

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ALAN E. PETITFILS and DEPARTMENT OF THE NAVY,  
MILITARY SEALIFT COMMAND, Virginia Beach, VA

*Docket No. 01-364; Submitted on the Record;  
Issued July 27, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained a recurrence of disability on March 3, 2000 causally related to his accepted August 6, 1998 employment injury.

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

On August 7, 1998 appellant, then a 37-year-old marine engineer, filed a traumatic injury claim alleging that on August 6, 1998 he slipped and hit his right elbow on a metal ladder while coming down the stairs. Appellant did not stop work.

By letter dated June 2, 2000, the Office of Workers' Compensation Programs accepted appellant's claim for traumatic bursitis of the right elbow.

Prior to the acceptance of appellant's claim by the Office, appellant filed a claim on April 20, 2000 alleging that he sustained a recurrence of disability on March 3, 2000 accompanied by factual and medical evidence. Appellant alleged that he had a scar on his right elbow that was getting larger. Appellant did not stop work.

In a letter of the same date, the Office advised appellant that the evidence submitted was insufficient to establish his recurrence claim. The Office requested that appellant submit factual and medical evidence supportive of his claim. In response, appellant submitted additional factual evidence revealing that, in addition to the large scar on his right elbow, he had pain in his right wrist and upper right shoulder, which hindered his performance of duties on the ship. Appellant also submitted additional medical evidence.

By decision dated July 17, 2000, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability on March 3, 2000 causally related to his August 6, 1998 employment injury. The Office also expanded the acceptance of appellant's

claim to include a scar on his right elbow.<sup>1</sup> The Office further found, however, that appellant reported no shoulder injury sustained on August 8, 1998 and treatment for his shoulder was not covered.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.<sup>2</sup>

In this case, appellant submitted a May 5, 2000 report from Dr. Miguel A. Culasso, who is Board-certified in emergency medicine, revealing his complaints of pain in the upper forearm, right shoulder, right elbow and a knot on his elbow. Dr. Culasso stated:

“After examining [appellant], he has a diagnosis of right elbow skin lesion due to trauma, right elbow injury and right shoulder tenderness due to trauma. It is my medical opinion that the problems he is complaining of now, and his diagnosis, is a result of the injuries he received when he fell on August 6, 1998.”

Similarly, in a June 30, 2000 report, Dr. Culasso stated:

“[Appellant] was examined in my office on May 5, 2000, with a diagnosis of [r]ight [e]lbow [s]kin [l]esion due to previous right elbow injury and right [s]houlder [t]end[i]nitis due to previous trauma. The findings are totally based on a physical examination and [appellant’s] statement of his past medical history of this injury.”

Although Dr. Culasso opined that there was a causal relationship between appellant’s current conditions and his accepted employment injury, he failed to provide any medical rationale in his reports explaining how or why there was a causal relationship.

Proceedings under the Federal Employees’ Compensation Act are not adversarial in nature, nor is the Office a disinterested arbiter. While the claimant has the burden to establish entitlement to compensation, the Office shares responsibility in the development of the evidence to see that justice is done.<sup>3</sup> Although Dr. Culasso’s reports do not contain sufficient rationale to discharge appellant’s burden of proving by the weight of the reliable, substantial and probative evidence that his right wrist and upper right shoulder conditions were caused by the August 6, 1998 employment injury, they raise an uncontroverted inference of causal relationship sufficient

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<sup>1</sup> The Office found that there was no medical evidence of record indicating that appellant’s scar on his right elbow required further treatment.

<sup>2</sup> *Louise G. Malloy*, 45 ECAB 613 (1994); *Lourdes Davila*, 45 ECAB 139 (1993); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

<sup>3</sup> *William J. Cantrell*, 34 ECAB 1223 (1983).

to require further development of the case record by the Office.<sup>4</sup> Additionally, the Board notes that in this case the record contains no medical opinion contrary to appellant's position. The Board will remand the case for further development of the medical evidence.

On remand, the Office should refer appellant, the case record and a statement of accepted facts to an appropriate medical specialist for an evaluation and a rationalized medical opinion on whether appellant's right wrist and upper right shoulder conditions were caused by the August 6, 1998 employment injury. After such development of the case record as the Office deems necessary, a *de novo* decision shall be issued.

The decision of the Office of Workers' Compensation Programs dated July 17, 2000 is hereby set aside and the case is remanded for further consideration consistent with this decision.

Dated, Washington, DC  
July 27, 2001

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>4</sup> See *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).