

File Number:  
Merit Review4-D-RECO

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U.S. DEPARTMENT OF LABOR

OWCP/DFEC, PO BOX 34090  
SAN ANTONIO, TX 78265  
Phone: (904) 366-0100

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May 27, 2020

Date of Injury:  
Employee:

Dear

This concerns your compensation case and your request for reconsideration received on

We have evaluated the evidence submitted and have reviewed the merits of your case under 5 U.S.C. 8128. You have provided sufficient evidence to warrant modification of the decision dated . . . . . Based on the information received, the decision is now vacated.

The reasons for this decision are outlined in the enclosed Notice of Decision.

Please see the enclosed acceptance letter for a discussion of your rights and responsibilities.

Sincerely,

Division of Federal Employees' Compensation

PAUL A FELSER, ESQ  
FELSER LAW FIRM  
7393 HODGSON MEMORIAL DRIVE  
SUITE 102  
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.***

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**NOTICE OF DECISION**

Claimant Name:  
Case Number:

**ISSUE:** The issue for determination is whether the evidence presented is of sufficient probative value to vacate the decision dated

**REQUIREMENTS FOR ENTITLEMENT:** In accordance with the regulations set forth in 20 CFR § 10.609, if an application for reconsideration is accompanied by new and relevant evidence or by an arguable case for error, OWCP will conduct a merit review of the case to determine whether the prior decision should be modified. If sufficient evidence exists to overturn the prior decision, it should be vacated.

**BACKGROUND:** On you filed a claim for Traumatic Injury indicating you sustained an injury or medical condition on as a result of your employment as a for the Specifically, you noted that you were in a car accident while performing your federal job duties and sustained injuries to your neck and back.

On a formal decision was issued in your case finding established that you are a Federal civilian employee who filed a timely claim, and the evidence supported that the injury and/or event(s) occurred as described; however, your claim for compensation was denied because the medical component of the third basic element, Fact of Injury, had not been met. Specifically, your case was denied because you did not submit any medical evidence containing a medical diagnosis in connection with the injury and/or event(s). The medical evidence in your case only contained a diagnosis of "pain." Pain is a symptom and is not a diagnosis of a medical condition.

Also, you were advised that medical evidence is required that not only contains a diagnosis but also establishes that a diagnosed medical condition is causally related to the work injury or event. Therefore, even if you submit medical evidence containing a diagnosis, you must also submit evidence that establishes the remaining medical element, causal relationship, as described above.

You disagreed with the decision and requested reconsideration by letter/appeal request form received on

**DISCUSSION OF EVIDENCE:** The evidence reviewed in support of your reconsideration request includes: your appeal request form dated request to change physician dated a request to change/update your mailing address and CA-17 forms and medical reports from Dr. ; dated

A review of your file shows you were initially seen at the ER on In you were evaluated by Dr. report dated , Dr. ; provided a detailed description of the work accident and he determined that you sustained traumatic injuries low back due to the accident. He diagnosed you with cervical and lumbar sprains.

You were initially evaluated by Dr on due to continued lumbar and cervical pain. Dr. provided a detailed and consistent description of

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the work accident. Based on the physical examination and review of the Lumbar MRI report, Dr. diagnosed your with an exacerbation of lumbar degenerative disc disease and a neck sprain.

**BASIS FOR DECISION:** The evidence is sufficient to vacate the decision dated because the factual and medical evidence support you sustained a work related injury on while performing your job duties.

**CONCLUSION:** Therefore, the decision dated is vacated.

Your case is now accepted for: aggravation of intervertebral disc degeneration, lumbar region; sprain of ligaments of cervical spine, initial encounter; sprain of ligaments of lumbar spine, initial encounter.

Division of Federal Employees' Compensation