

FACTUAL HISTORY

On June 22, 1999 appellant, then a 45-year-old vehicle operations maintenance assistant, claimed to have injured his right knee as he stepped off a curb while in the performance of duty. On June 26, 2008 he claimed a new work-related right knee injury when his right knee buckled in the performance of duty. Appellant retired effective January 2, 2009 and began working for a private employer.

OWCP accepted torn lateral meniscus of the right knee, old disruption of the right anterior cruciate ligament (ACL), and traumatic arthropathy of the right pelvic and thigh region. Appellant's claim later accepted sprained neck, spinal stenosis in cervical region, and displacement of cervical intervertebral disc without myelopathy following a September 30, 2014 consequential injury.

OWCP approved multiple surgical procedures, including an April 8, 2009 medial and lateral meniscectomy, hemocyte tissue graph, and chondroplasty of the patella, medial femoral condyle, and lateral femoral. It approved a March 31, 2011 right knee arthroscopic ACL surgery, removal of the synovium and/or adhesions, arthroscopic meniscus surgery, patellofemoral extensor autologous soft tissue transfer, and platelet gel patch. OWCP authorized a February 20, 2012 arthroscopic retinacular/capsular ligament release, arthroscopic meniscectomy, and soft tissue transfer of the right knee. On October 28, 2013 it authorized right knee arthroscopic meniscus repair/lateral repair, removal of adhesions, and extensor mechanism surgery.³

On October 22, 2014 appellant requested authorization for a truck with a high wheel base to assist him in getting in and out of his vehicle. He subsequently submitted an October 15, 2014 report from Dr. John McConnell, a Board-certified orthopedic surgeon, who advised that appellant related that he had difficulty entering and exiting a standard vehicle and needed a high wheel based vehicle. Examination of the right knee revealed a stable ACL, quad weakness and deconditioning, 0 to 125 degrees range of motion, and recurrent pain. Dr. McConnell diagnosed knee pain, quadriceps atrophy, stiffness, and neck pain. He noted that appellant related that assistance was available from his insurance to help him access a high wheel based vehicle, such as a truck, if appellant could provide medical confirmation that he needed it subsequent to his knee injury. Dr. McConnell noted that he agreed with appellant's need for a high wheel based vehicle. He also wrote a prescription for a high wheel based vehicle, such as a truck.

OWCP referred the case file, together with the statement of accepted facts, to an OWCP medical adviser for review. In a February 3, 2015 report, the medical adviser opined that a high wheel vehicle, such as a truck, was not medically necessary. He noted that appellant had normal range of motion in the right knee and that right knee strength was not primary for entering the driver side of a vehicle. The medical adviser further opined that appellant's right knee problems as described would indicate easier entrance and egress from a standard type vehicle.

³ On June 28, 2010 appellant received a schedule award for 12 percent right leg impairment and, on March 25, 2013, he received a schedule award for an additional 7 percent right leg impairment. On February 5, 2015 he found that he did not have more than 19 percent total impairment of the right leg for which he had previously received schedule awards. The Board does not have jurisdiction over this decision. *See id.*

By decision dated May 13, 2015, OWCP denied authorization for the purchase of a high wheel based vehicle, such as a truck, because the medical evidence failed to establish that a truck was medically reasonable and necessary in the treatment of appellant's work-related conditions.

LEGAL PRECEDENT

Section 8103(a) of FECA provides for furnishing an injured employee the services, appliances, and supplies prescribed or recommended by a qualified physician, which OWCP, under authority delegated by the Secretary of Labor, considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation. OWCP has great discretion in determining whether a particular type of treatment is likely to cure or give relief.⁴

OWCP procedures discuss requests for vehicle modification and/or purchase of new vehicles.⁵ To be eligible for vehicle modification, a claimant must be severely restricted in terms of mobility and independence, in normal living functions, on a permanent basis, due to the work-related injury. Examples are impairments that require the use of a prosthesis, wheelchair, leg braces, crutches, canes, and self-help devices.⁶ OWCP procedures provide that modifications must be established as necessary and desirable for increased mobility or independence by a recommendation of a physiatrist or other medical specialist appropriate to the type of injury sustained.⁷ Modifications of a claimant's present vehicle must be explored before considering a new purchase.⁸ If it is established that a claimant cannot drive his or her present car due to the inability to place a wheelchair in it without assistance or it is not practical to modify the present vehicle, OWCP will pay for a suitable car or van (if necessary).⁹

ANALYSIS

Appellant contended that the purchase of a high wheel based vehicle was medically necessary. The Board finds that OWCP did not abuse its discretion in denying his request.

In support of his request for a new high wheel based vehicle such as a truck, appellant submitted an October 15, 2014 report from Dr. McConnell. Dr. McConnell noted that appellant complained of trouble entering and exiting a standard vehicle and related that he needed a high wheel based vehicle such as a truck. He agreed that a high wheeled vehicle was medically necessary and also wrote a prescription for such a vehicle. Dr. McConnell did not provide a specific description of appellant's restrictions or physical limitations which necessitated a high

⁴ *Thomas Lee Cox*, 54 ECAB 509 (2003); *Stella M. Bohlig*, 53 ECAB 341 (2002).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Housing and Vehicle Modifications*, Chapter 2.1800 (October 2009). See *M.B.*, Docket No. 06-701 (issued December 4, 2006).

⁶ See *id.* at Chapter 2.1800.3.

⁷ See *id.* at Chapter 2.1800.5(a)(1).

⁸ See *id.* at Chapter 2.1800.5(a)(2).

⁹ See *id.* at Chapter 2.1800.5(a)(4).

wheel base motor vehicle. Further, he did not provide any detailed findings or reasoned explanation for his conclusion. Medical opinions that lack a rationale for the opinion are of diminished probative value.¹⁰

The medical adviser, on February 3, 2015, opined that the purchase of a truck was not medically necessary. He noted that appellant had normal range of motion in the right knee and that right knee strength was not primary for entering the driver side of a vehicle. The medical adviser further opined that appellant's right knee problems as described would indicate that easier entrance and egress would be from a standard type vehicle.

An 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.¹¹ OWCP has broad discretion pursuant to section 8103 of FECA to determine whether purchase of a truck is likely to cure or give relief for the accepted employment-related injury. As Dr. McConnell offered no medical rationale to explain why appellant needed a truck due to the accepted conditions, OWCP did not abuse its discretion in this case. There is no probative medical evidence of record explaining the need for a truck.¹²

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP did not abuse its discretion by denying appellant's request for purchase of a high wheel based motor vehicle.

¹⁰ See *William D. Farrior*, 54 ECAB 566, 569 (2003).

¹¹ *Gerald A. Carr*, 55 ECAB 225 (2004).

¹² *M.B.*, Docket No. 06-701 (issued December 4, 2006); *Thomas Lee Cox*, 54 ECAB 509 (2003); *Stella M. Bohlig*, 53 ECAB 341 (2002).

ORDER

IT IS HEREBY ORDERED THAT the May 13, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 4, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board