

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROSA L. HALE and DEPARTMENT OF DEFENSE,  
DEFENSE PERSONNEL SUPPORT CENTER, Philadelphia, PA

*Docket No. 01-1193; Submitted on the Record;  
Issued January 15, 2002*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant has established continuing entitlement to medical treatment for her accepted condition after October 23, 1996.

This case is on appeal to the Board for a second time. On December 11, 1996 the Office of Workers' Compensation Programs accepted the claim for an episode of exacerbation or arthritis due to cold working conditions, which ceased once appellant left the employing establishment's building on her last day of work on July 23, 1996. The Office reiterated its acceptance of the claim on February 14, 1997. By decision dated July 22, 1997, the Office denied appellant's claims for additional compensation and medical benefits, Form CA-8, effective August 24, 1996 because it found that the medical evidence confirmed that appellant recovered from the effects of the acute exacerbation of her preexisting, underlying condition of degenerative joint disease due to cold air conditioning in her workplace prior to July 23, 1996. By decision dated April 23, 1998, the Office hearing representative affirmed the Office's July 22, 1997 decision.

In the prior appeal, by decision and order dated May 18, 2000, the Board affirmed the Office's determination that appellant failed to establish any employment-related disability for periods after August 26, 1996, but found that the case was not in posture for a decision on the issue of whether appellant continued to have residuals from the accepted injury, entitling her to medical benefits, as the medical evidence of record did not address this issue.<sup>1</sup>

On remand the Office referred appellant, together with the case record and statement of accepted facts, to Dr. Steven J. Valentino, an osteopath and Board-certified orthopedic surgeon.<sup>2</sup>

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<sup>1</sup> Docket No. 98-2349.

<sup>2</sup> The Office initially attempted to obtain a supplemental report from Dr. Erwin R. Schmidt, the second opinion physician and a Board-certified orthopedic surgeon upon whose opinion the Office previously relied, but he had since retired.

In an August 2, 2000 report, Dr. Valentino reviewed appellant's medical record and occupational history, related his findings on physical examination and stated:

“Based on today's evaluation, review of medical records and diagnostic studies, [appellant] has recovered from her history of work injury as well as recovered from the episodic exacerbation of arthritis. I would have anticipated that her aggravation of the arthritis ceased within a three-month period after she left the building and stopped working. She clearly did not suffer a permanent aggravation of her arthritis based on her negative exam[ination] as well as extent of arthritis noted on her diagnostic studies (*i.e.*, mild). The aggravation was temporary and not permanent. Today's evaluation confirmed that her aggravation had resolved. She is capable of gainful employment. There are no restrictions or ongoing disability regarding her history of work injuries. She does have preexisting degenerative changes which are widespread as well as a history of obesity and acetabular protrusio which would likely limit her to a sedentary, full-time position. These restrictions, however, bear no causal connection to her history of work injuries or employment history.”

By decision dated September 5, 2000, the Office found that the weight of the medical evidence failed to demonstrate appellant's entitlement to medical benefits after October 23, 1996, for the reason that appellant had recovered from the exacerbation of her arthritis caused by exposure to cold air at work. Appellant requested a review of the written record, and in a decision dated February 22, 2001, an Office hearing representative found that the weight of the medical evidence was represented by the opinion of Dr. Valentino and established that appellant's exacerbation of arthritis had ceased within three months after she stopped work on July 23, 1996.

The Board finds that the weight of the medical evidence establishes that appellant's exacerbation of arthritis had ceased by October 23, 1996.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>4</sup> As part of this burden, the claimant must present rationalized medical evidence based upon a complete factual and medical background showing causal relationship.<sup>5</sup>

In the instant case, appellant failed to present any rationalized medical evidence based upon a complete factual and medical background establishing residuals of her accepted

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *Joseph T. Gulla*, 36 ECAB 516 (1985).

exacerbation of arthritis for periods after October 23, 1996.<sup>6</sup> Although appellant's treating physician, Dr. Finkelstein, checked "yes" in his reports dated January 23 and 31, February 11 and March 7, 1997, to indicate that appellant's condition was due to the July 23, 1996 injury for which compensation was claimed, such opinions, given by a physician checking a box on a form, are entitled to little weight<sup>7</sup> and are insufficient to meet appellant's burden of proof. In contrast, Dr. Valentino provided rationale for his conclusion that appellant's exacerbation of arthritis would have ceased within three months after she stopped work.

The decisions of the Office of Workers' Compensation Programs dated February 22, 2001 and September 5, 2000 are affirmed.

Dated, Washington, DC  
January 15, 2002

David S. Gerson  
Member

Willie T.C. Thomas  
Member

Bradley T. Knott  
Alternate Member

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<sup>6</sup> See *Donald Leroy Ballard*, 43 ECAB 876 (1992).

<sup>7</sup> *Lester Covington*, 47 ECAB 539 (1996).