

File Number:
HR11-D-H

RECEIVED JUN 10 2019

U.S. DEPARTMENT OF LABOR

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

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 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,

Division of Federal Employees' Compensation

PAUL H FELSER
FELSER LAW FIRM, PC
7393 HODGSON MEMORIAL DRIVE
SUITE102
SAVANNAH, GA 31406

If you have a disability and are in need of communication assistance (such as alternate formats or sign language interpretation), accommodation(s) and/or modification(s), please contact OWCP.

Washington DC,

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 June 6, 2019 in Washington, D.C. Based on this review, the decision of the Office dated 03/12/2019 is set aside for the reasons set forth below.

The issue is whether the claimant sustained an injury on as alleged.

The claimant, born is employed by the
as an On he filed form Ca-1, Notice
of traumatic injury and claim for compensation indicating that on he
squatted to turn on ACR computer and upon standing his right knee popped. The claim was
viewed as a minor injury claim but was reopened for development.

The agency indicated that the claimant was in the performance of duty during the
incident.

In support of the claim the Office received a statement from the claimant describing the
incident. Also received were medical records and treatment notes form
and intermittently from to
The medical records failed to support that the claimant sustained an
injury as alleged.

By letter dated January 31, 2019 the claimant was advised to submit detailed factual and
medical evidence to support his claim for benefits.

In support of the claim the Office received medical records, treatment notes, and diagnostic
test results from from
to The medical reports failed to support that the diagnosed
condition is due to the accepted work event.

By decision dated March 12 2019 the office denied the claim for the reason that the evidence
of record failed to demonstrate that the claimed condition is due to the
incident.

The claimant disagreed with the decision and requested a review of the written record by a
representative of the Office of Workers' Compensation Programs.

Washington DC,

Subsequent to the denial the Office received a letter from the claimant's representative, Paul Felser. Also received were medical records and treatment notes from _____ and Drs. _____ and _____ intermittently from _____ to _____

In a report dated _____ Dr. _____ provided a history of the injury and his findings on examination. He advised that the claimant's right knee condition is due to the _____ incident.

I have carefully evaluated all evidence of record, and find that the claimant has submitted sufficient evidence to warrant further development of the case record by the Office.

Dr. _____ has clearly raised an inference of causal relationship between the diagnosed condition and the _____ incident.

It is well established that proceedings under the Federal Employee's Compensation Act are not adversarial in nature and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence. The Office has an obligation to see that justice is done. Walter A. Fundinger, 37 ECAB.

The record contains an uncontroverted inference of causal relationship as represented by Dr. _____ for which the Office is obligated to request further information. The fact the report contain deficiencies preventing the claimant from discharging his burden of proving by the weight of the reliable, probative and substantive evidence that the claimed condition is due to the _____ incident, does not mean that it may be completely disregarded by the Office; it merely means that the probative value is diminished. Under these circumstances, the report is sufficient to require further development of the case file.

On remand, the Office should prepare a detailed statement of accepted facts and refer the claimant, medical records and statement of accepted facts to an appropriate specialist for an evaluation. The specialist should be asked to provide a specific diagnosis and advised if the condition is due to the _____ incident. If a preexisting condition was aggravated the specialist should be asked to comment on the extent and duration of any disability and to provide medical rationale for all opinions rendered.

The decision of the District Office dated March 12, 2019 is therefore, set aside and the case remanded for the actions outlined above. Upon completion of the recommended action and any further developmental action as is deemed necessary, the Office should issue a de novo decision.

Issued:
Washington, D.C.

Hearing Representative
Branch of Hearings and Review
for
Director, Office of
Workers' Compensation Programs

Washington DC,