BRB No. 02-0452

ARTURO PEREZ	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
EAGLE MARINE SERVICES, LIMITED	)	DATE ISSUED: MAR 19, 2003
	)	
	)	
Self-Insured Employer-Petitioner	)	DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of Anne Beytin Torkington, Administrative Law Judge, United States Department of Labor.

Robert H. Madden (Madden & Crockett, LLP), Seattle, Washington, for claimant.

John P. Hayes (Forsberg & Umlauf, P.S.), Seattle, Washington, for self-insured employer.

Before: SMITH, McGRANERY, and HALL, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decision and Order Awarding Benefits (2001-LHC-0203) of Administrative Law Judge Anne Beytin Torkington on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.* (the Act). We must affirm the administrative law judge's findings of fact and conclusions of law if they are supported by substantial evidence, are rational, and are in accordance with law. 33 U.S.C. §921(b)(3); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

Claimant was injured while working as a truck driver for employer on August 15, 1998. As a result of this incident, claimant sustained an injury to his lower back as well as an alleged injury to his psyche. Dr. Robertson

diagnosed a strain/sprain of the lower lumbar region, and ultimately released claimant to work, on full duty without restriction, as of April 2, 1999. Drs. Wilson and Worsham essentially agreed with Dr. Robertson's assessment, both having stated that a soft tissue injury like that incurred by claimant usually heals within 90-120 days. Hearing Transcript (HT) at 121-123; Employer's Exhibit (EX) 24. Meanwhile, Dr. Romero, a board-certified psychiatrist, examined claimant on March 19, 1999, and diagnosed bipolar disorder NOS which he felt was entirely unrelated to claimant's August 15, 1998, work injury. Dr. Romero added that claimant's psychological condition was prohibiting his ability to work but opined that with medication, and psychotherapy to facilitate claimant's capacity to communicate with people and establish more steady relationships, claimant should eventually be able to function in the work world.

In April 2001, claimant began regular psychiatric treatment with Dr. Bramhall. Dr. Bramhall agreed with Dr. Romero's diagnosis of a bipolar disorder but classified claimant's condition as a bipolar spectrum or soft-bipolar disorder with depression. In contrast to Dr. Romero, she opined that claimant's psychiatric condition is, in part, related to the August 15, 1998, work injury. Specifically, Dr. Bramhall stated that her diagnosis of bipolar disorder has nothing to do with the August 15, 1998, work injury, but that claimant's underlying depression was, in fact, caused by that injury. As of the time of the hearing, Dr. Bramhall was of the opinion that claimant was temporarily totally disabled due to his psychiatric condition, but that he could be released to work full-time, within the next six to eight weeks. HT at 82.

At the time of his work injury, claimant was working two jobs. After the injury, claimant stated that he went back to work because he could not afford to stop, but eventually he found that he could no longer work because he was in pain. Employer paid temporary total disability benefits between August 16, 1998, and March 12, 1999, based on claimant's work-related back injury. Claimant thereafter filed a claim for benefits as a result of his work-related back injury and psychological condition.

In her decision, the administrative law judge found that claimant sustained a lumbar strain/sprain due to his work injury, and that, based on the opinion of Dr. Robertson, claimant was capable of returning to work without any restrictions as of April 2, 1999. The administrative law judge also found that claimant's psychological condition, and more particularly

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[1]NOS stands for "not otherwise specified." Dr. Romero reached this diagnosis since claimant did not meet the DSM-IV (Diagnostic and Statistical Manual of Mental Disorders, 4th edition) criteria for either bipolar disorder I or II, but exhibited symptoms similar to both of those diagnoses.

his present depressive cycle, was caused or aggravated by the August 15, 1998, work accident. Specifically, the administrative law judge determined that claimant established his *prima facie* case with respect to his depression, that claimant was therefore entitled to the Section 20(a) presumption, 33 U.S.C. §920(a), that employer established rebuttal of that presumption, and that based on the evidence as a whole, claimant's depression is work-related. She next determined that although claimant's back condition was fully healed as of April 2, 1999, claimant's psychological condition prevented his return to any employment, and therefore concluded that claimant is, with the exception of the post-injury periods during which he worked, entitled to an ongoing award of temporary total disability benefits. Additionally, the administrative law judge found that claimant is entitled to medical benefits from April 3, 1999, for his back and psychological injuries, as well as a Section 14(e) assessment, 33 U.S.C. §914(e). She further denied employer's requests for offset of an alleged overpayment of benefits and for Section 8(f) relief, 33 U.S.C. §908(f).

On appeal, employer challenges the administrative law judge's findings that claimant sustained a work-related psychological injury, that claimant is entitled to awards of temporary total disability benefits and medical benefits subsequent to April 2, 1999, and that employer is liable for a Section 14(e) assessment. Clamant responds, urging affirmance.

Employer initially asserts that the administrative law judge's finding of causation and her subsequent award of temporary partial and temporary total disability due to claimant's alleged work-related depression cannot be affirmed as they are premised on the suspect opinion of Dr. Bramhall. Employer avers that Dr. Bramhall's diagnosis of work-related depression should be accorded diminished weight as she did not, in contrast to Dr. Romero, evaluate claimant's condition contemporaneously with that work incident, and since she did not, in fact, initially diagnose depression but rather Bipolar II disorder, which she admitted is unrelated to the work injury and which includes depression as one of its symptoms. Moreover, employer argues that Dr. Bramhall's opinion cannot be credited as her retrospective diagnosis of depression is based solely on a history given by a claimant who was suffering from delusions and hallucinations, and because she admitted

[2]Specifically, the administrative law judge found claimant entitled to temporary total disability benefits from August 16, 1998, through April 2, 1999, based on his work-related back injury and that thereafter claimant's entitlement to benefits was based on his work-related depression. The administrative law judge also determined that claimant was entitled to temporary partial disability benefits for periods he worked post-injury.

that she routinely falsifies her diagnoses.

A psychological impairment that is work-related is compensable under the Act. *American National Red Cross v. Hagen,* 327 F.2d 559 (7th Cir. 1964); *Manship v. Norfolk & Western Ry. Co.*, 30 BRBS 175 (1996); *Konno v. Young Bros., Ltd.*, 28 BRBS 57 (1994); *Sanders v. Alabama Dry Dock & Shipbuilding Co.*, 22 BRBS 340 (1989)(decision on remand). Furthermore, the Section 20(a) presumption is applicable in psychological injury cases. *See Cotton v. Newport News Shipbuilding & Dry Dock Co.*, 23 BRBS 380, 384 n. 2 (1990); 33 U.S.C. §920(a). It is well established that an employment injury need not be the sole cause of a disability; rather, if the employment injury aggravates, accelerates or combines with an underlying condition, the entire resultant condition is compensable. *See Independent Stevedore Co. v. O'Leary*, 357 F.2d 812 (9th Cir. 1966). Thus, claimant's psychological injury need be due only in part to work-related conditions to be compensable under the Act. *See Peterson v. General Dynamics Corp.,* 25 BRBS 78 (1991), *aff'd sub nom. Ins. Co. of North America v. U.S. Dept. of Labor, OWCP,* 969 F.2d 1400, 26 BRBS 14(CRT) (2d Cir. 1992), *cert. denied,* 507 U.S. 909 (1993).

Upon invocation of the Section 20(a) presumption, the burden shifts to employer to rebut it with substantial evidence that claimant's condition was not caused or aggravated by his employment. *See Duhagon v. Metropolitan Stevedore Co.*, 169 F.3d 615, 33 BRBS 1(CRT) (9th Cir. 1999). If the presumption is rebutted, the administrative law judge must weigh all of the evidence contained in the record and resolve the causation issue based on the record as a whole. *See Director, OWCP, v. Greenwich Collieries*, 512 U.S. 267, 28 BRBS 43(CRT) (1994); *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171 (1996).

With regard to claimant's psychological injury, the administrative law judge rationally based his invocation of the Section 20(a) presumption on the opinion of Dr. Bramhall, who diagnosed "bipolar disorder with depression, precipitated by the injury," HT at 9. *Manship*, 30 BRBS at 179; *Konno,* 28 BRBS 57. The administrative law judge next found rebuttal of the Section 20(a) presumption based upon the testimony of Dr. Romero that claimant's psychological condition, *i.e*., bipolar disorder NOS, could not have been the result of the work accident sustained on August 15, 1998. *See* Decision and Order at 17. She then proceeded to weigh the evidence of record regarding the cause of claimant's psychological condition. Initially, the administrative law judge determined that claimant was a credible witness and that his testimony regarding his behavior, prior to and following his work accident, corroborated the diagnoses of both Dr. Bramhall and Dr. Romero with regard to the expected behavior of someone with bipolar disorder. The

administrative law judge then credited the opinion of Dr. Bramhall, that claimant's current depressive cycle is directly caused by the August 15, 1998, work accident, over the contrary opinion of Dr. Romero,

that claimant's psychological state had nothing to do with his work injury. Specifically, the administrative law judge accorded greatest weight to Dr. Bramhall because, in her capacity as claimant's treating psychiatrist, she examined claimant approximately 14 times in the year preceding the hearing and has been providing him with treatment for his condition. In contrast, the administrative law judge found that Dr. Romero merely examined claimant once, on March 19, 1999, and that despite diagnosing bipolar disorder, he did not recommend any treatment or prescribe any medicine to help claimant's condition.

Moreover, the administrative law judge found that Dr. Romero's reasoning and his conclusion regarding claimant's condition conflict. Specifically, the administrative law judge found that Dr. Romero testified that all of claimant's behavior since the time of his accident is attributable to his psychological condition, but, in contrast to Dr. Bramhall's testimony, he provided no explanation for claimant's suddenly being overcome with depression following the work injury such that he could not maintain a job.

The administrative law judge also addressed and rejected employer's contention that Dr. Bramhall's testimony should be altogether stricken because she admitted that she regularly misrepresents patients' diagnoses by using the terms in the DSM-IV, as she provided a rational explanation for her actions. Specifically, Dr. Bramhall explained, that while she did not use the DSM-IV to make her diagnosis, she did refer to terms used by the DSM-IV so

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[3]The administrative law judge further determined that claimant's pre-existing psychological condition, *i.e.*, bipolar disorder, was aggravated by the work accident, causing claimant's depression and ensuing inability to work. Specifically, the administrative law judge found, based predominantly on claimant's testimony, that prior to the work accident claimant lived in a continual manic stage manifesting his bipolar disorder, but that following that incident he fell into a depression that, in essence, triggered the disabling aspect of his bipolar disorder.

[4]Employer also maintains that claimant's depressive cycle was not brought on by his work injury but rather by the responsibility and guilt he felt about his mother's death. In support of this position, employer presented Dr. Bramhall's letter dated April 17, 2001, to Dr. Worsham wherein she states that claimant's "mood has switched into depression, in part due to pain, and in part because his mother cannot afford prescription medication after he lost his job. He feels responsible and extremely guilty about her death." EX 1. We reject employer's contention since the underlying basis, as stated by Dr. Bramhall, is claimant's loss of his job, which she nonetheless attributes to the psychological condition triggered by his work injury.

that others, in particular laypersons, would have some understanding of what it is she is talking about. The administrative law judge found this explanation was reasonable in light of the fact that courts and the insurance industry still rely on this manual. Moreover, the administrative law judge found that Dr. Bramhall diagnoses her patients using the American Psychiatric Association's practice guidelines and protocols for depression and bipolar disorders that update the DSM-IV. Lastly, the administrative law judge concluded that Dr. Bramhall's testimony regarding claimant's condition was honest, well reasoned, and supported by claimant's objective behavior.

It is well established that an administrative law judge is entitled to evaluate the credibility of all witnesses, including doctors, and may draw her own conclusions from the evidence. *Calbeck v. Strachan Shipping Co.*, 306 F.2d 693 (5th Cir. 1962), *cert. denied*, 372 U.S. 954 (1963); *Todd Shipyards Corp. v. Donovan*, 300 F.2d 741 (5th Cir. 1962); *John W. McGrath Corp. v. Hughes*, 289 F.2d 403 (2d Cir. 1961). The administrative law judge's credibility determinations will not be disturbed unless they are inherently incredible or patently unreasonable. *Cordero v. Triple A Machine Shop*, 580 F.2d 1331, 8 BRBS 744 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979). In addition, an administrative law judge may accord determinative weight to the opinion of claimant's treating physician. *See Amos v. Director, OWCP*, 153 F.3d 1051 (9th Cir. 1998), *amended*, 164 F.3d 480, 32 BRBS 144(CRT)(9th Cir. 1999), *cert. denied*, 528 U.S. 809 (1999); *Pietrunti v. Director, OWCP*, 119 F.3d 1035, 31 BRBS 84(CRT)(2d Cir. 1997).

In the instant case, the administrative law judge's decision to accord greatest weight to the causation opinion proffered by claimant's treating psychiatrist, Dr. Bramhall, as supported by the credible testimony provided by claimant, is within her discretion, and her credibility determinations are neither inherently incredible nor patently unreasonable. As noted, the opinion of claimant's treating psychiatrist, Dr. Bramhall, constitutes substantial evidence supporting the administrative law judge's conclusion that claimant sustained a work-related aggravation of his pre-existing bipolar disorder.

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[5]Contrary to employer's contention, the administrative law judge was not required to credit Dr. Romero's opinion merely because he examined claimant contemporaneously with his injury in August 1998, in view of Dr. Bramhall's ongoing treatment of claimant's psychiatric condition since April 2001. *See generally Amos*, 153 F.3d 1051; *Meehan Seaway Service, Inc. v. Director, OWCP*, 4 F.3d 633, 27 BRBS 108(CRT) (8th Cir. 1993); *Casey v. Georgetown University Medical Center*, 31 BRBS 147 (1997). Moreover, Dr. Romero's opinion, having been based upon an examination conducted seven months after the work injury sustained on August 15, 1998, is also not contemporaneous to

Amos, 153 F.3d 1051, 32 BRBS 144(CRT). Consequently, we affirm the administrative law judge's finding that claimant's psychological condition is work-related. *Marinelli v. American Stevedoring, Ltd.*, 34 BRBS 112 (2000), *aff'd,* 248 F.3d 54, 35 BRBS 41(CRT)(2d Cir. 2001).

Employer next argues that there is no evidence in the record to support the administrative law judge's finding that claimant is entitled to an ongoing award of temporary total disability benefits based upon his psychological injury. Employer maintains that nowhere in the record is there an opinion by Dr. Bramhall that places work restrictions on claimant that would preclude him from working in his pre-injury longshore employment. Employer further asserts that the administrative law judge did not sufficiently consider Dr. Bramhall's opinion that she would release claimant to fulltime work not later than eight weeks from the hearing date, which, employer maintains, severs claimant's entitlement to temporary total disability benefits as of January 6, 2002.

With regard to the issue of claimant's disability resulting from his psychological condition, the administrative law judge relied upon the opinions of Drs. Bramhall and Romero to find that claimant remains temporarily totally disabled. Specifically, as the administrative law judge found, both psychiatrists believed that claimant's psychological condition affected his ability to work. HT at 79-81; EX 23. Accordingly, the administrative law judge's conclusion that claimant's psychological condition caused him to remain temporarily totally disabled after April 2, 1999, the date on which claimant's low back sprain/strain had fully healed, is affirmed as it is rational, supported by substantial evidence and is in accordance with law.

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that incident.

[6]Employer's contention that the administrative law judge did not fully consider Dr. Bramhall's statements regarding claimant's return to work in the near future is without merit. In her decision, the administrative law judge acknowledged Dr. Bramhall's testimony regarding claimant's impending potential return to work, but also observed that Dr. Bramhall "cannot, however, predict the outcome in claimant's case at this time." Decision and Order at 10. As such, Dr. Bramhall's opinion is, as the administrative law judge alluded, too speculative to enable a determination that claimant can return to work and thus, to terminate claimant's award of temporary total disability benefits. If, however, claimant's psychological condition changes that he is able to return to gainful employment in the future, employer may seek modification pursuant to Section 22 of the Act, 33 U.S.C. §922.

Employer further asserts that the administrative law judge erred by awarding claimant medical benefits for his work-related back injury subsequent to April 2, 1999, as she explicitly found that claimant's low back injury had fully healed by April 1, 1999. Specifically, employer maintains that Dr. Robertson's opinion, upon which the administrative law judge relied in finding that claimant was "fully healed" as of April 1, 1999, expressly ruled out the need for any further back-related treatment, and that all other physicians concurred with this assessment. Employer further argues that the administrative law judge erred in holding it liable for medical benefits for continued back treatment based on her finding that claimant's psychological condition caused him to continue to experience lower back symptoms and thus to seek continued treatment for that "fully healed" condition, as this conclusion is unsupported by any expert medical testimony.

Claimant is entitled to medical benefits for a work-related injury even if that injury is not economically disabling if the treatment is necessary for his work-related injury. *Buckland v. Dep't of the Army/NAF/CPO*, 32 BRBS 99 (1997); *Romeike v. Kaiser Shipyards*, 22 BRBS 57 (1989). In particular, in order for a medical expense to be assessed against employer, claimant must establish that the expense is work-related and that it is reasonable and necessary for the treatment of his work injury. 33 U.S.C. §907; *Romeike,* 22 BRBS at 60. Claimant can establish a *prima facie* case for compensable medical treatment where a qualified physician indicates treatment was necessary for a work-related condition. *Romeike,* 22 BRBS 57; *see also Schoen v. U.S. Chamber of Commerce,* 30 BRBS 112 (1996). The United States Court of Appeals for the Ninth Circuit has held that "[a]lthough the employer is not required to pay for unreasonable and inappropriate treatment, when the patient is faced with two or more valid medical alternatives, it is the patient, in consultation with his own doctor, who has the right to chart his own destiny." *Amos,* 153 F.3d 1051, 1054, 32 BRBS 144, 147(CRT); *Pardee v. Army & Air Force Exchange Service,* 13 BRBS 1130 (1981).

The administrative law judge herein found that claimant's psychological condition resulted in continued treatment for claimant's back even after he reached maximum medical improvement for that injury on April 2, 1999. Specifically, she found that claimant's medical records indicate that his physicians continued to search for a treatment method to alleviate claimant's back pain, even after his injury should have been fully healed. The administrative law judge further observed "it was claimant's

depression and his bipolar disorder that caused claimant to continue to experience these symptoms." Decision and Order at 22. In support of this finding, the administrative law judge relied on the opinion of Dr. Worsham, who began treating claimant's back condition as of May 1, 2001, and who testified at the hearing that "everybody keeps offering [claimant] more treatment," and that "[as] of March 2001, they wanted to treat him" for his back condition, HT at 114; she relied as well on the psychological reports of Drs. Bramhall and Romero, who both indicated that a person with bipolar disorder may perceive physical symptoms and pain as being worse than they are in reality. EX 23. Moreover, as the administrative law judge found, Dr. Worsham opined that claimant's continuing back pain was the result of an interaction of emotions and muscles. Decision and Order at 13.

In light of this evidence, we affirm the award of medical benefits for the treatment of claimant's back condition, at least insofar as Dr. Worsham is concerned, since at the time the medical services were rendered, Dr. Worsham and claimant believed the treatment to be necessary for his back condition. *Amos*, 153 F.3d at 1054, 32 BRBS at 147. The administrative law judge's continuing award of medical benefits for claimant's back condition cannot, however be affirmed given that Dr. Worsham ultimately opined that from a musculo-skeletal, objective point of view, there was no reason for claimant's symptoms of continued back pain, HT at 121-123, that claimant had reached permanent and stationary status for his back condition as of October 1, 2001, that claimant would not benefit from further treatment for his back, HT at 110, that claimant needed psychiatric treatment for his bipolar disorder, CX 2 at 16, and that his low-back pain is much improved since his bipolar illness has been treated by Dr. Bramhall. CX 2 at 16. Since Dr. Worsham, the physician treating claimant's back pain, indicated that claimant's back condition has fully resolved and that

[6]Employer contends that Dr. Worsham did not prescribe any treatment or medication for claimant's back condition even though she continued to see him regularly between May 1, 2001, and September 13, 2001. In contrast to employer's contention, Dr. Worsham's notes dated July 2, 2001, indicate that she prescribed a TENS unit for claimant's work-related chronic back pain, and that he recently had a physical therapy evaluation and treatments. CX 2, p. 26.

further treatment from a physiological standpoint is not necessary, we vacate the ongoing award of medical benefits for claimant's back injury beyond October 1, 2001, and remand for consideration as to whether continued treatment of claimant's work-related back condition from that date is, in fact, necessary.

Employer lastly contends that the Section 14 assessment ordered by the administrative law judge is erroneous since no physician of record ever supported claimant's being off work for any medical condition, including depression, from April 2, 1999, until Dr. Bramhall's testimony at the formal hearing on November 6, 2001.

Section 14(e) provides that if an employer fails to pay any installment of compensation voluntarily within 14 days after it becomes due, the employer is liable for an additional ten percent of such installment, unless it files a timely notice of controversion pursuant to Section 14(d), 33 U.S.C. §914(d), or the failure to pay is excused by the district director after a showing that, owing to conditions over which it had no control, such installment could not be paid within the period prescribed for the payment. Section 14(b), 33 U.S.C. §914(b), provides that an installment of compensation is "due" on the fourteenth day after the employer has been notified of an injury pursuant to Section 12 of the Act, 33 U.S.C. §912, or the employer has knowledge of the injury. Under Section 14(d), the notice of controversion must be filed within 14 days of employer's knowledge of the injury. The assessment of a Section 14(e) penalty is mandatory. *See Canty v. S.E.L. Maduro*, 26 BRBS 147, 153 (1992); *MacDonald v. Sun Shipbuilding & Dry Dock Co.*, 10 BRBS 734 (1978).

Thus, employer's duty to pay or controvert begins when it receives

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[7]The administrative law judge found that both Dr. Romero and Dr. Bramhall agreed that an individual suffering from a bipolar disorder has a higher sensitivity and therefore a tendency to exaggerate symptoms. While this may make any additional treatment of claimant's fully healed back condition reasonable it does not address the necessity of this treatment.

[8]Employer's summary of argument contains a challenge regarding the administrative law judge's award of interest on monies owed Drs. Bramhall and Worsham, as well as on each unpaid installment of compensation, but it does not elaborate on those contentions or present any argument whatsoever as to the alleged error. These contentions are thus rejected as inadequately briefed. *West v. Washington Metropolitan Area Transit Authority*, 21 BRBS 125 (1988); *Shoemaker v. Schiavone and Sons, Inc*., 20 BRBS 214 (1988).

notice of the injury. *Ingalls Shipbuilding, Inc. v. Director, OWCP*, 898 F.2d 1088, 23 BRBS 61 (CRT)(5th Cir. 1990); *Hearndon v. Ingalls Shipbuilding, Inc.*, 26 BRBS 17 (1992). Employer must either controvert the claim within 14 days of receiving notice or commence the payment of benefits within 28 days; if it fails to do so, it is liable for an assessment under Section 14(e), which terminates at the earliest point at which the Department of Labor has notice of the relevant facts which a proper controversion would reveal, such as the date of an informal conference. *Id.*, 26 BRBS at 20; *Daniele v. Bromfield Corp.*, 11 BRBS 801 (1980) (Miller, J., concurring and dissenting); *see also National Steel & Shipbuilding, Co. v. U.S. Department of Labor, OWCP*, 606 F.2d 875, 880, 11 BRBS 68 (9th Cir. 1979), *aff'g in part and rev'g in part Holston v. National Steel and Shipbuilding Co.*, 5 BRBS 794 (1977).

The administrative law judge found that employer failed to controvert claimant's psychological injury claim until September 27, 1999, when, following an informal conference before the district director, it filed its final notice of controversion. However, as the administrative law judge acknowledged, employer controverted all claims made by claimant at the time of the informal conference on September 23, 1999. As such, we herein modify the administrative law judge's decision to reflect that employer's liability for a Section 14(e) assessment in this case terminated as of September 23, 1999, as opposed to September 27, 1999, since that is the earliest point at which the Department of Labor had notice of employer's intentions to challenge that claim. *See generally Hearndon,* 26 BRBS 17; *Browder v. Dillingham Ship Repair*, 24 BRBS 216, *aff'd on recon*., 25 BRBS 88 (1991).

Accordingly, the administrative law judge's award of temporary total disability benefits and medical benefits related to claimant's psychological injury are affirmed. The administrative law judge's award of medical benefits for claimant's back injury is affirmed for treatment until September 30, 2001, but vacated for treatment thereafter and the case is remanded for further consideration consistent with this opinion. The administrative law judge's assessment of a Section 14(e) penalty is modified to reflect a termination date of September 23, 1999. In all other regards, the administrative law judge's decision is affirmed.

SO ORDERED.

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[9]As the administrative law judge found, employer did not controvert the psychological claim in notices filed before the district director on March 2, 1999, and/or March 12, 1999. EXs 1, 19.

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge