U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of HARRIET BALDWIN and DEPARTMENT OF THE AIR FORCE, PATRICK AIR FORCE BASE, FL

Docket No. 99-1777; Submitted on the Record;
Issued June 15, 2001

DECISION and ORDER

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

The issue is whether the Office of Workers' Compensation Programs abused its discretion in denying authorization for massage therapy.

On May 12, 1994 appellant then a 58-year-old public affairs assistant, filed a claim alleging that she suffered from depression causally related to her federal employment. The Office accepted her claim for depression and post-traumatic stress disorder. Appellant stopped work on May 15, 1994 and did not return.

Appellant submitted various medical records including psychological evaluations and reports from her treating physicians, Dr. M.L. Frost and Dr. J. Terry Greene, both psychiatrists. The physicians supported appellant's continued disability due to her work-related injury.

In June 1996 appellant was assigned a nurse to assist appellant in her recovery for the period of August to September 1996. In her reports dated August 29 and September 13, 1996, the nurse indicated appellant was undergoing massage therapy and learning home relaxation techniques which were helping her to relax when she was overcome with emotional symptoms.

Subsequently, appellant submitted reports from Dr. Greene dated December 10, 1996 and March 18, 1997 and Dr. Frost dated February 19, 1997. Dr. Greene indicated that appellant had been treated for several years for her hypertension which was secondary to her traumatic stress disorder and depression. He indicated appellant had been successfully treated with anti-hypertensive medication. Dr. Frost's report indicated appellant was experiencing further worsening of depressive symptoms. He diagnosed appellant with major depression, recurrent and severe. Neither physician addressed appellant's massage therapy in any of the medical reports.

In a report dated April 21, 1998, Dr. Greene indicated appellant's history of depression and post-traumatic stress disorder. He noted in the past, appellant had been treated with massage therapy, which helped control her symptoms of anxiety and stress. Dr. Greene indicated that

appellant had been receiving satisfactory care from her present therapist and recommended that this therapy be continued as it seemed to be helping appellant substantially.

The medical record was referred to an Office medical adviser for an opinion on whether appellant would derive any benefit from using a massage therapist to alleviate symptoms of depression and post-traumatic syndrome. The Office medical adviser determined that massage therapy was not advisable.

Subsequently, appellant submitted a report from Dr. Frost dated October 12, 1998, which noted that he had been treating appellant for approximately three years. He indicated that appellant's depression condition worsened since the time massage therapy ceased. Dr. Frost indicated appellant's recurrence of muscular tension in the neck and shoulder region was directly associated with appellant's psychiatric illness of depression and associated anxiety.

On December 2, 1998 the Office contacted the massage therapist for clarification of her credentials. The therapist indicated that she was not a physician or a licensed physical therapist, but noted that she was a certified therapist. She further noted that the county within which she practices did not require certification for massage therapists.[1]

In a decision dated December 3, 1998, the Office denied appellant's request for massage therapy.

The Board has duly reviewed the record on appeal and finds that the Office did not abuse its discretion in denying authorization for massage therapy.

Section 8103(a) of the Federal Employees' Compensation Act,[2] provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of monthly compensation.

In interpreting section 8103 of the Act,[3] the Board has explained in the case of *Daniel J. Perea*,[4] that the Office, acting as the delegated representative of the Secretary of Labor, has broad discretion in approving services, appliances and supplies provided under the Act. As the Office has the general objective of ensuring that an employee recovers from his injury to the fullest extent possible in the shortest amount of time, the Office, therefore, has broad administrative discretion in choosing means to achieve this goal. Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or

[1] Appellant indicated that she had been receiving massage therapy from this therapist from March to December 1998.

[2] 5 U.S.C. § 8103(a).

[3] *Id.*

[4] 42 ECAB 214 (1990).

actions taken which are contrary to both logic and probable deductions from established facts. The only limitation on the Office's authority is that of reasonableness.

In the present case, there is no indication that the Office ever authorized massage therapy for which appellant seeks reimbursement or that it was recommended or prescribed by any physician before she began receiving this service. The first medical report addressing whether the massage therapy would give appellant relief was an April 21, 1998 report from Dr. Greene. While this report and the reports from Dr. Frost indicate that massage therapy would satisfy one of the alternatives under section 8103 of the Act, namely "give relief," none of the medical evidence contains a recommendation or prescription for the massage therapy.[5]

Additionally, neither Drs. Greene nor Frost provided medical rationale to support their conclusion that massage therapy would be of therapeutic value in alleviating appellant's depression and post-traumatic stress syndrome. Even though Dr. Frost indicated that massage therapy would aid appellant with the chronic pain she experienced in her neck and shoulder region, the Office never accepted that appellant sustained a neck or shoulder condition as a result of her May 12, 1994 work injury. The medical opinion evidence from Dr. Frost is insufficient to establish that appellant's neck or shoulder conditions relate to the accepted injury.[6] The records contemporaneous with the onset of the condition did not relate any neck or shoulder conditions to appellant's employment.[7] Dr. Frost indicated, in a conclusory statement, that appellant's muscular tension was directly associated with her psychiatric illness of depression and associated anxiety," but did not explain how appellant's accepted claim of depression and post-traumatic stress disorder was exacerbated to result in neck and shoulder tension which would warrant massage therapy.[8] Further he did not provide an adequate explanation as to how this therapy would cure or give relief to the accepted condition. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.[9]

While Drs. Greene and Frost stated that massage therapy would alleviate appellant's depression and post-traumatic stress syndrome, they failed to explain why the massage therapy was medically necessary and reasonable for appellant's treatment. Nor did they indicate whether the same therapeutic benefit could be obtained through other, less expensive, means.[10] Thus,

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[5] *See Lenard E. Fritz*, 39 ECAB 170 (1987).

[6] An employee seeking benefits under the Act has the burden of establishing the essential elements of his or her claim. *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989). As part of this burden, the claimant must present rationalized medical evidence based upon a complete factual and medical background showing causal relationship. *Mary J. Briggs*, 37 ECAB 578 (1986); *Joseph T. Gulla*, 36 ECAB 516 (1985).

[7] *See Arthur N. Meyers*, 23 ECAB 111, 113 (1971) (where the Board found a physician's opinion to be of diminished probative value where the physician's opinion in support of causal relationship was based on a history of injury that was not corroborated by the contemporaneous medical history contained in the case record).

[8] Additionally, Office procedures regarding physical therapy contemplate that such therapy should not be authorized for treatment of pain in the absence of a functional deficit. *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.16(e)(3) (March 1994).

[9] *See Theron J. Barham*, 34 ECAB 1070 (1983) (where the Board found that a vague and unrationalized medical opinion on causal relationship had little probative value).

[10] *See Dale E. Jones*, 48 ECAB 648 (1997); *Lenard E. Fritz, supra* note 5.

appellant has failed to submit rationalized medical evidence in support of his request for treatment.[11]

The Board finds that the Office did not abuse its discretion in finding that the evidence of record failed to support that the massage therapy is "likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of monthly compensation."[12]

The December 3, 1998 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
June 15, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

[11] Appellant raises on appeal that the massage therapist was certified in myofacial release therapy. The Board notes there is no evidence appellant sought authorization prior to receiving the therapy. Neither Dr. Greene or Dr. Frost provided adequate rationale to support their conclusion that massage therapy would be therapeutic in alleviating appellant's accepted condition nor did they explain why this therapy was medically necessary and reasonable for appellant's treatment.

[12] With appellant's request for an appeal, appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c).