



was no evidence of an injury. It also noted that the claim should probably be treated as an occupational disease based upon appellant's statements.

In support of his claim, appellant submitted medical reports from Dr. Marc Snyder, Board-certified in emergency medicine. In an October 12, 2011 first report of injury or illness, Dr. Snyder examined appellant and noted that he had pain, tingling and numbness in both forearms and hands since lifting mail onto the conveyor belt on September 28, 2011. He diagnosed brachial plexus lesion, "pain limb" and carpal tunnel syndrome. Dr. Snyder indicated that appellant could perform modified duty with splints on October 12, 2011. In a duty status report also dated October 12, 2011, he diagnosed brachial plexus lesion. Dr. Snyder also filled in ulnar and radial nerve irritation. He indicated that appellant could work modified duty with splints.

By letter dated October 27, 2011, OWCP informed appellant of the evidence needed to support his claim and requested that he submit such evidence within 30 days.

In a November 9, 2011 report and treatment notes, Dr. Snyder advised that appellant was seen for follow up from his injury of September 28, 2011. He examined appellant and noted that appellant had full range of motion in the neck, no axial loading tenderness, no tenderness to palpation in the arms and full range of motion. Dr. Snyder noted that appellant had resolving limb pain and could return to work. He released appellant from care. OWCP also received nurses' notes dated October 12, 21 and 26, 2011.

In a November 11, 2011 statement, appellant indicated that his claim was a traumatic injury as his condition occurred when he was processing priority mail, lifting, pulling and grabbing priority mail from one table to the other. He noted that it weighed approximately 50 pounds. Appellant denied having similar symptoms previously.

By decision dated December 5, 2011, OWCP denied appellant's claim on the grounds that he did not establish an injury as alleged. It found that the medical evidence did not establish that the claimed medical condition was related to the accepted work-related events.

On December 13, 2011 appellant requested reconsideration and submitted additional medical evidence. In a December 14, 2011 report, Dr. Snyder addressed the issue of causal relationship between appellant's condition and the work event. He noted that he saw appellant on October 12, 2011, after visits to the hospital and emergency room, with complaints of severe pain, tingling and numbness of both forearms and hands following lifting mail onto a conveyor belt at work on September 28, 2011. Dr. Snyder explained that "[t]he physician[s] assistant at [the hospital] felt that [appellant] had carpal tunnel syndrome." He noted that his examination revealed tender forearms, cool hands and markedly decreased sensation, especially in the left ulnar nerve distribution. Dr. Snyder indicated that he was concerned that appellant sustained brachial plexus injuries. He noted that a referral to a hand specialist was denied. Dr. Snyder noted that appellant was treated with Motrin, Lyrica and wrist splints and improved gradually to the point that he was released from care on November 9, 2011. He opined that "the timing of his symptoms in relationship to his work tasks establishes a causal relationship between his work and his injury."

On January 31, 2012 OWCP found the medical evidence was sufficient to accept the claim. It vacated the December 5, 2011 decision and accepted appellant's claim for brachial plexus lesions, bilateral. OWCP found that the condition was accepted for a closed period of time through November 9, 2011, as he was released from medical care and returned to work full duty. It advised appellant that he was not entitled to future medical benefits.

### **LEGAL PRECEDENT**

The United States shall pay compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.<sup>2</sup> Once OWCP accepts a claim it has the burden of justifying modification or termination of compensation. After it has determined that an employee has disability causally related to his employment, it may not terminate compensation without establishing that the disability has ceased or is no longer related to the employment injury.<sup>3</sup> The fact that OWCP accepted an employee's claim for a specified period of disability does not shift the burden of proof to the employee. The burden is on OWCP to demonstrate an absence of employment-related disability or residuals in the period subsequent to the date of termination or modification.<sup>4</sup>

### **ANALYSIS**

OWCP advised appellant of the acceptance of his claim for brachial plexus lesions and found that the accepted condition had resolved effective November 9, 2011. Its acceptance of a claim for a specified period of disability does not shift the burden of proof to the claimant to demonstrate that he remains disabled thereafter. It is OWCP's burden to demonstrate the absence of employment-related disability for the period following termination or modification of benefits.<sup>5</sup>

OWCP found, based on Dr. Snyder's opinion, that the accepted condition resolved. In a November 9, 2011 report, Dr. Snyder examined appellant and noted that he had full range of motion in the neck, no axial loading tenderness, no tenderness to palpation in the arms and full range of motion. He indicated that appellant had resolving limb pain and could return to full-time work. In a December 14, 2011 report, Dr. Snyder noted that appellant was treated with Motrin, Lyrica and wrist splints and improved gradually to the point that he was released from care on November 9, 2011. He did not state that appellant had any employment-related condition after November 9, 2011. There is no other medical evidence of record from a physician to support that appellant's work-related condition continued after November 9, 2011. The Board finds that the medical evidence of record is sufficient to establish that appellant's accepted condition had resolved.

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<sup>2</sup> 5 U.S.C. § 8102(a).

<sup>3</sup> *Edwin Lester*, 34 ECAB 1807 (1983).

<sup>4</sup> *See Elsie L. Price*, 54 ECAB 734, 739 (2003); *Raymond M. Shulden*, 31 ECAB 297 (1979); *Anna M. Blaine (Gilbert H. Blaine)*, 26 ECAB 351 (1975).

<sup>5</sup> *See id.*

The Board finds that the medical evidence of record establishes that the accepted temporary brachial plexus lesions, bilateral ceased by November 9, 2011. OWCP, therefore, met its burden of proof.

Appellant may submit evidence or argument with a written request for reconsideration within one year of this merit decision pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

**CONCLUSION**

The Board finds that OWCP met its burden to establish that appellant's accepted condition had resolved as of November 9, 2011.

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 31, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 14, 2012  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board