

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARLES McFADDEN and DEPARTMENT OF TRANSPORTATION,
FEDERAL AVIATION ADMINISTRATION, Philadelphia, PA

*Docket No. 01-1492; Submitted on the Record;
Issued September 13, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant had any disability or medical residuals requiring further medical treatment after March 13, 2000, the date the Office of Workers' Compensation Programs terminated his compensation entitlement, causally related to his August 19, 1997 work injury.

On August 19, 1997 appellant, then a 64-year-old federal employee for the employing establishment, filed a traumatic injury claim alleging that on that same day, while conducting an inspection on Interstate 95 in Philadelphia, Pennsylvania, he tripped in the roadway and struck his head. Appellant asserted that this injury caused numbness in his arms and legs. On December 3, 1997 the Office accepted the claim for abrasion on the head and contusions on both shoulders. Appellant stopped work immediately and returned to light duty on November 17, 1997.

Following the August 19, 1997 work injury, Dr. Enrico Marcelli, an osteopath, treated appellant for persistent pain in the neck, shoulder and arm and limited motion of the cervical spine. In reports dated May 21 and June 25, 1998, Dr. Marcelli related that appellant was involved in a motor vehicle pedestrian accident on August 19, 1997 and concluded that appellant had cervical spondylosis, which was severely exacerbated by the work injury.

An electromyography study of the upper extremities conducted on May 4, 1998 found no evidence to suggest a significant cervical radiculopathy and was otherwise essentially normal. Repeat magnetic resonance imaging (MRI) scans performed on December 19, 1997, January 8, 1998 and February 24, 1999 revealed extensive spinal stenosis of the cervical spine, degenerative disc disease and right rotator cuff tear.

On April 29, 1999 the Office referred appellant, along with the medical record and statement of accepted facts, to Dr. Steven Valentino, an osteopath, to clarify the cause and extent of his injury-related impairment. In his report dated May 17, 1999, Dr. Valentino related

appellant's history and symptoms. He noted that appellant previously sustained a left arm injury in 1987, a right shoulder and leg injury on June 24, 1997 and had a prior condition of arthritis, which appellant related was made worse by the August 19, 1997 work injury. Following a review of the medical record and his findings on examination, Dr. Valentino stated:

“Based on today's evaluation, [appellant's] degenerative cervical spondylosis predated his occupational-related injury of August 19, 1997. I find no evidence to support any exacerbation of the cervical spondylosis secondary to the work injury. In short, it bears no direct or indirect causal relationship to his work injury of August 19, 1997. The cervical spondylosis is not medically connected to the work injury. It was not aggravated, precipitated or accelerated by the work injury. [Appellant] does admit to a preexistent history of arthritis and low back pain, which are not apportioned to his recent history of work injury. There is no evidence that the work injury of August 19, 1997 is actually causing objective findings. His history of cervical spinal stenosis is not related to the work injury, as it is degenerative in nature. The MRI and EMG [electromyogram] revealed no evidence of any acute or traumatic injury.”

In a letter dated June 21, 1999, the Office proposed to terminate appellant's compensation benefits based on Dr. Valentino's May 17, 1999 report. The Office advised that appellant submit additional evidence related to the issue in the case if he disagreed with the proposed decision.

Appellant submitted a report from Dr. Marcelli dated August 27, 1999 in which he opined that, based on appellant's history, his examination and objective findings with MRI scans, appellant's cervical symptomatology occurred due to his work injury, even though his cervical spondylosis condition existed prior to the fall.

On January 10, 2000 the Office referred appellant to Dr. Easwaran Balasubramanian, a Board-certified orthopedic surgeon, for an impartial examination in order to resolve the conflict. In his report dated February 8, 2000, Dr. Balasubramanian stated that, based on his examination, history and review of MRI reports and other records, appellant sustained injuries to the cervical spine and the shoulder as a result of the work injury. He reported however that, at that time, he did not find any evidence of residuals from the cervical spine injury, which appeared to be an aggravation of degenerative disc disease of the cervical spine. Dr. Balasubramanian reasoned that appellant had no clinical symptoms related to the cervical spine at that time except for limitation of motion and opined that this was related to his degenerative disease rather than aggravation. He further noted that appellant had impingement syndrome in the right shoulder; however, it did not appear to be work related, as earlier reports indicated that appellant had bilateral rotator cuff disease based on the degenerative process. Dr. Balasubramanian concluded that appellant had no disability arising from the work injury.

By decision dated March 13, 2000, the Office terminated appellant's compensation benefits based on the weight of the medical evidence which established that appellant had no residuals causally related the August 19, 1997 employment injury. On March 21, 2000 appellant through counsel requested an oral hearing.

Following a hearing held on November 9, 2000, an Office hearing representative affirmed the prior decision terminating benefits. The Office hearing representative found that Dr. Balasubramanian's report represented the weight of the medical evidence as the impartial specialist, in which he opined that appellant no longer suffered residuals of the work-related injury of August 19, 1997.

The Board finds that appellant had no disability or medical residuals requiring further medical treatment after March 13, 2000, the date the Office terminated his compensation entitlement, causally related to his August 19, 1997 work injury.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.¹ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.² Further, the right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for wage loss.³ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition that require further medical treatment.⁴

In the instant case, appellant's treating physician, Dr. Marcelli, concluded that appellant's current cervical symptomatology occurred due to his work injury, even though his cervical spondylosis condition existed prior to the fall. In contrast, Dr. Valentino, the second opinion examiner, found no evidence to support that appellant's cervical spondylosis was directly or indirectly related or exacerbated by his work injury of August 19, 1997. Consequently, the Office referred the case to Dr. Balasubramanian, an impartial specialist, who found that appellant did suffer an injury to his cervical spine in the August 19, 1997 work injury; however, he had no residuals for the incident. He further opined that appellant's symptoms appeared to be an aggravation of degenerative disc disease of the cervical spine and concluded that appellant had no work-related disability.

In the present case, the report of Dr. Balasubramanian constitutes the weight of the rationalized medical evidence because it was based upon a complete factual and medical history and a complete examination of appellant. His report was consistent with examination findings and

¹ *Harold S. McGough*, 36 ECAB 332 (1984).

² *Vivien L. Minor*, 37 ECAB 541 (1986); *David Lee Dawley*, 30 ECAB 530 (1979); *Anna M. Blaine*, 26 ECAB 351 (1975).

³ *Marlene G. Owens*, 39 ECAB 1320 (1988).

⁴ *See Calvin S. Mays*, 39 ECAB 993 (1988); *Patricia Brazzell*, 38 ECAB 299 (1986); *Amy R. Rogers*, 32 ECAB 1429 (1981).

of reasonable medical certainty and was well rationalized and supported by physical evidence noted in the record.⁵ No disability or impairment due to appellant's August 19, 1997 work injury was found after February 8, 2000, the date of his report and no injury-related residuals were identified after that date. Further, no need for further medical treatment for unspecified residuals of the work injury was identified after that date. Therefore, the Office properly relied on Dr. Balasubramanian's report as the weight of the medical evidence of record in establishing that appellant had no disability or injury residuals after the termination date of March 13, 2000, causally related to his August 19, 1997 work injury.

The Office has thereby discharged its burden of proof to justify termination of appellant's monetary compensation entitlement and entitlement to further medical benefits for treatment of the accepted employment injury after March 13, 2000.

Accordingly, the decision of the Office of Workers' Compensation Programs dated February 5, 2001 is affirmed.

Dated, Washington, DC
September 13, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁵ See *Anna C. Leanza*, 48 ECAB 115 (1996); *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996); *Clara T. Norga*, 46 ECAB 473 (1995).