

U.S. DEPARTMENT OF LABOR

MAR 26 2013

OFFICE OF WORKERS' COMP PROGRAMS  
PO BOX 8300 DISTRICT 50  
LONDON, KY 40742-8300  
Phone: (202) 693-0045

Date of Injury: 07/19/2012  
Employee: JOHN HATHORNIV

JOHN HATHORN  
1703 HIGHWAY 107  
EFFIE, LA 71331

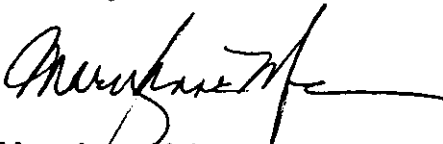
Dear Mr. HATHORN:

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 hearing was held on January 9, 2013. Based upon that hearing, it has been determined that the decision of the District Office should be *reversed* as outlined in the attached decision.

Your case file has been returned to the Jacksonville District Office. You may contact that office by writing to our Central Mail Room at the following address: PO Box 8300, District 06; London, KY 40742-8300.

Sincerely,



Mary Anne Meier,  
Hearing Representative  
Branch of Hearings and Review

DEPARTMENT OF JUSTICE  
BUREAU OF PRISONS-ALL OTHER  
FEDERAL DETENTION CNTR  
PO BOX 5050  
OAKDALE, LA 71463

JOSEPH MANSOUR  
PO BOX 2032  
LYNNWOOD, WA 98036

*If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.*

U.S. DEPARTMENT OF LABOR  
Office of Workers' Compensation Programs

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DECISION OF THE HEARING REPRESENTATIVE

*In the matter of the claim for compensation under Title 5, U.S. Code 8101 et. seq. of John Hathorn, IV, Claimant; Employed by the Department of Justice in Effie, Louisiana. File No. 162198160. Telephonic Hearing was held on January 9, 2013.*

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The issue for determination is whether the claimant sustained a medical condition in connection with and causally related to his work injury.

The claimant was employed as a Correctional Officer for the Department of Justice in Effie, Louisiana, when he sustained a traumatic injury while in the performance of duty on July 19, 2012.

The District Office requested additional medical evidence by letter dated August 8, 2012.

A medical note was submitted from Dr. John McCabe; however, Dr. McCabe did not provide a secure diagnosis and indicated only that the claimant "may have a rotator cuff injury that could be defined more clearly by an MRI."

After reviewing the medical evidence, the District Office issued a decision on September 11, 2012, denying this claim when it was determined that the medical evidence was insufficient to establish that the claimant sustained a medical condition in connection with the reported work injury.

The claimant disagreed with that decision and requested an oral hearing with an OWCP representative. Accordingly, said hearing was scheduled and held on January 9, 2013. The claimant was represented at the hearing by Mr. Joseph Mansour, a union representative.

Mr. Mansour advised that the claimant was initially seen at the Employee Health Unit by a Physician's Assistant; however, those notes were not received by the District Office. The claimant was advised that a Physician's Assistant is not considered an appropriate provider under the FECA, and that the records must be co-signed by a physician. In addition, the claimant was advised to ensure that a diagnosis was provided on the report, and to request clarification from Dr. McCabe.

A copy of the transcript was sent to the employing agency for review and comment.

The record was held open for thirty days to allow for the submission of additional evidence.

Based upon hearing testimony, together with the written evidence of record, I find that the decision of the District Office should be *REVERSED*.

An employee seeking benefits under the Federal Employee's Compensation Act has the burden of establishing the essential elements of his or her claim, including 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 injury.<sup>1</sup>

To establish causal relationship between a condition, including any attendant disability claimed, and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>2</sup>

In the instant case, following the claimant's hearing, a copy of Employee Health Unit notes were submitted, as well as an amended CA-16 form from Dr. McCabe.

Dr. McCabe amended the attending physician's portion of the CA-16 form, which he had previously completed on July 19, 2012. Dr. McCabe noted that the claimant had pain in his right shoulder after pulling on a gate and that as a result of this injury he sustained a shoulder strain.

In addition a copy of the Employee Health Unit notes was submitted which indicated that the claimant sustained an injury to his right shoulder at work, and that he would seek follow-up care with a physician.

After a review of this file, I find that based upon the claimant's testimony, and the amended medical report from Dr. McCabe, the claimant has now met his burden of proof to establish that he sustained a medical condition in connection with, and causally related to the July 19, 2012 work injury.

Therefore, upon receipt of this file, the District Office should accept this claim for a right shoulder strain. The claimant may resubmit any previously denied medical bills, and requests for authorization for diagnostic testing for consideration.


Consistent with the above findings, the decision of the District Office dated September 11, 2012 is *reversed*, and the case file is returned for further processing as noted.

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<sup>1</sup> Elaine Pendleton, 40 ECAB 1143 (1989)

<sup>2</sup> David M. Ibarra, 48 ECAB 542, (1996).

**MAR 26 2013**  
**DATED:**  
**WASHINGTON, D.C.**

  
**Mary Anne Meier,**  
**Hearing Representative**  
**For**  
**Director, Office of Workers'**  
**Compensation Programs**

U.S. DEPARTMENT OF LABOR  
OFFICE OF WORKERS' COMP PROGRAMS  
PO BOX 8300 DISTRICT 16 DAL  
LONDON, KY 40742-8300  
Phone: (214) 749-2320

March 27, 2013

Date of Injury: 07/19/2012  
Employee: JOHN HATHORNIV

✓ JOHN HATHORNIV  
1703 HIGHWAY 107  
EFFIE, LA 71331

Dear Mr. HATHORNIV:

When your claim was received, it appeared to be a minor injury that resulted in minimal or no lost time from work. These cases are administratively handled to allow for payment of a limited amount of medical expenses. The merits of the claim, however, had not been formally considered.

Your claim has now been reopened for consideration because the medical bills have exceeded \$1500; therefore, we are now formally adjudicating your claim.

This is to notify you that your claim for a traumatic injury on 07/19/2012 has been accepted for the following condition(s):

<u>Diagnosed condition(s)</u>	<u>ICD-9 code(s)</u>
SPRAIN OF SHOULDER AND UPPER ARM ACROMIOCLAVICULAR, RIGHT	8400

**Please advise all medical providers who are treating you for this injury of the accepted ICD-9 code(s). Accurate coding facilitates timely bill processing.**

If the current accepted condition(s) need to be revised or additional complications related to the current accepted condition(s) need to be added, your physician should explain in writing, with medical rationale, the relationship between any additional condition and the work injury or the current accepted condition(s) noted above.

If your injury results in lost time from work, you may be eligible to receive continuation of pay (COP) until you recover or return to light duty, up to a maximum of 45 calendar days. If wage loss continues after your entitlement to COP expires, you may claim compensation using Form CA-7.

Please refer to the attachment entitled "Now That Your Claim Has Been Accepted" for important information pertaining to how to contact us, medical authorizations, payment of bills, and returning to work.

***If you have a disability (a substantially limiting physical or mental impairment), please contact our office/claims examiner for information about the kinds of help available, such as communication assistance (alternate formats or sign language interpretation), accommodations and modifications.***

## NOW THAT YOUR CLAIM HAS BEEN ACCEPTED

### CONTACT INFORMATION

**General Information** - Information can be obtained on the Department of Labor website at <http://www.dol.gov> under the Office of Workers' Compensation, Division of Federal Employees' Compensation. You may directly access the Division of Federal Employees' Compensation portion of the web site at <http://www.dol.gov/owcp/dfec/index.htm>.

**Claimant Query System (CQS)** - You can view your case and compensation claim status, billing updates (including reimbursements), coverage limitations, and other information online at <http://owcp.dol.acs-inc.com>.

**Medical Authorizations and Billing Inquiries** - All medical providers should contact our medical authorization and bill processing contractor (ACS) for all authorizations and billing questions. Automated information is available 24 hours per day at 1-866-335-8319 or online at <http://owcp.dol.acs-inc.com>. The medical authorization fax line is 1-800-215-4901. If you, your doctor, or other medical providers require direct contact with a customer service representative, you may call 1-850-558-1818, Monday - Friday, 8am - 8pm EST (this is a toll call).

**Compensation Payments** - Automated information regarding compensation payments is available 24 hours per day by phoning 1-866-OWCP IVR (1-866-692-7487).

**Questions about your claim** - If you have any questions regarding your FECA claim, you may contact the Office at the phone number and address listed on the front page of this letter. If you write to us, please put your case file number on each page.

**Forms** - Most of the billing and claim forms described below are available at: <http://www.dol.gov/owcp/dfec/regs/compliance/forms.htm>.

**Change of Address** - If your contact information changes (i.e. mailing address or telephone number), notify us promptly in writing over your signature. We cannot accept these changes over the telephone.

**Submission of Information** - You can submit requested information or other documentation pertaining to your FECA case to the address at the top of this letter, OR you can electronically upload documents into your case using the Employees' Compensation Operations and Management Portal (ECOMP). You can access ECOMP from any internet browser at: <https://www.ecomp.dol.gov/> When you access the website, choose the "Upload Document" option. You will be asked to provide your case number, last name, date of birth and date of injury to upload a document. ECOMP will then provide you with a Tracking Number so that you can verify when OWCP has received your document. For more detailed information about this document submission feature, visit the ECOMP website and click "Help."

**Attorneys and Authorized Representatives** - You do not need the services of an attorney or representative to claim benefits under the FECA. However, you may obtain such services if you wish to do so, at your own expense. Before we can release information to, or discuss your case with, any representative, including a family member, we will need a statement signed by you, stating that you designated someone to represent you in your OWCP claim. The contact information for that party is also required.

**Medication (Schedule II Narcotics)** - Please note that there is a limitation as to the day's supply of any Schedule II narcotic medication. The "days supply" limitation of Schedule II is limited to only a 30-day supply per each prescription fill. You will be limited to only four (4) refills within a 90-day period; claimants with an accepted cancer condition will not be affected by this limitation on refills.

**Chiropractors** - We will only pay for chiropractic treatment consisting of manual manipulation of the spine to correct an accepted work-related spinal subluxation demonstrated by x-ray, or if a medical doctor has prescribed physical therapy to be administered by a chiropractor.

**Reimbursements** - If you have paid authorized medical expenses, you may request reimbursement by attaching Form CA-915, or a similar form, on the same required billing forms (such as HCFA-1500 or UB-04) specified above. In all cases, the medical provider's tax identification number (EIN) and proof of payment (cancelled check or receipt) must be provided. If a health benefits carrier has paid medical bills for your accepted condition, the carrier may submit a completed NALC-200 form with appropriate supporting documentation (HCFA-1500 or UB-04) to OWCP for consideration. Reimbursements are limited to the fee schedule amount.

**Reimbursement for Medical-Related Travel** - Travel expenses should be submitted on form OWCP-957, Medical Travel Refund Request. Travel expenses that exceed \$75 must be submitted with an accompanying receipt to support the charges claimed and will be subjected to prior approval.

## **COMPENSATION PAYMENTS**

**Claims for Compensation** - Any claim for lost wages must be submitted through your employing agency on Form CA-7. Your employing agency will complete its portion of this form and forward it to our Office. In cases of intermittent wage loss, Form CA-7a is also needed. Medical documentation substantiating that the lost time is due to the accepted work-related condition(s) is required prior to payment. You must report any employment or employment activities on this form.

Note - On December 22nd, 2010, the Treasury Department issued a regulation that requires that all Federal payments be made electronically. Specifically, the regulation requires that all individuals receiving recurring Federal government payments must receive payments by Electronic Fund Transfer (EFT). Therefore, if you submit a form CA-7, you must submit Form SF-1199A (Direct Deposit Sign-Up Form) with your claim. If you have any questions pertaining to this requirement, please consult Treasury's web site at: <http://www.fms.treas.gov/eft>.

**Claims for Leave Buy-Back** - Reinstatement of leave is subject to the approval of your employing agency. Prior to using your personal leave to cover injury-related absences from work, you are urged to review the instructions for Form CA-7b. To claim a leave buy-back, you must file Form CA-7b through your employing agency, along with Form CA-7 and Form CA-7a.

**Schedule Award** - The FECA provides for the payment of schedule awards when the injury causes a permanent impairment involving total or partial loss, or loss of use, of certain organs or members of the body. The spine and brain are not included unless the condition causes permanent impairment to the extremities. All impairment ratings are evaluated in accordance with the Sixth Edition of the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment. A schedule award may be claimed using Form CA-7 after maximum medical improvement has been reached.

**When Your Injury is Caused by a Third Party** - If your injury was caused by a third party, you may be required to seek damages from the third party, and you must reimburse the government from your recovery in accordance with the statutory formula. See 5 U.S.C. 8131, 8132; 20 CFR §10.705-719.