

**STATE OF WEST VIRGINIA  
SUPREME COURT OF APPEALS**

**REBECCA STILTNER,  
Claimant Below, Petitioner,**

**vs.) No. 17-0246 (BOR Appeal No. 2051518)  
(Claim No. 2015015785)**

**FILED**

November 22, 2017  
EDYTHE NASH GAISER, CLERK  
SUPREME COURT OF APPEALS  
OF WEST VIRGINIA

**BLUEFIELD REGIONAL MEDICAL CENTER,  
Employer Below, Respondent**

**MEMORANDUM DECISION**

Rebecca Stiltner, a registered nurse, injured her right foot when she lost her balance while she was removing her shoe covers. Her workers' compensation claim was held compensable for a second metatarsal fracture of the right foot. Ms. Stiltner alleges that as a result of that injury, she began to experience progressively worsening pain in her left foot and left knee. Her request to add the left foot and the left knee as compensable components of this claim was denied. We are asked to determine whether it was proper to deny the addition of the left foot and left knee as compensable. We find that it was. We further find upon consideration of the standard of review, the briefs, and the record, that there is no substantial question of law or prejudicial error necessitating oral argument. As such, a memorandum opinion is appropriate under Rule 21 of the Rules of Appellate Procedure.

Ms. Stiltner injured her right foot on December 5, 2014. After experiencing continued pain in her left foot and knee, she underwent an MRI of the left foot on February 3, 2015, which revealed a stress reaction/nondisplaced fracture of the distal left second metatarsal which was much less severe than the one seen on the right foot. A left knee MRI performed on March 3, 2015, revealed probable stress reaction or contusion in the medial femoral condyle, small joint effusion, and early degenerative changes of the central patella. Walid Azzo, M.D., diagnosed a left knee bone bruise. He did not indicate the cause of the left knee problem in the medical record.

On March 24, 2015, Robert Kropac, M.D., performed an independent medical evaluation for a chief complaint of right foot pain. He noted that Ms. Stiltner also reported problems with her left foot including a stress fracture and injury to her left knee. Dr. Kropac diagnosed a stress fracture of the second metatarsal on the right foot that was healed. He opined that the left knee problems were not work-related.

On May 7, 2015, Mark Wilt, M.D., completed a diagnosis update requesting that the left foot metatarsal stress fracture, left knee pain, and left knee bone contusion be added as compensable components of the claim. In Dr. Wilt's opinion, the conditions were due to Ms. Stiltner's gait and immobilization related to the left foot CAM walker. A June 3, 2015, MRI of the left foot revealed swelling throughout the foot, most likely related to stress reaction which was new when compared to the prior study. The left second metatarsal swelling had resolved but was worsening in the third metatarsal. X-rays of the left foot revealed mild osteoarthritis. An MRI of the left knee revealed improvement in the medial femoral condyle swelling, as well as new, mild, multifocal swelling most likely representing stress-related changes from altered biodynamics during the previous injury.

Mohammed Ranavaya, M.D., performed a medical records review on June 14, 2015. In his opinion, there were no studies that supported a causal relationship between Ms. Stiltner's right foot injury and the left foot and ankle problems that developed ten months later. On September 30, 2015, Dr. Wilt completed a second diagnosis update requesting that the left foot metatarsal stress fracture, left knee pain, and left knee bone contusion be added as compensable components of the claim. The claims administrator denied the request on October 13, 2015.

Bruce Guberman, M.D., performed an independent medical evaluation on December 16, 2015. He noted that Ms. Stiltner complained of pain throughout the left foot and in her left knee. Dr. Guberman's impression was history of stress fracture of the left foot and chronic post-traumatic strain of the left knee. He opined that the left foot stress fracture and the abnormalities of the left knee were directly causally related to the work injury to the right foot and due to the abnormal biodynamics and additional stress on the left foot and knee.

Dr. Kropac testified via deposition on March 8, 2016. He did not believe there was a causal relationship between the injury and the left foot and ankle symptoms Ms. Stiltner experienced. In his opinion, walking in a CAM boot on the left foot for two weeks would not cause pain in the left knee. Change in gait and station would not necessarily put stress on the opposite side because when you walk you put your entire weight on one foot and knee and then the other side. He did not believe any additional pressure would be added to the other side unless a cane was used. The range of motion and manual restraint testing he performed was normal.

Dr. Guberman testified via deposition on May 16, 2016. In his opinion, the left knee problems developed because of the difference in Ms. Stiltner's walking due to her injury and the CAM walker. The MRI showed a stress reaction. She did not experience pain in her left knee until two weeks after she started wearing the CAM walker on the left foot. He attributed the stress fracture of the left foot and the post-traumatic strain of the left knee to the abnormal gait and limping due to the right foot injury.

The Office of Judges affirmed the denial of the request to add the left foot and knee as compensable components of the claim on October 13, 2015. It noted Drs. Kropac and Azzo, both orthopedic surgeons, evaluated Ms. Stiltner. Dr. Kropac opined in his written report and in his deposition testimony that the left foot and knee complaints were unrelated to the injury. Dr. Azzo listed the mechanism of injury as "unknown". Additionally, the long term disability application

completed by Dr. Azzo did not indicate if the injury or illness was due to Ms. Stiltner's employment. The Office of Judges determined that Dr. Azzo's medical records did not indicate a direct relationship between the left lower extremity complaints and the compensable injury. Moreover, Dr. Wilt and Dr. Guberman, both of whom opined that the left lower extremity complaints were related to the compensable injury, failed to address Ms. Stiltner's vitamin D deficiency. Dr. Ranavaya, an occupational and environmental medicine specialist, agreed with Dr. Kropac. He cited various studies in support of his conclusion that the mechanism of injury would not cause a stress fracture. In Dr. Ranavaya's opinion, Ms. Stiltner's condition suggested an underlying pathology or illness.

The Office of Judges determined that the experts best qualified to suggest a connection between the compensable injury and Ms. Stiltner's left lower extremity symptoms were the orthopedic surgeons, Drs. Azzo and Kropac. However, neither of them made that connection. It found Dr. Ranavaya, who sided with the orthopedists, prepared the most comprehensive report. The Office of Judges found that while Ms. Stiltner presented some evidence in support of her condition, the most credible evidence came from the orthopedists. Therefore, based on their opinions, the Office of Judges affirmed the claims administrator's denial of the additional compensable components. The Board of Review adopted the findings of fact and conclusions of law of the Office of Judges and affirmed the Order it its February 17, 2017, decision.

Ms. Stiltner, through her attorney Gregory S. Prudich, argues the Board of Review's affirmation of the Office of Judges decision denying the request to add the left foot and left knee as compensable components of the claim is in clear violation of a statutory provision and is based upon a material misstatement and mischaracterization of the evidence. Bluefield Regional Medical Center, through its attorney, Mark J. Grigoraci, argues that a preponderance of the evidence shows Ms. Stiltner's left foot and left knee problems are not related to the compensable injury.

After review, we agree with the reasoning of the Office of Judges as affirmed by the Board of Review. Ms. Stiltner failed to establish by a preponderance of the credible evidence that her left lower extremity complaints were related to the compensable injury. The Office of Judges found the opinions of Drs. Kropac and Azzo to be the most credible. Its evaluation of the weight of the evidence should not be disturbed on appeal.

For the foregoing reasons, we find that the decision of the Board of Review is not in clear violation of any constitutional or statutory provision, nor is it clearly the result of erroneous conclusions of law, nor is it based upon a material misstatement or mischaracterization of the evidentiary record. Therefore, the decision of the Board of Review is affirmed.

Affirmed.

**ISSUED: November 22, 2017**

**CONCURRED IN BY:**

Chief Justice Allen H. Loughry II

Justice Robin J. Davis

Justice Menis E. Ketchum

Justice Elizabeth D. Walker

**DISSENTING:**

Justice Margaret L. Workman