

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BRIAN YAN and U.S. POSTAL SERVICE,
POST OFFICE, San Francisco, CA

*Docket No. 02-1960; Submitted on the Record;
Issued April 11, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI

The issues are: (1) whether appellant met his burden of proof in establishing that he had any disability beginning May 14, 2000 to January 12, 2001 causally related to the accepted injury; and (2) whether appellant should be permitted to change physicians to Dr. David York.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record.¹ The Board finds that the April 24, 2002 decision of the Office of Workers' Compensation Programs is in accordance with the facts and the law in this case and adopts the findings and conclusions of the hearing representative.

¹ The medical evidence submitted by appellant to establish that the claimed period of disability was causally related to the accepted injury consisted of the reports from his treating physician, Dr. John P. Belzer, a Board-certified orthopedist. However, these reports lacked adequate rationale establishing a causal connection between appellant's claimed period of disability and his accepted August 24, 1999 employment injury. Appellant also submitted reports from Dr. David York, a chiropractor, however, he is not considered a physician under section 8101(2) of the Act as he did not diagnose a spinal subluxation based on x-rays. Section 8101(2) of the Act provides that chiropractors are considered physicians "only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulation by the Secretary."

Therefore, the Board finds that the April 24, 2002 decision of the Office of Workers' Compensation Programs is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.

Dated, Washington, DC
April 11, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member