



Office accepted the claim for lumbar strain. Appellant was granted a disability retirement on December 30, 2005.

Appellant was treated by Dr. Sameer Shammus, a Board-certified orthopedist, beginning July 13, 2004 for lumbar pain radiating into his thighs after the lifting incident at work. Dr. Shammus diagnosed severe lumbar strain with bilateral leg pain and advised that appellant was totally disabled. He noted a July 16, 2004 magnetic resonance imaging (MRI) scan revealed multilevel mild disc protrusions at L1-2, L2-3 and L3-4 but without neurological involvement, foraminal encroachment or spinal stenosis. Dr. Shammus returned appellant to work at full duty on July 22, 2004. On September 7, 2005 he opined that appellant had a chronic back condition, multi-level degenerative arthritis, which was permanent and he could only tolerate light duty. On May 18, 2006 appellant presented with persistent low back pain due to multilevel degenerative arthritis and the physician recommended lumbar epidural blocks.

On June 15, 2006 the Office authorized three lumbar epidural blocks. On August 14, 2006 Dr. Shammus noted that appellant was status post lumbar epidural blocks and his symptoms were stable. In reports dated February 7 to October 9, 2007, he noted appellant's complaint of recurrent low back pain radiating into both thighs and recommended additional epidural blocks. On October 19 and 24, 2007 the Office authorized the spinal injections. A September 28, 2007 MRI scan of the lumbar spine showed mild degenerative disc disease and disc bulging at L1-2, L2-3 and L3-4 without significant stenosis or impingement.

Appellant came under the treatment of Dr. George H. Drakes, a Board-certified physiatrist, from January 23 to June 10, 2009, for back pain. Dr. Drakes noted that appellant had transient relief from physical therapy and epidural injections. He diagnosed lumbosacral radiculopathy, neuritis, lumbar disc degeneration, lumbar disc displacement, backache and lumbar spine sprain/strain. On February 5 and 6, 2009 Dr. Drakes requested authorization for a series of three medial branch block injections from February 5 to May 3, 2009 which was approved by the Office on February 10, 2009. On February 17, 2009 he performed a medial branches block at left L2-3, L3-4, L4-5 and L5-S1 and diagnosed lumbar disc degeneration and lumbar facet syndrome. On May 4, 2009 appellant presented with back pain and Dr. Drakes noted previous diagnoses. Dr. Drakes recommended medial branch blocks which were performed on May 13 and June 10, 2009. On July 16, 2009 appellant was treated by Dr. Drakes for low back pain and the previously diagnosed conditions. He reported good relief from the right medial branch blocks performed on June 10, 2009 for two weeks and then the pain returned.

Dr. Drakes recommended a series of left medial branch blocks for treatment of lumbosacral facet syndrome. On July 22, 2009 he requested authorization for a series of three left medial branch blocks and noted the dates of service of July 22 to October 31, 2009.

On July 28, 2009 the Office informed Dr. Drakes that his request for authorization of a further series of medial branch blocks could not be approved as further medical development was required.

In reports dated September 4 and 9, 2009, Dr. Drakes noted that appellant reported good relief from the right medial branch blocks performed on June 10, 2009 for two weeks and then

the pain returned. He diagnosed degeneration of the lumbar or lumbosacral intervertebral disc (primary), lumbosacral facet syndrome and lumbar sprain/strain. Dr. Drakes again recommended a series of left medial branch blocks for treatment of lumbosacral facet syndrome. On September 9, 2009 he requested authorization for a series of three left medial branch blocks and with dates of service of September 9 to December 31, 2009.

On October 2, 2009 the Office referred appellant to Dr. Robert A. Smith, a Board-certified orthopedic surgeon, for a second opinion on the nature of his low back condition, extent of disability and the appropriate treatment. In an October 9, 2009 report, Dr. Smith reviewed the medical records provided and examined appellant. He discussed appellant's work history and noted that physical examination was essentially normal with no gait disturbances. The thoracolumbar spine revealed no finding of spasm, atrophy, trigger points or deformity. Range of motion in the lumbar spine was essentially normal without spasm or rigidity and the neurological examination was normal. Dr. Smith diagnosed resolved lumbar strain directly related to the work-related event. Based on his current examination, there was no evidence that appellant had residuals of the accepted lumbar sprain/strain that occurred five years prior. Dr. Smith noted that the diagnosed lumbar facet and intervertebral disc conditions were unrelated to his April 16, 2004 work injury. He opined that appellant was at maximum medical improvement and exhibited no residuals from the accepted lumbar sprain/strain. Dr. Smith advised that appellant's present symptoms were related to the nonindustrial degenerative disc disease which was not an accepted condition. He noted that appellant required no further treatment or testing related to the April 16, 2004 work injury.

Appellant submitted an October 14, 2009 report from Dr. Shammus who treated him for persistent pain of the lumbar spine, with multiple lumbar epidural blocks which achieved limited results. In reports dated October 12 to December 18, 2009, Dr. Tristan Shockley, a Board-certified physiatrist, treated appellant for persistent low back pain. He noted that appellant reported good relief from the right medial branch blocks performed on June 10, 2009 for two weeks and then his pain returned. Dr. Shockley diagnosed degeneration of the lumbar or lumbosacral intervertebral disc (primary), lumbosacral facet syndrome and lumbar sprain/strain. He recommended a series of left medial branch blocks for treatment of lumbosacral facet syndrome.

In a January 21, 2010 decision, the Office denied appellant's request for medial branch blocks at left L2-3, L3-4, L4-5, L5-S1 and fluoroscopic needle localization or medial branch steroid injection. It found that the weight of medical evidence was represented by Dr. Smith and did not establish that such treatment was medically necessary for appellant's accepted back strain injury.

On March 3, 2010 appellant requested a telephonic oral hearing which was held on May 7, 2010. He submitted a January 29, 2010 request for authorization for a series of three medial branch blocks from Dr. Drakes. In a May 19, 2010 report, Dr. Shammus noted first treating appellant on July 13, 2004. He diagnosed strain of the lumbar spine overlying multilevel degenerative arthritis. Dr. Shammus noted that over the years appellant's symptoms persisted and he developed an aggravation of a preexisting condition. He opined that appellant's accepted injury did not cause the degenerative disc disease but would aggravate it.

In a decision dated July 22, 2010, an Office hearing representative affirmed the January 21, 2010 decision.

### **LEGAL PRECEDENT**

Section 8103 of the Act<sup>2</sup> 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 the monthly compensation.<sup>3</sup>

In interpreting section 8103, the Board has recognized that the Office has broad discretion in approving services provided under the Act. The Office has the general objective of ensuring that an employee recovers from his or her injury to the fullest extent possible, in the shortest amount of time. It, therefore, has broad administrative discretion in choosing means to achieve this goal. The only limitation on the Office's authority is that of reasonableness.<sup>4</sup> 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 by submitting rationalized medical evidence that supports such a connection and demonstrates that the treatment is necessary and reasonable.<sup>5</sup> While the Office is obligated to pay for treatment of employment-related conditions, the employee has the burden of establishing that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.<sup>6</sup> The 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.<sup>7</sup>

### **ANALYSIS**

The Office accepted that appellant sustained employment-related lumbar sprain/strain. Dr. Drake's requested authorization for a series of left medial branch blocks that the Office denied in its January 21, 2010 decision.

The Office referred appellant to Dr. Smith who, in an October 9, 2009 report, noted that the physical and neurological examination was essentially normal. Dr. Smith diagnosed resolved lumbar strain directly related to the accepted work injury. He opined that appellant was at maximum medical improvement related to the April 16, 2004 injury and found no residuals from the accepted condition of lumbar sprain/strain that occurred five years prior. Dr. Smith noted that the medial branch blocks were sought to treat the underlying lumbar facet and intervertebral

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Id.* at § 8103(a).

<sup>4</sup> *Dr. Mira R. Adams*, 48 ECAB 504 (1997).

<sup>5</sup> *See Debra S. King*, 44 ECAB 203 (1992).

<sup>6</sup> *Kennett O. Collins, Jr.*, 55 ECAB 648, 654 (2004).

<sup>7</sup> *Dale E. Jones*, 48 ECAB 648 (1997); *James F. Aue*, 25 ECAB 151 (1974).

disc conditions; however, these conditions were unrelated to the April 16, 2004 work injury. He stated that appellant's ongoing symptoms were related to the nonindustrial degenerative disease which was not an accepted condition. Appellant required no further treatment or testing related to the April 16, 2004 work injury.

In support of his request, appellant submitted reports from Dr. Drakes from July 16 to September 9, 2009, who treated appellant for low back pain and reported good relief from the right medial branch blocks performed on June 10, 2009. Dr. Drakes diagnosed degeneration of the lumbar or lumbosacral intervertebral disc (primary), lumbosacral facet syndrome and lumbar sprain/strain. He recommended a series of left medial branch blocks for treatment of lumbosacral facet syndrome. Dr. Drakes did not address the reasons why a series of left medial branch blocks was necessary or useful in treating appellant's accepted lumbar strain.<sup>8</sup> Rather, he noted a primary diagnosis of lumbosacral intervertebral disc disease and recommended a series of left medial branch blocks for treatment of lumbosacral facet syndrome, a condition that was not accepted by the Office as work related. The fact that the Office previously authorized similar treatment, does not establish that the condition for which appellant received treatment was employment related.<sup>9</sup>

An October 14, 2009 report from Dr. Shammus noted appellant's persistent pain of the lumbar spine and stated that epidural blocks administered by Dr. Drake provided limited results. In a May 19, 2010 report, he noted his history of treating appellant and diagnosed strain of the lumbar spine overlying multilevel degenerative arthritis. Dr. Shammus noted that over the years appellant's symptoms persisted and he developed an aggravation of a preexisting condition. He opined that appellant's work injury did not cause the degenerative disc disease but "it can aggravate one." Although Dr. Shammus' report provides some support for causal relationship, his reports are insufficient to establish appellant's degenerative disc disease was aggravated by his April 16, 2004 injury.<sup>10</sup> This report at best is speculative with regards to causal relationship and was inconclusive in explaining the relationship between the work event and the underlying condition.<sup>11</sup> Additionally, Dr. Shammus provided no explanation as to how the degenerative condition was changed or made worse as a result of the work event to warrant the current treatment of left medial branch blocks. He further did not otherwise specifically explain the medical reasons why a series of left medial branch blocks were necessary to treat the accepted lumbar strain.

Other reports from Dr. Shockley dated October 12 to December 18, 2009 recommended a series of left medial branch blocks for treatment of lumbosacral facet syndrome. However, he

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<sup>8</sup> See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

<sup>9</sup> See *supra* note 7; *Gary L. Whitmore*, 43 ECAB 441 (1992).

<sup>10</sup> See *G.A.*, Docket No. 09-2153 (issued June 10, 2010) (for conditions not accepted by the Office as being employment related, it is the employee's burden to provide rationalized medical evidence sufficient to establish causal relation, not the Office's burden to disprove such relationship).

<sup>11</sup> See *D.D.*, 57 ECAB 734 (2006) (medical opinions that are speculative or equivocal in character are of diminished probative value).

did not explain how this treatment was necessary and reasonable to treat the accepted condition of lumbar strain. This is important where Dr. Shockley prescribed the medial blocks to treat lumbosacral facet syndrome, a condition not accepted by the Office as work related. No other medical evidence of record provides a well-reasoned opinion explaining why medial blocks were necessary and reasonable for the treatment of his accepted lumbar strain.

Because appellant did not submit medical evidence explaining why the series of medial branch blocks was necessary for treatment of his accepted condition, the Office properly denied authorization blocks.

Generally, an abuse of discretion is 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 cannot be found that the Office abused its discretion in denying medical benefits for the series of medial branch blocks.

**CONCLUSION**

The Board finds that the Office did not abuse its discretion in refusing to authorize payment for a series of medial branch blocks of the lumbar spine.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated July 22, 2010 is affirmed.

Issued: July 12, 2011  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

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

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