United States Department of Labor
Employees' Compensation Appeals Board

B.C., Appellant	)	
and	)	**Docket No. 08-571**
	)	**Issued: May 9, 2008**
U.S. POSTAL SERVICE, MAIN POST OFFICE, Chicago, IL, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 18, 2007 appellant, through her attorney, filed a timely appeal of the Office of Workers' Compensation Programs' merit decisions dated January 18 and November 15, 2007, terminating her medical benefits and finding that she failed to establish continuing employment-related disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of this appeal.

ISSUES

The issues are: (1) whether the Office properly terminated appellant's medical benefits on the grounds that she no longer had any residuals causally related to her May 7 and July 24, 1985 employment-related injuries; and (2) whether she had any continuing employment-related residuals after January 18, 2007.

FACTUAL HISTORY

This case has previously been before the Board on three occasions. In decisions dated September 14, 2000,[1] August 4, 2003[2] and February 9, 2005,[3] the Board found that the Office properly denied appellant's requests for reconsideration regarding its finding that she did not sustain a recurrence of disability on November 7, 1986 causally related to her May 7, 1985 injury on the grounds that they were not timely filed and failed to establish clear evidence of error. The facts and the circumstances of the case as set forth in the Board's prior decisions are incorporated herein by reference.[4] The facts and the history relevant to the present issue are hereafter set forth.

On December 1, 2003 appellant filed a traumatic injury claim assigned number 10-2028103 alleging that on July 24, 1985 she hurt her left side, arms and neck while working on a letter sorter machine. The Office accepted the claim for cervical and thoracic strains and left trapezius myositis. The Office combined the files into a master claim assigned number 100348086.

On March 17, 2005 appellant filed a claim for wage-loss compensation (Form CA-7) beginning November 7, 1986. She submitted a May 18, 2005 medical report of Dr. Robin D. Snead, an attending internist, who opined that appellant's May 7 and July 24, 1985 work-related injuries had not resolved. Dr. Snead stated that an April 2005 magnetic resonance imaging (MRI) scan showed a partially torn left supraspinitis muscle. He further stated that appellant experienced pain in her left shoulder, neck and back since her 1985 work injury.

By decision dated June 23, 2005, the Office found the medical evidence of record insufficient to establish that appellant was totally disabled during the period November 7, 1986 through March 17, 2005 due to her accepted injuries. The Office, however, stated that she would be referred to a second opinion examination to determine whether she had residuals of her accepted employment injuries.

By letter dated July 6, 2005, the Office referred appellant, together with a statement of accepted facts, the case record and a list of questions to be addressed, to Dr. Richard H. Sidell, Jr., a Board-certified orthopedic surgeon, for a second opinion medical examination.

In a letter dated July 11, 2005, appellant requested a review of the written record by an Office hearing representative regarding the June 23, 2005 decision.

---

[1] Docket No. 99-958 (issued September 14, 2000).

[2] Docket No. 03-956 (issued August 4, 2003).

[3] Docket No. 04-1741 (issued February 9, 2005).

[4] On May 7, 1985 appellant, then a 28-year-old letter sorter machine operator, filed a traumatic injury claim (Form CA-1) assigned number 10-0348086 alleging on that date she hurt her ankle, left hip and the left side of her neck when she slipped down a flight of stairs. The Office accepted the claim for cervical and lumbar strains and left hip and ankle sprains. The Office later accepted that appellant sustained a recurrence of disability on July 24, 1985 causally related to her May 7, 1985 employment injuries.

In an August 12, 2005 report, Dr. Sidell stated that appellant suffered from Marfan syndrome by history. She also had multiple subjective complaints of a relatively normal examination of the musculoskeletal system with the exception of minimal sclerosis. Dr. Sidell opined that appellant did not have any condition causally related to her May 7 or July 24, 1985 employment injuries. He stated that she could return to her preinjury level of work with no restrictions.

By decision dated December 1, 2005, an Office hearing representative affirmed the June 23, 2005 decision. She found that appellant failed to submit sufficiently rationalized medical evidence establishing that her disability beginning on November 7, 1986 was causally related to her July 24, 1985 employment injuries.

On December 19, 2005 the Office determined that there was a conflict in the medical opinion evidence between Dr. Snead and Dr. Sidell as to whether appellant had any continuing employment-related residuals. By letter dated January 6, 2006, it referred appellant, together with a statement of accepted facts, the case record and a list of questions to be addressed, to Dr. Mukund Komanduri, a Board-certified orthopedic surgeon, for an impartial medical examination.

In a February 6, 2006 report, Dr. Komanduri provided a detailed review of appellant's medical records including the April 26, 2005 MRI scan which he found demonstrated a partial thickness rotator cuff tear. He also reviewed a history of her employment injuries and medical treatment. Dr. Komanduri reported essentially normal findings regarding the cervical and lumbar spines, shoulders and upper and lower extremities, with the exception of muscular spasms in the neck, shoulders and hip on the left side which he was unable to identify any anatomic cause. He also reported some mild tenderness in the left shoulder with impingement testing. Dr. Komanduri opined that appellant did not have any ongoing medical condition causally related to her May 7 and July 24, 1985 employment injuries. He found no evidence of ongoing pathology. Dr. Komanduri stated that, based on appellant's current level of function, she could work without restrictions. Appellant also did not require any further medical care or treatment. Dr. Komanduri concluded that no specific diagnosis of Marfan syndrome was noted in appellant's medical records in response to the Office's question as to whether the May 7 and July 24, 1985 employment injuries caused or aggravated this condition.

In a March 8, 2006 letter, the Office issued a notice of proposed termination of medical compensation based on Dr. Komanduri's February 6, 2006 medical opinion. On April 6, 2006 appellant contended that she had experienced residuals of her accepted employment injuries during the prior 20 years. She also contended that her preexisting connective tissue disorder was aggravated by her injuries.

A May 6, 1986 x-ray report of a physician whose signature is illegible stated that appellant had a slight loss of normal cervical lordosis in the neutral position. Dr. Snead's April 4, 2006 report stated that she sustained a tear of the left supraspinitis tendon, left supraspinitis tendinitis, left scapula myositis, left trapezius myositis, muscle spasm of the cervical spine, thoracic and lumbar sacral arthropathy-osteopenia of the left hip, Marfan syndrome, hypertension and migraines. He opined that appellant's May 7 and July 24, 1985

employment injuries had not resolved. Dr. Snead did not know if the pain appellant experienced would ever resolve since it had lasted for 20 years.

By decision dated April 13, 2006, the Office terminated appellant's medical compensation benefits. It found that the evidence she submitted was insufficient to overcome the special weight accorded to Dr. Komanduri's impartial medical report. In an April 17, 2006 letter, appellant requested an oral hearing before an Office representative.

By decision dated August 4, 2006, an Office hearing representative reversed the April 13, 2006 decision. He found that the Office did not meet its burden of proof in terminating appellant's medical compensation benefits based on Dr. Komanduri's opinion. The hearing representative found that the opinion was of diminished probative value because it was not sufficiently rationalized. The Office was instructed to prepare a new statement of facts and refer appellant back to Dr. Komanduri for examination and opinion as to whether his physical and diagnostic findings represented residuals of the accepted May 7 or July 24, 1985 employment injuries. The Office was also instructed to ask Dr. Komanduri to review and comment on Dr. Snead's May 18, 2005 and April 4, 2006 reports.

By letter dated November 2, 2006, the Office requested that Dr. Komanduri submit a supplemental report clarifying his examination findings related to muscle spasms in appellant's lumbar and cervical area, mild tenderness on the left shoulder impingement test and a partial thickness tear based on the April 2005 MRI scan.

In a November 30, 2006 supplemental report, Dr. Komanduri noted that his statement regarding the presence of muscular spasm was a typographical error. His examination of the cervical and lumbar spine showed preexisting degenerative disc disease that was not causally related to a work injury. Dr. Komanduri stated that the positive MRI scan was performed almost a year prior to his examination and that the findings regarding the partial thickness tear from April 2005 had clearly resolved. He related that a June 7, 2005 left shoulder arthrogram was completely negative for any sign of a full thickness tear. Dr. Komanduri opined that any residuals of the accepted employment injuries had resolved. He stated that Dr. Snead had not met any reasonable medical standards to make a diagnosis of Marfan syndrome. Dr. Komanduri examined appellant and did not find any evidence of joint hypermobility or arachnodactyly that would support a diagnosis of Marfan syndrome. Appellant did not have such a long thumb that jetted out from her closed fist. Outside of her being tall and thin, there were no findings to support a diagnosis of Marfan syndrome. Dr. Komanduri noted that he was not professionally qualified as geneticist or a rheumatologist to classify the nature of appellant's connective tissue disorder.

By letter dated December 8, 2006, the Office issued a notice of proposed termination of medical compensation based on Dr. Komanduri's November 30, 2006 medical opinion. It provided 30 days in which appellant could respond.

Appellant submitted an August 24, 2006 chest x-ray report of Dr. Jesse M. Reyes, a Board-certified radiologist, which was normal. A November 2, 2006 treatment note of Dr. Huma T. Mulk, an internist, stated that appellant had several conditions including, Marfan syndrome. An April 4, 2006 report of Dr. James N. Dreyfus, a Board-certified internist, stated

that she suffered from cervical and lumbosacral osteoarthritis and degenerative disc disease, and Marfan syndrome and chronic pain following the May 7, 1985 employment incident.

By letter dated December 19, 2006, the Office requested that Dr. Komanduri review the evidence submitted by appellant and provide an opinion as to whether she had Marfan's syndrome and any continuing residuals of her May 7 and July 24, 1985 employment injuries. In a supplemental report dated January 17, 2007, Dr. Komanduri stated that appellant did not have Marfan syndrome as there was no evidence that she had a history of aortic disease or had been diagnosed with Marfan syndrome. He noted that she simply related to Dr. Dreyfus that she suffered from this condition. Dr. Komanduri stated that Dr. Dreyfus's finding that appellant had an extremely long thumb that extended past the palm when she made a fist was not consistent with his original physical examination findings. The length of the thumb and the arachnodactyly were not substantial enough to make a diagnosis of Marfan syndrome. Dr. Komanduri noted the major criteria for diagnosing this condition which were not present on appellant's examination. He reiterated that she no longer had any residuals of her accepted employment injuries had not changed.

By decision dated January 18, 2007, the Office terminated appellant's medical benefits compensation. It accorded special weight to Dr. Komanduri's opinion in finding that appellant did not sustain Marfan syndrome and that she no longer had any residuals of her accepted May 7 and July 24, 1985 employment injuries.

In reports dated April 23, July 30 and August 13, 2007, Dr. Ronald Michael, a Board-certified neurosurgeon, stated that appellant sustained a herniated nucleus pulposus at C4-5 and C5-6 and cervical degenerative disc disease at C6-7. She also had a disc protrusion at L4-5 and lumbar degenerative disc disease. An August 27, 2007 addendum report of Dr. Steven W. Fitzgerald, a Board-certified radiologist, found that appellant had some degree of tendinopathy of the rotator cuff tendon centered upon the supraspinatus tendon. Dr. Fitzgerald stated that there was no tendon disruption or retraction identified. The previously discussed abnormality of the inferior glenoid and labrum was not present on the prior examination which was suggestive of an interval injury. Dr. Fitzgerald stated that no labral pathology on a prior examination in 2005 was identified. An August 26, 1985 x-ray report of a physician whose signature is illegible diagnosed hypolordosis of the cervical spine and stated that the lumbar spine was unremarkable.

In an August 18, 2007 letter, appellant, through her attorney, requested a review of the written record by an Office hearing representative regarding the January 18, 2007 decision. She submitted Dr. Fitzgerald's August 23, 2007 MRI scan report regarding her left shoulder. Dr. Fitzgerald stated that appellant had degenerative changes of the acromioclavicular joint in association with lateral acromial downstopping and rotator cuff tendinopathy without evidence of a tendon tear. He also found an abnormal appearance of the inferior labrum which extended to involve the anterioinferior and posteroinferior regions. The appearance and signal of this lesion was suggestive of a nondisplaced labral tear. Some associated irregularity of the inferior portion of the glenoid was present which may represent an area of a previous injury. No osteochondral defects or fractures were identified. Dr. Fitzgerald recommended further evaluation of these findings with an MRI scan shoulder arthrography and/or shoulder arthroscopy if clinically warranted.

By decision dated November 15, 2007, an Office hearing representative affirmed the January 18, 2007 decision. He accorded special weight to Dr. Komanduri's medical opinion as an impartial medical specialist in finding that appellant no longer had any residuals causally related to her May 7 and July 24, 1985 employment injuries.

LEGAL PRECEDENT -- ISSUE 1

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 the employee no longer has residuals of an employment-related condition, which require further medical treatment.[5]

Section 8123 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 shall appoint a third physician, who shall make an examination.[6] When there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.[7]

ANALYSIS -- ISSUE 1

The Board notes that a conflict in medical opinion arose between Dr. Snead, an attending physician, and Dr. Sidell, an Office referral physician, as to whether appellant had any continuing residuals causally related to her accepted cervical, lumbar and thoracic strains, left hip and ankle sprains and left trapezius myositis. Dr. Snead opined that appellant had continuing residuals of her accepted employment injuries. Dr. Sidell opined that appellant had no residuals or disability causally related to her employment-related injuries.

The Office referred appellant to Dr. Komanduri, selected as the impartial medical specialist. In a February 6, 2006 report and a November 30, 2006 supplemental report,[8] he listed no objective findings of residuals relative to the accepted May 7 and July 24, 1985 employment-related injuries. After reviewing appellant's medical records and reporting essentially normal findings on physical examination, he opined that any residuals of the accepted employment injuries had resolved. Dr. Komanduri found no evidence of ongoing pathology. He explained

[5] *T.P.*, 58 ECAB ___ (Docket No. 07-60, issued May 10, 2007); *John F. Glynn*, 53 ECAB 562 (2002).

[6] 5 U.S.C. § 8123.

[7] *James F. Weikel*, 54 ECAB 660 (2003); *Beverly Grimes*, 54 ECAB 543 (2003); *Sharyn D. Bannick*, 54 ECAB 537 (2003); *Daniel F. O'Donnell, Jr.*, 54 ECAB 456 (2003); *Phyllis Weinstein (Elliot H. Weinstein)*, 54 ECAB 360 (2003); *Robert V. Disalvatore*, 54 ECAB 351 (2003); *Bernadine P. Taylor*, 54 ECAB 336 (2003); *Karen L. Yeager*, 54 ECAB 317 (2003); *Barry Neutuch*, 54 ECAB 313 (2003); *David W. Pickett*, 54 ECAB 272 (2002).

[8] The Board notes that it was proper for the Office to seek clarification from Dr. Komanduri as the Board has held that, when the Office secures an opinion from an impartial medical specialist for the purpose of resolving a conflict in the medical evidence and the opinion from the specialist requires clarification or elaboration, the Office has the responsibility to secure a supplemental report from the specialist. *See Phillip H. Conte*, 56 ECAB 213 (2004).

that his prior finding of muscular spasms in the neck, shoulders and left hip was a typographical error. Dr. Komanduri further explained that his cervical and lumbar findings showed preexisting degenerative disc disease that was not causally related to a work injury. He stated that the positive April 26, 2005 MRI scan was performed almost a year prior to his examination and that the findings regarding the partial thickness tear had clearly resolved. Dr. Komanduri related that a June 7, 2005 left shoulder arthrogram was completely negative for any sign of a full thickness tear. He stated that Dr. Snead had not met any reasonable medical standards to make a diagnosis of Marfan syndrome. Dr. Komanduri also stated that he found no evidence of joint hypermobility or arachnodactyly on examination of appellant that would support a diagnosis of Marfan syndrome. He indicated that she did not have such a long thumb that jetted out from her closed fist. Outside of appellant being tall and thin, there were no findings to support a diagnosis of Marfan syndrome. Dr. Komanduri noted that he was not professionally qualified as geneticist or a rheumatologist to classify the nature of appellant's connective tissue disorder. Based on appellant's current level of function, Dr. Komanduri opined that she could work without restrictions. In addition, she did not require any further medical care or treatment.

The Board finds that Dr. Komanduri's opinion is based on a proper factual and medical background and is entitled to special weight. He found that appellant no longer had any residuals due to the accepted May 7 and July 24, 1985 employment-related cervical, lumbar and thoracic strains, left hip and ankle sprains and left trapezius myositis. For this reason, his reports constitute the special weight of the medical opinion evidence afforded an impartial medical specialist.

LEGAL PRECEDENT -- ISSUE 2

As the Office met its burden of proof to terminate appellant's compensation benefits, the burden shifted to her to establish that she had any disability causally related to her accepted injury.[9] 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.[10] Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.[11] 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.[12]

[9] *See Manuel Gill*, 52 ECAB 282 (2001).

[10] *Id.*

[11] *Elizabeth Stanislav*, 49 ECAB 540 (1998).

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

ANALYSIS -- ISSUE 2

Appellant submitted Dr. Michael's reports, noting that she sustained a herniated nucleus pulposus at C4-5 and C5-6, cervical degenerative disc disease at C6-7, a disc protrusion at L4-5 and lumbar degenerative disc disease. Dr. Fitzgerald's August 23 and 27, 2007 MRI scan reports addressed appellant's left shoulder condition. He found degenerative changes of the acromioclavicular joint in association with lateral acromial downstopping and rotator cuff tendinopathy without evidence of a tendon tear that centered upon the supraspinatus tendon. Dr. Fitzgerald stated that there was no tendon disruption or retraction identified. There was an abnormal appearance of the inferior labrum which extended to involve the anterioinferior and posteroinferior regions. Dr. Fitzgerald stated that the abnormal inferior glenoid and labrum were not present on a prior 2005 examination which was suggestive of an interval injury. He related that no osteochondral defects or fractures were identified. Dr. Fitzgerald recommended further evaluation of these findings with an MRI scan shoulder arthrography and/or shoulder arthroscopy if clinically warranted. The August 26, 1985 x-ray report of the physician whose signature is illegible stated that appellant had hypolordosis of the cervical spine and an unremarkable lumbar spine. The Board notes that appellant's claims have not been accepted for a left shoulder condition. Dr. Michael, Dr. Fitzgerald and the unknown physician did not provide any opinion to establish that the diagnosed conditions were causally related to appellant's May 7 and July 24, 1985 employment-related cervical, lumbar and thoracic strains, left hip and ankle sprains and left trapezius myositis.

The Board finds that appellant did not submit the necessary rationalized medical evidence to substantiate that the claimed continuing residuals on or after January 18, 2007 were causally related to her May 7 and July 24, 1985 employment injuries.

CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's medical benefits on January 18, 2007. The Board further finds that appellant did not establish continuing employment-related residuals after January 18, 2007.

ORDER

IT IS HEREBY ORDERED THAT the November 15 and January 17, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: May 9, 2008
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