

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANDREW L. MORRISON and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, POLICE & SECURITY SECTION,
Memphis, TN

*Docket No. 01-903; Submitted on the Record;
Issued May 14, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation benefits effective October 25, 1999.

Appellant, a 60-year-old police officer, filed a notice of traumatic injury on December 3, 1998 alleging that on December 1, 1998 he injured his knees and his right hip in the performance of duty.¹ The Office accepted his claim for bilateral knee contusions and right hip contusion. By letter dated September 20, 1999, the Office proposed to terminate appellant's compensation benefits as the weight of the medical evidence established that appellant had no continuing disability causally related to his accepted injuries. The Office finalized the termination by decision dated October 25, 1999. Appellant requested an oral hearing and by decision dated June 2, 2000 and finalized June 8, 2000, the hearing representative affirmed the Office's October 25, 1999 decision.

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

¹ Appellant has a separate claim number A6-707257 before the Office regarding a cervical condition. He requested review of this claim by the Board. However, there is no adverse decision contained in that record within one year of January 30, 2001, the date of appellant's appeal to the Board. For this reason the Board will not consider this claim. 20 C.F.R. § 501.2(c).

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

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 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

In this case, appellant's attending physician, Dr. William J. Oswald, a Board-certified family practitioner, diagnosed bilateral knee and right hip pain on December 10, 1998. He supported appellant's continued disability for work through May 7, 1999 by completing form reports with no physical findings nor medical reasoning.

In a report dated April 19, 1999, Dr. J.T. Galyon, a Board-certified orthopedic surgeon, stated that appellant had contusions of both knees which had resolved. He stated that his current treatment was modification of activities. In a report dated June 22, 1999, Dr. Galyon noted appellant's history of injury and stated that appellant had degenerative arthritis in his knees and that a contusion certainly would aggravate the preexisting osteoarthritis of his knees.

In a report dated January 15, 1999, Dr. James C. Metcalf, a Board-certified neurosurgeon, diagnosed right meralgia paresthetica and stated, "[f]rom a neurosurgical standpoint, I do not see any reason why [appellant] gentleman could not return to his regular work activities."

The Office referred appellant for a second opinion evaluation with Dr. J.C. Varner, a Board-certified orthopedic surgeon. In a report dated August 30, 1999, Dr. Varner noted appellant's history of injury and provided his findings on physical examination. He diagnosed contusion of both knees with preexisting mild degenerative arthritis in the right knee. Dr. Varner also diagnosed post-traumatic meralgia paresthetica without distal radicular component. He stated that appellant did sustain post-traumatic meralgia paresthetica of the femoral cutaneous nerve involving the lateral aspect of the thigh from the blunt trauma in December 1998. Dr. Varner also found that appellant sustained a contusion of both knees greater on the right with mild residual synovitis that at this time should have resolved from an anatomical standpoint. He noted that appellant had some preexisting degenerative changes but no evidence of degenerative arthritis. Dr. Varner also diagnosed a capsular strain right knee. He stated that appellant might continue to experience symptoms but that he had no permanent restrictions and no restrictions due to this specific injury. Dr. Varner stated that appellant had no evidence of progressive degenerative arthritis associated with his knee injury and that the aggravation of his degenerative arthritis should have ceased. He stated that appellant's hip contusion resulted in meralgia paresthetica which results in some permanent residual numbness over the lateral aspect of the right thigh. However, Dr. Varner concluded that appellant had no specific physical activity limitation as a result of this nonfunctional area of numbness involving the thigh. Dr. Varner completed a work restriction evaluation and indicated that appellant could work 8 hours a day with no lifting over 50 pounds and no pushing or pulling over 75 pounds.⁶

³ *Id.*

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

⁵ *Id.*

⁶ Appellant's date-of-injury position does not list lifting, pushing or pulling as a requirement.

The Board finds that the weight of the medical evidence establishes that appellant is capable of performing his date-of-injury position. Dr. Varner, the second opinion physician, provided detailed findings and opined that appellant could return to work. Dr. Metcalf indicated that appellant had no neurological disability and Dr. Galyon stated that appellant had recovered from his contusions. While Dr. Galyon suggested that appellant's contusion had aggravated his degenerative arthritis, he offered no test results and no rationale in support of his opinion. Therefore, as the weight of the medical evidence establishes that appellant could return to his date-of-injury position, the Office met its burden of proof to terminate his compensation benefits.

The decision dated June 2, 2000 and finalized June 8, 2000 of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 14, 2002

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member