

<sup>1</sup> 5 U.S.C. §§ 8101-8193.

work. She became aware of her illness on January 1, 2003 and realized it was causally related to her work in April 2003. OWCP accepted the claim for cervical strain. Appellant retired in 2009.

Appellant was initially treated for neck spasms and tenderness on the right side of her neck. An April 30, 2003 magnetic resonance imaging (MRI) scan of the cervical spine revealed minor spurring posteroinferiorly from C5. Appellant underwent physical therapy beginning March 31, 2003 to March 5, 2009. On May 15, 2004 and August 7, 2007 OWCP authorized massage therapy.

Appellant came under the treatment of Dr. Bruce Myers, a Board-certified physiatrist, from August 22, 2008 to May 26, 2009, for neck and back pain due to her work injury of January 1, 2003. In an April 24, 2009 report, Dr. Myers diagnosed cervicgia with cervical sprain/strain and extensor tendinitis. He noted appellant's pain was stable but persistent and well controlled with monthly acupuncture treatments. Dr. Myers further noted that appellant was also receiving massage therapy once a week which was beneficial. He noted that, with this combination of treatment, her symptoms remained stable. Dr. Myers stated that when appellant was unable to get acupuncture or massage therapy, her symptoms escalated. He advised that appellant was clinically stable and at maximum medical improvement. Dr. Myers stated that acupuncture and massage therapy was medically necessary and reasonable to maintain her current level of comfort and function and, if these modalities were withdrawn, her symptoms would deteriorate. He recommended massage therapy once a week and acupuncture once a month. On June 10, 2009 Dr. Myers requested authorization for eight sessions of massage therapy.

In a letter dated June 12, 2009, OWCP noted that appellant had been undergoing acupuncture and massage therapy for an extended time. As Dr. Myers advised that appellant was clinically stable and at maximum medical improvement, acupuncture was authorized through June 30, 2009 and massage therapy through May 23, 2009. Appellant was instructed to submit a report from her physician explaining the medical necessity for continued treatment.

In a June 19, 2009 report, Dr. Myers diagnosed cervicgia with cervical sprain/strain, wrist extensor tendinitis and myofascial pain. He noted persistent neck, mid back and right upper extremity pain. Appellant received acupuncture on a monthly basis and massage therapy weekly and derived substantial benefit from the treatments. Appellant reported that without massage therapy she could not move and with regular treatments she was better able to perform activities of daily living. Dr. Myers reiterated that her symptoms were well controlled and she was at maximum medical improvement. He stated that appellant's current level of function was supported by access to massage therapy and acupuncture and, without these modalities, her condition would likely decline. Dr. Myers opined that such treatment was medically necessary to treat the 2003 neck injury.

On October 1, 2009 OWCP referred the medical record to an OWCP medical adviser for an opinion on whether the recommended acupuncture treatment was warranted and necessitated by the accepted work injury. In a report dated October 2, 2009, the medical adviser noted that appellant had chronic neck pain that began in 2003 and was accepted for cervical strain and she was treated conservatively with physical therapy and chiropractic adjustment. He noted that

appellant had cervical strain with chronic myofascial pain but that Dr. Myers did not explain why these symptoms persisted for six years. The medical adviser noted that appellant obtained enough relief from acupuncture once a month to allow her to function. He opined that acupuncture treatment was a reasonable treatment for myofascial pain and it was reasonable to approve once monthly for one year. Thereafter, OWCP authorized continued acupuncture treatment.

In an October 15, 2009 report, Dr. Myers advised that appellant was stable with persistent pain well controlled by monthly acupuncture treatments. Appellant would need continuing treatment. On May 20, 2010 Dr. Myers noted that appellant's right parascapular and anterior shoulder pain had increased and that she was benefiting from massage therapy. In a May 20, 2010 prescription slip, he prescribed massage therapy for myofascial pain and diagnosed cervicgia. On June 14, 2010 Dr. Myers requested continued authorization for massage therapy.

On June 18, 2010 OWCP referred the medical record to an OWCP medical adviser for an opinion on whether the recommended massage therapy was warranted or necessitated by the accepted work injury. In a June 23, 2010 report, the medical adviser noted that appellant had chronic neck pain that began in 2003 and was accepted for cervical strain. Appellant continued to experience neck pain and was subsequently diagnosed with chronic cervicgia and myofascial pain. The medical adviser noted that appellant had a reduction in pain with acupuncture and referenced Dr. Myers reports which documented stable and persistent pain controlled with monthly acupuncture treatments. He advised that massage therapy was not warranted or necessitated by the accepted work-related condition. The medical adviser noted that in some patients with myofascial pain, massage actually aggravated the pain. There was no evidence that massage therapy would improve appellant's condition or improve any symptoms or help her return to work.

In a July 6, 2010 decision, OWCP denied appellant's request for massage therapy. It found that the weight of the medical evidence did not establish that such treatment was medically necessary for appellant's accepted injury.

On July 31, 2010 appellant requested a review of the written record. She requested that massage therapy be authorized as it permitted her to move more freely and with less pain. In a July 27, 2010 report, Dr. Myers noted that there was subjective evidence that massage therapy substantially improved appellant's symptoms as had been previously authorized by OWCP. Dr. Myers opined that appellant experienced 80 percent improvement in neck and shoulder pain with massage therapy and the modality was warranted and reasonable. He concurred with the medical adviser's opinion that massage exacerbated some patients' symptoms; however, that was not the case with appellant. There was little if any evidence that massage therapy would be curative in any way but Dr. Myers believed it was successful in reducing appellant's symptoms. In reports dated August 9 to September 30, 2010, Dr. Myers diagnosed cervicgia with cervical sprain/strain and extensor tendinitis. He noted that appellant's right parascapular and anterior shoulder pain was manageable and noted she was benefiting from massage therapy. Dr. Myers indicated that appellant's pain was stable but persistent and well controlled with monthly acupuncture treatments and that she reached maximum medical improvement.

In a decision dated October 21, 2010, an OWCP hearing representative affirmed the July 6, 2010 decision.

### **LEGAL PRECEDENT**

Section 8103 of FECA provides that the United States shall furnish to an employee, who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of the monthly compensation.<sup>2</sup>

In interpreting section 8103, the Board has recognized that OWCP has broad discretion in approving services provided under FECA. OWCP has the general objective of ensuring that an employee recovers from his or her injury to the fullest extent possible, in the shortest amount of time. OWCP, therefore, has broad administrative discretion in choosing means to achieve this goal. The only limitation on OWCP's authority is that of reasonableness.<sup>3</sup> In order to be entitled to reimbursement for medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury by submitting rationalized medical evidence that supports such a connection and demonstrates that the treatment is necessary and reasonable.<sup>4</sup> While OWCP is obligated to pay for treatment of employment-related conditions, the employee has the burden of establishing that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.<sup>5</sup>

### **ANALYSIS**

OWCP accepted that appellant sustained employment-related cervical strain. Dr. Myers requested authorization for massage therapy once a week that OWCP denied on July 6, 2010.

On June 23, 2010 the medical adviser reviewed the medical record and noted appellant had chronic neck pain that began in 2003, accepted for a cervical strain. Appellant continued to have neck pain and was subsequently diagnosed with chronic cervicgia and myofascial pain. The medical adviser noted that appellant had a reduction in pain with acupuncture and referenced the reports of Dr. Myers who found stable and persistent pain controlled with monthly acupuncture treatments. He determined that massage therapy was not warranted or necessitated by the accepted work-related condition. The medical adviser noted that in some patients with myofascial pain, massage aggravated pain. He stated that there was no evidence of record that massage therapy improved appellant's condition or symptoms or facilitates her return to work.

---

<sup>2</sup> 5 U.S.C. § 8103(a).

<sup>3</sup> *Dr. Mira R. Adams*, 48 ECAB 504 (1997).

<sup>4</sup> *See Debra S. King*, 44 ECAB 203 (1992).

<sup>5</sup> *Kennett O. Collins, Jr.*, 55 ECAB 648, 654 (2004).

Dr. Myers diagnosed cervicalgia with cervical sprain/strain, wrist extensor tendinitis and myofascial pain. He noted that appellant had acupuncture on a monthly basis and massage therapy weekly and had derived substantial benefit from such treatments. Appellant reported that without massage therapy she could not move and with regular treatments she was better able to perform activities of daily living. Dr. Myers noted that appellant's symptoms were well controlled. As there was subjective evidence that massage therapy substantially improved her neck and shoulder pain, the modality was warranted and reasonable. Dr. Myers concurred that some patients found massage therapy to exacerbate their symptoms but that was not the case with appellant. The Board finds he did not provide sufficient medical rationale addressing why massage therapy was necessary or useful in treating appellant's accepted cervical strain.<sup>6</sup> Rather, Dr. Myers acknowledged that there was little if any evidence that massage therapy was curative in any way. He believed it was successful in reducing appellant's symptoms and functional level and had previously been authorized by OWCP. Although OWCP previously authorized massage therapy, it retains the discretion to authorize medical services, appliances and supplies pursuant to section 8103.<sup>7</sup> The reports of Dr. Myers do not provide a reasoned explanation regarding why massage therapy is reasonably necessary to treat appellant's accepted cervical strain.

Accordingly, OWCP did not abuse its discretion in denying authorization for the requested massage therapy.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that OWCP did not abuse its discretion in refusing to authorize payment for massage therapy.

---

<sup>6</sup> See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

<sup>7</sup> *M.C.*, Docket No. 10-2394 (issued February 24, 2011). Dr. Myers also noted treating appellant for conditions other than the accepted cervical strain. The fact that OWCP may previously authorized treatment does not establish that the condition for which appellant received treatment was employment related. See *Gary L. Whitmore*, 43 ECAB 441 (1992); *James F. Aue*, 25 ECAB 151 (1974).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 21, 2010 is affirmed.

Issued: November 16, 2011  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

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

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