

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of LESTA M. ARMENTROUT and U.S. POSTAL SERVICE,  
MAIN POST OFFICE, Staunton, Va.

*Docket No. 98-2152; Submitted on the Record;  
Issued January 28, 1999*

---

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs met its burden of proof in terminating appellant's medical benefits effective May 29, 1998 on the grounds that she had no continuing disability or residuals of her accepted employment injury.

On November 7, 1995 appellant, then a 53-year-old distribution clerk, filed an occupational disease claim, alleging that she injured her back on November 3, 4, 5 and 6, 1995 while pushing heavy equipment up a loading ramp. Appellant stopped work on November 6, 1995 and returned to work on limited duty on November 7, 1995. On January 3, 1996 the Office accepted appellant's claim for lumbar strain. By decision dated May 29, 1998, the Office terminated appellant's medical benefits on the grounds that she had recovered from her accepted employment injury.

The Board has duly reviewed the entire case record on appeal and finds that the Office properly terminated appellant's medical benefits.

Under the Federal Employees' Compensation Act,<sup>1</sup> once the Office accepts a claim and pays compensation, it has the burden of justifying modification or termination of compensation.<sup>2</sup> After the Office determines that an employee has a disability causally related to his or her employment, the Office may not terminate compensation without establishing that its original determination was erroneous or that the disability has ceased or is no longer related to the employment injury.<sup>3</sup>

---

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> *William Kandel*, 43 ECAB 1011 (1992).

<sup>3</sup> *Carl D. Johnson*, 46 ECAB 804 (1995).

The fact that the Office accepts appellant's claim for a specified period of disability does not shift the burden of proof to appellant to show that he or she is still disabled. The burden is on the Office to demonstrate an absence of employment-related disability in the period subsequent to the date when compensation is terminated or modified.<sup>4</sup> Therefore, the Office must establish that appellant's condition was no longer aggravated by employment factors after May 29, 1998, and the Office's burden includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>5</sup>

In the present case, the Office terminated appellant's medical benefits based on the second opinion examination for the employing establishment of Dr. George A. Godette, an orthopedist, and Dr. Alan Richardson, appellant's treating physician and a Board-certified emergency physician. In a report dated February 25, 1997, Dr. Godette indicated that appellant had lumbar strain which resolved and appellant had chronic deconditioning of the paravertebral muscles of the lumbar spine with no evidence of radiculopathy or disc pathology. He reported that a soft tissue injury, such as appellant sustained, would resolve in a year and concluded that there was no basis for continued investigation or medical treatment of appellant's lumbar strain as it was resolved. Dr. Godette concluded that appellant could not return to her date-of-injury position due to the chronic deconditioning of her lumbar spine. In a report dated April 16, 1997, Dr. Richardson concurred with Dr. Godette's assessment that appellant's lumbar strain had resolved and that she needed no further investigations or medical treatments. He also agreed that appellant could not return to her date-of-injury position due to chronic back pain as a result of her lumbar chronic deconditioning. The reports by Drs. Godette and Richardson are sufficient to establish that appellant has no continuing disability due to her accepted employment injury of lumbar strain as it resolved and requires no further investigation or medical treatment. The record indicates that appellant's disability is due to the chronic deconditioning of her lumbar spine, unrelated to the accepted strain injury. Moreover, in this case, the Office, in accordance with the Federal (FECA) Procedure Manual, properly did not issue a pretermination notice as appellant's treating physician found that further medical treatment for the accepted employment injury was not necessary.<sup>6</sup> The Office has met its burden of proof in terminating appellant's medical benefits effective May 29, 1998 on the grounds that her employment injury had resolved.

---

<sup>4</sup> *Dawn Sweazey*, 44 ECAB 824 (1993).

<sup>5</sup> *Mary Lou Barragy*, 46 ECAB 781 (1995).

<sup>6</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowance*, Chapter 2.1400.6(d) (March 1997).

The decision of the Office of Workers' Compensation Programs dated May 29, 1998 is hereby affirmed.

Dated, Washington, D.C.  
January 28, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Michael E. Groom  
Alternate Member