U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PAMELA S. JONES and SOCIAL SECURITY ADMINISTRATION, Clarksville, Tenn.

Docket No. 96-1666; Submitted on the Record;
Issued October 9, 1998

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs abused its discretion by terminating authorization for medical treatment of appellant, who resides in Cottage Grove, Tennessee, by a physician in Phoenix, Arizona.

The facts in this case indicate that on September 10, 1979 appellant, then a 37-year-old operations analyst, sustained injuries in an employment-related motor vehicle accident.[1] After missing intermittent periods, she stopped work in April 1980. In a March 13, 1986 letter to Dr. R.J. Hornsby, appellant's treating Board-certified orthopedic surgeon whose office is in Jackson, Tennessee, the Office approved authorization for hospitalization and treatment for appellant's congenitally dislocated left hip. On May 21, 1986 Dr. Anthony K. Hedley, a Phoenix, Arizona orthopedic surgeon, performed total hip replacement. By decision dated December 12, 1988, the Office found that appellant's visit to Phoenix, Arizona for treatment of her hip condition was not medically indicated. Following appellant's request for review of the written record, in a June 2, 1989 decision, an Office hearing representative reversed the December 12, 1988 decision, finding that the Office had authorized surgical treatment and follow-up care with Dr. Hedley and such was valid until revoked by the Office in writing. Appellant continued to see Dr. Hedley on an annual basis and was treated by Dr. Hornsby as well.

By decision dated January 17, 1995, the Office notified appellant that effective that day authorization for continued treatment by Dr. Hedley was terminated as Dr. Hornsby was qualified to perform follow-up visits. On December 29, 1995 appellant requested reconsideration, contending that the hearing representative ordered that she continue follow-up with Dr. Hedley and that Dr. Hedley would not have taken her as a patient if he were not allowed to perform follow-up examinations as he deemed necessary. With her request, she submitted

[1] The accepted conditions are cervical and lumbar strains, left hip soft tissue injury and aggravation of congenital dislocation of the left hip.

reports dated March 2, 1989, August 8, 1990 and August 2, 1993 from Dr. Hedley. By decision dated January 29, 1996, the Office declined to modify its prior decision, noting that the medical evidence had been previously reviewed by the Office and was, therefore, repetitious.

The Board finds that the Office properly withdrew authorization for continued care by Dr. Hedley.

Section 8103(a) of the Federal Employees' Compensation Act states in pertinent part:

> "The United States shall furnish to an employee who is injured while in the performance of duty the services, appliances and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation."[2]

The Office has the general objective of ensuring that an employee recovers from his or her injury to the fullest extent possible in the shortest amount of time. The Office therefore has broad administrative discretion in choosing the means to achieve this goal. As the only limitation on the Office's authority is reasonableness, abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment, or actions taken which are contrary to both logic and probable deductions from known facts.[3]

Section 10.401 of Title 20 of the Code of Federal Regulations (20 C.F.R. § 10.401) provides, in relevant part:

> "(a) A claimant shall be entitled to receive all medical services, appliances or supplies which are prescribed or recommended by a duly qualified physician and which the Office considers necessary for the treatment of a job-related injury.... A claimant shall also be entitled to reimbursement of reasonable and necessary expenses, including transportation."[4]

Section 10.402 provides, in relevant part:

> "(c) In determining the use of medical facilities, consideration must be given to their availability, the employee's condition and the method and means of transportation. Generally, 25 miles from the place of injury, the employing [establishment], or the employee's home is a reasonable distance to travel, but other pertinent factors must be taken into consideration."

In the present case, while the Office hearing representative found that the Office had authorized surgical treatment and follow-up care by Dr. Hedley, he also recognized that such

[2] 5 U.S.C. § 8103(a).

[3] *See James A. Sellers*, 43 ECAB 924 (1992).

[4] 20 C.F.R. § 10.401.

authorization remained valid "until revoked in writing." While appellant continued to be seen by Dr. Hedley on an annual basis, she was also followed by Dr. Hornsby, her local Board-certified orthopedic surgeon, for her orthopedic complaints. There is no indication that appellant could not receive adequate follow-up treatment in her commuting area after January 17, 1995, and the Office did not abuse its discretion by terminating its authorization for further treatment by Dr. Hedley in Phoenix.[5]

The decision of the Office of Workers' Compensation Programs dated January 29, 1996 is hereby affirmed.[6]

Dated, Washington, D.C.
October 9, 1998

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

[5] *James A. Sellers, supra* note 3.

[6] The Board notes that appellant submitted evidence to the Board with this appeal. The Board, however, cannot consider this evidence as its review of the case is limited to the evidence of record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).