

U.S. Department of Labor

Employment Standards Administration
Office of Workers' Compensation Programs
Division of Federal Employees' Compensation
Washington, D.C. 20210



File Number: A6-508083

JUL 10 2001

Patricia Price
1204 Robinwood Road
Decatur, GA 30033


Dear Ms Price:

This is in reference to your workers' compensation claim. Pursuant to your request for a hearing, the case file was transferred to the Branch of Hearings and Review.

A preliminary review has been completed, and it has been determined that the case is not in posture for a hearing at this time. The decision of the District Office has been vacated and returned to the district office for further action as explained in the attached Remand Order.

Future correspondence should be addressed to: U.S. Department of Labor, Office of Workers' Compensation Programs, 214 N. Hogan Street, Suite 1006, Jacksonville, FL 32202.

Sincerely,



Thomas VanTiem
Hearing Representative

Enclosure

cc: U.S. Government Printing Office
Assist Public Printer (PROC)
Regional Printing Procurement
75 Spring Street SW, Room 700
Atlanta, GA 30303

Paul Felser, Attorney-at-Law
P. O. Box 10267
Savannah, GA 31412

U.S. Department of Labor
Office of Workers' Compensation Programs

DECISION OF THE HEARING REPRESENTATIVE

In the matter of the claim for compensation under Title 5, U.S. Code 8101 et seq. of Patricia Price, claimant; employed by U.S. Government Printing Office. Case No.: A6-508083.

Merit consideration of the case file was completed on June 15, 2001 in Washington, D.C. Based on this review, the February 6, 2001 decision of the District Office is vacated for the reason(s) set forth below.

The claimant, born on March 17, 1945 (presently 56 years old), was employed as a Printing Assistant on January 28, 1991 when she submitted Notice of Traumatic Injury and Claim for Compensation on Form CA-1, claiming that she injured her right knee while in the performance of duty on January 17, 1991 when she fell after tripping over phone and computer cables that were taped down onto the carpet. She indicated that she pitched forward toward a plate glass window, striking it with her open palm and then fell down onto her right knee and then onto to her left hip with her left leg bent under. A witness provided a statement on the CA-1 Form indicating that, "when she hit the floor she landed very hard upon her right knee."

The claimant stopped working and was examined on January 17, 1991 by Dr. Thomas Dopson, an orthopedic surgeon. Dr. Dopson noted that the claimant tripped and fell on her right knee at work that day. He described the following physical findings:

"She has ecchymosis and effusion of the right knee. She is very tender over the entire anterior aspect of about mid patella down to the proximal portion of the tibia. She has crepitus with ROM which is consistent with the past."

Dr. Dopson noted that x-rays showed no new fractures and severe degenerative joint disease in the medial and lateral compartments. He stated that, "I have recommended she go ahead and have an arthroscopic exam when she heals up from this as I had suggested before."

On January 30, 1991, Dr. Dopson performed arthroscopic surgery on the claimant's right knee. During this surgery, he performed a partial medial meniscectomy, chondroplasty of the medial femoral condyle, removal of multiple loose bodies in the medial compartment, and a partial synovectomy of the medial lateral and suprapatellar region.

On February 7, 1991, the claimant was examined by Dr. David Rouben (an associate of Dr. Dopson) who noted that the wound looked fine. He indicated that he prescribed physical therapy and crutches. He indicated that Dr. Dopson would re-examine the claimant in three to four weeks and discuss further long-term options, including the potential for a total knee replacement in the future.

The Office accepted that the January 17, 1991 fall caused a strain of the right knee and a tear of the meniscus in the right knee. The claimant received continuation of pay for lost time from work. No claim for compensation for wage loss was made.

During the ensuing years, periodic reports were submitted by Dr. Dopson indicating that the claimant was seen for complaints of pain in her right knee. Dr. Dopson treated the claimant with medication, injections of DepoMedrol and Marcaine, and a series of five Hyalgan injections from October 14, 1997 through November 12, 1997. These treatment records showed office visits with complaints of right knee pain on the following dates: In 1992, one visit on November 19; in 1993 two visits on April 23 and December 14; in 1994 one visit on September 22; in 1995 four visits on May 30, August 15, November 30 and December 29; in 1996 one visit on October 23; in 1997 six visits on January 15, October 14, October 21, October 28, November 4 and November 12; in 1998 one visit on April 6; in 1999 two visits on June 29 and July 9; and in 2000 two visits on January 4 and September 5.

Following the office visit on September 5, 2000, Dr. Dopson requested authorization to perform a total right knee replacement. On October 13, 2000, the file was reviewed by Dr. Harry Collins, Jr., an office medical advisor. Dr. Collins opined that the surgery was needed only for treatment of the pre-existing severe degenerative joint disease of the knee, which was aggravated by the claimant's morbid obesity. He noted that the report of the surgery performed on January 30, 1991 demonstrated the presence of severe degenerative joint disease, numerous loose bodies, proliferative synovitis, flaking of cartilage, and severe chondromalacia patella.

On February 14, 2001, Dr. Dopson re-examined the claimant and again recommended right total knee arthroplasty. He indicated that he had reviewed the report from Dr. Alexander and stated that he disagreed with Dr. Alexander's opinion that the claimant had returned to her baseline prior to her injury.

When the Office takes the initiative to secure medical opinion on causal relation, the Office assumes the responsibility to secure such opinion in a fair and impartial manner, with such opinion based upon a proper factual and medical background.¹ In this case, the Office provided Dr. Alexander with an incorrect and inadequate medical and factual background. The statement of accepted facts dated November 7, 2000 incorrectly states that the right knee surgery was performed on January 31, 2000 (instead of January 30, 1991) fails to state that the Office accepted that the January 17, 1991 fall caused a strain of the right knee and a tear of the right meniscus and implies that the need for the partial medial meniscectomy of right knee was a result of the pre-existing degenerative joint disease. Furthermore, none of the medical records regarding the treatment the claimant received for her right knee prior to the January 17, 1991 accident are contained in the record nor does the file contain any reports concerning the follow up treatment the claimant received after the January 30, 1991 surgery. Because of these deficiencies, the opinion of Dr. Alexander, in its present form, cannot constitute the weight of the medical evidence.

The Office's responsibility in this case is similar to the situation where it refers a claimant to a referee medical specialist whose report requires clarification or elaboration. The Office must attempt to secure a supplemental report to correct the defect in the original report.² Upon remand, the Office should direct the claimant to submit all of the medical records regarding treatment rendered her right knee both prior to the January 17, 1991 accident and afterwards. The Office should amend the statement of accepted facts to correct the deficiencies cited above. Thereafter, the Office should refer all of the medical reports and the corrected statement of accepted facts back to Dr. Alexander with the request that he review same and provide his further reasoned opinion on the issue of whether the injury caused by the January 17, 1991 fall caused or contributed to the need for the total right knee replacement surgery. If he continues to be of the opinion that the fall caused only a temporary aggravation of the pre-existing

¹ William Saathoff, 8 ECAB 769.

² James Forsythe, Docket No. 87-619, issued May 27, 1987.

osteoarthritis, he should be requested to state when the temporary aggravation ceased and cite the basis for his opinion. Following receipt of Dr. Alexander's supplemental report and after any additional development that may become necessary, the Office should make a de novo decision concerning the claimant's request for authorization for the right total knee replacement recommended by Dr. Dopson.

DATED: July 9, 2001
WASHINGTON, D.C.



Thomas VanTiem
Hearing Representative
For
Director, Office of Workers'
Compensation Programs