



certified family practitioner, diagnosed a thoracic strain and released appellant to return to modified work as of March 12, 2004. Appellant was released to return to regular work on April 1, 2004. The Office accepted her claim for a thoracic strain.

On April 4, 2004 appellant requested permission to change physicians.

In reports dated June 24 and November 2, 2004, Dr. Wesley L. Coker, a Board-certified orthopedic surgeon, indicated that appellant picked up a box at work on March 4, 2004 and was placed on a physical therapy program by her attending physician. Appellant was experiencing pain in the distal portion of her right scapula (shoulder blade). Dr. Croker made a tentative diagnosis of a right rhomboid strain and placed her on an exercise program.

On November 16, 2004 the Office advised appellant that it had not authorized treatment by Dr. Coker for her March 4, 2004 employment injury, a thoracic strain which should have resolved. It indicated that appellant needed to provide a medical report explaining how her current condition was related to her employment injury.

On July 12, 2005 appellant filed a claim for compensation for lost wages for the period April 1 to June 1, 2005.

On August 2, 2005 the Office asked appellant to provide medical evidence establishing that her disability between April 1 and June 1, 2005 was causally related to her March 4, 2004 employment injury. Appellant responded that she was treated by Dr. Robert J. Pound, a chiropractor, on intermittent days between April 1 and June 1, 2005.

On August 23, 2005 Dr. Pound indicated that he was treating appellant for pain in her thoracic spine.

On September 2, 2005 the Office advised appellant that Dr. Pound was not authorized to treat her because chiropractors were not authorized to treat a back strain.

By decision dated October 7, 2005, the Office denied appellant's claim for compensation for intermittent disability between April 1 and June 1, 2005. The Office also denied appellant's request to change physicians.

Appellant requested a hearing that was held on June 29, 2006.

By decision dated September 8, 2006, the Office hearing representative affirmed the October 7, 2005 decision.

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

A claimant has the burden of proving by the preponderance of the reliable, probative and substantial evidence that he was disabled for work as the result of an employment injury.<sup>1</sup> Monetary compensation benefits are payable to an employee who has sustained wage loss due to

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<sup>1</sup> *David H. Goss*, 32 ECAB 24 (1980).

disability for employment resulting from the employment injury.<sup>2</sup> Whether a particular employment injury causes disability for employment and the duration of that disability are medical issues which must be proved by a preponderance of reliable, probative and substantial medical evidence.<sup>3</sup>

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

Appellant claimed compensation for intermittent days between April 1 and June 1, 2005. She was treated on those days by Dr. Pound, a chiropractor. The Office did not authorize this treatment. Under section 8101(2) of the Federal Employees' Compensation Act, chiropractors are only considered physicians and their reports considered medical evidence to the extent that they treat spinal subluxations as demonstrated by x-ray to exist. Dr. Pound did not diagnose a spinal subluxation as shown on x-ray. He is not considered a physician under the Act in this case. Dr. Pound's reports are of no probative value on the issue of whether appellant was disabled between April 1 and June 1, 2005 due to her March 4, 2004 employment injury. As he does not qualify as a physician under the Act, the Office properly denied appellant's claim for compensation between April 1 and June 1, 2005.

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

Section 8103 of the Act provides that an employee injured in the performance of duty shall be furnished with the services, appliances and supplies prescribed or recommended by a qualified physician which are likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of monthly compensation.<sup>4</sup> This section also provides that an employee may initially select a physician to provide medical services, appliances and supplies in accordance with the Office's regulations.<sup>5</sup> These regulations provide that an employee who wishes to change physicians must submit a written request to the Office fully explaining the reasons for the request. The Office may approve the request in its discretion if sufficient justification is shown.<sup>6</sup>

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

On April 4, 2004 appellant requested permission to change physicians from Dr. Huffman to Dr. Coker. The record shows that appellant's last treatment by a physician was November 2, 2004 when she saw Dr. Coker for right shoulder pain. Dr. Coker did not provide findings on examination, a diagnosis or a rationalized opinion explaining how appellant's condition was causally related to her March 4, 2004 employment injury, a thoracic strain. Appellant failed to establish that she had any work-related medical condition after April 1, 2004, the date she was

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<sup>2</sup> *Debra A. Kirk-Littleton*, 41 ECAB 703 (1990).

<sup>3</sup> *Edward H. Horten*, 41 ECAB 301 (1989).

<sup>4</sup> 5 U.S.C. § 8103(a).

<sup>5</sup> *Id.*

<sup>6</sup> *See* 20 C.F.R. § 10.316(b).

released to regular work by Dr. Huffman. Consequently, she did not establish a justification for a change in physicians from Dr. Huffman to Dr. Coker. Therefore, the Office did not abuse its discretion in denying appellant request to change physicians.

**CONCLUSION**

The Board finds that appellant failed to establish that her disability for intermittent days between April 1 and June 1, 2005 was causally related to her March 4, 2004 employment injury. The Board further finds that the Office did not abuse its discretion in denying authorization for a change in physicians.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated September 8, 2006 is affirmed.

Issued: May 10, 2007  
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