

U.S. DEPARTMENT OF LABOR

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

September 19, 2017

Date of Injury:
Employee:

Dear

This concerns your compensation case and your request for reconsideration received on 07/14/2017.

We have evaluated the evidence submitted and have reviewed the merits of your case under 5 U.S.C. 8128. You have provided sufficient evidence to warrant modification of the decision dated 07/18/2016. Based on the information received, the decision is now vacated.

The reasons for this decision are outlined in the enclosed Notice of Decision.

Please see the enclosed acceptance letter for a discussion of your rights and responsibilities.

Sincerely,

Senior Claims Examiner

PAUL FELSER
7393 HODGSON MEMORIAL DR.
SAVANNAH, GA 31406

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.

NOTICE OF DECISION

Claimant Name:

Case Number:

ISSUE: The issue for determination is whether the evidence presented is of sufficient probative value to vacate the decision dated 07/18/2016.

REQUIREMENTS FOR ENTITLEMENT: In accordance with the regulations set forth in 20 CFR § 10.609, if an application for reconsideration is accompanied by new and relevant evidence or by an arguable case for error, OWCP will conduct a merit review of the case to determine whether the prior decision should be modified. If sufficient evidence exists to overturn the prior decision, it should be vacated.

BACKGROUND: On 03/09/2016, you filed a claim for Traumatic Injury indicating you sustained an injury or medical condition on _____ as a result of your employment as _____

Specifically, you stated you suffered an injury from door on cooler A. You reported the nature of the injury as upper arm/shoulder. The supervisor indicated that you were in the performance of duty at the time of the injury. She also concurred with the facts as reported by you. The claim was administratively closed as a minor injury, with no formal review undertaken.

By correspondence dated 06/14/2016, the Office undertook development of the claim for benefits, informing you of the required evidence needed to support your claim. Factual and medical evidence was requested. You were to provide a description as to how your injury occurred in more detail and whether you had any similar disability or symptoms before the injury.

No response to the factual inquiry was received and on 07/18/2017 a formal decision was issued in your case finding that you failed to respond to the factual questions and it was unclear exactly how you were injured, thus failing to establish the third basic component, fact of injury. It was also noted that there was no medical opinion linking an injury to the described work incident.

You disagreed with the 07/18/2016 decision and through your authorized representative Mr. Paul Felser, requested reconsideration by letter/appeal request form received on 07/14/2017. By letter dated 08/03/2017, your employing agency was advised of your appeal request. No response was received.

DISCUSSION OF EVIDENCE: The prior decision denied the claim on the basis fact of injury was not established. Fact of injury consists of two components. The first is a factual component and requires the evidence of record support the claimed work incident occurred as claimed. The second component is medical in nature and requires medical evidence from a qualified physician providing a secure diagnosis in connection with the work incident.

The factual evidence reviewed in support of your reconsideration request includes your detailed undated statement clarifying that on [redacted] that due to the heaviness of the refrigeration doors in the kitchen, extreme force must be used to exit the unit and while walking past Cooler A towards your office, you stated Mrs. [redacted] unknowingly opened the door and hit you in the left shoulder, upper arm and chest area. After being hit by the door, you stumbled and grabbed the steel table to break your fall and were slightly disorientated from the hit of the door and subsequent stumble that it took you a few minutes to recover. You stated by the time you reached your office you experienced swelling in your left hand with severe pain in your left shoulder. You stated you informed your supervisor and was sent to employee health and was placed in a sling for 60 plus days. You stated you began treatment with Dr. [redacted] at the [redacted] but he was unable to treat your injuries and you attained the services of Paul Felser who advised you to use your private insurance so you can seek immediate relief and treatment. You stated MRI readings revealed cervical disc injury with cervical radiculopathy and left shoulder injury and contusion with a rotator cuff tear.

We also received letter dated 07/14/2017 from Mr. Felser explaining the basis for your request and additional medical evidence and argument.

The factual and medical evidence of record establishes fact of injury. I find that your new statement is sufficient to clarify the discrepancies that existed as to what occurred on 03/08/2016, as a clear picture of the incident is now described.

In reviewing the medical evidence of record you sought immediate treatment on [redacted] and the history of injury noted in the initial medical evidence was accurate with a diagnosis of contusion, left shoulder/upper arm and a clear-cut relationship demonstrated by the evidence between the work incident and the diagnosis provided by Dr. [redacted]. This establishes the second component of fact of injury. Not all medical opinions require detailed rationale. In a simple traumatic injury such as slip or fall which is reported to and seen by the physician promptly, there is no need to obtain a rationalized explanation of causal relationship.

Further medical workup was performed by Dr [redacted] beginning 04/15/2016 and follow up visits on 04/29/2016, 07/08/2016, 08/19/2016, 10/14/2016, (MRI dated 11/15/2016), 01/05/2017, 02/17/2017, 03/16/2017, 04/14/2016, 04/29/2017, and 05/25/2017.

The next issue which has to be established for acceptance of the claim is causal relationship. Causal relationship is a medical issue, and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical evidence is medical evidence that includes a physician's opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established factors of employment. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established factors of employment. 41 ECAB 345 (1989).

In his 04/15/2016 new patient report, Dr. [REDACTED] noted a history of neck pain radiating to the left upper limb associated with numbness and tingling as well as severe left shoulder pain started following a work related injury on [REDACTED] when you was hit by heavy commercial stainless steel refrigerator door during your course of work and was knocked severe feet to the side and was caught in a table before falling to the ground. He noted you were evaluated by the occupational medicine team at the [REDACTED] and was placed on a sling for about thirty days. He offered exam findings and provided the diagnosis of radiculopathy, cervicothoracic region, other specified joint disorders, left shoulder and pain in left shoulder. In his follow up reports, Dr. [REDACTED] assessed several diagnosis of spondylosis w/o myelopathy or radiculopathy, cervical region; spondylosis w/o myelopathy or radiculopathy site unspecified; radiculopathy cervicothoracic region; other specified mononeuropathies; other specified dorsopathies cervical region; neuralgia and neuritis, unspecified; radiculopathy cervical region; other cervical disc displacement unspecified cervical region; pain in left shoulder; other specified joint disorders, left shoulder, and sprain of musc/tend the rotator cuff of left shoulder subs.

Dr. [REDACTED] in his 02/23/2017 letter, states that it is his professional opinion to a reasonable degree of medical certainty that you suffered work related injury affecting the cervical spine (cervical radiculopathy) and left shoulder (contusion and rotator cuff tear) and it is directly related to the incident of [REDACTED]

Dr. [REDACTED] opinion is not supported by the factual and initial medical evidence of record. He states you was knocked severe feet to the side and was caught in a table before falling to the ground; however there was no mention of falling to the ground, and the initial occupational medical reports does not mention falling to the ground. In fact, you stated after being hit by the door you stumbled and grabbed the steel table to break your fall, which was also documented in the occupational medical reports. Dr. [REDACTED] opinion is insufficient to establish causal relationship because it fails to provide medical reasoning based on an accurate factual history.

Although, Dr. [REDACTED] opined the work injury caused cervical radiculopathy and left shoulder contusion and rotator cuff tear, his opinion is not based on an accurate factual history and fails to provide sufficient medical rationale to establish causal relationship. In addition it is unclear how the additional diagnoses noted in his follow up reports are confirmed and how the work injury resulted in these diagnosed conditions. Dr. [REDACTED] does not indicate that these diagnoses were confirmed especially since some of the diagnoses seem to reflect findings more of age related and/or pre-existing conditions. The medical evidence of record from Dr. [REDACTED] does not support causal relationship,

In light of the above, the evidence of record is sufficient to accept left shoulder neuromuscular sprain and contusion.

BASIS FOR DECISION: The case file was reviewed in its entirety. The evidence is sufficient to vacate the decision dated 07/18/2016 because the medical evidence supports a left shoulder neuromuscular sprain and contusions, and establishes a relationship between the work incident of [REDACTED] and the diagnosed condition. The evidence is uncontroverted in this regard. The totality from the occupational medical reports clearly document the accurate history, exam findings and diagnostic studies used in establishing the diagnoses.

CONCLUSION: Therefore, the decision dated 07/18/2016 is vacated.