

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 Carolyn O. Orr, Claimant; Employed by the U.S. Postal Service in Mobile, AL. Claim number 062146767.

Merit consideration of the case file was completed in Washington, D.C. Based on this review; the Office's decision of September 20, 2005 is hereby reversed for the reasons set forth below:

The issue for determination is whether the claimant sustained a work-related injury in the performance of duty, as alleged.

The claimant, born August 25, 1968, is employed as a Rural Letter Carrier Associate with the US Postal Service in Mobile, AL. On August 11, 2005 the claimant filed a timely form CA-1 "Federal Employee's Notice of Traumatic Injury and Claim for Continuation of Pay/Compensation" alleging that, on July 30, 2005, she injured her right arm, neck and mid back in a motor vehicle accident at work: her vehicle was rear-ended by a truck. The claimant sought medical treatment on August 2, 2005, with Dr. Donald Sanders. The employing agency challenged the claim, on the basis that the claimant had initially indicated that she was not injured or hurt due to the accident, and then later claimed that her hand was injured. With the initial claim, the Office received copies of disability notes, showing dates the claimant was unable to work in August 2005 due to right shoulder and right knee pain. The accident report from the date of injury was also received.

The District Office released a letter to the claimant on August 19, 2005, advising that the evidence of record was not sufficient to warrant acceptance of the claim, and requesting additional information. The letter asked the claimant to submit a written narrative statement addressing the circumstances surrounding her alleged injury, and asked her to explain why she delayed reporting the injury to her supervisor, and a description of any prior similar treatment or medical condition. The claimant was also asked to provide a medical report in support of the claim, including a diagnosis by a qualified physician identifying any medical condition sustained in connection with the work incident of July 30, 2005 and an explanation of how the work incident caused or aggravated the medical condition identified. The claimant was afforded 30 days to submit the requested evidence, and was advised that the Office would make a determination on the claim based on the evidence of file at the end of that period.

In response to the development letter, the claimant submitted medical reports including an August 19, 2005 office note from Norman S. Lichtenfeld, MD, noting examination of

the claimant on that day, and with a diagnosis of right arm strain resulting from the claimant's work-related motor vehicle accident of July 30, 2005.

On September 20, 2005, the District Office made a formal finding that the evidence of record was insufficient to support the claim for benefits, and issued a Notice of Decision advising the claimant of the basis for that decision. The Notice explained that the claimant had failed to submit sufficient reasoned medical evidence from a qualified physician supporting that her medical condition was the result of her work injury on July 30, 2005.

The claimant disagreed with the decision to deny the claim and, on October 15, 2005, through her attorney, requested an appeal in the form of an Oral Hearing before the Branch of Hearings and Review. In support of this request, the claimant forwarded numerous medical documents pertaining to medical treatment rendered in connection with the motor vehicle accident of July 30, 2005. The claimant provided a written statement dated September 22, 2005, providing a detailed description of the injury and answering questions posed by the development letter that was sent to her on August 19, 2005. Also provided was an August 26, 2005 witness' statement from bystander Terry Hallmark, who alleged to have witnessed the motor vehicle accident on July 30, 2005, and gave a description of that event.

A preliminary review of the case file record reveals that the evidence of record is sufficient to warrant acceptance of the claim. There is no discrepancy in the evidence of record supporting that the incident alleged by the claimant, a motor vehicle accident, occurred at work, in the performance of duty, and in the manner alleged. With specific reference to the medical documentation of file, I note that Dr. Lichtman's note of August 19, 2005 gives an accurate history of injury and unequivocally states that the claimant injured her arm in the motor vehicle accident of July 30, 2005, having sustained a right arm strain. Although he does not offer detailed rationale in support of this statement, in this case, where there is an obvious connection between the injury and the work event, I do not find that detailed rationale is required to support the physician's opinion. There is no other event or injury of note that is indicated as having impacted or affected the claimant's work injury in any way, and there is no evidence supporting that there was a significant delay in reporting the incident or the injury, as alleged by the employer.

An employee seeking benefits under the FECA has the burden of establishing the essential elements of his or her claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury¹.

The evidence in file at the time of initial adjudication clearly supported that the claimant was a Federal employee within the meaning of the Act when she filed his timely notice of injury, alleging that she was injured in a motor vehicle accident while delivering mail on July 30, 2005. The injury was reported promptly and no dispute exists as to the fact of the injury. The evidence of record supports that the claimant received medical treatment in a prompt manner, the accident, and her physician diagnosed and treated a

¹ Elaine Pendleton, 40 ECAB ____ (1989) [89-0982 issued July 31]; Donald R. Vanheltn, 40 ECAB ____ (1989) [89-0658 issued August 25].

Benefits for Employees Under the Federal Employees Compensation Act (FECA)

The FECA, which is administered by the Office of Workers' Compensation Programs (OWCP), provides the following benefits for job-related traumatic injuries:

COPY

(1) Continuation of pay for disability resulting from traumatic, job-related injury, not to exceed 45 calendar days. (To be eligible for continuation of pay, the employee, or someone acting on his/her behalf, must file Form CA-1 within 30 days following the injury and provide medical evidence in support of disability within 10 days of submission of the CA-1. Where the employing agency continues the employee's pay, the pay must not be interrupted unless one of the provisions outlined in 20 CFR 10.222 apply.

(4) Vocational rehabilitation and related services where directed by OWCP.

(2) Payment of compensation for wage loss after the expiration of COP; if disability extends beyond such point, or if COP is not payable. If disability continues after COP expires, Form CA-7, with supporting medical evidence, must be filed with OWCP. To avoid interruption of income, the form should be filed on the 40th day of the COP period.

(5) All necessary medical care from qualified medical providers. The injured employee may choose the physician who provides initial medical care. Generally, 25 miles from the place of injury, place of employment, or employee's home is a reasonable distance to travel for medical care.

(3) Payment of compensation for permanent impairment of certain organs, members, or functions of the body (such as loss or loss of use of an arm or kidney, loss of vision, etc.) or for serious deformation of the head, face, or neck.

An employee may use sick or annual leave rather than LWOP while disabled. The employee may repurchase leave used for approved periods. Form CA-7b, available from the personnel office, should be studied BEFORE a decision is made to use leave.

For additional information, review the regulations governing the administration of the FECA (Code of Federal Regulations, Chapter 20, Part 10) or pamphlet CA-810.

Privacy Act

In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a), you are hereby notified that: (1) The Federal Employees' Compensation Act, as amended and extended (5 U.S.C. 8101, et seq.) (FECA) is administered by the Office of Workers' Compensation Programs of the U.S. Department of Labor, which receives and maintains personal information on claimants and their immediate families. (2) Information which the Office has will be used to determine eligibility for and the amount of benefits payable under the FECA, and may be verified through computer matches or other appropriate means. (3) Information may be given to the Federal agency which employed the claimant at the time of injury in order to verify statements made, answer questions concerning the status of the claim, verify billing, and to consider issues relating to retention, rehire, or other relevant matters. (4) Information may also be given to other Federal agencies, other government entities, and to private-sector agencies and/or employers as part of rehabilitative and other return-to-work programs and services. (5) Information may be disclosed to physicians and other health care providers for use in providing treatment or medical/vocational rehabilitation, making evaluations for the Office, and for other purposes related to the medical management of the claim. (6) Information may be given to Federal, state and local agencies for law enforcement purposes, to obtain information relevant to a decision under the FECA, to determine whether benefits are being paid properly, including whether prohibited dual payments are being made, and, where appropriate, to pursue salary/administrative offset and debt collection actions required or permitted by the FECA and/or the Debt Collection Act. (7) Disclosure of the claimant's social security number (SSN) or tax identifying number (TIN) on this form is mandatory. The SSN and/or TIN, and other information maintained by the Office, may be used for identification, to support debt collection efforts carried on by the Federal government, and for other purposes required or authorized by law. (8) Failure to disclose all requested information may delay the processing of the claim or the payment of benefits, or may result in an unfavorable decision or reduced level of benefits.

Note: This notice applies to all forms requesting information that you might receive from the Office in connection with the processing and adjudication of the claim you filed under the FECA.

Receipt of Notice of Injury

This acknowledges receipt of Notice of Injury sustained by (Name of injured employee)

Carolyn Orr

Which occurred on (Mo., Day, Yr.)

Between 1500 & 1600 on rd

At (Location)

7/30/06

Signature of Official Superior

Ken L. Hull

Title

mgr c/s

8/3/06

Date (Mo., Day, Yr.)

*U.S. GPO: 1999-434-843/1704

Form CA-1 Rev. Apr. 1999

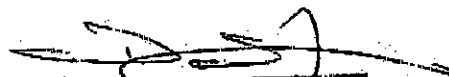
right arm strain at that time. The Office had accepted the claimant's account of the incident as factual, but denied the claim based on a finding that the medical evidence of file did not support that this incident caused the medical condition identified by her physician. Contrary to the finding of the District Office, I find that the evidence of file, provided by the attending physician, discussed above, does support the claim, and I find that acceptance of the claim is warranted.

As such, the decision of the District Office, dated September 20, 2005, should be set aside, and the case accepted for right arm strain due to the work-related motor vehicle accident of July 30, 2005.

Furthermore, review of the medical evidence of record reveals that the claimant's physicians have made several additional diagnoses: carpal tunnel syndrome, neck strain and back strain. The statements from the physicians do not clearly tie these additional injuries to the claimant's occupational injury; however, these injuries are consistent with the claimant's initial complaints as noted on her form CA-1, and a connection to the claimant's employment injury has been implied. Therefore, it would be reasonable at this time for the District Office to prepare a Statement of Accepted Facts, and to arrange for a directed examination of the claimant with a board-certified specialist in the appropriate medical area to determine if there are any additional work-related medical conditions related to the claimant's motor vehicle accident of July 30, 2005. Upon receipt of this report, the Office should undertake any additional medical development of the claim if deemed necessary and issue a *de novo* decision on the issue of whether the claim should be expanded to include any additional medical conditions as work-related.

For the reasons set forth above, the Office's decision of September 20, 2005 is hereby REVERSED, and the case file is returned to the District Office for actions consistent with this decision.

Dated: FEB 14 2006
Washington, D.C.



DAVID S. LEACH
Hearing Representative
for
Director, Office of Workers'
Compensation Programs