U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM D. FARRIOR and DEPARTMENT OF THE NAVY, Camp Lejeune, NC

Docket No. 02-2139; Submitted on the Record;
Issued May 13, 2003

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS, MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's request for a new motor vehicle.

On April 29, 1960 appellant, a 28-year-old warehouseman, filed a claim alleging that on that date he injured his left knee while in the performance of duty. The Office accepted appellant's claim for left knee contusion, torn medial meniscus of the left leg, bilateral chondromalacia with traumatic synovitis and arthritis. The Office subsequently expanded acceptance of appellant's claim to include contusion of the left knee, a sprained right knee and a torn medial meniscus, which he sustained on January 25 and October 30, 1968. The Office authorized total knee replacement surgeries, which were performed on both knees.

In a letter dated August 1, 2000, appellant requested that the Office assist him in obtaining a vehicle that would not cause pressure on his legs and knees. He stated that he needed a vehicle that included electric lift equipment to raise his seat up and back. Appellant's letter was accompanied by medical evidence.

During a telephone conversation with appellant on November 28, 2000, the Office advised him to submit a statement from a car dealer showing the difference between a new van with an electric seat option and a new model without the electric seat. The Office also requested that appellant submit documentation regarding the cost to install an electric seat in his old van.

By letter dated February 16, 2001, the Office requested that appellant submit an itemized bill/invoice from the dealer indicating the cost for modification of the elevated driver seat for the van and the dealer's federal tax identification number for payment purposes.

In response, appellant submitted an itemized list of the modifications to his van from P&G Body Shop indicating a total of $7,552.16 including, labor charges and tax. He also submitted an invoice from Marine Chevrolet, Oldsmobile and Cadillac revealing that he had purchased an Oldsmobile Silhouette van on August 4, 2000. The total cost of the van was

$30,599.00. Appellant made a deposit of $10,000.00 and he received a $2,000.00 rebate and $6,200.00 for a trade-in allowance for his previously owned van, financing the remaining amount of $12,399.00. A document provided by appellant indicated that the base price of the van without modification was $24,950.00.

On March 12, 2001 appellant advised the Office that he was unable to provide a bill indicating the cost to convert his old van because it was never converted. He provided the name and telephone number of the salesperson who sold him the van. On March 14, 2001 appellant stated that the cost to modify his previous van was between $8,000.00 and $10,000.00 because it did not have any electrical equipment. He explained that it was cost effective to purchase a new van already equipped with the optional features as part of a package deal rather than modify his older van. Appellant explained that he could not provide an itemized bill for the cost of the electric seats as they were included in the total price of the van.

On March 30, 2001 the Office telephoned P&G Body Shop and was advised that the work listed on the invoice had not been performed on appellant's older van.

In an undated letter, the Office requested that appellant provide the name and address of the dealership where he purchased his vehicle, whether the dealer offered cash assistance for the installation of adaptive equipment and/or altering devices and an itemized bill listing the "detailed" charges for the elevated driver seat as recommended by Dr. T. Parker Vail, an orthopedic surgeon and appellant's treating physician.

In response, appellant submitted a copy of a prior damage estimate from Marine Chevrolet Collision Center that provided the cost for parts, labor, supplies and tax associated with converting a normal vehicle to a vehicle suitable for use by a disabled person totaling $7,810.04.

By decision dated July 18, 2001, the Office denied appellant's request for compensation for modification of his vehicle. The Office stated that appellant failed to submit a detailed description of the modification and charge that was actually made. In an August 1, 2001 letter, appellant requested an oral hearing before an Office representative.

At the hearing appellant explained that he believed that it was cost effective to purchase a new van containing all the necessary electrical equipment. Subsequent to the hearing, he submitted a March 19, 2002 letter to modify the amount that he requested from the Office at the hearing. Appellant advised the Office that he refinanced the car loan payments because he could not afford the monthly car note of $277.10. After refinancing his loan appellant's monthly car note was $197.00. Appellant indicated that he paid approximately $22,000.00 for the van and the original price was $30,599.00. He further indicated that he still owed $9,500.00 on the van and that this was a fair amount to be paid by the Office. Appellant also submitted factual and medical evidence.

By decision dated June 17, 2002, the hearing representative affirmed the Office's decision.

The Board finds that the Office properly denied appellant's request for a new motor vehicle.

Section 8103 of the Federal Employees' Compensation Act,[1] states that the Office shall provide a claimant with the services, appliances and supplies prescribed or recommended by a qualified physician which are likely to cure, give relief, reduce the degrees or period of disability or aid in lessening the amount of monthly compensation. In interpreting section 8103, the Board has recognized that the Office has broad discretion in approving services proved under the Act. The Office has the general objective of ensuring that an employee recovers from an injury to the fullest extent possible in the shortest amount of time. The Office therefore has broad administrative discretion in choosing the means to achieve this goal. The only limitation on the Office's authority is that of reasonableness.[2]

The Federal (FECA) Procedure Manual provides:

> "3. *Eligibility*. To be eligible for housing or vehicle modifications, the claimant must be severely restricted in terms of mobility and independence in normal living functions, on a permanent basis due to the work-related injury. Examples are impairments which require the use of a prosthesis, wheelchair, leg braces, crutches, canes and self-held devices. Such medical conditions include quadriplegia, paraplegia, total loss of use of limbs, blindness and profound deafness bilaterally."[3]

In support of his request for a new vehicle, appellant submitted a July 19, 2000 report of Dr. Janet Johnson, an internist, noting that she had followed him primarily for colon cancer and a hiatal hernia with gastroesophageal reflux disease. Dr. Johnson also noted that appellant continued to experience significant problems with his legs. She stated that appellant had trouble getting in and out of his vehicle due to a painful and swollen right knee. Dr. Johnson, however, did not address whether appellant had any limitations which necessitated vehicular modification. Dr. Johnson did not explain how appellant's accepted knee conditions restricted his mobility on a permanent basis.

Appellant also submitted treatment notes and reports from Dr. Vail. In a September 12, 2000 treatment note, Dr. Vail noted appellant's continued problems with his legs and limited ability to walk. He indicated no changes on x-ray examination. Dr. Vail opined that appellant was permanently partially disabled and unemployable based on the massive swelling, daily pain and difficulties that he was experiencing. Dr. Vail stated that modifications to appellant's van would be appropriate given his condition. In a March 6, 2002 report, Dr. Vail noted that appellant had been under his care for bilateral knee osteoarthritis and total knee replacement surgery. He stated that appellant continued to struggle with pain and swelling in his legs, which made getting in and out of a conventional car seat, driving and traveling in a vehicle difficult and uncomfortable. Dr. Vail recommended either car modifications or a new vehicle with an electric package including electric seats, doors and windows. Dr. Vail did not provide a specific

[1] 5 U.S.C. § 8103.

[2] *Daniel J. Perea*, 42 ECAB 214 (1990).

[3] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Housing and Vehicle Modifications*, Chapter 2.1800.3 (September 1994).

description of appellant's restrictions or physical limitations which necessitated a motor vehicle modification. Further, he did not provide any detailed findings or reasoned explanation for his conclusion.[4] Thus, his opinion is of diminished probative value.

In his September 11, 2001 treatment notes, Dr. Vail diagnosed postbilateral total knee arthroplasty and recommended that appellant undergo a liner exchange of the left knee. His December 17, 2001 operative hospital report described appellant's total left knee arthroplasty with liner exchange. A December 20, 2001 hospital discharge summary report from Dr. Anthony Rhorer, an orthopedic surgeon, provided a description of appellant's December 17, 2001 surgery. Treatment notes and an x-ray report dated January 11, 2002 addressed appellant's condition post left revision with liner exchange. Neither the above treatment notes nor x-ray report addressed whether restrictions from appellant's knee condition necessitated a motor vehicle modification.

The Board finds that there is insufficient rationalized medical evidence addressing appellant's physical restrictions due to his accepted knee conditions or the need for a motor vehicle modification or new vehicle purchase. The Office properly exercised its discretionary authority in denying appellant's request for a new vehicle.[5]

The June 17, 2002 decision of the Office Workers' Compensation Programs is affirmed.

Dated, Washington, DC
May 13, 2003

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

[4] *Jean Culliton*, 47 ECAB 728 (1995) (medical evidence must be in the form of a reasoned opinion by a qualified physician and based upon a complete and accurate factual background).

[5] *See John D. Smith*, Docket Nos. 98-1626 and 00-440 (issued January 27, 2000).