

**United States Department of Labor
Employees' Compensation Appeals Board**

A.M., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Boston, MA, Employer**

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**Docket No. 07-1370
Issued: January 3, 2008**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On April 25, 2007 appellant filed a timely appeal from a March 29, 2007 decision of the Office of Workers' Compensation Programs which denied modification of its August 23, 1994 termination decision. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this claim.

ISSUE

The issue is whether appellant has established that he had any continuing disability or residuals after September 18, 1994 causally related to his accepted lumbosacral strain.

FACTUAL HISTORY

This case is before the Board for the fourth time. Appellant sustained a work-related injury on May 18, 1980 which the Office accepted for a lumbosacral strain. In a decision dated August 23, 1994, the Office terminated appellant's compensation benefits effective September 18, 1994. In a December 14, 1999 decision, the Board affirmed a December 17, 1998

decision of the Office which denied appellant's request for reconsideration on the grounds that the evidence submitted was insufficient to warrant further merit review.¹

By decision dated February 12, 2001, the Office denied modification of its August 23, 1994 termination decision. In a decision dated November 1, 2001, the Office denied appellant's request for reconsideration without a merit review. In a December 17, 2003 decision, the Board affirmed the Office's November 1 and February 12, 2001 decisions.² The weight of the medical evidence at the time of termination of appellant's compensation benefits effective September 18, 1994 was based on reports from Dr. Louis Meeks, a Board-certified orthopedic surgeon and Office referral physician, who opined that appellant's back strain had resolved within one year following the work injury.

By decision dated March 21, 2005, the Office denied reconsideration, without a merit review. In a November 9, 2005 decision, the Board affirmed the Office's March 21, 2005 decision.³ The law and the facts of the case, as set forth in the Board's prior decisions, are incorporated herein by reference.

Following the Office's March 21, 2005 decision, appellant submitted additional evidence, which included a duplicate copy of the employing establishment's December 7, 1983 letter concerning a scheduling of a medical evaluation; appellant's list of injuries from September 20, 1966 to July 7, 1982; the Office decisions dated May 5, 2004 and March 28, 2005 concerning appellant's requests for documentation under the Freedom of Information Act (FOIA) and a copy of appellant's May 7, 2004 appeal under FOIA. Also included was medical evidence, previously of record, from Dr. Jane E. Mossberg, a Board-certified internist, which was comprised of a copy of appellant's medical records dated June 7 and June 7 to 14, 1983 medical reports.

In a letter dated October 25, 2006, appellant requested reconsideration. He stated that he had given a consistent history of his injury and that it was not substantially different as suggested by the Board's November 9, 2005 decision. Appellant alleged that his report of injury and all the doctors had consistently stated that a work event had occurred which caused an injury, although some of the doctors gave a better history of injury than others. He additionally alleged that no one, except for him, attempted to obtain the names of the three fellow employees who had escorted him from the place of his injury to the medical unit. Appellant stated that the hearing department was notified of the potential witnesses without consideration. He requested that his medical reports of record be reviewed.

By decision dated March 29, 2007, the Office denied modification of its prior decisions.

¹ Docket No. 99-976 (issued December 14, 1999).

² Docket No. 02-564 (issued December 17, 2003).

³ Docket No. 05-1393 (issued November 9, 2005).

LEGAL PRECEDENT

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 he had an employment-related disability, which continued after termination of compensation benefits.⁴

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.⁵ Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁶ Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

ANALYSIS

Appellant's compensation benefits were terminated effective September 18, 1994. He alleged in his request for reconsideration that his doctors and he consistently provided an accurate history of injury, although some physicians provided a better history than others. Appellant also alleged that he was the only one who attempted to obtain the names of the three employees who escorted him from the place of his injury to the medical unit. The issue in this case is whether he had any continuing disability or residuals after September 18, 1994 causally related to his accepted employment injury. As noted above, causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.

Appellant has not submitted any new medical evidence addressing causal relationship between his previously accepted injury and any disability or medical condition on or after September 18, 1994, the date that the Office terminated compensation benefits. As noted, once the Office properly terminates benefits, the burden for reinstating compensation shifts to appellant. Appellant's arguments pertaining to the accuracy of the history of injury or events are not germane to the medical issue in this case and are insufficient to establish his entitlement to compensation after September 18, 1994. Additionally, the factual information he submitted pertaining to his FOIA request, the scheduling of a medical evaluation and his list of injuries

⁴ *Talmadge Miller*, 47 ECAB 673, 679 (1996); *Wentworth M. Murray*, 7 ECAB 570, 572 (1955).

⁵ *See Manuel Gill*, 52 ECAB 282 (2001).

⁶ *Elizabeth Stanislav*, 49 ECAB 540 (1998).

⁷ *Leslie C. Moore*, 52 ECAB 132 (2000); *Victor J. Woodhams*, 41 ECAB 345 (1989).

from September 20, 1966 to July 7, 1982 are also not pertinent to the medical issue in this case. Thus, these arguments asserted by appellant do not establish his entitlement to compensation.

Appellant submitted duplicate copies of medical evidence from Dr. Mossberg dated June 7 to 14, 1983, which were previously of record. The Board had previously reviewed this evidence and found it insufficient to support continued disability causally related to the work injuries. Appellant submitted no new medical evidence supporting continued disability due to his accepted, work-related injuries. Thus, the evidence of record is insufficient to establish appellant's entitlement to compensation after September 18, 1994.

CONCLUSION

Appellant has failed to establish that he had any continuing disability or residuals after September 18, 1994 causally related to his accepted work-related injuries.

ORDER

IT IS HEREBY ORDERED THAT the March 29, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 3, 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