

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MONIQUE R. ATENCIO and FEDERAL BUREAU OF INVESTIGATION,
Albuquerque, NM

*Docket No. 01-595; Submitted on the Record;
Issued October 5, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether the paresthesia in appellant's left upper extremity on or after December 10, 1999 is causally related to her February 5, 1996 employment injury.

On February 5, 1996 appellant, then a 28-year-old special agent, dislocated her left shoulder while practicing defensive tactics in training. She stopped work the following day. The Office of Workers' Compensation Programs accepted her claim for left shoulder dislocation and approved surgery. Appellant returned to modified duty on April 10, 1996 as an investigative assistant. She received compensation for intermittent periods of disability. On September 30, 1996 appellant returned to regular duty.

On December 14, 1999 appellant filed a claim asserting that her left arm had a tingling sensation when she sat at her desk for long periods of time or when she slept at night. The Office requested that she submit a reasoned medical opinion from her physician on the causal relationship of her current condition and the original injury. Appellant replied:

"I have noticed since about December 10, 1999 my left arm, where it was injured has been falling asleep and getting tingles in it, while I am sleeping. I have had some numbness when I am sleeping or I am stationary for a long time. In December 1999 I made an appointment with Dr. Richard [A.] Rock in Albuquerque, NM, who treated my original injury. Dr. Rock filled out a prescription to get an EMG [electromyogram] test completed along with an exam[ination] with a neurologist. I have completed the exam[ination] with Dr. Feldman, the neurologist, however the EMG has not been completed as Dr. Feldman needs prior approval from your office for billing."

* * *

"The tingling sensation, numbness and the falling asleep of my arm only occurs in my left arm, where I was injured. I have never had any other health problems and/or surgeries. I have maintained a healthy lifestyle and my physicals always come out positive. This is the only health condition I have had since my injury.

What concerned me was that there could be possible nerve damage so I went to see Dr. Rock.

“Currently I am pending the EMG and a follow-up appointment with Dr. Rock. I have not made appointments because your office has not approved billing to either doctor, Drs. Rock and Feldman.”

On December 23, 1999 Dr. Rock, appellant’s attending physician, reported as follows:

“Her surgery was back on March 7, 1996. She had an AC [acromioclavicular] separation on the left. She still has a separation and some subluxation of the AC joint. Generally she is doing well and can use her shoulder. She also has some numbness in her left upper extremity particularly in the left forearm. There is no history of thyroid disease or diabetes. I want her to get those checked. While this might represent a carpal tunnel I would like her to get an EMG test for the left upper extremity to rule out any problems related to her previous injury of February 6, 1996. She will warrant permanent impairment subsequent to this. Before we give her the numbers for impairment I want her to get the current problems looked into. I will have her get a thyroid and diabetes check.”

On March 20, 2000 Dr. Rock followed up:

“She continues to have problems involving intermittent numbness in her left upper extremity. I asked that she obtain a nerve test on the left upper extremity. Her workman’s compensation carrier does not feel this to be appropriate. Dr. Feldman, in Denver, has also recommended the same. I suggest that the nerve test be done. I would ask Dr. Feldman to do it in the absence of getting it done in ABQ [Albuquerque], where there is a dearth of neurologists in practice.”

In a decision dated April 7, 2000, the Office denied appellant’s claim. The Office found that there was no physician’s opinion, with supporting rationale, as to the causal relationship between appellant’s current condition and the original injury. The Office denied medical treatment.

The Board finds that the medical evidence is insufficient to establish that the paresthesia in appellant’s left upper extremity on or after December 10, 1999 is causally related to her February 5, 1996 employment injury.

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, that the Office considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of any monthly compensation.¹ To be entitled to such medical services or supplies; however, the employee must establish that the expenditures are for

¹ 5 U.S.C. § 8103(a).

treatment of the effects of an employment-related injury. Proof of causal relation must include supporting rationalized medical evidence.²

Appellant sustained an injury while in the performance of her duties on February 5, 1996. The Office accepted her claim for left shoulder dislocation and approved surgery. Appellant currently seeks authorization for electrodiagnostic testing and follow-up appointments for the paresthesia in her left upper extremity. She therefore bears the burden of proof to establish that the requested examination and treatment is causally related to her February 5, 1996 employment injury.

In his December 23, 1999 and March 20, 2000 reports, appellant's attending physician, Dr. Rock, recommended an EMG for the left upper extremity to rule out any problems related to appellant's accepted employment injury. Dr. Rock did not explain whether the paresthesia in appellant's left upper extremity on or after December 10, 1999 is, to a reasonable degree of medical certainty, causally related to her February 5, 1996 employment injury. He did not provide any description of appellant's February 5, 1996 employment injury and her subsequent medical course, or medical rationale for relating her left upper extremity complaints with the accepted employment injury, the condition for which the EMG is requested. In the absence of such medical opinion evidence, the Board finds that the Office acted within its discretion in denying authorization for the requested examination and treatment.³

The April 7, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
October 5, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

² *Bertha L. Arnold*, 38 ECAB 282 (1986); *Delores May Pearson*, 34 ECAB 995 (1983); *Zane H. Cassell*, 32 ECAB 1537 (1981); *John R. Benton*, 15 ECAB 48 (1963).

³ The Office has broad discretionary authority in the administration of the Federal Employees' Compensation Act and must exercise such discretion to achieve the objectives of 5 U.S.C. § 8103. *Marjorie S. Geer*, 39 ECAB 1099 (1988).