

BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION

CLAIM NUMBER D405044

SAMUEL C. WILSON, EMPLOYEE	CLAIMANT
INTERNATIONAL PAPER COMPANY (CAMDEN), SELF-INSURED EMPLOYER	RESPONDENT NO. 1
SEDGWICK CLAIMS MANAGEMENT SERVICES, INC., CARRIER/TPA	RESPONDENT NO. 1
DEATH & PERMANENT TOTAL DISABILITY TRUST FUND	RESPONDENT NO. 2

OPINION FILED AUGUST 27, 2008

Hearing conducted before ADMINISTRATIVE LAW JUDGE MARK CHURCHWELL, in Little Rock, Pulaski County, Arkansas.

The claimant was represented by HONORABLE STEVEN R. MCNEELY, Attorney at Law, Little Rock, Arkansas.

Respondents No. 1 were represented by HONORABLE MICHAEL J. DENNIS, Attorney at Law, Pine Bluff, Arkansas.

Respondent No. 2 waived appearance at the hearing.

STATEMENT OF THE CASE

A hearing was held in the above-styled claim on July 8, 2008, in Little Rock, Arkansas. A Prehearing Order was entered in this case on May 27, 2008. The following stipulations were submitted by the parties and are hereby accepted:

1. The claimant sustained a compensable injury on April 24, 1984.
2. The claimant's wages have been previously stipulated to.

3. The claimant's carpal tunnel syndrome has been accepted as a compensable consequence of the claimant's compensable injury.

By agreement of the parties, the issues to be litigated and resolved at the present time were limited to the following:

Claimant:

1. Reasonable and necessary medical treatment.
2. Attorney's fees (waived at the hearing).

Respondents:

1. Whether high blood pressure is a compensable consequence of the compensable injury.

The record consists of the July 8, 2008, hearing transcript and the exhibits contained therein.

DISCUSSION

The claimant contends that he requires blood pressure medication as a compensable consequence of his 1984 work-related leg injury and amputation. The only evidence presented by either party on the causation question was essentially identical letters signed by Dr. David Mosley on January 4, 2008, and on April 14, 2008. In the April 14, 2008, letter Dr. Mosley indicated:

Samuel Wilson has been a patient of mine for many years. He has had traumatic amputation of the left leg. He developed hypertension after this injury. Since I have been seeing him, he has never had a prosthesis that has fit appropriately. This has resulted in problems with the skin of the left stump, infections in that area, and chronic back pain. He has not been able to ambulate for exercise. All of these factors have adversely affected his blood pressure. He requires four different blood pressure medications for adequate control. These are Lisinopril HCT, Amlodipine, Metoprolol, and Terazosin.

While certainly no one can know what his blood pressure would be had the accident not occurred, it would seem logical that the after effects of the injury have likely had a negative effect.

With regard to the appropriate burden of proof in this claim for a 1984 injury, I note that prior to the 1986 amendments to the Arkansas Workers' Compensation Law, the Commission gave the claimant the benefit of the doubt when making factual determinations. However, Act 10 of 1986 amended the burden of proof and provided in relevant part that:

Administrative law judges, the Commission, and any reviewing courts shall construe the provisions of this Act liberally, in accordance with the Act's remedial purposes. In determining whether a party has met the burden of proof on an issue, administrative law judges and the Commission shall weigh the evidence impartially and without giving the benefit of the doubt to any party.

The Arkansas Court of Appeals has concluded that the 1986 amendment to the burden of proof in a workers'

compensation claim applies retroactively to injuries which occurred before 1986. Fowler v. McHenry, 22 Ark. App. 196, 737 S.W.2d 663 (1987). Act 796 of 1993 now provides that the provisions of the Arkansas Workers' Compensation Law are to be strictly construed. Act 796 applies to injuries which occurred after July 1, 1993.

After reviewing the entire record, and without giving the benefit of the doubt to either party, I note that neither party has presented any evidence of potential risk factors for developing hypertension other than those risk factors that Dr. Mosley identified which have a negative effect on blood pressure (i.e., skin problems, infection, chronic back pain, and inability to ambulate for exercise). There appears to be no question that Dr. Mosley associates these risk factors in this case with the claimant's compensable amputation and prosthesis. Absent any evidence in the record tending to show other possible or likely causes or contributions to the claimant's hypertension unrelated to the claimant's injury, I find that the claimant has established by a preponderance of the evidence that his amputation and prosthesis have contributed to his current degree of hypertension which requires medication. I therefore find that his need for medication to keep his

hypertension under control is a compensable consequence of his amputation and poorly fitting prostheses.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. I find that the claimant has established by a preponderance of the evidence that his amputation and prosthesis have contributed to his current degree of hypertension which requires medication. I therefore find that his need for medication to keep his hypertension under control is a compensable consequence of his amputation and need for prosthesis.

AWARD

The respondents are directed to pay benefits in accordance with the findings of fact set forth herein.

IT IS SO ORDERED.

MARK CHURCHWELL
Administrative Law Judge