

By letter decision dated July 24, 2003, the Office accepted appellant's claim for low back strain. Appellant was paid wage-loss compensation and medical benefits.

Appellant was treated by Dr. Timothy E. Baldwin, a Board-certified anesthesiologist, who indicated in a report dated October 17, 2003 that the magnetic resonance imaging conducted on August 12, 2003 showed mild disc protrusion complexes at L3-4 and L4-5 with moderate narrowing of the left L3-4 and mild narrowing of the right L3-4 and bilateral L4-5. He indicated that appellant currently had low back pain with radiation to the bilateral buttocks and thighs, right greater than left in the L4 distribution of the right.

By letter dated December 30, 2003, the Office referred appellant to Dr. Thomas L. Gritzka, a Board-certified orthopedic surgeon, for a second opinion. In a medical report dated February 14, 2004, Dr. Gritzka reviewed appellant's history, conducted a physical examination and diagnosed: (1) history of facet syndrome and mechanical back pain, preexistent to injury of May 7, 2003, asymptomatic or at least not under treatment for about seven months prior to May 7, 2003; and (2) lumbosacral sprain, by history, May 7, 2003. He concluded:

"I do not think [appellant] has any residuals from the May 7, 2003 injury at this time. If he does, they are completely masked by the heavy medications that he is now on. I think the examinee's condition probably resolved by the time he had his epidural steroid injection by Dr. Baldwin. There is no reference to this treatment in the medical file received today, but I think it was done in about October 2003 and I think [appellant] has been medically stable with no residuals of the work-related injury since about October 7, 2003. I think the examinee's back condition has resolved.

"There are probably significant psychological factors affecting [appellant's] physical condition. He appears to be either heavily sedated or suffering from an organic brain syndrome at this time. He appears to be heavily medicated to the point that it is interfering with his activities of daily living."

On March 18, 2004 the Office issued a notice of proposed termination of medical and disability benefits on the grounds that appellant's accepted medical condition of low back strain has ceased or is no longer injury related. By letter dated March 19, 2004, the Office requested that Dr. Baldwin comment on Dr. Gritzka's report.

Appellant submitted reports from a Dr. Leon H. Chandler which indicated that appellant was being treated for lumbar degenerative disc disease and sympathetic causalgia. Appellant also submitted a response to the notice of proposed termination.

By decision dated May 15, 2004, the Office finalized the termination of benefits.

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.¹ The Office may not terminate or modify compensation without establishing that the disabling condition ceased or that it was no longer related to the employment.² The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.³ Further, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.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

ANALYSIS

In the instant case, the Office accepted appellant's claim for low back strain. Dr. Baldwin, appellant's treating physician, indicated in his August 12, 2003 report that appellant still had low back pain. In a December 30, 2003 report, however, Dr. Gritzka opined that appellant no longer had residuals from the work-related injury since about October 7, 2003. He supported his conclusion with a complete discussion of the medical evidence and a physical examination. Further, he opined that appellant had significant psychological factors affecting his physical condition, noting that he was heavily medicated or suffered from organic brain syndrome which affected his daily activities. The Board notes, however, that this condition was not accepted by the Office as resulting from the employment injury. The Office sent a copy of Dr. Gritzka's report to Dr. Baldwin. However, Dr. Baldwin did not file a timely response. Accordingly, as Dr. Gritzka thoroughly explained the rationale behind his conclusion that appellant no longer had any residuals from the work injury as he attributed appellant's current condition to a nonemployment-related injury, and as Dr. Baldwin's recent reports are not supported by rationalized medical reasoning, the Board finds that the Office properly determined that the weight of the medical evidence was represented by the report of Dr. Gritzka and properly terminated appellant's wage-loss compensation and medical benefits.⁶

¹ *LaDonna M. Andrews*, 55 ECAB ____ (Docket No. 03-1573, issued January 30, 2004).

² *Jaja K. Asaramo*, 55 ECAB ____ (Docket No. 03-1327, issued January 5, 2004; *Elsie L. Price*, 54 ECAB ____ (Docket No. 02-755, issued July 23, 2003).

³ *Daniel F. O'Donnell, Jr.*, 54 ECAB ____ (Docket No. 02-1468, issued February 28, 2003).

⁴ *LaDonna M. Andrews*, *supra* note 1; *James F. Weikel*, 54 ECAB ____ (Docket No. 01-1661, issued June 30, 2003); *Barbara Johnson (James C. Johnson)*, 54 ECAB ____ (Docket No. 03-1738, issued September 30, 2003) (to be of probative value, the physician must provide rationale for the opinion reached).

⁵ *Donald T. Pippin*, 54 ECAB ____ (Docket No. 03-205, issued June 19, 2003).

⁶ The Board notes that appellant submitted a medical report after the Office's decision terminating benefits. The Board's review is limited to evidence that was before the Office at the time it issued its final decision. *See Robert D. Clark*, 48 ECAB 422, 428 n.6 (1997).

CONCLUSION

The Board finds that the Office properly terminated appellant's wage-loss compensation and medical benefits effective May 15, 2004 on the grounds that he had no further disability or condition causally related to his May 7, 2003 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 15, 2004 is hereby affirmed.

Issued: November 24, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member