

for a permanent aggravation of a preexisting back fusion and pseudoarthrosis. Since 1984, appellant has been in receipt of compensation payments for his employment-related back condition and the Office accepted numerous recurrences of total disability. Appellant has not worked since February 1991. On October 30, 1992 appellant retired on disability retirement.

In a December 13, 2002 letter, appellant's attending physician, Dr. Stanley L. Whittenmore, a family practitioner, indicated that appellant had a chronic back condition accepted by the Office and had requested authorization to purchase a Tempurpedic brand mattress.

In a January 14, 2003 letter, the Office advised appellant that additional factual and medical information was required to determine whether the mattress was necessary and appropriate for effective treatment of his work-related condition. In a January 23, 2003 response to an Office inquiry, Dr. Whittenmore stated that appellant had continued low back pain and pseudoarthrosis. He stated that appellant reported that his back comfort was dependant upon the quality of his mattress and had requested the Tempurpedic brand mattress to give him good support. Dr. Whittenmore stated that the specific goals and benefits from this mattress, or any other mattress, were to give appellant enough support to create better comfort for him.

In a July 2, 2003 letter to Dr. Whittenmore, the Office stated that a review of the Tempurpedic and Healthy Back websites indicated that the mattresses were designed for pressure relief, with no specific mention of back support. Dr. Whittenmore was requested to explain if he would recommend this type of mattress for appellant's work-related back condition and whether appellant would benefit from a less expensive product.

In a July 8, 2003 letter, Dr. Whittenmore stated that his letter requesting a specific mattress for appellant was based on appellant's request and not on any specific medical knowledge about need. He advised that he was unable to make any comments about any particular type of mattress.

In an August 1, 2003 letter, the Office advised appellant that his request for the Tempurpedic mattress could not be authorized without further medical explanation.

In an August 1, 2003 letter, appellant advised the Office that "rather than Tempurpedic type of mattress, the 'Select Comfort' type of mattress system claims they give back support." In an August 21, 2003 letter, the Office again advised appellant of the information required to determine whether the mattress he requested was necessary and appropriate for effective treatment of his work-related back conditions and inguinal hernia.

In a September 2, 2003 letter, appellant advised that he was submitting quotes regarding a Select Comfort mattress, including an August 22, 2003 bill from Select Comfort in the amount of \$1,844.48 for 5000 queen set, single, pillow top, wireless mattress. No medical evidence was submitted.

By decision dated December 5, 2003, the Office denied appellant's request for the Select Comfort mattress finding that there was insufficient medical evidence to establish that the mattress was necessary and appropriate for treatment of his work-related back condition.

In an October 27, 2004 letter, appellant requested reconsideration of the Office's December 5, 2003 decision and set forth points he wished the Office to consider. Appellant also submitted a four-page excerpt from the Select Comfort mattress company.

By decision dated December 28, 2004, the Office denied modification of the December 5, 2003 decision.

LEGAL PRECEDENT

Section 8103(a) of the Federal Employees' Compensation Act states in pertinent part:

“The United States shall furnish to an employee who is injured while in the performance of duty the services, appliances and supplies prescribed or recommended by a qualified physician, which 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 the monthly compensation.”¹

The Office's obligation to pay for medical treatment under this section extends only to treatment of employment-related conditions and appellant has the burden of establishing that the treatment is for the effects of an employment injury.² However, the right to medical benefits for an accepted condition is not limited to the period of entitlement to disability compensation.³

In interpreting this section of the Act, the Board has recognized that the Office has broad discretion in approving services provided under the Act.⁴ The Office has the general objective of ensuring that an employee recovers from his injury to the fullest extent possible in the shortest amount of time and, therefore, must exercise its administrative discretion in choosing the means to achieve this goal.⁵ The only limitation on the Office's authority is that of reasonableness.⁶ Abuse of discretion is generally shown, through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.⁷

¹ 5 U.S.C. § 8103(a).

² *Dale E. Jones*, 48 ECAB 648, 649 (1997).

³ *Marlene G. Owens*, 39 ECAB 1320, 1331 (1988).

⁴ *Yvonne R. McGinnis*, 50 ECAB 272, 274 (1999).

⁵ *David Spearman*, 49 ECAB 445, 449 (1998).

⁶ *James R. Bell*, 49 ECAB 642, 644 (1998).

⁷ *Daniel J. Perea*, 42 ECAB 214 (1990).

ANALYSIS

As noted above, medical care is not limited to a period of disability under the Act. Nonmedical equipment may be authorized if recommended by a claimant's treating physician and if the Office finds that such an item is likely to cure, give relief and reduce the degree or the period of disability or aid in lessening the amount of monthly compensation.

The Office's procedure manual discusses requests for equipment not commonly obtainable from medical supply sources or prescribed for treatment, such as waterbeds, weight-lifting sets, saunas, tape decks, vibrating chairs and exercise bicycles.⁸ The Office must evaluate the pertinent information received from the claimant and his physician and determine whether the equipment is necessary to treat the effects of the work-related injury and that its use will be consistent with the claimant's restrictions and safety.⁹

The evidence does not establish that appellant's requested Select Comfort mattress is likely to cure, relieve or reduce the degree of appellant's accepted back condition. Dr. Whittenmore addressed appellant's request for a specialized mattress to help provide comfort from the effects of appellant's work-related injuries but noted in the July 8, 2003 letter that he was unable to comment on the benefits of any particular type of mattress. The Office advised appellant of the specific information needed to authorize the services, appliances and supplies for treatment of his accepted work-related condition as prescribed or recommended by a qualified physician. The record, however, does not contain a reasoned medical opinion explaining why the requested mattress was needed "to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation." As the matter is medical in nature, appellant's assertions regarding his need for the requested mattress are insufficient to establish that cost for the mattress should be reimbursed pursuant to section 8103(a) of the Act. As noted above, section 8103(a) indicates that the Office shall furnish appropriate services, appliances and supplies when "prescribed or recommended by a qualified physician." No qualified physician has recommended the purchase of the mattress in question.

The documents from Select Comfort Mattress company do not refer directly to appellant or constitute a medical opinion by a qualified physician regarding the benefits of the mattress to appellant's work-related condition. The Board has held that excerpts from publications are of little evidentiary value because such materials are of general application.¹⁰

The Office based its decision on the insufficiency of medical evidence showing that the requested mattress would achieve any of the objectives of section 8103(a). The Board finds that this determination did not constitute an abuse of discretion.

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.15.b. (July 2000).

⁹ *Id.*

¹⁰ See generally *Gloria J. McPherson*, 51 ECAB 441 (2000); *Dominic E. Coppo*, 44 ECAB 484 (1993).

CONCLUSION

The Board finds that the Office acted within its discretion in denying appellant's request for a specific mattress.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 28, 2004 is affirmed.

Issued: October 17, 2005
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board