

File Number:
HR11 ROR-H-OT

RECEIVED MAR 02 2015

U.S. DEPARTMENT OF LABOR

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

February 24, 2015

Date of Injury:
Employee:

Dear Mr.

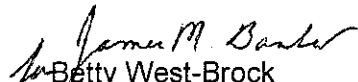
This is in reference to your workers' compensation claim. Pursuant to your request for a review of the written record, the case file was transferred to the Branch of Hearings and Review.

A preliminary review has been completed, and it has been determined that the case is not in posture for a review of the written record 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,


Betty West-Brock
Hearing Representative

PAUL FELSER
ATTORNEY AT LAW
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
Employed by the _____ in
Case No. _____

Merit consideration of the case file was completed in Washington, D.C. Based on this review,
the decision of the District Office dated _____ is set aside, and the case file is
remanded for the reasons set forth below.

The issue for determination is whether the claimant has a sustained permanent partial
impairment due to his accepted work injury as defined by the Federal Employees'
Compensation Act (FECA).

The claimant, born _____ is employed as a _____ by the _____
in _____ On _____ he filed form CA-1 Notice of
Traumatic Injury stating that on _____ he was de-painting an aircraft with base
hose using poly-media and began experiencing pain in both legs and the lower part of his
back. The case was accepted for the following conditions: Intervertebral disc disorder with
myelopathy, lumbar region (L4/5) and lumbosacral spondylosis without myelopathy

The claimant sought treatment with Dr. _____ On _____ Dr. _____
completed a bilateral microdiscectomy, foraminotomy, and partial facetectomy, at level L4-5.
On _____ he completed a revision decompression L4-5 with discectomy,
foraminotomy, and partial facetectomy and posterior spinal fusion. On _____
Dr. _____ completed removal of hardware, posterior spinal fusion at L4-L5 revision and
decompression at L4-5, L5-S1. Other pertinent medical treatment includes: physical therapy
and medication. The claimant was appropriately paid medical and compensation benefits.

The claimant was placed on the periodic roll receiving wage loss compensation every 28
days for temporary total disability effective _____. A functional capacity
evaluation was completed on _____ and he returned to work 4 hours per day
beginning _____. His compensation was reduced accordingly and then stopped
effective _____ because the claimant retired

In an Office Directed second opinion examination on _____ the claimant was
evaluated by Dr. _____. Dr. _____ completed a review of the medical evidence
reviewed and, the statement of accepted facts, and completed a physical examination of the
claimant. He provided a diagnosis of lumbar post-laminectomy syndrome and degenerative
disc disease with limitation of range of motions and paresthesia's over both legs and
weakness. He stated that the claimant is experiencing pain in the lumbar region and legs

with the limitation of lumbar spinal movements as well as assessment of functional capacity evaluation whom he demonstrated inability to repeatedly perform bending, climbing, kneeling, etc. He also noted that the claimant was at maximum medical improvement. He did not note the date of maximum medical improvement. In addition, there is no indication that Dr. Vanapilli was directed to or complete an evaluation regarding an impairment rating.

The claimant submitted a Form CA7, Claim for Compensation signed by him on _____ requesting a schedule award. In a letter dated _____ directed to Dr. _____ the district office advised that additional medical evidence was needed to support his schedule award claim. The claimant was copied on the letter and advised of the responsibility to provide the evidence during the allotted time.

No response was received. However, on _____ the file was referred to the District Medical Advisor, (DMA), to determine whether the evidence in file was sufficient to make a determination as to whether the claimant had any permanent impairment of a scheduled member, causally related to the work injury and based on the Sixth Edition, AMA Guides.

On _____ after review of the medical evidence, the DMA opined that Dr. _____ noted in his _____ report "sensation intact" and "motor function 5/5." And because this Office only recognized impairments due to spinal nerve root deficits, there was any evidence which establishes radiculopathy, it is determined that you have 0% impairment of the left lower extremity and 0% impairment of the right lower extremity.

On _____ the District Office issued a decision denying the claim for schedule award on the basis that the evidence was not sufficient to establish that the claimant sustained permanent impairment to a scheduled member due to the accepted work injury as defined by the FECA.

The claimant disagreed with the _____ decision, and requested a review of the written record by an OWCP representative.

Subsequent to the decision dated _____ the Office received a report from Dr. _____ dated _____. In the report he offered a response to the letter from the District Office. He stated that the claimant underwent a Permanent Partial Impairment examination on _____ for his work related injury sustained on _____. He stated that the physical examination reveals decreased active range of motion for all lumbar movements. He has an antalgic gait pattern noted with activities associated with left lower extremity. There is decreased strength noted as well as decreased sensation to touch to the left lower extremity. He noted that diagnostic studies are consistent with the diagnosis. He also stated that maximum medical improvement was reached on _____ and the PPD examination was completed on _____ in accordance with AMA Guides 6th Edition. He indicated the claimant has a 9% impairment of the left lower extremity.

In the present case, on _____ Dr. _____ evaluated the claimant and provided a current diagnose of lumbar post-laminectomy syndrome, degenerative disc disease with limitation of range of motions and paresthesia's over both legs and weakness. He indicated that the claimant had achieved maximum medical improvement but did not offer a date. The DMA reviewed the examination findings and opined that absent any evidence of radiculopathy there is no impairment. The treating physician, Dr. _____ provided an impairment rating dated _____ based on an examination completed _____.

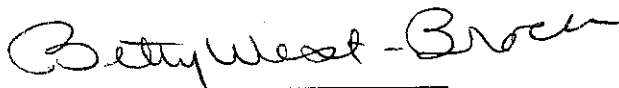
He indicated the claimant has a 9% impairment of the left lower extremity. In addition, examination notes in file from Dr. _____ consistently refer to Neuritis /Radiculopathy as a condition being treated.

I find that the medical evidence received from Dr. _____ is sufficient for the office to undertake additional development on the claim. The Office should refer the file back to the DMA for an addendum report that addresses whether the neuritis/radiculopathy conditions discussed in examination notes are causally related to the accepted work related injury and subsequent treatment. In addition, the DMA should review Dr. _____ impairment rating and offer an opinion concerning whether it supports that the claimant sustained a left lower extremity permanent impairment due to the work injury.

Following completion of any further development the District Office deems necessary, the District Office should issue a *de novo* decision on the claim.

Consistent with the above findings, the decision of the District Office dated August 26, 2014 is set aside, and the case file is set aside and REMANDED for further action as described above.

Date: FEB 24 2015
Washington, D C.



Betty West-Brock
Hearing Representative
for
Director, Office of Workers'
Compensation Programs