United States Department of Labor
Employees' Compensation Appeals Board

V.W., Appellant	)	
and	)	**Docket No. 14-1183**
	)	**Issued: September 8, 2014**
DEPARTMENT OF AGRICULTURE, FOOD SAFETY & INSPECTION SERVICE, Nashville, AR, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On April 28, 2014 appellant timely appealed the March 24, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP) which terminated his benefits. 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 merits of the claim.

ISSUE

The issue is whether OWCP properly terminated appellant's compensation and medical benefits effective September 6, 2013.

FACTUAL HISTORY

Appellant, an 83-year-old former food inspector, has an accepted traumatic injury claim for right wrist ligament tear and avulsion fracture (pisiform carpal bone), which occurred on

[1] 5 U.S.C. §§ 8101-8193.

August 16, 1986 when he slipped on a wet floor. He last worked for the employing establishment on February 17, 1988. For more than a decade, appellant received periodic wage-loss compensation based on a November 2, 1998 loss of wage-earning capacity determination.[2]

In a report dated July 13, 2010, Dr. Robert C. Matthias Jr., a Board-certified hand surgeon, noted that appellant had previously been under the care of Dr. Marcia L. Hixson for a 1986 triangular fibrocartilage complex (TFCC) injury, which was treated nonoperatively.[3] Appellant was seen for a routine workers' compensation follow-up evaluation and reported having no new pain or problems. Physical examination of the right upper extremity revealed a warm hand that was perfused. Dr. Matthias noted a normal sensory examination. Appellant denied numbness, tingling or paresthesias. He also noted a full range of motion of the fingers and thumb, with full composite grip, as well as full finger and thumb extension. Appellant also had full pronation and supination without pain or crepitus. His distal radial ulnar joint was stable to a full range of motion through full pronation and supination. There was no tenderness over the ulnar aspect of the wrist and no tenderness with the ulnar fovea. Additionally, there was no evidence for ulnar impaction. Dr. Matthias' clinical assessment was a stable right wrist. He advised appellant to continue his activities as tolerated and follow-up on an as-needed basis. Dr. Matthias stated that appellant currently had no pain or problems and absent symptoms, he did not appear to be experiencing residuals from the August 16, 1986 injury. Based on the current examination, there was no evidence that appellant's work-related condition continued to limit him physically. Dr. Matthias stated that currently no treatment was planned as appellant was asymptomatic.

Dr. Jeanine A. Andersson, a Board-certified orthopedic surgeon, examined appellant on July 11, 2013.[4] She noted a history of a 1986 right wrist TFCC tear with a current normal examination. Dr. Andersson advised that appellant reached maximum medical improvement and no further medical treatment was recommended. Appellant received a full and complete release from further care. Dr. Andersson stated that he did not need any more follow-up for a remote injury for which he was completely asymptomatic.

On July 30, 2013 OWCP issues a pretermination notice of appellant's monetary and medical benefits. Appellant was provided 30 days to submit additional evidence or argument concerning the proposed termination.

Appellant returned to Dr. Andersson on August 26, 2013 to obtain additional information with respect to his workers' compensation claim. He was concerned that her previous report did not reflect the true nature of his wrist pain. Dr. Andersson noted the history of a right TFCC tear

[2] OWCP found appellant capable of earning weekly wages of $230.00 in the constructed position of gate guard.

[3] Dr. Matthais first examined appellant on June 10, 2008. At that time, he noted appellant was stable following right wrist TFCC injury. Dr. Matthais and Dr. Hixson were colleagues in practice. Appellant last saw Dr. Hixson on May 24, 2007 for a routine annual examination. Dr. Hixson noted his condition was stable. Appellant's treatment included activity modification. Dr. Hixson, who began treating him in April 1988, indicated that no further medical treatment should be necessary.

[4] Dr. Andersson was a colleague of both Dr. Hixson and Dr. Matthias.

diagnosed by Dr. Hixson back in the 1980's and treated nonsurgically with no further treatment required. She also noted slight ulnar-sided wrist pain related to lunotriquetral degenerative changes, which were minimally present on x-ray and possibly related to ulnar impaction syndrome. Dr. Andersson reiterated that appellant's TFCC tear was stable and did not require any further medical treatment. She stated that his minor ulnar-sided wrist pain was unrelated to the accepted tear, but instead related to the presence of lunotriquetral arthritis. Dr. Andersson explained that this particular type of arthritis can be related to long-standing ulnar impaction syndrome versus an injury in the remote past. Appellant appeared to be minimally symptomatic. Based upon his age and current clinical examination, Dr. Andersson did not recommend further treatment unless his arthritis became more symptomatic.

Dr. Andersson noted that appellant did not relate a specific injury back in 1986, but stated he did repetitive inspection of poultry, which resulted in his current condition. She explained that TFCC tears tend to either be from a traumatic incident versus a normal variant of a person's anatomy. Therefore, Dr. Andersson did not relate his initial "'work injury'" with his diagnosis of a TFCC tear based upon the information provided. Although the TFCC tear did not currently limit appellant's physical capacity, his lunotriquetral arthritis did limit his activity. Dr. Andersson did not recommend any further treatment for appellant given his minimal symptomatology and lack of clinical findings on examination.

In a decision dated September 5, 2013, OWCP terminated appellant's wage-loss compensation and medical benefits.[5] It found that the reports of his attending physicians established that the accepted TFCC tear had resolved.

Appellant timely requested a review of the written record. He resubmitted the medical reports of Dr. Anderson and Dr. Mathias.

By decision dated March 24, 2014, an OWCP hearing representative affirmed the September 5, 2013 decision.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it bears the burden to justify modification or termination of benefits.[6] Having determined that an employee has a disability causally related to her federal employment, OWCP may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.[7] The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.[8] To terminate authorization for medical treatment, OWCP must

[5] On July 30, 2013 OWCP issued a notice of proposed termination and afforded appellant 30 days to submit additional evidence or argument in response.

[6] *Curtis Hall*, 45 ECAB 316 (1994).

[7] *Jason C. Armstrong*, 40 ECAB 907 (1989).

[8] *Furman G. Peake*, 41 ECAB 361, 364 (1990); *Thomas Olivarez, Jr.*, 32 ECAB 1019 (1981).

establish that the employee no longer has residuals of an employment-related condition that require further medical treatment.[9]

ANALYSIS

The Board finds that OWCP met its burden of proof to terminate appellant's benefits based on the findings of his treating physicians. Dr. Matthias examined appellant on June 10, 2008, at which time he noted that appellant was stable following a right wrist TFCC injury. When appellant returned on July 13, 2010 for a routine workers' compensation follow-up evaluation, he reported having no new pain or problems. Dr. Matthias performed a complete physical and neurological examination and again found a stable right wrist TFCC injury. He advised appellant to continue activities as tolerated. Appellant was to return for follow-up on an as-needed basis. Dr. Matthias stated that in the absence of symptoms, appellant did not appear to be experiencing residuals from his August 16, 1986 injury. He further advised that based on the current examination, there was no evidence that appellant's work-related condition continued to limit him physically. Also, no further treatment was planned because appellant was currently asymptomatic.

Dr. Andersson's July 11 and August 26, 2013 reports similarly found no residuals of the accepted right wrist conditions. When she first saw appellant on July 11, 2013, his examination was normal. Dr. Andersson released him from care, noting that he did not need any more follow-up for a remote injury for which he was completely asymptomatic. Appellant returned approximately six weeks later and Dr. Andersson noted slight ulnar-sided wrist pain related to lunotriquetral degenerative changes. Dr. Andersson reiterated that appellant's TFCC tear was stable and did not require any further medical treatment. She found that his minor ulnar-sided wrist pain was unrelated to the TFCC, but rather to the presence of lunotriquetral arthritis.[10]

Dr. Matthias' July 10, 2010 report establishes that appellant no longer experienced residuals from his August 16, 1986 injury. Because appellant was asymptomatic, he required no further medical treatment. The reports from Dr. Andersson noted evidence of right wrist arthritis; however, this condition was not causally related to appellant's August 16, 1986 employment-related traumatic injury.[11] Accordingly, OWCP satisfied its burden to terminate appellant's FECA benefits.

[9] *Calvin S. Mays*, 39 ECAB 993 (1988).

[10] Dr. Andersson did not provide a definitive cause for the arthritis, but noted appellant was minimally symptomatic. Her examination findings revealed "slight tenderness to palpation over lunotriquetral interval." Because of appellant's age and current clinical examination, Dr. Andersson did not recommend further treatment for arthritis.

[11] Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he bears the burden of proof to establish that the condition is causally related to the employment injury. *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

CONCLUSION

OWCP properly terminated appellant's wage-loss compensation and medical benefits effective September 6, 2013.

ORDER

IT IS HEREBY ORDERED THAT the March 24, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 8, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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