United States Department of Labor
Employees' Compensation Appeals Board

M.O., Appellant	)	
and	)	**Docket No. 05-1817**
	)	**Issued: August 8, 2006**
DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, Washington, DC, Employer	)	

Appearances:
Thomas S. Harkins, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On September 1, 2005 appellant, through her attorney, filed a timely appeal of a July 14, 2005 merit decision of the Office of Workers' Compensation Programs affirming a June 29, 2004 decision which denied consequential injuries causally related to her accepted July 31, 2001 employment injury and denied authorization for surgery. The Office also denied modification of a December 23, 2004 decision which terminated appellant's wage-loss compensation. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant has established that she sustained consequential orthopedic injuries and a postconcussion syndrome due to her accepted July 31, 2001 employment injuries; (2) whether the Office properly denied authorization for thoracic outlet surgery, left ulnar nerve decompression, left carpal tunnel surgery, arthroscopy of the left shoulder, cervical fusion at C3-7 and lumbar fusion and discectomy at L3-5; and (3) whether the Office properly terminated appellant's wage-loss compensation effective December 26, 2004 on the grounds that she was no longer totally disabled due to the July 31, 2001 employment injuries.

FACTUAL HISTORY

On August 3, 2001 appellant, then a 56-year-old budget management officer, filed a traumatic injury claim alleging that on July 31, 2001 she hurt the left side of her head, hip, leg and shoulder when the driver of an employing establishment van turned a curve which caused the right side of a seat to come off its hinges and she fell into the left side of the van. By letter dated October 22, 2001, the Office accepted appellant's claim for left shoulder strain and lumbosacral and cervical strains. After further development of the case record, the Office also accepted a left hip strain and headache, contusion of the left knee, aggravation of preexisting degenerative disc disease and osteoarthritis. Appellant received appropriate compensation for total disability.

In treatment notes dated September 12 through 18, 2002, Dr. Nelson H. Hendler, an attending Board-certified neurologist, diagnosed ulnar nerve entrapment, left carpal tunnel syndrome, left acromioclavicular (AC) impingement and stenosis in the tendon, left rotator cuff tear, radiculopathy at C2-3, C3-4, C5-6 and C6-7, lumbar facet syndrome and radiculopathy at L3-S1, L4-5 and temporomandibular joint (TMJ) and post-concussion syndrome. On October 10, 2002 Dr. Hendler indicated that he treated appellant for the accepted employment-related conditions. He stated, however, that she was misdiagnosed prior to seeing him and that appellant did not have a sprain of the neck or lumbar region; rather, she had degenerative disc disease which probably required surgery. Appellant also experienced headaches that were attributed to brain damage as demonstrated by a positron emission tomography scan. Dr. Hendler stated that since appellant's proper diagnosis had been established she required surgery for ulnar nerve decompression, thoracic outlet and carpal tunnel syndrome. Appellant also required arthroscopy of the shoulder, an anterior cervical fusion of C3-4 and C4-5, a facet rhizotomy and a lumbar fusion at L4-5. Dr. Hendler stated that appellant's post-concussion syndrome might require cognitive retraining. He opined that she was totally disabled.

By letter dated November 25, 2002, the Office referred appellant, together with a statement of accepted facts, the case record and a list of questions to be addressed to Dr. Kevin F. Hanley, a Board-certified orthopedic surgeon, for a second opinion medical examination. In a December 13, 2002 report, he found that appellant sustained soft tissue injuries as a result of the July 31, 2001 employment injury and that her underlying degenerative processes may have been aggravated on a permanent basis. Dr. Hanley related that appellant had not reached maximum medical improvement at the time of his examination. He opined that she did not require surgery at the C3-4 and C4-5 level since his examination of those levels was normal. In addition, appellant was not a candidate for a lumbar fusion at L4-5 since the disc herniation was on the right side and her symptoms were on the left. Dr. Hanley recommended an aggressive work hardening program and stated that she could work four hours a day within certain physical limitations. Appellant was not a candidate for any type of external bracing as this would further limit her activities and reinforce her sick role which, according to her neuropsychologist, was part of her emotional makeup. She perceived herself as being much more disabled than she truly was. Dr. Hanley opined that appellant did not require ulnar nerve decompression, thoracic outlet surgery or shoulder surgery since these areas did not show objective signs consistent with internal derangement which would require such treatment. He further opined that the statement of accepted facts and the areas of injury outlined therein were appropriate and that the additional diagnoses provided by Dr. Hendler were not appropriate as

appellant did not have C2-7 disc radiculopathy. Appellant had very mild degenerative changes in the AC joints on both sides but no rotator cuff injury of any sort. Dr. Hanley concluded that no other treatment was necessary for the accepted employment-related conditions and that appellant could work in a part-time limited-duty capacity.

In a work capacity evaluation, Dr. Hanley reiterated that appellant had not reached maximum medical improvement and recommended that she participate in a work hardening program. He stated that she would be able to return to work eight hours a day within six to eight weeks.

The Office found a conflict in the medical opinion evidence between Dr. Hendler and Dr. Hanley as to whether appellant sustained consequential injuries causally related to the July 31, 2001 employment injury and whether the proposed surgeries were medically warranted. By letter dated January 29, 2003, the Office referred appellant, together with a statement of accepted facts, the case record and a list of questions to be addressed, to Dr. G. Edward Reahl, Jr., a Board-certified orthopedic surgeon, for an impartial medical examination.

In a March 10, 2003 report, Dr. Reahl provided a history of appellant's July 31, 2001 employment injury and medical background. He noted her complaints of pain to the neck, shoulders and back. On physical examination, Dr. Reahl reported limited range of motion of the neck and shoulders with essentially normal reflexes and strength regarding the back and upper extremities. Appellant's lower extremities demonstrated poor recruitment in all muscle group testing. There was no swelling in the upper or lower extremities and no effusion or instability in either knee. She had generalized aching in the left knee and full motion of the hip. X-rays of the cervical and lumbar spines, upper extremities and left knee were essentially normal. Dr. Reahl provided a detailed review of appellant's medical records. He found no objective findings to support the proposed surgeries and stated that they would be counterproductive. Dr. Reahl noted that there was some preexisting AC arthritis of a mild degree that may have been temporarily aggravated, but not enough to require surgery. He stated that the best course of treatment was a work hardening program. Appellant continued to experience aches and pains from arthritis which was probably aggravated to some mild degree by the accepted employment injury, but Dr. Reahl believed her symptoms were being fueled by the various treatments offered and given and suspected a strong functional overlay. Dr. Reahl diagnosed a mild cervical spine strain and degenerative disc disease at C6-7, lumbar facet arthrosis at L4-5/S1, contusion of the left knee, patellofemoral arthritis and mild right and left shoulder AC arthritis.

By letter dated April 4, 2003, the Office requested that Dr. Reahl address whether appellant had reached maximum medical improvement and whether she had to further suffer residuals of the July 31, 2001 employment injury. He was also requested to describe her physical limitations and any diagnoses causally related to the accepted employment injury.

In an April 25, 2003 report, Dr. Reahl recommended that appellant undergo a functional capacity evaluation and a work hardening program. He stated that she had residuals but the extent of which could not be determined until after completion of the functional capacity evaluation and work hardening program. Dr. Reahl indicated that appellant's physical limitations would best be described by further evaluation. He concluded that her current condition was medically connected to the July 31, 2001 work-related injury. On April 29, 2003

Dr. Reahl reiterated his prior diagnoses and recommendation that appellant undergo a functional capacity evaluation.

By decision dated April 30, 2003, the Office denied authorization for thoracic outlet surgery, left ulnar nerve decompression, left carpal tunnel surgery, arthroscopy of the left shoulder, cervical fusion at C5-7 and lumbar fusion and discectomy at L3-5 based on Dr. Reahl's opinion. The Office, however, authorized appellant to undergo a functional capacity evaluation and a work hardening program.

In a decision dated February 26, 2004, the Office again denied authorization for the proposed surgeries.

By letter dated March 10, 2004, the Office referred appellant, together with a statement of accepted facts, the case record and a list of questions to be addressed, to Dr. Robert F. Draper, Jr., a Board-certified orthopedic surgeon, for a second opinion medical examination to determine whether she had any continuing employment-related residuals or disability. In a March 30, 2004 report, he reviewed a history of her July 31, 2001 employment injury and her medical, family and social background. Dr. Draper reported findings on physical examination. He diagnosed degenerative disc disease at C6-7, lumbar facet arthrosis at L4-5 and L5-S1, contusion of the left knee, patellofemoral arthritis of both knees, mild AC joint arthritis of the right and left shoulder and a history of left carpal tunnel syndrome which was not demonstrated by his examination. Dr. Draper agreed with Dr. Reahl that surgery was not warranted for appellant's neck, back, left shoulder, left ulnar nerve or left carpal tunnel. He opined that appellant was capable of performing sedentary work 8 hours a day, 40 hours per week and that she was limited to lifting no more than 10 pounds. Dr. Draper doubted that further physical therapy would change her course or improve her condition. He recommended discontinuation of physical therapy and that she be treated with Tylenol as needed to relieve pain. Appellant reached maximum medical improvement and her degenerative conditions of the cervical spine were not the direct result of the accepted employment injury. Dr. Draper noted that she continued to have residuals of the accepted employment injuries with pain complicated by a preexisting pathology. He concluded that the diagnosed medical conditions were not related to the July 31, 2001 employment injuries in terms of the preexisting degenerative changes. Dr. Draper noted, however, that they were slightly and permanently aggravated by the accepted work-related injuries.

By letter dated April 16, 2004, appellant, through her attorney, requested reconsideration of the Office's February 26, 2004 decision. Counsel contended that the Office did not accept all the conditions related to the July 31, 2001 employment injury and that it improperly denied authorization for the proposed surgeries.[1] Counsel argued that the medical opinions of Dr. Hanley and Dr. Reahl were of no probative value because they were based on an incomplete and inaccurate history.

In a June 29, 2004 decision, the Office denied modification of the February 26, 2004 decision. It found the evidence of record insufficient to establish that she sustained injuries other than these already accepted as related to the July 31, 2001 employment injury. The Office found

[1] The Board notes that on April 16, 2004 appellant underwent cervical fusion surgery which was performed by Dr. Reginald Davis, a Board-certified neurosurgeon, and unauthorized by the Office.

that the evidence submitted by appellant was insufficient to overcome the special weight accorded to Dr. Reahl's impartial medical opinion.

By letter dated November 19, 2004, the Office issued a notice of proposed termination of compensation based on Dr. Draper's March 30, 2004 medical report. The Office found that his report supported that appellant no longer had any disability causally related to the July 31, 2001 employment injury. The Office provided 30 days in which she could submit additional evidence.

The Office received notes from attending physical therapists and physician's assistants for the period November 12 through December 6, 2004. The Office also received treatment notes from Dr. Hendler and Dr. Norman B. Rosen, a Board-certified physiatrist. On December 6, 2004 Dr. Hendler disagreed with Dr. Draper's findings. He stated that Dr. Draper did not take into account appellant's improvement as a result of her neck surgeries, noting that she still required a fusion of the lumbar spine. Dr. Hendler enclosed an article regarding the barriers to an injured employee's return to work. He stated that, if appellant had undergone the recommended lumbar surgery she would have recovered and returned to work and contended that the Office's refusal to authorize surgery prevented her from returning to work.

By letter dated December 13, 2004, appellant's attorney argued that the proposed termination was contrary to the medical evidence of record. He noted that additional medical evidence had been requested from appellant's attending physicians and it would be submitted to the Office.

On December 23, 2004 the Office terminated appellant's wage-loss compensation effective December 26, 2004. The Office found the medical evidence insufficient to establish that she was totally disabled for work and accorded weight to Dr. Draper's opinion. The Office did not terminate appellant's medical benefits based on her accepted condition.

The Office received treatment dated January 5 through February 9, 2005 from a physician's assistant whose signature is illegible and an x-ray report dated January 21, 2005. In a January 20, 2005 report, Dr. Hendler stated that appellant's symptoms were causally related to the accepted employment injury. He stated that he did not determine disability ratings and could not comment on appellant's disability.

On February 16, 2005 appellant, through her attorney, requested reconsideration. Counsel argued that the evidence of record established that she sustained additional injuries causally related to the July 31, 2001 employment injury and that the proposed surgeries were warranted. He contended that the medical opinions of Dr. Hanley, Dr. Reahl and Dr. Draper were not based on an accurate history of appellant's employment-related injuries and, thus, were of no probative value. Counsel argued that she continued to be totally disabled due to the accepted employment injury. He stated that a conflict in the medical opinion evidence existed between Dr. Draper and appellant's attending physicians with regard to the issue of whether she had any continuing employment-related disability.

The Office also received treatment notes from Dr. Rosen dated February 2 through July 13, 2005 and addressed appellant's headaches and pain in her neck, right and left shoulder, low back, knees and hips. Dr. Hendler's April 13 and June 23, 2005 treatment notes which

diagnosed post-anterior cervical fusion at C4-7, mild stenosis at C5-6 and hypothyroidism. An unsigned treatment note dated May 18, 2005 from Dr. Robert D. Keehn, a Board-certified orthopedic surgeon, indicated that appellant received injections to treat osteoarthritis in both knees.

By decision dated July 14, 2005, the Office denied modification of its June 29 and December 23, 2004 decision. The Office accorded special weight to Dr. Reahl's impartial medical opinion in finding that appellant did not sustain consequential conditions causally related to the July 31, 2001 employment injury and that the proposed surgeries were not warranted. The Office found that Dr. Draper's opinion constituted the weight of the medical opinion evidence in finding that she no longer had any continuing disability causally related to the accepted employment injuries.[2]

LEGAL PRECEDENT -- ISSUE 1

It is an accepted principle of workers' compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee's own intentional conduct.[3]

Appellant bears the burden to establish her claim for a consequential injury.[4] As part of this burden, she must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship.[5] Rationalized medical evidence is evidence from a physician which relates a work incident or factors of employment to a claimant's condition, with stated reasons.[6] The opinion of the physician must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.[7]

The Federal Employees' Compensation Act provides that, if there is a disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.[8] The

[2] Following the issuance of the Office's July 14, 2005 decision, the Office received additional evidence. The Board may not consider evidence for the first time on appeal which was not before the Office at the time it issued the final decision in the case. 20 C.F.R. § 501.2(c). Appellant can submit this evidence to the Office and request reconsideration. 5 U.S.C. § 8128; 20 C.F.R. § 10.606

[3] *Albert F. Ranieri*, 55 ECAB __ (Docket No. 04-22, issued July 6, 2004).

[4] *See Charles W. Downey*, 54 ECAB 421 (2003).

[5] *Id.*

[6] *Id.*

[7] *Gary L. Fowler*, 45 ECAB 365 (1994).

[8] 5 U.S.C. §§ 8101-8193, 8123.

implementing regulations states that, if a conflict exists between the medical opinion of the employee's physician and the medical opinion of either a second opinion physician or an Office medical adviser or consultant, the Office shall appoint a third physician to make an examination. This is called a referee examination and the Office will select a physician who is qualified in the appropriate specialty and who has had no prior connection with the case.[9]

It is well established that, when a case is referred to an impartial medical specialist for the purpose of resolving a conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background must be given special weight.[10]

ANALYSIS -- ISSUE 1

The Office accepted that appellant sustained a left shoulder strain, lumbosacral and cervical spine strains, left hip strain, headache, contusion of the left knee and aggravated her preexisting degenerative disc disease and osteoarthritis as a result of the employment-related July 31, 2001 injury. The Board notes that a conflict in medical opinion was created between Dr. Hendler, an attending physician, and Dr. Hanley, an Office referral physician, as to whether she sustained any consequential condition as a result of the July 31, 2001 employment injury. Dr. Hendler diagnosed ulnar nerve entrapment, left carpal tunnel syndrome, left AC impingement and stenosis of the tendon, left rotator cuff tear, radiculopathy at C2-3, C3-4, C5-6 and C6-7, lumbar facet syndrome and radiculopathy at L3-S1, L4-5 and TMJ and post-concussion syndrome. Dr. Hanley opined that appellant only sustained the injuries accepted by the Office.

The Office referred appellant to Dr. Reahl, selected as the impartial medical specialist. He conducted a thorough medical examination which provided essentially normal results and provided a detailed review of appellant's medical records. Dr. Reahl diagnosed those conditions that were accepted by the Office as causally related to the July 31, 2003 employment injury. He did not find that appellant sustained any additional injuries as a result of the accepted work-related injury. Dr. Reahl reported that x-rays of the cervical and lumbar spines, upper extremities and left knee were essentially normal, that appellant had generalized aching of the left knee but full hip motion and that he suspected a strong functional overlay as the cause of her problems. He noted that her degenerative arthritis was temporarily aggravated by the accepted injury.

Dr. Reahl's opinion is entitled to special weight in finding that appellant did not sustain any consequential injuries causally related to the July 31, 2001 employment injury as it is sufficiently rationalized and based on a proper factual and medical background.

[9] 20 C.F.R. § 10.321.

[10] *Gloria J. Godfrey*, 52 ECAB 486, 489 (2001).

LEGAL PRECEDENT -- ISSUE 2

Section 8103 of the Act[11] provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Office considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of monthly compensation.[12] In interpreting this section of the Act, the Board has recognized that the Office has broad discretion in approving services provided under section 8103, with the only limitation on the Office's authority being that of reasonableness.[13] Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to merely show that the evidence could be construed so as to produce a contrary factual conclusion.[14] In order to be entitled to reimbursement for medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury.[15]

Proof of causal relationship in a case such as this must include supporting rationalized medical evidence. Thus, in order for a surgery to be authorized, appellant must submit evidence to show that the requested procedure is for a condition causally related to the employment injury and that it is medically warranted. Both of these criteria must be met in order for the Office to authorize payment.[16]

In situations where there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.[17]

ANALYSIS -- ISSUE 2

The Board notes that a conflict in the medical opinion evidence was always created between Dr. Hendler and Dr. Hanley as to whether the surgeries proposed by Dr. Hendler were medically warranted. Dr. Hendler requested authorization for appellant to undergo surgery for ulnar nerve decompression, thoracic outlet and carpal tunnel syndrome, an arthroscopy of the shoulder, an anterior cervical fusion of C3-4 and C4-5, a facet rhizotomy and a lumbar fusion

[11] 5 U.S.C. §§ 8101-8193.

[12] 5 U.S.C. § 8103; *see Thomas W. Stevens*, 50 ECAB 288 (1999).

[13] *James R. Bell*, 52 ECAB 414 (2001).

[14] *Claudia L. Yantis*, 48 ECAB 495 (1997).

[15] *Cathy B. Mullin*, 51 ECAB 331 (2000).

[16] *Id.*

[17] *Gloria J. Godfrey*, *supra* note 10.

at L4-5. Dr. Hanley opined that the proposed surgeries were not warranted based on his examination of appellant.

Dr. Reahl, the impartial medical specialist, found that there were no objective findings to warrant the proposed surgeries as medically necessary. He stated that they would be counterproductive and recommended a work hardening program. Dr. Rheal further stated that there was some preexisting AC arthritis of a mild degree that may have been temporarily aggravated, but not enough to require surgery. He opined that the best course of treatment was a work hardening evaluation/program. Dr. Reahl related that appellant continued to experience aches and pains from her arthritis which was probably aggravated to some mild degree by the accepted employment injury, but he believed her symptoms were being fueled by the various treatments offered and given and suspected a strong functional overlay.

The Board finds that Dr. Reahl's report is based upon a proper factual and medical background such that it is entitled to special weight accorded an impartial medical specialist in finding that the surgical procedures at issue in this case were not necessary treatment for the diagnosed conditions. Thus, the Office did not abuse its discretion in declining to authorize surgery.

LEGAL PRECEDENT -- ISSUE 3

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.[18] 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.[19]

The Act provides that, if there is a disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.[20] The implementing regulation states that, if a conflict exists between the medical opinion of the employee's physician and the medical opinion of either a second opinion physician or an Office medical adviser or consultant, the Office shall appoint a third physician to make an examination. This is called a referee examination and the Office will select a physician who is qualified in the appropriate specialty and who has had no prior connection with the case.[21]

[18] *Id.*

[19] *Gewin C. Hawkins*, 52 ECAB 242 (2001).

[20] *See supra* note 8.

[21] *See supra* note 9.

ANALYSIS -- ISSUE 3

The Office accepted that appellant sustained a strain of the left shoulder, lumbosacral and cervical spine and left hip, headache, contusion of the left knee and aggravation of preexisting degenerative disc disease and osteoarthritis following her July 31, 2001 employment injury. She received compensation for total disability. The Office subsequently terminated appellant's wage-loss benefits finding that she no longer had any disability causally related to the accepted employment injury based on the March 30, 2004 medical report of Dr. Draper, who reported essentially normal results on physical examination. He diagnosed degenerative disc disease at C6-7, lumbar facet arthrosis at L4-5 and L5-S1, contusion of the left knee, patellofemoral arthritis of both knees, mild AC joint arthritis of the right and left shoulder and a history of left carpal tunnel syndrome which was not demonstrated by his examination. Based on a review of the case record and his findings on physical examination, Dr. Draper opined that appellant was capable of performing sedentary work 8 hours a day, 40 hours per week and that she was limited to lifting no more than 10 pounds. He stated that she had reached maximum medical improvement of the July 31, 2001 employment injuries and that her degenerative conditions of the cervical spine with arthritis in the neck were not the direct result of the accepted employment injuries. Although appellant experienced pain as a result of residuals of the employment injuries which was complicated by a preexisting pathology.

In a letter dated December 6, 2004, Dr. Hendler disagreed with Dr. Draper's findings. He stated that Dr. Draper did not take into account appellant's improvement as a result of her neck surgeries, noting that she still required a fusion of the lumbar spine. Dr. Hendler opined that appellant suffered from medical conditions that prevented her from returning to work and that she remained totally disabled due to residual of the accepted condition.

The Board finds a conflict in the medical opinion evidence between Dr. Draper and Dr. Hendler with regard to the issue of whether appellant has continuing disability causally related to the July 31, 2001 employment injuries and her capacity for work. As an unresolved medical conflict existed at the time the Office terminated benefits, the Office did not meet its burden of proof in terminating appellant's wage-loss compensation benefits.

CONCLUSION

The Board finds that appellant failed to establish that she sustained consequential conditions of ulnar nerve entrapment, left carpal tunnel syndrome, left AC impingement and stenosis of the tendon, left rotator cuff tear, C2-3, C3-4, C5-6 and C6-7 disc and radiculopathy, lumbar facet syndrome and radiculopathy at L3-S1, L4-5 and temporomandibular joint and post-concussion syndrome due to the accepted July 31, 2001 employment injury. The Board also finds that the Office properly denied authorization for thoracic outlet surgery, left ulnar nerve decompression, left carpal tunnel surgery, arthroscopy of the left shoulder, cervical fusion at C3-7 and lumbar fusion and discectomy at L3-5. The Board, however, finds that the Office improperly terminated appellant's wage-loss compensation effective December 26, 2004 because a conflict exists in medical opinion evidence as to continuing disability causally related to the July 31, 2001 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the July 14, 2005 and December 23, 2004 decisions of the Office of Workers' Compensation Programs are affirmed with regard to the finding that appellant did not sustain consequential injuries causally related to the July 31, 2001 employment injury and that the proposed surgeries were not warranted. The Office's July 14, 2005 and December 23, 2004 decisions are reversed with regard to the termination of appellant's compensation.

Issued: August 8, 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