

CHARLES ANDREWS, JR. )  
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 Claimant-Petitioner )  
 )  
 v. )  
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 ELECTRIC BOAT CORPORATION ) DATE ISSUED: JUN 12,  
 ) 2003  
 Self-Insured )  
 Employer-Respondent )

DECISION and ORDER

Appeal of the Decision and Order of Richard K. Malamphy,  
Administrative Law Judge, United States Department of Labor.

Scott N. Roberts, Groton, Connecticut, for claimant.

Conrad M. Cutcliffe (Cutcliffe Glavin & Archetto), Providence, Rhode  
Island, for self-insured employer.

Before: SMITH, McGANERY and GABAUER, Administrative Appeals  
Judges.

PER CURIAM:

Claimant appeals the Decision and Order (01-LHC-0995) of Administrative Law Judge Richard K. Malamphy rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). We must affirm the administrative law judge's findings of fact and conclusions of law if they are supported by substantial evidence, are rational, and are in accordance with law. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

On March 8, 1985, claimant suffered a work-related injury to his low back while working for employer at Quonset Point, Rhode Island. Employer voluntarily paid claimant some compensation under the Act; the last payment was made on October 3, 1985. EX 7. Thereafter, claimant filed a claim for compensation under the Rhode Island Workers' Compensation Act and was awarded total disability benefits, subsequently reduced to partial, by the Rhode Island Workers' Compensation Court. EX 13, 14. On February 4, 1992, the state approved claimant's request that his future benefits be commuted on the basis of a lump

settlement of \$40,000. EX 9.<sup>1</sup> Claimant subsequently retained a new attorney, and, on December 16, 1999, filed a claim for benefits under the Act for the March 8, 1985 injury. CX 1.

In his decision, the administrative law judge found that claimant's December 16, 1999, claim is barred by the one-year statute of limitations set forth in Section 13(a) of the Act, 33 U.S.C. §913(a). Specifically, the administrative law judge found that employer filed a Section 30(a) report, 33 U.S.C. §930(a), on March 15, 1985, EX 1, such that the time for filing a claim was not tolled pursuant to Section 30(f), 33 U.S.C. §930(f).<sup>2</sup> Consequently, the administrative law judge denied claimant compensation benefits for his 1985 injury. The decision is silent on the issue of medical benefits under Section 7 of the Act, 33 U.S.C. §907.

On appeal, claimant does not contest the administrative law judge's determination that his claim for compensation is time-barred under the Act. Nonetheless, claimant argues that the administrative law judge erred in not awarding him medical benefits for his work injury, pursuant to Section 7, because the right to seek medical treatment is never time-barred. Employer responds, urging rejection of claimant's contention.

Initially, we affirm the administrative law judge's finding that claimant's 1999 claim for compensation benefits under the Act is barred pursuant to Section 13(a), as that finding is not challenged on appeal. Moreover, we reject claimant's contention that the administrative law judge erred in not awarding him medical benefits. The right to seek medical treatment is never time-barred. See, e.g., *Siler v. Dillingham Ship Repair*, 28 BRBS 38 (1994). Claimant, however, did not allege below, nor has he alleged on appeal, that he needs additional medical treatment for his work injury, that he sought authorization for treatment that was denied by employer, or that he has incurred medical expenses which have not been reimbursed. Claimant can file a claim for medical benefits if and when medical treatment becomes necessary. See generally *Ingalls Shipbuilding, Inc. v. Director*,

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<sup>1</sup>Claimant also signed a general release of employer's liability on January 29, 1992, in consideration for the payment of the \$40,000 lump sum. EX 10. The State's final report of payment is dated March 12, 1992. EX 11.

<sup>2</sup>The administrative law judge also noted that the United States Court of Appeals for the First Circuit, within whose jurisdiction this case arises, stated in *dicta*, that the filing of a state claim does not toll the statute of limitations pursuant to Section 13(d), 33 U.S.C. §913(d). *Bath Iron Works Corp. v. Director, OWCP [Acord]*, 125 F.3d 18, 31 BRBS 109 (CRT)(1<sup>st</sup> Cir. 1997).

*OWCP [Baker]*, 991 F.2d 163, 27 BRBS 14 (CRT)(5<sup>th</sup> Cir.1993). Thus, as claimant has not demonstrated any error in the administrative law judge's decision, we affirm the Decision and Order denying benefits.

Accordingly, the administrative law judge's Decision and Order is affirmed.

SO ORDERED.

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ROY P. SMITH  
Administrative Appeals Judge

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REGINA C. McGRANERY  
Administrative Appeals Judge

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PETER A. GABAUER, JR.  
Administrative Appeals Judge