

January 29, 1985. The Office accepted that appellant sustained left sciatica and aggravation of an HNP at L4-5 on January 16, 1987 when he slipped and fell on snow in the performance of duty.¹ On November 10, 1989 appellant underwent a hemilaminectomy at L3-4 on the right with removal of an extruded disc fragment and a hemilaminectomy and discectomy at L5-S1 on the left. These procedures were authorized by the Office as being related to his January 16, 1987 employment injury.

Appellant received appropriate disability compensation for periods of work stoppage.² Beginning in 1991, the Office reimbursed appellant for membership fees which allowed him to engage in exercise therapy and swimming at the Baptist-Lutheran Medical Center Health Club.³ It also reimbursed appellant for membership fees paid to another gym facility which he used for exercise therapy during the workweek.

Beginning in December 2004, appellant submitted bills for massages he received at the Baptist-Lutheran Medical Center Health Club. After initially declining to pay his bills for massage fees, the Office started paying appellant for fees that were incurred beginning in late 2004.⁴

In a report dated July 8, 2005, Dr. Stephen L. Reintjes, an attending Board-certified neurosurgeon, stated that he recommended “intermittent therapeutic massages, which the patient has found of tremendous benefit.” On December 30, 2005 Dr. Reintjes saw appellant on that date and reported that he was “doing well as a result of his therapeutic exercises, swimming and massages.” He stated:

“I recommend that he continue these for the next six months and for the rest of his life. This has allowed him to maintain his membership in the exercising and swimming facilities at Baptist-Lutheran Medical Center and the health club in his office building as well as continuing massages from his massage therapist. In combination, these measures have permitted [appellant] to continue to work with decreased disability and increased flexibility and stability of the affected areas of his back.”

In a report dated February 18, 2006, Dr. Daniel D. Zimmerman, a Board-certified internist serving as an Office medical adviser, indicated that the Office should not authorize

¹ The Office later accepted that appellant also sustained aggravation of Grade 1 spondylolisthesis at L3-4.

² Appellant continued to work for the employing establishment but periodically stopped work for various periods when he experienced increased symptoms. He also received reimbursement for medical treatment provided by his attending physicians.

³ By decision and order dated September 28, 1998, the Board reversed the Office’s February 1995 termination of payments to appellant for exercise therapy and swimming at the Baptist-Lutheran Medical Center. See 49 ECAB 694 (1998).

⁴ It appears that appellant received a massage at the Baptist-Lutheran Medical Center Health Club approximately once every week at a cost of \$55.00 per hour. The massages were performed for the most part by massage therapists employed at the Baptist-Lutheran Medical Center Health Club, rather than by employees of the physical therapy department of the Baptist-Lutheran Medical Center itself.

massage therapy either from a hospital or private practitioner. He discussed the December 30, 2005 report of Dr. Reintjes and stated:

“Medically this claimant is much better served, considering the reported back condition, by performing the therapeutic exercises and to continue swimming. Massage is not needed on a weekly basis on a medical basis. The massage might feel good at the time but it would not be expected, and indeed, does not provide anything more than a transitory reduction in muscle pain at the lumbar level. Such transitory relief could be obtained by taking a hot bath, hot shower, or using a heating pad to the lumbar spine and lumbar paraspinous musculature. Do not authorize additional massage sessions.”

By notice dated March 1, 2006, the Office advised appellant that it proposed to terminate payment for his future massage sessions. The Office stated that the reports of Dr. Reintjes did not contain medical rationale supporting a need for further massage sessions. The weight of the medical evidence rested with Dr. Zimmerman who determined that the massages were not necessary to treat appellant’s employment-related condition.

By letter dated March 20, 2006, appellant argued that the medical evidence showed that his massage therapy was necessary to treat his employment-related condition. He argued that the mere fact that his relief from a given massage was transitory did not mean that massages were not a necessary or useful treatment. Appellant submitted records detailing his massage sessions and a December 30, 2005 prescription note in which Dr. Reintjes prescribed “therapeutic massage” once per week.

By decision dated April 7, 2006, the Office finalized its proposed notice of termination effective April 4, 2006.⁵

LEGAL PRECEDENT

Section 8103(a) of the Federal Employees’ Compensation Act states in pertinent part:

“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 Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.”⁶

In order to be entitled to reimbursement of medical expenses, a claimant has the burden of establishing that the expenditures were incurred for treatment of the effects of an employment-

⁵ The Office did not terminate appellant’s disability compensation or his other medical benefits such as medical treatment by attending physicians and membership fees for health clubs.

⁶ 5 U.S.C. § 8103.

related injury or condition.⁷ However, once the Office pays compensation for medical benefits, the Office has the burden of justifying termination or modification of such compensation benefits.⁸

ANALYSIS

The Office accepted that appellant sustained employment-related aggravations of conditions pertaining to his L3-4 and L4-5 disc and authorized lumbar surgery. The Office reimbursed appellant for fees incurred beginning in late 2004 for massages that were received at the Baptist-Lutheran Medical Center Health Club. The Office terminated these payments effective April 4, 2006 based on the opinion of Dr. Zimmerman, a Board-certified internist who served as an Office medical adviser.

The Board finds that the Office properly relied on the well-rationalized opinion of Dr. Zimmerman to determine that appellant was not entitled to reimbursement for massage fees effective April 4, 2006. In a report dated February 18, 2006, Dr. Zimmerman determined that weekly massage sessions were not necessary to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation with respect to appellant's accepted back condition.⁹ He provided rationale for this opinion by explaining that the relief provided by a given massage was so insignificant and transitory as to not provide any meaningful form of relief. Dr. Zimmerman stated that appellant's medical condition would be much better served by continuing to engage in therapeutic exercises and swimming, activities for which he continued to receive reimbursement. He further explained that appellant would receive just as much relief by taking a hot bath, hot shower or using a heating pad.

Appellant submitted several reports in which Dr. Reintjes, an attending Board-certified neurosurgeon, recommended massage therapy. However, these reports are of limited probative value on the relevant issue in that Dr. Reintjes did not provide adequate medical rationale in support of his conclusions on this matter.¹⁰ In a report dated July 8, 2005, Dr. Reintjes stated that he recommended "intermittent therapeutic massages, which the patient has found of tremendous benefit." In a report dated December 30, 2005, Dr. Reintjes indicated that he saw appellant on that date and that he reported that he was "doing well as a result of his therapeutic exercises, swimming and massages." He stated that appellant should continue these activities for the rest of his life and noted, "In combination, these measures have permitted [appellant] to continue to work with decreased disability and increased flexibility and stability of the affected areas of his back."¹¹ Dr. Reintjes did not provide any explanation of how weekly massage therapy was necessary or useful in treating appellant's accepted back condition. He did not explain the

⁷ *Bertha L. Arnold*, 38 ECAB 282, 284 (1986).

⁸ *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

⁹ See *supra* note 6 and accompanying text.

¹⁰ See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on a given medical question if it is unsupported by medical rationale).

¹¹ The record also contains a December 30, 2005 prescription note in which Dr. Reintjes prescribed "therapeutic massage" once per week.

medical process through which massages would likely cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.

CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's medical benefit of massage therapy effective April 4, 2006.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' April 7, 2006 decision is affirmed.

Issued: October 19, 2006
Washington, DC

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

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

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