

HAL E. ENGLAND )  
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 Claimant-Petitioner )  
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 v. )  
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 SEA RAY BOATS, INCORPORATED ) DATE ISSUED: 09/22/2006  
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 and )  
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 INSURANCE COMPANY OF THE STATE )  
 OF PENNSYLVANIA )  
 )  
 Employer/Carrier- )  
 Respondents ) DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Stephen L. Purcell, Administrative Law Judge, United States Department of Labor.

John M. Schwartz (Blumenthal, Schwartz & Saxe, P.A.), Titusville, Florida, for claimant.

Michael F. Wilkes (Wilkes & Hedrick, P.A.), Melbourne, Florida, for employer/carrier.

Before: SMITH, McGRANERY and BOGGS, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order Denying Benefits (2004-LHC-2452) of Administrative Law Judge Stephen L. Purcell 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 findings of fact and conclusions of law of the administrative law judge which are rational, supported by substantial evidence and in accordance with law. *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3).

Claimant, a bilge assembler, worked for employer for approximately six months from November 2000 to May 2001 during which time he worked with chemicals. Claimant sought compensation and medical benefits for his asthma, which he contended was caused or aggravated by his exposure to noxious fumes on the job site.

In his Decision and Order, the administrative law judge found claimant entitled to the Section 20(a), 33 U.S.C. §920(a), presumption of causation based upon his establishment of a harm, *i.e.*, asthma, and the existence of working conditions, *i.e.*, exposure to hazardous chemicals and fumes, that could have caused or aggravated this condition. The administrative law judge found that employer did not present substantial evidence rebutting the Section 20(a) presumption. Decision and Order at 24. However, the administrative law judge further determined that claimant failed to establish that he suffered any ongoing disability or that he was unable to return to his previous employment due to his asthma. Accordingly, he denied disability as well as medical benefits.

Claimant appeals, arguing the administrative law judge failed to comply with the requirements of the Administrative Procedure Act (APA) in denying him medical benefits without explanation. Employer responds, urging affirmance.

A claimant's entitlement to medical benefits is governed by Section 7 of the Act. 33 U.S.C. §907. In order for medical care to be compensable it must be appropriate for the work injury and related to it.<sup>1</sup> *Turner v. Chesapeake & Potomac Telephone Co.*, 16 BRBS 255 (1984). It is well established that claimant need not be economically disabled in order to be entitled to medical benefits. *Ingalls Shipbuilding, Inc. v. Director, OWCP [Baker]*, 991 F.2d 163, 27 BRBS 14(CRT) (5<sup>th</sup> Cir. 1993); *Romeike v. Kaiser Shipyard*, 22 BRBS 57 (1989); *Ballesteros v. Willamette Western Corp.*, 20 BRBS 184 (1988). Rather, claimant need establish only that medical care is reasonable and necessary for the treatment of the work injury. *See generally Baker*, 991 F.2d 163, 27 BRBS 14(CRT); *Schoen v. United States Chamber of Commerce*, 30 BRBS 112 (1996); *Wheeler v. Interocean Stevedoring, Inc.*, 21 BRBS 33 (1988).

In denying medical benefits, the administrative law judge's only discussion of the issue consists of the following statement:

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<sup>1</sup> The administrative law judge's finding that claimant's asthma was aggravated by his employment is affirmed as it is unchallenged on appeal.

Because Claimant has failed to show he could not return to his former employment due to his aggravated asthma, he has not proved disability. As a result, under the Act, Claimant is not entitled to disability compensation, nor is he entitled to medical benefits.

Decision and Order at 26. The APA requires that every adjudicatory decision be accompanied by a statement of “findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law or discretion presented on the record.” 5 U.S.C. §557(c)(3)(A). An administrative law judge must independently discuss the relevant evidence, specify the evidence upon which he relied, and provide a rationale for his conclusion. *Marinelli v. American Stevedoring, Ltd.*, 34 BRBS 112 (2000), *aff’d*, 248 F.3d 54, 35 BRBS 41(CRT) (2<sup>d</sup> Cir. 2001); *Williams v. Newport News Shipbuilding & Dry Dock Co.*, 17 BRBS 61 (1985).

In this case, the administrative law judge did not provide a rational basis for the denial of medical benefits. In his pre-hearing statement, claimant specifically stated he was requesting authorization to treat with Dr. Brodnan, a pulmonologist, and seeking payment of outstanding bills from Dr. Brodnan and Wuesthoff Hospital. In his post-hearing brief, claimant also sought an order that employer provide medical care for his asthma. The administrative law judge noted that claimant’s entitlement to medical benefits was an outstanding issue. Decision and Order at 2. As claimant raised a claim for medical benefits, and as the absence of a disability is an insufficient basis by which to deny such care, we must vacate the denial of medical benefits and remand the case for the administrative law judge to address the medical benefits issues raised by the parties. *Buckland v. Dep’t of the Army/NAF/CPO*, 32 BRBS 99 (1997).

Accordingly, the administrative law judge's Decision and Order Denying Benefits is vacated with respect to the denial of medical benefits, and the case is remanded for further consideration consistent with this opinion. In all other respects, the administrative law judge's decision 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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JUDITH S. BOGGS  
Administrative Appeals Judge