

employment duties. She stopped work on February 17, 2011. OWCP accepted appellant's claim for lumbar strain.²

Appellant was treated at the Department of Occupational Medicine at Kaiser Permanente by Dr. Sangarapillai Manoharan, Board-certified in emergency medicine.³ On June 2, 2011 she requested authorization to be treated by Dr. S.M. Rezaian, a Board-certified orthopedic surgeon. Appellant did not provide any reasons for her request.

By decision dated July 6, 2011, OWCP denied authorization for a change of physician.⁴ It noted that appellant did not submit any information about the specialty or location of the physician for which she requested the authorization to change.

LEGAL PRECEDENT

The payment of medical expenses incident to securing medical care is provided for under section 8103 of FECA. The pertinent part provides that an employee may initially select a physician to provide medical services, appliances and supplies, in accordance with such regulations and instruction as the Secretary considers necessary. Further, section 10.316(a) of OWCP's regulations provide that an employee only has an initial choice of physicians and thereafter must submit a written request to OWCP containing his or her reasons for desiring a change of physician.⁵ Section 10.316(b) provides that OWCP will approve the request if it determines that the reasons submitted are sufficient. Requests that are often approved include those for transfer of care from a general practitioner to a physician who specializes in treating a condition like the work related one or the need for a new physician when an employee has moved.⁶

In interpreting section 8103(a), the Board has recognized that OWCP has broad discretion in approving services provided under FECA to ensure that an employee recovers from his or her injury to the fullest extent possible in the shortest amount of time. OWCP has administrative discretion in choosing the means to achieve this goal and the only limitation on

² The record reveals that OWCP previously accepted that appellant sustained a lumbosacral strain as a result of an August 29, 1991 employment incident (File No. xxxxxx595). Appellant did not work from August 1991 to June 1993 and experienced intermittent periods of disability from August 1993 to February 1994. She returned to limited duty. In a loss of wage-earning capacity decision dated July 26, 2001, OWCP determined that appellant's position as a modified mail handler represented her wage-earning capacity.

³ Appellant filed various claims for disability compensation beginning from April 9, 2011. She received disability compensation for the period May 7 to July 7, 2011. In a July 7, 2011 report, Dr. Manoharan authorized appellant to return to work full duty. Appellant filed several claims for disability compensation after July 7, 2011.

⁴ The Board notes that while OWCP did not provide appellant appeal rights with the letter dated July 6, 2011, it did constitute a final adverse decision as it denied her request for change of physician.

⁵ 20 C.F.R. § 10.316(a). See *Billy W. Forbes*, 45 ECAB 742 (1994) (where the Board held that OWCP should have employed a reasonable and necessary standard in determining whether a change of physician should be authorized when appellant did not obtain authorization prior to changing physicians). See also *Elizabeth J. Davis-Wright*, 39 ECAB 1232 (1988).

⁶ 20 C.F.R. § 10.316.

OWCP's authority is that of reasonableness. Abuse of discretion is generally shown through proof of manifest error, clearly unreasonable exercise of judgment or actions taken which are contrary to both logic and probable deductions from established facts. It is not enough to show merely that the evidence could be construed to produce a contrary conclusion.⁷

ANALYSIS

On June 2, 2011 appellant submitted a written request to change her physician to Dr. Rezaian. The question on appeal is whether OWCP abused its discretion in denying that request.

The Board finds that OWCP properly exercised its discretion in denying authorization for a change of physician. There is no proof of manifest error, clearly unreasonable judgment or illogical action. Appellant failed to submit any evidence or explanation for why she wanted to receive medical treatment from Dr. Rezaian instead of Dr. Manoharan. Accordingly, she has not demonstrated that OWCP's decision to deny the change in physicians was unreasonable. The Board finds that appellant failed to establish that it abused its discretion by refusing to authorize a change of physicians.

On appeal, appellant again requests permission to see her private doctor, but she did not provide any explanation or argument to show that OWCP did not properly exercise its discretion in denying authorization for change of physician. She also alleges that OWCP denied authorization to undergo a magnetic resonance imaging (MRI) scan examination, but the record does not contain any request for an MRI scan or subsequent denial by OWCP. The Board will therefore affirm OWCP's July 6, 2011 decision denying authorization.

CONCLUSION

The Board finds that OWCP properly exercised its discretion in denying authorization for a change of physician.

⁷ See *D.L.*, Docket No. 10-318 (issued September 8, 2010); see also *Daniel J. Perea*, 42 ECAB 214, 221 (1990).

ORDER

IT IS HEREBY ORDERED THAT the July 6, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 16, 2012
Washington, DC

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

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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