U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT C. YOUNGS and DEPARTMENT OF THE ARMY, DUGWAY PROVING GROUND, Dugway, UT

Docket No. 00-2701; Submitted on the Record;
Issued April 15, 2002

DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS, MICHAEL E. GROOM

The issue is whether appellant sustained a recurrence of disability on or after July 26, 1995 causally related to his April 13, 1995 employment injury.

On April 13, 1995 appellant, then a 38-year-old environmental protection specialist, sustained a traumatic injury when he physically moved the offices of Environmental Programs from one building to another. He described the nature of his injury as low back pain. Appellant stopped work that day and received continuation of pay. He used leave to cover lost time from work.

Appellant submitted an April 24, 1995 form report from Dr. Jonathan H. Horne, an orthopedic surgeon, who first examined appellant that day. Dr. Horne obtained a magnetic resonance imaging (MRI) scan and diagnosed herniated lumbar discs. He indicated with an affirmative mark that this condition was caused or aggravated by moving departmental office effects at work. Dr. Horne scheduled an epidural block and prescribed medication. He indicated that appellant could return to regular work "at own discretion."

On April 25, 1995 appellant presented to the employing establishment health unit for a return to duty. Dr. Gordon S. Olsen reported the following on May 23, 1995:

> "My feeling on this injury is that it is an exacerbation of a chronic condition. The workup, *i.e.*, MRI [scan] and treatment are very aggressive for an acute back injury less than two weeks old and with resolving symptom. The standard of care for this type of injury is normally a prolonged trial of conservative therapy, rest, physical therapy and medications. Again, I would consider this a flare of a preexisting chronic condition."

Appellant again presented to the health unit on May 2, 1995 requesting a return to duty following his absence since on April 26, 1995 for an epidural block. Dr. John B. Ellsworth indicated that appellant was able to work full duty but recommended no lifting over 15 pounds.

Appellant presented again to the health unit on May 16, 1995 requesting a return to duty following his absence on May 11, 1995 for another epidural block. Dr. Olsen recommended that appellant return to duty with a restriction of no lifting over 15 pounds.

The employing establishment provided a position description for an environmental protection specialist. The physical demands of the position included: "The performance of field investigations, inspections and sampling requires walking or climbing in a harsh desert environment and may require lifting materials of up to 50 pounds from time to time."

The employing establishment clarified that appellant continued to perform his job with the restriction not to lift more than 15 pounds. The employing establishment advised that appellant was placed on administrative leave beginning July 13, 1995 before being terminated from employment on September 7, 1995 for falsification of government documents. The employing establishment further advised that appellant's job would have continued to be available had it not been for his actions in falsifying government documents.

The record shows that at the time of his April 13, 1995 employment injury appellant was working a term appointment not to exceed September 12, 1996.

The Office of Workers' Compensation Programs accepted appellant's claim for sprain, lumbar region. The Office subsequently accepted an aggravation of appellant's underlying disc disease with sciatica.

In a report dated December 2, 1998, appellant's attending physician, Dr. Kenneth Young, a specialist in neurology and rehabilitation medicine, stated that appellant had been disabled as of July 26, 1995 from the job he was performing prior to being terminated:

> "In this regard, I would state that [appellant] has developed multilevel disc disease with a right-sided herniation at the L3-4 and L5-S1 levels with spinal stenosis and lumbar radiculopathy. I feel that there is certainly medical rationale to support this diagnosis and opinion that he has been unable to work. A few examples in the contemporaneous history are as follows:
>
> "1. MRI [scan] performed by Wasatch Imaging on April 24, 1995. Stephen Shultz, M.D., states impression as--
>
> > '1. Multilevel disc disease L3-4 to L5-S1.
> >
> > '2. Focal [G]rade III (herniation) broad-based central and right posterolateral L4-5 disc bulge or herniation resulting in moderate to marked spinal stenosis and probable compression of the right subarticular recess for the L5 nerve root.
> >
> > '3. Diffuse [G]rade I-II L3-4 disc bulge.
> >
> > '4. Focal [G]rade II broad-based left central L5-S1 disc bulge or herniation, which appears to contact but not displace the left S1 nerve root.'

"2. Jonathan Horne, M.D., concurred with this diagnosis throughout his chart notes. A single example on April 25, 1995.

"3. Dr. Horne's examinations show limited range of motion, pain, weakness and decreased sensation in the right lower extremity.

"4. Dr. Horne shows a series of three steroid epidural injections to be of temporary analgesic efficacy in relieving some pain and increasing range of motion. Notes of May 1 and June 5, 6 and 26 1995, show limited relief lasting '2 weeks,' '2½ week,' 'few weeks.' The chart note of June 26, 1995, shows the last steroid injection to have been performed on June 14, 1995.

"5. Consistent with the first two injections, [appellant's] condition worsened progressively with time after the third injection. On June 21, 1995 Dr. Horne notes the 'third epidural only helped for a little while' and his objective physical examinations show back tenderness, muscle spasm, limited range of motion, antalgic gait and decreased sensation. Dr. Horne discusses the options of surgery. June 26, 1995, chart note shows 'about the same as last visit. Does n[o]t feel any better. Still having a lot of pain into right leg. Has a hard time sleeping.'

"6. Two weeks after the last injection of June 14, [1995] [appellant] went on leave. Subsequently, he was not allowed by his employer to work again, while it was determined if he should be terminated for reportedly nonmedically-related reasons.

"7. In July 26, 1995, chart notes, Dr. Horne again discusses surgery and suggests a laser discectomy would probably be beneficial versus other types of surgeries. Dr. Horne says [appellant] 'really can't work' secondary to pain and places him in a 'nonwork' status. Dr. Horne shows objective SLR and flip test examination.

"8. The next physician [appellant] is examined and treated by is Donald Coleman, M.D. The February 8, 1996 '[a]ttending [p]hysicians [r]eport; U.S. DOL' shows--

> 'a. When Dr. Coleman is asked: "Are any permanent effects expected as a result of this injury?" Dr. Coleman indicates "Yes."
>
> 'b. He states, "Without surgery he will have significant limitation of motion and pain, severely limiting his ability to work" and opines surgical efficacy as questionable.
>
> 'c. When asked "Date employee able to resume light work?" Dr. Coleman indicates "Not Applicable."
>
> 'd. When asked if "employee has been advised that he can return to work?" Dr. Coleman indicates "No."

"9. Dr. Coleman retires from practice and the next attending physician is Heidi Klingbeil, M.D., who on April 12, 1996 confirms chronic radiculopathy with ongoing denervation through electrodiagnostics testing performed by Justin Green, M.D., on April 11, 1996. Dr. Klingbeil shows disability through objective physical examinations. The notes do not suggest that seeking work is appropriate at that time.

"10. [Appellant] moved to Tucson and was subsequently seen by Carl Dasse, M.D., who concurs with the previous diagnosis in a letter dated January 16, 1997. Dr. Dasse's notes consistently confirm [appellant's] inability to work and the 'DOL; duty status reports' consistently show that he has not been advised to return to work. A single example is an addendum to the above letter, dated January 31, 1997, in which he specifically states, 'This is to further certify that [appellant] has a guarded prognosis and is currently unable to work and the condition will last for an unknown period of time, at this time.'

"In fact, such a herniation of the disc and the stress that it puts on the ligaments and soft tissue structures as well as the nerve roots that exit on that side are certainly compromised by such multilevel disc disease to render [appellant] impaired. I have observed a good deal of soft tissue swelling, pain and instability as well which have mitigated against his performing at his work."

Dr. Young continued:

"[Appellant] worked intermittently for 10 weeks after his injury, during the course of epidurals. There is medical rationale and history to show that his condition was temporarily improved by the epidurals, thus enabling him to work.

"Additionally, it cannot be said that the severity of [appellant's] condition had reached full term in the 10 weeks after his work injury. Symptoms including pain resulting from stress on the ligaments, soft tissue structures and nerve roots are cumulative."

Regarding appellant's ability to work, Dr. Young explained that the symptoms appellant exhibited were consistent with the diagnosis. He added:

"I am familiar with [appellant's] job description and his description of duties as set forth in his testimony before [an Office hearing representative on February 10, 1998].

"It is hard to imagine any job that [appellant] would have been able to perform which did not involve a conservative amount of sitting or standing and which would be conducive to an employee suffering from sleep loss resulting in additional unpredictable episodes of missed work from a reduced work schedule. Even without work, [appellant's] activities at home have been restricted, thus impairing his quality of life as evidenced by his medical history as well as my examinations. Cumulative aggravating conditions including possible increased permanent denervation and increased risk of further injury would have been

imposed by requiring any amount of activity inconsistent with established back exercises, including work.

"He is responding well to treatment probably due in part to the fact that his physicians have kept him in a nonwork status. Some permanent effects are, however, likely."

On the issue of causal relationship, Dr. Young offered the following:

"Regarding the issue of how [appellant's] injury was caused. It is my understanding that [appellant] assisted in moving his department's offices. Mostly boxes weighing 30 pounds, some computer equipment and some furniture were placed on a dolly, loaded into a pickup truck, driven to the other office, unloaded onto a dolly and then taken into the new offices. Apparently this was done for a week. [Appellant] has informed me that he tried to take it easy because he had previously had back problems. These back problems are noted in the history.

"Picking up, then loading and unloading boxes from a pickup truck would require occasional if not frequent bending, pushing, pulling, twisting and reaching, each with the load of any given item. This would result in unequal downward, lateral and torsion pressure being applied to the spine and adjunctive areas. In essence, the spine, rather than having an equal distribution of stress, is pinched in focused areas. In [appellant's] case, interference with the nerve roots is evidence as a result. Injury risk was also present when [appellant] picked up items from the office, loaded them and hauled them through the office building outside to the pickup truck and then reversed the procedure at the other location. Disarray consistent with a moving environment increases injury risk. The discs in the L4-L5-S1 area are the most frequently injured by lifting. The injury mechanism is a textbook example frequently resulting in injury.

"This is compounded by the facts that: a. the injury mechanism was repeated for a week[; and] b. [appellant] was an environmental protection specialist, not a professional mover and thus his supportive muscle structure was not developed in that manner.

"I note that [appellant] had previous back problems which he reported to me and his previous physicians. His reported history is thus shown to have been taken into consideration. I note that no medical treatment for his back was needed for many years, thus his present condition cannot be concluded to be a natural progression of a preexisting injury. His previous physicians have found the same."

Dr. Young identified other causal links, including noncontributory past medical history. He stated that the need for steroid epidural injections and physical therapy contemporaneously with his on-the-job injury, as well as MRI scan and EMG tests consistent with clinical complaints, also supported and confirmed the conclusion that appellant's injuries were a result of

moving offices for a week. Appellant's history before the injury, Dr. Young, reported, was sufficient to support the differential diagnosis given the fact that the history has not be contradicted.

Dr. Young observed appellant's injury would not have occurred if it were not for his employment. Dr. Young concluded his report as follows:

> "Finally, I feel that, although it is true that I did not examine [appellant] until June 12, 1998 and the injury did occur in April 1995, nevertheless, I have examined this individual now. I have read through the medical evidence and the supporting documents both concerning the nature of the injury and from his medical practitioners who did examine and treat [appellant] and I, therefore, feel that this is 'as if' contemporaneous evidence, especially since his complaints have been consistent and were essentially the same as they were in 1995."

The Office referred appellant, together with the medical record and a statement of accepted facts, to Dr. Borislav Stojic, an orthopedic surgeon, for a second opinion.

In a report dated March 17, 2000, Dr. Stojic stated that he examined appellant that day. He related appellant's history of injury, subsequent medical course, present complaints and medications. Dr. Stojic reviewed appellant's past history and indicated that he had reviewed numerous medical reports, some of which he identified. After describing his findings on physical examination, Dr. Stojic diagnosed discogenic back pain; multilevel degenerative lumbar disc disease, L3 to S1, with L4-5 disc herniation with associated spinal stenosis and probable compromise of the recess of the L5 nerve root; and broad-based disc herniation at the L5-S1 level, as per diagnostic studies.

Dr. Stojic then responded to questions posed by the Office. With respect to whether appellant continued to suffer residuals of the injury, Dr. Stojic reported:

> "The claimant sustained a lumbosacral sprain/strain in a work[-]related incident on April 13, 1995. He subsequently experienced also radicular symptoms involving the right lower extremity. Subsequently, obtained diagnostic studies revealed multilevel degenerative disc disease, L3 to S1, associated with broad based disc bulge -- herniation at the L4-5 and also L5-S1 level with some canal compromise at the exiting L5 nerve root.
>
> "The claimant was treated with a series of lumbar epidural steroid blocks which, as stated by [appellant], resulted in temporary improvement and continued thereafter with the treatment with conservative therapeutic modalities with Dr. Dasse and subsequently has been attended by Dr. Young until the present time.
>
> "The physical findings at this time revealed no objective evidence of radiculitis and/or radiculopathy and are consistent with discogenic low back pain, causally related to the natural progression of the preexisting multilevel degenerative lumbar disc disease, not causally related to the injury in question and documented on the lumbar MRI [scan] obtained shortly after the incident in question.

> "In retrospect, considering the claimant's symptomatology, as reported by Dr. Horne following the incident in question, the right lower extremity radiculopathy, he probably sustained a discogenic pathology at the L4-5 and the L5-S1 level as documented on the lumbar MRI [scan]. At the present time there is no objective evidence of radiculitis and/or radiculopathy and the present clinical picture does not correlate with the discogenic pathology at the L4-5, L5-S1 level as documented on the lumbar MRI [scan] five years ago. As indicated above, the present clinical picture is consistent with discogenic low back pain on the basis of the natural progression of the preexisting condition."

Asked whether appellant's diagnosed condition was medically connected to the work injury by cause, aggravation, precipitation or acceleration, Dr. Stojic reported:

> "As indicated above, the diagnosed condition reflects discogenic low back pain causally related to the natural progression of the well-documented preexisting condition.
>
> "The aggravation probably occurred following the injury in question, reflecting the discogenic pathology at the L4-5, L5-S1 level.
>
> "Considering the objective physical findings at the time of this examination as outlined above, there is no evidence that a material change has occurred to alter the course of the underlying disease and aggravation was of a temporary nature. In retrospect, considering the time that elapsed since the injury it is difficult to be specific when such aggravation ceased. Although speculative, it is reasonable, in my opinion, to expect that the temporary aggravation ceased one year following the injury in question."

With respect to appellant's job description and his 15-pound lifting restriction, Dr. Stojic reported:

> "I reviewed the enclosed job description of an [e]nvironmental [p]rotection [s]pecialist with the modification of a 15-pound lifting limitation.
>
> "Based upon the physical findings at this time, the claimant is capable to perform these duties with the noted modification and furthermore, in my opinion he was capable of performing these duties, with the noted modification, at the time he left work in 1995. The physical demands in the job description require also walking or climbing in a harsh desert environment. I would recommend that ambulatory activities should be limited to 1 mile at one time and he should avoid hazardous climbing."

Dr. Stojic added that appellant could be gainfully employed based upon the physical findings "at this time."

The Office found that a conflict in medical opinion existed between appellant's physician, Dr. Young and the Office second opinion physician, Dr. Stojic. To resolve the

conflict the Office referred appellant, together with the medical record and a statement of accepted facts, to Dr. Glen R. Bair, a Board-certified orthopedic surgeon.

In a report dated May 23, 2000, Dr. Bair stated that he examined appellant that day. He related appellant's history of injury, primary current complaint and past history. Dr. Bair indicated that he had reviewed appellant's medical records, including the imaging report. He obtained plain x-rays showing a marked narrowing at L5-S1 with degenerative facet changes and lesser changes at L4-5. He then described his findings on physical examination.

Responding to questions posed by the Office, Dr. Bair reported as follows:

> "To answer the question that have been posed, in my opinion, the patient's diagnosis is that of what is generally referred to as a clinically proven disc rupture. In that regard, he would be given a 5 percent impairment of the whole man with restrictions on heavy duty, bending, lifting and stooping. The patient clearly had preexisting degenerative disc disease in his back, although there is no documentation of sciatic pain.
>
> "Presently, the patient's physical examination is negative for sciatica and, in my opinion, his condition would be considered stationary. Appropriate treatment is the provision of anti-inflammatory medications and a self-directed active exercise program. In my opinion, the patient is capable of performing his pretermination job, *i.e.*, the work of an environmental protection specialist with a 15-pound weight limitation. I basically agree with Dr. Stojic's evaluation that at some point in time, one year after injury he [woul]d be considered stationary with an aggravation of his underlying degenerative disc disease.
>
> "In my opinion, the patient does not need ongoing osteopathic manipulation or any other passive treatment. I have filled out the work description [work capacity evaluation]."

Dr. Bair indicated on the work capacity evaluation that appellant's limitations included lifting less than 25 pounds, avoidance of climbing, sitting for 2 to 3 hours at a time, walking for 1 mile, standing for 2 to 3 hours at a time, no operating a motor vehicle and no repetitive movements of the wrists or elbows.

In a letter dated June 23, 2000, the Office requested clarification. The Office asked whether appellant had returned to his baseline preinjury status and had no residuals of the work injury beyond April 13, 1996, one year after the injury. The Office asked whether appellant's ruptured disc was medically connected to the injury by aggravation or precipitation. Finally, the Office asked Dr. Bair whether appellant was capable of performing his pretermination job of environmental protection specialist with a 15-pound weight limitation at the time he left work in 1995 or whether he was totally disabled at the time of his termination.

In a supplemental report dated June 28, 2000, Dr. Bair replied as follows:

> "In regards to your June 23, 2000 inquiry concerning [appellant]. What I would say in regards to [q]uestion [o]ne is that the patient clearly had degenerative disc

> disease, but before this incident did not have evidence, at least historical evidence, of sciatica. The indication at one-year post injury is that at that point in time he was no longer symptomatic from sciatica. He probably had not returned to baseline of the preinjury status.
>
> "In regards to [q]uestion [t]wo, in the absence of a prior history of sciatica and the sciatica coming up after the industrial injury, the disc abnormality would be related to the work injury.
>
> "In regards to [q]uestion [t]hree, it is my opinion that the patient would have been able to perform his pretermination work as an environmental protection specialist with a 15-pound weight limitation at the time he left work in 1995. I do n[o]t believe that he was ever totally disabled, nor is he totally disabled at this time in relationship to his back. He has other industrially unrelated problems, the sum total of which may cause him to be disabled, but strictly regarding his back, it [i]s my opinion that he is not totally disabled, nor has he ever been.
>
> "If any further information is needed, please let me know."

In a decision dated July 17, 2000, the Office found that the weight of the medical evidence rested with Dr. Bair and established not only that appellant was able to perform his job as an [e]nvironmental [p]rotection [s]pecialist with a 15-pound lifting restriction at the time of his termination for cause on September 7, 1995, but also that appellant was never totally disabled. The Office found that a recurrence of disability was not established on that or any other date. The Office noted that the weight of the medical evidence established that appellant sustained a temporary aggravation of his underlying back condition without indication as to if and when he returned to baseline preinjury status.[1]

The Board finds that this case is not in posture for decision.

Section 8102(a) of the Federal Employees' Compensation Act[2] ("Act") provides for the payment of compensation as follows: "The United States shall pay compensation as specified by this subchapter for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty...."

> "Disability" means the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury. It may be partial or total.[3] This meaning, for brevity, is expressed as "disability for work."[4]

[1] The Office accepted appellant's claim for the additional condition of "aggravation of underlying disc disease, with sciatica ceasing by April 1996."

[2] 5 U.S.C. § 8102(a).

[3] 20 C.F.R. § 10.5(f).

[4] *Clarence D. Glenn*, 29 ECAB 779, 781 (1978).

When an employee who is disabled from the job he held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of record establishes that he can perform the limited-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and to show that he cannot perform such limited-duty work. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the limited-duty job requirements.[5]

The medical evidence in this case shows that appellant was disabled from the job he held when he was injured. His date-of-injury job as an environmental protection specialist required, among other things, lifting materials of up to 50 pounds from time to time. Within two weeks of the employment injury Dr. Olsen, a physician at the employing establishment health unit, recommended no lifting over 15 pounds, a restriction also endorsed by Dr. Ellsworth. As appellant was able to return to work with this lifting restriction, he bears the burden of proof to establish a recurrence of total disability on or about July 26, 1995, the date he was placed in a nonwork status by his treating physician and to show that he could not perform such limited-duty work.

A conflict arose on this issue between appellant's attending physician, Dr. Young and the Office second-opinion physician, Dr. Stojic. Dr. Young noted that appellant was placed in a nonwork status on July 26, 1995. He opined that appellant was disabled as of July 26, 1995 from the job he was performing. Dr. Stojic reported that appellant suffered a temporary aggravation of his preexisting discogenic pathology at the L4-5, L5-S1 level, an aggravation that ceased one year following the injury in question. He reviewed appellant's job description of an environmental protection specialist with the modification of a 15-pound lifting limitation and concluded that appellant was capable of performing these duties at the time he left work in 1995.

Section 8123(a) of the Act provides in part: "If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination."[6]

To resolve the conflict in opinion between appellant's physician and the Office referral physician, the Office referred appellant, together with the medical record and a statement of accepted facts, to Dr. Bair, a Board-certified orthopedic surgeon. He indicated that he had reviewed appellant's medical records. Asked specifically whether appellant was capable of performing the job of environmental protection specialist with a 15-pound weight limitation at the time he left work in 1995 or whether he was totally disabled at the time of his termination, Dr. Bair expressed the opinion that appellant would have been able to perform his pretermination work as a limited-duty environmental protection specialist as of the time he stopped work. Dr. Bair stated that he did not believe that appellant was ever totally disabled with respect to his back condition.

[5] *See Terry R. Hedman*, 38 ECAB 222, 227 (1986).

[6] 5 U.S.C. § 8123(a).

When there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an referee medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.[7]

On the issue of causal relationship, Dr. Bair explained that appellant suffered an aggravation of his degenerative disc disease as a result of his federal employment. He indicated that appellant's sciatica was medically related to the accepted employment injury. Further, Dr. Bair noted that at one year after the injury the indication was that appellant was no longer symptomatic from sciatica, but had not returned to baseline of the preinjury status.

On the issue of appellant's disability for work, however, Dr. Bair expressed an opinion without sufficient medical reasoning. He indicated that appellant would have been able to perform his work as an environmental protection specialist with a 15-pound weight limitation at the time he was terminated, but he pointed to no clinical findings from the period in question to demonstrate that appellant was then capable of performing this job. Dr. Bair stated that he did not believe that appellant was ever totally disabled with respect to his back. Dr. Bair did not address the nonwork status imposed by Dr. Horne on July 26, 1995 after conservative modalities and injections proved ineffective. Dr. Bair's report on the issue of appellant's disability for work is vague and not sufficiently rationalized.

The Board has held that medical conclusions unsupported by rationale are of little probative value.[8] For this reason, the Board finds that the opinion of Dr. Bair on the issue of disability for work is insufficient to resolve the outstanding conflict in this case.

When the Office secures an opinion from a referee medical specialist for the purpose of resolving a conflict in the medical evidence and the opinion from the specialist requires clarification or elaboration, the Office has the responsibility to secure a supplemental report from the specialist for the purpose of correcting a defect in the original report. When the referee medical specialist's statement of clarification or elaboration is not forthcoming, or if the specialist is unable to clarify or elaborate on the original report, or if the specialist's supplemental report is also vague, speculative or lacks rationale, the Office must submit the case record together with a detailed statement of accepted facts to a second referee medical specialist for a rationalized opinion on the issue in question.[9] Unless this procedure is carried out by the Office, the intent of section 8123(a) of the Act will be circumvented when the medical report of the referee medical specialist is insufficient to resolve the conflict of medical evidence.[10]

The Board will set aside the Office's July 17, 2000 decision and remand the case for a supplemental report from Dr. Bair explaining his medical reasons for concluding that appellant was not disabled for work on or after July 26, 1995 as a result of his April 13, 1995 employment

[7] *Carl Epstein*, 38 ECAB 539 (1987); *James P. Roberts*, 31 ECAB 1010 (1980).

[8] *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

[9] *See Nathan L. Harrell*, 41 ECAB 402 (1990).

[10] *Harold Travis*, 30 ECAB 1071 (1979).

injury. After such further development of the medical evidence as may be necessary, the Office shall issue an appropriate final decision on appellant's claim for compensation.

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

Dated, Washington, DC
April 15, 2002

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member