

On appeal, counsel contends that the Office's November 19, 2009 decision is contrary to fact and law.

FACTUAL HISTORY

The Office accepted that on May 21, 2008 appellant, then a 48-year-old project manager, sustained an insect bite to the right foot, causing an infection, rash, edema, urticaria, cellulitis of the right foot and cellulitis of the right forearm. Appellant stopped work on May 27, 2008 and received emergency room treatment, including oral steroids. She received continuation of pay from May 27 to July 11, 2008, followed by compensation on the supplemental rolls through January 17, 2009.

In a May 29, 2008 report, Dr. M.A. Awan, an attending internist, diagnosed right foot swelling, mild cellulitis, generalized itching and a rash due to an insect bite. He recommended that appellant continue taking steroids and prescribed an antibiotic.¹ Dr. Awan referred appellant to Dr. Jose Andrade, a Board-certified allergist and rheumatologist, who diagnosed a hymenoptera allergy. From July to December 2008, appellant was followed by Dr. S. Marcus Hopkins, an attending internist, who held her off work due to generalized arthralgias, headaches and intermittent edema related to the May 2008 insect bite.

In an October 31, 2008 report, Dr. Robert M. Chapa, an attending physician Board-certified in occupational medicine, noted a history of injury and treatment. On examination, he noted mild limitation of all joints due to obesity and mild swelling in the right foot and forearm. Dr. Chapa diagnosed a possible insect bite, resolved acute inflammatory response, history of polyarthralgia, resolved edema and headache due to steroids. He ordered an infectious disease consultation on November 3, 2008 from Dr. Walter C. Hellinger, a Board-certified internist, who found no infection or active inflammatory process. Dr. Chapa also obtained a consultation with Dr. Kenneth T. Calamia, an attending Board-certified rheumatologist, who diagnosed rheumatoid arthritis unrelated to the insect bite on December 9, 2008.

In a December 12, 2008 report, Dr. Chapa opined that the insect bite had resolved without acute symptoms. The subjective polyarthralgias and possible soft tissue swelling were unrelated to the insect bite. Dr. Chapa explained that Dr. Calamia clearly identified rheumatoid arthritis as the cause of appellant's complaints. On January 16, 2009 he found that appellant had reached maximum medical improvement and could resume full duty. Dr. Chapa reiterated that appellant's rheumatoid arthritis was not related to the insect bite.

On January 21, 2009 Dr. Awan released appellant to sedentary duty for six hours a day. Appellant returned to work on January 22, 2009 in a full-time modified position. She worked six hours on January 26 and 27, 2009 four hours on January 28, 2009 then stopped work. Appellant sought emergency room treatment for abdominal pain on January 28, 2009. Dr. Michael Coussa, a physician specializing in emergency medicine, diagnosed possible biliary colic and chronic rheumatoid arthritis. He instructed appellant not to undertake strenuous physical activity.

In a January 28, 2009 form report, Dr. Awan noted that appellant had been to the emergency room that day. He checked boxes holding her off work, indicating that he could not determine if her condition was work related.

¹ Appellant sought emergency room treatment on May 27, June 1 and 4, 2008 for polyarthralgia, edema, urticaria, chest pain and dyspnea complicated by morbid obesity.

Appellant claimed wage loss from January 26 to 29, 2009. In a February 4, 2009 letter, the Office advised her that additional evidence was needed to establish her claim, noting that Dr. Chapa found her condition resolved as of January 16, 2009. Appellant was afforded 30 days to submit additional evidence.

On February 18, 2009 appellant claimed wage-loss compensation from January 30 to February 14, 2009. In a February 26, 2009 letter, she contended that she was disabled for work due to swelling and weakness in her right arm.

By decision dated March 17, 2009, the Office denied appellant's claims for wage loss from January 26 to February 14, 2009. It found that she had received medical benefits for treatment of the accepted insect bite and that the condition had resolved. The Office determined that appellant's claims for medical treatment on and after January 26, 2009 were not authorized and prior authorization, if any, was terminated.

In a March 21, 2009 letter, appellant requested a telephonic hearing. At the September 28, 2009 hearing, she asserted that she remained under treatment for disabling, systemic residuals of the May 21, 2008 injury.²

By decision dated and finalized November 19, 2009, an Office hearing representative affirmed the March 17, 2009 decision. The hearing representative found that appellant did not submit rationalized medical evidence supporting that the accepted insect bite disabled her for work from January 26 to February 14, 2009. The hearing representative further found that the Office met its burden of proof to terminate appellant's medical benefits as the medical evidence failed to establish work-related residuals after January 26, 2009.

LEGAL PRECEDENT -- ISSUE 1

An employee seeking compensation under the Federal Employees' Compensation Act³ has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence.⁴

To establish a causal relationship between a claimed period of disability claimed and the accepted employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such a causal relationship.⁵ Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁶ Rationalized medical evidence is evidence which includes a physician rationalized medical opinion on the issue of whether there is a causal

² Counsel requested that the record be held open for 30 days to allow her to submit additional evidence. No additional evidence was received prior to November 19, 2009.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Amelia S. Jefferson*, 57 ECAB 183 (2005).

⁵ *Manuel Gill*, 52 ECAB 282 (2001).

⁶ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, 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 the claimant.⁷

ANALYSIS -- ISSUE 1

The Office accepted that on May 21, 2008 appellant sustained an insect bite on her right foot causing swelling, itching, a rash and cellulitis. Appellant received wage-loss compensation on the supplemental rolls through January 17, 2009. Dr. Chapa, an attending physician Board-certified in occupational medicine, found that the insect bite resolved without residuals as of January 16, 2009. Appellant returned to work part time from January 22 to 26, 2009, then stopped work on January 27, 2009. She claimed wage loss from January 26 to February 14, 2009.

In support of her claim, appellant submitted a January 28, 2009 report from Dr. Michael Coussa, a physician specializing in emergency medicine, diagnosing biliary colic and chronic rheumatoid arthritis. Dr. Coussa did not mention the accepted insect bite or attribute the diagnosed conditions to it. He advised appellant not to perform strenuous activity but did not otherwise comment on her ability to work. Dr. Awan, an attending internist, indicated on a January 28, 2009 form report that appellant could not work due to a condition of undetermined etiology. Neither Dr. Coussa nor Dr. Awan provided medical rationale explaining how and why residuals of the accepted May 21, 2008 insect bite would disable appellant for work from January 26 to February 14, 2009. Their reports are, therefore, insufficient to meet appellant's burden of proof.⁸

The Board notes that, in a February 4, 2009 letter, the Office advised appellant of the additional evidence needed to establish her claim, particularly as Dr. Chapa, an attending occupational disease specialist, found that the accepted conditions ceased without residuals as of January 16, 2009. Appellant did not submit such evidence. The Board, therefore, finds that the Office properly denied her claim for wage loss from January 26 to February 14, 2009.

On appeal, counsel contends that the Office's November 19, 2009 decision is contrary to fact and law. The Office properly denied wage-loss compensation from January 26 to February 14, 2009 as appellant did not submit sufficient rationalized medical evidence supporting this period of disability.

LEGAL PRECEDENT -- ISSUE 2

Once the Office has accepted a claim and pays compensation, it bears the burden to justify modification or termination of benefits.⁹ Having determined that an employee has a

⁷ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁸ *Deborah L. Beatty*, 54 ECAB 340 (2003).

⁹ *Bernadine P. Taylor*, 54 ECAB 342 (2003).

disability 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.¹⁰

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.¹¹ 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.¹² Office procedures require notification prior to terminating all medical benefits.¹³ The Board has held that the Office must follow its procedures and provide claimant notice and an opportunity to respond prior to the termination of compensation benefits.¹⁴

ANALYSIS -- ISSUE 2

The Office accepted that appellant sustained an insect bite on her right foot with rash, swelling, itching and mild cellulitis. It authorized appropriate medical care. By decision dated March 17, 2009, and affirmed by decision dated November 19, 2009, the Office terminated appellant's medical benefits on the grounds that the accepted conditions ceased without residuals. The Board finds that the Office failed to meet its burden of proof in terminating her medical benefits.

Under the Office's procedures, a notice of proposed termination should have been sent to appellant, allowing her 30 days to respond.¹⁵ The Office did send a February 4, 2009 letter advising appellant of the need for additional medical evidence to establish her claim for wage-loss compensation. However, this letter did not indicate that the Office contemplated termination of her medical benefits. It cannot be construed as a pretermination notice. Therefore, since there is no evidence that the Office provided notice and an opportunity to respond prior to termination of all appellant's medical benefits, the Office failed to meet its burden of proof.¹⁶ The November 19, 2009 decision will be reversed in part regarding the termination of medical benefits.

¹⁰ *Id.*

¹¹ *Roger G. Payne*, 55 ECAB 535 (2004).

¹² *Pamela K. Guesford*, 53 ECAB 726 (2002).

¹³ *Winton A. Miller*, 52 ECAB 405 (2001); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.6b (March 1997).

¹⁴ *Winton A. Miller*, *supra* note 13.

¹⁵ Federal (FECA) Procedure Manual, *supra* note 13 at Chapter 2.1400.6b (March 1997).

¹⁶ *Winton A. Miller*, *supra* note 13; *see also T.D.*, (Docket No. 09-1028 & 09-1029, issued January 11, 2010) (the Board held that the Office failed to meet its burden of proof in terminating the claimant's medical benefits because it failed to issue a notice of proposed termination).

CONCLUSION

The Board finds that the Office properly denied appellant's claim for wage-loss compensation for the period January 26 to February 14, 2009. The Board further finds that the November 19, 2009 termination decision was improper as the Office failed to provide notice of the proposed termination.

ORDER

IT IS HEREBY ORDERED THAT the November 19, 2009 decision of the Office of Workers' Compensation Programs is affirmed in part regarding denial of wage-loss compensation from January 26 to February 14, 2009 and reversed in part regarding termination of medical benefits.

Issued: December 6, 2010
Washington, DC

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

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

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