United States Department of Labor
Employees' Compensation Appeals Board

B.G., Appellant	)	
and	)	**Docket No. 14-6**
	)	**Issued: March 21, 2014**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Pittsburgh, PA, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On October 7, 2013 appellant filed a timely appeal from a September 24, 2013 termination decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the termination issue of this case.[2]

[1] 5 U.S.C. § 8101 *et seq.*

[2] The record also contains a June 27, 2013 decision denying appellant's March 23, 2013 recurrence claim and an August 1, 2013 decision denying authorization for physical therapy. On July 2, 2013 appellant's attorney requested a hearing of the June 27, 2013 recurrence decision. On August 22, 2013 he also requested reconsideration of the August 1, 2013 decision. Because the Board and OWCP cannot share jurisdiction on the same case over the same issue, the only issue being considered on appeal is the termination of appellant's compensation benefits. The subsequent decisions of OWCP, dated November 25, 2013 and February 4, 2014 will not be disturbed as they review different issues. *See* 20 C.F.R. § 501.2(c)(3); *Leon Haynes,* Docket No. 94-2292 (issued January 15, 1997).

ISSUE

The issue is whether OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits effective September 24, 2013 on the grounds that she no longer had any residuals or disability causally related to her accepted October 25, 2012 employment-related injury.

FACTUAL HISTORY

OWCP accepted that on October 25, 2012 appellant, then a 36-year-old nursing assistant, sustained a left hip injury in the performance of duty when she was pinned to a wall by an electronic wheelchair. Her claim was accepted for left hip contusion and left inguinal strain.

In an October 29, 2012 work status report, Dr. Brad J. Wolk, Board-certified in emergency medicine, noted a diagnosis of left hip contusion. He authorized appellant to return to work with restrictions of no climbing, bending, twisting, pushing or pulling and no lifting greater than 20 pounds.

On October 29, 2012 appellant accepted a limited-duty work assignment as a nurse manager. Her duties included administrative duties such as sitting at the south nursing station, answering telephone calls and opening electronic doors. The restrictions included no climbing, bending, twisting, lifting, pushing or pulling.

In a November 2, 2012 report, Dr. Susan A. Eisenman, Board-certified in occupational medicine, related appellant's complaints of increased left hip pain. Appellant was not able to identify any inciting factor or new injury but stated that she started to develop increasing left hip and groin pain. Upon examination, Dr. Eisenman observed mild tenderness over the left inguinal ligament, but no mass or swelling. Range of motion of the hip was painful in all directions. Strength testing and trunk range of motion was grossly normal. Dr. Eisenman diagnosed left hip contusion with inguinal strain. She recommended that appellant continue modified duty at work.

In reports dated November 5, 11 and 19, 2012, Dr. Walter Hoover, Board-certified in internal and occupational medicine, noted that appellant was a nurse's aide with a left hip contusion and inguinal strain. He stated that she worked modified duty and only noticed some discomfort in the left hip with palpation. Upon examination, Dr. Hoover observed some slight tenderness to palpation of the left hip area. Range of motion of the hip was satisfactory. Dr. Hoover diagnosed resolving left hip contusion and inguinal strain.

In a December 21, 2012 magnetic resonance imaging (MRI) scan of the left hip, Dr. Michelle L. Pohland, a Board-certified diagnostic radiologist, observed no joint effusion in the hips bilaterally and no abnormal signal in the bone marrow. She stated that there was no abnormal signal in the bone marrow of the left hip and no joint effusion present.

In January 3 to 31, 2013 reports, Dr. Hoover related appellant's complaints of recurrent left groin pain and left hip discomfort. Examination revealed tenderness to palpation of the left hip and trochanteric bursa area and pain with flexion of the hip. Dr. Hoover diagnosed left trochanteric bursitis and groin pain.

In a January 18, 2013 ultrasound of the left lower extremity, Dr. Warren Ostlund, a Board-certified diagnostic radiologist, related appellant's complaints of left hip pain into the calf. He observed normal flow and compressibility of the visualized portions of the common femoral vein, femoral vein and popliteal vein. No thrombi were visualized on the examination.

Appellant stopped work on January 27, 2013 and requested disability compensation.

In a February 5, 2103 handwritten hospital report, a physician with an illegible signature indicated that appellant was examined for a work-related injury and noted that she was unable to return to work.

In a letter dated March 7, 2013, appellant's attorney requested that appellant's claim be expanded to include left hip trochanter bursitis.

In a March 21, 2013 letter, Dr. Hoover stated that he was treating appellant for trochanteric bursitis that was related to the original October 25, 2012 employment injury. He explained that she developed an inflammatory response in the trochanteric bursa but it was not recognized until several months after the injury when imaging studies showed changes in the trochanteric bursa.

In medical reports dated March 7 to 27, 2013, Dr. Hoover noted that appellant was a nurse's aide with left trochanteric bursitis and groin pain. Upon examination, he observed some tenderness to palpation of the lateral aspect of the left thigh, mild pain and discomfort with abduction of the left hip and mild tenderness of the trochanteric bursa area and the left groin. Appellant had some difficulty squatting. Range of motion of the lumbar spine was satisfactory. Dr. Hoover diagnosed left trochanteric bursitis and groin pain improving and left sacroiliac (SI) joint discomfort.

OWCP referred appellant, together with a statement of accepted facts and the medical record, to Dr. Scott J. Szabo, a Board-certified orthopedic surgeon, for a second opinion examination to determine the extent of her continuing employment-related residuals and disability. In an April 29, 2013 report, Dr. Szabo provided an accurate history of injury of the October 25, 2012 employment injury and reviewed her history, including the statement of accepted facts. He noted that a December 21, 2012 MRI scan of the left hip showed no abnormal signal within the bone marrow, no joint effusion and some increased signal change adjacent to the greater trochanter of the left hip which may be indicative of bursitis. Dr. Szabo related appellant's complaints of left anterior groin pain that radiated into the lateral aspect to her SI joint and anterior into her knee, calf and foot. Appellant stated that she felt capable of lifting 15 pounds to her waist, sitting for 45 minutes, standing for an hour and walking.

Upon examination, Dr. Szabo observed normal gait and ability to walk on her heels and toes. He also noted tenderness overlying the left SI joint, greater trochanteric region but nontender over the anterosuperior and anterior inferior iliac crests and hip adductors. Seated and supine straight leg raise testing was negative. Appellant also had negative Faber testing and nontender to pelvic compression and roll maneuvers. She demonstrated 5/5 hip flexion, hip extension and hip adduction. Dr. Szabo reported that each hip demonstrated 30 degrees of internal and external rotation as well as 120 degrees flexion. Provocative maneuvers to test the

hip labrum were unremarkable. Dr. Szabo noted that ancillary testing on April 29, 2013 were performed and demonstrated normal acetabular morphology without hip dysplasia, spherical femoral heads, normal appearing hip joints, no abnormal calcifications, normal appearing SI joints and no abnormal mineralization about the pelvis. He stated that appellant had sustained left hip contusion and inguinal strain from the vocational injury of October 25, 2012. Dr. Szabo explained that the physical examination and review of imaging did not demonstrate evidence of residuals from the injury or impairment. He reported that appellant's subjective complaints were not substantiated by objective findings. Dr. Szabo explained that she had recovered from the vocational injury that required no restrictions, limitations or treatment. He concluded that there were no other nonaccepted conditions causally related to October 25, 2012 injury.

In a June 13, 2013 report, Dr. Hoover related that appellant was a nurse's aide with left trochanteric bursitis and left-sided lower back pain. He noted increased symptoms with prolonged weight bearing and walking. Upon examination, Dr. Hoover observed tenderness to palpation of the left paralumbar buttock area into the lateral aspect of the thigh. Range of motion of the lumbar spine was mildly limited in flexion and gait was moderately antalgic. Dr. Hoover diagnosed left trochanteric bursitis and possible SI joint dysfunction.

In a July 11, 2013 report, Dr. Hoover noted that appellant had some improvement in leg symptoms but still experienced intermittent episodes of pain in her left groin and lower back area. He stated that she worked modified duty but experienced increased discomfort with standing or walking that was relieved with sitting down for a short period of time. Examination revealed satisfactory range of motion of the lumbar spine with some mild pain with abduction of the hip. Appellant was able to squat without difficulty and her gait was normal. Dr. Hoover diagnosed left trochanteric bursitis improved and possible SI dysfunction unchanged.

On August 22, 2013 OWCP issued a notice of proposed termination of appellant's medical and wage-loss compensation benefits based on Dr. Szabo's April 29, 2013 report. Appellant was advised that she had 30 days to submit additional relevant evidence or argument if she disagreed with the proposed action.

In a September 1, 2013 letter, appellant stated that she disagreed with the proposal of termination of medical and wage-loss compensation and was obtaining medical documents from providers during her injury period in order to show how her injury progressed and was caused by the original October 25, 2012 employment injury. She noted her concerns regarding the notice of proposed termination.

In an August 8, 2013 report, Dr. Hoover related that he treated appellant for left trochanteric bursitis and left-sided lower back pain. He noted continued improvement in her symptoms and that she continued to work modified duty. Upon examination, Dr. Hoover observed no tenderness to palpation of the left trochanteric bursa or lower back. Range of motion of the lumbar spine was normal and appellant was able to squat without difficulty. Dr. Hoover diagnosed left trochanteric bursitis and sacroiliac dysfunction resolving. He opined that appellant may continue using ibuprofen as needed and may be able to resume regular-duty work. Appellant also resubmitted Dr. Hoover's treatment notes from 2012.

By decision dated September 24, 2013, OWCP finalized the termination of appellant's compensation benefits effective September 24, 2013. It found that Dr. Szabo's April 29, 2013 report represented the weight of the medical evidence in establishing that her accepted conditions had resolved and that she no longer had any residuals or disability causally related to her accepted October 25, 2012 employment injury.

LEGAL PRECEDENT

According to FECA, once OWCP accepts a claim and pays compensation, it has the burden of justifying termination or modification of an employee's benefits.[3] OWCP may not terminate compensation without establishing that the disability had ceased or that it was no longer related to the employment.[4] Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.[5] The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.[6] To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which require further medical treatment.[7]

ANALYSIS

OWCP accepted that on October 25, 2012 appellant sustained a left hip contusion and left inguinal strain in the performance of duty. She worked modified duty. OWCP terminated appellant's compensation and medical benefits effective September 24, 2013 based on the second opinion report of Dr. Szabo who found that she did not need additional medical treatment and was capable of returning to work with no restrictions. The Board finds that it met its burden of proof to terminate her compensation benefits as the medical evidence establishes that her accepted left hip contusion and left inguinal strain had resolved and that she no longer suffered residuals of her October 25, 2012 employment injury.

OWCP terminated appellant's compensation and medical benefits based on Dr. Szabo's April 29, 2013 second opinion report. Dr. Szabo provided an accurate history of the October 25, 2012 employment injury and reviewed her history. He noted that a December 21, 2012 MRI scan of the left hip showed no abnormal signal within the bone marrow, no joint effusion and some increased signal change adjacent to the greater trochanter of the left hip which may be indicative of bursitis. Examination revealed tenderness over the left SI joint but nontender over the anterosuperior and anterior inferior iliac crests and hip adductors. Seated and supine straight

[3] *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

[4] *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

[5] *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

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

[7] *A.P.*, Docket No. 08-1822 (issued August 5, 2009); *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002).

leg raise testing was negative. Range of motion of the hip demonstrated 30 degrees of internal and external rotation and 120 degrees flexion. Dr. Szabo reported that provocative maneuvers to test the hip labrum were unremarkable. Appellant also had negative Faber testing and nontender to pelvic compression and roll maneuvers. She demonstrated 5/5 hip flexion, hip extension and hip adduction. Dr. Szabo diagnosed left hip contusion and inguinal strain caused by the vocational injury of October 25, 2012. He explained that the physical examination and review of imaging did not demonstrate evidence of residuals from the injury or impairment. Dr. Szabo reported that appellant's subjective complaints were not substantiated by objective findings. He opined that she had recovered from the vocational injury that required no restrictions, limitations or treatment. Dr. Szabo concluded that there were no other nonaccepted conditions causally related to the October 25, 2012 injury.

The weight of the medical evidence is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.[8] Dr. Szabo provided an accurate history of the October 25, 2012 employment injury and findings on examination. He explained that there were no objective findings to support appellant's subjective complaints. The Board finds that Dr. Szabo's opinion is supported by Dr. Pohland's December 21, 2012 diagnostic report which indicated no abnormal signal in the bone marrow and no joint effusion in the left hip. The Board finds, therefore, that OWCP met its burden of proof to terminate appellant's medical and compensation benefits as the medical evidence established that her accepted October 25, 2012 left hip condition had resolved and that she was capable of returning to full duty.

Appellant submitted various reports by Dr. Hoover who related appellant's complaints of intermittent episodes of pain in her left groin and lower back area. He noted that he treated her for left trochanteric bursitis and left-sided lower back pain. While Dr. Hoover treated appellant for complaints of left hip and lower back pain, his reports fail to provide support that she continued to suffer residuals of her accepted left hip contusion and inguinal strain.[9] The Board notes that OWCP has not accepted that appellant sustained left trochanteric bursitis from the employment injury. Instead, the Board finds that Dr. Hoover's reports demonstrate that appellant's accepted conditions had resolved and that she may be capable of regular-duty work. In an August 8, 2013 report, Dr. Hoover observed no tenderness to palpation of the left trochanteric bursa or lower back. He diagnosed resolving left trochanteric bursitis and SI dysfunction and stated that appellant may be able to resume regular-duty work. The Board finds, therefore, that Dr. Hoover's reports are insufficient to establish that appellant's left hip condition had not resolved and that she continued to suffer residuals of the October 25, 2012 employment injury.

The Board finds that Dr. Szabo's opinion continues to constitute the special weight of medical opinion and supports OWCP's decision to terminate appellant's wage-loss and compensation benefits. There is no other medical evidence contemporaneous with the

[8] *K.W.*, 59 ECAB 271 (2007); *Ann C. Leanza*, 48 ECAB 115 (1996).

[9] *See D.R.*, Docket No. 12-1441 (issued February 13, 2013).

termination of appellant's benefits which supports that she has any continuing residuals related to her accepted work-related injuries.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP 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 properly terminated appellant's wage-loss compensation and medical benefits effective September 24, 2013 on the grounds that she no longer had any residuals or disability causally related to her accepted October 25, 2012 employment-related injury.

ORDER

IT IS HEREBY ORDERED THAT the September 24, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 21, 2014
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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