



Republic of the Philippines
DEPARTMENT OF LABOR AND EMPLOYMENT
EMPLOYEES' COMPENSATION COMMISSION

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Ika-21 ng Disyembre 2016

G. RAFAEL A. AUSTRIA

Zone 6, Amamperez
Villasis, Pangasinan, 2427
SM-19566-1212-16

Mahal naming **G. Austria**:

Ito po ay may kinalalaman sa inyong kahilingang benepisyo sa ilalim ng Employees' Compensation Law (P.D. 626, as amended).

Nais po naming ipabatid sa inyo na noong ika-20 ng Disyembre taong 2016, nagkaroon po ng desisyon ang tanggapanang ito na pagbigyan ang inyong kahilingan. Ang SSS na lamang po ang magbibigay ng inyong karampatang benepisyo.

Mangyari lang po na ipag-bigay-alam ninyo sa aming tanggapan kung natanggap na po ninyo ang inyong kaukulang benepisyo sa loob ng tatlong (30) araw matapos po ninyong tanggapin ang kopya ng desisyon.

Maraming salamat po.

Lubos na sumasainyo,


STELLA ZIPAGAN-BANAWIS
Executive Director





December 21, 2016

ELISA T. BAROQUE, M.D.
Department Manager III
Medical Operation Department
SOCIAL SECURITY SYSTEM
East Ave., Diliman, Quezon City

Dear **Dr. Baroque**:

We are transmitting herewith the entire record of the case of:

RAFAEL A. AUSTRIA VS. SSS
ECC CASE No. SM-19566-1212-16

The decision in the above-entitled case is a **MODIFICATION** of the decision of the System and the same is accordingly transmitted to that office for enforcement. Pursuant to Article 182 (a) of P.D. 626 as amended, all awards granted by the Commission in cases appealed from the decisions of the System shall be effected **"within fifteen (15) days from receipt of notice thereof."**

Very truly yours,


STELLA Z. BANAWIS
Executive Director

cc:

BRENDA P. VIOLA, MD
OIC – Medical Services Division
Social Security System (SSS)
East Ave., Diliman, Quezon City

Mr. RAFAEL A. AUSTRIA
Zone 6, Amamperez
Villasis, Pangasinan, 2427
SM-19566-1212-16

jtv/msmp



RAFAEL A. AUSTRIA,
Appellant,

-versus-

ECC CASE No. SM-19566-1212-16

SOCIAL SECURITY SYSTEM (SSS),
Appellee.

x.....x

D E C I S I O N

This appeal seeks to review the decision of the Social Security System (SSS)-Medical Claims Review Committee (MedRC), dated October 14, 2016, denying appellant's claim for disability benefits, under the Employees' Compensation Law (P.D. No. 626, as amended), for his Frozen Shoulder, bilateral; Multiple Degenerative Osteoarthritis; Noise-Induced Hearing Loss; Hypertension; Diabetes Mellitus, type 2; Dyslipidemia; Hyperuricemia.

From April 17, 1983, until December 31, 2014, the appellant, Rafael A. Austria (SSS No. 02-0462863-1), 59 years old at the time of the filing of the claim and a resident of Villasis, Pangasinan, has successively occupied the positions of Security Guard and Mill Plant Operator at the Mills Operations Department of Philex Mining Corp., Tuba, Benguet.

During the period of his employment as Mill Plant Operator, the duties and responsibilities of the appellant include:

General Function:

Operates flotation equipment and accessories

1. Monitors the operation and condition of flotation equipment and accessories;
2. Conducts pre-operating inspection of flotation equipment and accessories;
3. Tests runs stand-by equipment and accessories as instructed;
4. Inspects and evaluates quality and quantity of product of his unit;
5. Adjusts and stabilizes operating parameters to achieve the required product at optimum recovery;
6. Troubleshoots basic operational problems encountered;
7. Ensures target tails and concentrate grade of Cu and Au are achieved;

- 8. Performs minor repair and adjustments, clearing and cleaning procedures;
- 9. Checks/monitors/replaces worn-out or defective flotation parts;
- 10. Reports and coordinates with control room tender and superiors any flotation equipment or accessories for repair;
- 11. Reports/coordinates with superiors and section operating personnel on operational requirement such as water, flotation feed, reagent dosages, grade, air requirement and other operating parameters;
- 12. Assists his superiors in conducting on-the-job training (OJT) to Mill Flotation Operators 2'C and 3'C and Utility Operators;
- 13. Observes proper work turn-over of responsibilities to incoming operator;
- 14. Accomplishes and submits reports on flotation equipment and accessories breakdown, performance, abnormalities and malfunctions;
- 15. Adheres to personnel policies, safety, health, environmental, security, cost reduction and productivity improvement programs of the company;
- 16. Ascertains strict implementation of the 3Rs (reduce, recycle, re-use);
- 17. Attends to pep talks, DSC and other meetings of the department;
- 18. Performs other related duties from time to time as maybe assigned by his immediate supervisor.

On December 20, 2014, the appellant sought medical consultation at the Saint Louis University-Hospital of the Sacred Heart, Baguio City, due to multiple joint pains. Medical records reveal that he has history of cigarette smoking and history of occasional beverage drinking. It was also noted that he has elevated of glucose, cholesterol, and triglycerides in his blood. He was also subjected to X-ray examinations and Ultrasound examinations of his chest and musculoskeletal which showed findings of Degenerative Osteoarthritis, bilateral shoulder with narrowed acromioclavicular joint space, left; Degenerative Cervical Spondylosis with Posterior Disc Disease (C6-C7) and Neural Foraminal Narrowing (bilateral C2-C4 and right C5); Congenital Fusion of the C4-C5 vertebral body, facet joints and spinous process; Cervicomuscular strain; Ossifications of the Anterior Longitudinal Ligament 9C5-C6 and C6-C7).

On December 22, 2014, the appellant was discharged from the said hospital with diagnosis of Frozen shoulder, bilateral; Multiple Degenerative Osteoarthritis; Hypertension with Pulmonary Edema; Diabetes Mellitus, type 2; Dyslipidemia; Hyperuricemia; Noise-Induced Hearing Loss. There is no showing that the appellant has submitted any Audiometry examination results showing that his alleged hearing impairment has progressed to a state of permanent disability.

On April 6, 2015, the appellant filed a claim for EC disability benefits before the SSS Baguio City Branch (Branch) due to the abovementioned ailments. The Branch denied the claim on the ground of no causal relationship.

On October 14, 2016, the SSS-Medical Claims Review Committee (MedCRC) sustained the denial through Resolution No. 2016-0163 in this manner, to wit:

“.. physical examination and neural examination findings reveal essentially normal results. There were no limitation of range of motion on various body joints and can hear soft to normal conversational voice at 5ft. distance. Also, no accident/illness report nor EC logbook report were submitted which could substantiate that the illnesses claimed are work-connected.”

On December 7, 2016, the Secretariat received the records of the case from the SSS for review purposes. On December 16, 2016, this case was submitted to the Technical Review Committee (Committee) for initial deliberation. The Committee decided to elevate this case to the Commission with the following recommendations:

I. For Denial

Claimed Ailment	Reason for Denial	
Hypertension	No causal relationship	
Diabetes Mellitus	No causal relationship	
Dyslipidemia; Hyperuricemia	No causal relationship	
Noise-Induced Hearing Loss	The appellant has failed to submit any Audiometry examination results showing that his alleged hearing impairment has progressed to a state of permanent disability	

II. For Award

Type of Illness	Basis for Award	
Frozen Shoulder, bilateral; Multiple Degenerative Osteoarthritis	Satisfaction of condition for compensability of Musculoskeletal Disorders	

The appeal is partly meritorious.

Article 173 (formerly Art. 167) paragraph (1) of Presidential Decree (P.D.) No. 626, as amended, defines sickness as "any illness definitely accepted as an occupational disease listed by the Commission, or any illness caused by employment subject to proof that the risk of contracting the same is increased by working conditions." Section 1 (b), Rule III, of the Rules Implementing P.D. No. 626, as amended, provides that "for the sickness and the resulting disability or death to be compensable, the sickness must be the result of an occupational disease included under Annex "A" of these Rules (Amended Rules on Employees' Compensation) with the conditions set therein satisfied; otherwise, proof must be shown that the risk of contracting the disease is increased by the working conditions."

This Commission now proceeds to discuss the etiology, conditions for compensability and the reason for denial of the claim for EC disability benefits of the appellant due to Hypertension, Diabetes Mellitus, type 2, Dyslipidemia, Hyperuricemia and Noise-Induced Hearing Loss of the appellant.

Claimed Illness	Etiology/Conditions for Compensability under Annex "A" of the Amended Rules on Employees' Compensation	Reason for Denial of the Claim
Hypertension	<ul style="list-style-type: none">• Hereditary and environmental factors;• Essential or Primary Hypertension has no single identifiable cause. The persons most likely to develop essential hypertension are those with family history of hypertension.• Cigarette smoking, less physical activity, stress, excessively heavy weight, high salt intake, high caffeine intake, and use of oral contraceptive pill also contribute to the development of essential hypertension. The release of certain enzymes from the kidneys and diabetes mellitus may lead to high blood pressure.• Both genetic and hemodynamic factors contribute to left ventricular hypertrophy.• Individuals with left ventricular hypertrophy are at increased risk for Cardiovascular Heart Disease, Stroke, Chronic Heart Failure, and sudden death.	<p>Although Hypertension has been included in the List of occupational Diseases, its compensability requires compliance with the conditions provided under Annex "A" of the Amended Rules on Employees' Compensation.</p> <p>During his medical examination in 2014, it was also noted that he has elevated level of glucose, cholesterol, and triglycerides in his blood. The same may have caused or contributed to the manifestation of his Hypertension.</p> <p>The appellant should have provided evidence of a reasonable connection between his working conditions and his Hypertension or that the progression of the same was brought about largely by the conditions in his previous occupation. The available medical records also failed to disclose any substantial</p>

	<p><i>References:</i></p> <ol style="list-style-type: none">1. Robbins <i>Pathologic Basis of Disease</i>, 6th Edition, pp. 510-514;2. <i>Seventh Report of the Joint National Committee on Prevention, Detection, Evaluation and Treatment of High Blood Pressure (JNC 7)</i>;3. <i>Harrison's Principles of Internal Medicine</i>, 17th Edition, Chapter 241: <i>Hypertensive Vascular Disease</i> <p>Conditions for Compensability:</p> <p>“29. Essential Hypertension</p> <p>Hypertension classified as primary or essential is considered compensable if it causes impairment of function of body organs like kidneys, heart, eyes, and brain, resulting in any kind of disability subject to the submission of any of the following:</p> <ol style="list-style-type: none">(a) “Chest X-ray report;(b) “ECG report;(c) “Blood chemistry report;(d) “Fundoscopy report;(e) “Ophthalmological evaluation;(f) “CT scan;(g) “MRI;(h) “MRA;(i) “2D-echo;(j) “Kidney ultrasound; and(k) “BP monitoring report.”	<p>evidence that will establish that his Hypertension causes impairment of functions of his body organs during the time of his employment. Failing in this aspect, this Commission is constrained to rule that the appellant’s Hypertension is not compensable.</p>
Diabetes Mellitus, type 2	<p>Diabetes mellitus, especially the <i>NIDDM-type</i>, is acquired through the mechanism of inheritance. It is an endocrine and familial disease characterized by metabolic abnormalities remotely caused by environmental and occupational conditions.</p> <p>(cited in the case of GSIS v. Jaime A. Valenciano, G.R. No. 168821, April 10, 2006)</p>	<p>Risk factors are not related in any way to the nature of working conditions of the appellant.</p>
Dyslipidemia (disorders of lipid metabolism)	<ul style="list-style-type: none">• Idiopathic (unknown cause);• Autosomal (inherited cause);• Secondary causes (due to Diabetes Mellitus, alcohol consumption, oral contraceptives, renal/hepatic disease and hyperthyroidism)	<p>Risk factors are not related in any way to the nature of working conditions of the appellant.</p>

	<p><i>References:</i></p> <p>1. <i>Harrison's Principles of Internal Medicine, 14th Edition, Companion Handbook;</i></p> <p>2. <i>Merck's Manual 15th Edition</i></p>		
Hyperuricemia	<p>Hyperuricemia can result from increased production or decreased excretion of uric acid or from a combination of two processes. Sustained hyperuricemia predisposes some individuals to develop clinical manifestations including gouty arthritis, urothiliasis, and renal dysfunction.</p> <p><i>Reference:</i></p> <p><i>Harrison's Principles of Internal Medicine, 17th Edition, Part 14, Section 3, 327</i></p>	Risk factors are not related in any way to the nature of working conditions of the appellant.	
Noise-Induced Hearing Loss	<ul style="list-style-type: none">• Middle-ear infections, viruses (mumps, chickenpox, measles, influenza, herpes zoster and adenoviruses), Meningitis, and Syphilis.• Acoustic or physical traumatic working conditions which include excessive noise such as explosive blast, lacerations, motor vehicle accidents, blunt head trauma, falls, burns from caustic chemicals, open flames or welder's slag that enter the ear canal, frostbite, hematoma, and barotrauma due to diving and flying. <p><i>References:</i></p> <p>1. <i>Harrison's Principles of Internal Medicine 14th Edition, Companion Handbook, page 1062;</i></p> <p>2. <i>Boie's Fundamentals of Otolaryngology, 6th Edition, pp. 46-47, 86-87, 90-91, 94-95, 123-124, 131-132</i></p> <p>Conditions for Compensability</p> <p>"4. Occupational Hearing Loss</p> <p>(a)"Noise Induced Hearing Loss (NIHL) is characterized as progressive sensorineural hearing loss that is usually bilateral, permanent/irreversible and affecting the 3000 to 6000 Hz level but commonly affects and is worst at the 4000 Hz</p>	There is no showing that the appellant has submitted any Audiometry examination results showing that his alleged hearing impairment has progressed to a state of permanent disability.	

	<p>level</p> <p>“Exposure in the workplace to harmful noise levels in the higher frequencies</p> <p>“Contingencies wherein direct damage to the eardrum or inner ear are caused by the working activity.</p> <p>(b) “Acoustic trauma results in a conductive or mixed type of hearing loss.</p> <p>“Exposure in the workplace due to sudden burst of sound such as explosive blast.</p> <p>(c) “Physical trauma can present as mixed type of hearing loss</p> <p>”Physical trauma sustained at work such as but not limited to motor vehicle accidents, blunt head trauma, falls, explosions, burns from caustic chemicals, open flames or welder’s slag that enter the ear canal.”</p>		
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Having failed to find substantial evidence that will establish causal connection between the abovementioned ailments of the appellant and his working conditions, this Commission sustains the decision of the SSS denying appellant’s claims insofar as his Hypertension, Diabetes Mellitus, type 2, Dyslipidemia and Hyperuricemia are concerned.

This Commission also sustains the decision of the SSS denying the claim of the appellant due to Hearing Loss but on the ground of failure to submit any Audiometry examination results to confirm that his alleged hearing impairment has progressed to a state of permanent disability

Incidental Findings: Musculoskeletal Disorders (Frozen Shoulder, bilateral; Multiple Degenerative Osteoarthritis); work entails utilization of heavy tools and equipment and frequent repetitive movements and awkward postures in carrying out various tasks related to mining

Records reveal that prior to the termination of his employment as Mill Plant Operator with Philex Mining in December of 2014, the appellant was diagnosed to be suffering from Frozen Shoulder, bilateral and Multiple Degenerative Osteoarthritis.

- (a) “Dorsopathies or disorder of the spine (involving the cervical, thoracic, lumbosacral, pelvis hip) acquired and secondary to injuries/accidents causing Spine Pain in conditions such as Herniated Nucleus Pulposus; Osteoarthritis; Spondylosis; Spondylitis; Spondylolisthesis; Muscle Strain and Sprain; Fracture/Dislocations and Radiculopathy among but not limited to workers who are exposed to high levels of whole body vibration, repetitive motions, lifting, performing work in flexed or hyper-extended posture or performing other manual handling tasks (such as pushing, pulling);
- (b) “Disorder of the shoulder acquired or secondary to injuries/accidents causing Crushing, Avulsions; Amputations; Rotator Cuff Tendinitis; Rotator Cuff Tear; Strain and Sprain; Shoulder Impingement Syndrome; Adhesive Capsulitis or Frozen Shoulder ; Bicipital Tendinitis; Ruptured Bicipital Tendon and Shoulder Joint Dislocation among but not limited to workers who perform repeated above shoulder activities and/or repeated flexion, external rotation and abduction.
- (c) “Disorders of the elbow acquired or secondary to injuries/accidents causing Crushing, Avulsions, Amputations, Lateral and Medial Epicondylitis, Bursitis, Nerve Impingements, Tenosynovitis and peritendonitis among but not limited to workers exposed to trauma, forceful and repetitive work/stress involving wrist dorsiflexion, forearm supination and/or pronation.
- (d) “Disorders of wrist and hand acquired or secondary to injuries/accidents causing Crushing, Avulsions, Amputations, Trigger/Mallet Finger, Strain and Sprain, Fracture, Dislocation, de Quervain Tenosynovitis, Dupuytren’ Contracture and Carpal Tunnel Syndrome among, but not limited to, workers using hand/vibratory tools for activities involving frequently flexed or extended wrist, combination of repetition, force and posture, overuse of the thumb as in repetitive grasping/pinching (lateral pinch between the thumb and index finger), repetitive and forceful gripping and sustained awkward postures of the wrist.
- (e) “Disorders of the knee acquired or secondary to injuries/accidents causing Crushing, Avulsions, Amputations, Knee Osteoarthritis, Bursitis, Meniscal Tear, Patellar Tendinitis, Strain and Sprain, Fracture of the patella, tibia, femur, and fibula, Synovitis, and Dislocation among but not limited to workers whose work entails exposure to prolonged external friction, pressure and repetitive motion about the knee.
- (f) “Disorders of the ankle and foot acquired or secondary to injuries/accidents causing Crushing, Avulsions, Amputations, Strain and Sprain, Fracture of the Ankle and foot, Achilles tendon tear and tendinitis, Bursitis, Synovitis, and Dislocation, among but not limited to workers exposed to repetitive stress and trauma of the ankle and foot.

Reference:

Board Resolution No. 13-11-36 (“Prescribing the Revised Conditions for the Compensability of Osteoarthritis Classified under Musculoskeletal Disorders, Amending for this Purpose Item No. 24 of Annex “A” of the Amended Rules on Employees’ Compensation, dated November 29, 2013)

On the basis of Board Resolution (BR) No. 10-05-65 (“Policy on Evaluation of Incidental Findings,” dated April 28, 2010), which provides that *“when the disease or injury being claimed has been declared to be not work-connected but findings are also made that the employee has suffered or is suffering from other work-connected diseases such incidental findings shall also be evaluated,”* this Commission now proceeds to rule on the compensability of the appellant’s Musculoskeletal Disorders.

Medical findings describe the etiology of the said ailments in this manner, to wit:

Claimed Illness	Etiology
Musculoskeletal Disorders	<ul style="list-style-type: none">• Refers to traumatic and non-traumatic inflammatory, degenerative and acquired conditions affecting muscle, tendons, ligaments, joints, peripheral nerves and blood vessels arising in the performance of assigned task;• Exposure to high levels of whole body vibration, repetitive motions, lifting, performing work in flexed or hyperextended posture or performing other manual handling tasks such as pushing or pulling;• Age related or degenerative changes <p><i>Reference: Board Resolution No. 13-11-36 dated November 29, 2013</i></p>

Conditions for compensability of Musculoskeletal Disorders

The classification of Musculoskeletal Disorder as occupational diseases puts at rest as to any doubt on the compensability of the said ailment subject to the satisfaction of conditions for its compensability.

Under Annex “A” of the Amended Rules on Employees’ Compensation, the following are the conditions for compensability of Musculoskeletal Disorders:

“24. Musculoskeletal Disorders.

“Refers to traumatic and non-traumatic inflammatory, degenerative, and acquired conditions affecting muscle, tendons, ligaments, joints, peripheral nerves and blood vessels arising in the performance of assigned tasks.

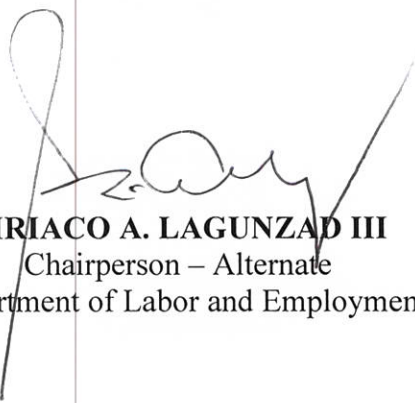
In this case, the appellant has occupied the position of Security Guard in 1983, and then, eventually, as Mill Plant Operator from 2005 until 2014. The working conditions of the appellant involve tiresome manual labor which, in turn, could cause trauma or strain on his musculoskeletal system. It may not be too difficult to conceive that repetitive handling of various mechanical tools, instruments and equipment in Mill Operations of a mining company such as flotation equipment and accessories, drum filter, thickener pumps and accessories, concentrate and tails pump, shovel, water hose, air hose, wrenches, pinch bar, sledge hammer, overhead crane, cold chisel, ph meter, pressure gauge, welding machine and other related tools and equipment may lead to vibration, strains, and sprain. In granting EC disability benefits in this case, this Commission holds that the working conditions of the appellant have satisfied the following conditions for compensability of Musculoskeletal Disorders:

“Exposure to high levels of whole body vibration, repetitive motions, lifting, performing work in flexed or hyperextended posture or performing other manual handling tasks such as pushing or pulling.”


WHEREFORE, the appealed decision is hereby **MODIFIED** and the SSS is ordered to **grant EC disability benefits** to herein appellant plus reimbursement of medical expenses for his succeeding consultations due to **Musculoskeletal Disorders** subject to the limitations prescribed by the Commission. However, the claim for EC disability benefits due to **Hypertension, Diabetes Mellitus, type 2; Dyslipidemia, Hyperuricemia** and **Noise-Induced Hearing Loss** of the appellant is hereby **DENIED** on the ground of no causal relationship.

SO ORDERED.


**CITY OF MAKATI,
December 20, 2016.**



CIRIACO A. LAGUNZA III
Chairperson – Alternate
Department of Labor and Employment



BRENDA P. VIOLA, M.D.
Member-Designate
Social Security System




DIONISIO C. EBDANE, JR.
Member-Designate
Government Service Insurance System



CARLITO P. ROBLE
Member
Employees' Sector

ABSENT

RAMON F. ARISTOZA, JR.,
Member-Designate
Philippine Health Insurance Corporation



STELLA ZIPAGAN-BANAWIS
Member
Employees' Compensation Commission
Secretariat

