

musculoskeletal low back pain, sciatica and radiculopathy. Appellant returned to full-time light duty effective October 4, 2004

The Office referred appellant, together with a statement of accepted facts and the medical record, to Dr. Kevin F. Hanley, a Board-certified orthopedic surgeon, for a second opinion examination and a determination as to whether he continued to experience residuals from his September 9, 2003 work injury. In a report of a February 1, 2005 examination, Dr. Hanley concluded that appellant had fully recovered from his September 9, 2003 injury. He opined to a reasonable degree of medical certainty that appellant was fully capable of performing the duties of his regular employment with no restrictions and did not suffer residuals from the accepted conditions. Dr. Hanley reviewed his medical history and test results and related appellant's ongoing complaints of pain with radiculopathy to his left lower extremity. He reported that, upon examination, appellant demonstrated an antalgic gait on the right, suggesting that his right leg was the symptomatic leg. Dr. Hanley described that appellant placed his cane next to his right foot as he was bearing weight on the right side, so as to take weight off of the right side. He stated that "this demonstration was critically inconsistent with [appellant's] history," which reflected a left leg impairment. Dr. Hanley noted that appellant "limited his range of motion of the lumbar spine volitionally;" that his reflexes were intact; and that there were no signs of significant ongoing musculoskeletal weakness. He provided a diagnosis of "history of musculoligamentous straining injury" and "fabrication/malingering." Dr. Hanley opined that appellant was "consciously attempting to mislead the examiner" in a way that went beyond exaggeration. He stated that appellant did not have "any problems whatsoever at [that] time from the accepted injury" and that no additional treatment or work restrictions were required.

Appellant submitted a note dated March 17, 2005, written on a prescription pad from Dr. Sprio Antoniadis, a Board-certified orthopedic surgeon, indicating "low back pain [with] sciatica buttocks, thigh pain – [p]ain [c]linic [c]onsult." He also submitted notes dated March 15 and 17, 2005 reflecting that he has been seen at the Maryland Spine Center on November 3, 10 and 17, 2004 and on March 17, 2005.

On April 8, 2005 the Office issued a notice of proposed termination of appellant's compensation and medical benefits. He was allowed 30 days to submit evidence or argument in response to the proposed termination.

In a report dated April 4, 2005, Dr. Jamae Mikdashi, an attending physician, stated that he had been treating appellant "for some time" and "[understood]" that his September 9, 2003 on-the-job injury resulted in a pinched nerve traveling throughout appellant's leg and an exacerbation of his preexisting inflammatory arthritis. He indicated that he felt it was necessary for him to continue routine treatment to manage his arthritis and to control his pain.

Appellant submitted a report dated March 16, 2005 from Dr. Marc E. Wilson, Board-certified in the area of family medicine. He stated that appellant had "a plethora of medical conditions including low back pain with radiculopathy and diabetes." Dr. Wilson opined that appellant's musculoskeletal condition was "most likely due to an injury he sustained, but of course it [could] be affected by his diabetes."

In a report dated March 17, 2005, Dr. Antoniadis disagreed with Dr. Hanley's opinion that appellant was a malingerer and fabricator, stating that he had always been straightforward and honest in his presentations. He observed that appellant was using a cane and walking with a slight limp. Dr. Antoniadis' examination revealed 3/5 motor weakness in his ankle plantar flexion bilaterally; dorsiflexion 5/5 motor; and quadriceps 5/5 motor. He provided a diagnosis of low back pain and sciatica and opined that appellant had diffused arthrosis from rheumatoid arthritis and radiculopathy "probably from his diabetes."

In a letter dated April 18, 2005, appellant contended that Dr. Hanley's focus was not on his physical condition, but rather on his job situation. He disagreed with Dr. Hanley's diagnosis and expressed disappointment that he would question his ethical values.

By decision dated May 18, 2005, the Office terminated appellant's compensation and medical benefits effective that date, on the grounds that he suffered no further residuals from his accepted injury.

On May 25, 2005 appellant requested reconsideration.

Appellant submitted a letter from Dr. Mikadashi dated May 25, 2005 reiterating the findings contained in his letter of April 4, 2005. He also indicated that appellant was unable to perform the regular duties required by the full-time position he held prior to his accepted injury and that he continued to suffer from preexisting diabetes and inflammatory arthritis.

In a May 23, 2005 duty status report, Dr. Wilson recommended light duty and indicated that appellant's condition was due to his September 2003 injury.

The record contains an undated, unsigned request for review of the written record.

In a report dated July 11, 2005, Dr. Mikdashi stated that appellant had limited ability to walk, sit, stand, bend, twist, kneel or crouch. He opined that appellant had chronic back pain, lupus and a pinched nerve in his back. Dr. Mikdashi concluded that appellant had substantial limitations on his ability to perform daily activities and, therefore, required a light-duty assignment.

By decision dated September 20, 2005, an Office hearing representative affirmed the termination of appellant's compensation and medical benefits, effective May 18, 2005, on the grounds that the weight of the evidence established that he had no further injury-related disability or residuals.

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of justifying a termination or modification of compensation benefits.¹ After it has determined that an employee has a

¹ *Willa M. Frazier*, 55 ECAB ____ (Docket No. 04-120, issued March 11, 2004); *see also Harold S. McGough*, 36 ECAB 332 (1984).

condition causally related to his federal employment, the Office may not terminate compensation without establishing that the condition has ceased or that it is no longer related to the employment.² The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation. To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which requires further medical treatment.³

ANALYSIS

The Board finds that the Office met its burden of proof to terminate appellant's compensation and medical benefits effective May 18, 2005, on the grounds that the accepted condition had resolved and related residuals had ceased.

In his February 1, 2005 report, Dr. Hanley opined to a reasonable degree of medical certainty that appellant had fully recovered from and did not suffer any residuals from his September 9, 2003 accepted injury. The Board finds that his opinion, which is based on a proper factual and medical history, is well rationalized and supports that on the date of his examination appellant was no longer disabled by his accepted work-related condition and that he was able to return to work full duty. Dr. Hanley accurately summarized the relevant medical evidence, provided findings on examination and reached conclusions regarding appellant's condition which comported with his findings. He related appellant's ongoing complaints of pain with radiculopathy to his left lower extremity. Appellant demonstrated an antalgic gait on the right, suggesting that his right leg was the symptomatic leg. Dr. Hanley described that appellant placed his cane next to his right foot as he was bearing weight on the right side, so as to take weight off of the right side. He stated that "this demonstration was critically inconsistent with [appellant's] history," which reflected a left leg impairment. Dr. Hanley noted that he "limited his range of motion of the lumbar spine volitionally;" that his reflexes were intact; and that there were no signs of significant ongoing musculoskeletal weakness. He provided a diagnosis of "history of musculoligamentous straining injury" and "fabrication/malingering." Dr. Hanley further opined that appellant was "consciously attempting to mislead the examiner" in a way that went beyond exaggeration. He stated his belief that appellant did not have "any problems whatsoever at [that] time from the accepted injury" and that no additional treatment or work restrictions were required.

The remaining medical evidence of record fails to establish that appellant experienced residuals related to his September 9, 2003 injury as of May 18, 2005. Dr. Antoniades' March 17, 2005 note reflected "low back pain [with] sciatica buttocks, thigh pain – [p]ain [c]linic [c]onsult." In a March 17, 2005 narrative report, he disagreed with Dr. Hanley's opinion that appellant was a malingerer and fabricator. Dr. Antoniades provided a diagnosis of low back pain and sciatica and opined that appellant had diffused arthrosis from rheumatoid arthritis and radiculopathy "probably from his diabetes." However, Dr. Antoniades provided no findings on examination

² *Willa M. Frazier, supra* note 1; *see also Vivien L. Minor*, 37 ECAB 541, 546 (1986).

³ *LaDonna M. Andrews*, 55 ECAB ____ (Docket No. 03-1573, issued January 30, 2004); *see also Wiley Richey*, 49 ECAB 166 (1997); *Furman G. Peake*, 41 ECAB 361 (1990).

and no explanation of appellant's condition as it related to his ability to perform his job-related duties. The Board has consistently held that a medical opinion not fortified by rationale is of diminished probative value.⁴ Dr. Antoniadis' opinion is speculative regarding the cause of appellant's condition and does not fully address Dr. Hanley's findings on examination.

Dr. Mikdashi's April 4, 2005 report reflected that he had been treating appellant "for some time" and "[understood]" that his September 9, 2003 on-the-job injury resulted in a pinched nerve traveling throughout his leg and an exacerbation of appellant's preexisting inflammatory arthritis. He indicated that he felt it was necessary for appellant to continue routine treatment to manage his arthritis and to control his pain. In a May 25, 2005 report, Dr. Mikdashi indicated that appellant was unable to perform the regular duties required by the full-time position he held prior to his accepted injury and that he continued to suffer from preexisting diabetes and inflammatory arthritis. In a July 11, 2005 report, Dr. Mikdashi stated that he had limited ability to walk, sit, stand, bend, twist, kneel or crouch and opined that he suffered from chronic back pain, lupus and a pinched nerve in his back. He concluded that appellant had substantial limitations on his ability to perform daily activities and, therefore, required a light-duty assignment. The Board finds that his opinion is of limited probative value, in that it is not supported by clinical findings or any discussion of how his opinion was formulated. Moreover, he has provided no explanation as to whether appellant's current condition is related to his accepted injury.

In his March 16, 2005 report, Dr. Wilson stated that appellant had "a plethora of medical conditions including low back pain with radiculopathy and diabetes." He opined that his musculoskeletal condition was "most likely due to an injury he sustained, but of course it [could] be affected by his diabetes." In a May 23, 2005 duty status report, Dr. Wilson recommended light duty and indicated that appellant's condition was due to his September 2003 injury. His opinion lacks probative value in that it is vague and equivocal and is unsupported by clinical findings. Additionally, Dr. Wilson has provided no explanation regarding a causal relationship between appellant's current condition and his accepted injury.⁵

Appellant disagreed with Dr. Hanley's diagnosis and expressed his disappointment that Dr. Hanley would question his integrity. However, his belief that his condition was caused or aggravated by the work-related injury is insufficient to establish causal relationship.⁶ Appellant has submitted no medical evidence rebutting Dr. Hanley's findings and no rationalized opinion supporting his claim that he continues to be disabled and to suffer residuals from the accepted employment injury. The Board finds that the weight of the medical evidence is found in the report of the second opinion examiner, which establishes that appellant had no disability and suffered no residuals from his September 9, 2003 accepted injury as of May 18, 2005.

⁴ See *Mary A. Ceglia*, 55 ECAB ____ (Docket No. 04-113, issued July 22, 2004); *Albert C. Brown*, 52 ECAB 152 (2000).

⁵ See *Michael E. Smith*, 50 ECAB 313 (1999).

⁶ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

CONCLUSION

The Office met its burden of proof in terminating appellant's medical and wage-loss benefits effective May 18, 2005.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated September 20 and May 18, 2005 are affirmed.

Issued: February 2, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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