

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RAMONA SOLOMON and U.S. POSTAL SERVICE,  
POST OFFICE, Shreveport, La.

*Docket No. 96-1748; Submitted on the Record;  
Issued August 6, 1998*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's medical compensation benefits on June 5, 1995.

On June 28, 1989 appellant, then a 29-year-old letter sorting machine operator, filed an occupational disease claim alleging that on or about June 1, 1988 she developed carpal tunnel syndrome as a result of factors of her federal employment. Appellant's case was accepted for bilateral flexor tenosynovitis. Appellant was paid compensation benefits for temporary total disability for all appropriate periods claimed through June 28, 1992.<sup>1</sup>

In a report dated February 13, 1992, Dr. Patrick S. Zaccalini, a Board-certified orthopedic surgeon, diagnosed reflex sympathetic dystrophy (Sudek's atrophy), tendinitis both wrists, fibromyalgia and ruled out carpal tunnel syndrome. Examination of the wrist and hand included tests of sensitivity to light touch and pinprick, range of motion, Jamar grip, carpal tunnel and x-rays.

In a report dated June 21, 1994, Dr. F. Pearl McBroom, a specialist in cardiology, diagnosed "chronic traumatically induced on the job tenosynovitis of both wrists and fingers with permanent tendon shortening," "chronic depression," and "indigent economic status."<sup>2</sup>

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<sup>1</sup> By decision dated June 23, 1992, the Office denied appellant's monetary compensation effective June 28, 1992. Appellant's monetary compensation was terminated pursuant to 5 U.S.C. § 8106(c)(2) because she refused a suitable light duty job with the employing establishment. Appellant was advised that she was still entitled to medical benefits for the accepted condition. Appellant's subsequent requests for reconsideration were denied in decisions dated September 2 and September 9, 1993.

<sup>2</sup> In a letter dated November 17, 1993, appellant requested that the Office authorize Dr. McBroom to be her treating physician. By letter dated February 17, 1994, the Office denied appellant's request on the basis that Dr. McBroom's medical specialties were not appropriate for her work-related condition.

In a report dated January 18, 1995, Dr. Gregory J. Hanker, a Board-certified orthopedic hand surgeon and appellant's treating physician,<sup>3</sup> noted the history of injury, appellant's medical and social history and well as current complaints, the objective tests results and his findings on physical examination. Based upon his examination, Dr. Hanker opined that appellant was permanent and stationary and that "I see no reason for any additional care ... and is not in need of active medical care, no follow-up visit has been recommended."

In a supplemental report dated March 6, 1995, Dr. Hanker stated that when appellant was examined on January 18, 1995, there was no evidence of ongoing inflammation in the wrists that he would characterize as an active flexor tenosynovitis. Dr. Hanker stated that the work-related condition had resolved as of the date of her examination. Dr. Hanker additionally stated that since there were no objective findings described in his earlier report, he hoped that the Office realized that there were no objective findings. Dr. Hanker, therefore, stated that he could not describe to the Office any objective findings that continue to exist.

In a letter dated April 25, 1995, the Office advised appellant that they proposed to terminate medical benefits on the basis that the weight of the medical evidence of record established that appellant no longer suffers any residuals attributable to her employment.

By decision dated June 5, 1995, the Office terminated medical benefits, effective June 5, 1995, on the basis that the medical evidence of record established that appellant no longer had any residual disability as a result of her June 1, 1988 employment injury.

Appellant requested a hearing before an Office representative which was held on February 28, 1996. At the hearing, appellant described the progression of her condition and the medical care she received. Also at the hearing, appellant was advised as to the deficiencies in the medical evidence and what type of evidence was required to perfect her claim. Appellant was allowed an additional 30 days to submit the request evidence. It is noted that appellant has failed to timely submit the requested evidence.

Prior to the hearing, appellant submitted several medical reports. In a March 8, 1995 medical report, Dr. Ronald M. Sharrin, a psychologist, opined that appellant presented with multiple subjective complaints, which are evidenced in diagnostic criteria of a pain prone disorder. Dr. Sharrin stated that there may not be objective evidence for orthopedics, but there is diagnostic criteria, which suggest a pain disorder, with functional overlay, which has resulted from the work related continuous trauma. As a result, Dr. Sharrin stated that, even though appellant has been appropriately treated medically, this functional overlay has severely impeded her recovery and restoration of function. In an April 7, 1995 medical report, Dr. Sharrin stated that appellant's diagnoses include dysthymia secondary to pain condition, somatoform pain disorder and pain disorder with psychological factors, chronic.

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<sup>3</sup> In a letter dated January 5, 1995, the Office authorized appellant's request to have Dr. Hanker treat her accepted conditions.

In a medical report dated April 21, 1995, Dr. Alan G. Silverman, a Board-certified internist, opined that appellant's complaints of pain were not based upon objective physical evidence. He recommended that appellant continue with psychological tasks. He reasoned that appellant has a lot of hostility and anger involved in her past relating to her job and her ex-husband, has problems dealing with her teenage daughters and is extremely anxious about what's going to take place the next day. Dr. Silverman opined appellant has difficulty concentrating on what she is doing and that she has difficulty accepting the fact that pain over a number of years has moved out of the physical realm and into more of the feelings, memory and attitude aspect. Dr. Silverman stated appellant found it extremely difficult to accept the fact that emotional feelings contribute to her overall pain.

In an April 27, 1995 medical report, Dr. Silverman stated that appellant is physically able to return to work and that she is permanent and stationary. Dr. Silverman opined that appellant initially had developed a problem relative to her bilateral upper extremities, probably tenosynovitis which has since resolved. He stated that he did not feel that appellant's present condition relative to her hands and upper extremities is related to her job duties at the Post Office. Dr. Silverman stated that he feels that there is a heavy psychological component involved and possibly a psychological disability, which he would defer to the appropriate specialist.

By decision dated and finalized April 10, 1996, the Office hearing representative affirmed the Office's June 5, 1995 decision on the grounds that appellant no longer had any residual disability related to the work injury. The hearing representative accorded determinative weight to the reports of Dr. Hanker.

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits on June 5, 1995.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup> The Office has met its burden in this case.

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<sup>4</sup> *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

In the present case, the reports of Dr. Hanker, appellant's treating physician and a Board-certified orthopedic hand surgeon, constitute the weight of the rationalized medical evidence because they are based upon a complete and well-documented history of the condition,<sup>7</sup> and complete examinations of appellant, they are consistent and of reasonable medical certainty,<sup>8</sup> and were well rationalized and supported by physical evidence noted in the record.<sup>9</sup> Accordingly, the Office has discharged its burden of proof to justify termination of appellant's compensation after June 5, 1995.

In 1992, Dr. Zaccalini diagnosed the conditions affecting appellant's wrists, but failed to render an opinion on the causal relationship of appellant's condition.<sup>10</sup> Although in 1994, Dr. McBroom diagnosed "chronic traumatically induced on the job tenosynovitis of both wrists and fingers, like Dr. Zaccalini, he failed to provide a medical explanation of how the diagnosed conditions were related to appellant's employment.<sup>11</sup> Therefore, these opinions do not support appellant's continued disability and are, therefore, insufficient to overcome Dr. Hanker's well-rationalized report.

The 1995 medical reports, from Drs. Sharrin and Silverman support Dr. Hanker's opinion that appellant's reports of pain are not based on objective physical evidence. Each of these physicians note that appellant has a psychological component, which has impeded her recovery and restoration of function and indicated that she continued to be disabled by pain. Subjective complaints of symptoms unsupported by objective physical findings of disability diminish the probative value of the medical reports.<sup>12</sup> Therefore, the reports of Drs. Sharrin and Silverman do not support a continuing disability.

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<sup>7</sup> *William Nimitz, Jr.*, 30 ECAB 567 (1979).

<sup>8</sup> *See Morris Scanlon*, 11 ECAB 384 (1960).

<sup>9</sup> *See William E. Enright*, 31 ECAB 426 (1980).

<sup>10</sup> *Kathryn Haggerty*, 45 ECAB 383 (1994); *see* 20 C.F.R. § 10.110(a).

<sup>11</sup> *Id.*

<sup>12</sup> *See John L. Clark*, 32 ECAB 1618 (1981); *Charles D. Wallace*, 21 ECAB 347 (1970).

As the weight of the medical evidence of record supports that appellant does not have any continuing disability related to her June 1, 1988 work-related injury after June 5, 1995, the Office of Workers' Compensation Programs decision dated April 10, 1996 is affirmed.

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

George E. Rivers  
Member

David S. Gerson  
Member

A. Peter Kanjorski  
Alternate Member