

The Office accepted that appellant, then a 49-year-old gardener, sustained elbow and thumb conditions due to her federal employment. Appellant stopped working on June 16, 2004.

The Office accepted left elbow lateral epicondylitis and left thumb extensor tendinitis. Appellant was placed on the periodic rolls for temporary total disability on November 24, 2004.

In a March 2, 2006 certificate, Dr. Thomas R. Dennis, an attending Board-certified surgeon with a subspecialty in hand surgery, advised that appellant was unable to work during the period March 2 to September 1, 2006.

In a March 6, 2006 letter, appellant stated that she had surgery for a ganglion cyst on January 26, 2006 and that her physician informed her that she would not be able to go back to a gardening position. Her physician restricted her from heavy lifting or pushing until September 1, 2006.

In order to determine appellant's current condition and whether she had residuals of her accepted conditions, the Office referred appellant for a second opinion examination with Dr. Kevin F. Hanley, a Board-certified orthopedic surgeon. In a report dated March 15, 2007, Dr. Hanley concluded that appellant's lateral epicondylitis and left thumb extensor tendinitis had resolved. He related that typically tendinitis is a self-limiting condition. A physical examination revealed full metacarpophalangeal thumb joint range of motion, good grip strength bilaterally, no range of motion limitation in the forearm, no lateral epicondyle pain, no grinding sensation at the thumb base, and no pain over the first dorsal compartment. Dr. Hanley found no evidence of thumb extensor tendinitis or signs of epicondylitis. He opined that appellant was capable of performing her date-of-injury job duties. Dr. Hanley advised that appellant required no further medical treatment and stated that "[a]ll of her disability is perceptual and subjective on her part and cannot be supported by exam[ination]."

By letter dated March 26, 2007, the Office issued a notice of proposed termination of compensation based on Dr. Hanley's medical opinion. It provided 30 days in which appellant could respond.

In an April 4, 2007 letter, the employing establishment noted that appellant had been removed effective May 14, 2005 due to her inability to perform the duties of her position. It had no position to which she could return.

By decision dated May 4, 2007, the Office terminated appellant's compensation benefits effective May 13, 2007. It accorded weight to Dr. Hanley's medical opinion.

On May 14, 2007 appellant requested a hearing before an Office hearing representative, which was held on October 3, 2007.

In a May 14, 2007 progress note, Dr. Kenneth R. Means, a treating physician, noted treatment for appellant's left thumb de Quervain's extensor tendinitis. He reported that a neurodiagnostic study revealed mild carpal tunnel syndrome with no significant motor changes. Dr. Means provided restrictions of 10 pounds pushing, pulling and lifting.

On October 31, 2006 Dr. Peter C. Innis, a Board-certified surgeon, diagnosed de Quervains' tendinitis. Physical examination revealed "some tenderness and pain with manipulation" and evidence of early osteoarthritis at the thumb carpometacarpal joint.

Dr. Michael S. Shear, a Board-certified physiatrist, diagnosed left wrist median neuropathy on April 12, 2007. Physical examination revealed “mild asymmetry in muscle bulk with the left being smaller than the right,” no upper extremity muscle weakness and negative Tinel’s sign.

Following the oral hearing, appellant submitted additional medical evidence from Dr. Deborah Weinreich, a treating Board-certified family practitioner. She also resubmitted copies of reports from Dr. Dennis and Dr. Shear.

By decision dated December 17, 2007, an Office hearing representative affirmed the May 4, 2007 decision. The hearing representative found that Dr. Hanley’s medical opinion represented the weight of the medical opinion evidence.

LEGAL PRECEDENT -- ISSUE 1

Once the Office accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee’s benefits.¹ After it has determined that an employee has disability causally related to 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.² The Office’s burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.³

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

ANALYSIS -- ISSUE 1

The Board finds that the Office met its burden of proof to terminate appellant’s compensation benefits based on the opinion of Dr. Hanley, a Board-certified orthopedic surgeon, who reviewed the history of appellant’s employment-related lateral left elbow epicondylitis and left thumb extensor tendinitis. Dr. Hanley reported essentially normal findings on physical examination and noted no objective evidence of residuals due to the accepted employment conditions. He opined that appellant no longer had any residuals or disability due to her accepted employment-related injuries. Dr. Hanley explained that there were no physical or objective findings of residuals or disability causally related to the accepted conditions. He concluded that appellant could perform her regular work duties as a gardener.

¹ *Paul L. Stewart*, 54 ECAB 824 (2003).

² *Elsie L. Price*, 54 ECAB 734 (2003).

³ *See Del K. Rykert*, 40 ECAB 284 (1988).

⁴ *James F. Weikel*, 54 ECAB 660 (2003).

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. Hanley fully discussed the history of injury and explained that there were no objective findings to establish that appellant had any continuing employment-related residuals or disability. The Board finds that his opinion is detailed, well rationalized and based upon a complete and accurate history. The Board finds that Dr. Hanley's opinion represents the weight of the medical evidence. It establishes that appellant no longer has any residuals or disability causally related to her employment-related lateral left elbow epicondylitis and left thumb extensor tendinitis. The Office met its burden of proof to terminate compensation.

In a March 2, 2006 disability certificate, Dr. Dennis noted appellant was unable to work for the period March 2 to September 1, 2006 and provided work restrictions. However, he did not provide any opinion or explanation as to the cause of appellant's disabling condition. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value.⁶ Thus, the disability certificates of Dr. Dennis are of limited probative value and insufficient to create a conflict with Dr. Hanley's opinion.

LEGAL PRECEDENT -- ISSUE 2

After termination or modification of compensation benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation shifts to appellant.⁷ In order to prevail, appellant must establish by the weight of the reliable, probative and substantial evidence that she had an employment-related disability, which continued after termination of compensation benefits.

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between appellant's diagnosed condition and the implicated employment factors.⁸ The opinion of the physician must be based on a complete factual and medical background of appellant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by appellant.⁹

⁵ See *K.W.*, 59 ECAB ____ (Docket No. 07-1669, issued December 13, 2007); *Ann C. Leanza*, 48 ECAB 115 (1996).

⁶ *K.W.*, *supra* note 5.

⁷ See *Joseph A. Brown, Jr.*, 55 ECAB 542 (2004); *Virginia Davis-Banks*, 44 ECAB 389 (1993); *Joseph M. Campbell*, 34 ECAB 1389 (1983).

⁸ *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

⁹ *Bobbie F. Cowart*, 55 ECAB 746 (2004); *Victor J. Woodhams*, 41 ECAB 345 (1989).

ANALYSIS -- ISSUE 2

The relevant medical evidence regarding continuing employment-related residuals submitted by appellant after May 4, 2007 consists of Dr. Means' May 14, 2007 progress note, Dr. Innis' October 31, 2006 report, the progress notes and a report dated April 12, 2007 by Dr. Shear, and reports of Dr. Weinreich. Dr. Innis diagnosed de Quervain's tendinitis on October 31, 2006. On April 12, 2007 Dr. Shear diagnosed left wrist median mononeuropathy. Dr. Means, on April 14, 2007, diagnosed left thumb de Quervain's tendinitis. The Board notes that the Office has not accepted appellant's claim for de Quervain's tendinitis or left wrist median neuropathy. None of the physicians provided any opinion to establish that the diagnosed condition was causally related to appellant's accepted occupational disease claim of 2004.

The Board finds that appellant did not submit the necessary rationalized medical evidence to create a conflict with Dr. Hanley's opinion that her condition had resolved or substantiated that she had any residuals on or after May 13, 2007 causally related to her accepted employment injuries of lateral left elbow epicondylitis and left thumb extensor tendinitis.

CONCLUSION

The Board finds that the Office properly terminated appellant's compensation effective May 13, 2007 on the grounds that she no longer had any residuals or disability causally related to her accepted conditions. The Board further finds that appellant failed to establish that she had any continuing employment-related residuals or disability after May 13, 2007.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 17, 2007 is affirmed.

Issued: November 20, 2008
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