

File Number: 1  
HR10-D-H

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U.S. DEPARTMENT OF LABOR

DFELHWC-FECA, PO Box 8311  
LONDON, KY 40742-8311  
Phone: (202) 693-0045

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Date of Injury:  
Employee:

Dear

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 \_\_\_\_\_ As a result of such hearing, it has been determined that the decision issued by the Office should be vacated and the case remanded to the district office for further action as explained in the enclosed copy of the Hearing Representative's Decision.

Your case file has been returned to your assigned Claims Examiner. You may contact that office by writing to our Central Mail Room at the following address:

US DEPARTMENT OF LABOR  
DFELHWC-FECA, PO Box 8311  
LONDON, KY 40742-8311

Sincerely,

Electronically Signed

Federal Employees Program

PAUL FELSER  
7393 HODGSON MEMORIAL DRIVE  
SUITE 102  
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.*

Washington DC, December 22, 2020

U.S. DEPARTMENT OF LABOR  
Office of Workers' Compensation Programs

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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  
Number* . . . *A telephone hearing was held on*

Case

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The issue for determination is whether the evidence establishes a medical condition causally related to the work incident claimed.

is employed as a with the . On he filed a claim for Traumatic Injury indicating he sustained an injury or medical condition or as a result of his employment. Specifically, he stated that the injury or medical condition occurred at around 1:00 p.m., when he moved two 55 gallons of hazardous waste from one pallet to another with strong fumes coming out of them. He stated that he left work at 2:00 p.m., smelt a funny smell, had a seizure and wrecked his truck while driving. He was still on the military base at the time of the accident.

By letter dated , the Office advised the claimant of the deficiencies in the evidence and afforded him 30 days to provide additional documentation sufficient to establish the claim. Additional factual and medical evidence were provided.

By decision dated the Office denied the claim on the basis that the fifth basic element, Causal Relationship had not been met. Specifically, the evidence was not sufficient to establish a medical condition causally related to the accepted work event(s). The reason for this finding was that the medical evidence of file does not support that the diagnosed conditions were caused by the work injury or wrecking his car. The decision noted that the medical evidence did not substantiate that the diagnoses provided, seizure disorder, lumbar degenerative disc disease (DDD) with left leg neuropathy, were caused or aggravated by the work injury. The medical evidence submitted with the claim did not provide an explanation of how the conditions occurred or an opinion on the cause.

In a report of Dr. dated he stated that it appears that his seizures were linked to his history of exposure to hazardous chemicals. However, evidence dated of record under case number revealed the claimant had a long pre-existing history of a seizure disorder, that he underwent repair with kavlar plate to the skull post MVC and that he had seizures during this period. He again had seizures in and bit a portion of his tongue off. He also had a pre-existing history of a fractured vertebrae, chronic back pain with radiation into the legs and a left leg injury due to a military accident, severed nerve.

Although the claimant stated that he fractured his left wrist, his low back, had neck and back pain and numbness in his left arm and hand, the office had not, as of the date of the decision, received the medical documents which supported the treatment he received on the date of injury or any follow-up care for the injury had not been provide with any diagnosis of conditions which were caused by the crash.

The claimant disagreed with the decision and his attorney requested a telephone hearing with a representative of the Office of Workers' Compensation Programs. Accordingly, a telephone hearing was scheduled and held on \_\_\_\_\_.

The claimant did not attend the hearing. However, he was represented by his attorney, Paul Felser, at the hearing. It was noted that there were limited medical records in file. Mr. Felser asked that the claim be combined with the additional injury claim number \_\_\_\_\_.

He noted that there was a substantial hiatus in the interim until this particular situation when the claimant was again exposed to chemicals which we contend and we feel the medical records support that that was a triggering mechanism for the current set of circumstances. Mr. Felser noted that he will ask the claimant to provide a statement to put things into more context since the old claim was mentioned so significantly. He noted that the claimant was once again asked to handle hazardous chemicals and the claimant did experience the onset of symptoms after being exposed to the chemicals and then driving his vehicle.

The medical evidence was discussed and Mr. Felser advised that Dr. \_\_\_\_\_ was of the opinion that the claimant's exposure to these chemicals is what ultimately triggered the episode where he became overcome and lost control of his vehicle and experienced the onset of the seizure episode once again and that the triggering mechanism was his exposure to these hazardous chemicals and that's what resulted in these injuries under the circumstances. Mr. Felser argued that Dr. \_\_\_\_\_ at the very least at this time establishes an uncontroverted inference of causal connection such that the case should be remanded for further development by the district office with Dr. \_\_\_\_\_ and possibly to include evaluation by a second opinion examiner with respect to the remand for development. Mr. Felser was advised that it was not clear from the medical evidence of the diagnosed conditions claimed, other than the seizures and medical evidence was needed to address the physical injuries.

The case was held open for 30 days to allow the claimant an opportunity to provide additional evidence to support the claim. A copy of the transcript was sent to the employing agency for review and comment. No comments were provided from the employing agency. A review of the case file was completed.

Additional factual documents were received which included statements, an accident report and copies of bills.

A statement dated \_\_\_\_\_ was received from \_\_\_\_\_. She stated that on \_\_\_\_\_ at 2:30 PM she received a phone call from \_\_\_\_\_ stating that she had her husband's phone and he had been in a serious accident on 247/Hawkinsville Hwy. She described arriving at the accident. She stated that she spoke with \_\_\_\_\_ and she stated that she could tell something medically was wrong. She said \_\_\_\_\_ couldn't remember her and she asked him if he had a phone, he thought for a second and said yes and she reached deep down in his pocket and got his flip phone. Additional family members arrived. She described officers asking if they knew anything and that all the claimant could tell them was he left work and smelt a funny smell. She and her son told the officer that they believed he had had a seizure and were wandering what he had been around at work to trigger a seizure because he hadn't had one in 15 years or more.

She described the claimant being taken to the hospital and tests being completed of his brain and back. The next morning when the Neurologist and Neurosurgeon asked him what he remembered about his wreck. He stated the only thing he remembered was leaving work and then having a funny smell and then being at the hospital. They asked did he remember being at work. He said yes. They then asked what he was doing at work. \_\_\_\_\_ told them he was emptying IAPS. He explained that IAPS was hazardous waste material bags from the airplane, and that he also, moved two 55 gallon drums of liquid hazardous waste that was from the planes also. She told the doctors that the base knew he was not to be around those hazardous materials because of a \_\_\_\_\_. The doctor than stated \_\_\_\_\_.

