

Truhn, Candi

PERMANENT PARTIAL DISABILITY (RCW 51.32.080)

Migraine headaches

Chronic migraine headaches related to an industrial injury may result in a permanent functional impairment for which a worker is entitled to receive a permanent partial disability award. Where there was no way to measure the impact of the migraine headaches on the worker's functioning except by subjective complaint, a better analogy than cervical spine impairment is found in the mental health condition ratings. ...*In re Candi Truhn*, BIIA Dec., 91 3993 (1993)

SUBSEQUENT CONDITION TRACEABLE TO ORIGINAL INJURY

Migraine headaches

In the absence of other possible triggers together with the report of migraine complaints within a month following a head or neck injury, a chronic migraine headache condition was causally related to the industrial injury. ...*In re Candi Truhn*, BIIA Dec., 91 3993 (1993)

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

1 **IN RE: CANDI D. TRUHN**) **DOCKET NOS. 91 3993 & 91 4292**
2)
3 **CLAIM NO. T-347606**) **DECISION AND ORDER**
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5 **APPEARANCES:**

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7 Claimant, Candi D. Truhn, by
8 Aaby, Putnam, Albo & Causey, per
9 James C. Causey, Jr. and Joseph A. Albo, Attorneys, and Laurel Anderson, Paralegal

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11 Self-Insured Employer, Safeway Stores, Inc., by
12 Perkins Coie, per
13 Michael L. Hall and Jeffrey M. Sayre, Attorneys
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15 These are appeals filed by the claimant, Candi Truhn, on August 5, 1991 and by the employer,
16 Safeway Stores, Inc., on August 26, 1991, from an order of the Department of Labor and Industries
17 dated July 30, 1991 which affirmed the provisions of a prior order dated April 4, 1991 which closed the
18 claim with a permanent partial disability award equal to 14% of the amputation value of the left arm at
19 any point from below the elbow joint distal to the insertion of the biceps tendon to and including mid
20 metacarpal amputation of the hand, and time loss compensation as paid through October 20, 1990.

21 **REVERSED AND REMANDED.**

22 **DECISION**

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24 Pursuant to RCW 51.52.104 and RCW 51.52.106, this matter is before the Board for review
25 and decision on a timely Petition for Review filed by the claimant to a Proposed Decision and Order
26 issued on January 20, 1993 in which the order of the Department dated July 30, 1991 was reversed
27 and remanded with direction to pay the claimant a permanent partial disability award equal to 7% of
28 the amputation value of the left arm at any point from below the elbow joint distal to the insertion of the
29 biceps tendon to and including mid metacarpal amputation of the hand and to thereupon close the
30 claim with time loss compensation as paid. On March 22, 1993, the employer responded to the
31 claimant's Petition for Review.
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33 The Board has reviewed the evidentiary rulings in the record of proceedings and finds that no
34 prejudicial error was committed and said rulings are hereby affirmed.
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36 We have granted review because we conclude that the record establishes by a preponderance
37 of the evidence that Ms. Truhn's migraine headaches were caused by her industrial injury and result in
38 a functional impairment for which she is entitled to receive a permanent partial disability award, in
39 addition to an award for residual impairment from the left wrist fracture.
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1 Ms. Truhn sustained an injury on August 16, 1989, while working at Safeway Stores as a price
2 changer, when she fell from a ladder and broke her left wrist. She believes that she also struck her
3 head. Ms. Truhn's left wrist was set by Dr. John Pierce and he provided follow up treatment for the
4 wrist through September 1989. She did not report any problem with headaches to Dr. Pierce. Her
5 description to Dr. Pierce of the injury was that she fell off the ladder, struck her buttock and arm, and
6 twisted her back. Within a few days of the fall, Ms. Truhn reported pain in the rhomboid muscle and
7 low back. Dr. Pierce felt that in addition to the wrist fracture, Ms. Truhn had bruised her sacrum and
8 strained the rhomboid muscle and recommended conservative treatment as no bony structures were
9 affected.

10 In September 1989, Ms. Truhn sought care from Dr. Douglas Hom, an internist, for upper/mid
11 and low back pain complaints. At that time she described her injury to Dr. Hom as a 15 foot fall from a
12 ladder, wherein she landed on concrete on her back. Dr. Hom took x-rays and provided anti-
13 inflammatory medications for the contusions and sprain. The x-rays showed degenerative disc
14 changes in the thoracic spine and a fairly normal lumbar spine. Dr. Hom believed the industrial injury
15 had aggravated the degenerative arthritis in the thoracic area. At Ms. Truhn's visit to Dr. Hom in early
16 October 1989, she reported improvement in her back discomfort, but more wrist discomfort. During
17 her next visit on November 7, 1989, Ms. Truhn reported a new complaint of pain going up the back
18 and neck and around the head, the first episode having occurred two weeks earlier and another
19 episode a few days before the visit. She reported never having headaches prior to the injury. Dr.
20 Hom attributed the headaches to tension, but because of the injury and because the headache had
21 recurred, he thought the headaches were "mixed migraine" caused by tension on pain-sensitive areas.
22 Dr. Hom prescribed medication for the headaches, to be taken on an "as needed" basis.

23 During Ms. Truhn's next visit with Dr. Hom in January 1990, she reported having the
24 headaches but with less frequency. Thereafter, she did not complain of headaches until September,
25 but Dr. Hom attributed her request for a refill of the medication in August 1990 to her continued
26 headache condition.

27 On September 24, 1990 Ms. Truhn was seen by Dr. Hom and complained of a severe
28 migraine headache that had lasted for the past several days. She reported the headache began with
29 a feeling of neck tension, which increased so that she was unable to move her neck. Dr. Hom felt that
30 she had a severe migraine headache and prescribed codeine type medication. That evening Ms.
31 Truhn reported to the hospital emergency room with a severe headache. Spinal tap test and CT scan,
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1 to rule out central nervous system infection, were negative. She returned to Dr. Hom the following day
2 and a nerve block was attempted with only partial success. On September 30, she again called Dr.
3 Hom's office reporting severe headaches. When Ms. Truhn was seen on October 2, 1990, Dr. Hom
4 felt she demonstrated flu-like symptoms of fever, chills and overall aching. He attributed some of the
5 symptoms to a flu-like illness and some symptoms to rebound from the withdrawal from medication
6 she had taken during the recent headache episode.
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10 After an examination in May 1991, Dr. Hom diagnosed an underlying degenerative arthritis
11 condition which became painful after the industrial injury, then improved, and then worsened in the
12 mid-dorsal and then the cervical area. He attributed the recurrent migraine headaches to the pain in
13 the cervical/thoracic region caused by the fall from the ladder, and agreed with the permanent
14 disability rating of Dr. Stewart Tepper, who rated the headaches as representing permanent
15 impairment equal to 10% as compared to total bodily impairment, or alternatively, a Category 2
16 cervical impairment. Dr. Hom also rated permanent impairment in the cervical/dorsal area as best
17 described by Category 2, based upon slight reduction of motion and tenderness in the cervical spine,
18 subjective discomfort, and accentuation of the dorsal spine upon examination, a finding made for the
19 first time in May 1991.
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25 Dr. Stewart Tepper, a neurologist, examined Ms. Truhn on April 23, 1991 at which time Ms.
26 Truhn described a fall while working at Safeway wherein she broke her wrist and struck her buttock,
27 twisting her back. In the history to Dr. Tepper, Ms. Truhn recounted that she had also struck her head
28 twice, although that was not a part of the history given to Dr. Hom. Dr. Tepper concluded that in the
29 absence of other possible triggers, such as a genetic history or an environmental trigger such as
30 meningitis, together with the report of migraine complaints within the month following a head or neck
31 injury, that the migraines were caused by the industrial injury. Dr. Tepper believed that his diagnosis
32 was confirmed in that the medication Ms. Truhn takes when she feels a headache coming on aborts
33 the headache. In addition, Dr. Tepper pointed out further criteria upon which he relied in formulating
34 the migraine headache diagnosis, such as 1) the repetitive nature (at least five episodes); 2) the
35 duration of the headaches lasting four to seventy-two hours; 3) the report of throbbing quality rather
36 than aching quality; and 4) the moderate to severe intensity of the headaches precluding ability to
37 engage in routine physical activity.
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45 Dr. Tepper rated Ms. Truhn's permanent impairment from the migraine headaches as a
46 Category 2 cervical impairment, or 10% as compared to total bodily impairment. He used the cervical
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1 category rating because Ms. Truhn's migraines have associated neck pain. However, he did not make
2 findings related to the cervical spine that are encompassed in the cervical impairment category. He
3 explained that there are no American Medical Association standards for rating migraine headaches,
4 nor are they described by a specific category in the Washington Administrative Code.
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7 Dr. Mary E. Reif, a neurologist who examined Ms. Truhn on June 5, 1991, was of the opinion
8 that the headaches were not caused by the injury because of the delay between the injury and the first
9 reported headache almost five weeks thereafter, and also because Ms. Truhn did not originally report
10 to her doctors that she had hit her head in the fall. Ms. Truhn reported pain complaints in the neck,
11 associated with the onset of headaches, mild mid-back pain between the shoulder blades, and left
12 wrist discomfort. Dr. Reif felt that the interscapular or dorsal back pain represented no permanent
13 impairment. While acknowledging that headaches can be rated by comparing the impairment to total
14 bodily impairment rather than by comparing the impairment to a cervical category, Dr. Reif pointed out
15 that she would rate no impairment for Ms. Truhn's headaches because they are medically controlled
16 and represent no functional impairment.
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22 While the medical experts disagree concerning the causal relationship between the injury and
23 the migraines, we are persuaded by the testimony of her attending physician, Dr. Hom and Dr.
24 Tepper, who specializes in the treatment of headaches, that the fall from the ladder was the cause of
25 her migraine headaches on a more probable than not basis.
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28 As all the medical experts point out, headaches are not able to be objectively confirmed by
29 their very nature, and yet it is common knowledge that the pain from headaches can disturb the quality
30 of life and alter certain behavior and limit functional activity. Because pain is a purely subjective
31 phenomenon, it is difficult to validate its presence, and to measure it. Migraine headache is not listed
32 as a specified permanent partial disability under RCW 51.32.080, nor does it fall under any of the
33 categories of unspecified disabilities described in the Washington Administrative Code sections, WAC
34 296-20-200 et. seq. However, WAC 296-20-220 (1)(o) provides that bodily areas and conditions
35 which are not included in the categories and which do not involve loss of hearing, central visual acuity,
36 enucleation of an eye, or use of an extremity, "shall" be assessed for impairment in terms of total
37 bodily impairment. Thus, it is appropriate to rate Ms. Truhn's impairment due to the migraines under
38 the above-cited special rule for unspecified disabilities, not under the category for cervical
39 impairments.
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1 The AMA Guides to the Evaluation of Permanent Impairment, Third Edition Revised, note that
2 despite numerous attempts, the development of methodologies for the objective measurement of pain
3 are not available. The Guides further note that the Commission on the Evaluation of Pain, because of
4 the inadequacy of data, recommended further study on this issue in a 1987 report.
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7 The AMA Guides, therefore, do not offer a way to measure the exact extent of disability these
8 headaches represent for Ms. Truhn. We conclude that it is appropriate to evaluate her impairment by
9 analogizing to those unspecified disabilities which are categorized. Especially because the migraines
10 are controlled by medication when she feels them coming on, it is difficult to evaluate to what extent
11 the migraines limit her functional capacity to take part in the activities of daily living, recreational or
12 work pursuits, which are the factors to consider in measuring impairment. Dr. Tepper offers no real
13 reason for assigning 10% as compared to total bodily impairment, although he analogizes the
14 impairment to a Category 2 cervical impairment because her migraines have associated neck pain.
15 However, if indeed her migraines are controlled by medication which both her testimony and that of
16 her experts confirm, then we have difficulty in assigning an impairment rating of 10% as compared to
17 total bodily impairment as Dr. Tepper suggests. We do not, however, conclude as does Dr. Reif that
18 because the headaches are controlled by medicine that they represent no impairment. Because there
19 is no way to measure the impact of the migraines on her functioning except by subjective complaint,
20 we believe that a better analogy than cervical spine impairment can be found in the mental health
21 condition ratings. The key ingredient in the mental health categories is measuring the degree to which
22 the condition "significantly alters" the life adjustment of the patient.
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25 Ms. Truhn must now take medication whenever she feels the onset of a migraine headache.
26 This can vary in frequency from once to three times a week. By taking medication, she avoids or
27 aborts the debilitating headaches which can and do preclude activity. She has had to alter her life
28 somewhat by having to take the medication when the headaches begin, but the migraines have not
29 seemingly affected her personal or social adjustment, her ability to work or maintain leisure activities.
30 When we analogize to the mental health impairment, we conclude that her disability falls between the
31 0% as compared to total bodily impairment represented by Category 1, and the 10% represented by
32 Category 2 of mental impairment categories. We therefore conclude that this record supports a rating
33 for the migraines of 5% as compared to total bodily impairment.
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36 The claimant additionally seeks an award for impairment in the cervical or the dorsal area
37 based upon the opinion of Dr. Hom, Ms. Truhn's attending internist, who rated a Category 2
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1 impairment in the cervical/dorsal area, or a Category 2 impairment in the dorsal area, based upon
2 limited range of motion, pain complaints, and a finding of accentuation of the dorsal curve. Like the
3 industrial appeals judge, we do not attribute much weight to Dr. Hom's rating since it is based on
4 purely subjective complaints and findings. The accentuation of the dorsal curve found in May 1991
5 has not been shown to be a permanent finding since no other examiner found it, and furthermore, we
6 are not persuaded that if the accentuation of the dorsal spine is a permanent finding, that it has been
7 shown to be related to the industrial injury or merely due to the pre-existing degenerative changes.
8 We are persuaded that the findings support a Category 1 rating in either the cervical or dorsal area
9 since that category represents subjective pain complaints only, without objective findings.

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11 With respect to the impairment for the wrist, the only witness to rate that impairment was Dr.
12 Ivar Birkland, but his testimony was ambiguous in that he felt that using the AMA Guides, Second
13 Edition, Ms. Truhn had an impairment equal to 8% of the amputation value of the left arm at any point
14 from below the elbow joint distal to the insertion of the biceps tendon to and including mid-metacarpal
15 amputation of the hand. When using the Third Edition of the Guides, however, the percentage
16 impairment was 7%. Since either 8% or 7% is supportable in this record, we conclude that 8% is the
17 rating which should be awarded.

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19 After consideration of the Proposed Decision and Order, the Petition for Review filed thereto,
20 the employer's Response to the Petition for Review, and a careful review of the entire record, we enter
21 the following findings and legal conclusions:

22 FINDINGS OF FACT

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32 1. On August 24, 1989, the self-insured employer, Safeway Stores, Inc.,
33 received an application for benefits from the claimant, Candi Truhn,
34 alleging an industrial injury on August 16, 1989, while in course of
35 employment with Safeway Stores, Inc. On November 19, 1990, the
36 Department entered an order allowing the claim. On February 5, 1991
37 the Department entered an order closing the claim with time loss
38 compensation as paid and a permanent partial disability equal to 14% of
39 the amputation value of the left arm at or above the deltoid insertion or by
40 disarticulation at the shoulder. On February 21, 1991, the employer
41 protested and on March 8, 1991, the Department entered an order holding
42 the February 5, 1991 order in abeyance. On April 4, 1991, the
43 Department entered an order cancelling the February 5, 1991 order, and
44 closing the claim with time loss compensation as paid to October 20, 1990
45 and a permanent partial disability award of 14% of the amputation value of
46 the left arm at any point from below the elbow joint distal to the insertion of
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1 the biceps tendon to and including the mid-metacarpal amputation of the
2 hand.

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4 The claimant timely protested the April 4, 1991 order, and on April 19,
5 1991 the Department issued an order holding the April 4, 1991 order in
6 abeyance. On July 30, 1991, the Department entered an order affirming
7 the provisions of the order dated April 4, 1991. On August 5, 1991, the
8 claimant appealed to the Board from the July 30, 1991 order, and the
9 appeal was granted and docketed under Docket No. 91 3993. On August
10 26, 1991, the employer appealed to the Board from the July 30, 1991
11 order, and the appeal was granted and docketed under Docket No. 91
12 4292.

- 13 2. On August 16, 1989, while working as a price changer at Safeway Stores,
14 Inc., Candi Truhn fell off a ladder, landing on her back, and fracturing her
15 left wrist.
- 16 3. As of July 30, 1991, Candi Truhn's conditions related to the August 16,
17 1989 injury were fixed and in need of no further treatment. As of July 30,
18 1991, Candi Truhn had permanent residual impairment causally related to
19 the August 16, 1989 industrial injury which consisted of a healed left wrist
20 fracture, dorsal back pain, and migraine headaches.
- 21 4. As of July 30, 1991, the claimant's permanent partial impairment resulting
22 from the industrial injury was equal to 8% of the amputation value of the
23 left arm at any point from below the elbow joint distal to the insertion of the
24 biceps tendon to and including mid-metacarpal amputation of the hand.
25 She additionally had impairment in the dorsal spine which was best
26 described by Category 1, WAC 296-20-260, (0% as compared to total
27 bodily impairment). As of July 30, 1991, the claimant's migraine
28 headaches, causally related to the industrial injury, resulted in disability
29 equal to 5% as compared to total bodily impairment.

30 **CONCLUSIONS OF LAW**

- 31 1. The Board of Industrial Insurance Appeals has jurisdiction of the parties
32 and the subject matter of these appeals.
- 33 2. The order of July 30, 1991 which affirmed the order of April 4, 1991 which
34 closed the claim with a permanent partial disability award equal to 14% of
35 the amputation value of the left arm at any point from below the elbow joint
36 distal to the insertion of the biceps tendon to and including mid-metacarpal
37 amputation of the hand and time loss compensation as paid through
38 October 20, 1990, is incorrect and is reversed, and the claim remanded to
39 the Department with direction to issue an order requiring the self-insured
40 employer to pay the claimant permanent partial disability awards equal to
41 8% of the amputation value of the left arm at any point from below the
42 elbow joint distal to the insertion of the biceps tendon to and including mid-
43 metacarpal amputation of the hand, 5% as compared to total bodily
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1 impairment for the migraine headaches, and to thereupon close the claim
2 as so paid.

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4 It is so ORDERED.

5 Dated the 14th day of June, 1993.

6 BOARD OF INDUSTRIAL INSURANCE APPEALS
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10 /s/
11 S. FREDERICK FELLER Chairperson

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13 /s/
14 PHILLIP T. BORK Member
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