

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CATHERINE B. GOODEN and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Birmingham, Ala.

*Docket No. 97-1059; Submitted on the Record;
Issued March 22, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issues are: (1) whether the Office of Workers' Compensation Programs properly terminated appellant's compensation benefits effective November 12, 1995; and (2) whether appellant met her burden of proof to establish that she had any disability after November 12, 1995 causally related to the August 2, 1990 employment injury.

The facts in this case indicate that on August 2, 1990 appellant, then a 46-year-old diagnostic radiologic technician, sustained an employment-related lumbosacral strain. She returned to light duty on August 8, 1990, missed intermittent periods thereafter until the light duty ended on January 6, 1992 at which time she was placed on the periodic rolls. Following further development, by letter dated August 27, 1993, the Office referred appellant, along with the medical record, a statement of accepted facts and a set of questions, to Dr. Carter E. Slappey, a Board-certified orthopedic surgeon, for a second opinion evaluation. Based on his reports, by letter dated July 31, 1995, the Office proposed to terminate appellant's compensation benefits. Appellant submitted medical evidence in response, and by decision dated October 18, 1995, the Office terminated her compensation, effective November 12, 1995, finding that the weight of the medical evidence rested with the opinion of Dr. Slappey. Appellant requested a hearing that was withdrawn and submitted additional medical evidence to the Office. By decision dated December 12, 1996, the Office denied modification of the prior decision, finding the evidence submitted insufficient to establish causal relationship. The instant appeal follows.

Initially, the Board finds that the Office met its burden to terminate appellant's compensation benefits.

Once the Office accepts a claim it has the burden of justifying termination or modification of compensation. After it has determined that an employee has disability causally related to his or her employment, the Office may not terminate compensation without establishing that the disability has ceased or that it was no longer related to the employment.¹

¹ See Patricia A. Keller, 45 ECAB 278 (1993).

The relevant medical evidence includes reports from appellant's treating Board-certified physiatrist, Dr. Regina P. Gilliland, who diagnosed chronic pain from fibromyalgia and, in a May 17, 1993 report, advised that appellant should return to work as soon as possible. Dr. Gilliland continued to submit reports in which she noted appellant's complaints of pain and tenderness. In an August 30, 1994 report, Dr. Slappey, who provided a second opinion for the Office, noted that he had examined appellant on August 27, 1993 and diagnosed status post cervical and lumbar strain and chronic pain syndrome. He recommended no further treatment and advised that she could return to her job as radiologic technician. By report dated April 3, 1995, Dr. Gilliland advised that appellant was not disabled from work due to her employment injury. She agreed with Dr. Slappey's findings and did not feel that appellant had a permanent partial impairment, concluding that she had found no objective findings to substantiate appellant's complaints. In a June 9, 1995 report, Dr. Gilliland discharged appellant from her care to follow up with her family physician.

As both appellant's treating physician, Dr. Gilliland, and Dr. Slappey, who provided a second opinion for the Office, advised that appellant could return to her previous employment, the Office met its burden of proof to terminate appellant's compensation benefits, effective November 12, 1995.

The Board further finds that appellant failed to establish that she had any continuing disability causally related to her accepted employment injury.

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to appellant to establish that she had disability causally related to her accepted injury.² To establish a causal relationship between the condition, as well as any attendant disability claimed, and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.³

The relevant evidence submitted by appellant subsequent to the October 18, 1995 Office decision⁴ includes a May 10, 1996 report from Dr. Raymond J. Browne, a Board-certified internist, who noted appellant's history of hypertension and fibromyalgia. He stated that appellant had refractory musculoskeletal pains and that he had referred her to an orthopedist for her carpal tunnel syndrome and to Dr. Mark Carter because of problems with thoracolumbar spasm.

² See *George Servetas*, 43 ECAB 424 (1992).

³ See 20 C.F.R. § 10.110(a); *Kathryn Haggerty*, 45 ECAB 383 (1994).

⁴ Appellant also submitted evidence previously of record, an unsigned report whose origin is unknown that includes diagnoses of fibromyalgia, carpal tunnel syndrome, C5-6 spondylosis, and cervical and lumbar degenerative disc disease, and an October 7, 1996 report from Dr. Gene L. Watterson, Jr., a Board-certified rheumatologist, who diagnosed polymyositis and carpal tunnel syndrome and checked the "yes" box indicating that the condition was employment related because it was "possibly aggravated by physical exertion." He concluded that appellant could not work.

Causal relationship is a medical issue,⁵ and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶ Medical evidence of bridging symptoms between the current condition and the accepted injury must support a physician's conclusion of a causal relationship.⁷

In this case, after the Office properly terminated appellant's compensation benefits, while she submitted additional medical evidence, none of the reports provided an opinion regarding the cause of her condition. As the record contains no evidence that appellant continued to be disabled after November 12, 1995 due to the August 2, 1990 lumbar sprain, the Office properly determined that she was not entitled to compensation benefits after that date.

The decision of the Office of Workers' Compensation Programs dated December 12, 1996 is hereby affirmed.

Dated, Washington, D.C.
March 22, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁶ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *See Leslie S. Pope*, 37 ECAB 798 (1986).