

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HASSAN ALI and PEACE CORPS, WORKERS'
COMPENSATION MANAGER, Washington, DC

*Docket No. 00-483; Submitted on the Record;
Issued August 16, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
PRISCILLA ANNE SCHWAB

The issue is whether the Office of Workers' Compensation Programs properly terminated compensation effective July 15, 1999.

The Office accepted appellant's claim for vestibular syndrome with headache and vertigo, asymptomatic parasitic infestation and resolved giardiasis.

In a report dated February 17, 1998, Dr. Stanford K. Shu, a neurologist, considered appellant's history of injury, performed a physical examination and stated that appellant continued to have vertigo which appeared to be nonneurologic in origin. He recommended that a head magnetic resonance imaging (MRI) scan be obtained.

In a report dated August 4, 1998, Dr. Tony K. Chow, an emergency medical specialist, examined appellant in the emergency room, noted multiple complaints including vertigo for the past 10 months, and reviewed an MRI scan which was normal. Dr. Chow stated that appellant's "was a very difficult and unusual case" and that appellant's etiology was "not completely clear."

Dr. Chow stated that, when he entered the room, appellant seemed to clutch at his abdomen and complain of shaking as well as difficulty walking but when he observed appellant from outside the room, appellant was "noted to be quite comfortable." He observed appellant "get out of bed, walk around the room and fix his bed, specifically putting together the sheets in a more neat fashion." Dr. Chow added that it was not "completely clear what [appellant's] symptoms are because his only complaint is vertigo although he states that he has multiple complaints without being more specific."

In a report dated August 10, 1998, Dr. Shu stated that appellant reported symptoms of five different kinds of vertigo. On examination appellant screamed at one point while trying to move his arms to a 90 degree position and stated that he was not in pain but it required that much effort to move his arms. Dr. Shu stated that appellant, however, was able to reach down to his

bag and lift a medium-sized heavy notebook without effort and without any yelling or screaming. He added that appellant had exaggerated his reflexes when his patella was tapped.

Dr. Shu diagnosed possible somatization disorder versus malingering. Appellant claimed to have severe bouts of vertigo lasting up to five days at a time but that was not physiologically possible. He stated that appellant had multiple pseudo-neurologic findings during the examination such as nervous jerking movements and weakness in moving his limbs.

In a report dated March 9, 1998, Dr. Ingrid K. Bloomquist noted that appellant had entamoeba coli in the stool and diagnosed headache and vertigo, whose etiology was not yet established. Dr. Bloomquist stated that it was unclear whether appellant's disease was caused or aggravated by his employment. She added that, because appellant had no otosyphilis or unusual tropical illness accounting for his condition, it "revert[ed] to an otolaryngology problem."

In a report dated September 10, 1998, Dr. Bloomquist considered appellant's multiple complaints of disequilibrium, vertigo, nausea and vomiting. She noted that appellant frequently stopped speaking, grimaced, waited a moment as if he was having some kind of unpleasant sensation and then continued speaking. Dr. Bloomquist stated that, after dropping some papers on the floor, appellant bent way over three times to arrange them and picked them up without difficulty or facial grimacing suggesting any disequilibrium or vertiginous sensation. She stated that there was no clinical evidence to support appellant's complaints other than his abdominal complaints, which had been confirmed as in the past helicobacter.

In a report dated February 23, 1999, Dr. Ralph A. Nelson, a Board-certified otolaryngologist, considered appellant's history of injury, performed a physical examination and reviewed an audiogram dated January 21, 1999. He stated that subjectively appellant developed dizziness and seizure-like episodes of chronic spasms as a result of a loud noise exposure in Senegal in January 1997. Dr. Nelson stated that, objectively, appellant had frequent "episodes" of muscle spasms during the examination, which made the examination "very difficult." He stated that there was a certain amount of hyperventilation but he did not think the muscle spasms were secondary to that symptom. Dr. Nelson stated that appellant's hearing was excellent, and electronystagmography showed normal responses to caloric stimulation and positioning but distinctly abnormal tracking.

Dr. Nelson concluded that appellant's noise exposure was not responsible for his symptoms. He stated that the description of his exposure was subtraumatic and objectively did not result in loss of hearing which would "certainly have been evident before vestibular damaged was encountered." Dr. Nelson diagnosed dizziness and muscle spasm and stated that appellant's complaints of dizziness were not related to the work injury.

On June 11, 1999 the Office proposed terminating medical benefits, stating that the weight of the medical evidence established that appellant had no continuing residuals from the accepted conditions. Appellant responded, indicating that Dr. Cameron J. Johnson, a psychiatrist, had prescribed four psychological tests to determine the nature of appellant's condition and that "Dr. Walter" wanted to perform an endoscopy on him to determine if his stomach condition had resolved.

By decision dated July 15, 1999, the Office terminated appellant's compensation and medical benefits, stating that the weight of the medical evidence established that appellant had no residuals and was no longer disabled due to the work injury of January 6, 1997.

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits effective July 15, 1999.

Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits. After it has determined that an employee has disability or a condition causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability or condition has ceased or that it is no longer related to the employment.¹ The Office's burden of proof includes the necessity of furnishing rationalized medical evidence based on a proper factual and medical background.²

In this case, none of the evidence of record establishes that appellant's medical conditions and continuing disability is work related. Dr. Shu opined that appellant's vertigo appeared to be nonneurologic in origin because his episodes lasted up to two and one half days, which did not occur with neurologic disorders. He diagnosed somatization disorder and reiterated that it was not physiologically possible for appellant's severe bouts of vertigo to last up to five days as appellant claimed. Dr. Shu stated that appellant had pseudoneurologic findings as revealed in his nervous jerking movements and weakness on physical examination.

Dr. Chow found that the etiology of appellant's vertigo was not clear and concluded that his pain behavior in the emergency room when being observed was inconsistent with his actions when he thought he was alone. He noted that it was not completely clear what appellant's symptoms were.

Dr. Bloomquist diagnosed headaches and vertigo but stated that the etiology was not yet established. She stated that it was unclear whether appellant's disease was caused or aggravated by his employment. She added that there was no clinical evidence to support appellant's complaints other than the diagnosis of helicobacter, which was confirmed in the past.

Dr. Nelson diagnosed dizziness and muscle spasm but stated that the dizziness was not related to appellant's work injuries and that appellant's noise exposure was not responsible for appellant's symptoms.

Drs. Shu, Chow and Bloomquist were unable to determine the cause of appellant's symptoms of headache and dizziness. None of them found any objective evidence for appellant's complaints, and Dr. Chow stated that the MRI scan was normal. Dr. Bloomquist stated that appellant did not seem to have any otosyphilis or unusual tropical illness. Dr. Nelson found that appellant's audiogram was normal. He opined that appellant's dizziness and spasms were not related to the work injury and that appellant's noise exposure was not responsible for his symptoms. None of these doctors and no other medical evidence of record establish that

¹ *Wallace B. Page*, 46 ECAB 227, 229-30 (1994); *Jason C. Armstrong*, 40 ECAB 907, 916 (1989).

² *Larry Warner*, 43 ECAB 1027, 1032 (1992); *see Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

appellant's ongoing symptoms of dizziness and headaches were related to his employment. The weight of the medical evidence indicating that appellant had no work-related condition justifies the Office's termination of benefits.

The decision of the Office of Workers' Compensation Programs dated July 15, 1999 is hereby affirmed.

Dated, Washington, DC
August 16, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

Priscilla Anne Schwab
Alternate Member