

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FREDERICK ECKLEY and DEPARTMENT OF THE ARMY,
ARMY CORPS OF ENGINEERS, Philadelphia, PA

*Docket No. 99-1101; Submitted on the Record;
Issued July 11, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant has met his burden of proof to establish that he sustained a recurrence of disability on February 11, 1997 which was causally related to his accepted July 20, 1989 employment-related deep venous thrombosis.

On July 21, 1989 appellant, then a 47-year-old crane operator, filed a claim for a traumatic injury alleging that he injured his right leg when he fell while performing his duties. He stopped work. On September 5, 1989 the Office of Workers' Compensation Programs accepted appellant's claim for deep venous thrombosis (DVT), left leg and paid compensation benefits. On September 11, 1989 appellant returned to work, having been medically released to light duty with a gradual increase to full duty. On February 18, 1997 he filed a claim for recurrence of disability beginning February 11, 1997. By decision dated October 9, 1997, the Office denied appellant's claim on the grounds that the medical evidence did not establish a causal relationship between the claimed recurrence and appellant's accepted employment injuries. Appellant requested an oral hearing, but later amended his request to one for a review of the written record. In a decision dated March 31, 1998, an Office hearing representative affirmed the Office's October 9, 1997 decision. Subsequently, in a decision dated July 13, 1998, the Office denied appellant's request for reconsideration on the grounds that the arguments raised were not sufficient to warrant merit review of the prior decision.

The Board has duly reviewed the entire case record on appeal and finds that this case is not in posture for decision.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent disability for which he claims compensation is causally related to the accepted injury.¹ This burden includes the necessity of furnishing evidence from a qualified

¹ *Alfredo Rodriguez*, 47 ECAB 437 (1996); *Jose Hernandez*, 47 ECAB 288 (1996).

physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.² In the present case, appellant has submitted evidence which suggests that the claimed recurrence of disability was causally related to his accepted July 20, 1989 employment injury. Appellant submitted several reports by his treating physician, Dr. Robert A. Centrone, an osteopath, who concluded that appellant's current condition was causally related to his prior accepted injury. In his most detailed report dated June 24, 1997, Dr. Centrone noted that in 1989 appellant sustained a work-related DVT in his left leg when he sustained an endothelial injury to his leg in a fall. He noted that, at the time of his initial injury, appellant was also diagnosed with a pulmonary embolism which occurred as a result of the DVT. Dr. Centrone added that Dr. Ahmadine, who treated appellant at the time of his initial injury, "indicated that the size of the clot meant that the injury would be permanent and that [appellant] would suffer recurrent DVT's and pulmonary thrombosis throughout his lifetime despite the use of medication (coumadin-anticoagulant)." He further stated:

"In 1990, a recurrent DVT occurred which had migrated to his right leg due to the large size of his left DVT and the fact that it was overwhelming the anticoagulant he was taking at the time.

"In 1995, a recurrent right DVT occurred for the same reasons. Each episode resulted in a complicated hospital stay. [Appellant] also suffered a recurrence in 1997. The reason for the gaps in recurrence is a simple one. We always attempt to wean patients from coumadin due to its potential, harmful side effects. This patient's job exposes him to great risk as a fall could result in a fatal bleed. In [appellant's] case his DVT would worsen during the periods when the coumadin was stopped.

"In 1997, after another recurrence of DVT and pulmonary embolism while on medicine he required hospitalization and the placement of a vena cava filter device to guard against large pulmonary embolism, stroke and death. In summary, it can be said that [appellant's] original injury directly caused all of the recurrences he suffered from that date on...."

While the reports by Dr. Centrone are not sufficient to carry appellant's burden of proof to establish that appellant's claimed recurrence is causally related to his accepted employment injury, as the physician fails to adequately explain his conclusion of causal relationship in light of evidence in the record which establishes that appellant sustained at least two intervening leg injuries in 1990 and 1996, the Board finds that this medical evidence raises an uncontroverted³ inference of causal relationship between appellant's 1997 recurrence of disability and his

² *Id.*

³ Although the Office hearing representative stated in the March 31, 1998 decision that an Office medical adviser had been consulted, the record does not contain either the Office medical adviser's opinion or any other documentation generated from the consultation.

accepted employment injury and is sufficient to require further development of the case record by the Office.⁴

On remand, the Office should further develop the medical evidence by referring appellant and a statement of accepted facts to an appropriate Board-certified specialist for a rationalized medical opinion on the issue of whether appellant's recurrent thrombosis and associated pulmonary embolism is causally related to his accepted employment injury. After such development of the case record as the Office deems necessary, the Office should issue an appropriate decision.

The decisions of the Office of Workers' Compensation Programs dated July 13 and March 31, 1998 are set aside and the case is remanded for further proceedings consistent with this decision.

Dated, Washington, D.C.
July 11, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Michael E. Groom
Alternate Member

⁴ 20 C.F.R. § 10.11(b); *see also John J. Carlone*, 41 ECAB 354 (1989).