

File Number:
HR11-D-H

RECEIVED SEP 08 2014

U.S. DEPARTMENT OF LABOR

SEP - 5 2014

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

Date of Injury
Employee:

Dear Mr.

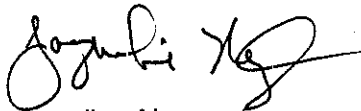
This is in reference to your workers' compensation claim. Pursuant to your request for a hearing, the case file was transferred to the Branch of Hearings and Review.

A preliminary review has been completed, and it has been determined that the case is not in posture for a hearing at this time. The decision of the District Office has been vacated and returned to the district office for further action as explained in the attached Remand Order.

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,



Jacqueline Neugent
Hearing Representative

PAUL H FELSER, ESQ.
POST OFFICE 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 REPRESENTATIVE

In the matter of the claim for compensation under Title 5, U.S. Code 8101 et. seq. of
Claimant; Employed by the
Stewart, GA. Case No.

Merit consideration of the case file was completed on September 3, 2014 in
Washington, D.C. Based on this review, the March 13, 2014 decision of the District
Office is vacated for the reason set forth below.

The claimant _____ born _____ is employed by the _____
_____ as a _____ On _____
he filed form Ca-1, Notice of traumatic injury and claim for
compensation indicating that on _____ he started to crank a chain saw
when he pulled the rope to crank the saw recoil pulled the rope back and he felt
something pop in his neck on the right side.

The agency indicated that the claimant was in the performance of duty during the
incident.

By letter dated February 3, 2014 the claimant was advised to submit detailed factual
and medical evidence to support his claim for benefits.

In support of the claim the Office received a statement from the agency dated _____
noting that sufficient medical evidence has not been received. Also received
was a treatment note from Dr. _____ dated _____. The treatment
note did not provide a specific diagnosis or an opinion regarding causal relationship.

By decision dated March 13, 2014 the Office denied the claim for the reason that the
evidence of record failed to establish an injury as alleged.

The claimant disagreed with the decision and requested an oral hearing before a
representative of the Office of Workers' Compensation Programs.

Subsequent to the denial the Office received a statement from the claimant's
representative, Paul Felser dated July 16, 2014. Also received were medical records,

treatment notes and an operative report from _____ and Dr. _____ intermittently from _____ to _____

In a report dated _____ Dr. _____ provided a history of the injury and his findings on examination. He indicated that _____ incident aggravated the claimant's pre-existing C6-C7 right sided neural foraminal stenosis with degenerative disk disease, cervical spine. He recommended that the claimant undergo decompression of the neural foramina at C6-C7 with stabilization of the disk space at C6-C7 with fusion.

I have carefully evaluated all evidence of record, and find that the claimant has provided sufficient evidence to warrant further development of the case record by the Office.

Dr. _____ has clearly raised an inference of causal relationship between the claimed condition and the _____ incident.

It is well established that proceedings under the Federal Employee's Compensation Act are not adversarial in nature and while the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence. The Office has an obligation to see that justice is done. Walter A. Fundinger, 37 ECAB.

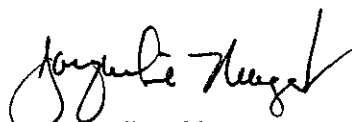
The record contains an uncontroverted inference of causal relationship as represented by Dr. _____ for which the Office is obligated to request further information. The fact the report contain deficiencies preventing the claimant from discharging his burden of proving by the weight of the reliable, probative and substantive evidence that his neck condition is due to the _____ incident, does not mean that it may be completely disregarded by the Office; it merely means that the probative value is diminished. Under these circumstances, the report is sufficient to require further development of the case file.

On remand, the Office should prepare a detailed statement of accepted facts and refer the claimant, medical records and statement of accepted facts to an appropriate specialist for an evaluation. The specialist should be asked to provide a specific diagnosis and advise whether or not the condition is due to the _____ incident either by direct cause, precipitation, acceleration or aggravation. If a pre-existing condition was aggravated, the specialist should be asked to comment on the extent and duration of any disability and to provide medical rationale for all opinions rendered. He should also advise whether the C6-C7 anterior cervical discectomy with decompression was necessary due to the _____ incident.

The decision of the District Office dated March 13, 2014 is therefore, set aside and the case remanded for the actions outlined above. Upon completion of the recommended

action and any further developmental action as is deemed necessary, the Office should issue a de novo decision.

Dated: SEP - 5 2014
Washington, D.C.



Jacqueline Neugent
Hearing Representative
for
Director, Office of
Workers' Compensation Programs