condition ceased as of _____.

On Remand the Office is directed to prepare a statement of accepted facts and refer the claimant, medical records and statement of accepted facts to an appropriate specialist for an impartial evaluation to resolve the issue of whether the aggravation of the cervical condition ceased as of _____ or whether additional treatment is warranted. The specialist should be asked to provide medical rationale to support his opinions.

The decision of the District Office dated March 11, 2014 is hereby set aside and the case

is remanded for the actions outlined above. Upon completion of the recommended action and any further development as deemed necessary, the Office should issue a de novo decision.

Dated: SEP - 9 2014
Washington, D.C.



Jacqueline Neugent
Hearing Representative
for
Director, Office of
Workers' Compensation Programs