

In the Matter of Jack Balmer,
Department of Corrections
DOP Docket No. 2000-4679
(Merit System Board, decided May 8, 2001)

Jack Balmer, a Correction Sergeant with Garden State Reception and Youth Correctional Facility, Department of Corrections, appeals the denial of sick leave injury (SLI) benefits.

The appellant alleges that he injured his right wrist while attempting to physically control a violent inmate on April 4, 2000. The appellant was examined on April 4, 2000 by State-authorized physician Dr. Martin J. Scott, who diagnosed the appellant with a right wrist sprain and strain and authorized him off work until April 6, 2000.

The appointing authority denied the appellant's request for SLI benefits on the basis that the appellant aggravated a preexisting condition in his right wrist. *See N.J.A.C. 4A:6-1.6(c)2.* The record reveals that medical notes from Drs. Smolenski, Brill, Hayken and Shwartz dated March 1998, in regard to a wrist injury the appellant sustained on January 3, 1998, state "The patient is regaining some range of motion of his wrist. He will [retain] some resultant deformity."

On appeal to the Merit System Board, the appellant argues that he should be entitled to SLI benefits. In support of his contention, he argues that the instant injury occurred at work and that he was forced to miss work because of it. Further, he contends that this was not an aggravation of a preexisting injury, as his previous wrist injury had been treated, and he was medically cleared to return to work. However, the appellant fails to provide medical documentation establishing that his present injury was not an aggravation of a preexisting condition. The appellant also argues that the injury was unforeseeable as the inmate gave no initial indication of becoming violent.

CONCLUSION

According to uniform SLI regulations, in order to be compensable, an injury or illness resulting in disability must be work related and the burden of proof to establish entitlement to SLI benefits by a preponderance of the evidence rests with the appellant. *See N.J.A.C. 4A:6-1.6(c)* and *N.J.A.C. 4A:6-1.7(h).* *N.J.A.C. 4A:6-1.6(c)2* provides that preexisting illnesses, diseases and conditions aggravated by a work-related accident or condition of employment are not compensable when such aggravation was reasonably foreseeable. The reasonably foreseeable standard has

been interpreted by the Board and the Appellate Division of the Superior Court. See *In the Matter of Brian Langdon*, Docket No. A-6512-98T5 (App. Div. October 10, 2000); See *In the Matter of Nan Long-Seavey*, Docket No. A-652-96T1 (App. Div. April 27, 1998); *In the Matter of Catherine Butler* (MSB, decided January 28, 1997); *In the Matter of Patricia Culliton*, Docket No. A-4886-89T3 (App. Div. April 8, 1992). For example, in *In the Matter of Brian Langdon, supra*, the Appellate Division found that it was reasonably foreseeable for a Correction Sergeant with a prior knee injury, which a doctor said would never return to the normal state that was present prior to the injury but who was cleared to return to work without limitation, to aggravate that injury when responding to an emergency call. Further, in *In the Matter of Nan Long-Seavey, supra*, the Appellate Division found that an automobile accident was a reasonably foreseeable event for a Public Health Representative whose job duties required that she do substantial car travel and who had a history of neck and back problems.

In the instant matter, the appointing authority denied the appellant's request for SLI benefits on the basis that he aggravated a preexisting medical condition. The record reveals medical documentation establishing that the appellant had previously injured his wrist in a work-related incident in 1998. The appellant has failed to submit any medical documentation establishing that his injury was not an aggravation of a preexisting condition. It is reasonably foreseeable that the appellant could aggravate a preexisting medical condition in his job as Correction Sergeant, and especially when physically attempting to subdue a violent inmate. Additionally, the appellant is not entitled to SLI benefits if he aggravated a preexisting work-related injury, since it is not the intention of the SLI program to award benefits to an employee indefinitely or for recurring periodic disabilities and reinjuries after the one-year period. See *N.J.A.C. 4A:6-1.6(b)3*. Accordingly, a thorough review of the record indicates that the denial of SLI benefits by the appointing authority was proper and consistent with uniform SLI criteria and the appellant has failed to meet his burden of proof in this matter.

ORDER

Therefore, it is ordered that this appeal be denied.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.