

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CLARISSA WELLS and DEPARTMENT OF THE ARMY,
FITSIMONS ARMY MEDICAL CENTER, Aurora, Colo.

*Docket No. 97-1742; Submitted on the Record;
Issued May 21, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's medical benefits.

On May 31, 1995 appellant, then a 53-year-old office automation clerk, was putting boxes away when a shelf behind her fell off the wall and struck her in the back. The Office accepted her claim for contusion of the lower back, lumbar strain and spinal subluxation. Appellant stopped working on June 1, 1995 and was released to return to light-duty work with restrictions on June 27, 1995. In a January 31, 1996 decision, the Office terminated appellant's medical benefits on the grounds that the medical evidence of record showed appellant had no residuals of her employment injury. In a January 31, 1997 decision, an Office hearing representative found that the medical evidence of record showed appellant should have recovered from her employment injury. The hearing representative therefore affirmed the Office's January 31, 1996 decision.

The Board finds that the Office properly terminated appellant's medical benefits.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation and medical benefits. After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation or medical benefits without establishing that the disability has ceased or that it is no longer related to the employment.¹

In a June 28, 1995 report, Dr. Julie Colliton, a physiatrist, diagnosed low back strain with associated strain of the quadratus lumborum on the right. Dr. Colliton placed appellant on work restrictions and referred her for physical therapy. In subsequent progress notes, she indicated that appellant had subjective pain and tenderness but no objective findings. Dr. Colliton also

¹ Jason C. Armstrong, 40 ECAB 907 (1989).

indicated that appellant had no evidence of neurologic compromise in either leg. In a September 1, 1995 report, Dr. Bennett J. Machanic, a Board-certified neurologist, stated that appellant apparently sustained a direct contusive injury to the right flank and right lower back in the May 31, 1995 employment injury. Dr. Machanic indicated that appellant's complaints were difficult to objectify. He commented that some of her complaints could be explained by sacroiliac dysfunction. Dr. Machanic stated, however, that he had difficulty explaining appellant's paroxysmal pain shooting down from the back into both legs. He suggested a lumbar stenosis. In a September 13, 1995 report, Dr. Joel Berenbeim, an osteopath, diagnosed a lumbosacral strain consistent with the mechanism of injury, mild right sacroiliac strain, somatic dysfunction manifested by segmental restriction and altered mechanics and secondary upper back hypertonicity or guarding secondary to the diagnosed strains. In an October 12, 1995 report, Dr. Gareth Shemesh, a Board-certified physiatrist, stated that x-rays and a computerized tomography (CT) scan showed advanced osteoproliferative changes including left sided L3-4 facet joint disease and bilateral L3-4 vacuum joint. Dr. Shemesh indicated that appellant's x-rays were consistent with degenerative disc disease in the L3-4 area. He concluded that appellant's degenerative changes were exacerbated by the employment injury.

The Office referred appellant to Dr. Maurice Brown, an orthopedic surgeon, for an examination and second opinion. In a November 20, 1995 report, Dr. Brown expressed surprise at the chronicity of appellant's complaints. He commented that her history of bilateral stocking glove sensory changes with the absence of motor findings and the spontaneous resolution of these symptoms was difficult to ascribe to any physiologic condition. Dr. Brown indicated that appellant had tenderness to palpation around the lumbosacral spine which seemed to be out of proportion to the nature of the injury. He stated that appellant otherwise had no evidence of significant residual injury.

In a November 22, 1995 report, Dr. Machanic stated that appellant was very close to maximum medical improvement. He noted that she had a full range of lower back motion. Dr. Machanic indicated that the right sacroiliac joint did not move quite as well as the left but commented that this finding was far from impressive. He concluded that there was no compelling reason to keep appellant in the treatment program of osteopathic manipulation and physical therapy.

The reports of Drs. Machanic and Brown showed that appellant had no objective symptoms remaining that could be attributed to the employment injury and had no residuals of the employment injury. Their reports demonstrate that appellant had made a full recovery from the employment injury. The Office therefore properly terminated appellant's medical benefits.

Appellant submitted several reports from Dr. Perry L. Haney, a physiatrist. In a March 4, 1996 report, Dr. Haney indicated that appellant had limitation of motion of both the cervical and lumbar regions of the spine and muscle spasms in both regions. He also stated that appellant had a right trigger thumb. Dr. Haney concluded that appellant was approximately nine months status post moderate axial spine strain and sprain with a chronic myofascial pain syndrome as a sequela to the acute and subacute injury. He commented that the condition did not appear to have been adequately addressed by appellant's prior treatment. Dr. Haney, however, did not give a rationalized medical explanation on how appellant's symptoms persisted nine months after the

employment injury. He also did not give a rationalized medical opinion on whether appellant's trigger thumb was related to the May 31, 1995 employment injury and, if so, how. Dr. Haney's reports therefore have little probative value.

In a May 20, 1996 report, Dr. Philip A. Stull, an orthopedic surgeon, indicated that appellant had a trigger thumb with no evidence of carpal tunnel syndrome. Dr. Stull noted that appellant related her condition to the May 31, 1995 employment injury but he did not provide his opinion on the cause of appellant's condition. In an October 7, 1996 report, Dr. Carlton Clinkscales, a orthopedic surgeon, diagnosed right carpal tunnel syndrome, right thumb stenosing tenosynovitis and chronic neck and low back pain. Dr. Carlton did not discuss the cause of appellant's conditions. In an October 21, 1996 report, Dr. Anthony P. Dwyer, a Board-certified orthopedic surgeon, stated that appellant had symptoms and signs consistent with cervical and lumbar spondylosis and chronic cervical and lumbar paraspinal strain and sprain. Dr. Dwyer commented that appellant related these conditions to her employment injury. He also did not provide his own opinion on the cause of appellant's condition. These reports therefore are insufficient to show that appellant has any condition causally related to the employment injury because they do not contain any evidence relating appellant's conditions to her employment injury.

The decision of the Office of Workers' Compensation Programs dated January 31, 1997 is hereby affirmed.

Dated, Washington, D.C.
May 21, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member