

ISSUE

The issue is whether OWCP abused its discretion by denying appellant's request for authorization of left wrist joint repair surgery.

FACTUAL HISTORY

On August 29, 2013 appellant, then a 48-year-old accounting technician, filed a traumatic injury claim (Form CA-1) alleging that on August 26, 2013 he sustained hip, upper chest, upper back, neck, head, and arm injuries when walking into a revolving glass door while in the performance of duty. OWCP accepted the claim for lumbar ligaments sprain, complicated headache syndrome, neck sprain, left wrist sprain, right hip region enthesopathy/traumatic bursitis, face, neck and scalp contusion, concussion without loss of consciousness, and postconcussion syndrome. Appellant stopped work on the date of injury and returned to full-time work with restrictions on November 18, 2013. OWCP paid him intermittent wage-loss compensation on the supplement rolls for the period October 11 to December 14, 2013.⁴

In a report dated February 27, 2018, Dr. George Yeh, a Board-certified orthopedic and hand surgeon, noted that appellant returned for further evaluation of his left wrist and thumb conditions because he had continuing pain since the August 26, 2013 employment injury. He noted that appellant was last seen on September 23, 2014. Dr. Yeh reviewed appellant's diagnostic test results and diagnosed left wrist scapholunate ligament rupture, based on current x-ray findings. He referred appellant to Dr. Raymond A. Pensy, a Board-certified orthopedic surgeon, for further treatment of the left wrist scapholunate ligament tear.

On January 14, 2019 OWCP received a request for authorization for left wrist joint repair.

In a development letter dated January 15, 2019, OWCP notified appellant that his request for authorization of left wrist joint repair could not be approved as it was unclear how the requested surgical intervention was causally related to the accepted conditions. It requested that he submit a detailed narrative medical report from his treating physician, which explained how the requested elective surgery was medically necessary and how it was causally related to the accepted traumatic injury.

OWCP subsequently received additional evidence in the form of documents related to appellant's left thumb or lumbar conditions. The medical evidence pertaining to appellant's left wrist included an October 1, 2013 x-ray report wherein Dr. Shu Li, a Board-certified diagnostic radiologist, reported that x-ray of appellant's left hand revealed normal findings, with no fracture or dislocation, no soft tissue swelling, no suspicious osseous lesion, and no significant arthritic changes. In a July 19, 2018 x-ray report, Dr. Edward Mishner, a Board-certified diagnostic radiologist, related that x-ray of appellant's left wrist revealed no fracture or dislocation and no significant arthritic changes, with a minimal widening of the scapholunate joint, and a tiny calcification distal to the ulna styloid process, compatible with old trauma. In an October 25, 2018 x-ray report, he related that x-ray of appellant's left wrist showed no significant change from his previous study of July 29, 2018. Dr. Mishner noted that there may be widening of the scapholunate joint and clinical correlation for scapholunate dissociation was recommended.

⁴ The employing establishment terminated appellant's two-year probationary appointment effective April 4, 2014.

Dr. Pency, in a December 20, 2018 progress note, noted that appellant was seen that day for a postoperative checkup. He reported that appellant had postoperative edema and provided physical examination findings.

OWCP also received letters from appellant dated January 17 and 29, 2019 as well as two letters dated February 20, 2019.

By decision dated February 22, 2019, OWCP denied appellant's request for authorization of left wrist joint repair, finding that the evidence of record did not support that it was medically necessary to address the effects of the employment-related injury.

LEGAL PRECEDENT

Section 8103(a) of FECA provides for the furnishing of services, appliances, and supplies prescribed or recommended by a qualified physician which OWCP, under authority delegated by the Secretary, considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation.⁵ In interpreting section 8103(a), the Board has recognized that OWCP has broad discretion in approving services provided under FECA to ensure that an employee recovers from his or her injury to the fullest extent possible in the shortest amount of time.⁶ OWCP has administrative discretion in choosing the means to achieve this goal and the only limitation on OWCP's authority is that of reasonableness.⁷

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.⁸

While OWCP is obligated to pay for treatment of employment-related conditions, appellant has the burden of proof establishing that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.⁹ Causal relationship requires supporting rationalized medical evidence.¹⁰ Therefore, in order to prove that, a procedure is warranted, appellant must establish that the procedure was for a condition causally related to the employment injury and that

⁵ 5 U.S.C. § 8103.

⁶ *R.M.*, Docket No. 19-1319 (issued December 10, 2019); *G.M.*, Docket No. 18-1710 (issued June 3, 2019); *Dale E. Jones*, 48 ECAB 648 (1997).

⁷ *J.E.*, Docket No. 18-0228 (issued August 8, 2019); *G.M.*, *id.*; *Daniel J. Perea*, 42 ECAB 214 (1990) (abuse of discretion by OWCP is generally shown through proof of manifest error, clearly unreasonable exercise of judgement, or administrative actions, which are contrary to both logic and probable deductions from established facts).

⁸ *E.L.*, Docket No. 17-1445 (issued December 18, 2018); *L.W.*, 59 ECAB 471 (2008); *P.P.*, 58 ECAB 673 (2007); *Daniel J. Perea*, 42 ECAB 214 (1990).

⁹ *R.M.*, *supra* note 6; *J.R.*, Docket No. 18-0603 (issued November 13, 2018).

¹⁰ *K.W.*, Docket No. 18-1523 (issued May 22, 2019).

the procedure was medically warranted. Both of these criteria must be met in order for OWCP to authorize payment.¹¹

ANALYSIS

The Board finds that OWCP did not abuse its discretion in denying appellant's request for authorization of left wrist joint repair surgery.

The claim was accepted for left wrist sprain. In a February 27, 2018 report, Dr. Yeh noted that appellant was last seen on September 23, 2014 for his left wrist condition, but had returned for further evaluation due to ongoing pain complaints. He diagnosed left wrist scapholunate ligament rupture, based on current x-ray evidence. However, Dr. Yeh did not explain how and why the accepted August 26, 2013 employment injury resulted in the additional condition of left wrist scapholunate ligament rupture, which he diagnosed in 2018. Furthermore, he offered no clear opinion regarding the necessity of the requested procedure. As Dr. Yeh failed to provide medical rationale explaining how the requested surgery was necessary to treat appellant's accepted left wrist sprain or how the additional condition of left wrist scapholunate ligament rupture was causally related to the accepted August 26, 2013 employment injury, his report is of diminished probative value.¹² This report therefore lacks probative value regarding the issue of whether the requested procedure was medically necessary due to the accepted employment injury.¹³

The remaining medical evidence of record did not address the relevant medical issues. The October 1, 2013, and July 19, and October 25, 2018 x-ray interpretations, and Dr. Pency's December 20, 2018 progress note did not address whether the requested left wrist joint repair surgery was medically necessary and causally related to the accepted employment injury.¹⁴ Therefore, these reports were therefore insufficient to establish that the requested surgical procedure should be authorized.

The Board finds that OWCP did not abuse its discretion in denying authorization for the proposed left wrist joint repair surgery. As noted above, the only restriction on OWCP's authority to authorize medical treatment is one of reasonableness.¹⁵ As none of the medical evidence explained how the proposed surgery was medically necessary or causally related to the accepted left wrist sprain, the Board finds that OWCP acted reasonably in denying appellant's request for authorization for left wrist joint repair surgery.

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 *Id.*

¹² *M.M.*, Docket No. 19-0563 (issued August 1, 2019); *N.G.*, Docket No. 18-1340 (issued March 6, 2019).

¹³ *See M.M., id.*; *G.V.*, Docket No. 18-0482 (issued May 21, 2019); *N.G., id.*

¹⁴ *Supra* note 10.

¹⁵ *Supra* note 7.

CONCLUSION

The Board finds that OWCP did not abuse its discretion in denying appellant's request for authorization of left wrist joint repair.

ORDER

IT IS HEREBY ORDERED THAT the February 22, 2019 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 24, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board