

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HARRIETT A. CHARLES and U.S. POSTAL SERVICE,
POST OFFICE, Dallas, TX

*Docket No. 97-352; Submitted on the Record;
Issued September 24, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation benefits effective March 3, 1996.

On October 31, 1989 appellant, then a 30-year-old distribution machine clerk, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that on September 25, 1989 she first realized that her carpal tunnel syndrome and tendinitis in her right wrist were due to her federal employment.¹ The Office accepted the claim for tenosynovitis of the right wrist, bilateral carpal tunnel syndrome, bilateral ulnar palsy and depression due to pain. The Office approved surgery for release of carpal tunnel. Appellant was on the periodic rolls for temporary total disability on December 13, 1992. She has not worked since April 22, 1991.

On July 25, 1991 appellant filed a claim alleging that on June 6, 1991 she realized her stress was due to her employment.² The Office accepted appellant's claim for depression.

By letter dated August 22, 1995, the Office referred appellant for a second opinion together with medical records to Dr. Alipio Mascarenhas, a Board-certified psychiatrist and neurologist, to determine whether she still suffered psychiatric residuals from her accepted employment injury.

By letter dated August 22, 1995, the Office referred appellant for a second opinion together with medical records, to Dr. Bernie McCaskill, a Board-certified orthopedic surgeon, to determine whether she suffered residuals of her accepted employment injury.

¹ This was assigned claim number A16-166530.

² This was assigned claim number A16-193810. This claim was accepted for depression and compensation paid from April 22, 1991 to September 18, 1992.

In a report dated August 30, 1995, Dr. McCaskill, based upon a review of the medical record and physical examination, indicated that appellant was capable of returning to her preinjury position. Based upon a physical examination, he noted that appellant had full range of motion of her cervical spine and both upper extremities. Dr. McCaskill further noted that there were “no abnormal neurological findings in either lower extremity.” In support of his opinion, Dr. McCaskill noted that the diagnostic studies done prior to appellant’s surgery were contradictory and that none had been done since her surgery. He stated that appellant’s “previously diagnosed bilateral carpal tunnel syndrome and bilateral ulnar nerve palsy is neither currently active or disabling” based upon the objective evidence. Dr. McCaskill also stated that he saw “no objective basis to say that the patient has any permanent physical impairment resultant from the injuries in question” and based his conclusion “upon the patient’s lack of abnormal physical findings consistent with a significant residual injury.” In addition, Dr. McCaskill noted that appellant had “absolutely no abnormal physical findings and no physical findings suggestive of a significant musculoskeletal or neurological injury to the right upper extremity.” He stated that appellant did not have “a significant injury of any type at this time” and that appellant’s “extreme and persistent complaints are related to emotional and motivational issues rather than physical injury.” Lastly, Dr. McCaskill opined that there was no objective evidence to support that appellant had any permanent physical impairment due to her employment injuries.

In a report dated August 30, 1995, Dr. Mascarenhas opined that appellant’s depression was due to her pain and the limitations imposed by her accepted employment injury. He opined that appellant was disabled due to the pain caused by her employment injury and that she was unable to return to work in her former position. Dr. Mascarenhas opined that appellant was capable of performing a limited-duty position.

By letter dated October 6, 1995, the Office referred appellant, together with a statement of accepted facts and medical records, to Dr. William T. Moore, a Board-certified psychiatrist, for a second opinion.

In an October 30, 1995 report, Dr. Moore opined that appellant’s depression was directly related to the pain caused by her accepted employment injury. He also indicated that “it would be rather dysfunctional” to return appellant to her former employment environment.

By decision dated November 24, 1995, the Office found that appellant’s orthopedic conditions had resolved, but that compensation for her work-related depression would continue.

By letters dated December 6 and 7, 1995, the Office requested clarification from Dr. Moore regarding the emotional factors which were preventing appellant from returning to work.

In response to the Office’s December 6, 1995 letter, Dr. Moore stated:

“The hostile feelings and fears are not a one way experience. She has experienced hostile feelings from some at the [employing establishment]. There has been discrimination against her because of the special needs she has had. She is physically unable to do the distribution work even though the orthopedic

physician cannot find physical disability. Even if there is a conversion disorder where no physical findings can be elicited there is still the disability in functioning.

“She is physically disabled to function. This will necessitate special treatment at the [employing establishment]. Special treatment will be resented by her and by post office employees. The hostile destructive environment will be reconstructed. Symptoms will be maintained.”

On January 24, 1996 the Office advised appellant of its proposal to terminate compensation and medical benefits it had determined that she no longer suffered from residuals on her accepted left carpal tunnel syndrome, right wrist tenosynovitis and bilateral ulnar palsy. The Office also informed appellant that it had determined that her depression was no longer causally related as she no longer suffered from physical residuals from her employment injury.

By decision dated February 27, 1996, the Office finalized the termination of appellant’s benefits effective March 3, 1996.

By decision dated April 23, 1996, the Office denied appellant’s reconsideration request.

By decision dated August 6, 1996, the Office denied appellant’s second reconsideration request.

The Board finds that the Office has not met its burden of proof to terminate appellant’s compensation effective March 3, 1996.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits by establishing that the accepted disability had ceased or that it is no longer related to the employment.³ Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement to disability compensation.⁴ The Office must establish that the claimant no longer has residuals of an employment-related condition requiring further medical treatment in order to terminate authorization for medical treatment.⁵

In the present case, the Office accepted that appellant had tenosynovitis of the right wrist, bilateral carpal tunnel syndrome, bilateral ulnar palsy and depression due to pain and paid appropriate compensation benefits. The Office, therefore, has the burden of proof to justify termination of compensation for those conditions.

The Office terminated appellant’s compensation, including authorization for further medical treatment, effective March 3, 1996, because it found that her employment-related

³ *Patricia A. Keller*, 45 ECAB 278 (1993); *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

⁴ *Furman G. Peake*, 41 ECAB 492, 498 (1990).

⁵ *Id.*

disability had ceased. The Office found that Dr. McCaskill's report constituted the weight of the evidence. The Board, however, finds that Dr. McCaskill's August 30, 1995 report neither establishes that appellant's employment-related disability ceased by March 3, 1996 nor that appellant's employment-related residuals had ceased.

In an August 30, 1995 report, Dr. McCaskill opined that appellant had no objective disability related to her upper extremities and that she was capable of returning to her employment. His opinion, however, consists of a conclusory statement without supporting rationale. Thus, Dr. McCaskill failed to provide a reasoned medical opinion explaining why appellant's employment-related disability had ceased and unsupported medical opinions are of diminished probative value.⁶

In the instant case, the Office terminated appellant's compensation for her September 25, 1989 employment injury based upon an unrationalized medical report that failed to discuss the accepted employment injury. The Board, therefore, finds that the Office has not met its burden of proof to terminate appellant's compensation effective March 3, 1996.

The decision of the Office of Workers' Compensation Programs dated August 6, April 23 and February 27, 1996 are reversed.

Dated, Washington, D.C.
September 24, 1999

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

⁶ See *Leon Harris Ford*, 31 ECAB 514, 518 (1980); *Neil Oliver*, 31 ECAB 400, 404 (1980); *Leontine F. Lucas*, 30 ECAB 925, 928 (1979). The Board notes that Dr. McCaskill did not explain whether appellant had any residuals related to her accepted condition of tenosynovitis of the right wrist.