



Dr. Entress stated that appellant was seen on April 25, 2003 for low back pain. X-rays taken that day showed arthritic spurring of L1-3. Dr. Entress added that appellant's symptoms had resolved "somewhat" with physical therapy but that repetitive movements exacerbated her symptoms and that appellant should therefore refrain from such movements.

In order to determine appellant's current condition and to ascertain whether she still had residuals from her accepted lumbar strain/sprain condition, the Office referred her to Dr. Stephen R. Bailey, a Board-certified orthopedic surgeon. In a report dated June 21, 2006, Dr. Bailey related complaints of discomfort in primarily the center and right upper buttock areas, but found no symptoms in either leg. He noted no anatomic tenderness or muscle spasm. Based on his examination of appellant, Dr. Bailey found no evidence of a lumbar strain or sprain. There was no evidence of muscle spasm or restriction in the lumbar range of motion. He opined that appellant's current symptoms were not related to her April 2003 lumbar sprain injury. Due to appellant's lack of objective impairment, Dr. Bailey declined to place restrictions on her physical activities. He opined that appellant required no further treatment. Dr. Bailey stated:

"With respect to the resolution of the lumbar sprain, the etiology of [appellant's] current symptoms is unclear at this time. I can state, with a reasonable degree of medical certainty, that her current symptoms are not related to a lumbar sprain of more than three years ago. At this time [appellant] is capable of returning to her usual job duties, full time, without restriction."

On July 5, 2006 the Office issued a notice of proposed termination of compensation. The Office found that the weight of the medical evidence, as represented by the June 21, 2006 report by Dr. Bailey, established that her accepted lumbar strain/sprain had resolved. The Office allowed appellant 30 days to submit additional evidence or legal argument in opposition to the proposed termination. No evidence was forthcoming.

By decision dated August 11, 2006, the Office terminated appellant's compensation.

### **LEGAL PRECEDENT**

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened to order to justify termination or modification of compensation benefits.<sup>1</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>2</sup>

### **ANALYSIS**

In this case, the Office based its decision to terminate appellant's compensation on the June 21, 2006 report of Dr. Bailey, a Board-certified orthopedic surgeon, who found that appellant's current symptoms and complaints of lumbar discomfort were not related to her

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<sup>1</sup> *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

<sup>2</sup> *Id.*

April 2003 employment injury. He stated that appellant's lumbar strain/sprain had resolved, as there was no evidence of muscle spasm or restricted motion. Dr. Bailey advised that appellant's current symptoms were not related to her April 2003 lumbar sprain injury and concluded that appellant was capable of returning full time to her usual job duties without restrictions. The Office relied on the opinion of Dr. Bailey, finding that appellant had no residuals stemming from her April 2003 employment injury and that she had no continuing disability resulting from the accepted employment injury.

While appellant had submitted continuing status reports from her treating physician Dr. Entress, these reports did not document current examination findings. In fact, an April 6, 2006 narrative report only referenced an office examination of April 25, 2003, two years prior. Dr. Entress did not provide a rationalized medical opinion explaining how appellant's current physical restrictions were necessitated by residuals of the accepted injury of lumbar strain/sprain rather than the arthritic changes she noted in her April 6, 2006 narrative report. As such the reports received from Dr. Entress are of diminished probative value.

The Board finds that Dr. Bailey's report represented the weight of the medical evidence and negated a causal relationship between appellant's current condition and her accepted 2003 injury. His report is sufficiently probative, rationalized and based upon a proper factual background. The Office therefore properly relied on Dr. Bailey's opinion in its August 11, 2006 termination decision.

### **CONCLUSION**

Under the circumstances described above, the Board finds that the Office met its burden to terminate appellant's compensation benefits.

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 11, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 11, 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