



he lacked fluency in English.<sup>1</sup> The findings of fact and conclusions of law from the prior decision are hereby incorporated by reference.

Following the Board's reversal of its wage-earning capacity determination, the Office returned appellant to the periodic rolls with payments retroactive to June 20, 2000.

By letter dated March 5, 2003, the Office requested that appellant submit a comprehensive report from his attending physician addressing his diagnosed condition and any current disability.

In a report dated March 18, 2003, Dr. Tracy R. Johnson, a Board-certified physiatrist, related that she had treated appellant since October 2000. She diagnosed degenerative disc disease of the lumbar spine. Regarding whether his work injury had resolved, Dr. Johnson stated:

"The lumbar strain has resolved. The degenerative disc disease in the lumbar spine is a chronic condition and not related to his work[-]related activities. The lumbar strain is no longer medically present as it is seven years post injury and is not considered disabling."

Dr. Johnson noted that appellant had completed a work hardening program that showed that he could perform medium-duty work. She listed permanent work restrictions due to preexisting degenerative disc disease and discharged him from her care.

By letter dated June 2, 2003, the Office informed Dr. Johnson that it had accepted an aggravation of preexisting degenerative disc disease due to the accepted employment injury and requested that she address whether the aggravation was temporary or permanent and whether it had ceased.

In a report dated June 12, 2003, Dr. Johnson related:

"I believe that the aggravation of [appellant's] preexisting degenerative disc disease is temporary. The aggravation ceased on my follow-up visit [of] March 1, 2001. He does not require any further follow-up with me at this time."

On August 13, 2003 the Office notified appellant that it proposed to terminate his compensation on the grounds that he had recovered from his lumbar strain and aggravation of degenerative disc disease. The Office provided him 30 days within which to submit evidence or argument relevant to the proposed termination.

Appellant did not respond within the time allotted.

By decision dated October 20, 2003, the Office terminated his compensation and authorization for medical treatment on the grounds that the weight of the medical evidence established that he had no further condition or disability due to his accepted employment injury.

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<sup>1</sup> *Luis R. Flores*, 54 ECAB 250 (2002).

On October 28, 2003 appellant requested an oral hearing on his claim. At the hearing, held on September 28, 2004 the hearing representative informed him of the need for updated medical evidence relevant to his continuing disability.

In a report dated November 4, 2004, Dr. Timothy E. Doerr, a Board-certified orthopedic surgeon, discussed appellant's history of a back injury in 1996 while at work. He noted his current complaints of back pain radiating into the left leg and listed findings on examination. Dr. Doerr diagnosed low back and left leg pain and referred appellant for a magnetic resonance imaging (MRI) scan.

An MRI scan performed on November 5, 2004 revealed "mild lumbar degenerative changes present without appreciable disc protrusion, sac or root deformity." The MRI scan further showed a "small right paracentral disc protrusion without cord compression" at T11-12.

In a work release dated November 12, 2004, Dr. Randolph E. Peterson, a Board-certified orthopedic surgeon, indicated that he had been treating appellant for left lateral epicondylitis and released him to return to work on that date without restrictions.

By decision dated January 18, 2005, the hearing representative affirmed the Office's October 20, 2003 decision.

### **LEGAL PRECEDENT -- ISSUE 1**

Once the Office accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits. The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.<sup>2</sup> The Office's burden of proof in terminating compensation includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>3</sup>

### **ANALYSIS -- ISSUE 1**

The Office accepted that appellant sustained lumbar strain and a temporary aggravation of degenerative disc disease due to an August 21, 1996 employment injury.<sup>4</sup> The Office relied upon reports dated March 18 and June 12, 2003 from Dr. Johnson, appellant's attending physician, in finding that he had no further employment-related disability. In a report dated March 18, 2003, she opined that appellant's lumbar strain had resolved. Dr. Johnson further found that he had no disability from his lumbar strain and that, while he had work restrictions from his degenerative disc disease, the restrictions did not result from his work injury. In a supplemental report dated June 12, 2003, Dr. Johnson opined that appellant sustained only a

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<sup>2</sup> *Gloria J. Godfrey*, 52 ECAB 486 (2001).

<sup>3</sup> *Gewin C. Hawkins*, 52 ECAB 242 (2001).

<sup>4</sup> Following his employment injury, appellant stopped work in October 1996, when his position as an emergency firefighter ended.

temporary aggravation of his preexisting degenerative disc disease due to his employment injury. She opined that the aggravation ceased by the time of her March 1, 2001 examination.

As appellant's attending physician since 2000, Dr. Johnson had a thorough knowledge of his condition and her opinion is, therefore, probative on the issue of whether appellant had any further disability due to his employment injury. The Board finds that the Office, consequently, properly terminated his compensation benefits.

### **LEGAL PRECEDENT -- ISSUE 2**

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.<sup>5</sup> 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.<sup>6</sup>

### **ANALYSIS -- ISSUE 2**

In order to terminate appellant's authorization for medical treatment, the Office must established that he has no further need for medical treatment due to his employment-related condition.<sup>7</sup> The Office met this burden through the report of his attending physician, Dr. Johnson, who found that appellant had no further residual condition due to his accepted employment injuries of lumbar strain and an aggravation of preexisting degenerative disc disease and discharged him from her care.

### **LEGAL PRECEDENT -- ISSUE 3**

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to him to establish that he had continuing disability after that date related to her accepted injury.<sup>8</sup> To establish a causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such a causal relationship.<sup>9</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>10</sup> Rationalized medical evidence is evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be

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<sup>5</sup> *Pamela K. Guesford*, 53 ECAB 727 (2002).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Manual Gill*, 52 ECAB 282 (2001).

<sup>9</sup> *Id.*

<sup>10</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

supported by medical rationalize explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>11</sup> Neither the fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>12</sup>

### **ANALYSIS -- ISSUE 3**

Given the Board's finding that the Office properly relied upon the opinion of Dr. Johnson in terminating compensation, the burden of proof shifts to appellant to establish that he remains entitled to compensation after that date.<sup>13</sup> To establish causal relationship between the claimed disability and the employment injury, appellant must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.<sup>14</sup>

In a report dated November 4, 2004, Dr. Doerr noted that appellant sustained a work injury to his back in 1996 and discussed his current complaints of back pain radiating into the left leg. He diagnosed low back and left leg pain and referred him for an MRI scan.<sup>15</sup> Dr. Doerr, however, did not attribute appellant's low back and left leg pain to his employment injury or address the relevant issue of whether he had any further condition or disability due to his work injury. Thus, his report is of little probative value.<sup>16</sup>

Appellant further submitted a work release dated November 12, 2004 from Dr. Peterson, who diagnosed left lateral epicondylitis and released him to return to work on that date without restrictions. He did not address his employment injury or disability and thus, Dr. Peterson's report is not relevant to the issue in this case. Consequently, appellant has not met his burden of proof to establish any continuing employment-related disability.

### **CONCLUSION**

The Board finds that the Office properly terminated appellant's compensation and authorization for medical treatment on the grounds that he had no further condition or disability due to his accepted employment injury. The Board further finds that appellant has not established that he had continuing employment-related disability after October 20, 2003.

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<sup>11</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>12</sup> *Ernest St. Pierre*, 51 ECAB 623 (2000).

<sup>13</sup> *See Manual Gill*, *supra* note 8.

<sup>14</sup> *See Leslie C. Moore*, *supra* note 11.

<sup>15</sup> An MRI scan obtained on November 5, 2004 showed mild degenerative changes and a small right paracentral T11-12 disc protrusion.

<sup>16</sup> *Donald T. Pippin*, 54 ECAB 631 (2003) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated January 18, 2005 is affirmed.

Issued: April 17, 2006  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board