

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CLINT E. PETTY and FEDERAL DEPOSIT INSURANCE CORPORATION,
San Jose, CA

*Docket No. 01-126; Submitted on the Record;
Issued September 25, 2001*

DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly suspended appellant's compensation for refusing to submit to an examination.

The Board has given careful consideration to the issue involved, the contentions of the parties' on appeal and the entire case record. The Board finds that the Office hearing representative's decision dated July 7, 2000 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.¹

¹ Section 8123(a) of the Federal Employees' Compensation Act authorizes the Office to require an employee who claims disability as a result of federal employment, to undergo a physical examination as it deems necessary. 5 U.S.C. § 8123(a). The determination of the need for an examination, the type of examination, the choice of locale, and the choice of medical examiners are matters within the province and discretion of the Office. *Cortisia L. Sims (Smith)*, 46 ECAB 172, 180 (1994). The Act further provides: "If an employee refuses to submit to or obstructs an examination, his right to compensation ... is suspended until the refusal or obstruction stops." 5 U.S.C. § 8123(d).

The July 7, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
September 25, 2001

David S. Gerson
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member