

**United States Department of Labor
Employees' Compensation Appeals Board**

M.H., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Law, GA, Employer**

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**Docket No. 07-1718
Issued: June 20, 2008**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 13, 2007 appellant filed a timely appeal of the Office of Workers' Compensation Programs' merit decision dated April 24, 2007, terminating her medical benefits. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether the Office properly terminated appellant's medical benefits effective April 10, 2007 on the grounds that she no longer had any residuals causally related to her March 26, 2001 employment-related injuries.

FACTUAL HISTORY

This case has previously been before the Board. In a May 10, 2004 decision, the Board found that the case was not in posture for decision as to whether appellant had more than five percent impairment of her right arm for which she received a schedule award.¹ It also found the

¹ On remand, the Office issued a decision dated August 5, 2004, finding that appellant was not entitled to an additional schedule award for her right arm.

evidence of record insufficient to establish that she was entitled to wage-loss compensation for the period on or after May 7, 2003.² The facts and the circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference.³ The facts and the history relevant to the present issue are hereafter set forth.

On November 13, 2006 Dr. Shulim Spektor, an attending Board-certified physiatrist, requested that the Office authorize lumbosacral spine, suprascapular, occipital and axillary nerve block injections. He had been providing pain management treatment for appellant's chronic post-traumatic pain in her neck, shoulders and back, fibromyalgia and tension headaches since August 23, 2001. Dr. Spektor stated that her chronic pain was conditioned with anxiety, tension, depression and poor sleep.

By letter dated November 15, 2006, the Office advised appellant that it could not grant authorization for the requested medical treatment. The evidence of record did not establish that the treatment was causally related to her accepted March 26, 2001 employment injuries. The Office addressed the medical evidence appellant needed to submit.

By letter dated January 15, 2007, the Office referred appellant, together with a statement of accepted facts, the case record and a list of questions to be addressed, to Dr. Howard L. Fowler, a Board-certified orthopedic surgeon, for a second opinion medical examination. In a February 6, 2007 medical report, Dr. Fowler reviewed a history of appellant's March 26, 2001 employment injuries and medical treatment. He noted appellant's complaints of pain in the neck and both shoulders. Appellant also complained of pain radiating into both hands and down her back and entire right side. On physical examination, Dr. Fowler reported tightness and limited range of motion in the cervical spine. He also reported tightness in the trapezius musculature and full range of motion and an intact rotator cuff of the right shoulder. Examination of appellant's right elbow was within normal limits. On neurological examination, Dr. Fowler reported intact upper and lower extremities. He opined that there was no causal relationship between the accepted employment injuries and appellant's current complaints. Dr. Fowler stated that no treatment was recommended for the accepted conditions. He diagnosed cervical disc disease. Dr. Fowler stated that there was no medical foundation for finding a causal relationship between appellant's fibromyalgia which seemed to be causing most of her difficulties, and her March 26, 2001 employment injuries. He opined that the accepted employment injuries had resolved.

In a March 7, 2007 letter, the Office issued a notice of proposed termination of medical compensation based on Dr. Fowler's February 6, 2007 medical opinion. In an undated letter received by the Office on March 26, 2007, appellant stated that she continued to experience residuals of her accepted employment injuries for which she had been receiving pain

² Docket No. 03-2167 (issued May 10, 2004).

³ On March 27, 2001 appellant, then a 48-year-old city letter carrier, filed a traumatic injury claim alleging that on March 26, 2001 she experienced severe pain and burning in her right shoulder, arm and elbow and neck when she picked up a full tray of mail. She felt something pop in her shoulder. Appellant stated that on March 27, 2001 her fingers felt numb and cold. By letter dated June 15, 2001, the Office accepted the claim for right shoulder and cervical strains and right elbow lateral epicondylitis. On October 3, 2004 the Office of Personnel Management approved appellant's application for disability retirement.

management treatment from Dr. Spektor since August 23, 2001. She contended that Dr. Fowler's report was based on an inaccurate factual background.

The Office received a June 21, 2001 report of Dr. Mark W. Feeman, an attending Board-certified physiatrist, who stated that appellant's pain remain unchanged. Dr. Feeman recommended continued medication and injections in the cervical paraspinal muscles. A May 8, 2002 report of Dr. Carol A. Walker, a Board-certified orthopedic surgeon, stated that appellant had neck and bilateral lower extremity pain, right worse than the left and mild instability at C3-4 with a left foraminal spur. She stated that appellant's neurologic examination was essentially normal. Dr. Walker opined that she had reached maximum medical improvement. She concluded that appellant could continue performing limited-duty work.

In a March 21, 2007 letter, appellant contended that her stress, anxiety, depression and fibromyalgia were causally related to her March 26, 2001 employment injuries.

In a December 4, 2006 report, Dr. Spektor stated that it was medically necessary for appellant to be treated with multiple trigger point injections and nerve blocks as an effective pain interruption technique, to receive counseling for stress management, relaxation training and improvement of coping skills with her chronic pain. He stated that her medications should include analgesics, muscle relaxants, anti-anxiety medications and anti-depressants.

By decision dated April 10, 2007, the Office terminated appellant's medical compensation benefits effective that date. It found that the evidence she submitted was insufficient to outweigh the determinative weight accorded to Dr. Fowler's February 6, 2007 medical report. After appellant informed the Office that she did not receive the April 10, 2007 decision, the Office reissued its decision on April 24, 2007.

LEGAL PRECEDENT

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 the employee no longer has residuals of an employment-related condition, which require further medical treatment.⁴

ANALYSIS

The Board finds that the Office met its burden of proof to terminate appellant's medical compensation benefits based on the opinion of Dr. Fowler, an Office referral physician, who reviewed a history of appellant's employment-related right shoulder and cervical strains and right elbow lateral epicondylitis. Dr. Fowler reported his essentially normal findings on physical and neurological examination and opined that appellant no longer had any residuals due to her accepted March 26, 2001 employment injuries. He noted that there were intact upper and lower extremities, full range of motion in the right shoulder and an intact right rotator cuff. Dr. Fowler stated that the employment injuries had resolved and that she did not require any further medical treatment for these conditions. He explained that there was no medical foundation for finding a

⁴ *T.P.*, 58 ECAB ___ (Docket No. 07-60, issued May 10, 2007); *John F. Glynn*, 53 ECAB 562 (2002).

causal relationship between appellant's fibromyalgia which was causing most of her difficulties and her employment injuries.

The weight of the medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.⁵ Dr. Fowler fully discussed the history of injury and explained that there were no objective findings to establish that appellant had any continuing employment-related residuals. The Board, therefore, finds that his opinion is detailed, well rationalized and based upon a complete and accurate history. The Board finds that Dr. Fowler's opinion represents the weight of the medical evidence in finding that appellant no longer has any residuals causally related to her employment-related right shoulder and cervical strains and right elbow lateral epicondylitis. The Board, therefore, finds that the Office met its burden of proof in this case.

Dr. Spektor stated that appellant required lumbosacral spine, suprascapular, occipital and axillary nerve block injections for chronic post-traumatic pain in her neck, shoulders and back, fibromyalgia and tension headaches which was conditioned with anxiety, tension, depression and poor sleep. Dr. Feeman's June 21, 2001 report stated that she required medication and injections in the cervical paraspinal muscles. Dr. Walker's May 8, 2002 report stated that appellant suffered from neck and bilateral lower extremity pain, right worse than the left and mild instability at C3-4 with a left foraminal spur. The Board notes that as appellant's claim has not been accepted for fibromyalgia, tension headaches or left shoulder, back or bilateral lower extremity conditions he has the burden of proof to establish an employment relationship. Dr. Spektor, Dr. Feeman and Dr. Walker did not provide an opinion to establish that appellant's conditions were causally related to her right shoulder and cervical strains and right elbow lateral epicondylitis.

CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's medical benefits on April 10, 2007.

⁵ See *Ann C. Leanza*, 48 ECAB 115 (1996).

ORDER

IT IS HEREBY ORDERED THAT the April 24, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 20, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board