

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELIZABETH PAULEY-WISNIEWSKA and U.S. POSTAL SERVICE,
POST OFFICE, Orlando, Fla.

*Docket No. 97-76; Submitted on the Record;
Issued February 18, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has established that she has a temporomandibular joint (TMJ) disorder causally related to her accepted 1981 employment injuries.

The Board has duly reviewed the case record and concludes that appellant has not met her burden of proof to establish that she has a TMJ disorder causally related to her accepted employment injuries.

This is the fifth appeal of this case.¹ By decision dated June 27, 1986,² the Board found that the report of the impartial medical specialist, Dr. Donald Mellman, a Board-certified neurosurgeon, established that there were no objective findings to support diagnoses of TMJ syndrome and occipital neuralgia. The Board also found that this report established that appellant had no residual disability causally related to her October 24 and November 17, 1981 employment injuries. The Board found, however, that Dr. Mellman's report did not address when the period of appellant's disability, causally related to her October 24 and November 17, 1981 employment injuries, ceased. The Board remanded the case to the Office to secure a supplemental medical report from Dr. Mellman addressing the period of appellant's disability. By decision dated December 19, 1986, the Office determined that appellant had no compensable disability on or after May 12, 1983.

¹ On October 26, 1981 appellant, then a 27-year-old mail carrier, filed a claim alleging that she sustained injury to her neck and back on October 24, 1981 while unloading a truck. The claim was accepted by the Office of Workers' Compensation Programs for a right shoulder strain. Appellant stopped work on October 30, 1981 and returned to limited duty on November 6, 1981. On November 17, 1981 appellant filed another claim alleging that she pulled muscles on her right side, neck, shoulder and back when she tripped on a curb and fell. The Office accepted this claim for shoulder strain and contusion.

² Docket No. 86-1115 (issued June 27, 1986).

On October 14, 1987 appellant again requested that the Board review the case. The Director thereafter requested that the Board remand the case to the Office as the supplemental reports obtained previously from Dr. Mellman were unrationalized and did not address all of the issues at hand, including whether appellant sustained TMJ disorder as a result of her employment injuries, and whether appellant had any continuing disability after May 12, 1983. By order dated March 29, 1988,³ the Board remanded the case to the Office for further development of the record, to be followed by a *de novo* decision.

On December 11, 1991 appellant appealed to the Board. By order dated May 18, 1992,⁴ the Board remanded the case to the Office for reconstruction and proper assemblage of the case record, to be followed by an appropriate decision. The Office denied modification of its prior order on December 22, 1992 and on April 25, 1994. Appellant again appealed to the Board.

By decision dated June 5, 1995,⁵ the Board remanded the case to the Office for further development of the medical evidence. The Board found that a conflict currently existed in the medical evidence regarding the diagnosis and causal relationship of the alleged TMJ disorder to appellant's accepted injuries and that therefore the case record should be referred to an impartial medical specialist for resolution of the conflict. On September 5, 1995 the Office denied appellant's claim on the grounds that the report of the impartial medical specialist constituted the weight of the medical evidence and established that appellant did not have TMJ disorder caused by her accepted employment injuries.

Upon remand, the Office referred appellant to Dr. Louis Monteleone, a specialist in oral and maxillofacial surgery, for an impartial medical evaluation. Based upon the report from Dr. Monteleone dated August 22, 1995, the Office again denied appellant's claim by decision dated September 5, 1995.

Where a case is referred to an impartial medical specialist for the purpose of resolving a conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background, must be given special weight.⁶

In his August 22, 1995 medical report, Dr. Monteleone related that appellant was a good historian and had given a detailed account of her employment injuries on October 24 and November 17, 1981. Dr. Monteleone related that intraoral examination revealed that appellant's tongue, oral mucosa, teeth, and intercanthal, interpupil and canthal to commissure distances were within normal limits. Dr. Monteleone stated that palpation of the preauricular and enaural regions elicited no pain and muscle strength of the masseter, temporles and pterygois, which were the main muscles controlling function of the lower jaw, were well within the normal range. He further related that an orthopantomogram revealed no fractures, dislocations or malunions of

³ Docket No. 88-0097 (issued March 29, 1988).

⁴ Docket No. 92-602 (issued May 18, 1992).

⁵ Docket No. 94-2067 (issued June 5, 1995).

⁶ *Harrison Combs, Jr.*, 45 ECAB 716 (1994).

the maxilla, mandible or association structures. Dr. Monteleone stated that one abnormal finding was the extensive bone reabsorption or periodontal disease of appellant's remaining teeth, with numerous wear facets. Dr. Monteleone reported that a magnetic resonance imaging (MRI) study performed on appellant on August 16, 1995 was read to be essentially normal, with possible slight minimal anterior displacement of the right-sided meniscus or jaw joint cartilage. The physician indicated that he had personally examined the MRI study and had found no abnormalities. Based upon his review of the medical record and his extensive examination of appellant, Dr. Monteleone concluded that appellant had not sustained injuries to her temporomandibular joint in her two work-related injuries of October 24 and November 17, 1981.

Dr. Monteleone thereafter explained his conclusion by noting that appellant had no direct facial trauma in her work-related injuries and she did not complain of headaches and facial pain until June 1982. Dr. Monteleone stated that TMJ dysfunction was commonly seen immediately after an injury and was accompanied by jaw joint dysfunction. Dr. Monteleone related that MRI studies revealed essentially normal temporomandibular joints, but appellant had sustained severe periodontal disease which had caused her to lose seven teeth. Appellant had undergone periodontal or gum surgery in the past to arrest her disease, to no avail. Furthermore, he noted that appellant had bruxism-teeth grinding at night. Dr. Monteleone opined that appellant's bruxism caused her periodontal or gum problems and contributed to her facial pain. Dr. Monteleone further explained that a combination of emotional stress and bruxism were known conditions which may cause myofascial pain dysfunction or facial pain, as well as certain intractable headache syndromes. He explained that when the masticator muscles were hyperactive due to grinding of the teeth and constant muscle clenching, bilateral head pain was produced. Eventually, the main lower jaw muscle, the masseter muscle, hypertrophies from hyperactivity and a vicious cycle ensues. Dr. Monteleone thus, with abundant medical rationale, related appellant's previous complaints to her periodontal disease and bruxism, based upon her medical examination and record, as well as appellant's own history. Finally, Dr. Monteleone related that appellant was pain free at the present time, with no evidence of TMJ dysfunction. As Dr. Monteleone was properly selected to act as an impartial medical specialist in this case, and as his report was based upon a proper factual background and was well rationalized, based upon appellant's history of injury, examination findings, and appellant's own description of her complaints, it constitutes the weight of the medical evidence. Appellant has therefore not met her burden of proof to establish that her TMJ disorder was causally related to her accepted employment injuries.

The decision of the Office of Workers' Compensation Programs dated September 5, 1995 is hereby affirmed.

Dated, Washington, D.C.
February 18, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member