

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of KATHLEEN KELLY and U.S. POSTAL SERVICE,  
POST OFFICE, Eugene, OR

*Docket No. 00-744; Submitted on the Record;  
Issued September 4, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's benefits on the basis that she no longer suffered any residuals due to her June 1, 1989 employment injury.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the decision of the hearing representative of the Office dated and made final on November 18, 1999 is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the Office hearing representative.

On appeal, appellant argues that the Office hearing representative erred in not addressing a September 27, 1999 report of Dr. Walsh which was submitted to the Office on or about October 13, 1999. Appellant further argues that, as the Office referral physician, Dr. Stanley E. Donahoo, diagnosed a "chronic pain syndrome" the Office should have further developed the evidence on that issue or asked Dr. Donahoo for clarification. It is important to note that the Office has not accepted such condition as being causally related to appellant's accepted employment injuries. As such "chronic pain syndrome" condition was not an accepted condition, appellant has the burden to establish that any condition is causally related to her original work injuries.<sup>1</sup> The fact that the etiology of a disease or condition is unknown or obscure neither relieves appellant of the burden of establishing a causal relationship by the weight of the medical evidence nor does it shift the burden of proof to the Office to disprove an employment relationship.<sup>2</sup> Additionally, as the case record before the Board is devoid of the alleged September 27, 1999 report from Dr. Walsh, the Office hearing representative did not err

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<sup>1</sup> See *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996); *Melinda C. Epperly*, 45 ECAB 196 (1993); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>2</sup> *Judith J. Montage*, 48 ECAB 292, 294-95 (1997).

in closing the record as no additional evidence was received. The Board's jurisdiction on appeal is limited to a review of the evidence which was in the case record before the Office at the time of its final decision.<sup>3</sup> Accordingly, appellant may resubmit this evidence and any legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a).<sup>4</sup>

The decision of the Office of Workers' Compensation Programs dated November 18, 1999 is affirmed.

Dated, Washington, DC  
September 4, 2001

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>3</sup> See 20 C.F.R. § 501.2(c).

<sup>4</sup> 20 C.F.R. § 10.606(b) (1999).