

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CLINTON ARRINGTON and U.S. POSTAL SERVICE,
PROCESSING & DISTRIBUTION CENTER, Montgomery, AL

Docket No. 99-691; Submitted on the Record;
Issued May 22, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant has established that his March 21, 1997 employment injury resulted in disability beginning March 25, 1998 or in the left shoulder surgery proposed by his attending physician.

On March 21, 1997 appellant filed a claim for severe pain in his left shoulder and upper arm sustained on that date by hooking up a postal container. Appellant did not stop work, but was assigned limited duty not involving operation of moving equipment. The Office of Workers' Compensation Programs accepted that the March 21, 1997 injury resulted in a left shoulder strain and left shoulder impingement. Appellant continued such limited duty until he retired from the employing establishment effective March 25, 1998.

On March 23, 1998 appellant filed a claim for a recurrence of disability. A March 23, 1998 note from a human resources specialist at the employing establishment notes that some of the blocks on the recurrence form were not completed and that the supervisor's portion of the form needed to be completed. On May 7, 1998 appellant filed another claim for a recurrence of disability, indicating that his disability was related to his March 21, 1997 employment injury, he stopped work following the recurrence on March 25, 1998 when he retired and claimed that periodic pain had never ceased since the initial injury.

By letter dated July 10, 1998, the Office advised appellant that the evidence indicated that the proposed surgery may be due to a preexisting problem and that it needed a medical report showing it was related to his March 21, 1997 employment injury. By decision dated September 3, 1998, the Office found that the medical evidence failed to establish that his claimed recurrence of disability was causally related to his March 21, 1997 injury. By decision dated September 14, 1998, the Office vacated its September 3, 1998 decision and denied appellant's claim for a recurrence of disability and for shoulder surgery at the Office's expense.

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence, a recurrence of total disability and to show that he or she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.¹

The Board finds that appellant has not established that he sustained a recurrence of disability beginning March 25, 1998 due to his March 21, 1997 employment injury.

In a report dated March 26, 1998, appellant's attending physician, Dr. Roland A. Hester, noted that appellant had retired from the employing establishment the previous day and that he was still having some pain in his shoulder. Dr. Hester did not state that appellant was unable to perform the limited duty he had been performing since his March 21, 1997 employment injury. In a report dated July 22, 1998, he stated that appellant's shoulder pain had become worse and that he wanted to have surgery to correct it. Dr. Hester did not state that appellant's shoulder pain was disabled for work beginning March 25, 1998 or any time thereafter. The medical evidence does not establish that a change in appellant's injury-related condition that prevented him from continuing to perform his limited duty.

Section 8103(a) of the Federal Employees' Compensation Act states in pertinent part "The United States shall furnish to an employee who is injured while in the performance of duty the services, appliances and supplies prescribed or recommended by a qualified physician, which 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."² The Office's obligation to pay for medical treatment under this section extends only to treatment for employment-related conditions and appellant has the burden of establishing that the requested treatment is for the effects of an employment injury.³

The Board finds that appellant has not established that the surgery proposed by Dr. Hester is for the effects of his March 21, 1997 employment injury.

In a note dated June 5, 1998, Dr. Hester recommended that appellant have surgery on his left shoulder. None of Dr. Hester's reports, however, indicate that this proposed surgery is for the effects of appellant's March 21, 1997 employment injury. In his July 22, 1998 report, Dr. Hester noted that he first saw appellant on May 8, 1997 "with the history that he had injured his shoulder a week prior at work," and that appellant's "MRI [magnetic resonance imaging] and physical findings would be consistent with this injury immediately prior to presentation to me." Dr. Hester then stated, "I do believe his current problem is most likely related to his most recent injury." This report does not show that the proposed surgery is related to appellant's March 21,

¹ *Terry R. Hedman*, 38 ECAB 222 (1986).

² 5 U.S.C. § 8103(a).

³ *Zane H. Cassell*, 32 ECAB 1537 (1981).

1997 employment injury. Instead, it lends some support to the surgery's relationship to an injury occurring about May 1, 1997. The case record contains no indication appellant sustained an employment injury on or about that date. Appellant has not established that the proposed surgery is for the effects of his March 21, 1997 employment injury.

The decision of the Office of Workers' Compensation Programs dated September 14, 1998 is affirmed.

Dated, Washington, D.C.
May 22, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member