

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MAMIE L. WATTS and DEPARTMENT OF VETERANS AFFAIRS,
MEDICAL CENTER, Coatesville, Pa.

*Docket No. 97-929; Submitted on the Record;
Issued January 15, 1999*

DECISION and ORDER

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

The issue is whether the Office of Workers' Compensation Programs has met its burden of proof to terminate appellant's compensation benefits effective July 20, 1996.

The Board has duly reviewed the case on appeal and finds that the Office met its burden of proof to terminate appellant's compensation benefits effective July 20, 1996.

Once the Office accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify 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 Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.³ 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.⁴

This case has previously been before the Board. By decision dated March 17, 1992, the Board found that the Office had not met its burden of proof to terminate appellant's compensation benefits due to her April 13, 1987 employment injury of cervical strain and sprain.⁵ The Board reversed and remanded the case for the resolution of the conflict in the

¹ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

² *Id.*

³ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

⁴ *Id.*

⁵ Docket No. 91-1472.

medical evidence by an impartial medical opinion. The facts as set out in the Board's prior decisions are adopted herein by reference.

Following the Board's March 17, 1992 decision, the Office referred appellant to Dr. Roberto V. De Silverio, a Board-certified psychiatrist, to resolve the conflict in the medical opinion evidence as to whether or not appellant has a psychiatric condition causally related to her accepted employment injury. In a report dated July 30, 1992, Dr. De Silverio opined, based upon a review of the medical evidence, statement of accepted facts, history of the employment injury and examination, that appellant has no employment-related psychiatric disorder. Dr. De Silverio opined that any psychiatric condition appellant may have had predated her employment injury and was unrelated.

On May 7, 1993 the Office referred appellant to Dr. Leonard A. Brody, a Board-certified orthopedic surgeon, to resolve the conflict in the medical evidence as to whether appellant is still disabled due to her accepted employment injury. In a report dated June 2, 1993, Dr. Brody, based upon a review of the medical evidence, statement of accepted facts, history of the employment injury and physical examination, opined that there was no objective evidence to support any continuing disability.

In a report dated October 20, 1993, Dr. Philip Pearlstein, appellant's attending physician, diagnosed post-traumatic stress disorder and chronic cervical, lumbosacral myofascial pain with somatic dysfunction, severe anxiety and depression. Dr. Pearlstein opined that appellant was totally disabled due to both her physical and psychological problems.

In a letter dated December 11, 1995, Dr. Charlotte Raffensperger, an attending Board-certified psychiatrist, noted:

"The above-named [patient] has been in treatment continuously from November 17, 1990 to the present. On admission she was severely depressed, with sleep changes, frequent tearfulness, decreased appetite and multiple fears and generalized anxiety.

"[Appellant], who had been an active woman, who worked full time and who states that she engage in athletics, such as tennis and horseback riding, is now seriously limited physically, spending much of her time alone because of severe pain and incapacitation. The pain and frustration regarding how limited she is, and her isolation contribute to her depression."

The Office provided appellant with a notice of proposed termination of compensation benefits on April 23, 1996. Appellant submitted a letter dated May 22, 1996 by Dr. Pearlstein in which he opined that appellant was totally disabled since her April 1987 employment injury. By decision dated July 9, 1996, the Office terminated appellant's compensation benefits effective July 20, 1996.

In a letter dated September 20, 1996, appellant, through counsel, requested reconsideration of the decision to terminate her benefits and enclosed medical evidence in support of her request.

By decision dated November 25, 1996, the Office denied appellant's request for modification of the Office's decision to terminate benefits.

In the present case, the Office met its burden to terminate appellant's compensation, based upon the well-rationalized reports of Drs. De Silverio and Brody. 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.⁶ In this case, the Office properly found that the impartial medical reports by Drs. De Silverio and Brody were entitled to special weight and that it therefore represented the weight of the medical opinion evidence in establishing that appellant's employment-related disability had ceased and that any continuing medical condition was not related to his employment. Accordingly, the Board finds that the Office discharged its burden of proof to justify termination of appellant's compensation benefits after July 20, 1996.

The decision of the Office of Workers' Compensation Programs dated November 25 and July 9, 1996 are hereby affirmed.

Dated, Washington, D.C.
January 15, 1999

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

⁶ *Aubrey Belnavis*, 37 ECAB 206, 212 (1985).