

shoulder sprain and left arm contusion. It noted that the Office also accepted that she sustained a coccyx strain and lumbar contusion on May 7, 2003 when she slipped down steps and a right knee sprain on August 7, 2003 while squatting to make a delivery.

The Office accepted that appellant sustained an aggravation of lumbar sprain on October 23, 2003. Appellant received continuation of pay from October 30 to December 7, 2003, after which the Office began payment of compensation for temporary total disability.

In a May 25, 2004 report, Dr. Jeffrey F. Lakin, an attending Board-certified orthopedic surgeon, stated that appellant had no active orthopedic problem, that her lumbosacral sprain had resolved and that she was cleared to return to work. In a June 2, 2004 report, Dr. Arash Emami, a Board-certified orthopedic surgeon, stated that examination of appellant's lumbar spine showed a normal gait, ability to heel and toe walk without much difficulty, negative straight leg raising, some discomfort on palpation, extension that was more painful than flexion, grossly intact sensation and bilaterally equal reflexes. He noted that x-rays of her lumbar spine showed mild degenerative changes at L5-S1 and recommended physical therapy and a magnetic resonance imaging (MRI) scan to evaluate her discs. His impression was lumbar strain versus possibility of degenerative disc disease. In a July 21, 2004 report, Dr. Emami stated that she had degenerative disc disease that may have been aggravated by her falls at work and recommended that she remain out of work until an MRI scan was done. In a September 1, 2004 report, Dr. Emami noted that an MRI scan showed mild degeneration of the L5-S1 disc with an extremely small central disc herniation, findings that he characterized as within normal limits. On September 2, 2004 he set forth work tolerance limitations that included no squatting or kneeling and lifting up to 20 pounds. On September 14, 2004 the employing establishment offered appellant a limited-duty position, which she rejected on September 16, 2004. In an October 1, 2004 report, Dr. Emami stated that appellant had mechanical back pain that responded well to conservative care and that she had returned to work, which she felt aggravated her lower back region. He concluded that she had reached maximum medical improvement, that no other intervention would be substantially beneficial and that she needed to undergo a functional capacity evaluation to have objective findings for her limitations.

On October 25, 2004 the Office referred appellant, her medical records and a statement of accepted facts to Dr. Iqbal Ahmad, a Board-certified orthopedic surgeon, for a second opinion evaluation. In a November 16, 2004 report, Dr. Ahmad noted that appellant complained of back pain on prolonged sitting and standing, inability to lift heavy objects, difficulty with stairs and trouble bending, sleeping, twisting and turning. Examination revealed minimally restricted flexion of the low back, normal extension and lateral bending, no muscle spasms, negative straight leg raising, intact deep tendon reflexes, difficulty trying to stand on the toes or heels or squat and complaints of low back pain. Dr. Ahmad summarized that appellant's clinical examination did not reveal any significant abnormalities and concluded that appellant had recovered from the lumbar sprain she sustained on October 23, 2003. He found that appellant could work eight hours a day without any restrictions and that she did not need any further treatment.

On December 6, 2004 the Office referred appellant, the case record and a statement of accepted facts to Dr. Paul A. Foddai, a Board-certified orthopedic surgeon, to resolve the conflict of medical opinion between Dr. Ahmad and Dr. Emami. In a December 28, 2004 report,

Dr. Foddai described appellant's October 23, 2003 injury as slipping and falling down six or seven steps injuring her low back, buttock and tailbone. He noted her history of two prior low back injuries and her complaints of persistent, moderate to severe low back pain everyday with episodic radiation into the right buttock and episodic paresthesias and numbness of the right foot. Examination revealed a slow and deliberate gait pattern, no loss of lordosis, no list, no spasm, no atrophy, guarding with palpation, forward flexion to 70 degrees, extension to 10 degrees, normal lateral flexion and rotation accompanied by complaints of pain at the extremes of motion, ability to walk on the toes and heels, inability to squat secondary to knee and back pain, intact sensation, symmetrical deep tendon reflexes, negative straight leg raising and normal muscle bulk, tone and power. After reviewing the earlier medical reports, Dr. Foddai concluded:

“It appears that this patient sustained aggravation of prior lumbosacral sprain. At this point in time, the patient has subjective complaints with a fairly benign and normal orthopedic and neurological examination. That is, there are no motor, sensory or reflex abnormalities indicative of lumbar radiculopathy and the straight leg raising test was negative. She had minimal limitation of motion. There was no evidence of nerve root or spinal cord pathology. The patient, in my opinion, is not suffering from disabling residuals as result of the injury. The patient sustained a lumbosacral sprain on October 23, 2003, which aggravated her previous back conditions which had been diagnosed in the past. It is my opinion that lumbosacral sprains are time-limited events and consequently, the aggravation factor involved in the lumbosacral sprain has now resolved. Her lumbar sprain previously diagnosed was indeed work related. From my review of the medical records, it appears to me that the patient's condition has returned to the pre-October 23, 2003 injury status. I feel that she has reached maximum therapeutic benefit of treatment. I believe the patient is able to perform her job as a letter carrier. At this point, I believe that she is able to do so without restrictions. I believe that she can work [eight] hours per day on regular full duty.”

In a January 6, 2005 letter, the Office asked Dr. Foddai for his opinion whether appellant's knee, cervical spine and shoulder conditions had resolved. In a January 11, 2005 report, Dr. Foddai stated that, based on his review of the medical records, he felt that the injuries sustained on May 7 and August 7, 2003 had resolved.

On April 28, 2005 the Office issued a proposed termination of compensation, on the basis that she no longer had any disability from her October 23, 2003 injury. In a May 23, 2005 letter, appellant complained that she was never sent for the functional capacity evaluation recommended by Dr. Emami and that she still had back pain that would worsen if she returned to work.

By decision dated June 3, 2005, the Office terminated appellant's compensation on that date on the basis that the weight of the medical evidence established that she had recovered from her October 23, 2003 injury.

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits. 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.¹ In situations where there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.² The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.³ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition, which require further treatment.⁴

ANALYSIS

On appeal, appellant's attorney contends that Dr. Foddai's December 28, 2004 report does not constitute the weight of the medical evidence because he inaccurately described the October 23, 2003 employment injury.⁵ A review of Dr. Foddai's December 28, 2004 report reveals that he described her October 23, 2003 injury as falling down steps, which actually describes her more serious May 7, 2003 employment injury. The October 23, 2003 injury consisted only of feeling low back pain while climbing steps. However, Dr. Foddai's confusion regarding her manner of injury does not call into question his conclusion that appellant had recovered from her lumbosacral sprain, the condition accepted by the Office as related to her October 23, 2003 injury. This conclusion was based on her "fairly benign and normal orthopedic and neurological examination," the absence of evidence of nerve root or spinal cord pathology and his opinion that lumbosacral sprains were time-limited events. Dr. Foddai's December 28, 2004 report also concluded that appellant could perform her regular duty eight hours per day without restrictions. This report is sufficient to establish that appellant's disability and need for medical treatment had ceased by the date the Office terminated her compensation.

¹ *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

² *James P. Roberts*, 31 ECAB 1010 (1980).

³ *Thomas Olivarez, Jr.*, 32 ECAB 1019 (1981).

⁴ *Furman G. Peake*, 41 ECAB 361 (1990).

⁵ The attorney also contended that Dr. Foddai was not properly selected to resolve the conflict of medical opinion. The December 6, 2004 letter he cites that referred appellant to a different physician to resolve a conflict of medical evidence was obviously sent in error, as it identified the conflict to be between two doctors not associated with the present case.

CONCLUSION

The Office met its burden of proving that appellant's disability and need for medical treatment related to her October 23, 2003 employment injury ceased by June 3, 2005, the date it terminated her compensation.

ORDER

IT IS HEREBY ORDERED THAT the June 3, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 10, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board