

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RICHARD E. FLOYD and DEPARTMENT OF THE NAVY,
CONSTRUCTION BATTALION CENTER, Gulfport, MS

*Docket No. 00-1055; Submitted on the Record;
Issued January 26, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has established a recurrence of disability.

The case was before the Board on a prior appeal. In a decision dated December 10, 1998, the Board remanded the case "for further development of the medical evidence on the issue of whether appellant had an employment-related disability commencing on August 9, 1990."¹ Following return of the case record, the Office of Workers' Compensation Programs sent appellant a January 15, 1999 letter and a copy of an April 29, 1996 letter requesting additional factual and medical evidence. Appellant responded by letter dated February 11, 1999, with accompanying medical evidence.

In a decision dated March 17, 1999, the Office denied appellant's claim for a recurrence of disability.

The Board finds that the Office has not sufficiently developed the medical evidence, as directed by the Board in its prior decision.

In a decision dated August 3, 1995, an Office hearing representative had found that the medical evidence was sufficient to warrant further development, if it could be established that appellant was a federal employee and had filed timely notice of injury for a 1970 employment injury. The Board found in its December 10, 1998 decision that the record established that appellant was a federal employee on May 18, 1970, did file a timely notice of injury, and established a *prima facie* claim based on the medical opinion from Dr. Jackson. Following remand, the Office merely sent a letter to appellant advising him to submit additional evidence.

The case will be remanded to the Office for preparation of a statement of accepted facts. The relevant evidence should then be referred to an appropriate physician, for an opinion as the

¹ Docket No. 97-36.

nature and extent of a condition or disability on or after August 9, 1990 causally related to the prior employment injuries, with a clear explanation as to the role of any nonemployment-related injuries. After such further development as the Office deems necessary, it should issue an appropriate decision.

The decision of the Office of Workers' Compensation Programs dated March 17, 1999 is set aside and the case remanded for action consistent with this decision of the Board.

Dated, Washington, DC
January 26, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member