

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MARY A. STEPHENS and DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, Birmingham, AL

*Docket No. 00-2583; Submitted on the Record;  
Issued March 8, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,  
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate compensation for wage loss effective July 19, 1999, and medical benefits effective September 18, 2000.

The Office accepted that appellant sustained an incisional hernia causally related to a May 18, 1995 employment incident; appellant stated that she was pulling file boxes on that date. The nonfatal summary form (CA-800) also indicates that the Office also accepted abdominal wall neuroma/neoplasm secondary to the hernia. Appellant underwent hernia surgeries, including an April 24, 1997 surgery, and she began receiving compensation for temporary total disability.

In a letter dated May 12, 1999, the Office advised appellant that it proposed to terminate her compensation for wage loss on the grounds that her employment-related disability had ceased. By decision dated July 19, 1999, the Office terminated compensation for wage loss. In a decision dated June 15, 2000, an Office hearing representative affirmed the prior decision.

The Board finds that the Office did not meet its burden of proof to terminate compensation in this case.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation. After it has been determined that an employee has disability causally related to his employment, the Office may not terminate compensation without establishing that the disability had ceased or that it was no longer related to the employment.<sup>1</sup>

The Office found that a conflict in the medical evidence existed with respect to appellant's continuing employment-related condition. She was referred to Dr. Selwyn Vickers, a

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<sup>1</sup> *Patricia A. Keller*, 45 ECAB 278 (1993).

Board-certified surgeon. The record contains a statement of accepted facts dated August 26, 1998, stating that in this case the Office had accepted the claim for incisional hernia and surgical repair of the hernia. It does not indicate that any other conditions had been accepted. As noted above, however, the Office also accepted the claim for an abdominal wall neuroma/neoplasm. The hearing representative, in his June 15, 2000 decision, acknowledged that the Office accepted the claim for a neuroma, but states that “it is not clear why this condition was accepted.” The issue presented is not a rescission of acceptance; the Office has terminated compensation benefits. The hearing representative finds that there is no evidence that appellant currently was suffering from a neuroma, without further explanation.<sup>2</sup>

If the Office has accepted a condition, this must be clearly stated in the statement of accepted facts. In reports dated February 15, March 8 and April 7, 1999, Dr. Vickers provided only a brief history and indicated that he found no evidence of a hernia. He did not discuss the medical record or a neuroma condition, and there is no evidence in his reports that he was aware that the Office had accepted a neuroma/neoplasm. The acceptance of an additional abdominal condition is clearly relevant and pertinent information, particularly since Dr. Vickers noted that there could be other problems causing appellant’s abdominal pain.

The Board finds that the statement of accepted facts prepared in this case does not provide an adequate background for a medical opinion on the issues presented. It is well established that medical reports must be based on a complete and accurate factual and medical background, and medical opinions based on an incomplete or inaccurate history are of little probative value.<sup>3</sup> The reports of Dr. Vickers are therefore of diminished probative value and do not resolve the issues in the case. It is the Office’s burden to terminate compensation, and it failed to meet its burden of proof.<sup>4</sup>

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<sup>2</sup> The Board notes that an attending physician, Dr. J. David Haddox, a pain medicine specialist, diagnosed probable neuroma in a September 22, 1998 report.

<sup>3</sup> *Douglas M. McQuaid*, 52 ECAB \_\_\_ (Docket No. 99-2212, issued May 24, 2001); *Patricia M. Mitchell*, 48 ECAB 371 (1997).

<sup>4</sup> The record contains a September 18, 2000 Office decision with respect to continuing compensation benefits. Appellant filed his appeal in this case on August 15, 2000. It is well established that the Board and the Office may not have concurrent jurisdiction over the same case, and those Office decisions which change the status of the decision on appeal are null and void. *Douglas E. Billings*, 41 ECAB 880, 895 (1990). The September 18, 2000 decision is therefore null and void.

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

Dated, Washington, DC  
March 8, 2002

Alec J. Koromilas  
Member

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member