

Anderson, Arvid

SUBSEQUENT CONDITION TRACEABLE TO ORIGINAL INJURY

Aggravation by treatment

Conditions resulting from treatment for the industrial injury are considered part and parcel of the injury itself. A cardiac arrhythmia caused by the stress of surgery is therefore attributable to the industrial injury. ...*In re Arvid Anderson, BIIA Dec., 65,170 (1986)* [dissent] [*Editor's Note: The Board's decision was appealed to superior court under Spokane County Cause No. 86-2-04442-1.*]

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**BEFORE THE BOARD OF INDUSTRIAL INSURANCE APPEALS
STATE OF WASHINGTON**

1 **IN RE: ARVID ANDERSON**) **DOCKET NO. 65,170**
2)
3 **CLAIM NO. S-392837**) **DECISION AND ORDER**
4

5 APPEARANCES:

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7 Claimant, Arvid Anderson, by
8 Maxey Law Offices, per
9 Dana C. Madsen

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11 Self-insured Employer, Kaiser Aluminum & Chemical Corporation, by
12 Winston & Cashatt, per
13 Stanley D. Moore and Michael J. Cronin
14

15 This is an appeal filed by the claimant on June 20, 1983 from an order of the Department of
16 Labor and Industries dated May 26, 1983 which closed this claim with a permanent partial disability
17 award, for an injury to the claimant's neck, equal to 20% as compared to total bodily impairment.
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19 **REVERSED AND REMANDED.**
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21 **DECISION**

22 Pursuant to RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review
23 and decision on timely Petitions for Review filed by the claimant and the employer to a Proposed
24 Decision and Order issued on December 16, 1985 in which the order of the Department dated May 26,
25 1983 was reversed and the claim remanded with instructions to reopen the claim, accept the
26 claimant's cardiomyopathy as causally related to the industrial injury, and take such further action as is
27 appropriate and indicated.
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29 The Board has reviewed the evidentiary rulings in the record of proceedings and finds that no
30 prejudicial error was committed and said rulings are hereby affirmed.
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32 The general nature and background of this appeal are as set forth in the Proposed Decision
33 and Order, and shall not be reiterated in detail herein.
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35 The question before us is whether any condition involving Mr. Anderson's heart is causally
36 related to his industrial neck injury of January 13, 1981. It is initially noted that Mr. Anderson has three
37 distinct conditions relating to his heart, namely, cardiomyopathy, mitral valve prolapse, and cardiac
38 arrhythmia. The medical evidence establishes, without dispute, that the first two of these three
39 conditions pre-existed Mr. Anderson's industrial injury of January 13, 1981. A history of excessive
40 alcohol consumption emerges as the most likely cause of Mr. Anderson's cardiomyopathy, whereas
41 his mitral valve prolapse is most likely congenital in origin.
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1 There is, however, a causal link between Mr. Anderson's cardiac arrhythmia and his industrial
2 injury. The medical evidence clearly shows that this condition, variously referred to in the record as
3 atrial fibrillation, cardiac palpitations and tachycardia/bradycardia, directly arose as a result of the
4 stress attendant to Mr. Anderson's industrial neck surgery in May, 1981. It is, of course, settled law
5 that the consequences of treatment for an industrial injury are considered to be part and parcel of the
6 injury itself. Anderson v. Allison, 12 Wn. 2d 487 (1942); Ross v. Erickson Construction Co., 89 Wash.
7 634 (1916). Dr. Albert H. Reisig, Jr., a cardiologist and Mr. Anderson's attending doctor for his cardiac
8 arrhythmia, testified that the neck surgery of May, 1981, did not worsen or increase Mr. Anderson's
9 pre-existing conditions of cardiomyopathy and mitral valve prolapse. His testimony further establishes
10 that Mr. Anderson's cardiac arrhythmia was still being treated, and in need of further treatment, as of
11 the date of the Department's closing order herein. Accordingly, since at least part of Mr. Anderson's
12 industrially-related condition was not fixed, any question as to the extent of permanent disability
13 attributable to his industrial injury of January 13, 1981, is premature, and not appropriate to be decided
14 in this appeal
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22 **FINDINGS OF FACT**

23 Findings 1 and 2 of the Proposed Decision and Order entered in this matter on December 16,
24 1985, are hereby adopted by the Board and incorporated herein as the Board's Findings 1 and 2. In
25 addition, the Board finds:
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- 28 3. The claimant has conditions involving the heart diagnosed as
29 cardiomyopathy and mitral valve prolapse. Both of these conditions
30 pre-existed the claimant's industrial neck injury of January 13, 1981, and
31 are wholly unrelated thereto. Neither condition was aggravated or
32 worsened by the claimant's industrial neck surgery of May, 1981.
- 33 4. As a result of the claimant's industrial neck surgery of May, 1981, and the
34 stress attendant thereto, the claimant developed a condition of the heart
35 diagnosed as cardiac arrhythmia. This condition was not fixed but was in
36 need of further treatment as of the date of the Department's closing order
37 of May 26, 1983.
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39 **CONCLUSIONS OF LAW**

- 40 1. The Board of Industrial Insurance Appeals has jurisdiction of the parties
41 and subject matter of this appeal.
- 42 2. The order of the Department of Labor and Industries dated May 26, 1983,
43 closing this claim with a permanent partial disability award of 20% as
44 compared to total bodily impairment for the claimant's cervico-dorsal
45 condition, is incorrect, and should be reversed, and this claim remanded to
46 the Department with instructions to reopen the claim and direct the
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1 self-insured employer to accept responsibility for the claimant's cardiac
2 arrhythmia, provide treatment therefor, and to take such order and further
3 action as may be authorized or required by law.

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5 It is so ORDERED.

6 Dated this 22nd day of July, 1986.
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8 BOARD OF INDUSTRIAL INSURANCE APPEALS
9

10 /s/ _____
11 GARY B. WIGGS Chairperson
12

13 /s/ _____
14 FRANK E. FENNERTY, JR. Member
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17 DISSENTING OPINION
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19 I agree with the Board majority, to the extent that they find that the claimant's cardiac
20 arrhythmias occurring in May, 1981 were produced by the stresses attendant to his industrial neck
21 surgery at that time, acting upon his pre-existing cardiomyopathy and mitral valve prolapse.
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23 However, it is clear to me that those surgery-connected episodes constituted temporary
24 aggravations only. Whatever later cardiac arrhythmic symptoms the claimant has had are not
25 continuations of those which developed in 1981, but new episodes manifesting the underlying
26 unrelated conditions of cardiomyopathy and/or mitral valve prolapse. To me, the controlling expert
27 opinion on this point is that of Dr. Reisig, cardiologist who monitored and attended the claimant in
28 1981, and performed further heart evaluations in November, 1983 and November, 1984. The doctor's
29 key testimony was as follows:
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34 "Q. (By Mr. Moore) Doctor, as I understand it, you indicated the arrhythmia is
35 physically caused by the cardiac myopathy and the mitral valve prolapse
36 in some combination of one.

37 A. Most likely.

38 Q. The actual arrhythmic symptoms are probably brought on by whatever
39 stresses he has in his daily life.

40 A. Aggravated and more frequent because of that.

41 Q. If he were able to be very relaxed and not stressed, then it would be likely
42 that he would have less symptoms of arrhythmia?
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44 A. Correct.
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1 Q. As I understand it from your testimony previously, you have stated that the
2 specific arrhythmic condition that he experienced in May of 1981 was
3 related to the surgery and the pre-surgery induction he experienced at that
4 time and the stresses or anesthetics related to that.

5 A. More likely than not.

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7 Q. But since that time, any arrhythmic symptoms that he's had have been
8 related to a combination of the pre-existing myocardial myopathy and the
9 mitral valve prolapse and whatever stresses he has experienced at the
10 time he has the arrhythmia.

11 A. Yes.

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13 Q. And the stresses from the surgery are not related to these later arrhythmic
14 situations.

15 A. Correct."

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17 And further:

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19 "Q. Would it be fair to state, Doctor, that whatever effect the surgery had, and
20 whatever it was at the time of surgery, whether it was stress or the
21 anesthesia, whatever it was, but what you saw at the time of the surgery
22 and what they saw prior to surgery that was causing the arrhythmia was a
23 temporary aggravation that ceased by the time you saw him in November
24 of 1983?

25 A. Correct."

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28 Furthermore, since 1981 the claimant has had less heart symptoms and arrhythmic episodes,
29 and his myopathy appears to have improved, according to Dr. Reisig as well as his family physician,
30 Dr. Paul Russell. Claimant is taking prescribed medications for his heart, to control the underlying
31 conditions and to prevent arrhythmic episodes, and to mitigate such episodes as do occur. Clearly,
32 this is sound medical management; but payment for such ongoing treatment, as of May, 1983 and into
33 the indefinite future, is not the responsibility of this claim.
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37 All the medical evidence agrees that whatever permanent disability the claimant may have at or
38 near the closing date from his heart condition is not related to his industrial neck condition.
39 Furthermore, this record establishes that, since the industrial injury and the neck surgeries performed
40 for it in May and November, 1981, the claimant has developed additional conditions of peripheral
41 neuropathy, diabetes, and some rheumatoid arthritis. These developments may well partly explain
42 why he chose a retirement pension from Kaiser as of December 31, 1982, and is also now receiving a
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1 Social Security disability pension. None of these more recently developing conditions, of course, are
2 related to the January, 1981 neck injury.
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4 As to the correct evaluation of claimant's permanent disability due solely to the neck injury, the
5 record fully supports the permanent partial disability award based on Category 3 of permanent
6 cervical-dorsal impairments.
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8 In sum, I would direct acceptance of responsibility under this claim for whatever medical
9 attention and treatment was rendered for the claimant's cardiac arrhythmia episodes connected with
10 the May, 1981 surgery (and perhaps such further treatment as may have been given for further
11 cardiac arrhythmia problems, if any, up through the November, 1981 surgery). Otherwise, I would
12 affirm the Department closing order of May 26, 1983.
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16 Dated this 22nd day of July, 1986.
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19 /s/ _____
20 PHILLIP T. BORK, Member
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