



aggravation of high blood pressure and aggravation of adjustment reaction. Appellant was placed on the periodic rolls since 1982.

In a report dated February 22, 2002, Dr. Rex A. Outtrim, a Board-certified internist, admitted appellant to intensive care and subsequently performed a left and right heart catheterization and selective coronary angiography.

In a report dated April 19, 2002, the Office medical adviser, reviewed the reports of Dr. Outtrim and noted that appellant was admitted with electrocardiogram changes and chest pain. The Office medical adviser noted that appellant's workup included severe coronary artery disease, which was not related to the accepted condition of adjustment reaction. The Office medical adviser also stated that appellant had multiple risk factors for coronary artery disease and opined that aggravation of essential hypertension was a very small factor. The Office medical adviser concluded that the hospital admission was not related to the accepted conditions.

In a November 13, 2002 emergency room report, Dr. Robert S. Keddington, Board-certified in emergency medicine, indicated that appellant came in with severe chest pain. He noted appellant's prior history of cardiac disease, smoking, diabetes, hypertension and hypercholesterolemia. The physician determined that appellant was suffering from acute anterior myocardial ischemia with reciprocal changes in the limb leads, sinus rhythm, left axis deviation, acute myocardial infarction and probable anterior myocardial infarction. Dr. Keddington opined that appellant needed to be transferred to another facility as they did not have the facilities for open heart surgery.

In a report dated April 3, 2003, Dr. Gary P. Symkoviak, a Board-certified internist, indicated that he performed a heart catheter and stent placement on November 13, 2002. He opined that hypertension was a contributing factor to appellant's myocardial infarction.

By decision dated May 30, 2003, the Office denied authorization of payment for the outstanding bill of November 13, 2002.

On July 16, 2003 appellant requested a hearing via facsimile transmission.

By decision dated August 21, 2003, the Office denied appellant's request for an oral hearing on the grounds that the request was untimely. The Office found that appellant did not submit his request for an oral hearing within 30 days of the Office's May 30, 2002 decision and, therefore, he was not entitled to a hearing as a matter of right. Additionally, the Office considered the matter in relation to the issue involved and denied appellant's request on the basis that the issue could equally well be addressed through the reconsideration process.

### **LEGAL PRECEDENT -- ISSUE 1**

While the Office is obligated to pay for treatment of employment-related conditions, appellant has the burden of establishing that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.<sup>1</sup> In order to be entitled to reimbursement

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<sup>1</sup> *Debra S. King*, 44 ECAB 203, 209 (1992).

for medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury. Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.<sup>2</sup> Therefore, in order to prove that the medical treatment is warranted, appellant must submit evidence to show that the procedure was for a condition causally related to the employment injury and that the procedure was medically warranted. Both of these criteria must be met in order for the Office to authorize payment.<sup>3</sup>

### **ANALYSIS -- ISSUE 1**

In this case, the Office accepted appellant's claim for depression, temporary aggravation of high blood pressure and aggravation of adjustment reaction. Dr. Symkoviak, appellant's physician, opined that hypertension was a contributing factor to appellant's myocardial infarction. However, he did not provide a rationalized medical opinion establishing a causal relationship between appellant's accepted conditions and the November 13, 2002 treatment for appellant's myocardial infarction.

The Office medical adviser previously reviewed the record and provided a rationalized medical opinion established that appellant's coronary condition in February 2002, was not causally related to his September 21, 1981 employment injury. In his April 19, 2002 report, the Office medical adviser noted that appellant had multiple risk factors for coronary artery disease and aggravation of essential hypertension was a very small one. He therefore concluded that appellant's severe coronary artery disease was not related to his accepted condition. Appellant has failed to support the request for payment for treatment on November 13, 2002 with a rationalized medical opinion establishing a causal relationship between the accepted conditions and his November 13, 2002 myocardial infarction.

### **LEGAL PRECEDENT -- ISSUE 2**

Any claimant dissatisfied with a decision of the Office shall be afforded an opportunity for an oral hearing or, in lieu thereof, a review of the written record. A request for either an oral hearing or a review of the written record must be submitted, in writing, within 30 days of the date of the decision for which a hearing is sought.<sup>4</sup> A claimant is not entitled to a hearing or a review of the written record if the request is not made within 30 days of the date of the decision for which a hearing is sought. However, the Office has discretion to grant or deny a request that was made after this 30-day period.<sup>5</sup> In such a case the Office will determine whether a discretionary hearing should be granted and, if not, will so advise the claimant with reasons.<sup>6</sup>

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<sup>2</sup> *Id.*; *Bertha L. Arnold*, 38 ECAB 282 (1986).

<sup>3</sup> *Cathy B. Millin*, 51 ECAB 331, 333 (2000).

<sup>4</sup> 20 C.F.R. § 10.616(a) (1999).

<sup>5</sup> *Herbert C. Holley*, 33 ECAB 140 (1981).

<sup>6</sup> *Rudolph Bermann*, 26 ECAB 354 (1975).

**ANALYSIS -- ISSUE 2**

Appellant's request for an oral hearing was dated July 16, 2003 and the record reflects that it was transmitted via facsimile on the same date. The record does not contain a postmark. However, it does contain the facsimile transmittal date, which is July 16, 2003. As his request was received more than 30 days after the Office's May 30, 2003 decision, he is not entitled to a hearing as a matter of right. Moreover, the Office considered whether to grant a discretionary review and correctly advised appellant that the issue of whether appellant sustained an injury in the performance of duty could equally well be addressed by requesting reconsideration.<sup>7</sup>

**CONCLUSION**

The Board finds that the Office properly denied authorization for payment for treatment received on November 13, 2002. The Board further finds that the Office properly denied appellant's untimely request for an oral hearing.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 21 and May 30, 2003 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 19, 2004  
Washington, DC

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>7</sup> The Board has held that a denial of review on this basis is a proper exercise of the Office's discretion. *E.g.*, *Jeff Micono*, 39 ECAB 617 (1988).