

File Number:  
HR10-D-H

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U.S. DEPARTMENT OF LABOR

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

MAR 2 8 2007

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 hearing was held on . As a result of such hearing, it has been determined that the decision issued by the District Office should be vacated and the case remanded to the district office for further action as explained in the enclosed copy of the Hearing Representative's Decision.

Future correspondence should be addressed to: U.S. Department of Labor, Office of Workers' Compensation Programs:

US DEPARTMENT OF LABOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
OFFICE OF WORKERS' COMP PROGRAMS  
PO BOX 8300 DISTRICT 6 JAC  
LONDON, KY 40742-8300

Sincerely,

Hearing Representative

DEPARTMENT OF THE AIR FORCE  
437 MSS-DPC  
CIVILIAN PRSNL INJ COMP OFFICE  
101 E HILL BOULEVARD BLDG 503  
CHARLESTON AFB, SC 29404

PAUL FELSER  
FELSER LAW FIRM  
POST OFFICE BOX 102767  
SAVANNAH, GA 31401

U.S. DEPARTMENT OF LABOR  
Office of Workers' Compensation Programs

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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. ( Hearing held on in Atlanta,  
Georgia.

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The issue for determination is whether the claimant's left hip and leg conditions are causally related to the work injury of

The claimant, born , is employed as an Aircraft Mechanic for the . On , he filed timely notice of a traumatic injury sustained on . He injured his back, hip, and both legs when he sat down in a chair and the legs broke on the left side, causing the chair to fall. He landed on his left hip.

The Office accepted the claim for a herniated disc at L4-5.<sup>1</sup>

On Dr. an orthopedic surgeon, stated that the claimant was evaluated for left hip pain. He diagnosed possible left hip piriformis syndrome.

On the claimant underwent decompression L4-5 lumbar laminectomy.<sup>2</sup> The Office did not approve the procedure.

The claimant changed physicians to Dr. who referred him to Dr. an orthopedic surgeon. On Dr. diagnosed left leg pain but stated that the leg pain

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<sup>1</sup>An MRI of the lumbar spine dated revealed desiccation and central disc herniation at L4-5, more prominent to the left than right and possible impingement of the transversing L5 root. X-rays of the left hip performed on were negative.

<sup>2</sup>An MRI of the lumbar spine taken on revealed moderate disc bulge on the left at L3-4; right sided disc bulge at L4-5 with narrowing of the lateral recess; mild spinal stenosis at L4-5. Nerve conduction studies performed on were normal.

is not related to the hip. He stated that symptoms suggest neurogenic claudication.

Dr. \_\_\_\_\_ referred the claimant to Dr. \_\_\_\_\_ a physical medicine and rehabilitation specialist. She examined the claimant and found no neurological deficits but recommended therapy.

On \_\_\_\_\_ Dr. \_\_\_\_\_ stated that the change in the left leg is longstanding and secondary to his neurofibromatosis.

On \_\_\_\_\_ the Office advised the claimant to submit medical evidence establishing the need for left hip treatment and its relationship to the work injury.

On \_\_\_\_\_, the Office denied the request for treatment of the left hip and leg conditions for the reason that the evidence failed to establish that the conditions are causally related to the work injury.

The claimant disagreed with the decision and requested an oral hearing before an OWCP representative. Accordingly, said hearing was scheduled and held on \_\_\_\_\_ in Atlanta, Georgia. The claimant did not attend the hearing but was represented by his attorney, Paul Felser.

Mr. Felser presented the claimant's disagreement with the decision. He requested that the accepted conditions be expanded to include the left hip and leg condition. He stated that the strains of the left hip and leg should have already been accepted included since they were directly injured in the fall. He also suggested that *prima facie* evidence already exists to warrant development by contacting the treating physician.

A copy of the transcript was sent to the employing agency for review and comment. The agency did not offer any comments on the transcript.

The record was held open for thirty days to allow for the submission of additional evidence. Mr. Felser submitted a post hearing brief outlining additional argument for the record along with a new medical report from Dr. Kerri Kolehma dated \_\_\_\_\_

Also submitted were copies of medical records previously on record with emphasis on portions of the reports where the claimant complained of hip and leg pain.

Based upon hearing testimony, together with the written evidence of record, I find that the decision of the District Office dated [redacted] should be set aside and the case file remanded for further development. Although the Office's decision was correct at the time, additional evidence received after the decision is sufficient to warrant further development.

An award of compensation may not be based on surmise, conjecture, speculation or the claimant's belief of causal relationship.<sup>3</sup> The claimant must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.<sup>4</sup> The mere manifestation of a condition during a period of employment does not raise an inference of causal relationship between the condition and the employment.<sup>5</sup> Neither the fact that the condition became apparent during a period of employment nor the claimant's belief that the employment caused or aggravated his condition is sufficient to establish causal relationship.<sup>6</sup>

While reports from appellant's physician were not completely rationalized, they indicated that he sustained a condition due to work factors and were not contradicted by substantial medical or factual evidence. While the reports were not sufficient to meet appellant's burden of proof, they raised an uncontroverted inference between his claimed condition and work factors, and required the Office to further develop the evidence.<sup>7</sup>

In the present case, the claimant has been diagnosed with a left hip and leg condition; however, the evidence did not include a physician's opinion on causal relationship. After the hearing, the claimant submitted a report from Dr. [redacted] dated [redacted].

In the report, Dr. [redacted] stated that she first examined the claimant in [redacted] after his back surgery. She stated that he complained of a popping noise in his left hip. She diagnosed "snapping hip" secondary to tight iliotibial band/tensor fascia lata, hamstrings, and iliopsoas muscle.

Dr. [redacted] stated that after undergoing therapy, the popping noise had resolved. She stated "In my opinion the direct fall

<sup>3</sup>William Nimitz, Jr., 30 ECAB 567, 570 (1970); Miriam L. Jackson Gholikely, 5 ECAB 537, 538-39 (1953).

<sup>4</sup>Mary J. Briggs, 37 ECAB 578, 581 (1986); Joseph T. Gulla, 36 ECAB 516, 519 (1985).

<sup>5</sup>Edward E. Olson, 35 ECAB 1099, 1103 (1984).

<sup>6</sup>Bruce E. Martin, 35 ECAB 1090, 1093 (1984); Dorothy P. Goad, 5 ECAB 192, 193 (1952).

<sup>7</sup>Ezra D. Long, 46 ECAB (Docket No. 93-2313, issued May 25, 1995).

onto his left hip and buttock directly caused the snapping hip. This was not a pre-existing condition." She further stated that she has not treated the claimant for his back condition, that he has no physical limitations, and he is capable of regular duty work.

I find that further development is warranted. Dr. [redacted] opined that the snapping hip resulted from the injury. She noted that the popping noise had resolved but did not further discuss whether the claimant has residuals of the snapping hip. In addition, the last medical evidence on file pertaining to a hip diagnosis, aside from Dr. [redacted], report of [redacted] is dated [redacted] regarding a referral for left hip and leg pain. Dr. [redacted] related the hip condition to the work injury, yet she only began treating the claimant two years after the injury. The prior physicians diagnosed hip pain and piriformis syndrome but none related such condition to the work injury.

On remand, the Office should prepare a Statement of Accepted Facts and refer the claimant for a second opinion examination with an appropriate board certified specialist to determine if the claimant sustained left hip and leg conditions as a result of the [redacted] work injury and if so, whether he continues to suffer from residuals of the condition.

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

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

DATED: **MAR 23 2007**  
WASHINGTON, D.C.

Hearing Representative  
For  
Director, Office of Workers  
Compensation Programs