

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DWIGHT J. WILLIAMS and U.S. POSTAL SERVICE,
POST OFFICE, Columbus, OH

*Docket No. 98-949; Submitted on the Record;
Issued December 6, 1999*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant is entitled to a purchase of an electric lift chair for the residuals from his March 6, 1963 employment injury.

The Office of Workers' Compensation Programs accepted appellant's condition for aggravation of preexisting synovitis, osteochondral bodies and hypertrophied bone of right knee, aggravation of osteoarthritis of the left knee secondary to the right knee, and osteoarthritis of the ankle. Appellant underwent multiple surgeries for his condition. In an undated letter received by the Office on November 5, 1986, appellant stated that he had moved to an apartment because he could no longer do normal maintenance that the average home required. Appellant retired on January 3, 1988. The progress note of appellant's treating physician, Dr. Kendrick, a Board-certified orthopedic surgeon, dated November 20, 1991 indicated appellant was planning on going to Florida because his son was dying of cancer.

By letter dated October 22, 1992, appellant requested the purchase of a lift chair pursuant to the recommendation of his treating physician, Dr. Ronald E. Kendrick, a Board-certified orthopedic surgeon.

By letter dated November 12, 1992, the Office requested additional information from appellant regarding this request.

In a report dated October 26, 1994, Dr. Kendrick updated his treatment of appellant, stating that appellant had been under his care since 1981 for multiple musculoskeletal problems involving major joints including both knees and his left ankle and his foot. He noted that he performed an open reduction for a subcapital fracture of appellant's right hip and right ulna in 1989 when he fell out of a tree while he was trimming some branches. Dr. Kendrick stated that since that time, appellant had developed a significant difficulty with his neck and left shoulder as revealed on recent x-rays. He stated that the x-ray films showed advanced cervical spondylosis and upward migration of the proximal humerus in the joint indicative of a high grade rotator cuff

tear. Dr. Kendrick stated that appellant maintained a reasonably active lifestyle in spite of his overwhelming musculoskeletal problems.

By letter dated December 9, 1994, appellant stated that he went to Florida for the winter because he could not shovel snow or walk on ice. Appellant stated that it had become “so difficult to get up and down” due to the pain in his knees that he lifted himself with his arms but now the left shoulder had been damaged and Dr. Kendrick diagnosed arthritis. He stated that Dr. Kendrick indicated that a lift chair might be advantageous since he was having the shoulder problem.

By letter dated November 1, 1995, Dr. Kendrick stated that appellant was currently under his care for multiple orthopedic problems including a severely degenerated right knee which had been previously infected and a degenerated left knee for which a total knee arthroplasty was performed and which currently had a failed patellar component which needed revision. He stated that appellant also had deformity and arthritis in his left ankle and foot and it was increasingly difficult for him to stand up from a sitting position. Dr. Kendrick stated that appellant’s general health precluded operative intervention in the foreseeable future, but appellant would benefit from the use of a lift chair in his home which would provide the assistance that he needed in standing up from a sitting position which was due to the pain and associated weakness of both knees.

In a report dated September 6, 1996, Dr. Kendrick stated that the lift chair he recommended was electric powered and was designed to assist people in standing up from a sitting position. He reiterated that appellant was having increased difficulty with both knees which contributed primarily to his dysfunction in standing up from a sitting position. Dr. Kendrick said that appellant’s quadriceps muscles had become weaker over the years that he had chronic job-related knee conditions which interfered with his ability to stand up from a sitting position. He stated that he anticipated the duration of the need for the remainder of appellant’s life. Dr. Kendrick stated that lift chairs were extremely effective in accomplishing the desired end or feat of standing from a sitting position. He stated that the lift chair would not improve appellant’s underlying condition “to any material extent, but should be looked upon as a substitute for the function which he lost as the result of his job-related conditions to his knees.”

In an undated letter, the Office medical adviser stated Dr. Kendrick’s reasoning for appellant’s need for a lift chair was “rather unacceptable.” The Office medical adviser stated:

“If patient has sufficient weakness in his legs, there is a potential for him to fall and sustain further injury. Furthermore, he has had left total knee replacement and as per the available record it was stable. If patient is strong enough to maintain erect posture and walk, he should be able to stand from sitting position and some use of upper extremities. Also, as per the available record, patient maintained an active lifestyle and had (what would seem like) vacationed in Florida.”

By decision dated December 2, 1996, the Office denied appellant’s request for a lift chair, stating that the evidence of record failed to demonstrate that appellant’s medical condition

or disability warranted the purchase of a lift chair as a result of the March 6, 1963 employment injury.

By letter dated January 2, 1997, appellant requested a review of the written record by an Office hearing representative. Appellant stated that he was having a much more difficult time walking and standing up, especially from a chair or couch. He stated that he tried a lift chair in several stores and found they were a big help in “getting up.”

By decision dated October 7, 1997, the Office hearing representative affirmed the Office’s December 2, 1996 decision.

The Board finds that this case is not in posture for decision.

Under section 8103 of the Federal Employees’ Compensation Act, the Office has the authority to provide medical services, appliances and supplies to an employee injured while in the performance of duty which the Office considers likely to cure, give relief, reduce the degree or period of disability or aid in lessening the amount of monthly compensation.¹ In interpreting section 8103, the Board had recognized that the Office has broad discretion in approving services provided under the Act.² The Office has the general objective of ensuring that an employee recovers from his or her injury to the fullest extent possible in the shortest amount of time. The Office, therefore, had broad administrative discretion in choosing means to achieve this goal.³ The only limitation on the Office’s authority is that of reasonableness.⁴ As the only limitation on the Office’s authority is reasonableness, 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 known facts.⁵

In the present case, in his September 6, 1996 report, Dr. Kendrick explained that appellant’s quadriceps muscles had become weaker over the years that he had chronic job-related knee conditions which interfered with his ability to stand up from a sitting position. He stated that while the lift chair would not improve appellant’s underlying condition “to any material extent,” it would serve as a substitute for the function which he lost as the result of his job-related conditions to his knees. In his November 1, 1995 report, Dr. Kendrick also recommended the lift chair to assist appellant in standing up from a sitting position which was increasingly difficult for appellant to do due to his work-related knee problems. In his October 26, 1994 report, Dr. Kendrick opined that due to an accident in 1989 when appellant fell out of a tree, based on x-rays, appellant had cervical spondylosis and upward migration of the proximal humerus in the joint indicative of a high grade rotator cuff tear. In his December 9, 1994 letter, appellant explained that because his knee condition worsened, he had to use his arms

¹ 5 U.S.C. § 8103.

² *Janice Kirby*, 47 ECAB 220, 225 (1995); *Daniel J. Perea*, 42 ECAB 214 (1990).

³ *Janice Kirby*, *supra* note 2; see *M. Lou Reisch*, 34 ECAB 1001 (1983).

⁴ *Joe F. Williamson*, 36 ECAB 494 (1985).

⁵ *Janice Kirby*, *supra* note 2.

to lift himself out of a chair but with his shoulder injury, it was difficult. The Office, however, did not consider the effect of appellant's shoulder injury which was supported by x-rays on appellant's already impaired ability to stand from a sitting position.

The Office medical adviser's opinion that appellant did not require a lift chair because he was "reasonably active" and "vacationed" in Florida is not sufficiently rationalized. While in his October 26, 1994 report, Dr. Kendrick stated that appellant lead a "reasonably active lifestyle," the phrase is general and vague. Further, just because appellant went to Florida, does not mean that appellant was active. It is also not clear from the record how often appellant went to Florida. In his November 5, 1986 letter, appellant stated he moved into an apartment because he could no longer do the average maintenance a home required. Appellant stated in his December 9, 1994 letter that he went to Florida to avoid shoveling snow and walking on ice. Dr. Kendrick's November 20, 1991 progress note indicated that appellant was going to Florida because his son who lived there was dying of cancer. The Office medical adviser also did not consider the significance of appellant's shoulder condition on whether that increased his need for a lift chair.

Since the Office did not consider the effect of appellant's shoulder condition on his work-related knee condition in terms of whether it further impaired appellant's ability to stand from a sitting position, the case will be remanded for the Office to make a finding on this issue.

The decision of the Office of Workers' Compensation Programs dated October 7, 1997 is hereby set aside and the case remanded for further action consistent with this opinion.

Dated, Washington, D.C.
December 6, 1999

David S. Gerson
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member