

claim for benefits, which OWCP accepted for right shoulder sprain, neck sprain, contusions of multiple sites, and right-sided superior glenoid labrum lesion.

On April 7, 2014 Dr. Hannah Eucker, an osteopath, requested authorization for osteopathic manipulative treatment for appellant's "neck, shoulders, arms ... right and left" pursuant to diagnostic codes 719.91 and 725.1.

By letter dated May 22, 2014, OWCP asked appellant and her treating physician, Dr. Eucker, to submit additional medical evidence supporting her request for authorization for osteopathic manipulative treatment for pain in joint shoulder region, diagnosis code 719.41, or 725.1, polymyalgia rheumatic. It stated that this claim for right upper extremity, treatment for the left upper extremity is not authorized at this time. Further, that these were not accepted conditions and therefore additional osteopathic manipulations were not authorized. OWCP asked appellant to provide a medical report describing the injury-related medical residuals based on a current physical examination. It stated that the report should include a medical explanation of the necessity of prolonged or intensive treatment and a statement of the progress made in her functional abilities that could be attributed to the osteopathic treatment already provided.

By letter dated June 30, 2014, OWCP advised appellant that it could not approve her request for authorization, as further medical development was needed before the request could be approved or denied.

In a July 23, 2014 report, Dr. Charles Pederson, a specialist in occupational medicine, stated that appellant had been evaluated on February 20, 2013, at which time she undertook a program of acupuncture and osteopathic manipulative treatment due to flaring of pain in the right trapezius, right paracervical, and right shoulder regions. He diagnosed chronic cervical strain and superior labral tear from anterior to posterior (SLAP) tear. Dr. Pederson recommended a course of acupuncture and osteopathic manipulative treatment. He opined that this was palliative care which was directly related to appellant's accepted conditions and was necessary to allow her to continue to work.

In an August 20, 2014 report, Dr. Pamela Chapin, a Board-certified family practitioner, submitted a report in response to OWCP's May 22, 2014 development letter regarding the rationale for appellant's ongoing treatment of her injuries with acupuncture and osteopathic manipulative treatment. She indicated that appellant was involved in a work accident on November 6, 2010 resulting in a cervical and right shoulder injury. Dr. Chapin related that appellant underwent surgery on June 6, 2011 to repair a SLAP tear in her right shoulder and on November 15, 2011 to repair arthroscopic lysis of adhesions with manipulation under anesthesia due to a frozen right shoulder. She advised that she had been administering acupuncture treatments to appellant since June 2012.

Dr. Chapin noted, following her second surgery, appellant continued to experience right shoulder pain and poor mobility (frozen shoulder) as well as chronic neck pain. The acupuncture treatments helped appellant return to light duty, be able to maintain her workload, and also helped to control appellant's pain. Dr. Chapin stated that appellant switched to osteopathic manipulation treatments in July 2013 with Dr. Eucker, as associate of her clinic. She advised that her occupational medicine physician, Dr. Pederson, had approved these treatments but her office had

difficulty getting treatments approved without interruption. Dr. Chapin stated that, in summary, appellant had a chronic soft tissue injury of the neck and right shoulder, with physical examination showing chronic, reduced right shoulder range of motion, chronic fibrotic tissue changes along with recalcitrant trigger points, and a myofascial pain pattern. She asserted that appellant had benefited significantly from maintenance acupuncture and osteopathic manipulation treatments.

In a November 17, 2014 report, Dr. Chapin advised that appellant was being treated for continuing right frozen shoulder and neck/upper back pain due to her November 2010 work injury. She stated that appellant had experienced increased right neck and upper back pain the previous week which had slightly diminished. Dr. Chapin asserted that her left shoulder and upper back pain had been much better.

By decision dated December 11, 2014, OWCP denied appellant's request for authorization for osteopathic manipulative treatment for her nonaccepted left shoulder and rheumatic polymyalgia conditions. It stated that it did not receive any evidence to support Dr. Eucker's authorization request. OWCP informed appellant that additional evidence was needed in order to establish that the request was medically necessary to address the effects of her work-related injury or condition(s). It stated that the requested procedures were for diagnoses that were not accepted in this case, for left shoulder sprain and rheumatic polymyalgia conditions. Accordingly, OWCP found that the evidence of record did not support that the requested osteopathic manipulative treatment was medically necessary to address the effects of a work-related injury or condition(s).

LEGAL PRECEDENT

Section 8103 of FECA² provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which OWCP considers likely to cure, give relief, reduce the degree or the period of disability or aid in lessening the amount of the monthly compensation.³ In interpreting this section of FECA, the Board has recognized that OWCP has broad discretion in approving services provided under FECA. OWCP has the general objective of ensuring that an employee recovers from his or her injury to the fullest extent possible in the shortest amount of time. It therefore has broad administrative discretion in choosing means to achieve this goal. The only limitation on 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 merely show that the evidence could be construed so as to produce a contrary factual conclusion.⁴

² *Id.*

³ *Id.* at § 8103.

⁴ *Daniel J. Perea*, 42 ECAB 214 (1990).

ANALYSIS

In this case, OWCP accepted that appellant had sustained the conditions of right shoulder sprain, neck sprain, contusions of multiple sites, and right-sided superior glenoid labrum lesion. Appellant began receiving acupuncture and osteopathic manipulative treatment for her right shoulder and neck, which OWCP approved. On April 7, 2014 Dr. Eucker appellant's treating osteopath, requested authorization for osteopathic manipulative treatment to ameliorate pain in the joint shoulder region, "neck, shoulders, arms ... right and left" pursuant to diagnosis codes 719.41, and 725.1; *i.e.*, rheumatic polymyalgia. In its May 22, 2014 letter, OWCP requested additional medical evidence from appellant and Dr. Eucker to support the treatment for left shoulder strain, and rheumatic polymyalgia, because these were not accepted conditions. It had not received sufficient medical documentation to authorize these additional osteopathic manipulations. OWCP asked appellant to provide a medical report based on a current physical examination describing the injury-related medical residuals with an explanation of the need for prolonged or intensive treatment and a statement of appellant's progress as a result of osteopathic treatment already provided. By letter dated June 30, 2014, it advised appellant that further medical development was required before her request for authorization of treatment could be approved.

In a July 23, 2014 report, Dr. Pederson related that appellant had undergone a program of acupuncture and osteopathic manipulative treatment to treat flaring of pain in the right trapezius, right paracervical, and right shoulder regions. He advised that this was palliative care directly related to her accepted conditions and was necessary for her to continue working. In her August 20, 2014 report, Dr. Chapin, advised that appellant had suffered a cervical and right shoulder injury on November 6, 2010 and had surgery on June 6 and November 15, 2011. She began acupuncture treatments in June 2012 and switched to osteopathic manipulation treatments in July 2013 with Dr. Eucker. Dr. Chapin reported a chronic soft tissue injury of the neck and right shoulder, with physical examination showing chronic, reduced right shoulder range of motion, chronic fibrotic tissue changes along with recalcitrant trigger points, and a myofascial pain pattern. She stated that appellant had significant benefits from maintenance acupuncture and osteopathic manipulation. Dr. Chapin noted in her November 17, 2014 report, that appellant was being treated for continuing right frozen shoulder and neck/upper back pain related to her work injury.

The only restriction on OWCP's authority to authorize medical treatment is one of reasonableness. Dr. Eucker requested authorization for osteopathic manipulative treatment for left shoulder strain and rheumatic polymyalgia; however, these were not accepted conditions. None of the reports discussed above, explained the need for treatment of unaccepted conditions. They merely reiterated that osteopathic manipulative treatment had provided relief for appellant's accepted right shoulder and neck conditions. The Board finds that OWCP did not abuse its discretion when it denied her request for osteopathic manipulative treatment of her nonaccepted left shoulder and rheumatic polymyalgia conditions. The Board affirms the December 10, 2014 decision.

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 did not abuse its discretion to deny appellant authorization for osteopathic manipulative treatment for her nonaccepted left shoulder and rheumatic polymyalgia conditions.

ORDER

IT IS HEREBY ORDERED THAT the December 11, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 3, 2015
Washington, DC

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

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

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