

conflict of medical evidence between appellant's treating physician and an Office referral physician. The Board concluded that the Office failed to meet its burden of proof in terminating appellant's compensation benefits effective April 4, 2000. The facts and circumstances of the case up to that point are set forth in the Board's prior decision and incorporated herein by reference.²

To resolve the conflict, the Office referred appellant to Dr. Richard B. Peoples, a Board-certified orthopedic surgeon, selected as the impartial medical specialist. In a report dated April 10, 2002, he reviewed the records and performed a physical examination of appellant. Dr. Peoples noted an essentially normal physical examination, normal gait, no visible abnormalities in the thoracic and lumbosacral spine, normal thoracolumbar and lumbosacral spine motion, there were no visible abnormalities in the extremities and the inguinal area, normal neurological examination, no atrophy of the extremity musculature and a normal vascular examination. Dr. Peoples noted that appellant showed a significant and continuing degree of overreaction with regard to the physical examination. He advised that all x-rays, magnetic resonance imaging (MRI) scan and electrodiagnostic studies revealed no indication of abnormality, which would result in appellant's current subjective complaints. The physician concluded that there were no positive objective findings that the alleged accepted neuritis and contusions were still active and causing objective symptomology. Dr. Peoples opined that, based on a review of the medical records, the overall diagnosis and the relatively minimal to mild trauma appellant sustained on July 15, 1998, appellant would have been disabled for two to three weeks and thereafter, he would have been capable of resuming all of his work activities without restrictions. He concluded that there were no findings to indicate that any current disability was related to the work-related accepted conditions.

On August 28, 2002 the Office issued a notice of proposed termination of compensation benefits on the grounds that Dr. Peoples' report established no residuals of the July 15, 1998 employment injury.

In response, appellant submitted a narrative statement noting that he disagreed with the findings of Dr. Peoples and advised that his condition was progressive and cumulative. He indicated that he experienced a high level of chronic pain daily.

By decision dated December 23, 2002, the Office terminated appellant's benefits effective that day on the grounds that the weight of the medical evidence established that he had no continuing disability resulting from his July 15, 1998 employment injury.

Appellant, through his attorney, requested an oral hearing before an Office hearing representative. The hearing was held on August 18, 2003. He submitted a report from Dr. Adil O. Katabay, a specialist in pain medicine, dated August 8, 2003, who noted a history of a work-related injury in 1994, and of treating appellant for right-sided low back pain and right groin pain. She diagnosed iliohypogastric and ilioinguinal neuralgia and sacroiliitis. Dr. Katabay noted positive physical findings of tenderness of the right S1 joint and discomfort and pain in the iliohypogastric and ilioinguinal nerve distribution. Also submitted was a report from Dr. Paul J. Ligman, a Board-certified anesthesiologist, dated August 13, 2003, who noted treating appellant

² Docket No. 01-1116 (issued September 17, 2001).

for ilioinguinal and thoracic pain. He diagnosed mononeuritis, contusion of the back and depressive disorder with a poor prognosis. The physician advised that appellant's condition had not improved despite all therapies and modalities and opined that appellant would not be able to perform work lifting over 10 pounds and was limited by his pain, muscle weakness and poor endurance for walking and standing. A report from Dr. Sheldon Kaffen, a Board-certified orthopedist, dated September 13, 2003, who examined appellant for a schedule award advised that he sustained a three percent permanent impairment of the right lower extremity.

In a decision dated November 20, 2003, the hearing representative affirmed the December 23, 2002 decision.

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.³ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.⁴ The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical treatment, the Office must establish that a claimant no longer has residuals of an employment-related condition, which requires further medical treatment.⁵

ANALYSIS

In this case, the Office accepted appellant's claim for a temporary aggravation of chronic ilioinguinal neuritis and right rib contusion. The Board reviewed the medical evidence and determined that a conflict in medical opinion existed between appellant's attending physician, Dr. G. Todd Schulte, a Board-certified anesthesiologist and Dr. Norman W. Lefkowitz, a Board-certified psychiatrist and neurologist and Office referral physician, concerning whether appellant had any continuing work-related residuals and disability. The Office referred appellant to Dr. Peoples to resolve the conflict.

Where there exists a conflict of medical opinion and the case is referred to an impartial specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, is entitled to special weight.⁶

In a report of April 10, 2002, Dr. Peoples reviewed appellant's history, reported findings and noted that he exhibited no objective complaints or definite abnormality in his condition. He indicated that appellant showed a significant degree of overreaction with regards to the physical examination. The physician advised that x-rays, MRI scans and electrodiagnostic studies

³ *Gewin C. Hawkins*, 52 ECAB 242 (2001); *Alice J. Tysinger*, 51 ECAB 638 (2000).

⁴ *Mary A. Lowe*, 52 ECAB 223 (2001).

⁵ *Id.*; *Leonard M. Burger*, 51 ECAB 369 (2000).

⁶ *Solomon Polen*, 51 ECAB 341 (2000).

revealed no indication of abnormality which would result in appellant's current subjective complaints. Dr. Peoples opined that, based on a review of the medical records, the overall diagnosis and the relatively minimal trauma appellant sustained on July 15, 1998 would have recovered in two to three weeks and would have been capable of resuming all of his work activities without restrictions. He further advised that there were no findings to indicate that any current condition or disability related to the accepted injury.

The Board finds that, under the circumstances of this case, the opinion of Dr. Peoples is sufficiently well rationalized and based upon a proper factual background such that it is entitled to special weight and establishes that appellant's work-related condition has ceased.

The Board finds that there is no medical evidence which supports that appellant's disability or continuing condition was causally related to his accepted work-related condition. Dr. Peoples had full knowledge of the relevant facts and evaluated the course of appellant's condition. He is a specialist in the appropriate field. At the time benefits were terminated Dr. Peoples clearly opined that appellant had no work-related reason for disability. His opinion as set forth in his report of April 10, 2002 is found to be probative evidence and reliable. The Board finds that Dr. Peoples' opinion constitutes the weight of the medical evidence and is sufficient to justify the Office's termination of benefits.⁷

After the Office properly terminated appellant's benefits, the burden of proof shifted to appellant.⁸ For conditions not accepted by the Office as being employment related, it is the employee's burden to provide rationalized medical evidence sufficient to establish causal relation.⁹ The fact that the etiology of a disease or condition is unknown or obscure neither relieves appellant of the burden of establishing a causal relationship by the weight of the medical evidence, nor does it shift the burden of proof of the Office to disprove an employment relationship.¹⁰

However, medical evidence submitted by appellant after termination of benefits either did not specifically address how any continuing condition was due to the July 15, 1998 work injury or other incidents or was duplicated evidence previously considered by the Office.

Appellant submitted a report from Dr. Katabay dated August 8, 2003, who noted treating appellant for right-sided low back pain and right groin pain and diagnosed llihyogastric and ilioinguinal neuralgia and sacroiliitis. The Board notes that her report did not mention

⁷ In cases where the Office has referred appellant to an impartial medical examiner to resolve a conflict in the medical evidence, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight. *Gary R. Sieber*, 46 ECAB 215, 225 (1994).

⁸ After termination or modification of benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation benefits shifts to the claimant. In order to prevail, the claimant must establish by the weight of reliable, probative and substantial evidence that he or she had an employment-related disability that continued after termination of compensation benefits; *see Howard Y. Miyashiro*, 43 ECAB 1101, 1115 (1992); *Dorothy Sidwell*, 41 ECAB 857 (1990).

⁹ *Alice J. Tysinger*, *supra* note 3.

¹⁰ *Judith J. Montage*, 48 ECAB 292, 294-95 (1997).

appellant's injury in 1998, rather she noted that appellant "apparently had a work-related injury and has had pain off and on since 1994."¹¹ The Board notes that Dr. Katabay couched her opinion in speculative terms and did not provide a definitive opinion as to when appellant's condition originated, nor did she reference any particular employment factors as having caused or aggravated appellant's condition.¹² Without any further explanation or rationale, such report is insufficient to establish that appellant had a continuing disability causally related to his employment.¹³

In his report of August 13, 2003, Dr. Ligman diagnosed mononeuritis, contusion in the back and depressive disorder. However, the Office never accepted that appellant sustained mononeuritis, contusion in the back and depressive disorder as a result of his July 15, 1998 work injury and there is no medical rationalized evidence to support such a conclusion.¹⁴ The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.¹⁵

Dr. Kaffen's report of September 13, 2003 noted a detailed history of appellant's injury in July 1998 and advised that he evaluated appellant for an impairment rating. However his report did not include a rationalized opinion regarding the causal relationship between appellant's current condition and his accepted work-related injury of July 15, 1998.¹⁶

None of the reports submitted by appellant after the termination of his compensation benefits included a rationalized opinion regarding the causal relationship between his current condition and his accepted work-related injury of July 15, 1998.¹⁷ The Board has found that vague and unrationalized medical opinion on causal relationship have little probative value. Therefore, the reports from Drs. Katabay, Ligman and Kaffen are insufficient to overcome that of Dr. Peoples or to create a new medical conflict.¹⁸

¹¹ See *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

¹² *Id.*

¹³ *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

¹⁴ See *Alice J. Tysinger*, *supra* note 3.

¹⁵ See *Frank Luis Rembisz*, *supra* note 11.

¹⁶ See *Jimmie H. Duckett*, *supra* note 13.

¹⁷ *Id.*

¹⁸ See *Howard Y. Miyashiro*, *supra* note 8; *Dorothy Sidwell*, *supra* note 8. The Board notes that Drs. Katabay, Ligman and Kaffen's reports do not contain new findings or rationale upon which a new conflict might be based.

CONCLUSION

The Board finds that the Office has met its burden of proof to terminate benefits effective December 23, 2002.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 20, 2003 is affirmed.

Issued: July 22, 2004
Washington, DC

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member