

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

WALLACE N. LOO, Appellant)

and)

U.S. POSTAL SERVICE,)
POST OFFICE, Redwood City, CA, Employer)

**Docket No. 03-2301
Issued: January 15, 2004**

Appearances:
Wallace N. Loo, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
DAVID S. GERSON, Alternate Member
MICHAEL E. GROOM, Alternate Member

JURISDICTION

On September 24, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs merit decision dated June 27, 2003. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether the Office met its burden of proof to justify termination of medical benefits effective June 27, 2003.

FACTUAL HISTORY

On January 31, 1994 appellant, then a 34-year-old carrier, filed an occupational disease claim for employment-related stress and anxiety. He alleged that his condition was the result of pressure and harassment regarding his route. Appellant identified January 15, 1994 as the date he first realized that his condition was caused or aggravated by his employment. He stopped

work on January 19, 1994. The Office accepted the claim for major depression, single episode, mild.

In a report dated September 22, 1994, appellant's treating psychiatrist, Dr. George D. Karalis, released him to return to work effective September 26, 1994. His only provision was that appellant not be subjected to involuntary overtime. Appellant resumed his regular duties and continued to receive treatment from Dr. Karalis.

In a follow-up medical report dated February 22, 2000, Dr. Karalis reported that appellant was again experiencing job-stress symptoms and signs and could not return to work until February 28, 2000. The Office subsequently referred him for a second opinion evaluation by Dr. Todd A. Cornett, a Board-certified psychiatrist.

In a report dated May 21, 2002, Dr. Cornett diagnosed major depression in remission and adjustment disorder in remission. He advised that appellant did not have residuals of his accepted work-related condition as he did not currently endorse symptoms that meet the criteria for adjustment disorder, post-traumatic stress disorder or major depression. Dr. Cornett advised that appellant's current condition did not suggest the inability to function in daily activities, nor were there any limitations in his ability to give or take supervision, cooperate with others, work under deadlines or any pertinent factors which may affect work capacity as he has worked full time for the past five and one-half years.

The Office forwarded a copy of Dr. Cornett's report to Dr. Karalis for his review and comments. In a July 7, 2000 report, Dr. Karalis expressed disagreement with Dr. Cornett's opinion that appellant was not currently symptomatic. He also indicated that appellant currently met the criteria for major depression and needed ongoing insight and supportive psychotherapy for an indefinite period of time.

The Office determined that a conflict of medical opinion existed between Drs. Cornett and Karalis and, therefore, the Office referred the case to Dr. Kenneth I. Gottlieb, a Board-certified psychiatrist, for an impartial medical evaluation. He indicated, in a report dated May 12, 2003, that appellant had essentially fully recovered from the major depressive disorder which emanated from his 1994 work injury. Dr. Gottlieb advised that appellant had been performing his usual work without restriction for the past nine years and did not currently have any psychological residuals attributable to the 1994 work injury. He further advised that appellant did not meet the diagnostic criteria for major depression and noted that his cognitive functioning was unimpaired, his affect was euthymic with no suggestion of anxiety, depression or other dysphoric state and his thought processes were intact with no indication of loosening of associations, concreteness, paranoid ideation, delusions, hallucinations or any other psychotic disorder. Dr. Gottlieb did not believe appellant's current psychiatric treatment was for the residual of his 1994 work injury, but rather was helping him maintain his current status and was prophylactic in terms of preventing another claimed work injury.

On May 21, 2003 the Office issued a notice of proposed termination of medical benefits on the grounds that Dr. Gottlieb's report dated May 12, 2003 established that appellant no longer suffered from residuals of his January 15, 1994 employment injury.

Appellant submitted reports from Dr. Karalis dated May 27 and 30, 2003, which advised that Dr. Gottlieb did not make any real attempt to probe the cultural factor in the development and perpetuation of appellant's mental illness. He noted that he disagreed with Dr. Gottlieb in his conclusion that appellant has no current residuals of his work-related injury and indicated that he could not be recovered from his work-related injury if, as Dr. Gottlieb indicates, appellant would still benefit from therapy.

By decision dated June 27, 2003, the Office terminated appellant's medical benefits effective the same date, on the grounds that the weight of the medical evidence established that he had no continuing disability or residuals causally related to his accepted condition.

LEGAL PRECEDENT

The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.¹ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which requires further treatment.²

ANALYSIS

In this case, the Office accepted appellant's claim for major depression, single episode, mild and paid appropriate compensation. The Board finds that, under the circumstances of this case, the opinion of Dr. Gottlieb, the impartial medical specialist is sufficiently well rationalized and based upon a proper factual background such that it is entitled to special weight and establishes that appellant's work-related condition has ceased. Where there exists a conflict of medical opinion and the case is referred to an impartial specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, is entitled to special weight.³

Dr. Gottlieb reviewed appellant's history, reported findings and advised that he has essentially fully recovered from the major depressive disorder which emanated from his 1994 work injury. He noted that appellant had been performing his usual work without restriction for the past nine years and did not currently have any psychological residuals attributable to the 1994 work injury. Dr. Gottlieb did not believe appellant's current psychiatric treatment was for the residual of his 1994 work injury, but was rather helping him maintain his current status and was prophylactic in terms of preventing another claimed work injury.

Appellant submitted reports from Dr. Karalis dated May 27 and 30, 2003, which contradicted Dr. Gottlieb. However, this note did not contain new findings or rationale upon which a new conflict might be based. Although he indicated that he disagreed with Dr. Gottlieb in his conclusion that appellant has no current residuals of his work-related injury and indicated

¹ *Furman G. Peake*, 41 ECAB 361, 364 (1990); *Thomas Olivarez, Jr.*, 32 ECAB 1019 (1981).

² *Calvin S. Mays*, 39 ECAB 993 (1988).

³ *Aubrey Belnavis*, 37 ECAB 206 (1985).

that he could not be recovered from his work-related injury if, as Dr. Gottlieb indicates, appellant would still benefit from therapy, he provided no new rationale in support of this opinion.⁴ Therefore, this report is insufficient to overcome that of Dr. Gottlieb or to create a new medical conflict.⁵

The Board finds that the Office properly relied on Dr. Gottlieb's May 12, 2003 opinion as the basis for terminating medical benefits. His opinion is sufficiently well rationalized and based upon a proper factual background. Dr. Gottlieb not only examined appellant, but also reviewed her medical records. He also reported accurate medical and employment histories. Accordingly, the Office properly accorded determinative weight to the impartial medical examiner's May 12, 2003 findings, which established that appellant's work-related condition has ceased.

CONCLUSION

The Board finds that the Office has met its burden of proof to terminate medical benefits effective June 27, 2003.

ORDER

IT IS HEREBY ORDERED THAT the June 27, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 15, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

⁴ *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

⁵ *See Howard Y. Miyashiro*, 43 ECAB 1101, 1115 (1992); *Dorothy Sidwell*, 41 ECAB 857 (1990).