

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LOMA GAYLE FARRIS (LARRY R. FARRIS) and DEPARTMENT OF THE  
AIR FORCE, TINKER AIR FORCE BASE, OK

*Docket No. 01-1267; Submitted on the Record;  
Issued May 1, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether appellant has established that she is entitled to benefits under 5 U.S.C. § 8133.

The case was before the Board on a prior appeal. In a decision dated May 10, 2000, the Board found that a conflict in the medical evidence existed as to whether the employee's death was causally related to his federal employment.<sup>1</sup> The case was remanded to the Office of Workers' Compensation Programs for proper resolution of the conflict. The history of the case is set forth in the Board's prior decision and is incorporated herein by reference.

On return of the case record, the Office sent a statement of accepted facts and medical evidence to Dr. Ronald R. Hope, a Board-certified cardiovascular surgeon. In a report dated October 9, 2000, Dr. Hope opined that the employee's death was not causally related to actions of the employing establishment's medical services clinic. By decision dated November 3, 2000, the Office denied appellant's claim for death benefits.

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

As the Board indicated in its prior decision, the issue is whether the employing establishment's medical staff failed to meet a requisite standard of care and therefore contributed to the employee's death. In such a case, it is important that the "statement of accepted facts" provided to the impartial medical specialist accurately state the facts with regard to the actions of the medical staff. In Dr. Hope's report, he notes that the statement of accepted facts reports that the employee was examined at the employing establishment's medical clinic "and released at 10:30 a.m. and told to seek an evaluation at a hospital and that he could not drive and could not return to work." The statement was found to be "inaccurate" by the Office hearing representative in a July 2, 1998 decision. As the hearing representative noted, the deposition

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<sup>1</sup> Docket No. 99-124.

testimony of the physician's assistant and nurse appeared to indicate that the nurse advised the employee to go home, and assumed that he would consult his family doctor.

Since the actions of the employing establishment medical unit are the critical issue here, the Board finds that the statement of accepted facts provided to the impartial specialist must be as accurate and as complete as possible in this regard. The case will be remanded to the Office to prepare an amended statement of accepted facts. The Office should send the amended statement of accepted facts and relevant evidence to Dr. Hope for a supplemental report on the issues presented. 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 3, 2000 is set aside and the case remanded to the Office for further action consistent with this decision of the Board.

Dated, Washington, DC  
May 1, 2002

Michael J. Walsh  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member