



## **FACTUAL HISTORY**

On April 12, 2001 appellant, then a 43-year-old rural carrier, filed a traumatic injury claim alleging that on March 22, 2001 he ruptured a disc when he twisted his back while casing mail. The Office accepted the claim for lumbar herniated nucleus pulposus and an August 14, 2006 recurrence of disability.

The Office referred appellant for a second opinion evaluation with Dr. Richard T. Sheridan, a Board-certified orthopedic surgeon, to determine the nature and extent of any remaining employment-related disability. On February 18, 2010 Dr. Sheridan, based upon a physical examination and review of the medical evidence and statement of accepted facts, concluded that the accepted condition of lumbar herniated nucleus pulposus had resolved. A physical examination of the lumbar spine revealed normal sitting and standing stations and no abnormal flexion or rotation. In concluding, Dr. Sheridan opined that appellant's work-related lumbar herniated nucleus pulposus had resolved and there were no residuals. He also found appellant's subjective complaints outweighed objective findings, that his current disability was not employment related and that he was capable of returning to his date-of-injury position without restrictions.

On March 8, 2010 the Office issue a notice proposing to terminate appellant's compensation benefits based upon Dr. Sheridan's report.

By decision dated April 12, 2010, the Office terminated appellant's wage-loss and medical compensation benefits effective that day.

On April 21, 2010 appellant requested reconsideration and submitted a report from Dr. Steven D. Green, a treating Board-certified family practitioner, in support of his request. On March 18, 2010 Dr. Green attributed appellant's degenerative disc disease to his employment duties. He concluded that appellant was totally disabled from performing his usual employment duties.

By decision dated April 29, 2010, the Office denied modification.

On May 12, 2010 appellant requested reconsideration. He contended that his employment duties aggravated his preexisting condition as found by his treating physicians.

By nonmerit decision dated June 10, 2010, the Office denied reconsideration.

## **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.<sup>2</sup> After it has determined that an employee has disability causally related to his federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to

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<sup>2</sup> *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

the employment.<sup>3</sup> The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>4</sup>

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.<sup>5</sup> To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.<sup>6</sup>

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

The Office accepted appellant's claim for lumbar herniated nucleus pulposus and paid compensation and medical benefits. By decision dated April 12, 2010, it terminated his compensation benefits effective that day on the basis that the weight of the medical opinion evidence rested with Dr. Sheridan, an Office referral physician. The Office denied appellant's modification request on April 29, 2010. The issue is whether it has met its burden in terminating appellant's disability and medical compensation after April 12, 2010. The Board finds that the Office did not meet its burden of proof to terminate his compensation benefits.

The Office referred appellant for a second opinion evaluation with Dr. Sheridan to determine the nature and extent of his employment-related disability. In his February 16, 2010 report, Dr. Sheridan concluded that appellant's accepted lumbar herniated nucleus pulposus had resolved. He opined that appellant had no residuals and no physical limitations from his accepted condition. However, the Board notes that Dr. Sheridan, in addressing causal relationship provided no medical rationale to support his conclusory opinion regarding whether appellant's accepted condition had resolved. Dr. Sheridan did not explain how his examination supported the conclusion. As noted, part of the Office's burden of proof in terminating compensation benefits includes furnishing rationalized medical opinion evidence. Since Dr. Sheridan failed to provide adequate rationale in support of his conclusion that appellant's accepted conditions had resolved, his report is of limited probative value.<sup>7</sup> For this reason, his opinion is insufficient to the Office's determination that appellant had no further condition or disability causally related to the accepted condition.

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<sup>3</sup> *I.J.*, 59 ECAB 408 (2008); *Elsie L. Price*, 54 ECAB 734 (2003).

<sup>4</sup> See *J.M.*, 58 ECAB 478 (2007); *Del K. Rykert*, 40 ECAB 284 (1988); *I.R.*, Docket No. 09-1229 (issued February 24, 2010).

<sup>5</sup> *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *A.P.*, Docket No. 08-1822 (issued August 5, 2009).

<sup>6</sup> *Kathryn E. Demarsh*, *supra* note 5; *James F. Weikel*, 54 ECAB 660 (2003); *B.K.*, Docket No. 08-2002 (issued June 16, 2009).

<sup>7</sup> *T.F.*, 58 ECAB 128 (2006) (a medical report is of limited probative value on a given medical question if it is unsupported by medical rationale); *T.M.*, Docket No. 08-975 (issued February 6, 2009); see also *S.D.*, 58 ECAB 713 (2007) (the Board has held that a medical opinion not fortified by medical rationale is of little probative value).

**CONCLUSION**

The Board finds that the Office has not met its burden of proof in terminating appellant's compensation and medical benefits effective April 12, 2010.<sup>8</sup>

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated June 10, April 29 and 12, 2010 are reversed.

Issued: June 13, 2011  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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<sup>8</sup> In light of the Board's disposition on the first issue, the second and third issues are moot.