

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOLAYNE BARNES MANFORD and DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE, Richmond, VA

*Docket No. 02-404; Submitted on the Record;
Issued June 13, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
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 39-year-old data transcriber, filed a notice of occupational disease on May 19, 1999 alleging that on April 14, 1999 she realized that her right wrist tendinitis was due to her employment duties. The Office accepted appellant's claim for tendinitis of the right wrist on September 9, 1999. As the record reflected that appellant had recovered from the effects of her accepted injury, the Office proposed to terminate appellant's compensation benefits by letter dated November 13, 2000. By decision dated January 5, 2001, the Office terminated appellant's compensation benefits effective January 27, 2001.¹

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.² 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.³ Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁴ To

¹ Following the January 5, 2001 Office decision, appellant submitted additional new evidence to the Office. As the Office did not consider this evidence in reaching a final decision, the Board will not review it for the first time on appeal. 20 C.F.R. § 501.2(c).

² *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

³ *Id.*

⁴ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁵

Appellant's attending physician, Dr. Douglas Bradley, a Board-certified family practitioner, continued to support appellant's total disability for work in a report dated May 18, 2000. Dr. Bradley found that appellant had mild swelling in her right wrist and diagnosed chronic tendinitis of the right wrist due to repetitive tasks at work.

The Office referred appellant for a second opinion evaluation with Dr. William Reed, a Board-certified orthopedic surgeon. In a report dated October 17, 2000, Dr. Reed reviewed appellant's diagnostic test and provided findings on physical examination. He stated that appellant had no visible atrophy of the musculature, that her range of motion included full pronation and supination, full elbow flexion and extension and full wrist range of motion in all directions. Dr. Reed stated that appellant had no atrophy, no blood flow dissimilarity in her hands. He found a normal hand examination and recommended functional capacity testing.

In the functional capacity evaluation dated October 23, 2000, the tester found that appellant did not demonstrate maximal effort on strength testing. She concluded that appellant's most significantly limiting factor was pain, that she had no deficits in sensation or motion and that her strength deficit was not validated due to inconsistencies and evidence of low effort.

Dr. Reed reviewed this report on November 2, 2000 and stated that this was consistent with appellant's examination, normal testing and normal x-rays. He stated that appellant could return to regular duties without restrictions. Dr. Reed found that no objective abnormalities could be documented on any of her tests and that no additional appointments were necessary for appellant.

In response to the Office's proposed termination, appellant submitted a report dated November 27, 2000 from Dr. Bradley who noted that appellant continued to complain of ongoing discomfort in the right wrist particularly the dorsal aspect. He stated that appellant wanted to return to work but stated that she had work restrictions due to her wrist pain. Dr. Bradley stated that he was aware of the lack of objective findings but concluded that "she indeed does have chronic pain with these repetitive motions." He stated that appellant had reached maximum medical improvement but that she would continue to experience chronic discomfort.

The Board finds that Dr. Reed's report constitutes the weight of the medical opinion evidence and establishes that appellant has no further disability due to her accepted employment injury. Dr. Reed performed a detailed physical examination, reviewed diagnostic testing and referred appellant for a functional capacity evaluation. He noted that appellant's functional capacity evaluation was not valid as appellant did not provide maximum effort on strength testing, but that otherwise there were no limitations. Dr. Reed concluded that these findings, or lack thereof, were consistent with his examination, x-rays and other diagnostic tests and that therefore appellant could return to full duty. Although Dr. Bradley disagreed with Dr. Reed's conclusion that appellant could return to full duty, he did not offer any medical reasoning or

⁵ *Id.*

findings in support of his opinion other than his conclusion that appellant would continue to experience pain with repetitive wrist movement. As the findings and test results support the conclusion that appellant is no longer disabled, the Board finds that the Office met its burden of proof to terminate appellant's compensation benefits.

The January 5, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 13, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

A. Peter Kanjorski
Alternate Member