BRB No. 93-1418

RAYMOND CLEAVELAND	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
MARYLAND PAINTING COMPANY	)	DATE ISSUED:
	)	
and	)	
	)	
RELIANCE INSURANCE COMPANIES	)	
	)	
Employer/Carrier-Respondents	)	DECISION and ORDER

Appeal of the Decision and Order - Denying Benefits of Robert J. Shea, Administrative Law Judge, United States Department of Labor.

Raymond Cleaveland, Fort Washington, Maryland, *pro se*.

Patrick A. Roberson (Smith, Somerville & Case), Baltimore, Maryland, for employer/carrier.

Before: BROWN, DOLDER and McGRANERY, Administrative Appeals Judges.

PER CURIAM:

Claimant, without legal representation, appeals the Decision and Order - Denying Benefits (92-DCW-12) of Administrative Law Judge Robert J. Shea rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.*, as extended by the District of Columbia Workmen's Compensation Act, 36 D.C. Code §§501, 502 (1973) (the Act). In reviewing this *pro se* appeal, the Board will review the administrative law judge's Decision and Order to determine whether his findings of fact and conclusions of law are rational, supported by substantial evidence, and in accordance with law. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

On February 5, 1975, while working for employer as a compressor operator, claimant suffered multiple injuries when the machine on which he was working exploded. The parties settled claimant's disability claim under Section 8(i)(A) of the Act, 33 U.S.C. §908(i)(A), for $100,000 plus $25,000 in attorney's fees, but left the medical aspect of the claim open. Claimant filed a claim under the Act, seeking medical benefits for dental and knee problems which he claimed resulted from the February 5, 1975, work injury. Employer disputed liability for these medical bills, contending that

these injuries were not caused by the 1975 work accident.

The administrative law judge denied the requested medical benefits, finding that claimant failed to establish that he sustained any injury to his knees or teeth and gums as a result of the February 5, 1975, work accident. Claimant, appearing without the assistance of counsel, appeals the administrative law judge's denial of medical benefits. Employer has not responded to claimant's appeal.

In order to obtain medical benefits in this case, claimant must demonstrate that the medical conditions necessitating treatment were causally related to the work injury. In establishing this causal nexus, claimant is aided by the Section 20(a) presumption, which provides a presumed causal nexus between the injury and employment. *See Brown v. I.T.T./Continental Baking Co.*, 921 F.2d 289, 24 BRBS 75 (CRT) (D.C. Cir. 1990); *Kubin v. Pro-Football, Inc*., 29 BRBS 117 (1995).

In the present case, the administrative law judge determined that if the Section 20(a) presumption were applicable, employer had established by a preponderance of the evidence that claimant did not sustain an injury to his knees or teeth and gums as a result of the February 5, 1975, work injury. As the evidence relied upon by the administrative law judge to find that causation was not established is sufficient to rebut the presumption and establish the absence of causation under the proper standards, we affirm his decision. *See Cairns v. Matson Terminals, Inc.*, 21 BRBS 252 (1988); *see also Bingham v. General Dynamics Corp.*, 20 BRBS 198, 202 n.3 (1988); *Reed v. Macke Co.*, 14 BRBS 585 (1981).

We initially affirm the administrative law judge's denial of medical benefits for claimant's knee condition as his finding that this condition is not causally related to claimant's February 5, 1975, work injury is rational, supported by substantial evidence, and in accordance with applicable law. *See O'Keeffe*, 380 U.S. at 359. In finding that claimant's knee injuries did not arise from his February 1975 work-related accident, the administrative law judge found the medical reports and testimony of Dr. Van Herpe entitled to the greatest weight because he had had the benefit of all medical and related reports and his opinion was well reasoned. The administrative law judge further found that the opinion of Dr. DiLallo was entitled to diminished weight because he had no recollection of the mechanics of any injury to the knees. Moreover, he discredited claimant's testimony, characterizing it as vague and not credible.

Dr. Van Herpe deposed that it was his opinion to a reasonable degree of medical certainty that there is absolutely no relationship between claimant's knee complaints and his 1975 accident at work. Dr. Van Herpe based his opinion on the mechanism of injury, which claimant described as being hit in the head and knocked forward hitting his neck, as well as the fact that claimant did not experience any knee complaints contemporaneous with the 1975 injury. EX-11 at 20-22. Dr. Van Herpe further opined that the most likely diagnosis for claimant's condition would be psoriatic arthritis, unrelated to the 1975 work accident. EX-11 at 30-31. Dr. Van Herpe's testimony provides substantial evidence to rebut the Section 20(a) presumption and establish that claimant's knee condition is not causally related to the 1975 work injury. *Bingham*, 20 BRBS at 198. Inasmuch as the administrative law judge rationally decided to accord determinative weight to Dr. Van Herpe's opinion, his denial of medical benefits based on claimant's failure to establish that his knee problems are causally related to the February 1975 work injury is affirmed. *See generally Calbeck v. Strachan*

Shipping Co., 306 F.2d 693 (5th Cir. 1962), *cert. denied*, 372 U.S. 954 (1963); *Uglesich v. Stevedoring Services of America*, 24 BRBS 180, 183 (1991).

The administrative law judge's denial of medical benefits for the dental procedures which Drs. Bouchard, Palumbo, Finizio, and McCarl performed on claimant between 1983 and 1986, which included extractions, alveoplasty, a mandibular vestibuloplasty, and insertion of full upper and lower dentures, is also affirmed.[1] After considering the relevant evidence as a whole, the administrative law judge found that a preponderance of the evidence showed that the only injury claimant sustained to his teeth as a result of the February 1975 accident was a broken partial plate. In so concluding, the administrative law judge found that the report and testimony of Dr. Greenbaum, D.D.S., was entitled to great weight. In addition, he found that the contrary opinion of Dr. Finizo, D.D.S., attributing claimant's loss of normal dentition and atrophy of the mandible to the February 1975 work injury, was entitled to diminished weight because it was based on the erroneous assumption that claimant had fractured his teeth at the time of this injury.

In a report dated October 1, 1987, Dr. Greenbaum indicated that based on his review of claimant's dental records, there is no evidence to suggest that any relationship exists between claimant's 1975 work accident and the reconstruction surgery and new prosthesis he received between 1983 and 1986. RX-4; *see also* RX-10 at 22.[2] Rather, Dr. Greenbaum deposed that claimant's dental problems were caused by periodontal disease unrelated to the 1975 work-related accident, noting that if claimant had loosened or fractured his teeth in the 1975 accident, he would have suffered extreme pain necessitating some form of treatment in the intervening years prior to 1983. *See* EX-10 at 15-16, 32-34. It is within the administrative law judge's discretion to accept or reject all or any part of any testimony. *Perini Corp. v. Heyde*, 306 F.Supp. 1321 (D.R.I. 1969). As Dr. Greenbaum's opinion provides substantial evidence to rebut the Section 20(a) presumption and establish that the dental procedures for which medical benefits are claimed are not causally related to claimant's 1975 work injury, we affirm the administrative law judge's denial of medical benefits for these procedures. *See Kier v. Bethlehem Steel Corp.*, 16 BRBS 128 (1984); *Kelaita v. Triple A Machine Shop*, 13 BRBS 326 (1981).

Accordingly, the Decision and Order of the administrative law judge denying medical benefits is affirmed.

SO ORDERED.

---

[1]No one disputes that repairs to claimant's upper partial denture were necessary as a direct result of the 1975 work accident. *See* CX-10 at 10.

[2]While recognizing that Dr. Bouchard had indicated in his June 15, 1984, report, CX-14, that claimant had a history of having received a severe blow to the mouth which caused him to loose several anterior teeth and loosened most of his remaining teeth, Dr. Greenbaum indicated that this was inconsistent with the history provided to Dr. Hohouser, the dentist who examined claimant at the time of his injury, and reported that claimant's only complaint was the broken partial denture. EX-10 at 11-12; CX-15.

JAMES F. BROWN
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge