

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**K.R., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Deptford, NJ, Employer**

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**Docket No. 07-588  
Issued: June 8, 2007**

*Appearances:*  
*Thomas R. Uliase, Esq., for the appellant*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On December 27, 2006 appellant, through her counsel, filed a timely appeal from the Office of Workers' Compensation Programs' hearing representative's July 19, 2006 decision which found that appellant's accepted employment-related condition and disability had ceased as of July 29, 2002. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether the Office properly found appellant's accepted employment-related condition and disability had ceased as of July 29, 2002.

**FACTUAL HISTORY**

This is the second appeal before the Board. In the prior appeal, the Board found that the case was not in posture for a decision with respect to whether appellant sustained any aggravation or exacerbation of her preexisting neurocardiogenic syndrome due to employment

factors.<sup>1</sup> The Board set aside the Office decisions dated December 30, 2003 and June 30, 2004 and remanded for further development. The history of the case is contained in the Board's prior decision and is incorporated herein by reference.

Subsequent to the Board's decision, the Office referred appellant to Dr. Jeffrey H. Kramer, a Board-certified internist with a subspecialty in cardiovascular disease, for a second opinion evaluation. On October 19, 2005 Dr. Kramer concluded that the hot humid weather on July 29, 2002 exacerbated appellant's "tendency to become hypotensive (and bradycardic) while in the upright position." With respect to the period of disability, he opined that the aggravation of appellant's preexisting syncope would not persist beyond July 29, 2002. Dr. Kramer further noted:

"In the setting of documented neurocardiogenic dysfunction, it was Dr. [Francis E.] Marshlinsk[i], [a cardiac electrophysiologist's,] appropriate concern that she might experience recurrent episodes of syncope either while driving or while standing for prolonged periods of time. This is the appropriate basis for Dr. Marshlinsk[i]'s recommendation that [appellant] not return to work until it was determined that [appellant]'s clinical condition was stable. As noted, serial attempts to treat [appellant] with pharmacotherapeutic agents were tried unsuccessfully followed by pacemaker implantation. I cannot state a specific date at which point [appellant] was clinically stable to return to work, but Dr. Marshlinsk[i]'s recommendation certainly seems reasonable."

In concluding, Dr. Kramer opined that the humid warm weather on July 29, 2002 "likely precipitated" appellant's syncope, but it "clearly did not persist beyond that date and cannot be deemed responsible for the potential" of any "recurrent syncopal events."

By decision dated December 7, 2005, the Office accepted that appellant sustained "an episode of neurocardiogenic syncope while delivering mail in hot, humid weather" on July 29, 2002. The Office also found that any aggravation ceased on July 29, 2002.

In a letter dated December 13, 2005, appellant's counsel requested an oral hearing before an Office hearing representative, which was held on April 27, 2006.

By decision dated July 19, 2006, an Office hearing representative affirmed the finding that appellant's accepted injury-related condition and associated disability ceased by July 29, 2002. She found that the weight of the evidence rested with the report of Dr. Kramer, the second opinion Board-certified internist.

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<sup>1</sup> Docket No. 05-45 (issued August 16, 2006). On August 1, 2002 appellant, then a 32-year-old regular letter carrier, filed a traumatic injury claim alleging that on July 29, 2002 she passed out on a customer's steps while delivering mail. She reported that the temperature that day was in the high 90's and listed her injury as acute cardiovascular illness.

## LEGAL PRECEDENT

Under the Federal Employees' Compensation Act,<sup>2</sup> when employment factors cause an aggravation of an underlying condition, the employee is entitled to compensation for the periods of disability related to the aggravation.<sup>3</sup> When the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased, even if the employee is medically disqualified to continue employment because of the effect work factors may have on the underlying condition.<sup>4</sup>

Once the Office accepts a claim and pays compensation, it has the burden of justifying modification or termination of compensation.<sup>5</sup> After the Office determines that, an employee has disability causally related to his employment, the Office may not terminate compensation without establishing either that its original determination was erroneous or that the disability has ceased or is no longer related to the employment injury.<sup>6</sup> The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition, which require further medical treatment.<sup>7</sup>

## ANALYSIS

The Office accepted that appellant sustained an aggravation of neurocardiogenic based on the opinion of Dr. Kramer, an Office referral physician. The Office found that appellant had not established that she had an employment-related condition after July 29, 2002 based on the same opinion by Dr. Kramer. As the Office accepted appellant's claim for an episode of neurocardiogenic syncope, it has the burden to show that her condition has resolved.<sup>8</sup>

The Board finds that Dr. Kramer's report is not sufficiently well rationalized to constitute the weight of the medical evidence with regard to the matter of whether appellant's accepted condition and disability had ceased as of July 29, 2002.

In his October 19, 2005, Dr. Kramer concluded that any aggravation of appellant's preexisting syncope would not persist beyond July 29, 2002. He further noted appellant's treating physician's not releasing appellant to return to work until her condition was stable. Dr. Kramer opined that he was unable to "state a specific date at which point [appellant] was clinically stable to return to work." In concluding, he opined that the humid warm weather on

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Chris Wells*, 52 ECAB 445 (2001); *Raymond W. Behrens*, 50 ECAB 221 (1999).

<sup>4</sup> *Raymond W. Behrens*, *supra* note 3.

<sup>5</sup> *Gloria J. Godfrey*, 52 ECAB 486 (2001)

<sup>6</sup> *Raymond W. Behrens*, *supra* note 3.

<sup>7</sup> *John F. Glynn*, 53 ECAB 562 (2002); *Pamela Guesford*, 53 ECAB 726 (2002).

<sup>8</sup> *John F. Glynn*, *supra* note 7.

July 29, 2002 “likely precipitated” appellant’s syncope, but summarily concluded that it “clearly did not persist beyond that date and cannot be deemed responsible for the potential” of any “recurrent syncopal events.”

Although Dr. Kramer stated that any aggravation of appellant’s preexisting condition would not persist beyond July 29, 2002, he did not adequately explain the reasoning for this apparent conclusion.<sup>9</sup> For example, he stated that not releasing appellant to return to work until her condition had been stabilized was reasonable treatment. Dr. Kramer provided no supporting rationale explaining why appellant’s condition would not persist beyond July 29, 2002 in view of his opinion that it was reasonable not to release appellant to return to work until her condition had stabilized. It is unclear from his report why he agrees that appellant’s condition had not stabilized such that she could return to work and yet any aggravation had ceased. In addition, Dr. Kramer also indicated that he could not provide a date at which appellant would be able to return to work. Without a clear explanation of this apparent contradiction, it cannot be said that he provided a well-rationalized opinion that appellant’s disability and condition ceased as of July 29, 2002.

For these reasons, the Office did not present sufficient medical evidence to support its finding that appellant’s accepted employment-related condition and disability had ceased as of July 29, 2002.

### **CONCLUSION**

The Board finds that the Office improperly found that appellant’s accepted employment-related condition and disability had ceased as of July 29, 2002.

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<sup>9</sup> *T.F.*, 58 ECAB \_\_\_ (Docket No. 06-1186, issued October 19, 2006); *Beverly A. Spencer*, 55 ECAB 501 (2004) (finding that a medical report is of limited probative value if it contains a medical conclusion which is unsupported by medical rationale).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated July 19, 2006 is reversed with respect to the finding that appellant's disability and condition ceased effective July 29, 2002.

Issued: June 8, 2007  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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