

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOANIE L. DIAL and U.S. POSTAL SERVICE,  
POST OFFICE, Indianapolis, IN

*Docket No. 03-779; Submitted on the Record;  
Issued August 28, 2003*

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DECISION and ORDER

Before ALEC J. KOROMILAS, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation benefits on the grounds that her work-related conditions had resolved.

Appellant, then a 32-year-old mail processor, filed a notice of traumatic injury on September 11, 1998 alleging that on November 4, 1997 she tripped on a curb while on her way to work.<sup>1</sup> The Office accepted appellant's claim for right lateral meniscus tear, and authorized a partial meniscectomy and lateral release which appellant underwent in April 1998. Appellant received appropriate compensation and continued to work intermittently in a light-duty capacity.<sup>2</sup>

In a February 1, 2001 report, Dr. Scott Lintner, a Board-certified orthopedic surgeon and appellant's treating physician, advised that there was nothing further he could offer appellant and left her on permanent restrictions of seated work for four hours per day. In a March 21, 2001 report, Dr. Lintner opined that appellant continued to have pain in her knee, which was documented as a seven out of ten in the functional capacity evaluation. He noted that appellant was given restrictions by Dr. John McLimore, a Board-certified internist, based upon the functional capacity evaluation. Dr. Lintner opined that pain continued to be appellant's main problem and that the restrictions outlined by Dr. McLimore were fine. He reiterated that, due to the pain, appellant should continue to be restricted to sit-down work for four hours per day.

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<sup>1</sup> The employing establishment initially controverted the claim. The record reflects that appellant sustained a work injury on May 17, 1995 and subsequently was injured when the stairs leading to her apartment collapsed on June 21, 1995. Appellant sustained a right femur fracture in 1990 with internal fixation rod and the rods were removed in 1992.

<sup>2</sup> On October 12, 1998 appellant also filed the claim as a notice of recurrence that was denied by the Office on February 19, 1999. On March 13, 2001 the Office granted appellant a schedule award for a nine percent permanent loss of use of the right lower extremity.

On June 19, 2002 the Office referred appellant, together with a statement of accepted facts, a set of questions and a copy of the case record, to Dr. Otto Wickstrom, a Board-certified orthopedic surgeon, for a second opinion evaluation as to whether she had continuing residuals of the right lateral meniscus tear, and whether she continued to exhibit any objective findings to support her pain complaints.

In a July 23, 2002 report, Dr. Wickstrom noted appellant's history of injury and treatment.<sup>3</sup> He indicated that he had reviewed the charts, videos and photographs and noted her complaints of lateral pain at the knee joint which, she stated, locked up on her, would sometimes give way and slip out of place such that she could only work four hours and she could only work sitting down. Dr. Wickstrom noted that appellant was 5'1 inches tall and weighed 220 plus pounds and that she walked with a slight limp favoring her right leg with no walking aid. On examination thigh circumference was 24 inches bilaterally with no atrophy of the calf or thigh. Dr. Wickstrom indicated that there was no effusion present, no increased heat, the scars were well healed and there was no deformity. He noted that appellant had excellent stability with negative drawer and Lachman signs, that the kneecap was not hypermobile and moved in a similar amount and direction as did the left kneecap, with no gross crepitation of either kneecap. Dr. Wickstrom indicated that both knees extended to 180 degrees and flexed to 60 degrees. He advised that appellant got off the examining table and used the left leg predominately. When asked to do straight leg raising, while standing, he stated that appellant alleged that she could not do so because it hurt. Dr. Wickstrom added that he then had her stand on the right and straight leg raise the left which she did while holding onto the table. Dr. Wickstrom explained that his review of the video showed an active individual who was able to climb a series of six steps with a reciprocal gait pattern using no rails or aids. He added that the car washing and other activities disclosed no apparent knee problems as heavy-type objects were handled with apparent ease and he noted that appellant bent to pick up objects holding the right leg straight while bearing one hundred percent weight on it.

Dr. Wickstrom noted that he had examined in detail the medical and work history of appellant as well as her examination findings and test results which disclosed no adverse right knee joint findings. He opined that appellant had reached maximum medical improvement and that she was stable and quiescent. Dr. Wickstrom added that appellant's permanent impairment was very minimal and it did not preclude her from performing her assigned duties on an eight-hour basis. He diagnosed resolved right lateral meniscus tear with partial meniscectomy and lateral release. Dr. Wickstrom advised that he could find no specific residuals that he could attribute to the work-related conditions other than well-healed surgical scars. Although appellant continued to have subjective complaints, in the face of negative objective findings regarding her right knee joint, she could return to the duties of her date-of-injury job as a mail processor based on the lack of positive objective findings regarding her right knee. He recommended continued quadriceps strengthening and stretch exercises which would be beneficial to appellant on a life-long basis in the form of a home program along with weight loss. In an attached work capacity

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<sup>3</sup> He also noted that appellant had an automobile accident in 1990 wherein a rod was inserted in her right femur and later removed. She reported that she had gained one hundred pounds since her injury because she could not do much.

evaluation, Dr. Wickstrom advised that appellant could work eight hours per day without restriction, adding that her obesity did not make her duties easy.

On September 12, 2002 the Office issued a proposed notice of termination of compensation. The Office advised appellant that her compensation for wage loss and medical benefits was being terminated because she no longer had any continuing injury-related disability. The Office indicated that the weight of the medical evidence, as demonstrated by the opinion of Dr. Wickstrom, demonstrated that appellant's work injury had resolved. Appellant was given 30 days to submit additional evidence or argument.

Subsequent to the notice, appellant alleged that Dr. Wickstrom had examined her for only 20 minutes, informed her that he had not reviewed her materials and never made her do a weight test. Appellant submitted additional medical evidence and alleged that the medical documentation supported that she continued to have problems with instability of her right knee.

In disability slips dated April 11, April 25, May 2, June 11 and June 20, 2002, Dr. Freeman Martin, a Board-certified family practitioner, advised that appellant could not work due to leg and abdominal pain.<sup>4</sup> Dr. Delicia Calla, a family practitioner, submitted an Office Form CA-17 dated September 5, 2002 in which she advised that appellant could work four hours a day sitting and included further restrictions to appellant's physical activity. She described clinical findings of "tender on the right with a tender contusion over the knee" and stated that appellant also had disabling back pain. In disability slips dated June 4, 2002, Dr. Calla advised that appellant had been seen on January 31, August 2 and September 5, 2002 and advised that she could not work due to right knee and back pain and a contusion over the knee.

By decision dated October 30, 2002, the Office finalized its proposed termination of benefits. The Office indicated that Dr. Wickstrom's opinion constituted the weight of the medical evidence.

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits on October 30, 2002.

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.<sup>5</sup> 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.<sup>6</sup> Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.<sup>7</sup> To

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<sup>4</sup> These slips were not signed by Dr. Martin.

<sup>5</sup> *Lawrence D. Price*, 47 ECAB 120 (1995).

<sup>6</sup> *Id*; see *Patricia A. Keller*, 45 ECAB 278 (1993).

<sup>7</sup> *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.<sup>8</sup>

In assessing medical evidence, the weight of such evidence is determined by its reliability, its probative value, and its convincing quality. The opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of the analysis manifested, and the medical rationale expressed in support of the physician's opinion are facts which determine the weight to be given each individual report.<sup>9</sup>

In the present case, Dr. Lintner, appellant's treating physician, indicated in a report dated February 1, 2001 that appellant could work seated four hours per day. In a March 21, 2001 report, Dr. Lintner advised that the restriction of seated work limited to four hours per day was due to pain. Dr. Lintner, however, did not explain why appellant's knee pain persisted for more than three years after her injury and surgery.<sup>10</sup> Drs. Calla and Martin did not provide any objective findings or medical reasoning to explain their findings on partial disability. Additionally, Dr. Calla advised that appellant's disability was due in part to back pain and a contusion of the right knee. Dr. Martin advised that abdominal pain was a cause of appellant's continued disability. These conditions were not accepted by the Office. It is well established that medical opinions unsupported by rationale are of diminished probative value.<sup>11</sup>

In his report dated July 23, 2002, Dr. Wickstrom, who provided a second opinion examination for the Office, noted his findings on examination and his review of the record and advised that appellant had no continued disability from her accepted employment injury, was capable of performing her usual employment and that further medical treatment was unnecessary. Dr. Wickstrom specifically advised that on examination there were no adverse right knee joint findings and diagnosed resolved right lateral meniscus tear with partial meniscectomy and lateral release.

The Board finds that the weight of medical opinion evidence is represented by Dr. Wickstrom who submitted a thorough medical opinion based upon a complete and accurate factual and medical history.<sup>12</sup> The Board therefore finds that Dr. Wickstrom's report established that appellant ceased to have any disability or residuals causally related to her accepted employment injuries.

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<sup>8</sup> *Id.*

<sup>9</sup> See *Connie Johns*, 44 ECAB 560 (1993).

<sup>10</sup> See *Wanda E. Maisonet*, 48 ECAB 212 (1996).

<sup>11</sup> *Jacquelyn L. Oliver*, 48 ECAB 232 (1996).

<sup>12</sup> *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996).

The October 30, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
August 28, 2003

Alec J. Koromilas  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member