

File Number:
Merit Review4-D-RECO

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U.S. DEPARTMENT OF LABOR

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

March 04, 2019

Date of Injury:
Employee:

Dear

This concerns your compensation case and your request for reconsideration received on January 8, 2019.

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 06/18/2018. Based on the information received, the decision is now vacated.

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

Sincerely,

Division of Federal Employees' Compensation

PAUL FELSER, ESQ
FELSER LAW FIRM, PC
7393 HODGSON MEMORIAL DRIVE
SAVANNAH, GA 31406

If you have a disability and are in need of communication assistance (such as alternate formats or sign language interpretation), accommodation(s) and/or modification(s), please contact OWCP.

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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 June 18, 2018.

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: You are employed as a _____ by the _____ located in _____. On March 15, 2016, you filed a claim for Traumatic Injury indicating you sustained an injury or medical condition on _____ as a result of your employment. You claimed that at the end of the work day you were closing a rolling gate to the airfield and the entire gate fell on top of you. Your claim was approved for strain of right knee and tear of meniscus of right knee. Your claim was expanded to include osteoarthritis of the right knee.

On February 1, 2018, you filed a claim for wage loss compensation beginning January 19, 2018. On June 18, 2018 a formal decision was issued denying wage loss compensation covering the period from January 19, 2018 through April 19, 2018. The reason for the denial was that the medical evidence of file did not support disability for work during the claimed period.

You disagreed with the June 18, 2018 decision and requested reconsideration by letter/appeal request form received on January 8, 2019.

DISCUSSION OF EVIDENCE: The evidence reviewed in support of your reconsideration request includes:

medical evidence of file
copy of operative report dated January 19, 2018

Review of the medical evidence of file confirms that on April 23, 2018, the District Medical Advisor (DMA), opined that you were not in need of right total knee arthroplasty due to the accepted conditions in the case but acknowledged that you do have the condition of right knee degenerative arthritis which would warrant the request right knee replacement. However, at that time, the surgery request the claim had not yet been approved for that condition.

On May 15, 2018, you were referred for second opinion to determine whether surgery could be approved. On August 22, 2018, in his report of second opinion evaluation, _____, M.D., opined that you suffered an aggravation of right knee osteoarthritis as a result of the work injury and that the right knee total arthroplasty was warranted.

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On January 18, 2019, the office expanded your claim to include the approved condition and the request for authorization of the right knee surgery was retroactively approved on January 18, 2019.

BASIS FOR DECISION: The evidence is sufficient to vacate the decision dated June 18, 2018 because the medical evidence supports that you were hospitalized for a retro-actively approved surgery on January 19, 2018 and were out of work through April 18, 2018. The evidence provided with the form CA-7 confirms that you returned to work on April 19, 2018.

CONCLUSION: Therefore, the decision dated June 18, 2018 is vacated.

Your case is now approved for wage loss compensation from January 19, 2018 through April 18, 2018. A payment in the amount of \$11,070.35 was certified on March 4, 2019.

Division of Federal Employees' Compensation