

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of YVONNE MONK and U.S. POSTAL SERVICE,
POST OFFICE, Southeastern, PA

*Docket No. 01-771; Submitted on the Record;
Issued November 27, 2001*

DECISION and ORDER

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

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's medical benefits.

On May 26, 1998 appellant, then a 52-year-old mail processing operator, injured her knee when moving mail. The Office accepted appellant's claim for right knee strain and authorized arthroscopic knee surgery on July 16, 1998. She worked light duty from September 1998 to January 11, 1999 when she returned to regular duty. Appellant was paid appropriate compensation.

Appellant submitted reports from her treating physician, Dr. David Rubenstein, a Board-certified orthopedic surgeon, documenting her status. A July 16, 1998 operative report diagnosed degenerative joint disease and associated synovitis and multiple loose bodies.

On August 2, 1998 appellant filed a CA-2a, notice of recurrence of disability on July 16, 1998. She experienced persistent pain in her right knee related to the employment-related injury of May 26, 1998. The Office accepted appellant's claim for recurrence of disability. She continued to work.

Appellant continued submitting reports from Dr. Rubenstein, indicating that she could return to work limited duty progressing to full duty by December 1998.

Appellant returned to work full-time limited duty on September 21, 1998 and continued to receive medical benefits.

On January 25, 1999 the Office referred appellant for a second opinion to Dr. Andrew J. Collier, a Board-certified orthopedic surgeon.

In a March 3, 1999 medical report, Dr. Collier reviewed the records and performed a physical examination of appellant. He noted that upon physical examination range of right knee

motion was 0 to 100 degrees; there was no ligamentous laxity; negative Lachman and Drawer sign; negative McMurray sign; and positive for patellofemoral crepitus in extension. Dr. Collier diagnosed an acute twisting injury to her right knee on May 26, 1998 and aggravation of a preexisting degenerative arthritis of the knee. He noted that appellant's continuing restrictions were due to the degenerative nature of her knee condition and not to her work-related injury. Dr. Collier did not believe that appellant had residuals of her work-related aggravation. He found that appellant had residuals of her degenerative arthritis; however, he did not believe her degenerative arthritis was medically related to her work injury. Dr. Collier concluded that appellant recovered from her work-related aggravation and had an excellent prognosis.

On May 18, 1999 Dr. Rubenstein submitted a report indicating that he reviewed Dr. Collier's report of March 3, 1999 and concurred with the opinion that appellant had recovered from the affects of her work-related injury. He indicated that continuing work restrictions were due to her preexisting degenerative arthritis.

In a decision dated June 10, 1999, the Office denied appellant's claim for continuing medical benefits on the grounds that the medical evidence established that she no longer had residuals of the May 26, 1998 work injury.

On June 14, 1999 appellant, through her attorney, requested a hearing before an Office hearing representative.¹ The hearing was held on November 16, 1999. Appellant submitted a March 24, 1999 report from Dr. Ronald J. Potash, a specialist in orthopedics, who noted upon physical examination, paripatellar tenderness and crepitation; patellar glide was positive; with medial mid-line tenderness; quadriceps atrophy and muscle weakness noted at 4/5; and range of motion was restricted at flexion and extension. He diagnosed appellant with a strain and sprain of the right knee with chondral fracture and fragment; chronic diffuse joint synovitis; and status post arthroscopic removal of loose fragment. Dr. Potash indicated that the work-related injury of May 26, 1998 was the competent producing factor for appellant's subjective and objective findings. He opined that appellant sustained a 21 percent impairment of the right lower extremity.

In a decision dated February 2, 2000, the hearing representative affirmed the June 10, 1999 decision, finding that Drs. Collier and Rubenstein's reports were entitled to the weight of the medical opinion evidence.

The Board finds that the Office has met its burden of proof to terminate medical benefits effective June 10, 1999.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits. The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical

¹ On October 2, 1999 appellant filed a claim for a schedule award. In a letter dated January 11, 2000, the Office medical adviser determined appellant sustained a 10 percent impairment of the right lower extremity. This matter is not before the Board on the present appeal.

treatment the Office must establish that a claimant no longer has residuals of an employment-related condition that requires further medical treatment.²

The Office accepted appellant's claim for a right knee strain and arthroscopic surgery and paid appropriate compensation. On September 21, 1998 appellant returned to work full-time limited duty but continued to receive medical benefits for residuals of her knee surgery. Dr. Collier, an Office referral physician, in a March 3, 1999 report, diagnosed an acute twisting injury to her right knee on May 26, 1998 and an aggravation of a preexisting degenerative arthritis of the knee. He noted that appellant's knee revealed significant degenerative changes, chondromalacia Grade IV with total loss of articular cartilage. Dr. Collier found that appellant's degenerative condition did not come from a twisting injury. Rather, it was long-standing, taking years to develop. He stated that appellant's activity restrictions were due to the degenerative nature of her right knee condition and not due to her work-related injury. Dr. Collier noted that he did "not believe that she still suffers residual of her work-related aggravation." He further noted that, while appellant had residuals of her degenerative arthritis, this was not medically related to her accepted work injury. Dr. Collier concluded that appellant had recovered from her work-related aggravation and had an excellent prognosis.

Dr. Rubenstein, appellant's treating physician, opined in an October 28, 1998 report, following her knee surgery, that she was cleared to resume full-time work with restrictions for a one-month period on pushing, lifting, squatting, kneeling and climbing activities. He noted that after this transitional period appellant could return to her regular full-duty capacity. On May 18, 1999 Dr. Rubenstein reviewed Dr. Collier's findings and conclusions and concurred with Dr. Collier's opinion that appellant had recovered from her work-related injury. He concurred that any restrictions were due to her preexisting degenerative arthritis and did not attribute any continuing conditions to appellant's employment injury.

The Board finds that the reports of Drs. Collier and Rubenstein establish that appellant had no continuing medical residuals causally related to her employment as of June 10, 1999.

In a report dated March 24, 1999, Dr. Potash diagnosed appellant with a strain and sprain of the right knee with chondral fracture and fragment; chronic diffuse joint synovitis; and status post arthroscopic removal of loose fragment, causally related to the work-related injury of May 26, 1998. However, this report is insufficient to create a conflict as Dr. Potash provided a conclusory statement in support of causal relationship. He provided no medical reasoning or rationale to support his conclusions. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.³ Dr. Potash did not explain how any particular condition or disability was caused or aggravated by the May 26, 1998 work injury. Without any further explanation or rationale, this report is insufficient to create a conflict of medical opinion. No other medical evidence submitted supports that appellant has a medical condition caused or aggravated by her accepted work injury.

² *Wiley Richey*, 49 ECAB 166 (1997).

³ *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).

The Board also finds that the failure of the Office to provide appellant notice prior to the termination of her medical benefits was not improper. At the time of termination, appellant had returned to work and continued to receive medical benefits. Chapter 2.1400.6 of the Federal Procedure Manual addresses when to issue pretermination and prereduction notices. This paragraph discusses when such notices are required and when they are not, as follows:

“(d) Notice Not Required to Terminate/Reduce Compensation. Pretermination notice is not needed when:

- (1) The physician indicates that further medical treatment is not necessary or that treatment has ended.”⁴

While appellant was not issued a pretermination notice, the record reflects that, after her examination by Dr. Collier, her treating physician, Dr. Rubenstein, concurred in Dr. Collier’s determination that appellant had no residuals of her employment-related injury and had completely recovered. Under these circumstances, the Board finds that the Office’s procedures did not require a pretermination notice as the physicians found no further medical treatment was required.

The decision of the Office of Workers’ Compensation Programs dated February 2, 2000 is hereby affirmed.

Dated, Washington, DC
November 27, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400-6(d) (March 1997).