

federal employment. The Office accepted the claim for aggravation of preexisting rheumatoid arthritis. Appellant stopped work on August 13, 1994 and did not return. It placed her on the periodic compensation rolls.

In a November 10, 2005 report, Dr. Cameron B. Jones, an attending Board-certified internist specializing in rheumatology, advised that appellant was under his care for rheumatoid arthritis and that she continued to have active disease. He noted evidence of left elbow swelling, bilateral flexion contractures of the elbows and deformity of her hands. Dr. Jones opined that she was permanently disabled from performing her regular auditor duties and was unable to engage in repetitive use of her hands, wrists and elbows which would be required for sedentary or office work. In follow-up reports, he opined that appellant had continuing signs and symptoms of rheumatoid arthritis.

On December 6, 2006 the Office referred appellant, together with a statement of accepted facts and list of questions, to Dr. Kent A. Huston, a Board-certified internist specializing in rheumatology, for a second opinion examination to determine whether the accepted aggravation of the preexisting rheumatoid arthritis was still active.

In a February 16, 2006 report, Dr. Huston advised that appellant had seropositive rheumatoid arthritis limited to her upper extremities which caused significant damage to her elbows, wrists and hands. He stated that she was functionally limited in upper extremity use because of the marked damage to her upper extremities, predominately the elbows. Dr. Huston opined that she was totally disabled and not a candidate for vocational rehabilitation. He stated that there was no current aggravation of the rheumatoid arthritis that could be attributable to work and noted that any such aggravation was temporary. Appellant's current condition was attributable to her underlying rheumatoid arthritis and not related to her prior work activities.

The Office found a conflict in medical opinion arose between Dr. Jones and Dr. Huston as to whether the work-related aggravation of rheumatoid arthritis had ceased. On April 4, 2006 it referred appellant, together with a statement of accepted facts and a list of questions, to Dr. Stephen Ruhlman, a Board-certified internist specializing in rheumatology, for an impartial medical examination.

In an April 18, 2006 report, Dr. Jones advised that appellant had rheumatoid arthritis with persistent synovitis of both elbows with evidence of prior joint damage on x-ray and physical examination involving her hands. He opined that appellant could not return into repetitive work with her hands without further aggravating her arthritis. Dr. Jones further opined that there was no way anyone could state with any definitiveness as to what happened 12 years earlier to determine whether the disease had resolved or left any residual damage.

In a May 1, 2006 report, Dr. Ruhlman noted appellant's history, her current symptoms and reported his findings on physical examination. He stated that her subjective complaints correlated with her objective findings. Dr. Ruhlman opined that she was disabled from any occupational activity and was not a candidate for vocational rehabilitation due to the significant destruction of her elbow, wrists and finger joints, which severely limited her activities. He advised that appellant had active synovitis, as denoted by limitations in joint motion of multiple upper extremity joints and x-ray changes. Dr. Ruhlman opined that, more likely than not, this

would be related to her rheumatoid arthritis condition with natural progression, rather than any work-related aggravation. Dr. Ruhlman stated that appellant did not have normal joints which would be the baseline prior to her diagnosis of rheumatoid arthritis. Appellant's present condition was consistent for a person who had rheumatoid arthritis for years, especially when there was inadequate control of the disease. Dr. Ruhlman opined that a work-related aggravation would have been temporary in nature and resolved years ago. He also noted that, if the joint damage was considered work related, then this had progressed and would continue to progress.

On May 24, 2006 the Office requested clarification from Dr. Ruhlman concerning his opinion on whether the work-related aggravation of appellant's rheumatoid arthritis had ceased. It noted that her claim was only accepted for aggravation of rheumatoid arthritis not a joint (damage) condition or aggravation of a joint (damage) condition. In a May 25, 2006 report, Dr. Ruhlman opined that appellant's work-related aggravation of rheumatoid arthritis had ceased. The aggravation caused by her employment likely ceased many years ago. Dr. Ruhlman noted that appellant currently had no significant flare-up of the arthritis, only joint damage and explained that a flare-up would be consistent with an aggravation.

On May 31, 2006 the Office issued a notice of proposed termination of appellant's compensation benefits. It found that Dr. Ruhlman's reports established that she no longer had any residuals or disability due to her accepted work-related condition.

In a June 18, 2006 letter, appellant argued that the aggravation of her rheumatoid arthritis caused by her work activities caused permanent and irreversible damage to her upper extremity joints. She noted that Dr. Ruhlman stated that, if her joint damage was considered work aggravated, then this continued. Appellant did not submit any medical evidence.

By decision dated July 19, 2006, the Office finalized termination of appellant's compensation benefits effective August 6, 2006.

On August 11, 2006 appellant requested a review of the written record. In an August 10, 2006 letter, she reiterated that the aggravation of her rheumatoid arthritis caused by her work activities caused her joint damage. Appellant submitted duplicative copies of medical reports and materials previously of record. No new medical evidence was submitted.

By decision dated December 8, 2006, an Office hearing representative affirmed the termination of appellant's wage loss and medical compensation benefits.

LEGAL PRECEDENT -- ISSUE 1

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

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

² *Id.*

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

ANALYSIS -- ISSUE 1

The Office accepted that an aggravation of preexisting rheumatoid arthritis resulted from appellant's federal employment. Dr. Jones advised on November 10, 2005 that she continued to be disabled from active rheumatoid arthritis and would not be capable of any sedentary work. The Office referred appellant to Dr. Huston for a second opinion examination. Dr. Huston conducted a physical examination which revealed upper extremity damage of appellant's elbows, wrists and hands. He opined that appellant's condition and her disability was a result of her preexisting rheumatoid arthritis condition, which was not due to any prior work activities. Dr. Huston opined that the work-related aggravation was temporary and that her present condition was attributable to the degenerative process and not to her prior work activities. The Office found a conflict in medical opinion between Dr. Jones and Dr. Huston as to whether the work-related aggravation of rheumatoid arthritis had ceased. It referred appellant to Dr. Ruhlman for an impartial medical examination to resolve the conflict in medical opinion evidence.⁵

In a May 1, 2006 report, Dr. Ruhlman provided an accurate factual and medical background. He opined that, while the underlying condition of rheumatoid arthritis continued, any work-related aggravation was temporary in nature and had ceased years ago. Dr. Ruhlman explained that appellant's present limitations in multiple upper extremity joints was consistent for a person who had rheumatoid arthritis for years, especially when there was inadequate control of the disease. In a May 25, 2006 report, Dr. Ruhlman clarified that appellant's aggravation of rheumatoid arthritis had ceased. He reiterated that any aggravation caused by her employment was temporary and had ceased. Her ongoing limitations were due to the progressive nature of the underlying disease process.

The Board finds that the Office properly terminated appellant's wage loss and medical compensation benefits. The weight of the medical opinion evidence, as represented by the opinion of Dr. Ruhlman, establishes that appellant no longer has any residuals or disability due to the accepted aggravation of her underlying rheumatoid arthritis. His report is based on a full and accurate history and he provided rationale to support his conclusion that the aggravation caused by her employment had ceased. As the impartial medical specialist, the opinion of Dr. Ruhlman is entitled to special weight.⁶ Appellant's treating physician, Dr. Jones, opined that

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

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

⁵ See 5 U.S.C. § 8123(a) (if there is a disagreement between the physician making the examination of the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination).

⁶ See *David W. Pickett*, 54 ECAB 272 (2002).

she continued to be disabled from residuals of her rheumatoid arthritis condition. Dr. Jones' report reiterated his prior opinion on causal relationship which, the Board notes, gave rise to one side of the conflict in medical opinion. His opinion is insufficient to overcome the special weight accorded to Dr. Ruhlman.⁷

LEGAL PRECEDENT -- ISSUE 2

After termination or modification of compensation benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation shifts to appellant. In order to prevail, appellant must establish by the weight of the reliable, probative and substantial evidence that she had an employment-related disability, which continued after termination of compensation benefits.⁸

ANALYSIS -- ISSUE 2

Following the Office's termination of compensation benefits effective August 6, 2006, appellant argued that the aggravation of her rheumatoid arthritis caused by her work activities also caused her irreversible joint damage. However, she did not provide any new medical evidence to support her assertion. Thus, the Office hearing representative properly found in her December 8, 2006 decision that appellant had not met her burden of proof to establish that she continues to suffer from the aggravation of her work-related condition.

CONCLUSION

The Board finds that the Office met its burden of proof in terminating appellant's wage-loss and medical compensation benefits effective August 6, 2006 and that appellant did not meet her burden of proof in establishing that she had a continuing employment-related condition or disability after August 6, 2006.

⁷ See *Bernadine P. Taylor*, 59 ECAB 342 (2003).

⁸ *Talmadge Miller*, 47 ECAB 673, 679 (1996); *Wentworth M. Murray*, 7 ECAB 570, 572 (1955).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated December 8 and July 19, 2006 are affirmed.

Issued: February 5, 2008
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