

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DEBORAH J. SCHMITZ and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, Iowa City, IA

*Docket No. 00-2579; Submitted on the Record;  
Issued June 3, 2002*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant continued to suffer residuals of her November 25, 1991 employment injury after March 31, 1994.

This case has been before the Board on two prior appeals. Appellant sustained an injury on November 25, 1991 after moving a patient at work over a period of several work shifts. Her claim was accepted by the Office of Workers' Compensation Programs for subluxation at C5-6-7 and for a cervical sprain. Appellant returned to light-duty work on July 6, 1992. In an October 18, 1996 decision,<sup>1</sup> the Board found that the medical evidence of record did not support that appellant continued to have residuals of her November 25, 1991 injury after March 31, 1994. With regard to the accepted cervical subluxations, the Board noted that a January 2, 1992 magnetic resonance imaging (MRI) scan showed the cervical discs as well maintained and the position and alignment of the vertebral bodies to be normal. Although appellant's chiropractor, Dr. Douglas Dvorak, reported on July 23, 1993 that appellant still exhibited signs and symptoms consistent with her accepted work-related injury, the Board found that the chiropractor did not explain how these related to the accepted injury.<sup>2</sup> The Board also noted that Dr. Winthrop S. Risk, appellant's attending neurologist, did not provide a firm diagnosis to account for appellant's continued complaints or explain how her symptoms related to the accepted injury.

In an October 26, 1999 decision,<sup>3</sup> the Board reviewed additional medical evidence submitted by appellant and found that it did not establish that she had residuals of her November 21, 1991 injury after March 31, 1994. The Board found that the additional report of Dr. Dvorak was not probative as the chiropractor provided an opinion on a soft-tissue condition

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<sup>1</sup> Docket No. 94-2369 (issued October 18, 1996).

<sup>2</sup> Appellant was involved in a nonemployment-related automobile accident on July 17, 1993 in which she rear-ended another vehicle and experienced pain in the neck and shoulders.

<sup>3</sup> Docket No. 98-590 (issued October 26, 1999).

other than a subluxation of the spine. The report of Dr. Risk was found deficient, as it was not based on a past medical history consistent with the evidence of record.<sup>4</sup> The factual background of the case, as set forth in the Board's October 18, 1996 and October 26, 1999 decisions, are hereby incorporated by reference.

On April 17, 2000 appellant requested reconsideration and submitted a March 22, 2000 report from Dr. Risk and several treatment notes. On January 17, 2000 Dr. Risk noted that appellant continued to experience difficult to control headaches and a polymorphic pain disorder involving multiple areas involving her upper back, neck, shoulder and arms. He noted that neurological examination was normal and musculoskeletal examination revealed multiple tender points. A psychiatric examination was reported as normal. Dr. Risk stated that the localizations of appellant's musculoskeletal pain suggested "a strong possibility of so-called myofascial pain syndrome versus atypical fibromyalgia." He noted that appellant's medical conditions had required her to retire from her employment. Dr. Risk indicated that appellant's condition was stabilized on her present treatment program provided she avoid heavy lifting and that she had satisfactory control of her pain on her present medications.

In a March 22, 2000 report, Dr. Risk provided a response to several questions addressed to him by appellant's attorney. He stated that the motor vehicle accident in which appellant was involved in 1989 did not result in a permanent cervical impairment. While appellant exhibited symptoms in her neck and right upper extremity, they had resolved without significant residual as noted in his treatment report of June 21, 1989. Dr. Risk noted that appellant was not seen again until February 10, 1992 presenting with injuries resulting from lifting a patient on November 25, 1991. He reported that appellant informed him that, during the interval, his symptoms from the car accident had resolved. Dr. Risk opined that, in retrospect, appellant's symptoms following the November 1991 employment injury would, if related to the 1989 motor vehicle accident, represent an "activation of a preexisting condition which had ... been dormant and asymptomatic with no permanent impairment..." He went on to explain that appellant "may have developed an asymptomatic predisposition to exacerbation" which subsequently occurred on November 25, 1991. However, in the absence of continuing medical treatment between June 1989 to February 1992, he noted "it would not be possible to state within a reasonable degree of medical certainty given that the patient was for some period of time before her work-related accident asymptomatic from her motor vehicle accident, it would not be possible to state within a reasonable degree of medical certainty that there was any residual from the motor vehicle accident that directly or indirectly accounted for any worsening of symptoms following the work-related accident that would have occurred following such accident were there no previous motor vehicle accident."

Dr. Risk stated that his current diagnosis of appellant's condition was a post-traumatic chronic pain disorder with a myofascial pain syndrome that had evolved into a post-traumatic fibromyalgia. He opined that appellant's current medical condition was solely the result of the November 1991 employment injury. Regarding the 1993 motor vehicle accident, Dr. Risk stated

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<sup>4</sup> Dr. Risk reported that, prior to the 1991 employment injury, appellant had no similar cervical symptoms. The Board noted, however, that the record indicated that appellant was involved in a motor vehicle accident on March 21, 1988 from which she experience similar symptoms and had been treated by Dr. Risk from April to July 1988.

that the role of that accident would have been “to exacerbate/reactivate a preexisting work-related condition.” He indicated that, on treatment in 1993, appellant “made no reference to any symptoms that developed as a consequence of the July 17, 1993 motor vehicle accident that would have been in any way related to her work-related symptoms.” He opined that there were no musculoskeletal or pain-related symptoms that developed from the 1993 motor vehicle accident. Dr. Risk noted that he continued to treat appellant for persistent pain of the neck, shoulders, arms, low back, chest and legs and that his treatment consisted of several office visits a year. He concluded that her symptoms represented residuals of her 1991 employment-related injury.

By decision dated June 15, 2000, the Office denied modification of its prior decisions. The Office found that Dr. Risk’s treatment notes and March 22, 2000 report offered various diagnoses for appellant’s symptoms, ranging from cervical strain to a post-traumatic pain disorder. The Office found that Dr. Risk’s medical opinion was of reduced probative value as the physician did not provide a well-reasoned medical report to explain how appellant’s diagnosed conditions related to the 1991 employment injury.

The Board finds that appellant has failed to establish that she had residuals of her November 25, 1991 employment injury after March 31, 1994.

Every injury does not necessarily cause disability for employment. Whether a particular injury causes disability for work is a medical issue that must be resolved by competent medical evidence.<sup>5</sup> A physician’s opinion on causal relationship is not dispositive simply because it is rendered by a physician.<sup>6</sup> The weight of medical evidence is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician’s knowledge of the facts and medical history, the care of analysis manifested, and the medical rationale expressed in support of the opinion.<sup>7</sup> Rationalized medical opinion evidence is medical evidence that includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s medical diagnosed condition and the implicated employment factors. The opinion must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed conditions and the specific employment injury.<sup>8</sup> A medical opinion which is equivocal in nature or lacking in adequate medical rationale is of limited probative value.<sup>9</sup>

Appellant sustained an injury on November 25, 1991 accepted by the Office for subluxations at C5-6-7 and for a cervical sprain. In the prior appeals, the Board found that the accepted subluxations had resolved without residual based on a January 2, 1992 MRI which

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<sup>5</sup> See *Patrick H. Hall*, 48 ECAB 514 (1997).

<sup>6</sup> See *Barbara A. Roberson*, 45 ECAB 797 (1994).

<sup>7</sup> See *Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>8</sup> See *Duane B. Harris*, 49 ECAB 170 (1997).

<sup>9</sup> See *Betty M. Regan*, 49 ECAB 496 (1998).

reported a normal alignment and well-maintained discs of the cervical spine. In the present appeal, appellant contends that her present medical conditions constitute residuals of her November 25, 1991 injury, accepted for cervical sprain. The Board finds, however, that the reports and treatment notes of Dr. Risk are not well rationalized in explaining how her employment injury, experienced while assisting in the lifting of a patient over several work shifts, caused or contributed to her various current diagnoses. As appellant's medical conditions have not been accepted by the Office as causally related to the November 25, 1991 injury, appellant retains the burden of proof.<sup>10</sup>

Dr. Risk's treatment notes and medical reports indicate continuing treatment of appellant for complaint of headaches and a polymorphic pain disorder described as involving her neck, upper back, shoulders, arms, low back, chest and legs. While noting normal neurological and psychiatric evaluations, Dr. Risk noted that musculoskeletal examination was revelatory of multiple tender points suggesting "a strong possibility of so-called myofascial pain syndrome versus atypical fibromyalgia." He also diagnosed a post-traumatic fibromyalgia condition. As noted by the Office, the reports of Dr. Risk are not clear with regard to establishing a firm diagnosis of appellant's ongoing medical condition. His reports do not address the accepted condition of cervical sprain nor does he adequately explain how a soft-tissue cervical sprain sustained in 1991 would cause or contribute to the various conditions and symptoms exhibited by appellant after March 31, 1994. While Dr. Risk attempted to address both the prior 1989 and subsequent 1993 nonemployment-related automobile accidents and their influence on appellant's ongoing symptoms, his stated rationale is not well explained. He acknowledged that, in the absence of continuing medical treatment between June 1989 and February 1992, he could not state with a reasonable degree of medical certainty that any residuals of the 1989 automobile accident influenced her symptoms following the 1991 employment-related injury. The reports of Dr. Risk are less clear with regard to explaining how his diagnoses of myofascial pain disorder, fibromyalgia, or a polymorphic pain disorder relate to the 1991 employment injury. The mere fact that appellant states that she was asymptomatic prior to the 1991 employment injury does not raise an inference of causal relationship.<sup>11</sup> Nor do the reports of Dr. Risk adequately explain how his findings on examination contrast with those of other examining physicians in this case or explain why her accepted cervical sprain has not responded to treatment.<sup>12</sup> For these reasons, the Board finds that the reports of Dr. Risk are not well rationalized with regard to addressing how appellant's symptoms and medical treatment after March 31, 1994 relate to her November 25, 1991 cervical sprain or residuals related to the accepted condition.

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<sup>10</sup> See *Dennis M. Mascarenas*, 49 ECAB 215 (1997). An obscure or unknown etiology of a disease or condition does not shift the burden of proof to the Office to disprove an employment relationship. Neither does the absence of a known etiology relieve the claimant of the burden of establishing a causal relationship by the weight of the medical evidence. See *Judith J. Montage*, 48 ECAB 292 (1997).

<sup>11</sup> See *Robert G. Morris*, 48 ECAB 238 (1996). The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the claimant's belief that the disease was caused or aggravated by employment conditions is sufficient to establish causal relation.

<sup>12</sup> Dr. Lawrence C. Strathman noted in a January 20, 1994 report that appellant's low back and upper extremity complaints had cleared and that she only complained of intermittent pain between her shoulder blades and numbness into her arms. He opined that her complaints were out of proportion to his findings on physical examination.

The June 15, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
June 3, 2002

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member