

In treatment notes dated November 6 to December 13, 1991, Dr. Donald R. Stoltz, a Board-certified orthopedist, noted a history of appellant's work-related injury and diagnosed acute cervical and lumbar strains. He also indicated that she had a preexisting history of L4-5 bulging disc and severe degenerative facet disease. Also submitted were various records from Dr. Richard A. Cautilli, a Board-certified orthopedist, dated December 24, 1991 to November 2, 1998, which documented appellant's continued treatment of lumbar and cervical strains as well as her diagnosis and treatment for work-related bilateral carpal tunnel syndrome and psychogenic pain disorder.

Thereafter, in the course of developing appellant's claim, she was referred to several second opinion physicians and to impartial medical advisers.

On July 7, 1999 appellant's treating neurologist, Dr. Margaret K. Zalewska, noted her complaints of chronic insomnia accompanied by daytime sleepiness and snoring at night. She referred appellant for a polysomnogram to rule out sleep apnea. In a note dated September 2, 1999, Dr. Zalewska advised that appellant sustained two falls in April 1999, hitting her shoulder and upper back and thereafter experienced radiating pain in her spine and headaches. Appellant continued to experience chronic insomnia and the physician referred her to a sleep clinic to rule out sleep apnea.

On February 20, 2000 appellant was referred for a nocturnal polysomnogram study which demonstrated chronic obstructive sleep apnea syndrome in the moderate to severe clinical range. The study was also performed on March 19, 2000 using continuous positive airway pressure (CPAP) applied nasally; however, due to discomfort, appellant was unable to fall asleep and; therefore, the study was inconclusive.

In a report dated May 11, 2000, Dr. Edmund A. Pribitkin, a Board-certified otolaryngologist, advised that appellant was seen in consultation in the sleep clinic. He noted that she suffered from sleep apnea with loud snoring, apnea episodes and unusual excessive daytime headaches. The physical examination was significant for retrognathia, left septal deviation and uvular collapse on the Mueller maneuver. Dr. Pribitkin diagnosed obstructive sleep apnea, possible hormonal abnormalities and Meniere's disease.

In a memorandum dated August 19, 2002, Dr. Zalewska noted that appellant was referred to the sleep disorder clinic for daytime somnolence. She indicated that appellant was not sleeping due to chronic neck and back pain and was dozing off while stopped at traffic lights. Dr. Zalewska advised that the sleep clinic testing was necessary to treat appellant's somnolence.

In a letter dated September 20, 2002, the Office advised appellant that the testing performed at the sleep clinic was not authorized. Additionally, the Office advised that her condition of sleep apnea was not an accepted condition and was not caused by her accepted work-related injuries and; therefore, appellant would not be reimbursed for this testing.

In a decision dated October 1, 2002, the Office denied appellant's claim for payment of the sleep clinic treatment as the treatment was not authorized by the Office, nor was the diagnosed condition of sleep apnea one which would have been caused by a work-related injury.

In a letter dated October 3, 2002, appellant, through her attorney, requested an oral hearing before an office hearing representative. The hearing was held on June 16, 2003. Appellant submitted several reports from Dr. Zalewska dated July 10 to December 9, 2002. In her report dated July 10, 2002, Dr. Zalewska noted that appellant was referred for sleep evaluation secondary to chronic insomnia related to pain. She further advised that sleep disturbance was a complication of pain. Other reports from Dr. Zalewska noted appellant's complaints of spine pain, headaches and insomnia. Also submitted was a report from Dr. Sophia Lam, a Board-certified anesthesiologist, dated December 12, 2002, which noted that appellant was having difficulty sleeping with pain waking her up during the night.

By decision dated August 11, 2003, the Office hearing representative affirmed the decision dated October 2, 2002. The hearing representative indicated that the medical evidence did not establish a causal relationship between the diagnosed sleep apnea condition and the accepted work-related injury of 1991 and; therefore, the sleep clinic testing would not be reimbursable under the Federal Employees' Compensation Act.¹

LEGAL PRECEDENT

Section 8103 of the Act provides for the furnishing of "services, appliances and supplies prescribed or recommended by a qualified physician," that the Office, under authority delegated by the Secretary of Labor, "considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of monthly compensation."²

In interpreting section 8103, the Board has recognized that the Office, acting as the delegated representative of the Secretary, has broad discretion in approving services provided under the Act, to ensure that an employee recovers from his or her injury to the fullest extent possible in the shortest amount of time.³ The Office has administrative discretion in choosing the means to achieve this goal and the only limitation on the Office's authority is that of reasonableness.⁴ While the Office is obligated to pay for treatment of employment-related conditions, appellant has the burden of establishing that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.⁵

Thus, to be entitled to reimbursement of medical expenses by the Office, appellant must establish a causal relationship between the expenditure and the treatment by submitting rationalized medical evidence that supports such a connection and demonstrates that the

¹ 5 U.S.C. § 8101(2).

² 5 U.S.C. § 8103.

³ *Marla Davis*, 45 ECAB 823, 826 (1994).

⁴ *Daniel J. Perea*, 42 ECAB 214, 221 (1990) (holding that abuse of discretion by the Office is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or administrative actions that are contrary to both logic and probable deductions from established facts).

⁵ *Mamie L. Morgan*, 41 ECAB 661, 667 (1990).

treatment is necessary and reasonable.⁶ The mere fact that the Office authorized and paid for some medical treatment does not establish that the condition for which appellant received treatment was employment related.⁷

ANALYSIS

Appellant sustained an employment injury on November 1, 1991 which the Office accepted for cervical, lumbar, left shoulder and left leg strains and thereafter expanded her claim to include bilateral carpal tunnel syndrome and psychogenic pain disorder. The Office did not accept the condition of sleep apnea and the file does not contain a written authorization for sleep testing or a memorandum of a telephone authorization for such testing. Although this diagnosis appears on a number of medical documents in the case record, appellant has submitted no rationalized medical opinion explaining how sleep apnea resulted from her November 1, 1999 employment injury. Dr. Zalewska opined, in her reports dated July 10 and August 19, 2002, that appellant had insomnia due to pain caused by her work-related injuries. However, she noted in her reports dated July 7 and September 2, 1999, that appellant was referred for a polysomnogram to rule out sleep apnea as the cause for daytime somnolence. The record reveals that the sleep testing performed by Dr. Pribitkin did not attribute appellant's insomnia to pain, rather he confirmed a diagnosis of obstructive sleep apnea, possible hormonal abnormalities and Meniere's disease and noted findings of retrognathia, left septal deviation and uvular collapse on the Mueller maneuver. Although Dr. Zalewska and Dr. Lam in her report dated December 12, 2002, indicated that appellant was not sleeping due to chronic neck and back pain, they did not explain why the February 2000 sleep testing was necessary to confirm that appellant's pain was the cause of her insomnia. Rather, as noted above, Dr. Zalewska referred appellant in July 1999 for sleep testing to rule out a diagnosis of sleep apnea as a consequence of daytime somnolence. Consequently, neither Dr. Zalewska nor Dr. Lam's reports establish a causal relationship between the diagnosed sleep apnea condition and the accepted 1991 workplace injury. Without such medical opinion evidence, the record fails to establish that the diagnosed condition of sleep apnea is an employment-related condition. As the Office is not obligated to pay for treatment of conditions that are not established to be employment related, the Board finds no abuse of discretion in denying payment for sleep testing.

⁶ *Debra S. King*, 44 ECAB 203, 209 (1992).

⁷ *Dale E. Jones*, 48 ECAB 648 (1997).

CONCLUSION

The Board finds that the Office properly denied payment for sleep testing.

ORDER

IT IS HEREBY ORDERED THAT the August 11, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 21, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member