

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LEWIS J. WHEELER, JR. and DEPARTMENT OF JUSTICE,  
JUSTICE BUILDING SERVICES, Washington, DC

*Docket No. 00-26; Submitted on the Record;  
Issued June 6, 2001*

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DECISION and ORDER

Before MICHAEL E. GROOM, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs abused its discretion in denying payment for the drug Viagra.

On January 16, 1985 appellant, then a 34-year-old utility systems repairman operator filed a traumatic injury claim alleging that he strained his lower back while moving a 45-ton cooling tower. The Office accepted the claim for back strain, HNP L5-S1 and recurrent HNP and authorized several surgeries. By letter dated December 11, 1986, the Office placed appellant on the automatic rolls for temporary total disability effective April 14, 1985.

In a letter dated December 17, 1998, Dr. Gary M. Weiss, an attending Board-certified neurologist, opined that appellant's sexual dysfunction was directly caused by his accepted employment injury and resulting five lumbar surgeries. He noted that appellant's "nerve damage from the low back injury interfered with the physiologic mechanism of erection of the penis. Specifically, the nerve damage inhibits the smooth muscle relaxation which would allow an inflow of blood in the corpus cavernosum" and that Viagra had been prescribed to "rectify [appellant's] sexual dysfunction by causing an increase in the levels of cyclic guanosine monophosphate (cGMP)."

In a report dated February 2, 1999, Dr. Donald E. Pearson, a second opinion Board-certified orthopedic surgeon, opined that regarding "the medication Viagra at this time I do not see where this medicine being prescribed is orthopedically related to the work injury of 1985 and is more related to his underlying psychiatric problems and other medical conditions."

In a July 7, 1999 report, Dr. Weiss stated that appellant's abnormal somatosensory evoked potential testing was consistent with spinal cord lesion. He opined that the test was indicative of damage to the somatic nerve supply which was the cause of appellant's impotence.

The Office medical adviser reviewed the medical evidence and recommended payment for Viagra not be authorized.

By decision dated August 16, 1999, the Office denied appellant's request for to pay for his Viagra on the basis that his impotency was not related to his accepted employment injury. The Office noted that appellant's physician failed to state how appellant's spinal cord lesion was causally related to his accepted employment injury nor did the physician consider the impact of appellant's nonwork-related conditions of diabetes and bleeding disorder on his impotency.

The Board finds that the Office properly denied reimbursement for Viagra on the grounds that its use was not causally related to the accepted conditions.

Section 8103(a) of the Federal Employees' Compensation Act provides, 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 monthly compensation...." (Emphasis added.)

The Office's obligation to pay for medical treatment under section 8103 of the Act extends only to treatment of employment-related conditions. The burden of proof rests with the claimant in establishing that the requested treatment is necessitated by the effects of an accepted work-related condition. Such proof must include the submission of rationalized medical opinion evidence explaining the causal relationship between the accepted injury and the condition for which treatment is sought and why the treatment is required in order to cure, give relief or reduce the severity of the accepted condition.<sup>1</sup>

In this case, the drugs for which appellant was seeking payment was prescribed to treat his sexual dysfunction, a condition not accepted by the Office as being causally related to his January 16, 1985 injury or to the accepted conditions of back strain, HNP at L5-S1 and recurrent HNP. Furthermore, the Office medical adviser, after reviewing the medical evidence, recommended that Viagra not be authorized as it was not established that appellant's sexual dysfunction was related appellant's accepted conditions of back strain, HNP at L5-S1 and recurrent HNP. In addition, Dr. Pearson, the second opinion physician, concluded that appellant's sexual dysfunction was unrelated to his orthopedic condition. The only medical evidence submitted supporting such a causal relationship were reports from Dr. Weiss who concluded that appellant's condition was due to his accepted employment injuries. However, his opinion is not sufficiently rationalized as he did not discuss the impact of appellant's other medical conditions, which include diabetes and bleeding disorder, on his sexual dysfunction.<sup>2</sup> The record contains no rationalized medical evidence establishing that appellant developed sexual dysfunction as a result of his 1985 injury or the accepted conditions of back strain, HNP at L5-S1 and recurrent HNP and, thus, appellant has failed to support that he is entitled to have the Office pay for his Viagra.<sup>3</sup>

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<sup>1</sup> *Debra S. King*, 44 ECAB 203 (1992).

<sup>2</sup> *Gloria J. McPherson*, 51 ECAB \_\_\_\_ (Docket No. 98-805, issued April 3, 2000).

<sup>3</sup> *See Cathy B. Millin*, 51 ECAB \_\_\_\_ (Docket No. 97-2898, issued February 10, 2000).

As the Office has broad administrative discretion in choosing means to achieve an employee's recovery to the fullest extent possible in the shortest amount of time, the only limitation on the Office's authority is that of reasonableness.<sup>4</sup> 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.<sup>5</sup>

No such abuse has been demonstrated in this case as the only rationalized medical evidence of record were the opinions submitted by Dr. Pearson and the Office medical adviser.

The decision of the Office of Workers' Compensation Programs dated August 16, 1999 is hereby affirmed.

Dated, Washington, DC  
June 6, 2001

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>4</sup> *Janice Kirby*, 47 ECAB 220 (1995); *Joe F. Williamson*, 36 ECAB 494 (1985).

<sup>5</sup> *Daniel J. Perea*, 42 ECAB 214 (1990).