

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BETTE E. COLQUITT and DEPARTMENT OF JUSTICE,
IMMIGRATION & NATURALIZATION SERVICE, Laguna Niguel, CA

*Docket No. 00-2191; Submitted on the Record;
Issued June 22, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has any continuing disability or medical residuals on or after February 20, 1998 the date by which the Office of Workers' Compensation Programs terminated appellant's compensation benefits.

Appellant, a 59-year-old intelligence assistant, filed a notice of traumatic injury on October 18, 1997 alleging that she injured her head in the performance of duty. The Office accepted appellant's claim for postconcussion syndrome on November 18, 1997 and later expanded her claim to include cervical strain. The Office proposed to terminate appellant's compensation benefits by letter dated August 6, 1998. By decision dated October 29, 1998, the Office terminated appellant's compensation benefits effective February 20, 1998. Appellant requested an oral hearing on November 11, 1998 and by decision dated March 6, 2000, the hearing representative affirmed the Office's October 29, 1998 decision.

The Board finds that appellant has no continuing disability or medical residuals on or after February 20, 1998 the date by which the Office terminated appellant's compensation benefits.

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 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

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

² *Id.*

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

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

Appellant's attending physician, Dr. David Gehret, a Board-certified neurologist, completed a report on January 16, 1998. He reported appellant's history of injury and reviewed her diagnostic studies. Dr. Gehret performed a physical examination and stated that overall appellant's subjective symptoms were not supported by objective findings. He stated that it was unlikely that appellant was experiencing true cervical radiculopathy and that this condition was unrelated to her employment injury. Dr. Gehret diagnosed mild postconcussive syndrome with persisting headaches. He stated: "Overall I think there may be a number of socioeconomic factors contributing to a more prolonged recovery than one would normally expect from such an injury." Dr. Gehret completed a work restriction evaluation and indicated that appellant had no work restrictions.

Appellant requested to change physicians to Dr. John M. Seelig, a Board-certified neurologist. In a report dated February 18, 1998, he noted appellant's history of injury and her complaints of severe neck pain and suboccipital headache. He reviewed appellant's December 15, 1997 magnetic resonance imaging (MRI) scan and diagnosed herniated discs at C4-5 and C5-6. Dr. Seelig stated: "There may be some overlying degeneration, ... but the patient has been totally asymptomatic prior to this injury. Therefore, I would consider the apportionment of this case to be 100 percent related to this injury and 100 percent industrial." He continued to support appellant's total disability due to herniated disc.

The Office referred appellant for a second opinion evaluation with Dr. Thomas R. Dorsey, a Board-certified orthopedic surgeon. In his April 13, 1998 report, he noted appellant's history of injury reviewed medical records and performed a physical examination. Dr. Dorsey diagnosed cervical sprain/strain resolved and stated that there was no evidence on the December 15, 1997 MRI of herniated disc causally related to appellant's employment injury. He stated that the MRI demonstrated with regard to the annular bulges, which are quite common in individuals of appellant's age and found no ongoing diagnosis of cervical spine due to the employment injury. Dr. Dorsey concluded that appellant had objective findings and no work restrictions due to her accepted employment injuries.

The Board finds that the weight of the medical opinion evidence establishes that by February 20, 1998 appellant was no longer disabled or had medical residuals due to her accepted employment injuries. The Office accepted appellant's claim for postconcussion syndrome and cervical strain. There is no medical evidence supporting continuing disability or medical residuals due to these conditions. Both appellant's attending physician of record, Dr. Gehret and the second opinion physician, Dr. Dorsey, opined that appellant's employment-related cervical condition had ceased and that there were no objective findings in support of her continuing condition or disability. Although, appellant submitted reports from Dr. Seelig diagnosing herniated cervical discs, this condition has not been accepted by the Office as employment related and his reports are not sufficiently rationalized to overcome the weight of the detailed reports from Drs. Dorsey and Gehret.

⁴ *Id.*

Following the Office's October 29, 1998 decision terminating compensation benefits, appellant submitted additional medical evidence. In a report dated April 12, 1999, Dr. Charles Roland, a Board-certified orthopedic surgeon, noted appellant's history of injury and reviewed an April 7, 1998 MRI. He performed a physical examination and diagnosed cervical spine strain syndrome with preexisting degenerative arthritis. On May 12, 1999 Dr. Roland again diagnosed cervical strain syndrome with preexisting degenerative arthritis with discogenic syndrome and radicular syndrome affecting the left upper extremity greater than the right and noted that this condition was due to appellant's employment. He stated that most of the pathology in appellant's cervical spine preexisted the employment injury, but that the employment injury was an aggravation of the preexisting condition which precipitated an acceleration of her pain syndrome. Dr. Roland noted that appellant was asymptomatic prior to injury and that as a result of this injury she continued to require medical treatment. He stated that appellant was disabled from her date-of-injury position.

In a report dated March 10, 1999, Dr. E.B. Pendleton, a Board-certified orthopedic surgeon, noted appellant's history of injury and performed a physical examination. He diagnosed degenerative cervical disc disease with foramina stenosis and spondylosis. Dr. Pendleton stated that he believed that appellant's condition was an exacerbation of her workers' compensation injury.

Although, appellant has submitted medical evidence in support of her claim for an additional condition causally related to her employment injury, none of the medical evidence of record provides any medical rationale in support of the relationship. Without the necessary medical explanation of how and why appellant's accepted condition of cervical strain resulted in the additional conditions of herniated cervical disc, cervical degenerative disc disease or cervical spine sprain syndrome, appellant has failed to meet her burden of proof.⁵

⁵ The Board notes that the Office has not issued a final decision addressing appellant's claim for recurrence of disability on January 21, 1998. Therefore, the Board will not address this issue on appeal. 20 C.F.R. § 501.2(c).

The March 6, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 22, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member