

DISTRICT OF COLUMBIA COURT OF APPEALS

Potomac Electric Power Co. v. District of Columbia Department of
Employment Services

77 A.3d 351 (D.C. 2013) · Decided October 3, 2013

SUMMARY

The District of Columbia Court of Appeals reviewed a Compensation Review Board decision awarding workers’ compensation benefits to Michael A. Boone for a lower-back condition and recommended surgery. The court held that substantial circumstantial evidence supported the finding that a 1999 workplace injury medically contributed to Boone’s condition and that the surgery was reasonable and necessary. The court affirmed the CRB’s decision.

CASE DETAILS

COURT	District of Columbia Court of Appeals
WRITING FOR THE COURT	Beckwith; McLeese; Ruiz
JURISDICTION	District of Columbia
DECIDED	October 3, 2013
DISPOSITION	affirmed
PROCEDURAL POSTURE	Potomac Electric Power Company petitioned for review of a Compensation Review Board decision affirming an administrative law judge's compensation order awarding workers' compensation benefits to employee Michael A. Boone, Sr.
STANDARD OF REVIEW	Under the District of Columbia Administrative Procedure Act, the court affirms unless the CRB's ruling is arbitrary, capricious, an abuse of discretion, or not in accordance with law. The court determines whether the CRB's findings are supported by substantial evidence and whether its conclusions rationally flow from those findings, while giving deference to the agency and not substituting its judgment when substantial evidence supports the findings.
PRECEDENTIAL VALUE	published opinion
PARTIES	Potomac Electric Power Company v. District of Columbia Department of Employment Services

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether substantial evidence supported the CRB's determination that Boone's May 1999 workplace injury was medically causally related to his current lower-back condition, despite preexisting injury and intervening aggravations.
2. Whether the ALJ properly concluded that the surgery recommended by Dr. Henderson was reasonable and necessary after rejecting a utilization review report.
3. Whether the CRB's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

HOLDINGS

1. A claimant need not prove a direct causal connection between the current condition and the particular workplace injury; it is sufficient to show that the work-related injury contributed to or aggravated the condition, even if preexisting or intervening factors also contributed. Substantial evidence supported the finding that the May 1999 injury aggravated Boone's existing back condition.
2. The court will uphold an ALJ's determination that recommended medical surgery is reasonable and necessary when the ALJ specifically addresses the utilization review report and articulates reasons for declining to treat it as decisive.
3. The court must affirm the CRB when its findings are supported by substantial evidence and its conclusions rationally flow from those findings, even when contrary evidence also exists.

KEY QUOTATIONS

“Under our cases, however, Mr. Boone did not have to establish, as Pepeo seems to claim, a direct “causal connection between his current lower back pain and the work injury of May 25, 1999.”” (354-55)

“It sufficed, as the ALJ noted, for him to have demonstrated that the work-related injury contributed to his condition — even if other factors, including a preexisting condition, contributed to it as well.” (355)

“Thus, while the support is all circumstantial, there existed substantial evidence in the record for the ALJ to conclude that there was a medical causal link between the 1999 workplace injury and Mr. Boone’s condition.” (355)

FACTUAL BACKGROUND

Michael A. Boone, a heavy equipment operator for Potomac Electric Power Company, had an earlier lower-back injury in November 1998. On May 25, 1999, he experienced additional back pain while lifting a chain sling at

work and testified that his condition worsened thereafter, leading to extensive treatment. In 2010, Dr. Fraser Henderson diagnosed degenerative disc disease and bilateral L-5 radiculopathy and recommended surgery, while an independent medical evaluator disputed causation and the need for surgery. The ALJ credited sufficient evidence of aggravation and accepted the surgery recommendation despite the contrary utilization review.

PROCEDURAL HISTORY

The ALJ found that Boone's lower-back condition was medically causally related to a May 1999 workplace injury and that surgery recommended by his physician was reasonable and necessary. The Compensation Review Board affirmed, and Potomac Electric Power Company sought review in the District of Columbia Court of Appeals. The Court of Appeals affirmed the CRB.

DISPOSITION

affirmed

CASES CITED

- *Fluellyn v. District of Columbia Dep't of Emp't Sens.*, 54 A.3d 1156, 1159-60 (D.C. 2012)
- *Washington Metro. Area Transit Auth. v. District of Columbia Dep't of Emp't Sens.*, 992 A.2d 1276, 1280 (D.C. 2010)
- *Mills v. District of Columbia Dep't of Emp't Servs.*, 838 A.2d 325, 328 (D.C. 2003)
- *Hisler v. District of Columbia Dep't of Emp't Sens.*, 950 A.2d 738, 743-44 (D.C. 2008)
- *McEvily v. District of Columbia Dep't of Emp't Sens.*, 500 A.2d 1022, 1024 n. 3 (D.C. 1985)
- *Washington Hosp. Ctr. v. District of Columbia Dep't of Emp't Sens.*, 744 A.2d 992, 998 (D.C. 2000)
- *Ferreira v. District of Columbia Dep't of Emp't Servs.*, 667 A.2d 310, 312-13 (D.C. 1995)
- *Hensley v. Washington Metro. Area Transit Auth.*, 655 F.2d 264, 268 (D.C. Cir. 1981)
- *Sibley Mem'l Hosp. v. District of Columbia Dep't of Emp't Servs.*, 711 A.2d 105, 107 (D.C. 1998)
- *McNeal v. District of Columbia Dep't of Emp't Servs.*, 917 A.2d 652, 655-56 (D.C. 2007)
- *Gross v. District of Columbia Dep't of Emp't Servs.*, 826 A.2d 393, 395 (D.C. 2003)