

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CAROL A. GRENIER and U.S. POSTAL SERVICE,
POST OFFICE, Providence, RI

*Docket No. 01-1876; Submitted on the Record;
Issued June 21, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

Appellant, a 45-year-old mailhandler, filed a notice of traumatic injury on December 12, 1995 alleging that she injured her low back in the performance of duty. The Office accepted this claim for a back strain on June 17, 1996.

Appellant filed an additional claim on October 23, 1996 alleging that she injured her neck, shoulder and back in the performance of duty. The Office accepted this claim for right a trapezius strain and a lumbosacral strain on November 26, 1996.

The Office terminated appellant's compensation benefits for both the October 23, 1996 and December 12, 1995 injuries effective November 26, 1996 by decision dated May 1, 1997. Appellant requested an oral hearing and by decision dated March 18, 1999, the hearing representative set aside the May 1, 1997 termination decision and remanded the case for additional development of the medical evidence.

The Office terminated appellant's compensation benefits for both the October 23, 1996 and December 12, 1995 employment injuries on February 7, 2000. She requested an oral hearing and by decision dated August 17, 2000, the hearing representative affirmed the Office's February 7, 2000 decision. Appellant, through her attorney, requested reconsideration on March 16, 2001. By decision dated June 18, 2001, the Office denied modification of its prior decisions.

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits.

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify 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 Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.³ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which would require further medical treatment.⁴

In this case, the Office accepted that appellant sustained a low back strain as a result of her December 12, 1995 employment injury. Appellant's attending physician, Dr. Edwin J. Madden, a Board-certified orthopedic surgeon, submitted several reports indicating that appellant could only work light duty due to this injury. On October 24, 1996 Dr. Madden diagnosed a cervical strain. He placed appellant in a light-duty status on October 29, 1996.

The Office referred appellant to Dr. Richard A. Alemian, a Board-certified orthopedic surgeon, for a second opinion evaluation. In a report dated November 1, 1996, Dr. Alemian noted appellant's employment and medical history. He performed a physical examination and diagnosed mild trapezius strain on the right and mild low back strain.⁵ Dr. Alemian concluded that appellant was able to work four hours a day.

Appellant submitted additional evidence from Dr. Carl B. Carnevale, a chiropractor. In a report dated March 2, 1998, he diagnosed subluxations in the lumbar and cervical spine as demonstrated by x-ray. Dr. Carnevale stated that appellant was totally disabled and opined that her current condition was due to her numerous employment injuries. He submitted several reports repeating these findings and conclusions.

Appellant also submitted a report dated January 19, 1999 from Dr. Joseph V. Centofanti, a neurologist, who noted appellant's history of injury including multiple employment injuries and diagnosed chronic pain syndrome which could have been triggered by her employment injuries. He also diagnosed chronic myofascial syndrome.

Following the January 22, 1996 decision of the hearing representative finding that Dr. Alemain's report was not sufficient to meet the Office's burden of proof to terminate appellant's compensation benefits, the Office referred appellant for a second opinion evaluation with Dr. Philo Willets, a Board-certified orthopedic surgeon. In a report dated May 5, 1999, he

¹ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

² *Id.*

³ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

⁴ *Id.*

⁵ Dr. Alemain noted that these conditions were not due to appellant's December 12, 1995 employment injury, but instead to injuries sustained in October 1996.

noted appellant's history of injury and performed a physical examination. Dr. Willets noted that appellant's simulated axial rotation was painful and stated that this was a nonorganic sign of inconsistency. He reviewed appellant's medical records and diagnostic testing. Dr. Willets stated that appellant's complaints were subjective and that other than age-related degenerative findings on spinal imaging studies her complaints were not supported by objective findings. He concluded that appellant had no objective findings of disability as a result of her December 12, 1995 and October 23, 1996 employment injuries.

The Board finds that Dr. Willets' report is entitled to the weight of the medical evidence. His report was based on a proper factual background and provided physical findings. Dr. Willets noted that appellant demonstrated inconsistent physical signs. He further reviewed the diagnostic testing and concluded that appellant had no objective findings to support her subjective complaints.

The Board notes that Drs. Carnevale and Centofanti diagnosed additional conditions not accepted by the Office as employment related. They did not provide well reasoned reports explaining how and why appellant's diagnosed condition of cervical and lumbar subluxations and chronic pain syndrome or chronic myofascial syndrome were related to her accepted employment strains.

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to appellant to establish that she had disability causally related to her accepted employment injury.⁶ To establish a causal relationship between the condition, as well as any disability claimed and the employment injury, the employee must submit rationalized medical opinion evidence, based on a complete factual background, supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician 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 condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁷

Following the February 7, 2000 termination decision, appellant submitted additional medical evidence. She submitted reports from Dr. Joseph L. Petteruti, an osteopath. Dr. Petteruti noted the history of appellant's employment injuries and her medical treatment. He concluded that appellant's current condition was related to her employment injuries. Dr. Petteruti stated, "It is my professional opinion to within a reasonable degree of medical certainty that in April 1997 [appellant] was disabled from performing her regular duties with the [employing establishment] and that her disability was causally related to the aforementioned injuries." He provided appellant's work restrictions. The Board notes that Dr. Petteruti failed to

⁶ *George Servetas*, 43 ECAB 424, 430 (1992).

⁷ *James Mack*, 43 ECAB 321 (1991).

provide his findings on physical examination in support of his conclusions. He also failed to provide medical reasoning supporting his conclusion that appellant's current condition is related to her accepted employment injuries in 1995 and 1996. In a report dated November 16, 2000, Dr. Petteruti listed appellant's diagnoses and concluded that appellant was disabled due to her employment.

Appellant submitted treatment notes from Dr. William F. Brennan, an orthopedic spine surgeon. On April 27, 2000 Dr. Brennan noted that appellant's complaints of low back pain began 10 years ago at the employing establishment. He diagnosed lumbar spondylosis and chronic lumbar strain. Dr. Brennan did not provide an opinion on the causal relationship between appellant's diagnosed conditions and her accepted employment injuries.

As the medical evidence from Drs. Brennan and Petteruti does not provide a history of injury, findings on physical examination, an opinion on the causal relationship between appellant's and medical rationale explaining how the physician reached this conclusion, these reports are not sufficient to meet appellant's burden of proof.

The June 18, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 21, 2002

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member