

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LORI E. RAYNER-BROWN and U.S. POSTAL SERVICE,
WESTERN NASSAU REMOTE ENCODING CENTER, Garden City, NY

*Docket No. 02-375; Submitted on the Record;
Issued July 12, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs abused its discretion in denying appellant's request for physical therapy.

While departing from work on January 14, 1999 appellant, a 36-year-old data conversion operator, slipped and fell on ice in the employee parking area. The Office accepted appellant's claim for lumbosacral radiculopathy and lumbar subluxation at L1-S1. Appellant received appropriate wage-loss compensation and she subsequently returned to work on April 19, 1999.

On the advice of her physician, appellant reduced her work to four hours per day effective June 8, 2000. On June 10, 2000 she ceased all work and later filed a claim for recurrence of disability.

In October 2000, appellant's treating physician, Dr. Ralph F. Parisi, a Board-certified orthopedic surgeon, requested authorization for physical therapy. The following month Dr. Parisi also sought authorization for a bone scan.

In a decision dated September 28, 2001, the Office accepted appellant's claim for recurrence of disability.¹ Additionally, the Office expanded the claim to include meralgia paresthetica as a condition arising from appellant's January 14, 1999 employment injury. With regard to Dr. Parisi's outstanding request for authorization for medical treatment, the Office authorized Dr. Parisi to perform a bone scan and bone density evaluation, but denied authorization for the requested physical therapy.

On appeal appellant challenges the Office's denial of Dr. Parisi's request for authorization of physical therapy.

¹ Although the Office initially denied appellant's claim for recurrence of disability by decision dated October 30, 2000, the Branch of Hearings and Review subsequently remanded the claim for further development of the record.

The Board finds that the case is not in posture for decision with respect to the issue of whether the Office properly denied authorization for physical therapy.

An employee is entitled to receive all medical services, appliances or supplies prescribed or recommended by a qualified physician and which the Office considers necessary to treat the work-related injury.²

In the instant case, the Office denied Dr. Parisi's request for authorization for physical therapy based on the September 7, 2001 opinion of Dr. Richard Goodman, a Board-certified orthopedic surgeon and Office referral physician. In his report, Dr. Goodman noted, among other things, that appellant's condition was in part due to her January 14, 1999 employment injury and "repeated aggravation of by repeated chiropractic manipulation." He specifically attributed appellant's June 8, 2000 recurrence of disability to "chiropractic manipulations." Dr. Goodman further stated that "[c]hiropractic manipulations and physical therapy should be immediately discontinued as they are aggravating [appellant's] condition."

The Board finds a conflict of medical opinion between Dr. Parisi and Dr. Goodman as to whether appellant requires physical therapy. The Office accepted lumbosacral radiculopathy and lumbar subluxation at L5-S1. Dr. Parisi obtained a magnetic resonance imaging scan which suggested a bulging disc and recommended she continue physical therapy. Dr. Goodman examined appellant at the request of the Office and found no indication for subluxation at L5-S1 but noted signs of lumbar radiculopathy. He recommended no continuing chiropractic treatment and that she discontinue physical therapy. Based on this conflict of medical opinion, the Office should obtain an opinion from an impartial medical specialist on whether appellant should continue to receive physical therapy.

² 20 C.F.R. § 10.310(a) (1999); see *Lisa DeLindsay*, 51 ECAB ____ (Docket No. 99-1769, issued August 24, 2000).

The September 28, 2001 decision of the Office of Workers' Compensation Programs is set aside with respect to the denial of authorization for physical therapy. In all other respects, the Office's September 28, 2001 decision is affirmed. Accordingly, the case is remanded for further action consistent with this decision.

Dated, Washington, DC
July 12, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member