

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

J.W., Appellant)
)
and)
)
DEPARTMENT OF THE INTERIOR, BUREAU)
OF LAND MANAGEMENT, Idaho Falls, ID,)
Employer)

**Docket No. 10-2284
Issued: June 16, 2011**

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 13, 2010 appellant filed an appeal from an August 30, 2010 decision of the Office of Workers' Compensation Programs (OWCP). 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 this case.

ISSUE

The issue is whether OWCP properly denied appellant's request for authorization for a 30-day remote electrocardiogram study and further medical treatment and compensation.

On appeal appellant asserts that his physician ordered the study and will not let him return to regular duty until it is completed.

¹ 5 U.S.C. §§ 8101-8193.

FACTUAL HISTORY

On June 21, 2010 appellant, then a 31-year-old range technician (fire), sustained an irregular heartbeat and palpitations while running on a track for employment-related physical training. He was seen in the emergency room where he was treated with intravenous fluids. In reports dated June 21, 2010, Dr. Eric Maughan, Board-certified in emergency medicine, noted a history of a near syncopal event that occurred during heavy exertion while running. He reviewed tests and studies,² noted that appellant's symptoms had resolved and diagnosed near syncope and benign palpitations. Dr. Maughan referred appellant to cardiology for follow-up. The claim was accepted for palpitations.

On June 29, 2010 Dr. Andrew J. Carter, Board-certified in internal medicine and cardiovascular disease, noted the history of injury. He noted that, when appellant arrived at the emergency room, his symptoms had resolved. Dr. Carter reported that appellant had observed some palpitations with moderate to strenuous exercise since the June 21, 2010 event. He diagnosed near syncopal event, probably due to underlying cardiac rhythm disturbance, likely paroxysmal supraventricular tachycardia (PSVT). Dr. Carter recommended limited activity, an echo-doppler study, an exercise thallium study, and a two-week mobile outpatient cardiac telemetry study. He advised that appellant could return to work on June 29, 2010 with no fire activity. A July 15, 2010 exercise myocardial perfusion study reported average exercise capacity for age, normal electrocardiographic response to stress, normal stress and redistribution thallium tomographic images without evidence of ischemia or infarction and normal resting left ventricular ejection fraction.

By letter dated July 29, 2010, OWCP informed appellant that authorization for the remote 30-day cardiac study could not be approved because the June 29, 2010 report advised that his symptoms had resolved when he arrived at the emergency room on June 21, 2010. Appellant was afforded 30 days to submit medical evidence showing that the requested procedure and his current medical condition were causally related to the June 21, 2010 work incident.

In an August 4, 2010 report, Dr. Carter noted that appellant had no further episodes of palpitations, lightheadedness, dizziness or shortness of breath and that he continued to work limited duty. He reviewed the July 15, 2010 exercise study and noted that a July 15, 2010 transthoracic echo-doppler study revealed mild left atrial enlargement, normal left ventricular dimensions, normal valve morphology and function and normal estimated pulmonary artery systolic pressure. Dr. Carter diagnosed near syncopal event, presumed secondary to PSVT, without clinical recurrence. He recommended continued limited duty pending further evaluation, advised that appellant could resume limited exercise and that he should complete a two-week mobile outpatient cardiac telemetry or other form of cardiac monitoring study.

By decision dated August 30, 2010, OWCP stated:

“This is to inform you that pursuant to the [July 29, 2010] OWCP letter, the above claim is closed effective the date of this letter. The request for authorization of the July 26, 2010 [r]emote 30[-][d]ay ECG REV/[r]eport is denied. Further

² Chest x-ray and electrocardiogram were normal.

OWCP medical treatment or compensation related to this claim is not authorized. If you disagree with this decision, you should carefully review the enclosed appeal rights and pursue whichever avenue is appropriate to your situation.”

Appeal rights and a copy of the July 29, 2010 letter were enclosed.

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.³ Section 10.310(a) of the implementing regulations provide that an employee is entitled to receive all medical services, appliances or supplies which a qualified physician prescribes or recommends and which OWCP considers necessary to treat the work-related injury.⁴

Section 8124(a) of FECA provides: “The Secretary of Labor shall determine and make a finding of fact and make an award for or against payment of compensation...”⁵ Section 10.126 of Title 20 of the Code of Federal Regulations provide: “The decision shall contain findings of fact and a statement of reasons.”⁶ OWCP’s procedures specify certain requirements for a final decision denying a claim for benefits. The procedures state that OWCP should identify and discuss all evidence which bears on the issue at hand, including any unsuccessful attempts to obtain significant evidence, and should summarize the relevant facts and medical opinions. The procedures note that the reasoning should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it. The procedures provide that a finding that claimant failed to meet the burden of proof is properly made from the evidence, or lack of it, and not simply because the claimant did not respond to a request for information from OWCP.⁷

ANALYSIS

The Board finds this case is not in posture for decision. The Board has reviewed the August 30, 2010 OWCP decision and finds that this decision does not comport with FECA, OWCP regulations and procedures, or Board case law. As noted, OWCP regulations provide that a decision shall contain findings of fact and a statement of reasons,⁸ and OWCP’s

³ 5 U.S.C. § 8103; *see Dona M. Mahurin*, 54 ECAB 309 (2003).

⁴ 20 C.F.R. § 10.310(a).

⁵ 5 U.S.C. § 8124(a).

⁶ 20 C.F.R. § 10.126; *see Laurie S. Swanson*, 53 ECAB 517 (2002).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.4 (March 1997); *see Avalon C. Bailey*, 56 ECAB 223 (2004).

⁸ *Supra* note 6.

procedures specify certain requirements for a final decision denying a claim for benefits, including that OWCP should identify and discuss all evidence that bears on the issue at hand. The procedures further state that the reasoning behind the evaluation should be clear enough for the reader to understand the precise defect of the claim and the kind of evidence which would overcome it.⁹

In the August 30, 2010 decision, OWCP informed appellant that his claim was closed, and that authorization for the 30-day cardiac study and further medical treatment or compensation were not authorized. While its obligation to pay for medical treatment under section 8103 extends only to treatment of employment-related conditions and appellant has the burden of establishing that the requested treatment is for the effects of an employment-related condition,¹⁰ in the August 30, 2010 decision, OWCP did not address whether it had weighed the evidence and found it insufficient to meet appellant's burden of proof or provide any explanation regarding the deficiencies of his claim.

The Board finds that this case is not in posture for a decision as the August 30, 2010 decision does not include an explanatory provision or memorandum such that the Board can conduct an informed adjudication of the case on this issue. The case will be remanded for a *de novo* decision on the merits of the claim that comports with FECA, decisions of the Board, and OWCP regulations and procedures.

CONCLUSION

The Board finds this case is not in posture for decision.

⁹ *Supra* note 7.

¹⁰ See *Kennett O. Collins, Jr.*, 55 ECAB 648 (2004).

ORDER

IT IS HEREBY ORDERED THAT the August 30, 2010 decision of the Office of Workers' Compensation Programs be set aside and the case remanded to OWCP for proceedings consistent with this opinion of the Board.

Issued: June 16, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board