

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOY F. MASSI and U.S. POSTAL SERVICE,  
POST OFFICE, Bellmawr, PA

*Docket No. 98-1097; Submitted on the Record;  
Issued October 5, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
MICHAEL E. GROOM

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 on May 7, 1996 alleging that she injured her left shoulder in the performance of duty. The Office accepted appellant's claim for a left shoulder strain. Appellant returned to light-duty work on August 9, 1996. The Office notified appellant that it proposed to terminate her compensation benefits on February 6, 1997. By decision dated March 18, 1997, the Office terminated appellant's compensation benefits effective March 11, 1997. By decision dated November 20, 1997, an Office hearing representative affirmed the Office's March 11, 1997 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.<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> Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.<sup>3</sup> To

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<sup>1</sup> *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

<sup>2</sup> *Id.*

<sup>3</sup> *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.<sup>4</sup>

In this case, appellant's attending physician, Dr. Michael J. Voyack, an osteopath, completed work restriction evaluations on October 7 and 24, 1996 and indicated that appellant could return to work, but restricted her lifting to five pounds for two hours a day. The employing establishing indicated that appellant's regular-duty position required lifting up to 25 pounds intermittently for two hours a day.

In a report dated December 27, 1996, Dr. Voyack reviewed his notes from September 25, 1996. He stated that on October 7, 1996 appellant had full range of motion of the left elbow and shoulder without restriction.<sup>5</sup>

The Office referred appellant for a second opinion evaluation with Dr. Steve Valentino, an osteopath. In a report dated December 30, 1996, Dr. Valentino noted appellant's history of injury and noted that she reinjured her left shoulder on November 7, 1996. He found normal range of motion in the shoulders, wrists and hands. Dr. Valentino stated that appellant's shoulder examination was negative for instability or impingement and that the remainder of her shoulder examination was normal. He diagnosed resolved sprain of the left shoulder and stated that appellant had completely recovered from her work injuries. Dr. Valentino stated that appellant was not needful of supervised medical care and was capable of gainful employment without cause for physical restrictions. In a supplemental report dated January 30, 1997, Dr. Valentino noted reviewing appellant's medical records and a statement of accepted facts, he stated that his opinions remained the same.

In a report dated August 15, 1997, Dr. Nicholas P. Diamond, an osteopath, noted appellant's accepted employment injuries. However, Dr. Diamond did not address the two additional work injuries alleged by appellant in her statements to Drs. Voyack and Valentino. Dr. Diamond found bicipital groove tenderness in the left shoulder and normal range of motion. He offered an opinion on appellant's permanent impairment.

The Board finds that Dr. Valentino's reports represent the weight of the medical opinion evidence. He relied on a proper history of injury, performed a physical examination and found that appellant had no objective physical findings supportive of continued disability causally related to her accepted employment injury. Dr. Valentino indicated that appellant could return to work without restrictions. In his December 27, 1996 report, Dr. Voyack indicated that prior to appellant's alleged employment injury in November 1996 she had full range of motion in her shoulder without restrictions. These reports establish that appellant had no residuals or disability

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<sup>4</sup> *Id.*

<sup>5</sup> Dr. Voyack noted that appellant had sustained two additional work injuries. He noted that appellant reported on November 8, 1996 that she reinjured her left shoulder at work pulling out a heavy mail tray. Appellant then developed back pain on November 29, 1996. As the record does not include final decisions from the Office regarding, these claims for new traumatic injuries, the Board may not consider them for the first time on appeal. 20 C.F.R. § 501.2(c).

causally related to her accepted employment injuries and the Office properly terminated her compensation benefits.<sup>6</sup>

The decisions of the Office of Workers' Compensation Programs dated November 20 and March 18, 1997 are hereby affirmed.

Dated, Washington, D.C.  
October 5, 1999

George E. Rivers  
Member

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

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<sup>6</sup> The Office has not issued a final decision regarding appellant's request for a second award. Therefore, the Board may not address this issue for the first time on appeal. 20 C.F.R. § 501.2(c).