

FACTUAL HISTORY

On October 9, 1975 appellant, then a 38-year-old contract negotiator, sustained a traumatic injury in the performance of duty while lifting and carrying a box of files. OWCP accepted his claim for lumbar sprain and for brachial neuritis or radiculopathy.²

In 2013 appellant received radiofrequency treatment for chronic axial back pain. He was noted to have longstanding back pain “thought to be facet joint generated” and which was refractory to other therapies. Local anesthetic medial branch blocks or intra-articular facet joint injections resulted in appellant’s reporting a greater than 50 percent reduction of the usual axial component of pain for at least the duration of the local anesthetic effect.

On September 6, 2013 appellant requested assistance to procure a handicap accessible entrance for his home. “My medical conditions relative to my established DOL/OWCP injuries have worsened and I need some form of help in this regard.” He submitted a proposal for new stairs going to a sunroom in his house. The final invoice was \$2,102.55.

OWCP asked appellant for further information to support his request, including a medical report addressing how his specific job-related physical limitations resulted in the need for the housing modification.

Dr. Gilbert J. Fanciullo, a Board-certified specialist in pain management, began seeing appellant in February 2013. On October 4, 2013 he noted that appellant suffered from severe lumbar radiculopathy and low back pain that made it impossible for him to negotiate steps. “I understand that [appellant] is having a handicap ramp installed at his home ... and it is my opinion that this is medically necessary in order to enable him to continue to live at home, without this I do not believe he will be able to remain self-sufficient as he is now.”

On February 26, 2014 Dr. Fanciullo advised that a modified entrance to appellant’s home was medically necessary for appellant to continue to live in his home. “We implore you to accept these modified steps as medically necessary for [his] situation. These shorter and wider steps have allowed him to navigate his way in and out of his home more effectively with his walker than a long, difficult to manage, handicap ramp.”

On March 31, 2014 Dr. Robert Y. Pick, an OWCP medical adviser, reviewed the matter. He found that the requested modifications to appellant’s porch steps were not warranted by the accepted medical conditions. The medical records indicated that, although appellant had left lower extremity atrophy, the only apparatus or appliance he used was a cane. Further, the only access in question was for a sunroom and looking at the photograph of the house, the medical adviser assumed that the house had more entrances. Dr. Pick concluded that the requested entry was not a medical necessity.

² The record indicates that appellant suffered a nonjob-related automobile accident in 1973, a nonjob-related low back strain injury in 1974; a job-related acute low back strain on February 3, 1975 after moving room partitions, glass inserts and office furniture and equipment (OWCP File No. xxxxxx480); and a job-related acute low back strain on April 10, 1975 when a caster on his chair broke, causing him to tip over and fall to the floor (OWCP File No. xxxxxx637).

In a decision dated April 24, 2014, OWCP denied authorization for the requested housing modification. It found that the medical evidence submitted was not sufficient to support that the modification of appellant's porch steps was medically necessary as a result of the accepted medical conditions.

LEGAL PRECEDENT

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 and reduce the degree of the period of any disability or aid in lessening the amount of any monthly compensation. These services, appliances, and supplies shall be furnished by or on the order of the United States medical officers and hospital or at the employee's option, by or on the order of physicians and hospitals designated or approved by the Secretary.³

OWCP has broad discretionary authority in the administration of FECA and must exercise that discretion to achieve the objectives of section 8103.⁴ The only limitation on OWCP's authority is that of reasonableness.⁵

To be eligible for housing modifications, the claimant must be severely restricted in terms of mobility, functionality and independence in normal living functions, on a permanent basis, due to the work-related injury. Examples are impairments that require the use of a prosthesis, wheelchair, motorized scooter, leg braces, crutches, cane or other self-help device. Such medical conditions include quadriplegia, paraplegia, amputation, total loss of use of limbs, blindness and profound deafness bilaterally.⁶

Before considering the technicalities of housing modification proposals, a determination must be made on the medical necessity of the requested modification. There are several aspects to consider when reviewing the evidence of record:

- (1) Does the level of impairment rise to the level delineated in the eligibility section above?
- (2) Does the medical evidence support that the claimant has restrictions or physical limitations which necessitate the modification?
- (3) Are these restrictions caused by the accepted work-related condition?

³ 5 U.S.C. § 8103(a).

⁴ *Marjorie S. Geer*, 39 ECAB 1099 (1988).

⁵ *Daniel J. Perea*, 42 ECAB 214 (1990).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Housing and Vehicle Modifications*, Chapter 2.1800.3 (October 2009).

(4) Does the physician provide detailed findings and rationale for the opinion that the claimant's work injury has caused restrictions which necessitate the requested modification? This should come from a physician who is a recognized authority in the appropriate medical specialty.⁷

ANALYSIS

Dr. Fanciullo, the attending pain specialist, generally supported the request for a housing modification in October 2013. He noted that appellant suffered from severe lumbar radiculopathy and low back pain that made it impossible for him to negotiate steps. OWCP did not accept appellant's workers' compensation claims for lumbar radiculopathy. It accepted three episodes of lumbar strain/sprain in 1975. To establish the medical necessity of the requested modification, Dr. Fanciullo must first explain how appellant's present inability to negotiate steps was caused by the accepted soft tissue injuries that occurred 40 years earlier. He did not discuss the accepted injuries. Dr. Fanciullo did not acknowledge the mechanisms of injury, the contemporaneous clinical findings or the nature of the accepted medical conditions, nor did he account for the nonwork-related injuries in 1973 and 1974.

Medical conclusions unsupported by rationale are of diminished probative value.⁸ Medical conclusions based on inaccurate or incomplete histories are also of diminished probative value.⁹

The medical record in 2013 indicated that appellant had longstanding back pain thought to be facet joint generated. Local anesthetic medial branch blocks or intra-articular facet joint injections reduced the axial component of his pain in half. Again, OWCP did not accept appellant's work injuries in 1975 for a facet joint condition. If appellant's inability to negotiate steps stemmed from facet joint arthritis or severe lumbar radiculopathy, Dr. Fanciullo did not adequately address how appellant's work injuries caused this physical limitation.

The record reflects that appellant could negotiate steps, so long as they were modified. In February 2014, Dr. Fanciullo advised that such a modified entrance to appellant's sunroom was medically necessary for appellant to continue to live in his home. Although he implored OWCP to accept the medical necessity of these modified steps, he failed to provide sound medical rationale as to how appellant's several low back strains in 1975 caused this medical necessity.¹⁰

The Board finds Dr. Fanciullo's opinion lacks medical rationale and does not appear to be based on a complete or accurate history; the Board finds that it is of diminished probative

⁷ *Id.*, Chapter 2.1800.4.

⁸ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

⁹ *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

¹⁰ See *A.H.*, Docket No. 08-2269 (issued August 17, 2009) (finding that the medical opinion evidence did not adequately explain how the modification was medical necessary due to the accepted medical condition).

value. Dr. Pick, a medical adviser, reviewed appellant's request but determined that the modification was not warranted by the accepted medical conditions. He noted that the only access at issue was for a sunroom. This raises the question whether appellant's home had accessible entrances elsewhere, making it possible for him to continue to live there and thereby negating the necessity of the modification.

The medical opinion evidence does not establish that the accepted work injuries caused a physical limitation that necessitated the requested modification. The Board finds that OWCP did not abuse its discretion in denying authorization. The Board will therefore affirm the April 24, 2014 decision.

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 10.607.¹¹

CONCLUSION

The Board finds that OWCP properly denied authorization for the requested home modification.

¹¹ On June 9, 2014 appellant filed an appeal of a May 29, 2014 OWCP's decision denying authorization for a spinal procedure. As this is a separate OWCP decision and a separate issue than the one currently before the Board, the Board will assign a separate docket number under which the June 9, 2014 appeal may proceed.

ORDER

IT IS HEREBY ORDERED THAT the April 24, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 23, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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