

In a January 13, 2005 report, Dr. Manhal A. Ghanma, a Board-certified orthopedic surgeon and an Office referral physician, provided a history of appellant's condition and findings on physical examination. He stated that there were no objective findings of residuals due to appellant's accepted cervical sprain and left lateral epicondylitis. Appellant could perform his date-of-injury position without restrictions. Dr. Ghanma noted that lateral epicondylitis was generally a self-limiting condition which resolved in a few weeks. He indicated that appellant denied any neck symptoms.

By letter dated February 2, 2005, the Office asked Dr. Anthony Montanaro, an attending Board-certified internist, to review Dr. Ghanma's report and comment on his findings.

On February 7, 2005 Dr. Montanaro provided a work capacity evaluation form. He indicated that appellant could not perform his regular job due to his accepted cervical sprain and left lateral epicondylitis and had a permanent work restriction of no lifting over 15 pounds with the left arm.

Due to the conflict in the medical evidence between Dr. Montanaro and Dr. Ghanma, the Office referred appellant, together with the case record and statement of accepted facts, to Dr. Robert H. Anschuetz, a Board-certified orthopedic surgeon.

In a May 10, 2005 report, Dr. Anschuetz provided a history of appellant's condition and findings on physical examination. Appellant indicated that his cervical sprain had resolved. Dr. Anschuetz noted that x-rays of the left elbow were reported as essentially normal. He stated:

“On physical exam[ination] [appellant] demonstrated full and symmetrical extension of both elbows as well as flexion which was also symmetrical and normal. Pronation and supination were also normal. Varus and valgus stress were without pain. Palpation of the medial epicondyle did not lead to complaints of pain. With a clenched fist and flexion of the wrist he did not experience pain when the flexion was resisted, also with extension of the wrist with a clenched fist he also experienced no discomfort with resistance to the extension. No pain was elicited on palpation, pressure applied to the lateral humeral epicondyle or the area around the radial head or the area around the olecranon....

“It is my impression that the lateral epicondylitis which [appellant] suffered with has now resolved. He acknowledged that the cervical s[p]rain that he experienced has also resolved.”

Dr. Anschuetz indicated that there were no objective findings of a continuing work-related cervical sprain and left lateral epicondylitis and these conditions had resolved. He opined that appellant could perform his regular job with no restrictions and needed no further medical treatment for his accepted conditions.

On June 9, 2005 the Office proposed termination of appellant's wage-loss compensation and medical benefits on the grounds that the weight of the medical evidence established that his work-related cervical sprain and left lateral epicondylitis had resolved.

By decision dated July 12, 2005, the Office finalized its decision to terminate appellant's wage-loss compensation and medical benefits effective July 11, 2005.

Appellant requested an oral hearing that was held on March 28, 2006 and submitted additional evidence.

In an August 27, 2004 report of an August 20, 2004 examination, Dr. Sheldon Kaffen, an orthopedic surgeon, provided findings on examination and an impairment rating for appellant's cervical spine and left elbow.

By decision dated June 12, 2006, the Office hearing representative affirmed the July 12, 2005 decision.

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 compensation without establishing that the disability ceased or that it is 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 Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical treatment, the Office must establish that a claimant no longer has residuals of an employment-related condition that require further medical treatment.⁴

Section 8123(a) of the Federal Employees' Compensation Act provides that "if there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary [of Labor] shall appoint a third physician who shall make an examination."⁵ Where 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.⁶

ANALYSIS

The Office accepted appellant's claim for a cervical sprain and left lateral epicondylitis sustained on December 30, 2002. Effective July 11, 2005, the Office finalized its termination of

¹ *Barry Neutach*, 54 ECAB 313 (2003); *Lawrence D. Price*, 47 ECAB 120 (1995).

² *Id.*

³ *See Del K. Rykert*, 40 ECAB 284 (1988).

⁴ *Mary A. Lowe*, 52 ECAB 223 (2001); *Wiley Richey*, 49 ECAB 166 (1997).

⁵ 5 U.S.C. § 8123(a); *see also Raymond A. Fondots*, 53 ECAB 637 (2002); *Rita Lusignan (Henry Lusignan)*, 45 ECAB 207 (1993).

⁶ *See Roger Dingess*, 47 ECAB 123 (1995); *Glenn C. Chasteen*, 42 ECAB 493 (1991).

his compensation and medical benefits on the grounds that the accepted conditions had resolved. The Office, therefore, bears the burden of proof to justify a termination of benefits.⁷

Dr. Montanaro indicated that appellant could not perform his regular job due to his accepted cervical sprain and left lateral epicondylitis and had a permanent work restriction of no lifting over 15 pounds with the left arm. Dr. Ghanma stated that there were no objective findings of residuals due to appellant's accepted cervical sprain and left lateral epicondylitis and he could perform his date-of-injury position without restrictions. Due to the conflict in medical opinion between Dr. Montanaro and Dr. Ghanma, the Office referred appellant to Dr. Anschuetz for an impartial medical evaluation.

Dr. Anschuetz provided a history of appellant's condition and findings on physical examination and noted that x-rays of the left elbow were reported as essentially normal. Appellant indicated that his cervical sprain had resolved. Dr. Anschuetz indicated that appellant demonstrated normal range of motion in his left arm. Varus and valgus stress were without pain. Palpation of the medial epicondyle did not lead to complaints of pain and no pain was elicited on palpation or pressure applied to the lateral humeral epicondyle. Dr. Anschuetz indicated that there were no objective findings of a continuing work-related cervical sprain and left lateral epicondylitis and that these conditions had resolved. He opined that appellant could perform his regular job with no restrictions and needed no further medical treatment.

The Board finds that the weight of the medical evidence, represented by the comprehensive report of Dr. Anschuetz which is based on a complete and accurate factual and medical background and findings on physical examination, establishes that appellant's employment-related cervical sprain and left lateral epicondylitis had resolved. Based on his report, the Office met its burden of proof in terminating appellant's wage-loss compensation and medical benefits on July 11, 2005.

In an August 27, 2004 report, Dr. Kaffen provided an impairment rating for appellant's cervical spine and left elbow. However, this report did not address the issue of whether appellant had any residuals of his accepted cervical sprain and left lateral epicondylitis as of July 11, 2005, the date the Office terminated his wage-loss compensation and medical benefits. The report is of diminished probative value on the issue of termination and is insufficient to overcome the opinion of Dr. Anschuetz.

CONCLUSION

The Board finds that the Office met its burden of proof in terminating appellant's wage-loss compensation and medical benefits effective July 11, 2005.

⁷ *Willa M. Frazier*, 55 ECAB ____ (Docket No. 04-120, issued March 11, 2004).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated June 12, 2006 and July 12, 2005 are affirmed.

Issued: November 13, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board