

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL J. JANUSESKI and DEPARTMENT OF VETERANS AFFAIRS,
SYRACUSE HOSPITAL, Syracuse, N.Y.

*Docket No. 97-1450; Submitted on the Record;
Issued March 11, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation benefits.

The Board has duly reviewed the case on appeal and finds that the Office met its burden of proof to terminate appellant's compensation benefits.

Appellant filed a claim alleging that, on June 14, 1991, he injured his right arm when a power drill twisted his wrist and arm. The Office accepted appellant's claim for medial nerve injury right hand on April 1, 1992. The Office entered appellant on the short-term rolls. By letter dated November 29, 1995, the Office proposed to terminate appellant's compensation benefits on the grounds that he was no longer disabled due to his accepted employment injury. The Office finalized this proposal by decision dated January 5, 1996 terminating appellant's compensation benefits effective January 7, 1996. Appellant requested an oral hearing and by decision dated January 9, 1997 and finalized January 10, 1997, the hearing representative affirmed the Office's decision.

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.¹ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.² Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.³ To

¹ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

² *Id.*

³ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

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.⁴

Appellant's attending physician, Dr. John W. Stetson, a Board-certified orthopedic surgeon, submitted several reports supporting appellant's continuing disability due to his accepted employment injury and recommending further testing. A magnetic resonance imaging scan on March 22, 1994 demonstrated minimal diffuse disc bulge at C3-4. On March 17, 1994 Dr. Stetson noted that appellant wished to change physicians and found that appellant was capable of light-duty work.

The Office referred appellant for a second opinion evaluation with Dr. Charles Woodhouse, a Board-certified orthopedic surgeon. In a report dated September 22, 1994, Dr. Woodhouse noted appellant's history of injury and performed a physical examination. He diagnosed chronic low back pain, left shoulder reconstruction, and chronic cervical pain and recommended that appellant undergo repeat electromyography (EMG) and nerve conduction velocity (NCV) studies. Appellant underwent these studies. In a report dated July 10, 1995, Dr. Woodhouse found that appellant had no further nerve involvement of the radial, median or ulnar nerves based on the EMG and NCV studies as well as physical examination. He stated that appellant had recovered completely from the June 1991 employment injury.

In this case, Dr. Woodhouse's report constitutes the weight of the medical opinion evidence. He was provided with a history of injury, conducted a physical examination and relied upon objective testing in concluding that appellant was no longer disabled due to his accepted employment injury. As there is no contrary medical evidence in the record, the Office met its burden of proof to terminate appellant's compensation benefits.

The decision of the Office of Workers' Compensation Programs dated January 9, 1997 and finalized January 10, 1997 is hereby affirmed.

Dated, Washington, D.C.
March 11, 1999

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ *Id.*