

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DIANA A. SHERBLOM and DEPARTMENT OF THE INTERIOR,
NATIONAL PARK SERVICE, National Capital Parks-Central
Washington, D.C.

*Docket No. 01-667; Submitted on the Record;
Issued October 22, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly determined that appellant has no residuals from her accepted injury and thus is not entitled to medical benefits.

On February 13, 1998 appellant, then a 26-year-old park ranger, filed a claim for upper back and neck pain as a result of a vehicular accident while in the performance of duty.

In a duty status report dated February 13, 1998, Dr. David B. McDonald, a Board-certified internist, stated that he had examined appellant that day, diagnosed muscle strain, indicated by a checkmark that her condition was causally related to employment, prescribed medication and released her to return to regular duty effective that day.

In a duty status report dated March 13, 1998, Dr. McDonald stated that he had examined appellant that day, diagnosed thoracic and cervical strain, indicated by a checkmark that her condition was causally related to employment and released her to return to restricted duty with no heavy lifting. He noted that appellant was partially disabled from February 13 to April 13, 1998.

By letter dated May 1, 1998, the Office accepted appellant's claim for thoracic and cervical strain. The Office further notified appellant that necessary medical expenses related to the injury will be processed for payment.

In a duty status report dated May 18, 1998, Dr. McDonald stated that he had examined appellant that day, diagnosed muscle strain, limited her lifting to no more than 10 pounds for one hour and placed her in a partially disabled status from April 14 to June 15, 1998.

In a duty status report dated June 26, 1998, Dr. McDonald stated that he had examined appellant that day, diagnosed muscle strain, limited her lifting to no more than 10 pounds for one

hour, lifting 20 pounds no more than one half hour and placed her in a partially disabled status from June 15 to July 31, 1998.

On August 26, 1998 appellant accepted a light-duty position within Dr. McDonald's restrictions.

In a duty status report dated November 18, 1998, Dr. McDonald stated that appellant's diagnosis due to injury was chronic neck and thoracic pain and noted by checkmark that appellant was released to full duty effective that day.

In a treatment note dated December 2, 1998, Dr. Ben Kittredge IV, a Board-certified orthopedic surgeon, stated that appellant had a cervical strain and may have minor impingement of the right shoulder and would require physical therapy to strengthen her neck.

In a prescription dated December 2, 1998, Dr. Kittredge prescribed physical therapy including stretching and isometrics for appellant's cervical trauma. In a duty status report dated December 2, 1998, Dr. Kittredge released appellant to return to work without restrictions.

In a treatment note dated January 27, 1999, Dr. Kittredge stated that appellant had cervical strain after a motor vehicle accident, had improved over the last several months but has not been able to get physical therapy approved by the Office. Upon examination, appellant had tenderness to the right trapezius muscle and right rhomboid. Dr. Kittredge ordered a home trial of physical therapy while waiting for Office approval for formal physical therapy.

In a prescription dated May 2, 1999, Dr. McDonald prescribed physical therapy including massage ultrasound, electronic stimulation and stretching twice weekly for six weeks.

In a duty status report dated June 2, 1999, Dr. McDonald stated that appellant had increased tone in her neck and right shoulder but was restricted from lifting more than 10 pounds for more than 2 hours per day.

In a report dated July 1, 1999, Dr. McDonald stated that appellant "has had chronic pain in her neck and her upper back," that it "has not been incapacitating in that she has continued to work and performs almost all of her usual tasks." However, he stated that "[i]t is reasonable for her to have additional physical therapy to minimize her pain" and "[i]t is only reasonable to continue her physical therapy for maximum resolution of her neck and back pain that has evolved from her automobile accident while at work on February 2, 1998."

In a duty status report dated September 2, 1999, Dr. McDonald stated that appellant had tenderness of the right shoulder and upper thoracic area and that she was restricted from lifting more than 10 pounds no more than 2 hours a day.

By letter dated September 2, 1999, the Office authorized physical therapy until October 4, 1999.

In a report dated October 6, 1999, Dr. Wan Shin, Board-certified in physical medicine and rehabilitation, stated that he had examined appellant that day and that her physical examination was within normal limits. However, he also noted "[t]here is sharp trigger point

palpated over the upper trapezius, levator scapula, rhomboid and infraspinatus on the right side.” Dr. Shin diagnosed appellant with chronic pain syndrome and myofascial syndrome.

In a report dated October 28, 1999, Dr. Shin stated that appellant “has been suffering from myofascial syndrome and chronic pain syndrome from [her] automobile accident on February 12, 1998. She has gone through various treatments with limited relief of pain. Appellant still has significant pain around the neck and shoulders, which often interferes with her work. I believe a trial of acupuncture is a good alternative management of these problems. She may need 14 to 20 treatments.”

On June 20, 2000 the Office declined to authorize appellant’s request for additional medical treatment because the request was not based on an accepted injury. The Office noted that appellant’s accepted injuries were thoracic and cervical strain while treatment was sought for chronic pain syndrome and myofascial syndrome.

In a medical report dated June 1, 2000 and received by the Office on July 3, 2000, Dr. McDonald stated that appellant has chronic pain of her neck and upper right shoulder and that the pain had been variable but at times intense. Although he noted a normal physical examination, he also noted several tendon trigger points along the upper right thoracic and cervical areas. Dr. McDonald stated that her persistent chronic pain condition evolved from her work-related automobile accident and that he had been unable to relieve her pain with anti-inflammatory or muscle relaxants. He requested a consultation by a physical medicine specialist and also requested additional physical therapy.

On June 30, 2000 appellant replied to the Office’s June 20, 2000 denial and stated that Dr. McDonald’s June 1, 2000 finding of persistent chronic pain was not a new condition.

On July 6, 2000 the Office advised appellant that it would not authorize additional medical treatment for chronic pain syndrome and myofascial syndrome because it had only accepted cervical and thoracic strain as a result of her work-related injury. The Office advised appellant regarding the type of information she would need to support her claim for additional medical treatment and physical therapy including the submission of a medical report which associates her pain with measurable objective findings such as muscle spasm, atrophy or radiologic changes in joints, muscles or bones, or that the pain has placed measurable limitations upon her work and nonwork-related matters. The Office further stated that “[m]edical matrices note that sprains/strains of the back should resolve within six to eight weeks post injury.” The Office requested that this information be submitted within 30 days.

By decision dated October 26, 2000, the Office denied appellant’s request for continued medical treatment.

In this case, the Office authorized physical therapy based in part on Dr. McDonald’s July 1, 1999 report in which he stated that it was reasonable for appellant to have additional physical therapy to minimize her pain which evolved from her work-related injury. The Office then denied appellant’s request for additional medical treatment in a decision dated October 26, 2000 on the grounds that it had accepted only thoracic and cervical strain. The right to medical benefits for an accepted condition, however, is not limited to the period of entitlement to

compensation for wage loss.¹ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition that require further medical treatment.² Because the Office authorized medical treatment based on appellant's pain on September 2, 1999 and that appellant's medical reports submitted subsequent to that authorization continue to support her chronic pain, the Office erred in denying her request for additional medical treatment.

The October 26, 2000 decision of the Office of Workers' Compensation Programs is reversed.³

Dated, Washington, DC
October 22, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

¹ *Marlene G. Owens*, 39 ECAB 1320 (1988).

² *Calvin S. Mays*, 39 ECAB 993 (1988); *Patricia Brazzell*, 38 ECAB 299 (1986); *Amy R. Rogers*, 32 ECAB 1429 (1981).

³ The Board notes that this case record contains evidence which was submitted subsequent to the Office's October 26, 2000 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n. 2 (1952).