

On December 29, 1996 appellant, then a 37-year-old commodity grader, filed a traumatic injury claim. He alleged that on that date he experienced pain in his neck, right shoulder and shoulder blade, lower back and right wrist when he slipped on the floor while in the performance of duty. The Office accepted appellant's claim for lumbar strain, cervical sprain and herniated disc at L5-S1. Authorization was granted for a bilateral lumbar laminectomy and foraminotomy

at L4-5 and L5-S1 with discectomy at L5-S1 that was performed on October 16, 2000. On August 19, 2004 the Office further accepted appellant's claim for cervical disc herniation at C6-7.

On September 28, 2004 Dr. James L. Sanders, Jr., an attending Board-certified neurosurgeon, requested that the Office approve laminectomy, foraminotomy and discectomy surgery at L2-3 based on the findings of a September 9, 2004 computerized tomography (CT) scan of the lumbar spine, lumbar myelogram and x-ray of the lumbar spine. He reported evidence of a disc herniation at L2-3 on the left with resultant left L2 and L3 radiculopathy that had been treated with refractory to conservative measures including epidural steroid injections.

By decision dated March 9, 2005, the Office denied appellant's request for authorization for surgery at L2-3. It found no objective evidence of record establishing that he sustained disc herniation at L2-3 causally related to the December 29, 1996 employment injury.

On March 28, 2005 appellant, through counsel, requested an oral hearing before an Office hearing representative. Following the April 3, 2006 hearing, appellant related, in a March 28, 2006 statement, that he had not sustained any new injuries since December 29, 1996. He stated that, after several surgeries he continued to experience pain in his back, arms, neck and legs and numbness and weakness in his hands and legs. In a February 27, 2006 report, Dr. Sanders provided a history of the December 29, 1996 employment injury and appellant's medical treatment. He noted that a June 23, 2000 myelogram and post myelogram CT scan demonstrated a lateral disc protrusion at L2-3 on the left. Dr. Sanders stated that a previous myelogram and post myelogram CT scan performed on February 18, 1997 did not include L2-3 on the post myelogram CT scan. He stated that, based on studies, appellant had a large disc herniation at L2-3 on the left that would require surgical intervention. Dr. Sanders opined that this condition was causally related to the accepted employment injury. He related that appellant had this finding on the left in 2000 and it increased based on studies performed in 2004. Dr. Sanders concluded that this was causally related to the fall and exacerbated mechanically by the need that appellant had for the lumbar fusion in the lower lumbar spine.

By decision dated June 14, 2006, an Office hearing representative affirmed the March 9, 2005 denial of appellant's request for surgery. The evidence submitted did not contain a rationalized medical opinion establishing that the L2-3 back condition was caused by the accepted December 29, 1996 employment injury.

LEGAL PRECEDENT

Section 8103 of the Federal Employees' Compensation Act¹ 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 or the period of disability or aid in lessening the amount of monthly compensation.² In interpreting this section of the Act, the

¹ 5 U.S.C. §§ 8101-8193.

² U.S.C. § 8103; *see Thomas W. Stevens*, 50 ECAB 288 (1999).

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.³ Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.⁴ In order to be entitled to reimbursement for medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury.⁵

Proof of causal relationship in a case such as this must include supporting rationalized medical evidence. Thus, in order for a surgery to be authorized, appellant must submit evidence to show that the requested procedure is for a condition causally related to the employment injury and that it is medically warranted.⁶ Both of these criteria must be met in order for the Office to authorize payment.⁷

ANALYSIS

The Office accepted that appellant sustained an employment-related lumbosacral strain, cervical sprain and herniated discs at L5-S1 and C6-7. On September 28, 2004 Dr. Sanders requested that the Office authorize laminectomy, foraminotomy and discectomy surgery at L2-3, based on diagnostic testing. In a February 27, 2006 report, he opined that appellant's L2-3 condition was causally related to the December 29, 1996 employment-related injury. Dr. Sanders stated that this condition was identified on the left in 2000 and it increased based on studies performed in 2004. He noted that a February 18, 1997 myelogram and post myelogram CT scan did not include L2-3 on the post myelogram CT scan. Although Dr. Sanders addressed causal relationship between appellant's diagnosed condition and the accepted employment injury, he failed to provide adequate medical rationale explaining causal relation.⁸ Based on diagnostic studies in 2004, appellant had a larger disc herniation on the left at L2-3 than in 2000. Dr. Sanders did not explain, however, how or why this finding was due to the December 29, 1996 accepted injury. As appellant has neither established that the requested surgery is for an employment condition, nor that it is medically warranted, the Board finds that the Office did not abuse its discretion in declining to authorize surgery.

CONCLUSION

The Board finds that the Office properly denied authorization for back surgery.

³ *James R. Bell*, 52 ECAB 414 (2001).

⁴ *Claudia L. Yantis*, 48 ECAB 495 (1997).

⁵ *Cathy B. Millin*, 51 ECAB 331 (2000).

⁶ *Joseph P. Hofmann*, 57 ECAB ____ (Docket No. 05-1772, issued March 9, 2006).

⁷ *Dona M. Mahurin*, 54 ECAB 309 (2003); *Cathy B. Millin*, *supra* note 5.

⁸ *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

ORDER

IT IS HEREBY ORDERED THAT the June 14, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 11, 2007
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board