United States Department of Labor
Employees' Compensation Appeals Board

SHERRY E. WILLIAMS, Appellant	)	
and	)	**Docket No. 04-170**
	)	**Issued: March 2, 2004**
U.S. POSTAL SERVICE, POST OFFICE, LaMirada, CA, Employer	)	

Appearances:
Dr. Jerrell E. Woolridge, JD, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chairman
DAVID S. GERSON, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On October 28, 2003 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated September 22, 2003, terminating appellant's compensation benefits. Under 20 C.F.R. §§ 501.2(c), 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether the Office met its burden of proof to terminate appellant's compensation benefits effective September 22, 2003.

FACTUAL HISTORY

On April 8, 2002 appellant, then a 31-year-old city mail carrier, filed a claim for traumatic injury alleging that on that date she sustained injuries to her right hand, left and right legs and knees, left hip and lower back when she slipped and fell on some wet steps in the performance of duty. The Office accepted appellant's claim for lumbar strain, left knee strain and right hand contusion. Appellant stopped work on April 9, 2002 and returned to work, part

time, on May 31, 2002. Appellant again stopped work on August 29, 2002 but accepted a limited-duty position on October 24, 2002. However, after working only two hours on October 24, 2002 she again stopped work and did not return. Appellant was paid appropriate compensation benefits.

In a letter dated July 30, 2003, the Office proposed to terminate appellant's compensation benefits. After reviewing additional evidence, by decision dated September 22, 2003, the Office terminated appellant's compensation and medical benefits effective immediately.[1]

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits. 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 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]

ANALYSIS

In this case, on April 9, 2002 the day after her injury, appellant was diagnosed by Dr. Michael Green, an osteopath, as having suffered a right hand contusion, lumbar strain and contusion and abrasion of the left leg. Magnetic resonance imaging (MRI) scan of her lumbar spine, performed July 11, 2002, was unremarkable and an MRI scan of her left knee, also performed July 11, 2002, revealed osteoarthritis with no evidence of meniscal tear or ligamentous injury. A whole body bone scan performed on August 15, 2002 was negative.

On August 29, 2002 appellant began treating with Dr. Robert Higginbotham, an orthopedic surgeon. In his initial report of record dated August 29, 2002, Dr. Higginbotham noted appellant's history with respect to her April 8, 2002 fall, further noted that appellant continued to complain of sharp pain in her back and both knees and added that he had not been able to review her medical records. Dr. Higginbotham performed a complete physical examination, noting that with respect to her back, appellant had no signs of an antalgic gait, but had tenderness to palpation over the lumbar paravertebral musculature at L4-5. In addition,

[1] By letter dated and postmarked October 8, 2003, appellant requested an oral hearing or review of the written record performed by an Office representative. By separate letter dated October 8, 2003 and sent by fax on October 28, 2003, appellant, through counsel, appealed the Office's September 22, 2003 decision to the Board. As the Board and the Office may not simultaneously have jurisdiction over the same issue, the Board assumes jurisdiction over this case. *See Arlonia B. Taylor*, 44 ECAB 591 (1993).

[2] *Gloria J. Godfrey*, 52 ECAB 486 (2001).

[3] *Franklin D. Haislah*, 52 ECAB 457 (2001).

[4] *Id.*

appellant had full unrestricted range of lumbar motion, but had pain at the extremes of lumbar motion. With respect to appellant's knees, the physician noted that there was swelling of the right knee and tenderness to palpation above the medial joint line, but normal range of motion, reflexes, sensation, vascularization, strength and gait. Lumbar x-rays revealed disc space narrowing at L5-S1, right knee films were within normal limits and left knee films revealed a spur over the patellar pole. Dr. Higginbotham diagnosed musculoligamentous sprain and strain of the lumbar spine and bilateral knee sprain and noted that herniated nucleus pulposus should be ruled out. The physician concluded that the diagnosed conditions were the result of appellant's April 8, 2002 fall and stated that she was temporarily totally disabled and that he would order further treatment and testing, particularly an MRI scan.

An MRI scan of appellant's right knee, performed on September 10, 2002, revealed moderate patellofemoral chondromalacia. An MRI scan of her left knee, performed the same date, revealed tricompartment chondromalacia involving the patellofemoral and medial joint space articulations.

In follow-up form reports dated September 26, October 20, November 21, December 19 and 29, 2002 and January 23, March 13, April 17 and 24, June 5 and 12, July 24 and August 28, 2003, Dr. Higginbotham diagnosed lumbar spine impingement and stenosis, chondromalacia tricompartment, left knee and chondromalacia, patellofemoral, right knee and indicated that herniated nucleus pulposus needed to be ruled out. He continued to state that appellant was totally disabled for work and required additional medical treatment, but did not address the cause of appellant's conditions, or their continued relationship, if any, to appellant's employment.

On October 18, 2002 appellant was examined by Mitchell H. Geiger, a Board-certified orthopedic surgeon, to whom she was referred by her treating physician. Dr. Geiger diagnosed left knee osteoarthritis and diffuse upper back and lumbar back pain. The physician stated that while there was a significant psychological overlay, there was nonetheless an industrial etiology to appellant's complaints. Dr. Geiger concluded that appellant could work limited duty.

On November 18, 2002 appellant underwent a repeat MRI scan of her lumbar spine, which revealed: relatively stable 2+ mm, central, posterior disc protrusion at T11-12; relatively stable, 2-3 millimeters (mm), central, posterior disc protrusion at L4-5 with associated focal anterior thecal sac impingement and effacement and with relatively mild multifocal central canal stenosis; and relatively stable, 2-3 mm, left paracentral, posterior disc bulge at L5-S1 without nerve root involvement.

In a narrative report dated April 22, 2003, Dr. Higginbotham noted the results of the November 18, 2002 MRI scan, noted appellant's continued complaints of back and knee pain and concluded that he was referring appellant to Dr. Luigi Galloni, an orthopedic surgeon, for a surgical consult. Dr. Higginbotham did not discuss the cause of appellant's conditions. In a report dated December 20, 2002, Dr. Galloni diagnosed internal derangement of both knees and possible chondromalacia of both knees, but did not discuss the cause of these conditions. In a narrative report dated June 17, 2003, Dr. Higginbotham stated that appellant's examination remained the same and that he was again referring appellant for additional surgical consultation with Dr. Galloni.

On January 15, 2003 the Office referred appellant, together with a statement of accepted facts, the medical opinions of record and a list of issues to be addressed, to Dr. Thomas R. Dorsey, a Board-certified orthopedic surgeon, for a second opinion evaluation. In his narrative report dated February 20, 2003, Dr. Dorsey noted appellant's history with respect to her employment injuries. He performed a complete physical examination, noting that examination of the left knee showed some crepitus, soft tissue swelling and tenderness, the lumbar spine showed no evidence of radiculopathy and the right knee showed some soft tissue swelling also. Dr. Dorsey further noted that, while appellant had also suffered a right hand contusion, she did not currently have any right hand complaints. Dr. Dorsey reviewed the medical testing of record, noting that the July 11, 2002 left knee MRI scan showed osteoarthritis, the July 11, 2002 lumbar MRI scan was unremarkable, the September 10, 2002 right knee MRI scan showed patellofemoral chondromalacia and the November 18, 2002 lumbar MRI scan was essentially within normal limits. Dr. Dorsey diagnosed lumbar musculoligamentous strain/sprain, resolved, left knee contusion resolved, preexisting left knee degenerative joint disease and right hand contusion resolved. Dr. Dorsey stated that, at the time of his examination, appellant had no ongoing conditions of the spine, left knee or right hand causally related to her employment injuries. He stated that she does have obesity and chronic bilateral knee degenerative joint disease, which are ongoing but that these were not materially changed by the April 8, 2002 fall and there was no evidence of aggravation. Dr. Dorsey explained that appellant did not continue to suffer residuals of her accepted injuries, stating:

> "The basis of this opinion is that all the evidence indicates [that] the patient had a lumbar musculoligamentous sprain/strain. The basis for this opinion is her MRI [scan] findings and examination findings. Specifically, she is showing no evidence of radiculopathy and no evidence of acute changes on her MRI [scan]. With regard to the left knee, she is showing no evidence on history, examination or imaging studies of any acute change in the left knee related to the events of April 8, 2002. She clearly has preexisting underlying degenerative joint disease in the left knee, which in my opinion, had not been materially changed by the events of April 8, 2002."

Regarding appellant's ability to perform her date-of-injury job, Dr. Dorsey stated:

> "In my opinion, the patient cannot perform the duties of a letter carrier because of her left knee degenerative joint disease. However, this limitation is not based on the events of April 8, 2002. It is based on her underlying degenerative joint disease in the left knee."

With respect to appellant's work restrictions, Dr. Dorsey completed a work-capacity evaluation, Form OWCP-5, indicating that appellant could perform light duty, eight hours a day, but emphasized in his narrative report that "there are no restrictions at this time on the [Form] OWCP-5 related to the work injury. All of her restrictions are related to her underlying degenerative joint disease of the left knee." Dr. Dorsey stated that appellant's injury-related disability would have ceased on April 15, 2002 and stated that appellant required no additional medical treatment related to the events of April 8, 2002.

The Board finds that the weight of the medical opinion evidence rests with Dr. Dorsey's well-rationalized narrative report. Dr. Dorsey provided a history of injury and appellant's medical history, reviewed the results of early tests and performed a complete physical examination. He noted that there were no objective signs of appellant's accepted lumbar strain, left knee strain or right hand contusion and concluded that these conditions had resolved. While Dr. Dorsey noted that appellant had additional left knee problems, he specifically stated that as far as appellant's accepted April 8, 2002 left knee injury, lumbar sprain and right hand contusion, appellant could be employed with no restrictions and required no further medical treatment. Therefore, the Office properly relied on Dr. Dorsey's report in terminating appellant's benefits. Furthermore, while the record contains an August 29, 2002 medical report from Dr. Higginbotham and an October 18, 2002 report from Dr. Geiger, in which the physicians stated that appellant is disabled from her usual job due to her employment-related injuries, their opinions are of reduced probative value as neither physician provided any explanation, supported by medical reasoning and objective evidence, as to why appellant's condition is related to her employment injuries and not to her underlying, preexisting degenerative joint disease.[5] As Dr. Dorsey stated that appellant had no objective signs of her accepted conditions and further stated that her current disability was not due to her accepted conditions, but was due to an underlying degenerative left knee condition, the Office met its burden of proof to terminate appellant's compensation benefits effective September 22, 2003.

CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits.

[5] To establish causal relationship between a condition, including any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship. *David M. Ibarra*, 48 ECAB 218 (1996). Rationalized medical opinion evidence is medical evidence that includes a physician's reasoned opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. 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 established incident or factor of employment. *Charles E. Evans*, 48 ECAB 692 (1997).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 22, 2003 is affirmed

Issued: March 2, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member