

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARY DIXON and GENERAL SERVICES ADMINISTRATION,
FEDERAL SUPPLY SERVICE, ROUGH & READY ISLAND, Stockton, CA

*Docket No. 00-296; Submitted on the Record;
Issued December 8, 2000*

DECISION and ORDER

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

The issue is whether appellant has any continuing disability on or after November 7, 1998 causally related to her February 12, 1969 employment injury.

The Board has duly reviewed the case on appeal and finds that appellant has no continuing disability on or after November 7, 1998 causally related to her February 12, 1969 employment injury.

Appellant, a warehouse worker, filed a claim alleging that on February 12, 1969 she injured her left leg pulling a cart when her heel got caught on back of the cart and cut the back of her left heel and leg. The Office of Workers' Compensation Programs accepted appellant's claim for a laceration over the Achilles tendon, left, with partial rupture. Appellant initially lost no time from work due to the injury, but she lost her position with the employing establishment due to a reduction-in-force in January 1970. The Office entered appellant on the periodic rolls on August 21, 1972. The Office granted appellant schedule awards totaling 40 percent impairment of her left lower extremity.

The Office provided appellant with a notice of proposed termination on October 5, 1998. Appellant responded on October 25, 1998, but submitted no new medical evidence. By decision dated November 4, 1998, the Office terminated appellant's compensation benefits effective November 8, 1998. Appellant requested an oral hearing. By decision dated July 12, 1999 and finalized July 14, 1999, the hearing representative affirmed the Office's November 4, 1998 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

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

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 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

In this case, appellant's attending physician, Dr. Coleman Citret completed a series of reports stating that appellant was totally disabled and that her condition had not changed. The most recent report is dated February 13, 1984. Appellant submitted reports from Dr. James H. Buckingham, a general practitioner, beginning April 8, 1988. Dr. Buckingham found that appellant was totally disabled and diagnosed coronary insufficiency, hypertension, hiatal hernia, asthma, chronic low back syndrome, diabetes and osteoarthritis, conditions not accepted by the Office as employment related

The Office asked that Dr. Buckingham address appellant's employment-related disability. In a form report dated April 29, 1998, he noted appellant had pain in her left knee and ankle. On November 6, 1996 Dr. Buckingham diagnosed diabetes mellitus, arthritis right knee, multiple musculoskeletal problems, asthma, hypertension, chronic low back syndrome and coronary insufficiency. He found appellant totally disabled.

The Office referred appellant for a second opinion evaluation with Dr. Gerald Barnes, a Board-certified orthopedic surgeon. On June 8, 1998 Dr. Barnes reviewed the statement of accepted facts and performed a physical examination of appellant. He noted that appellant walked with a cane and limp and that without her cane appellant walked with a bizarre gait flailing her arms. He noted that appellant had no tenderness about the Achilles tendon, that plantar flexion of both ankles was equal, that on the left dorsiflexion was to neutral and that appellant claimed that she could not hold the foot up with resistance. Dr. Barnes diagnosed healed laceration of the left Achilles tendon. He found no objective evidence of residuals of the 1969 injury and no disability as a result of the February 12, 1969 employment injury. He stated that appellant had sustained multiple subsequent injuries unrelated to her employment injury and that, although she had no physical limitations from the accepted employment injury, she was disabled due to diabetes, hypertension and cardiac disease.

The Board finds that Dr. Barnes' report is based on a proper history of injury, provides detailed physical findings and medical reasoning that appellant is no longer disabled due to her accepted laceration of the left Achilles tendon in 1969. As Dr. Barnes provided a thorough examination of appellant and found that she had no objective evidence of residuals of the 1969 injury, the Board finds that his report is entitled to the weight of the medical evidence of record and that the Office properly relied on this report in terminating appellant's compensation benefits.

² *Id.*

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

⁴ *Id.*

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to appellant to establish that she had disability causally related to her accepted employment injury.⁵ To establish a causal relationship between the condition, as well as any disability claimed and the employment injury, the employee must submit rationalized medical opinion evidence, based on a complete factual background, supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁶

Appellant submitted additional new evidence following the Office's November 4, 1998 decision. She submitted a series of treatment notes from Dr. Frank M. DeMayo, a Board-certified orthopedic surgeon, beginning on November 19, 1998. He found left posterior knee pain and diagnosed hamstring tendinitis. In a January 14, 1996 note, Dr. DeMayo found pain in the left lower extremity. On February 25, 1999 he noted appellant's pain in the left leg down to the Achilles tendon. Dr. DeMayo's March 11, 1999 treatment note indicated that appellant experienced discomfort in the left leg with fasciculations in the calf since 1969. He recommended electrolyte studies. Dr. DeMayo reported on March 23, 1999 that appellant had pain in the left posterior thigh and calf and some numbness in the medial aspect of her foot. He stated that appellant had this problem since the 1969 employment injury. In a May 5, 1999 report, Dr. DeMayo found pain in the left leg especially the posterior calf and Achilles tendon area. On May 25, 1999 Dr. DeMayo stated that appellant had pain in her left leg and that her whole leg swells. He noted tenderness in the hamstrings and proximal gastroc-soleus area at the posterior aspect of the knee. Dr. DeMayo found that appellant's condition was permanent and stationary.

These notes are not sufficient to meet appellant's burden of proof as Dr. DeMayo did not provide medical reasoning explaining how the Achilles tendon injury in 1969 would result in pain in the thigh and calf or in pain in the foot in 1998 and 1999. He did not provide a description of appellant's employment injury and did not provide any medical reasoning explaining how or why such an injury would continue to result in residuals and disability 20 years later. Without a detailed medical report providing a history of injury, review of the medical records and a clear opinion on the causal relationship between any current left leg condition or disability and appellant's 1969 employment injury, appellant has not submitted sufficient medical evidence to establish continuing disability.

⁵ *George Servetas*, 43 ECAB 424, 430 (1992).

⁶ *James Mack*, 43 ECAB 321 (1991).

The July 14, 1999 and November 4, 1998 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
December 8, 2000

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member