

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JUDITH L. CRUMRINE and U.S. POSTAL SERVICE,
POST OFFICE, Washington, PA

*Docket No. 00-2765; Submitted on the Record;
Issued July 16, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation benefits effective December 4, 1999 on the grounds that appellant no longer had any residuals of her November 25, 1997 employment injury.

On November 25, 1997 appellant, then a 38-year-old rural letter carrier, filed a traumatic injury claim alleging that on that date she sustained a left ankle sprain when she stepped out of her long-life postal vehicle on her left foot and her left ankle twisted and cracked, and she fell.

The Office accepted appellant's claim for a left ankle sprain/strain and authorized left ankle ligament repair, which was performed on June 11, 1998. Appellant received appropriate compensation for her temporary total disability beginning June 11, 1998.¹

By letter dated January 27, 1999, the Office referred appellant along with medical records, a statement of accepted facts and a list of specific questions to Dr. Robert Yanchus, a Board-certified orthopedic surgeon, for an examination.

Dr. Yanchus submitted a February 8, 1999 report finding that appellant could perform light-duty work accompanied by a work capacity evaluation indicating appellant's physical restrictions. He stated that appellant should undergo magnetic resonance imaging of the lumbar spine to confirm that her current ankle symptoms were caused by her back condition. Dr. Yanchus further stated that, if this test did not confirm his opinion, then he recommended that appellant should undergo an electromyogram and if necessary a myelogram/computerized tomography scan. In a supplemental report dated March 4, 1999, Dr. Yanchus stated that appellant's test results were normal and opined that her subjective complaints were not supported by objective findings.

¹ The Board notes that appellant has not returned to work since her surgery on June 11, 1998.

In a March 12, 1999 letter, Diane L. DiSalle, an Office rehabilitation nurse requested that Dr. Stephen Conti, an orthopedic surgeon and appellant's treating physician, respond to Dr. Yanchus' reports. Dr. Conti did not respond to the Office's request. However, on April 5, 1999, he did respond to the employing establishment's offer of limited-duty work to appellant based on Dr. Yanchus' physical restrictions by declining the position because the job requirements were not within appellant's restrictions.

The Office found a conflict in the medical evidence between Drs. Conti and Yanchus, and by letter dated June 30, 1999 referred appellant along with medical records, a statement of accepted facts and a list of specific questions to Dr. Patrick Laing, a Board-certified orthopedic surgeon, for an impartial examination. By letter of the same date, the Office advised Dr. Laing of the referral.

Dr. Laing submitted a July 30, 1999 report finding that appellant did not have any residuals of her November 25, 1997 employment injury.

In a notice of proposed termination of compensation dated September 23, 1999, the Office advised appellant that it proposed to terminate her compensation based on Dr. Laing's opinion. The Office requested that appellant submit medical evidence supportive of her continued disability within 30 days.

By decision dated November 29, 1999, the Office terminated appellant's compensation effective December 4, 1999 on the grounds that the medical evidence of record established that appellant was no longer disabled due to her November 25, 1997 employment injury.

The Board finds that the Office properly terminated appellant's compensation benefits effective December 4, 1999 on the grounds that appellant no longer had any residuals of her November 25, 1997 employment injury.

The Federal Employees' Compensation Act, at 5 U.S.C. § 8123(a), in pertinent part, provides: "If there is a disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination."

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation. After it has been determined that an employee has disability causally related to his employment, the Office may not terminate compensation without establishing that the disability had ceased or that it was no longer related to the employment.² The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.³ If the Office, however, meets its burden of proof and properly terminates compensation, the burden for reinstating compensation benefits properly shifts to appellant.⁴

² *Jason C. Armstrong*, 40 ECAB 907 (1989).

³ *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

⁴ *See Virginia Davis-Banks*, 44 ECAB 389 (1993); *Joseph M. Campbell*, 34 ECAB 1389 (1983).

The Office properly found a conflict in the medical opinion evidence between Dr. Yanchus, an Office physician, who opined that appellant could perform the duties of the offered limited-duty position with restrictions and Dr. Conti, appellant's treating physician, who opined that appellant could not perform the duties of this position. In situations where there are opposing medical reports of virtually equal weight and the case is referred to an impartial specialist, the opinion of such a specialist will be given special weight if the opinion is based on proper factual background and well rationalized.⁵

In terminating appellant's benefits, the Office relied on the impartial medical opinion of Dr. Laing. In his July 30, 1999 report, Dr. Laing indicated a review of medical records, a history of appellant's November 25, 1997 employment injury and medical treatment, appellant's complaints regarding her left ankle, right knee and hips, and his findings on physical and objective examination. Dr. Laing diagnosed a soft tissue injury to the lateral collateral ligament of the left ankle due to appellant's November 25, 1997 employment injury that had been treated with surgery. He stated:

"At the time of this examination there is no objective evidence of any residual disability resulting from the injury of November 25, 1997. It is my opinion that [appellant] has made a full recovery from her injury of November 25, 1997 and at this time capable of performing the full duties of her usual work as a rural carrier for the [employing establishment], full time, without restriction, or any occupation which might place similar demands upon her musculoskeletal system and, specifically, her left ankle."

The Board has carefully reviewed Dr. Laing's opinion and finds that it is sufficient to carry the weight of the medical evidence on the relevant issue of the present case inasmuch as it contains medical rationale in support of his conclusion that appellant has no residuals causally related to her November 25, 1997 employment injury. Because the Office provided an adequate basis for its determination that appellant ceased to have residuals of her November 25, 1997 employment injury effective December 4, 1999, the Office met its burden of proof to terminate appellant's compensation.

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to him to establish that he had disability causally related to his accepted injury.⁶ 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.⁷ Causal relationship is a medical issue,⁸ 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

⁵ See *Jack R. Smith*, 41 ECAB 691 (1990).

⁶ See *George Servetas*, 43 ECAB 424 (1992).

⁷ *Kathryn Haggerty*, 45 ECAB 383 (1994).

⁸ *Mary J. Briggs*, 37 ECAB 578 (1986).

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.⁹ Medical evidence of bridging symptoms between the current condition and the accepted injury must support a physician's conclusion of a causal relationship.¹⁰

The medical evidence submitted by appellant fails to provide a rationalized medical opinion establishing that her current ankle condition is causally related to her November 25, 1997 employment injury. The October 19, 1999 report of Dr. David A. Stone, a Board-certified psychiatrist and appellant's treating physician, noted appellant's complaints of pain in her ankle and his findings on physical examination. He further noted appellant's medical treatment and stated that appellant's examination had changed very little since his last examination in June. He also stated that the consistency of appellant's examination is one of the reasons he believed that appellant was having significant pain and disability. Dr. Stone failed to provide any medical rationale explaining how or why appellant's current ankle condition was caused by her November 25, 1997 employment injury. Thus, his report is insufficient to satisfy appellant's burden.

The November 29, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 16, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

⁹ Gary L. Fowler, 45 ECAB 365 (1994); Victor J. Woodhams, 41 ECAB 345 (1989).

¹⁰ See Leslie S. Pope, 37 ECAB 798 (1986).