

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MARY E. NORWELL and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER,  
Fort Howard, Md.

*Docket No. 96-1128; Submitted on the Record;  
Issued April 6, 1998*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant is entitled to receive wage-loss compensation subsequent to February 28, 1995.

The Board has duly reviewed the record in this appeal and finds that appellant is entitled to receive wage-loss compensation subsequent to February 28, 1995.

On June 23, 1994 appellant, then a medical clerk, filed a traumatic injury claim, Form CA-1, alleging that she sustained a neck injury, when three records fell from a shelf hitting her in the back of the head on that date.

On June 13, 1995 the Office of Workers' Compensation Programs accepted appellant's claim for cervical sprain and authorized compensation for wage loss through January 20, 1995.

On November 17, 1995 appellant, filed a claim for compensation on account of traumatic injury or occupational disease (Form CA-7) for the period March 2 through November 17, 1995. By letter dated November 29, 1995, the employing establishment advised the Office that appellant had resigned from the employing establishment effective March 1, 1995 to move to Oklahoma.<sup>1</sup>

By decision dated December 7, 1995, the Office found the medical evidence of record sufficient to establish that appellant was capable of performing her regular-duty work and that appellant was medically released to do so on March 1, 1995.<sup>2</sup> In an accompanying

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<sup>1</sup> Previously, on September 22, 1995, appellant informed the Office in a telephone conversation that she had moved to Oklahoma to live with her mother.

<sup>2</sup> By letter dated December 7, 1995, the Office advised appellant that she was paid compensation for the period covering January 21 through February 28, 1995 and that she should have received payment within two or three weeks from the date of the check which was September 29, 1995.

memorandum, the Office found that the January 25, 1995 medical report of Dr. John Rathgeb, a Board-certified orthopedic surgeon, established that appellant could perform her regular-duty work.

In the present case, the Office accepted that appellant sustained a cervical sprain due to factors of her federal employment. The Office denied appellant's claim for compensation based on a January 25, 1995 attending physician's report, signed by Kenneth Biedenkapp, a physician's assistant, for Dr. Rathgeb. This report revealed a history of the June 23, 1994 employment injury, a diagnosis of cervical disc disease and that appellant's condition was caused or aggravated by her employment by placing a checkmark in the box marked "yes." This report also revealed, that appellant was able to resume regular and light-duty work on March 1, 1995. This report is insufficient to establish that appellant was able to perform regular- or light-duty work, inasmuch as a physician's assistant is not a "physician" as defined under the Federal Employees' Compensation Act and thus, cannot render competent medical evidence in support of a claim.<sup>3</sup>

The December 7, 1995 decision of the Office of Workers' Compensation Programs is hereby reversed.

Dated, Washington, D.C.  
April 6, 1998

George E. Rivers  
Member

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

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<sup>3</sup> See *Barbara J. Williams*, 40 ECAB 649 (1988); *John D. Williams*, 37 ECAB 238 (1985); *Curtis L. Lord*, 33 ECAB 1481 (1982).