

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PAMELA G. GILMORE and DEPARTMENT OF THE NAVY,  
ENGINEERING FIELD ACTIVITY, Poulboro, WA

*Docket No. 00-318; Submitted on the Record;  
Issued March 16, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained an injury while in the performance of duty on February 18, 1997.

On March 7, 1997 appellant, then a 51-year-old environmental protection assistant, filed two traumatic injury claims alleging that on February 18, 1997 she injured her right hip, buttock, shoulder and knee when she fell on a wet parking lot after stepping off the walkway from the Bainbridge Island Ferry Terminal. Appellant's supervisor stated that at the time of this injury appellant was returning home from a doctor's appointment regarding a February 13, 1997 work incident in which she strained her back. In a written statement, appellant indicated that she was returning from a visit to her physician, Dr. Steven S. Overman, for treatment of her February 13, 1997 employment injury when she fell on February 18, 1997.

In a report dated February 18, 1997, Dr. Overman, appellant's attending rheumatologist, examined appellant, diagnosed fibromyalgia secondary to her February 13, 1997 employment-related back strain and reviewed her medications prescribed for treatment of her February 13, 1997 employment injury.

In notes dated February 26, 1997, Dr. Overman related that appellant fell on her way home after her last visit to him on February 18, 1997. He diagnosed "1. Fibromyalgia flare due to back strain. 2. Back strain; recent industrial injury." In a form report also dated February 26, 1997, he noted that appellant had been treated for her February 13, 1997 employment injury on February 18 and 26, 1997.

By decision dated November 18, 1997, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record did not establish that she sustained an injury as a result of the incident on February 18, 1997.

By letter dated December 14, 1997, appellant requested an oral hearing which was held on August 11, 1998.

By letter dated September 11, 1998, appellant stated that she was being paid by the employing establishment during the time she spent visiting Dr. Overman on February 18, 1997 for treatment of her February 13, 1997 employment injury.

By decision dated October 7, 1998, the Office hearing representative affirmed the Office's November 18, 1997 decision denying appellant's claim, but on the grounds that the February 18, 1997 injury did not occur while in the performance of duty.

On appeal, appellant argues that her injury on February 18, 1997 occurred in the performance of duty because she was returning from a visit to her doctor for treatment of her February 13, 1997 employment injury when the February 18, 1997 incident occurred.

The Board finds that that the February 18, 1997 incident occurred in the performance of duty.

The Board has held that when an employee suffers additional injuries because of an accident in the course of a journey to a doctor's office occasioned by a compensable injury, the additional injuries are generally held compensable. There are exceptions in cases where there is an added factor weakening the causal connection such as doubt about whether the trip was really authorized, when the purpose of the trip was not treatment but examination for purposes of meeting the employing establishment's requirement of a physical fitness certificate or when the original injury was not work related.<sup>1</sup>

In this case, at the time of appellant's fall on February 18, 1997 she was returning from a visit to her doctor for treatment of her February 13, 1997 employment-related back strain. The purpose of appellant's visit to Dr. Overman was clearly for treatment of her work-related back strain sustained on February 13, 1997. In his report dated February 18, 1997, Dr. Overman diagnosed fibromyalgia secondary to appellant's February 13, 1997 employment injury and reviewed her medications. In notes dated February 26, 1997, he related that appellant fell on her way home following her last visit to him on February 18, 1997 for treatment of her February 13, 1997 employment injury. In a letter dated September 15, 1998, the employing establishment stated that appellant was receiving continuation of pay for the February 13, 1997 injury when she fell on February 18, 1997 while returning home from her appointment with Dr. Overman. Therefore, appellant was in the performance of duty at the time of the February 18, 1997 fall.

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<sup>1</sup> See *Dawn Sweazey*, 44 ECAB 824, 833 (1993); *Bruce A. Henderson*, 39 ECAB 692, 697 (1988).

The October 7, 1998 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further development of the medical evidence to determine whether appellant sustained an injury on February 18, 1997 and any resultant disability.

Dated, Washington, DC  
March 16, 2001

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Priscilla Anne Schwab  
Alternate Member