

**United States Department of Labor
Employees' Compensation Appeals Board**

H.A., Appellant

and

**DEPARTMENT OF DEFENSE, PENTAGON,
Washington, DC, Employer**

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**Docket No. 07-996
Issued: December 27, 2007**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 9, 2007 appellant filed an appeal of a February 1, 2007 decision of the Office of Workers' Compensation Programs approving the purchase of a twin-sized adjustable bed but denying purchase of a king-sized bed. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether the Office properly denied appellant's request for a king-sized adjustable bed. On appeal, appellant asserts that the Office erred by approving a twin-sized hospital bed as he desired a king-sized bed for his wife's personal convenience.

FACTUAL HISTORY

The Office accepted that on June 19, 1991 appellant, then a 31-year-old police officer, sustained a right cervical strain and cervical disc rupture while lifting a casket at a funeral. He returned to regular duty on July 2, 1991. The Office later accepted contusions of the right hip, coccyx and lumbar spine sustained when he slipped and fell on a metal ramp. The Office

authorized a C4-5 anterior discectomy and fusion performed on May 28, 1992 and a C5-6 fusion on October 14, 1992. He received compensation for periods of temporary total disability.¹

In a July 23, 2001 report, Dr. Michael Kuo, an attending Board-certified physiatrist, prescribed a hospital bed. He explained that the accepted cervical condition with radiculopathy prevented appellant from lying flat in a standard bed. In an August 17, 2001 letter, the Office authorized the purchase of a dual king-sized electric hospital bed. The Office reimbursed appellant \$3,699.00 for two Royal Twin Extra Long Adjustable Beds with pillow top mattresses.²

On May 9, 2005 appellant underwent an anterior discectomy and decompression with fixation from C3 to C6, authorized by the Office. In September 2006 he relocated from the Metropolitan Washington area to North Carolina.

Dr. Christopher R. Brown, an attending Board-certified orthopedic surgeon, performed a cervical laminoplasty with graft and plate on December 4, 2006. The Office approved the procedure.

In a December 19, 2006 slip, Dr. Brown prescribed an “adjustable air mattress bed.” He checked a box indicating that “product selection [was] permitted.” Appellant advised the Office that he desired a king-sized Select Comfort “sleep number” bed at a cost of \$7,205.61.

In a January 11, 2007 letter, the Office requested that Dr. Brown provide a medical opinion explaining why appellant required a king-sized adjustable bed.

In a January 16, 2007 chart note, Dr. Brown noted that appellant had been “trying to get a special bed; he is having a hard time sleeping in the cramped bed” he then used.

In a January 23, 2007 letter, Dr. Brown noted that appellant underwent a recent posterior cervical laminoplasty and had difficulty rising to a standing position. Dr. Brown recommended “an adjustable bed that allows the head of the bed as well as the foot of the bed to be raised and lowered. This would help [appellant] be more ambulatory and it would also help him recover from his surgery. Due to his myelopathy, he has a hard time getting in and out of a bed that is not adjustable.”

By decision dated February 1, 2007, the Office authorized the purchase of a Twin XL Precision Comfort Adjustable Foundation bed with a twin mattress, manufactured by Select Comfort. The Office authorized the full purchase price of \$1,973.80 and applicable set-up charges. The Office denied appellant’s request for two Twin XL foundations and a king-sized

¹ In July 1998, appellant began work at the Government Printing Office as a uniformed police officer. The Office accepted recurrences of disability commencing April 2, 1992, January 1, 2002, August 11, 2003 and April 4, 2006.

² By decision dated March 22, 2004, the Office denied appellant’s request to purchase an elliptical trainer. On March 29, 2004 the Office approved a one-year health club membership. By decision dated May 25, 2005, the Office granted appellant a schedule award for an 18 percent permanent impairment of the left upper extremity and a 10 percent impairment of the right upper extremity. The period of the award ran from April 26, 2005 to December 28, 2006.

mattress. The Office explained that, according to its procedures at Chapter 2.0810-15(b), a claimant who wanted an item more elaborate than needed for his or her own use, such as a queen-sized bed and not a twin-sized bed, was responsible for any costs beyond those for the basic item.

LEGAL PRECEDENT

Section 8103 of the Federal Employees' Compensation Act³ 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 the monthly compensation.⁴ In interpreting section 8103, the Board has recognized that the Office has broad discretion in approving services provided under the Act. The only limitation on the Office's authority is that of reasonableness.⁵ 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.⁶

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.⁷ This burden of proof includes providing supporting rationalized medical evidence.⁸ The Office's procedure manual discusses requests for equipment prescribed for treatment, such as hospital beds.⁹ The Office must evaluate the pertinent information received from the claimant and his physician and determine whether the equipment is necessary to treat the effects of the work-related injury and that its use will be consistent with the claimant's restrictions and safety.¹⁰ The Office's procedures provide that, if a claimant requests special medical equipment or furnishings and desires an item more elaborate than that prescribed, he or she is responsible for all costs above that of the basic item.¹¹

³ 5 U.S.C. §§ 8101-8193.

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

⁵ *Mira R. Adams*, 48 ECAB 504 (1997).

⁶ *Daniel J. Perea*, 42 ECAB 214 (1990).

⁷ *Cathy B. Mullin*, 51 ECAB 331 (2000).

⁸ *Id.*

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence, Health Facility Membership and Special Equipment*, Chapter 2.810.15.b (October 2005).

¹⁰ *Id.* at Chapter 2.810.15.a(1) (October 2005).

¹¹ *Id.* at Chapter 2.810.15.a(2)(b) (October 2005).

ANALYSIS

The Office accepted that appellant sustained ruptured cervical discs requiring multiple surgeries. Based on the prescription of Dr. Brown, an attending Board-certified orthopedic surgeon, the Office authorized the purchase of a twin-sized adjustable bed. Appellant has the burden of proof to establish that the Office abused its discretion by denying reimbursement for the king-sized adjustable bed he desired.

Appellant advised the Office that he wanted a king-sized adjustable bed costing \$7,205.61. The Office requested that Dr. Brown to explain why the accepted injuries necessitated a bed with those specifications. In a January 23, 2007 letter, Dr. Brown explained that appellant had difficulty getting in and out of a standard flat bed and rising to a standing position. He therefore required a bed that allowed the head and foot of the bed to be raised or lowered. Such a bed would assist appellant in remaining ambulatory and recovering from surgery. However, Dr. Brown did not opine that a king-sized bed was necessary to cure or give relief to appellant's accepted neck condition or to lessen the period of disability or amount of compensation. Dr. Brown stated in a January 16, 2007 chart note that appellant's present bed was "cramped" but did not address the size of the bed or if appellant required a larger bed. Therefore, in its February 1, 2007 decision, the Office authorized a twin-sized bed meeting Dr. Brown's specifications. The Office found that, according to its procedures, appellant would be responsible for any costs above that for a twin-sized bed as his desire for a more elaborate bed was unrelated to the treatment or relief of the accepted condition.

Dr. Brown's reports do not contain medical rationale explaining why appellant required a king-sized bed. He did not explain why appellant's post-surgical condition required a king-sized hospital bed to cure, give relief, lessen the period of disability or amount of monthly compensation. The Board has held that, in the absence of medical rationale explaining how and why a claimant required a king-sized hospital bed, the Office properly authorized a twin-sized hospital bed.¹² In the absence of such rationale, Dr. Brown's opinion is thus insufficient to meet appellant's burden of proof.¹³

The Office properly denied authorization for payment for a king-sized hospital bed. Such denial did not constitute an abuse of discretion.

CONCLUSION

The Board finds that the Office properly denied reimbursement of a king-sized adjustable bed as the medical evidence did not support the need for a bed larger than the twin-sized bed authorized by the Office.

¹² *Lee Haywood*, Docket Nos. 03-727 and 03-1005 (issued March 30, 2005).

¹³ *Deborah L. Beatty*, 54 ECAB 340 (2003).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 1, 2007 is affirmed.

Issued: December 27, 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