

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARILYN L. SMITH and U.S. POSTAL SERVICE,
POST OFFICE, Knoxville, TN

*Docket No. 02-445; Submitted on the Record;
Issued June 25, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
A. PETER KANJORSKI

The issue is whether appellant has established an additional left thumb injury causally related to her July 10, 2000 employment injury.

On August 10, 2000 appellant, then a 58-year-old clerk, filed a claim alleging that on July 10, 2000 she fell while in the performance of duty and sustained injury. The Office of Workers' Compensation Programs accepted a left patella fracture, as well as a left thumb contusion. By decision dated November 16, 2001, the Office determined that appellant had not established a left thumb carpometacarpal (CMC) joint arthritis condition as employment related.¹

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

Appellant submitted a March 30, 2001 report from an attending orthopedic surgeon, Dr. E. Brantley Burns, diagnosing left thumb CMC arthritis. Dr. Burns noted that appellant complained of hand pain since the July 10, 2000 injury. He further stated, "According to the patient's history and my questioning of her and examination of her, her arthritis was at the very minimum materially worsened or aggravated by the fall directly onto this area. Despite the fact that this type of arthritis is often degenerative, that is not to say that trauma cannot worsen the arthritis and/or the symptoms." Dr. Burns concluded that surgery was indicated for this work-related, traumatically aggravated condition.

In its November 16, 2001 decision, the Office refers to a June 25, 2001 letter to appellant's representative advising him that the medical evidence did not support causal relationship with the employment injury. The Board notes that the June 25, 2001 letter states that further development of the medical evidence regarding the left thumb arthritis and the need

¹ The record also contains a November 19, 2001 schedule award decision for the left leg; however, appellant did not request review of this decision.

for surgery would be undertaken. There is no indication, however, that the Office attempted to further develop the medical evidence on this issue.

The Board finds that the Office should have developed the medical evidence in accordance with its June 25, 2001 letter. Although appellant has the burden of proof to establish the essential elements of her claim, the Office shares responsibility in the development of the evidence.² Appellant has submitted probative medical evidence supporting causal relationship that is sufficient to require further development of the evidence.³

The case accordingly will be remanded to the Office to secure a reasoned medical opinion on the relevant issues with respect to the left thumb arthritis condition and the need for surgery. After such further development as the Office deems necessary, it should issue an appropriate decision.

The decision of the Office of Workers' Compensation Programs dated November 16, 2001 is set aside and the case remanded for further action consistent with this decision of the Board.

Dated, Washington, DC
June 25, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

A. Peter Kanjorski
Alternate Member

² See *Udella Billups*, 41 ECAB 260, 269 (1989).

³ See *Robert A. Redmond*, 40 ECAB 796 (1989).