

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of MARJORIE J. PASQUALLE and PEACE CORPS,  
Washington, D.C.

*Docket No. 98-1541; Submitted on the Record;  
Issued May 3, 1999*

---

DECISION and ORDER

Before GEORGE E. RIVERS, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation benefits effective April 9, 1998.

In a decision dated April 8, 1998, the Office terminated appellant's compensation benefits on the grounds that the medical evidence established that her accepted back injury, resolving lumbar radiculopathy, had resolved without residuals.

The Board finds that the Office properly terminated appellant's compensation benefits.

It is well established that, once the Office accepts a claim, it has the burden of proof to justify termination or modification of compensation benefits.<sup>1</sup> 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.<sup>2</sup>

In a report dated January 5, 1998, Dr. Paul S. Lieber, a Board-certified physiatrist and Office referral physician, related appellant's history and symptoms and the findings of his physical examination on December 22, 1997. He reported that appellant had a history of herniated nucleus pulposus, L5-S1 on the right, and that she had made a marked improvement in her symptoms. He noted no objective findings of radiculopathy. Reflexes were normal and without atrophy of the musculature. There was no paravertebral muscular spasm. She had no sensory or motor findings. The straight leg-raising test was negative. Dr. Lieber recommended

---

<sup>1</sup> *Harold S. McGough*, 36 ECAB 332 (1984).

<sup>2</sup> *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

a repeat magnetic resonance imaging (MRI) scan of the lumbar spine to assess for resolution of the disc herniation.

In a follow-up report dated February 24, 1998, Dr. Lieber noted that an MRI taken on January 3, 1998 revealed evidence of a very mild degenerative disc disease but no evidence of disc herniation, canal or foraminal stenosis. “Based upon this information,” he stated, “it appears to me that [appellant] has made a full and complete recovery from the disc herniation which she sustained which predated the time of her alleged injury of October 25, 1996. She is able to work without restrictions. These are my opinions. They are stated within a reasonable degree of medical certainty.”

The Board finds that Dr. Lieber’s opinion represents the weight of the medical evidence of record. His opinion is based upon an accurate history and thorough examination, including a current MRI and is expressed to a reasonable degree of medical certainty. As the record contains no medical opinion evidence to the contrary, the Board finds that the Office properly terminated appellant’s compensation benefits based upon the medical opinion of Dr. Lieber.

The April 8, 1998 decision of the Office of Workers’ Compensation Programs is affirmed.

Dated, Washington, D.C.  
May 3, 1999

George E. Rivers  
Member

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member