

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of CHRISTINE EADES and DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE, Detroit, MI

*Docket No. 98-203; Submitted on the Record;  
Issued September 13, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issues are: (1) whether the Office of Workers' Compensation Programs properly terminated appellant's compensation benefits effective April 8, 1996; and (2) whether appellant met her burden of proof to establish that she had any disability after April 8, 1996 causally related to her employment injury.

On July 15, 1986 appellant, then a 40-year-old microfiche equipment operator, sustained an employment-related lumbosacral sprain with ruptured disc at L3-4 and L4-5 and protruding disc at L5-S1. She stopped work on July 23, 1986, returned on July 19, 1987 and sustained a recurrence of disability on July 22, 1987. Appellant's treating Board-certified orthopedic surgeon, Dr. Wallace E. Johnson, continued to opine that she was totally disabled, and on August 9, 1994 the Office referred appellant to Dr. L. James Roy, a Board-certified orthopedic surgeon, for a second opinion evaluation. Finding that a conflict in the medical opinion evidence existed between the opinions of Drs. Johnson and Roy, by letter dated December 12, 1994, the Office referred appellant to Dr. Michael E. Kosinski, also Board-certified in orthopedic surgery. Based on Dr. Kosinski's opinion, by letter dated March 1, 1996, the Office proposed to terminate appellant's compensation benefits and, by decision dated April 8, 1996, terminated her compensation, effective that day. On April 29, 1996 appellant requested a review of the written record and submitted additional medical evidence to the Office. By decision dated September 18, 1996, an Office hearing representative affirmed the prior decision. On April 8, 1997 appellant requested reconsideration and submitted additional medical evidence. In a July 8, 1997 decision, the Office denied modification of the prior decision. The instant appeal follows.

Initially, the Board finds that the Office met its burden of proof 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.<sup>1</sup>

In situations where there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.<sup>2</sup> Here the Office determined that a conflict of medical opinion existed between appellant's treating physician, Drs. Johnson and Roy, who provided a second opinion evaluation for the Office. To resolve the conflict, the Office referred appellant, along with a set of questions, the statement of accepted facts and the medical record, to Dr. Michael E. Kosinski, a Board-certified orthopedic surgeon, who submitted a number of reports.

In a January 10, 1995 report, Dr. Kosinski noted that appellant has congenital transitional vertebrae with the presence of four lumbar vertebrae and diagnosed degenerative disc disease of the dorsal and lumbar spines and obesity. He advised that straight leg raise was negative for any radicular pain, stating that the type pain she described was not consistent with radicular pain secondary to nerve root impingement and concluded that he saw no evidence of a traumatically-induced lesion of the back that could be causing symptoms. After review of a February 20, 1991 magnetic resonance imaging (MRI) scan, he again advised that his examination did not reveal evidence of nerve root involvement, stating that her complaints were more consistent with diabetic neuropathy. He concluded that there was no evidence of any orthopedic problem or disability that would prevent her from working, as long as she avoided heavy lifting or repetitive bending. By report dated July 25, 1995, Dr. Kosinski noted that electromyographic study of the back and lower extremities, performed on July 11, 1995 at his request, revealed no evidence of lumbar radiculopathy or diabetic radiculopathy and was consistent with his clinical examination. Finally, in an October 10, 1995 report, he discussed appellant's MRI findings and reiterated his conclusion that at the time of his examination there were no clinical findings of nerve root impingement or radiculopathy and, thus, no evidence of ongoing clinical symptoms relating to her disc condition.

As Dr. Kosinski's reports are well rationalized and are, therefore, deserving of special weight,<sup>3</sup> the Board finds appellant had no employment-related disability on or after April 8, 1996, and the Office met its burden of proof to terminate appellant's compensation benefits on that date.

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

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<sup>1</sup> See *Patricia A. Keller*, 45 ECAB 278 (1993).

<sup>2</sup> See *Kathryn Haggerty*, 45 ECAB 383 (1994); *Edward E. Wright*, 43 ECAB 702 (1992).

<sup>3</sup> *Id.*

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to her to establish that she had disability causally related to the accepted injury.<sup>4</sup> 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.<sup>5</sup>

With her request for reconsideration on April 8, 1997 appellant submitted an October 11, 1996 report of a computerized tomography (CT) scan of the lumbar spine that revealed severe degenerative disc disease at L4-5 with disc bulging and possible left neural foraminal stenosis secondary to lateral extrusion of disc material. She also submitted a January 30, 1997 report from Dr. Johnson who stated that "if anything", the CT scan indicated that there was some progression of deterioration at L4-5. He concluded that appellant was still totally disabled due to the 1986 employment injury.

Causal relationship is a medical issue,<sup>6</sup> 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.<sup>7</sup> Medical evidence of bridging symptoms between the current condition and the accepted injury must support a physician's conclusion of a causal relationship.<sup>8</sup>

In this case, after the Office properly terminated appellant's compensation benefits, while she submitted additional medical evidence, the CT scan report contains no opinion regarding the cause of appellant's condition, and Dr. Johnson merely reiterated his conclusion that appellant continued to be disabled. An additional report from appellant's physician, which essentially repeats his earlier findings and conclusions is insufficient to overcome the weight accorded to an impartial medical examiner's report where, as here, appellant's physician had been on one side of the conflict in the medical opinion that the impartial medical examiner resolved.<sup>9</sup> As the record contains no evidence that appellant continued to be disabled after April 8, 1996 due to the accepted conditions, the Office properly determined that she was not entitled to compensation benefits after that date.

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<sup>4</sup> See *George Servetas*, 43 ECAB 424 (1992).

<sup>5</sup> See 20 C.F.R. § 10.110(a); *Kathryn Haggerty*, *supra* note 2.

<sup>6</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>7</sup> *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>8</sup> See *Leslie S. Pope*, 37 ECAB 798 (1986).

<sup>9</sup> *Thomas Bauer*, 46 ECAB 257 (1994).

The decision of the Office of Workers' Compensation Programs dated July 8, 1997 is hereby affirmed.

Dated, Washington, D.C.  
September 13, 1999

Michael J. Walsh  
Chairman

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member