

File Number:
HR12-D-H

U.S. DEPARTMENT OF LABOR

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

SEP 20 2010

Date of Injury:
Employee:

RECEIVED SEP 28 2010

Dear Ms. :

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 06/21/2010. Based upon that hearing, 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,



Carol E. Adams
Hearing Representative

PAUL H FELSER
ATTORNEY AT LAW
7 EAST CONGRESS ST
SUITE 400
SAVANNAH, GA 31401

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 number . A
hearing was held on June 21, 2010.

The issue for determination is whether the claimant has suffered an injury as the result of her Federal employment.

is employed by the . She filed a traumatic claim on , for date of injury of . She alleged that on August 13, 2009, while standing on a chair to put alphabet letters up high, she lost her balance and fell over the back of the chair and hit her leg on the chair and broke open a sore. She also hit her arm on a desk. She stated that the incident resulted in a sore arm and wound on her ankle.

The claimant lost time from work beginning on August 26, 2009, and returned to work on December 8, 2009.

The Office reviewed the claim and the evidence on record and determined it was insufficient. Therefore, by development letter, dated December 17, 2009, the Office advised the claimant of the deficiencies of her claim and of the additional medical and factual information needed to perfect her claim.

Additional evidence was received; however, the Office determined that it was insufficient to support that her conditions were due to the work incident of August 13, 2009. Therefore, the Office, by decision dated January 28, 2010, denied the claim on the basis that the claimant had not established she suffered an injury as the result of the work incident.

The claimant disagreed with the decision and, through her attorney, requested a hearing before an OWCP representative

A hearing was held on June 21, 2010. The claimant was represented by Attorney Paul Felser. Attorney Felser asked that the record remain open for thirty days for submission of additional evidence. The request was granted.

The employing agency was sent a copy of the transcript and afforded twenty days to submit comment or evidence. No additional information was received, and all time allotted for this purposed has now past.

A review of the record was completed.

The claimant was first treated by a nurse who completed a CA-16. The nurse provided and accurate history of the injury and diagnosed an open wound to the left lower extremity and indicated by checking a box that it was due to her falling while hanging pictures in a room.

Also, a medical report dated January 13, 2010, was received from Dr. _____ in which he provided the following statements: "Mrs. _____ is under my medical care. She developed venous stasis ulcer after a fall back in _____. She required treatment at _____ along with antibiotics and rest at home with elevation of the legs to achieve healing. She was allowed to return to work on 12-8-09 with no restrictions."

Since the hearing additional medical evidence has been provided. In a letter dated July 9, 2010, Dr. _____ stated as follows:

Mrs. _____ has been under my care for years, dating back to 1998. She has severe chronic venous insufficiency of both legs with recurrent DVT.

She developed recurrent left leg ulcer following a fall from a chair while at work back in _____. She struck her leg on the chair in the same location, where she previously had a healed wound. The old wound site reopened because of trauma. She ultimately required treatment at _____ with topical care, antibiotics and rest at home with elevation of the legs. Because of inability to stand on her feet and to assure timely healing of the ulcer, she was advised not to go back to work.

An employee seeking benefits under the FECA has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.¹

After review of the evidence, I find, although the decision of the Office was correct, that new evidence has been submitted sufficient to support that the claimant suffered an injury in the performance of duty that was causally related to the work incident. The evidence supports that the claimant reopened her ulcer on her leg as the result of the work incident of

¹ Gary J. Watling, 52 ECAB 278 (2001).

In accordance with the above findings, the decision of the Office is **reversed**, and the case record returned to the District Office for issuance of appropriate acceptance letter and payment of compensation for lost wages, which resulted from the fall.

Dated: SEP 20 2010

Washington, D.C.



Carol Adams
Hearing Representative
for
Director, Office of Workers'
Compensation Programs