

**United States Department of Labor
Employees' Compensation Appeals Board**

F.G., Appellant

and

**U.S. POSTAL SERVICE, MAIL PROCESSING
CENTER, Kearny, NJ, Employer**

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**Docket No. 10-779
Issued: July 9, 2010**

Appearances:
Appellant, pro se
No appearance, for the Director

Oral Argument May 13, 2010

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 27, 2010 appellant filed a timely appeal from a December 1, 2009 merit decision of the Office of Workers' Compensation Programs denying payment for medical bills. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether the Office properly exercised its discretion in denying payment of hospital bills from May 17 through 20, 2008.

At oral argument, appellant contended that her supervisor, who is now retired, accompanied her to the hospital but never provided the appropriate billing paperwork. She also argued that her claim was accepted and that the Office paid subsequent medical bills relating to treatment.

FACTUAL HISTORY

The Office accepted that on May 17, 2008 appellant, then a 43-year-old mail carrier, sustained a head laceration, contusion of the left shoulder and disorder of the bursae and tendons of the left shoulder region after she passed out and fell down stairs while delivering mail.

In May 21 and July 5, 2008 statements, appellant claimed that on May 17, 2008 while delivering mail on her route, she blacked out and woke up at the end of a walkway. All she remembered was placing mail in a mailbox which was located at the top of five concrete steps. Appellant woke up in a daze and with blood dripping over her. She called her supervisor, Debbie Korczarowski, and explained what happened. Ms. Korczarowski checked on appellant and recommended that she wash up. Appellant went to a nearby home, where a couple helped her clean up. She attempted to continue delivering mail but eventually called another supervisor and returned to the office. Appellant stated that second supervisor took her to the employing establishment care center, where she was refused treatment because she had a head laceration requiring sutures. She was transferred to Clara Maass Medical Center for treatment.

In a May 17, 2008 police report, Officer James Goral stated that he responded to First Care on a report of an injured female. Appellant advised him that during her route that morning she fell down the front steps of a residence and struck her head. She sustained a laceration and contusion to the back of her head. Officer Goral reported that, after emergency medical services conducted an on-scene evaluation of appellant, they transported her to Clara Maass Medical Center.

Appellant submitted a series of diagnostic test results and treatment notes from Clara Maass Medical Center dated May 17 through 20, 2008. According to the reports, she was received by ambulance on May 17, 2008. Appellant had passed out at 1:45 p.m. while working and fell down and hit her head, right knee and left ankle. She presented with left ankle swelling and with an abrasion to the back of her head. The examining physician diagnosed syncope, hypotension, scalp laceration and bradycardia on tenormin. On May 17, 2008 appellant's head laceration was closed with surgical staples and a Jones wrap was applied to her right knee. She also underwent chest, left ankle and right knee x-rays and a CT head scan for syncope and trauma on May 17, 2008. On May 18, 2008 appellant had x-rays of her left humerus and hip due to a possibility of fractures. An echocardiogram and an electroencephalogram for syncope were performed on May 19, 2008. Appellant was discharged on May 20, 2008.

By decision dated December 1, 2009, the Office denied payment for medical bills incurred during appellant's hospitalization at Clara Maass Medical Center from May 17 through 20, 2008. It stated that the billing code provided was for hypoglycemia, which was not related to the accepted conditions. Further, the medical evidence did not show how the medical treatment was related to the May 17, 2008 employment injury.

LEGAL PRECEDENT

Section 8103 of the Act¹ provides that 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 Office 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 this section of the Act, the Board has recognized that the Office has broad discretion in approving services provided under section 8103, with the only limitation on the Office's authority being that of reasonableness.³ 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.⁴ In order to be entitled to reimbursement for medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury.⁵

ANALYSIS

The Office accepted that appellant sustained a head laceration, contusion of the left shoulder and disorder of the bursae and tendons of the left shoulder region due to the May 17, 2008 employment injury. The issue is whether it properly exercised its discretion in denying payment for medical expenses incurred while appellant was hospitalized from May 17 through 20, 2008. The Board finds that the case is not in posture for decision.

Ordinarily, where an employee sustains a job-related injury which may require medical treatment, the designated agency official shall promptly authorize such treatment by giving the employee a properly executed CA-16 within four hours. However, in cases of an emergency or cases involving unusual circumstances, the Office may, in the exercise of its discretion, authorize treatment otherwise than by a Form CA-16, or it may approve payment for medical expenses incurred other than by a Form CA-16.⁶

Appellant's supervisor brought her to the employing establishment's care center. She was subsequently transported by ambulance to the Clara Maass Medical Center, where she was admitted for several days and received treatment for a head laceration and underwent diagnostic tests. This case is similar to *Val D. Wynn*,⁷ when the employee experienced weakness and chest

¹ 5 U.S.C. §§ 8101-8193.

² *Id.* at § 8103. See *Thomas W. Stevens*, 50 ECAB 288 (1999).

³ *James R. Bell*, 52 ECAB 414 (2001).

⁴ *Claudia L. Yantis*, 48 ECAB 495 (1997).

⁵ *Cathy B. Millin*, 51 ECAB 331 (2000).

⁶ See 20 C.F.R. § 10.304; *Thomas W. Keene*, 42 ECAB 623 (1991).

⁷ 40 ECAB 666 (1989).

pain as a result of his employment and was transported from the employing establishment health unit to a local community hospital. The Board affirmed the denial of the employee's claim for compensation due to the insufficiency of the medical evidence. However, it remanded the case to the Office on the issue of whether the employee was entitled to reimbursement of medical expenses due to emergency or other unusual circumstances.

The Office has not determined whether the facts in this case presented emergency or unusual circumstances warranting payment of medical expenses.⁸ The Board finds the case is not in posture for decision and will be remanded to the Office for further development of this issue.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the December 1, 2009 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further proceedings consistent with this decision.

Issued: July 9, 2010
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board

⁸ See also *E.K.*, 61 ECAB ___ (Docket No. 09-1827, issued April 21, 2010) (where the Board affirmed the denial of an employee's claim for compensation but remanded the case for the Office to determine whether emergency or unusual circumstances were present such that it should reimburse the employee's medical expenses).