

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ALICE G. RICH and DEPARTMENT OF THE AIR FORCE,
HANSCOM AIR FORCE BASE, MA

*Docket No. 00-585; Submitted on the Record;
Issued October 1, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is the Office of Workers' Compensation Programs properly determined that residuals of appellant's accepted employment injury had ceased by August 26, 1999.

On December 12, 1994 appellant, then a 59-year-old secretary, filed a traumatic injury claim (Form CA-1) alleging that she injured her knees on December 12, 1994 when she slipped and fell on an icy sidewalk landing. The Office accepted the claim for right knee abrasions and contusions, right leg abrasions and contusions and right-sided disc herniation at L4-5. By letter dated February 18, 1998, placed on disability rolls.

In a report dated October 23, 1998, Dr. John Lockhart, opined that depression and chronic pain was due to employment injury.

In an attending physician's report (Form CA-20) dated February 3, 1999, Dr. Lockhart diagnosed chronic pain, hypertension and depression and employment aggravated pain and indicated that appellant was totally disabled.

In a work capacity evaluation form (OWCP-5c) dated February 9, 1999, Dr. Joseph Collins Corkery, appellant's attending Board-certified internist with a medical oncology subspecialty, diagnosed chronic depression, chronic pain, obesity and hypertension and concluded that she was totally disabled.

On April 21, 1999 the employing establishment offered appellant a part-time four hours per day sedentary position as a secretary (office automation) with restrictions on lifting, walking sitting, standing and climbing.

On February 16, 1999 the Office referred appellant to Dr. James G. Manson, Board-certified orthopedic surgeon and Dr. Alfred G. Jonas, a Board-certified psychiatrist, for a panel evaluation on the question of appellant's disability status including whether she was capable of

performing the light-duty job offer of a secretary and whether her accepted employment injury caused a psychiatric condition.

In a joint report dated March 17, 1999, Drs. Jonas and Manson, based upon a review of the medical records, employment injury history, statement of accepted facts and physical examination, concluded that the light-duty job offer was within appellant's restrictions and capability. Dr. Manson concluded that appellant's orthopedic diagnoses of back strain/sprain and right knee contusion had both resolved. He noted that appellant had nonwork-related degenerative disease of the lumbar spine and right knee and paracentral disc herniation at L4-5 and opined that there was no evidence to support any permanent aggravation. Regarding the job offer, Dr. Manson opined that at present appellant was capable of performing the position for four hours per day with a lifting restriction of 15 pounds and that her hours could gradually be expanded to a full day. Dr. Jonas diagnosed somatoform pain disorder with mixed etiology and that a depressive disorder cannot be confirmed. In regards to the etiology of appellant's somatoform pain disorder. He noted:

“The somatoform pain disorder is multiply (sic) determined. If part of the disorder in this case is related to a temporary back strain and knee contusion and if the slip and fall is considered work related because it happened as [appellant] was coming to work, then this portion of the contribution can be considered work related. This condition of strain and contusion is no longer contributing to the pain disorder. Dependent personality factors are not work related. Obesity is not work related.”

In a report dated April 15, 1999, Dr. Jonas responded to the Office's request for clarification on the etiology of appellant's somatoform pain disorder. He indicated that the slip and fall had been a precipitating factor and that appellant's “[u]nderlying or preexisting degenerative disease of the joints may either be precipitating or sustaining factors.” Dr. Jonas concluded that while the employment injury had been a precipitating factor that “the condition associated with it (lumbosacral strain/sprain and knee contusion) have both resolved and are no longer supplying causal force or currently contributing to the somatoform pain disorder.” As to the current cause of her somatoform pain disorder, the physician attributed it to her degenerative disease, which was both sustaining and precipitating and not work related. He further opined that the somatoform pain disorder is due to her degenerative disease and dependent personality and “the entire syndrome in its present state is considered completely nonwork related” or related in any way to the original employment injury.

On June 18, 1999 the Office issued a proposed notice of termination of compensation and medical benefits based upon the reports of Drs. Jonas and Manson.

Appellant's counsel objected to the proposed termination of benefits and submitted reports from Drs. Corkery, Lockhart and Robert R. Sparacio, a Board-certified neurologist. In treatment notes dated December 28, 1998, Dr. Corkery diagnosed chronic pain, depression, obesity and hypertension and indicated that her normal neurological examination was within normal range. In an ambulatory order form and progress notes dated April 9, 1999, Dr. Sparacio diagnosed chronic low back pain, trochanter bursitis/tendinitis in the right hip and chronic discogenic/spondylosis, Dr. Lockhart, in March 2, 1999 treatment notes and an ambulatory order

form diagnosed chronic pain. Neither Drs. Lockhart nor Sparacio offered any opinion as to the cause of appellant's condition.

By decision dated August 26, 1999, the Office terminated appellant's wage loss and medical compensation benefits on the basis that she no longer had any residual disability due to her accepted December 12, 1994 employment injury.

The Board finds the Office properly determined that residuals of appellant's accepted employment injury had ceased by August 26, 1999.

Once the Office accepts a claim, it has the burden of justifying 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 The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical treatment, the Office must establish that a claimant no longer has residuals of an employment-related condition, which requires further medical treatment.³

The Board finds that the joint report by Drs. Jonas and Manson and Dr. Jonas' supplemental report are sufficient to meet the Office's burden of proof in terminating compensation. On March 17, 1999 Dr. Manson concluded that appellant's orthopedic diagnoses of back strain/sprain and right knee contusion had both resolved. He related, based upon a review of the medical records and examination of appellant, that aggravation of appellant's back strain/sprain and knee contusion had resolved. Dr. Jonas diagnosed somatoform pain disorder which appellant's slip and fall had acted as a precipitating factor. In an April 15, 1999 clarification letter, he opined that, while appellant's employment injury had been a precipitating factor of her pain disorder, that her current pain disorder was due to her degenerative disease and dependent personality and unrelated to her employment injury since her accepted condition had resolved. Both Drs. Jonas and Manson opined, based upon the objective findings, that appellant was capable of performing the light-duty job offer and that her current impairment was related to her preexisting degenerative disease and unrelated to her accepted employment injury.

The Board finds that Dr. Corkery's December 28, 1998 report, Dr. Sparacio's March 9, 1999 report and Dr. Lockhart's March 2, 1999 report are insufficient to create a conflict with the report of Drs. Jonas and Manson. In addition, none of the physicians provided an opinion relating appellant's current physical condition to her accepted employment injury.

The Board, therefore, finds that the weight of the medical evidence rests with the opinion of Drs. Jonas and Manson, the second opinion physicians, who provided a rationalized explanation of why appellant had no continuing disability due to her accepted employment injury

¹ *Gewin C. Hawkins*, 52 ECAB ____ (Docket No. 99-798, issued January 29, 2001); *Alice J. Tysinger*, 51 ECAB ____ (Docket No. 98-2423, issued August 29, 2000).

² *Mary A. Lowe*, 52 ECAB ____ (Docket No. 99-1507, issued January 19, 2001).

³ *Id. Leonard M. Burger*, 51 ECAB ____ (Docket No. 98-1532, issued March 15, 2000).

and why her current disability is nonwork related. Their joint opinion is sufficient to meet the Office's burden of proof in terminating appellant's compensation.⁴

The August 26, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
October 1, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

⁴ See *Samuel Theriault*, 45 ECAB 586, 590 (1994) (finding that a physician's opinion was thorough, well rationalized and based on an accurate factual background and thus constituted the weight of the medical evidence that appellant's accepted injury had resolved).