File Number: HR13-D-H

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U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS

PO BOX 8300 DISTRICT 50 LONDON, KY 40742-8300 Phone: (202) 693-0045

OCT - 5 2015

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 was completed on the case. Based upon that review, it has been determined that the decision of the District Office should be reversed as outlined in the attached 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,

Hearing Representative

PAUL H FELSER FELSER LAW FIRM, PC P O 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

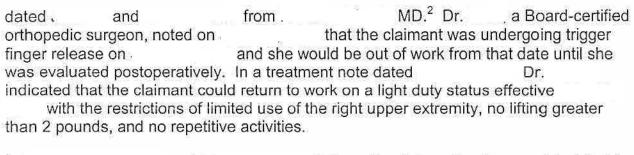
| DECISION OF THE HEARING REPRESENTAT | IVE |
|---|------------------------------|
| In the matter of the claim for compensation under Title 5, U.S. claimant; employed by the case number | Code 8101 et seq. of |
| Merit consideration of the case file was completed on this review, the decision of the District Office dated reasons set forth below. | Based on is reversed for the |
| The issue is whether the Office properly adjudicated the claim for wage loss compensation for the period to . | |
| The claimant, born , was employed as a nurse with the | |
| On she sust injuries when she was accidentally knocked to the floor by a soldie. The claimant fell backwards and hit her head. The Office accepted of neck, temporary aggravation of right trigger thumb, temporary a metacarpophalangeal joint arthritis, and anxiety. On underwent OWCP approved right trigger thumb release. | d the claim for sprain |
| On the claimant filed Form CA-7 claiming total wage from to | loss compensation |
| By letter dated the District Office advised the claims was received to support her claim. It requested that she submit ac evidence supporting disability during the period claimed. | |
| The Office subsequently received an appointment notice dated therapy notes dated to and an anesthesia | physical record dated |
| By decision dated the claim for | wage loss |

Subsequent to the denial of the claim for wage loss compensation, the Office received additional medical evidence including an operative report dated reports

to .

compensation for the period

¹ A copy of the decision was not issued to the claimant's attorney of record.



In and letters, the claimant's attorney stated that he did not receive a copy of the decision.³

On , the Office reissued the prior decision denying the claim for wage loss compensation for the period to .

By letter postmarked , the claimant's attorney requested an oral hearing before the Branch of Hearings and Review.

Based upon a careful review of the evidence of record, I find that this case is not in posture for a hearing at this time.

20 C.F.R. § 10.500 provides that "compensation for wage loss due to disability is available only for any periods during which an employee's work-related medical condition prevents him or her from earning the wages earned before the work-related injury."

A claimant has the burden of proving by the preponderance of the reliable, probative and substantial evidence that he was disabled for work as the result of an employment injury. Monetary compensation benefits are payable to an employee who has sustained wage loss due to disability for employment resulting from the employment injury. Whether a particular employment injury causes disability for employment and the duration of that disability are medical issues which must be proved by a preponderance of reliable, probative and substantial medical evidence.

In the instant case, the Office accepted that the claimant sustained sprain of neck, temporary aggravation of right trigger thumb, temporary aggravation of right metacarpophalangeal joint arthritis, and anxiety on . On the claimant underwent OWCP approved surgery and subsequently filed a claim for total wage loss compensation from through The record contains contemporaneous medical evidence supporting an inability to work from

⁷ Edward H. Horten, 41 ECAB 301 (1989).

² Sheila Fulcher, NP dictated the . treatment note which was signed by Dr.

³ On the Office received an signed statement from the claimant designating Paul H. Felser, Esquire, to represent her in proceedings before OWCP.

It does not appear that the Office reviewed additional medical evidence received after issuance of the decision as it merely reissued its prior decision with a new date.

David H. Goss, 32 ECAB 24 (1980).

⁶ Debra A. Kirk-Littleton, 41 ECAB 703 (1990).

as evidenced by operative report of and Dr. reports of and Therefore, the evidence of record at the time of the decision established the claimant's entitlement to wage loss compensation from to Upon return of the case file, the District Office should process compensation for leave without pay from to in accordance with Office procedures.

Accordingly, the decision of the District Office dated is hereby *reversed* and the case file is returned to the District Office for actions consistent with this decision.

Dated: OCT - 5 2015 Washington, D.C.

> Hearing Representative for Director, Office of Workers' Compensation Programs