

File Number:  
Merit Review3-D-NO

RECEIVED AUG 17 2011

U.S. DEPARTMENT OF LABOR

OFFICE OF WORKERS' COMP PROGRAMS  
PO BOX 8300 DISTRICT 6 JAC  
LONDON, KY 40742-8300  
Phone: (904) 366-0100

August 12, 2011

Date of Injury:  
Employee:

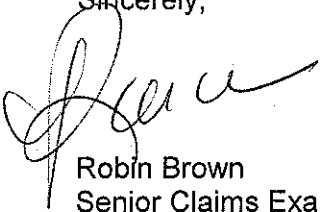
Dear Ms \_\_\_\_\_ :

This concerns your compensation case and your request for reconsideration received 06/10/2011.

We have evaluated the evidence submitted in support of your request for review. Your case has been reviewed on its merits under Title 5, United States Code, Section 8128, in relation to your application including supporting evidence. It is determined that you sustained a work related injury. The reasons for this decision are outlined in the enclosure

Therefore, the decision dated 06/01/2010 is vacated and your case is accepted for Temporary aggravation of cervical and lumbar degenerative disc disease.

Sincerely,



Robin Brown  
Senior Claims Examiner

PAUL H FELSER, ESQ  
P.O. BOX 10267  
SAVANNAH, GA 31412

File Number:  
Employee:

### NOTICE OF DECISION

Issue: The issue in this case is whether you have submitted sufficient evidence with your request for reconsideration to warrant modification of the last merit decision dated June 1, 2010 denying your claim.

#### Requirements for Entitlement

Our regulations require us to reopen a case for reconsideration when a claimant submits relevant evidence not previously of record, advances legal contentions not previously considered, or shows that we erroneously applied or interpreted a point of law.

In order to establish entitlement the claimant must provide rationalized medical evidence that shows the injury or factors of employment, through a natural and unbroken sequence, result in the condition claimed. A medical condition should be diagnosed in connection with this event establishing causal relationship.

Specifically, you must provide a detailed rationalized medical report which explains how your current medical condition is directly related to your job duties.

***“The question of whether causal relation exists is medical in nature and can be established only by medical evidence.” (Jerre R. Rinehart, 45 ECAB 518)***

#### Background:

You filed a CA-1 Form, Notice of Traumatic Injury Claim on \_\_\_\_\_ alleging you sustained a work related injury while performing your duties as a \_\_\_\_\_

You allege you fell from a chair on June 15, 2009 and you injured your left shoulder and back. After appropriate development, your claim was denied on September 30, 2009 because the medical evidence was insufficient to establish that the claimed medical conditions were related to the work injury.

You disagreed with the denial and on October 28, 2009, you requested an oral hearing before a representative of the Office of Workers' Compensation Programs (OWCP).

A formal denial was issued on June 1, 2010 affirming the September 30, 2009 denial.

In further disagreeing with the denial, your authorized representative, Paul Felser requested a reconsideration on May 31, 2011. Your case was assigned for review on June 10, 2011.

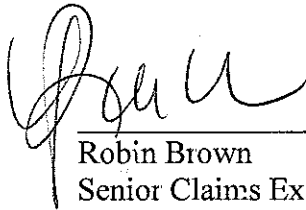
Discussion of Evidence: Along with the reconsideration request, the following information was received: (1) the letter requesting a reconsideration from Paul Felser; (2) 05/24/2011 letter from Dr. Amy M. Lang; (3) SF-50 Personnel Action Form dated 01/03/2010; (4) 09/21/2006 Application for 10-point Veteran Preference; (5) Notification from Office of Personnel Management regarding your disability retirement application; (6) 04/15/2010 letter from you regarding the veteran preference status; (7) 04/17/2006 letter regarding your veteran's service connected disabilities and (8) a 7/15/2011 letter from Dr. regarding your disability retirement.

Dr. explains in detail the history of your work injury on and subsequent treatment at the VA and with Dr. . Based on physical examination and diagnostic studies, she found you suffer from spinal degenerative disc disease. Dr. concluded that the June 15, 2009 incident of injury aggravated this degenerative process.

Basis for Decision: Beyond the above-mentioned documents, I have reviewed your case in its entirety. A thorough review of the medical evidence of file does support your medical condition is causally (aggravated) related to this work injury. The information from your treating physician is consistent on the account of the injury. Since you have provided the office with clarifying medical evidence in support of your claim, the following conclusion is reached.

Conclusion:

The evidence of file is sufficient to vacate the prior decision. Therefore, your claim is accepted for: Temporary aggravation of lumbar and cervical degenerative disc disease.



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Robin Brown  
Senior Claims Examiner  
August 12, 2011