

disorder when she slipped and fell while walking out of the cafeteria at the employing establishment.

The Office authorized medical treatment which included therapeutic exercises and activities and manual and massage therapy for the accepted facial conditions from February 22, 2007 to October 2, 2009.¹

On November 21, 2009 and January 25, 2010 appellant's physical therapist requested that the Office authorize additional physical therapy, two times a week for three months, to treat appellant's facial conditions as she experienced consistent difficulty with facial and saliva control and chewing. Appellant also experienced pain in the temporomandibular joint. She had increased range of motion and decreased pain complaints following each treatment session. The physical therapist submitted prescriptions dated August 11 and December 10, 2009 from Dr. Richard S. Mandel, an attending Board-certified osteopath, which ordered medical treatment that included, among other things, therapeutic exercise, manual therapy and massage to treat appellant's employment-related face and nose conditions.

In a January 27, 2010 decision, the Office denied authorization for physical therapy. It found that there was no medical justification to continue the requested treatment for the March 11, 2003 accepted employment-related conditions.²

LEGAL PRECEDENT

Section 8103(a) of the Federal Employees' Compensation Act provides that the United States shall furnish to an employee who is injured while in the performance of duty the services, appliances and supplies prescribed or recommended by a qualified physician that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability or aid in lessening the amount of any monthly compensation.³ These services include surgery and hospitalization.⁴ The Office must therefore exercise discretion in determining whether the particular service, appliance or supply is likely to affect the purposes specified in the Act.⁵ The only limitation on the Office's authority is that of reasonableness.⁶

¹ The medical evidence indicated that appellant continued to undergo physical therapy through December 29, 2009.

² On appeal, appellant submitted new evidence. The Board may not consider evidence for the first time on appeal which was not before the Office at the time it issued the final decision in the case. 20 C.F.R. § 501.2(c); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003). Appellant may submit this new evidence and legal contentions with a formal, written request for reconsideration to the Office. 5 U.S.C. § 8128; 20 C.F.R. §10.606.

³ 5 U.S.C. § 8103(a).

⁴ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Overview*, Chapter 3.100.2.a (October 1990).

⁵ See *Marjorie S. Geer*, 39 ECAB 1099 (1988) (the Office has broad discretionary authority in the administration of the Act and must exercise that discretion to achieve the objectives of section 8103).

⁶ *Daniel J. Perea*, 42 ECAB 214 (1990).

While the Office is obligated to pay for treatment of employment-related conditions, appellant has the burden of establishing that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.⁷ Proof of causal relationship in a case such as this must include supporting rationalized medical evidence.⁸ Therefore, in order to establish that the physical therapy is warranted, appellant must submit evidence to show that the procedure was for a condition causally related to the employment injury and that such treatment was medically warranted. Both of these criteria must be met in order for the Office to authorize payment.⁹

ANALYSIS

The Office accepted that appellant sustained contusions to the neck, face and scalp, fractured nasal bone and post-traumatic stress disorder on March 11, 2003 while working as a secretary at the employing establishment. The Board finds that the Office did not abuse its discretion in denying appellant's request for physical therapy for her accepted conditions.

On November 21, 2009 and January 25, 2010 appellant's physical therapist requested that the Office authorize additional physical therapy to treat appellant's accepted facial conditions, such as saliva and chewing. While Dr. Mandel's August 11 and December 10, 2009 prescriptions ordered, among other things, therapeutic exercise, manual therapy and massage to treat appellant's employment-related face and nose conditions, he did not discuss why the requested therapy was medically necessary to treat or alleviate the accepted conditions. As Dr. Mandel did not provide any medical rationale establishing that the requested treatment was medically necessary due to the residuals of the accepted conditions, the Board finds that his prescriptions are of diminished probative value.

For the stated reasons, the Board finds that the Office did not abuse its discretion under section 8103 of the Act by denying further authorization of physical therapy.

Regarding appellant's contention on appeal that continued physical therapy was necessary to treat her employment-related injuries the record does not contain sufficient rationalized medical evidence establishing that the requested treatment was medically necessary.

CONCLUSION

The Board finds that the Office properly denied further authorization for physical therapy.

⁷ See *Dona M. Mahurin*, 54 ECAB 309 (2003); see also *Debra S. King*, 44 ECAB 203, 209 (1992).

⁸ See *Debra S. King*, 44 ECAB 203, 209 (1992); *Bertha L. Arnold*, 38 ECAB 282 (1986).

⁹ See *Dona M. Mahurin*, *supra* note 7; see also *Cathy B. Millin*, 51 ECAB 331, 333 (2000).

ORDER

IT IS HEREBY ORDERED THAT the January 27, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 10, 2011
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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