



injury to her brachial plexus when she fell at work while carrying a heavy box. It paid her compensation for total disability beginning June 20, 2009.

In a report dated June 4, 2009, Dr. Eric B. Larson, a Board-certified neurologist, related that appellant fell at work on March 20, 1999 with her right arm outstretched fracturing her ribs and injuring her right arm. He noted that Dr. Nancy Husarik, a Board-certified internist, was evaluating appellant for numbness in the right hand and fingers following the fall. Prior to diagnostic studies, however, on May 22, 2009 appellant fell at home gardening and broke her right wrist. Dr. Larson recommended evaluation of the ulnar nerve of the right upper extremity.

On June 10, 2009 Dr. Husarik discussed her treatment of appellant for neurological symptoms resulting from her March 20, 2009 employment injury. She stated, "While awaiting further testing, [appellant] unfortunately suffered another injury which resulted in the need for a cast on the right arm. This treatment will delay her further work up for evaluation of the work[-]related neurologic injury. [Appellant] is due to have the cast removed approximately on July 1, 2009. Once that, is off, she will resume the neurologic evaluation."

An electrodiagnostic evaluation of the upper extremities, obtained on July 29, 2009, yielded normal results.

On August 4, 2009 Dr. Husarik opined that appellant's rib injury had resolved. She stated, "[Appellant] subsequently had a fall resulting in [a] complex [fracture] of the right radius, which resulted in two open surgical repairs and she remains limited due to that. However, she was able to have EMG [electromyogram] testing related to the initial brachial plexus injury and that was [okay]." Dr. Husarik opined that appellant was "cleared for work without restriction as related to the injuries sustained on March 20, 2009."

On October 2, 2009 the Office notified appellant of its proposed termination of compensation and authorization for medical benefits.

In a progress report dated October 5, 2009, Dr. Larson noted that appellant experienced elbow and right hand discomfort following an injury to her right upper extremity when she fell at work on March 20, 2009. Appellant subsequently fell in her garden and broke her right wrist, resulting in two surgeries. Dr. Larson found no evidence of cervical myelopathy.

On October 26, 2009 Dr. Anthony V. Mollano, a Board-certified orthopedic surgeon, related that appellant sustained a brachial plexus injury after a fall on March 20, 2009 and a right distal radius injury after a fall on May 20, 2009. He diagnosed symptoms of cubital tunnel syndrome of the elbow and right wrist discomfort.

On December 8, 2009 Dr. Larson discussed appellant's surgery for right carpal tunnel syndrome.<sup>1</sup> He diagnosed a "[r]ight upper extremity injury due to a fall at work" on

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<sup>1</sup> An EMG and nerve conduction study performed on November 4, 2009 by Dr. David Nagel, a Board-certified physiatrist, revealed a mild right distal median neuropathy as in carpal tunnel syndrome with no sign of a right ulnar neuropathy or brachial plexopathy. Dr. Nagel advised that appellant's ulnar symptoms were "most likely due to compression at the elbow."

March 20, 2009. Dr. Larson noted that her right hand condition was improving after surgery and that another surgery on the ulnar nerve was scheduled in six weeks.

In a report dated January 4, 2010, Dr. Mollano reviewed appellant's complaints of continued numbness in her small, ring and middle fingers following surgery for carpal tunnel syndrome. He found an altered signal of the ulnar nerve by magnetic resonance imaging (MRI) scan study.<sup>2</sup> Dr. Mollano recommended an ulnar nerve decompression.

By decision dated January 28, 2010, the Office terminated appellant's compensation and authorization for medical benefits effective February 14, 2010. It found that, the August 4, 2009 report from appellant's attending physician, Dr. Husarik, represented the weight of the evidence and established that appellant had no further disability to residuals of her accepted work injury.

In a report dated January 25, 2010, received by the Office on March 1, 2010, Dr. Mollano evaluated appellant after her right ulnar nerve transposition. He stated, "The pathology at the cubital tunnel is cubital tunnel syndrome and not a brachial plexopathy, which is what she was initially diagnosed with."

On February 1, 2010 Dr. Mollano indicated that he had made corrections to his October 26, 2009 progress report. In the corrected report, he noted that in March 20, 2009 rather than May 2009 appellant experienced "a fall and had a brachial plexus-type injury with some degree of numbness in her right hand." Dr. Mollano diagnosed significant medial elbow and right wrist discomfort.

On February 12, 2010 appellant, through her attorney, requested reconsideration. Attorney argued that she injured her brachial plexus at the time she fell on March 20, 2009 and submitted medical evidence referencing "the existence of the brachial plexus injury before May 20, 2009" when she fell in her yard due to her injury. On February 18, 2010 he attributed appellant's May 20, 2009 fall to her rib injury.

On February 12, 2010 Dr. Mollano noted that the Office had "denied [appellant's] cubital tunnel syndrome claim because her original injury was not an ulnar nerve cubital tunnel injury but a brachial plexopathy." He related that she "describes to me that her elbow did hurt from the time of her initial injury making it sound like this clearly was a cubital tunnel syndrome-type process and elbow nerve injury originally."

On February 24, 2010 Dr. Husarik disagreed with the Office's termination of compensation. She asserted that, after the March 20, 2009 employment injury, appellant's rib fractures and chest injury improved but appellant continued to experience right arm symptoms. Dr. Husarik noted that appellant fell and fractured her right arm before her right arm symptoms could be evaluated. She stated:

"After fracture, surgery and complications related to that, had resolved, [appellant] was able to undertake further evaluation of the right arm symptoms

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<sup>2</sup> An MRI scan study of the right elbow revealed probable mild to moderate dynamic compression ulnar neuropathy.

that persisted since the fall and injury on March 20, 2009. The more specific diagnosis was then determined to be ulnar nerve injury.

“While initially, directly after the injury, [appellant’s] symptoms were best described generally as a ‘brachial plexus injury,’ the symptoms were later determined to be due to ulnar nerve injury. While her symptoms may have been variably described by different diagnoses, the bottom line is that her symptoms onset was after the fall March 20, 2009 and required various evaluations, tests and studies to determine a more definitive diagnosis.”

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“While it was noted by myself that [appellant’s] rib and chest symptoms had subsequently resolved, it was noted that her right arm symptoms remained and required further evaluation, which was deferred to specialists.”

By decision dated May 6, 2010, the Office denied modification of its January 28, 2010 decision.

On appeal, appellant’s attorney related that appellant sustained an ulnar nerve injury at the time of her March 20, 2009 employment injury. He indicated that the Office erred in finding that she sustained a brachial plexus injury in May 2009 rather than at the time of her work injury. Counsel asserted that appellant was not claiming a right wrist injury but instead an employment-related brachial plexus/ulnar nerve injury.

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

Once the Office accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee’s benefits. It may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.<sup>3</sup> The Office’s burden of proof in terminating compensation includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>4</sup>

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

The Office accepted that appellant sustained a closed fracture of four ribs on the right side, a contusion of the chest wall and a brachial plexus injury due to a fall at work on March 20, 2009. It paid her compensation for disability as of June 20, 2009.

On June 10, 2009 Dr. Husarik related that appellant was scheduled for neurological testing due to her March 20, 2009 work injury. Prior to the testing, however, appellant fell at home and fractured her right wrist. Dr. Husarik indicated that appellant would be further evaluated when her cast was removed.

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<sup>3</sup> *Elaine Sneed*, 56 ECAB 373 (2005); *Gloria J. Godfrey*, 52 ECAB 486 (2001).

<sup>4</sup> *Gewin C. Hawkins*, 52 ECAB 242 (2001).

On August 4, 2009 Dr. Husarik reviewed the results of EMG testing on July 29, 2009 for the brachial plexus injury and noted that the results were satisfactory. She found that appellant had no residuals of her rib injury. Dr. Husarik released appellant to resume work without restrictions “as related to the injuries sustained on March 20, 2009.” As appellant’s attending physician, Dr. Husarik had a thorough knowledge of appellant’s condition. Her opinion, therefore, is probative on the issue of whether appellant had any further disability due to her employment injury. The Office, consequently, properly relied upon Dr. Husarik’s opinion in terminating appellant’s compensation effective February 14, 2010.

The remaining evidence submitted prior to the Office’s termination of compensation is insufficient to establish that appellant had any continuing disability due to her accepted work injury. On October 5, 2009 Dr. Larson noted that she had discomfort of the elbow and right hand after a fall on March 20, 2009. On December 8, 2009 he discussed appellant’s improvement following surgery. Dr. Larson did not, however, address the relevant issue of whether she was disabled due to her accepted employment injury and thus his opinion is of little probative value.<sup>5</sup> On October 26, 2009 Dr. Mollano discussed appellant’s history of a brachial plexus injury on March 20, 2009 and a right distal radius injury on May 20, 2009. He diagnosed medial elbow discomfort and right wrist discomfort. On January 4 2010 Dr. Mollano discussed appellant’s continued complaints of finger numbness following surgery and recommended an ulnar nerve decompression. Again, however, as he did not address the relevant issue of disability for employment due the accepted conditions of rib fractures, a chest wall contusion and a brachial plexus injury, his reports are of little probative value on this issue.<sup>6</sup>

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

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.<sup>7</sup> To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.<sup>8</sup>

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

The Office met its burden of proof to terminate authorization for medical benefits through the opinion of Dr. Husarik, appellant’s attending physician, who found that she had no residuals of appellant’s accepted March 20, 2009 employment injury. Dr. Husarik based her conclusion on the results of diagnostic studies and physical examination. As appellant’s attending physician, she had thorough knowledge of appellant’s condition. Dr. Husarik’s opinion establishes that appellant has no further residuals of her accepted employment injury.

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<sup>5</sup> *Carol A. Lyles*, 57 ECAB 265 (2005) (whether a particular injury caused an employee disability from employment is a medical issue which must be resolved by competent medical evidence).

<sup>6</sup> *Id.*

<sup>7</sup> *T.P.*, 58 ECAB 524 (2007); *Pamela K. Guesford*, 53 ECAB 727 (2002).

<sup>8</sup> *Id.*

### LEGAL PRECEDENT -- ISSUE 3

Once the Office properly terminates appellant's compensation benefits, the burden shifts to her to establish that she has continuing disability after that date related to her accepted injury.<sup>9</sup> 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 medical and factual background, supporting such a causal relationship.<sup>10</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>11</sup>

### ANALYSIS -- ISSUE 3

Appellant, through her attorney, requested reconsideration of the Office's termination of her compensation. She contended that she sustained an ulnar nerve injury at the time of her fall on March 20, 2009.

None of the medical reports that address the cause of appellant's ulnar nerve condition contain sufficient medical rationale to establish that the condition arose as a result of her March 20, 2009 work injury. On February 12, 2010 Dr. Mollano noted that the Office had denied her cubital tunnel claim based on its finding that her initial injury was brachial plexopathy rather than an "ulnar nerve cubital tunnel injury." He related that appellant "describes to me that her elbow did hurt from the time of her initial injury making it sound like this clearly was a cubital tunnel syndrome-type process and elbow ulnar nerve originally." Dr. Mollano's opinion that it "sounded like" a cubital tunnel injury is couched in speculative terms and thus of diminished probative value.<sup>12</sup> Further, he did not provide any rationale for his causation finding. A mere conclusion without the necessary rationale explaining how and why Dr. Mollano believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet a claimant's burden of proof.<sup>13</sup>

On February 24, 2010 Dr. Husarik noted that appellant experienced right arm symptoms after her March 20, 2009 work injury but that the evaluation of the symptoms was delayed due to her second right arm injury. She indicated that the symptoms initially suggested a brachial plexus injury but that it was subsequently determined to be an ulnar nerve injury. Dr. Husarik related that appellant's symptoms began after her March 20, 2009 employment injury. However, a medical opinion that a condition is causally related to an employment injury because the employee was asymptomatic before the injury but symptomatic after it is insufficient, without supporting rationale, to establish causal relationship.<sup>14</sup> Such rationale is particularly necessary in

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<sup>9</sup> *Manual Gill*, 52 ECAB 282 (2001).

<sup>10</sup> *Id.*

<sup>11</sup> *Paul Foster*, 56 ECAB 208 (2004); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>12</sup> *Id.*

<sup>13</sup> *See Beverly A. Spencer*, 55 ECAB 501 (2004).

<sup>14</sup> *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996).

this case given appellant's intervening, nonemployment-related injury to her right wrist in May 2009.

On appeal, appellant's attorney argues that appellant sustained an injury to her ulnar nerve on March 20, 2009. Where a claimant claims that, a condition not accepted or approved by the Office was due to her employment injury, she bears the burden of proof to establish that the condition is causally related to the employment injury through the submission of rationalized medical evidence.<sup>15</sup> As discussed, the medical evidence is insufficient to discharge appellant's burden to establish that she sustained an ulnar nerve injury due to her March 20, 2009 employment injury.

Appellant's attorney further maintained that the Office believed that appellant claiming a right wrist injury and that it erred in finding that she sustained a brachial plexus injury in May 2009 rather than on March 20, 2009. The Office, however, accepted that she sustained a brachial plexus injury on March 20, 2009. It appears that it made a typographical error in its May 6, 2010 decision when it referred to a brachial plexus injury in May 2009; however, any error is harmless as it properly reviewed the evidence and determined that it was insufficient to show continuing employment-related disability.

### **CONCLUSION**

The Board finds that the Office properly terminated appellant's compensation and authorization for medical benefits effective February 14, 2010 on the grounds that she had no further employment-related disability or condition. The Board further finds that she has not established that she had continuing disability after February 14, 2010 due to her accepted March 20, 2009 employment injury.

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<sup>15</sup> *JaJa K. Asaramo*, 55 ECAB 200, 204 (2004).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 6 and January 28, 2010 merit decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 11, 2011  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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