

**United States Department of Labor
Employees' Compensation Appeals Board**

R.M., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Oak Ridge, TN, Employer**

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**Docket No. 11-1701
Issued: March 19, 2012**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On July 18, 2011 appellant timely appealed an April 18, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this claim.

ISSUE

The issue is whether OWCP met its burden of proof to terminate appellant's wage-loss benefits effective May 8, 2011 on the grounds she no longer had any disability causally related to her accepted employment-related injuries.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On July 1, 2010 appellant, then a 49-year-old sales service associate, filed an occupational disease claim alleging that factors of her employment caused or aggravated her right wrist and left foot problems. She first became aware of her conditions and that it was caused or aggravated by her employment on March 31, 2010. Appellant stopped work that day and did not return. OWCP accepted the claim for aggravation of de Quervain's tenosynovitis, right wrist and left foot plantar fasciitis. Appropriate compensation for medical and wage loss were paid.

Appellant sought treatment with Dr. Karima Causey, a Board-certified family practitioner, and underwent a de Quervain's release of the right upper extremity on April 22, 2010. Dr. Causey referred appellant to Dr. Arsen H. Manugian, a Board-certified orthopedic surgeon, who took over appellant's care. In January 4, 2011 work capacity evaluation forms, Dr. Manugian opined that appellant reached maximum medical improvement for both the right arm and left foot. Appellant was released to work with no right hand restrictions, but assigned permanent restrictions for the left foot due to left-sided chronic plantar fasciitis. In an accompanying January 4, 2011 report, Dr. Manugian stated "[r]egarding her persistent chronic plantar fasciitis pain on the left side, in my opinion I do not feel that this is necessarily work related, however, it might be helpful for the patient in an eight[-]hour day to stand and walk up to one-half shift (four hours). There is no impairment regarding her left heel pain."

On January 25, 2011 OWCP requested that Dr. Manugian clarify his opinion regarding the accepted left plantar fasciitis condition. In a February 8, 2011 report, Dr. Manugian stated the accepted plantar fasciitis was better, but not completely resolved. He advised that the persistent pain in her left foot was secondary to the plantar fasciitis and not necessarily work related. The restrictions were for her plantar fasciitis and not directly related to her work.

On March 7, 2011 OWCP proposed to terminate appellant's wage-loss compensation based on Dr. Manugian's opinion. It allotted 30 days for the submission of additional evidence.

In response appellant submitted September 29 and November 20, 2010 progress reports from Dr. Manugian, previously of record. Of record was an April 7, 2011 telephone call from appellant's authorized representative concerning reemploying appellant.

By decision dated April 18, 2011, OWCP terminated appellant's wage-loss compensation benefits effective May 8, 2011 for the reason the medical evidence of record established that appellant had no continuing disability due to the March 31, 2010 accepted employment injury but that she remained entitled to medical benefits.

LEGAL PRECEDENT

Once OWCP 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.²

² *Jaja K. Asaramo*, 55 ECAB 200 (2004).

OWCP's burden of proof in terminating compensation includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.³

ANALYSIS

OWCP accepted appellant's claim for aggravation de Quervain's tenosynovitis, right wrist and left foot plantar fasciitis. It based its termination of wage-loss compensation benefits on January 4 and February 8, 2011 reports from Dr. Manugian, appellant's attending physician.

Dr. Manugian examined appellant on January 4, 2011. He opined that appellant reached maximum medical improvement for both the right arm and left foot. While Dr. Manugian released appellant to work with no restrictions to the right hand, he assigned permanent restrictions for the left foot due to left-sided chronic plantar fasciitis. In response to OWCP's request for clarification, Dr. Manugian stated in a February 8, 2011 report that the persistent pain in appellant's left foot was secondary to the plantar fasciitis and not necessarily work related. He then stated the restrictions were for her plantar fasciitis and not directly related to her work. The Board notes there is no requirement that the work injury be the direct or sole cause of appellant's condition. If the medical evidence reveals that a work factor contributed in any way to appellant's condition, the condition is compensable.⁴ The Board finds that Dr. Manugian did not clearly state that all residuals of the accepted plantar fasciitis condition had resolved or otherwise provide a fully-rationalized medical opinion on causal relation. Dr. Manugian's opinion consists of brief responses to the questions posed by OWCP. His conclusions are of a speculative and equivocal nature.⁵ To be of probative value, a physician's opinion on causal relationship should be one of reasonable medical certainty.⁶

The Board finds that Dr. Manugian's reports are of diminished probative value and does not clearly establish that appellant's accepted left foot plantar fasciitis condition resolved without disability. The February 8, 2011 opinion of Dr. Manugian is not sufficiently detailed or rationalized to support OWCP's termination of wage-loss compensation benefits. For these reasons, the Board will reverse.⁷

CONCLUSION

The Board finds that OWCP did not meet its burden of proof to terminate appellant's wage-loss compensation benefits effective May 8, 2011.

³ *Id.*

⁴ See *R.J.*, Docket No. 09-1414 (issued April 14, 2010); *Arnold Gustafson*, 41 ECAB 131 (1989); *Beth Chaput*, 37 ECAB 158 (1985).

⁵ See *Michael R. Shaffer*, 55 ECAB 339 (2004).

⁶ See *Beverly R. Jones*, 55 ECAB 411 (2004).

⁷ Due to the disposition of the merits, it is not necessary to address appellant's arguments on appeal.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated April 18, 2011 is reversed.

Issued: March 19, 2012
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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