

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of STEPHEN G. TIPPIT and DEPARTMENT OF AGRICULTURE,
MEAT POULTRY INSPECTION SERVICE, Greeley, Colo.

*Docket No. 96-1230; Submitted on the Record;
Issued March 24, 1998*

DECISION and ORDER

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

The issues are: (1) whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation benefits effective April 1, 1995 on the grounds that he had no further condition or disability due to his employment injury, aggravation of plantar fasciitis, after that date; and (2) whether the Office properly terminated appellant's authorization for medical treatment.

The Board has duly reviewed the case record in the present appeal and finds that the Office met its burden of proof to terminate appellant's compensation benefits effective April 1, 1995.

This case has previously been on appeal before the Board. In a decision dated November 8, 1993,¹ the Board found that the Office did not meet its burden of proof to terminate appellant's compensation effective May 3, 1992 and reversed the Office's June 10 and April 30, 1992 decisions. The Board noted that a conflict in medical opinion existed between appellant's attending physicians, Dr. Leslie Leppar and Dr. Brett P. Hunt, and the Office referral physician, Dr. Thomas Lloyd, regarding whether appellant had any further employment-related aggravation of his plantar fasciitis.

On February 25, 1994 the Office referred appellant, together with the case record and a statement of accepted facts, to Dr. Paul A. Stone, a podiatrist, for an impartial medical examination. Based on the opinion of Dr. Stone, the Office, by decision dated March 9, 1995, terminated appellant's compensation and authorization for medical benefits.

¹ Docket No. 93-135. The findings of fact and conclusions of law from the prior Board decision are hereby incorporated by reference.

Under the Federal Employees' Compensation Act,² when employment factors cause an aggravation of an underlying physical condition, the employee is entitled to compensation for the periods of disability related to the aggravation.³ However, when the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased.⁴ Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.⁵ The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.⁶ The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁷

In a report dated March 28, 1994, Dr. Stone discussed appellant's history of injury and resulting medical treatment, physical complaints, and findings on physical examination. Dr. Stone diagnosed "a chronic plantar insertional fasciitis with possible periostitis of the calcaneus, heel spur syndrome, gastrocnemius equinus bilaterally, and a pes cavovarus foot structure with limited flexibility." Dr. Stone opined that appellant's preexisting structural deformity of the foot combined with his weight "caused his condition to manifest as an insertional heel fasciitis secondary to standing on hard slippery floors." Dr. Stone further stated:

"The aggravation by work duties has ceased on the day when he stopped working. It is my understanding that he stopped working in August 1989 and hence the aggravating requirements of walking and standing on hard floors ceased on this date."

Where there exists a conflict in medical opinion and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, is entitled to special weight.⁸ The Board finds that Dr. Stone's opinion, which is based on a proper factual and medical history, is well rationalized and supports that appellant's temporary aggravation of his plantar fasciitis resolved by April 1, 1995, the date the Office terminated his compensation. Dr. Stone accurately summarized the relevant medical evidence, provided findings on examination, and reached conclusions regarding appellant's condition which comported with his findings.⁹ Dr. Stone provided medical rationale for his opinion by explaining the work factors which aggravated appellant's preexisting condition ceased when he stopped work. Accordingly,

² 5 U.S.C. §§ 8101-8193.

³ *Richard T. DeVito*, 39 ECAB 668, 673 (1988); *Leroy R. Rupp*, 34 ECAB 427, 430 (1982).

⁴ *Ann E. Kernander*, 37 ECAB 305, 310 (1986); *James L. Hearn*, 29 ECAB 278, 287 (1978).

⁵ *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

⁶ *Id.*

⁷ *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

⁸ *Leanne E. Maynard*, 43 ECAB 482 (1992).

⁹ *See Melvina Jackson*, 38 ECAB 443 (1987).

the Board finds that the Office discharged its burden of proof to justify termination of appellant's compensation after April 1, 1995.

The Board further finds that the Office properly terminated appellant's authorization for medical benefits effective April 1, 1995.

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.¹⁰ 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. The Office met this burden through the report of Dr. Stone, who found that appellant had no residual condition caused by his employment-related temporary aggravation of plantar fasciitis and provided rationale in support of that conclusion.

The decision of the Office of Workers' Compensation Programs dated March 9, 1995 is hereby affirmed.

Dated, Washington, D.C.
March 24, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

¹⁰ *Furman G. Peake*, 41 ECAB 361, 364 (1990).