File Number:
HR11-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

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 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,

Division of Federal Employees' Compensation

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, September 30, 2019

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

Merit Consideration of the case file was completed on Based on the review, the decision of the district office dated is set aside for the reasons set forth below.

The issue is whether the Office appropriately denied authorization for the medication Tramadol, pursuant to 8103(a) of the Federal Employees' Compensation Act.

born is employed as a with the . She filed Form CA-1 for a Traumatic Injury which occurred on On that date, she was assisting a passenger and tried to prevent her from falling. The claim was initially approved for a strain of muscle, fascia and tendon of lower back, strain of muscle, fascia and tendon at neck, strain of unspecified muscle, fascia and tendon at shoulder and upper arm level (right). It was subsequently expanded to include impingement syndrome of the right shoulder, a complete right rotator cuff tear, and lumbar spinal stenosis. Appropriate medical and wage loss benefits have been paid.

On the Office issued a letter advising that greater scrutiny of the prescription and utilization of opioid medications was being instituted.

On the Office received a CA-27 Authorization Request Form and Certification Letter of Medical Necessity for Opioid Medications from treating physiatrist, . The medication prescribed was Hydrocodone-Acetaminophen 10-325mg. This was authorized for the period of to However, in a letter of the claimant was advised that additional information would be required from her attending physician prior to any further authorization of an opioid medication.

While additional medical documentation was received, there was no further evidence forthcoming which specifically responded to the Office's development letter.

Another CA-27 Letter of Medical Necessity was received on for Hydrocodone-Acetaminophen 10-325mg. This was completed by Dr. and authorization for this medication was granted from to

The case was subsequently referred to the District Medical Advisor for further review in order to assess whether the requested opioid medication was medically indicated. A response dated was received from DMA , M.D. He opined that the Hydrocodone-Acetaminophen 10-325mg was medically indicated to treat the effects of the work related condition.

Washington DC, September 30, 2019

The Office subsequently wrote to the claimant and Dr. on relative to further authorization of an opioid medication. It was explained that additional medical evidence was required should the claimant require continued opioid medication beyond the 60 day period previously authorized. Another letter was sent to the claimant in this regard on

Again, additional medical evidence was forthcoming, none of which was written in direct response to the Office's development. The Office had also sent letters dated and within which they explained that a CA-27 form must be submitted in order for consideration to be given for further authorization of the prescribed opioid medication.

The Office subsequently received Form CA-27 dated from Dr. However, this particular request was for a different opioid medication, Tramadol 50mg, 1 every 8 hours. Dr. indicated that the claimant was having thigh pain seven months post-operatively. He stated that there may be some aspect of the threads of the screw that were broaching the medial wall of the pedicle which could be contributing to some of the left thigh irritation. The Office authorized this medication for the period of to . This was deemed appropriate because it was the first request received for the medication and it was calculated to be a lower MED value than the prior Hydrocodone-Acetaminophen prescription.

The Office subsequently referred the claimant for a second opinion examination to further assess the need for continued opioid medications. It was noted that cases with continued opioid use must be reviewed by the DMA or a second opinion examiner every six months. Therefore, the claimant was evaluated on by , D.O., a board certified specialist. However, the Office found that the report from this exam was insufficient as the practitioner was unable to adequately answer several of the questions posed.

Additional medical records were received into the file which included a urine drug screen dated . According to this, there was a negative finding for Tramadol. Additionally, a billing inquiry revealed that there was not a paid fill for this medication unti

By correspondence dated and the Office wrote to the claimant again advising that Form CA-27 must be completed for authorization of an opioid medication.

In response, a CA-27 was received again requesting authorization for Tramadol HCL 50mg. This request was completed by , PA-C who was in the same practice as Dr. The dosage of the medication differed from the prior CA-27. Specifically, the claimant was to take one pill orally every four to six hours and this increased the MED level from 15 to 30. In support of this request, it was noted that the claimant was having pain in the back and leg which radiated into the anterior aspect of the leg. It was suggested that some of this was due to stress neuropraxia and the extension of the fusion.

On the above noted CA-27 it was indicated that the claimant had undergone a physical examination on although the actual treatment note from this visit was not provided. Therefore, by letter dated the Office wrote to Dr. and Mr. requesting a copy of this report. Additionally, it was noted that given the length of time since the last exam, a complete and current evaluation was needed which included pertinent clinical diagnostic evidence, demonstrated improvement in both pain and function, and a rationalized explanation on the continued medical necessity of the opioid medication. The record also indicates that the Office had attempted to contact Southeastern Spine Institute by phone on and again on for a response to the above noted development letter. However, no response was forthcoming.

Therefore, by decision dated the Office formally denied authorization for Tramadol HCL 50mg from to The basis for this decision was the fact that the evidence of record failed to support that it was medically indicated to treat the effects of the work injury. The Office pointed to the fact that the last medical report in file which discussed physical exam findings was dated and despite requests, they had not received a copy of the exam findings from the claimant's evaluation. In the Office's decision they stated that this evidence was pertinent to the consideration of continued authorization of the opioid medication, especially in light of the fact that the dosage had increased.

Following this decision, the Office received a treatment note from Dr. The claimant described pain in her back and leg which he stated may be due to stress neuropraxia or extension of her fusion. The assessment was low back pain and postlaminectomy syndrome. She was said to be medically stationary and remained under Dr. care for a work related injury. She was instructed to follow-up in two to three months.

The claimant disagreed with the decision and an oral hearing was requested. In accordance with this request, I have conducted an initial review of the file and find that the case is not in posture for a hearing at this time.

Based on my review of the file, the decision of the District Office should be *SET ASIDE* and *REMANDED* for further development.

Section 8103 of the Federal Employees' Compensation Act provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Office considers likely to cure, give relief, reduce the degree of the period of any disability or aid in lessening the amount of monthly compensation.[1] In interpreting this section of the Act, the Board has recognized that the Office has broad discretion in approving services provided under Section 8103, with the only limitation on the Office's authority being that of reasonableness.[2]

In the instant case, the Office accepted the Traumatic Injury for a strain of muscle, fascia and tendon of lower back, strain of muscle, fascia and tendon at neck, strain of unspecified muscle, fascia and tendon at shoulder and upper arm level (right), impingement syndrome of the right shoulder, a complete right rotator cuff tear, and lumbar spinal stenosis. The claimant has continued to treat with Dr. who has prescribed various treatment modalities, including medication, for her ongoing symptoms. As outlined above, the claimant's provider had initially submitted a CA-27 Authorization Request Form and Certification Letter of Medical Necessity for Opioid Medications for Hydrocodone-Acetaminophen. The Office initiated appropriate development in this regard and authorization was granted for the requested medication as supported by the evidence of record.

However, the Office subsequently received Form CA-27 dated from Dr. within which he requested authorization for a different opioid medication, Tramadol 50mg (1 every 8 hours). This medication was initially authorized for the period of to The basis for this was the fact that it was the first request for this particular medication and it also had a lower MED value than the Hydrocodone-Acetaminophen.

However, to further assess the need for continued opioid medication, the Office initiated development in the form of a second opinion examination. This took place on with Dr. A report

[1] 20 C.F.R. 10.401(a).
[2] *Joseph P. Hofmann*, 57 ECAB 456 (2006)