

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

L.E., Appellant

and

**DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL
CENTER, Alexandria, LA, Employer**

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**Docket No. 11-1483
Issued: February 3, 2012**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On June 8, 2011 appellant filed a timely appeal of the May 9, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP) denying certain benefits. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 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 OWCP abused its discretion in denying authorization for an electric bed and lift chair.

FACTUAL HISTORY

On April 25, 1998 appellant, then a 47-year-old licensed practical nurse, injured her low back while transferring a patient from his bed to a bathing boat. OWCP accepted lumbosacral

¹ 5 U.S.C. §§ 8101-8193.

sprain, displacement of lumbar disc and lumbar spinal stenosis and authorized surgery. Appellant stopped work on June 27, 1998.

Appellant was treated by Dr. G. Andrew Wilson, a Board-certified orthopedic surgeon from September 23, 1998 to March 31, 1999 for low back pain which developed after lifting a patient at work. Dr. Wilson diagnosed neurogenic claudication secondary to lumbar stenosis. On November 4, 1998 he performed a L3 through L5 laminectomy with undercutting of L2 and L3 through S1 bilateral foraminotomy. Dr. Wilson diagnosed multilevel lumbar stenosis causing neurogenic claudication. A September 28, 1998 lumbar myelogram revealed significant acquired spinal stenosis at L2-3, L3-4 and L4-5.

Appellant was treated by Dr. Clois D. Slaughter, a family practitioner, from February 5, 2002 to May 17, 2006. Dr. Slaughter diagnosed lumbar spinal stenosis, status post decompressive laminectomy, major depression, somatization and psychophysiological discharge and dysfunctional pain adjustment. In reports dated May 27, 2003 to May 17, 2006, he noted that appellant remained totally disabled and opined that it was unlikely she would return to work in any capacity. Dr. Slaughter noted that she underwent epidural steroid injections for the lumbar spine condition on July 1 and August 1, 2005 and March 5, 2006.

OWCP subsequently referred appellant for a second opinion to Dr. John P. Sandifer, a Board-certified orthopedic surgeon, for a second opinion regarding whether she had a bilateral hip or a thoracic condition related to the work injury. In a June 19, 2007 report, Dr. Sandifer reviewed the records provided and examined appellant. He diagnosed status post right carpal tunnel release with median nerve neuropathy, chronic cervical spinal stenosis with radiculopathy and extensive degenerative disc disease and lumbar spinal stenosis with bilateral radiculopathy. Dr. Sandifer noted that appellant did not use a cane or crutch for standing or ambulation. He found no evidence of a thoracic or bilateral hip condition related to her work injury. Dr. Sandifer noted that appellant was at maximum medical improvement but could not return to full-time unrestricted duty.

Appellant submitted a July 11, 2007 report from Dr. Slaughter, who noted that she had a chronic and debilitating lower back pain secondary to degenerative lumbar disc disease and spinal stenosis. She remained permanently and totally disabled and her prognosis was poor for any significant improvement in her chronic pain.

On September 17, 2010 appellant contacted OWCP and indicated that her physician prescribed an electric bed and lift chair and wanted authorization to purchase the items.

On September 17, 2010 OWCP acknowledged appellant's request for an electric bed and chair lift and requested that she submit a prescription for the items with detailed letter of medical necessity explaining why she needed the equipment due to her work injury. Appellant was asked to provide the full name and address of two suppliers of the equipment.

On September 17, 2010 appellant requested authorization for an electric bed and lift chair and submitted a booklet from a supplier regarding home care beds. In a September 9, 2010 prescription note, Dr. Charles Joiner, Board-certified in emergency medicine, diagnosed degenerative disc disease of the lumbar spine and degenerative disc disease of the cervical spine

and recommended an electric bed and a lift chair. Also submitted was a business card for a medical supply store.

On April 13, 2011 OWCP referred the medical record to its medical adviser for an opinion on whether the recommended electric bed and lift chair were medically warranted or necessitated by the accepted work injury. In a report dated April 19, 2011, OWCP's medical adviser noted that appellant had back pain from a work incident on April 25, 1998 which was accepted for lumbosacral sprain, displacement of lumbar IV disc and lumbar spinal stenosis. Appellant underwent surgery in November 1998 and since that time had ongoing and intermittent low back and leg pain and was treated with epidural steroid injections. The medical adviser noted that Dr. Sandifer, a second opinion examination physician, on June 19, 2007, described neck and low back pain with radiation in the upper and lower extremities. However, Dr. Sandifer advised that appellant was able to ambulate without using ambulation aids. The medical adviser noted only seeing a prescription note for an electric bed and lift chair signed by Dr. Joiner with no clinical findings to support the request. He opined that the information of record did not support the medical necessity for the requested electric bed or lift chair and recommended the purchase not be authorized.

In a May 9, 2011 decision, OWCP denied appellant's request for an electric bed and lift chair finding that the weight of the medical evidence as established by the medical adviser did not warrant such supplies as medically necessary for her accepted injury.

LEGAL PRECEDENT

Section 8103 of FECA 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 OWCP considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of the monthly compensation.²

In interpreting section 8103, the Board has recognized that OWCP has broad discretion in approving services provided under FECA. OWCP 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 OWCP's authority is that of reasonableness.³ 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.⁴ While OWCP is obligated to pay for treatment of employment-

² *Id.* at § 8103(a).

³ *Dr. Mira R. Adams*, 48 ECAB 504 (1997).

⁴ *See Debra S. King*, 44 ECAB 203 (1992).

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.⁵

ANALYSIS

OWCP accepted that appellant sustained employment-related lumbosacral sprain, displacement of lumbar disc and lumbar spinal stenosis and authorized surgery cervical strain. On September 9, 2010 Dr. Joiner requested authorization for an electric bed and chair lift that OWCP denied on May 9, 2011.

In a September 9, 2010 prescription note, Dr. Joiner listed the diagnoses of degenerative disc disease of the lumbar spine and degenerative disc disease of the cervical spine. He recommended an electric bed and a lift chair, but he did not provide any medical rationale explaining the reasons why an electric bed and a lift chair was necessary or useful in treating appellant's accepted conditions.⁶ Dr. Joiner did not list any finding based on clinical examination to support the recommendation.

OWCP referred the medical record to a medical adviser, who, on April 19, 2011, noted appellant's accepted conditions, her surgery in November 1998 and her ongoing and intermittent low back and leg pain. Its medical adviser noted that Dr. Joiner's September 9, 2010 prescription was not accompanied by any explanation by the physician in support of the request. He noted that appellant underwent a second opinion examination on June 19, 2007, in which Dr. Sandifer found that she was able to ambulate without using ambulation aids. The information of record did not support the medical necessity for the requested electric bed and lift chair and the medical adviser recommended against their purchase as neither the electric bed nor lift chair were warranted or necessary to treat the accepted work-related condition.

There is no medical evidence of record supporting that an electric bed and a lift chair are necessary and reasonable for the treatment of appellant's accepted conditions. As noted, on September 17, 2010 OWCP requested that appellant provide a detailed letter of medical necessity explaining why she needed the requested items because of her work injury.

The Board finds that OWCP did not abuse its discretion in denying authorization for the requested electric bed and a lift chair.

On appeal, appellant asserts that she submitted sufficient evidence from 1998 to 2011 which supports her continued pain from her work-related injury and requested that the electric bed and chair lift be authorized. While there is no dispute that she has residuals of her accepted conditions, she has not submitted adequate medical evidence addressing the reasons why the requested items are necessary because of her accepted conditions.

⁵ *Kennett O. Collins, Jr.*, 55 ECAB 648, 654 (2004).

⁶ *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).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP did not abuse its discretion in refusing to authorize payment for an electric bed and a lift chair.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 9, 2011 is affirmed.

Issued: February 3, 2012
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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