

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GOLDIE CHUI and U.S. POSTAL SERVICE,
POST OFFICE, New York, N.Y.

*Docket No. 97-848; Submitted on the Record;
Issued October 15, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has any continuing disability after April 1, 1995 causally related to her accepted employment injury.

The Board has duly reviewed the case on appeal and finds that appellant has no continuing disability after April 1, 1995 causally related to her accepted employment injury.

Appellant filed a claim on April 25, 1994 alleging that she injured the left side of her back and side when a chair collapsed under her. The Office of Workers' Compensation Programs accepted appellant's claim for lumbosacral strain on July 7, 1994. The Office terminated appellant's compensation benefits effective April 1, 1995 on May 15, 1995 finding that she was no longer disabled due to her accepted employment injury. Appellant requested reconsideration on May 13, 1996 and by decision dated September 19, 1996 the Office denied modification of its prior decision.

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.¹ 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.² Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.³ To

¹ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

² *Id.*

³ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

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.⁴

Appellant's attending physician, Dr. Robert Iskowitz, Board-certified in physical medicine and rehabilitation, completed a series of form reports. He reported no objective findings on August 11 and September 26, 1994 and found on December 1, 1994 that appellant could return to light-duty work on December 28, 1994. He diagnosed lumbosacral paraspinal strain and provided her work restrictions.

In this case, the Office based its termination of appellant's compensation benefits on the December 15, 1994 report from Dr. Harvey Goldberg, a second opinion physician Board-certified in physical medicine and rehabilitation. Dr. Goldberg noted appellant's history of injury and performed a physical examination. He noted that appellant had difficulty performing toe walking and limited range of motion in the lumbar spine. He stated that appellant complained of pain precipitously when the lumbar paraspinal area was palpated. Dr. Goldberg also found that appellant demonstrated no pain with straight leg raising on either side in the seated position, but that in the supine position she complained of pain in the back and gluteal area. He found no evidence of calf or thigh muscle atrophy. Dr. Goldberg provided a diagnosis of history of low back injury, as well as preexisting morbid obesity, hypertension, diabetes and chronic cough. He concluded, "Based on the objective physical examination findings today ... it is my opinion that the work-related accident of April 25, 1994 does not constitute a basis for restriction on the claimant's work capacity at this time." Dr. Goldberg attributed appellant's work restrictions to her preexisting conditions. He found that appellant had reached maximum medical improvement and no indication for disability arising as a result of injuries sustained on April 25, 1994.

This report provided detailed physical findings and an opinion that appellant's current condition was not due to her accepted employment injury. Dr. Goldberg reported some symptom magnification and that there were no objective findings of continuing medical residuals or disability. The Board finds that this report is sufficient to meet the Office's burden of proof to terminate appellant's compensation benefits.

Following the notice of proposed termination, appellant submitted additional medical evidence from Dr. Steven Marini, Board-certified in physical medicine and rehabilitation. Dr. Marini found on March 29, 1995 that appellant could work four hours due to chronic lower back pain. In a report dated May 10, 1995, Dr. Marini attributed appellant's partial disability to chronic back pain to her accepted employment injury. He stated, "She is not partially disabled due to her other medical conditions including hypertension and diabetes." Dr. Marini stated appellant's physical examination included decreased lumbar mobility, lumbar muscle spasms and radiating pain. This report is not sufficient to establish appellant's continuing disability causally related to her accepted employment injury as Dr. Marini did not provide medical rationale explaining how and why he believed appellant's current disability was related to her accepted employment injury. Dr. Marini's reports are not sufficiently detailed or rationalized to overcome the weight of Dr. Goldberg's report or to create a conflict with it.

⁴ *Id.*

In a report dated May 24, 1995, Dr. Eric Senat, a Board-certified orthopedic surgeon, noted appellant's history of injury and provided physical findings including cervical limited range of motion, tenderness, thoracic and lumbar paraspinal muscle spasm. Dr. Senat did not provide an opinion on the causal relationship between appellant's physical findings and limitations and her accepted employment injury. Therefore, his report is not sufficient to establish continuing disability due to her accepted injury.

As appellant has not submitted rationalized medical opinion evidence establishing a causal relationship between her continuing disability and her accepted employment injury she has failed to meet her burden of proof.

The decision of the Office of Workers' Compensation Programs dated September 19, 1996 is hereby affirmed.

Dated, Washington, D.C.
October 15, 1998

George E. Rivers
Member

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member