

FACTUAL HISTORY

On February 2, 2010 appellant, then a 25-year-old volunteer, filed an occupational disease claim (Form CA-2) alleging that on or before July 11, 2008 she sustained human papillomavirus (HPV) and genital warts while employed in the Dominican Republic. An employing establishment official confirmed that she had no preemployment history of HPV.

Dr. Samuel Guerrero, an attending physician in the Dominican Republic,² diagnosed an inflamed cervix in August 2007 and genital warts in January 2008. A January 31, 2008 papanicolaou smear (Pap) and March 10, 2008 colposcopy and biopsy showed HPV of a high-risk strain. A July 21, 2008 Pap showed HPV, coccobacilli and mild cervical dysplasia. In August 2008, appellant underwent laser vaporization of cervical lesions.

Appellant's volunteer term ended on September 18, 2008. She developed vulvar lesions in October 2008. The employing establishment authorized a January 2009 follow-up pap smear. In a January 19, 2010 report, Dr. Alan B. Birnkrant, an attending Board-certified gynecologist, diagnosed HPV, gonorrhea, chlamydia and multiple types of herpes. He obtained a Pap on January 19, 2010 showing low grade squamous epithelial lesions consistent with HPV infection.

On April 2, 2010 the Office accepted that appellant sustained "abnormal pap and HPV" on or before July 11, 2008.

In a June 10, 2010 letter, the Office noted that appellant had telephoned regarding reimbursement for a March 31, 2010 medical appointment for procedure code 57454, a cervical colposcopy. It advised her that to approve her request for reimbursement, she must submit her physician's notes from the March 31, 2010 visit explaining the purpose of the treatment. The Office would then ascertain if the procedure was related to the accepted conditions and therefore reimbursable under the Act.

The Office telephoned appellant on July 16, 2010 and again requested that she submit a copy of the March 31, 2010 treatment notes.

By decision dated August 11, 2010, the Office denied reimbursement for the March 31, 2010 cervical colposcopy. It found that, as appellant did not submit the requested March 31, 2010 medical report, it could not be ascertained if the services provided were necessitated by the accepted HPV.

LEGAL PRECEDENT

Section 8103 of the Act³ 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,

² Dr. Guerrero's reports were reviewed by an employing establishment medical officer whose signature is illegible.

³ 5 U.S.C. §§ 8101-8193.

reduce the degree or the period of disability or aid in lessening the amount of the monthly compensation.⁴ In interpreting section 8103, the Board has recognized that the Office has broad discretion in approving services provided under the Act. The only limitation on the Office's authority is that of reasonableness.⁵ 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.⁶

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.⁷ Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.⁸ Therefore, in order to prove that the medical services were warranted, appellant must submit evidence to show that those services were for a condition causally related to the employment injury and that the services were medically warranted. Both of these criteria must be met in order for the Office to authorize payment.⁹

ANALYSIS

The Office accepted that appellant sustained HPV causing abnormal pap smears. Appellant submitted treatment notes through October 2008 diagnosing HPV and cervical changes. She requested reimbursement for a March 31, 2010 cervical colposcopy. The Office denied payment for this procedure by an August 11, 2010 decision. It is appellant's burden of proof to establish that the Office abused its discretion by denying reimbursement for the colposcopy.

The Office advised appellant in a June 10, 2010 letter and in a July 16, 2010 telephone call that it could not reimburse the requested expenses without her physician's notes from the March 31, 2010 visit explaining why the colposcopy was necessitated by the accepted conditions. However, appellant did not submit such evidence. She submitted January 19, 2010 reports from Dr. Birnkrant, an attending gynecologist, diagnosing cervical HPV lesions as well as three nonaccepted venereal diseases. Dr. Birnkrant did not mention a colposcopy. As appellant failed to submit supporting medical evidence, the Board finds that the Office acted within its discretion in denying reimbursement of the March 31, 2010 colposcopy.¹⁰

⁴ 5 U.S.C. § 8103; *see Thomas W. Stevens*, 50 ECAB 288 (1999).

⁵ *Mira R. Adams*, 48 ECAB 504 (1997).

⁶ *Daniel J. Perea*, 42 ECAB 214 (1990).

⁷ *Kennett O. Collins, Jr.*, 55 ECAB 648 (2004).

⁸ *Id.*

⁹ *R.L.* Docket No. 08-855 (issued October 6, 2008).

¹⁰ *G.A.*, Docket No. 09-2153 (issued June 10, 2010).

On appeal, appellant asserts that new medical evidence established her entitlement to reimbursement for the March 31, 2010 colposcopy. The Board may not consider new evidence for the first time on appeal that was not before the Office at the time it issued the final decision in the case.¹¹ Appellant may submit such evidence to the Office in support of a valid request for reconsideration.

CONCLUSION

The Board finds that the Office properly denied reimbursement for a March 31, 2010 cervical colposcopy.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 11, 2010 is affirmed.

Issued: May 11, 2011
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

¹¹ 20 C.F.R. § 501.2(c). This evidence can be submitted to the Office along with a request for reconsideration.