

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GEORGE E. GAUTHIER and DEPARTMENT OF THE ARMY,
YUMA PROVING GROUND, Yuma, AZ

*Docket No. 99-970; Submitted on the Record;
Issued December 27, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

The issues are: (1) whether appellant has established an employment-related aggravation of a preexisting hip, back or knee condition; and (2) whether the Office of Workers' Compensation Programs properly determined that the accepted conditions of concussion, back strain and contusion and right hip contusion had resolved.

In the present case, appellant filed a claim alleging that on July 28, 1997 he sustained injuries when he slipped and fell while in the performance of duty. The Office accepted a right hip contusion, back strain, back contusion, concussion, left shoulder impingement and left shoulder tendinitis. Appellant stopped working on July 28, 1997.

By decision dated August 20, 1998, the Office determined that appellant's preexisting hip, low back and knee conditions were not aggravated by the July 28, 1997 employment injury. In a letter dated August 21, 1998, the Office advised appellant that it proposed to terminate his compensation with respect to the conditions of concussion, back strain, back contusion and right hip contusion.¹

By decision dated September 29, 1998, the Office determined that the accepted conditions of concussion, back strain, back contusion and right hip contusion had resolved. The Office terminated medical benefits with respect to these conditions.

The Board has reviewed the record and finds that appellant has not established an employment-related aggravation of a preexisting condition.

¹ The Office indicated that appellant remained entitled to wage loss and medical benefits for his left shoulder condition.

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim, including that a specific condition for which compensation is claimed is causally related to the employment injury.³

In the present case, appellant alleged that the July 28, 1997 employment injury aggravated preexisting conditions with respect to his hips, lower back and knees, but the medical evidence is not sufficient to meet appellant's burden of proof. In a report dated October 29, 1997, Dr. Lillian Muzyka, a family practitioner, stated that appellant had been diagnosed with moderately severe osteoarthritis of the left hip four years prior, which had progressed to involve the left kneecap. She stated that "this individual's debilitating course has been exasperated [sic] by the cited fall," without further explanation. In a report dated December 12, 1997, Dr. Muzyka noted that when appellant was seen on July 3, 1997, he was ambulating with a cane, but did not appear to be in excruciating pain, but after his employment injury he was in excruciating pain and had difficulty moving. She diagnosed "severe osteoarthritis of left hip and moderate osteoarthritis of the right hip that was aggravated by a fall at work." Dr. Muzyka's statement is of limited probative value in that she does not attempt to explain the nature and extent of an aggravation of preexisting hip condition, either for the left hip or the right hip. Medical opinions that are speculative and not supported by medical rationale are generally entitled to little probative value and are insufficient to meet appellant's burden of proof.⁴ The Board accordingly finds that the evidence is not sufficient to establish an aggravation of a preexisting hip condition. With respect to a preexisting back or knee condition, the record does not contain a reasoned medical opinion as to an aggravation by the July 28, 1997 employment injury. The Board also notes that the second-opinion referral physician, Dr. William E. Temple, an orthopedic surgeon, opined in his June 22, 1998 report, that there were no preexisting disabilities that had been aggravated by the employment injury. Therefore the Board finds that the medical evidence of record is not sufficient to establish an employment-related aggravation of a preexisting condition.

The Board further finds that the Office properly determined that residuals of the back strain, back contusion, concussion and right hip contusion had ceased.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation.⁵ 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.⁶

In this case, the Office referred appellant for examination by Dr. Temple. In a report dated June 22, 1998, Dr. Temple provided a history and results on examination. With regard to

² 5 U.S.C. §§ 8101-8193.

³ *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Carolyn F. Allen*, 47 ECAB 240 (1995).

⁵ *Patricia A. Keller*, 45 ECAB 278 (1993).

⁶ *Furman G. Peake*, 41 ECAB 361 (1990).

the concussion and contusions to the back and right hip, Dr. Temple found that these conditions had resolved. Dr. Temple diagnosis for the lower back was a minimal degenerative disc disease of the lumbar spine with no diagnosis of a back sprain and he concluded, that the only remaining employment-related conditions were related to the left shoulder and the May 1998 surgery.

The Board finds that Dr. Temple represents the weight of the evidence in this case. None of appellant's attending physicians provides an opinion that appellant continued to have residuals of a back sprain, back contusion, concussion, or right hip contusion. In a report dated June 2, 1998, Dr. Alan Horowitch, an orthopedic surgeon, reported low back pain radiating down the leg, but he did not provide a diagnosis or relate any back condition to the July 28, 1997 employment injury. The Board, therefore, finds that the Office met its burden of proof in determining that residuals had ceased with respect to the accepted back, hip and head injuries.

The decisions of the Office of Workers' Compensation Programs dated September 29 and August 20, 1998 are affirmed.

Dated, Washington, D.C.
December 27, 1999

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member