

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of EUGENE P. HOCKENBURY and U.S. POSTAL SERVICE,  
POST OFFICE, Pleasant Grove, Utah

*Docket No. 98-1986; Submitted on the Record;  
Issued February 19, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly determined that the aggravation of appellant's preexisting post-traumatic stress syndrome ceased on September 23, 1995.

On September 26, 1995 appellant, then a 49-year-old custodian, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he realized on September 17, 1994 that his post-traumatic stress disorder was due to workplace stress and psychological injury. Appellant resigned from his position at the employing establishment effective September 23, 1994. The Office accepted an aggravation of acute post-traumatic stress disorder on May 31, 1996 and paid compensation through September 23, 1995.

By letter dated April 5, 1996, the Office referred appellant, along with medical records, a statement of accepted facts, and questions to be answered, to Dr. Steven V. Teynor, a Board-certified psychiatrist, for a second opinion.

In a report dated April 18, 1996, Dr. Teynor, based upon a review the medical records, statement of accepted facts, work history, medical history and examination, opined that appellant had post-traumatic stress which was temporarily aggravated by three identified factors of his employment. He opined that appellant would have been unable "to perform the duties of his employment for the first six to twelve months after his resignation. By that time, his symptoms had begun abating."

In a letter dated August 5, 1996 to the employing establishment, the Office advised it that appellant was entitled to compensation through September 23, 1995 based upon the opinion of Dr. Teynor.

On September 6, 1996 appellant filed a CA-7 claiming additional compensation from September 23, 1995 to the present.

By decision dated September 9, 1996, the Office denied appellant's request for additional compensation and referred to its August 5, 1996 letter. The Office advised appellant that he was not entitled to compensation after September 23, 1995.

In an attending physician's supplemental report (Form CA-20a) dated September 12, 1996, Dr. Ralph W. Gant, appellant's treating psychologist, diagnosed post-traumatic stress disorder and it was noted that he could not return to employment any sooner than September 30, 1997. He noted that appellant could not return to his previous work situation or in a structured environment.

Appellant requested a hearing before an Office hearings representative in a letter dated September 19, 1996. By decision dated March 11, 1997, the hearing representative found the case was not in posture for decision and remanded for a *de novo* decision as the Office's letter decision contained no findings of fact.

In a February 12, 1997 report, Dr. F.E. Herzer, appellant's treating physician, noted that he had treated appellant since August 1996 and indicated that he gave medication to appellant to reduce his anxiety. He opined that appellant's "prognosis is tenuous at best."

In a decision dated March 25, 1997, the Office denied appellant's claim for additional compensation after September 23, 1995. The Office relied upon Dr. Teynor's opinion that the aggravation was temporary. Regarding the opinion of Dr. Gant the Office found the opinion unreasoned as he failed to state the medical or factual basis upon which he based his opinion. The Office also found the opinion of Dr. Teynor to represent the weight of the evidence as his opinion was supported by objective findings and was well reasoned.

In a letter dated March 31, 1997, appellant, through counsel, requested reconsideration and a hearing before an Office hearings representative.

In a report dated January 4, 1998, Dr. Gant diagnosed post-traumatic stress disorder which was triggered when an employing establishment employee threatened to shoot everyone with a gun. Dr. Gant opined:

“[Appellant] continues to suffer from his work-related [p]ost[-]traumatic [s]tress [d]isorder. These conditions have not resolved nor are they likely to be resolved without intensive psychotherapy. Moreover, the conditions which led to [appellant's] 'work-related injuries' may be continuing. [Appellant] is aware of recent violence at a Postal Service facility in which postal workers were shot to death. This continues to be a source of stress for him.

Given [appellant's] conditions, particularly his [p]ost[-]traumatic [s]tress [d]isorder with related depression he may need to be in treatment for some time to come. Treatment for this disorder usually consists of careful medical management accompanied by psychotherapy. A treatment plan for [appellant] should include desensitization to environmental threats, a development of adequate coping strategies and possibly vocational rehabilitation as well.”

A hearing was held on December 10, 1997 at which appellant was represented by counsel and allowed to testify.

By decision dated March 11, 1998, the hearing representative affirmed the prior decision denying appellant further compensation. The hearing representative found that appellant's aggravation of post-traumatic stress syndrome had ceased as of September 23, 1995 based upon Dr. Teynor's opinion. Regarding the opinions of Drs. Gant and Herzer, the hearing representative found that neither of these opinions were rationalized as neither opinion explained how appellant's disability was causally related to factors of his employment and the accepted work injury.

The Board finds that the Office properly determined that the aggravation of appellant's preexisting post-traumatic stress syndrome ceased on September 23, 1995.

Once the Office accepts a claim it has the burden to justify modification or termination of compensation benefits. The Office may not terminate or modify compensation without establishing that the disabling condition has ceased or that it is no longer related to the employment.<sup>1</sup>

In the present case, the Office accepted appellant's claim for aggravation of a preexisting post-traumatic stress syndrome based upon the report of the Office second opinion physician, Dr. Teynor, who opined that appellant's condition was temporary. He noted that appellant's condition had improved within six months of his resignation from the employing establishment and thus it was a temporary aggravation of a preexisting condition. Dr. Gant attributed appellant's disability in part to financial worries and his stress at "the recent violence at a Postal Service facility in which postal workers were shot to death." Dr. Herzer does not provide any opinion as to whether appellant's condition was due to factors of his employment as he notes his treatment and that the "prognosis is tenuous at best." Neither Dr. Gant nor Dr. Herzer have provided an opinion supported by medical rationale establishing that appellant continues to be disabled by his accepted employment condition on or after September 23, 1995. Dr. Teynor provided a rationalized opinion based on the medical evidence and examination of appellant, that the aggravation of appellant's post-traumatic syndrome was temporary and that appellant's symptoms had improved since his resignation from the employing establishment. The Office thus properly found that appellant's aggravation of his preexisting condition was temporary and that appellant had no disability related to his accepted employment factors after September 23, 1995.

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<sup>1</sup> See *Ernest Dillion*, 41 ECAB 653 (1990).

The decision of the Office of Workers' Compensation Programs dated March 11, 1998 is hereby affirmed.

Dated, Washington, D.C.  
February 19, 1999

George E. Rivers  
Member

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member