U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GWEN D. CROMER and DEPARTMENT OF AGRICULTURE, FOOD SAFETY & INSPECTION SERVICE, Gadsden, AL

Docket No. 01-1191; Submitted on the Record;
Issued November 22, 2002

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's wage-loss compensation and medical benefits effective April 17, 2000 on the basis that she no longer suffered from residuals of her February 7, 1992 injury.

On February 7, 1992 appellant, then a 32-year-old food inspector, sustained a traumatic injury in the performance of duty when she slipped on a catwalk. The Office accepted her claim for cervical and right shoulder strains. Appellant ceased working on February 18, 1992. Other than a brief return to work in February 1993, she has not regularly worked since her February 7, 1992 employment injury. Appellant received wage-loss compensation for approximately eight years.

By decision dated April 17, 2000, the Office terminated appellant's wage-loss compensation and medical benefits on the basis that she no longer suffered from residuals of her employment injury.[1] The Office based its determination on the March 2, 2000 opinion of Dr. John D. Crompton, a Board-certified orthopedic surgeon and Office referral physician, who found that appellant's work-related injury had completely resolved.

Appellant requested reconsideration on July 27, 2000. The Office reviewed the claim on the merits and in a decision dated August 22, 2000, denied modification.

The Board finds that the Office met its burden of proof in terminating appellant's wage-loss compensation and medical benefits effective April 17, 2000.

Once the Office accepts a claim and pays compensation, it bears the burden to justify modification or termination of benefits.[2] Having determined that an employee has a disability

[1] On March 13, 2000 the Office issued a notice of proposed termination of compensation.

[2] *Curtis Hall*, 45 ECAB 316 (1994).

causally related to his or her federal employment, the Office may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.[3] The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.[4] To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.[5]

By letters dated July 30 and August 25, 1999, the Office requested that appellant's treating physician, Dr. Sandra L. Durham, provide an updated narrative medical report regarding appellant's current condition. When he did not respond to these requests, the Office referred appellant for evaluation by Dr. Crompton.

In his March 2, 2000 report, Dr. Crompton noted, among other things, that appellant has multiple nonwork-related problems including lupus, fibromyalgia, chronic fatigue, IGA deficiency syndrome, rheumatoid arthritis, osteoarthritis, mitral valve prolapse, irritable bowel syndrome, panic attacks, enlarged thyroid, Raynaud's disease, cervical carcinoma in 1990 and a history of migranes. Appellant reportedly stated that she was unable to work because of pain in her neck and right shoulder and that she was diagnosed with reflex sympathetic dystrophy (RSD). Dr. Crompton stated that the physical examination was very difficult to carry out because of appellant's lack of cooperation. Although outwardly cooperative, it was very clear to Dr. Crompton that appellant was "markedly and very strongly adducting her right arm" while he attempted to assess her strength and ability to abduct her right arm. Dr. Crompton further stated that with distraction, he was able to demonstrate a far greater range of motion than appellant would otherwise demonstrate. He surmised that with palpable feel of appellant's shoulder, he might have actually been able to obtain full range of motion. Dr. Crompton reported that with stabilization of the scapula, he was able to get appellant's arm through a range of motion up to 110 degrees of abduction, without any difficulty or motion of the scapula whatsoever. Thus, demonstrating good motion of the glenohumeral joint. Regarding appellant's strength, Dr. Crompton stated it was very difficult to assess due to her lack of cooperation. However, he was able to demonstrate 4+/5 strength of the right supraspinatus with isolated testing and distraction. Dr. Crompton further stated that appellant's neck examination revealed good range of motion and her x-rays were basically entirely normal.

With respect to the presence of any employment-related residuals, Dr. Crompton stated that without doubt, appellant's work-related injuries had resolved. He explained that a cervical or shoulder strain would have resolved within a matter of weeks of appellant's original injury. Dr. Crompton further stated that any current conditions appellant has are all related to her litany of nonwork-related problems and that her lupus, fibromyalgia and chronic fatigue syndrome could easily account for the symptoms she portrays.

[3] *Jason C. Armstrong*, 40 ECAB 907 (1989).

[4] *Furman G. Peake*, 41 ECAB 361, 364 (1990); *Thomas Olivarez, Jr.*, 32 ECAB 1019 (1981).

[5] *Calvin S. Mays*, 39 ECAB 993 (1988).

While appellant's treating physician, Dr. Durham, has provided periodic treatment records, she has not submitted a comprehensive medical report regarding appellant's current condition. His recent treatment records note appellant's ongoing complaints of neck, shoulder, arm and hand pain, but do not specifically address the pertinent issues of disability and causal relationship. Dr. Durham's most recent treatment notes dated May 1, 2000 indicated subjective complaints of pain in the right arm, neck, shoulder and hand, but he provide no objective evidence.

As the record is devoid of any rationalized medical evidence demonstrating ongoing residuals of appellant's February 7, 1992 employment injury, the Office properly relied on Dr. Crompton's March 2, 2000 rationalized report as a basis for terminating appellant's wage-loss compensation and medical benefits.

The August 22, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
November 22, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member