

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VALERIE TAYLOR and U.S. POSTAL SERVICE,
POST OFFICE, Havertown, PA

*Docket No. 00-1841; Submitted on the Record;
Issued April 17, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether the Office of Workers' Compensation Programs met its burden of proof in terminating compensation effective April 1, 1999.

In the present case, the Office accepted that appellant sustained a concussion in a fall on January 14, 1997 while in the performance of duty.¹ In a decision dated April 1, 1999, the Office terminated appellant's compensation on the grounds that the weight of the medical evidence established that her employment-related condition had resolved. By decision dated March 23, 2000, an Office hearing representative affirmed the prior decision.

The Board finds that the Office met its burden of proof to terminate compensation.

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation. After it has been determined that an employee has disability causally related to his employment, the Office may not terminate compensation without establishing that the disability had ceased or that it was no longer related to the employment.² The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation 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.³

The Board notes that the Office initially referred appellant to Dr. Roger E. Farber, a neurologist. In a report dated June 10, 1997, Dr. Farber stated that appellant may have sustained a flexion/extension injury and occipital nerve neuralgia, and he recommended neurocognitive

¹ In a March 23, 2000 decision, an Office hearing representative also accepted a cervical strain.

² *Patricia A. Keller*, 45 ECAB 278 (1993).

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

testing. In a report dated September 26, 1997, Dr. Kathy Lawler, a neuropsychologist, stated that there were no cognitive impairments causally related to the employment injury, and appellant's depression was the likely cause of her subjective complaints. In a supplemental report dated October 16, 1997, Dr. Farber noted that appellant had occipital nerve-type headaches that were somewhat different from her preinjury headaches; he also stated "the headache is that of significant depression and lack of attention to the task, by the patient, because of this depression." Dr. Farber further reported that the flexion injury was "a slight aggravation, but mostly a new problem." The Board finds that Dr. Farber's reports were of diminished probative value to the issue presented. In the June 10, 1997 report, Dr. Farber appeared to indicate that he believed appellant sustained an occipital nerve irritation in the fall on January 14, 1997, but in his later report he appears to indicate that occipital headaches were due to depression. He notes a flexion/extension injury, without providing additional explanation as to causal relationship with the employment injury and continuing disability.

The Office then referred appellant to Dr. Marcia Halpern, a neurologist.⁴ In a report dated February 16, 1998, she provided a history, results on examination, and review of medical records. Dr. Halpern concluded:

"[Appellant] apparently suffered a concussion at the time of her fall on January 17, 1997. There are no neurological deficits on neurological examination referable to that injury. The cognitive deficits alleged by the patient are not supported by formal neuropsychological testing. The blackouts that she described unlikely represent seizures either by the history of the patient or the ambulatory long-term EEG [electroencephalogram] monitoring described by her primary neurologist. Her examination today, combined with the neuropsychological testing, strongly supports depression which may be the main factor in her reported memory loss as well as persistent unrelenting headaches.

"Within a reasonable degree of medical certainty, I believe [appellant] has recovered from her concussion and is able to return to work as a letter carrier."

The Board finds that Dr. Halpern provided a reasoned opinion that appellant's employment-related conditions had resolved. She did not diagnose any continuing physical condition and she found that appellant had recovered from the concussion. On the other hand, the record does not contain a reasoned narrative medical report establishing a continuing employment-related condition. In a report dated February 4, 1999, Dr. Joel Jaffre, an osteopath, stated that appellant suffered from memory loss, seizures, headaches, arm pain, cervical muscle spasms, fatigue "all result from a fall that she had on January 14, 1997." Dr. Jaffre does not, however, provide additional medical reasoning and explanation to support his opinion. Dr. Jaffre

⁴ In the April 1, 1999 decision, the Office referred to Dr. Halpern as a "referee examiner," but there was no conflict in the medical evidence under 5 U.S.C. § 8123(a), since the prior evidence was of little probative value. The hearing representative, in the March 23, 2000 decision, properly refers to Dr. Halpern as a second opinion referral physician. See *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996).

appears to attribute a wide range of conditions to the employment injury, but without medical rationale the opinion is of diminished probative value.⁵

In reviewing the evidence of record, the Board finds that Dr. Halpern's report represents the weight of the probative evidence in this case. The Board accordingly finds that the Office met its burden of proof in terminating compensation.

The decision of the Office of Workers' Compensation Programs dated March 23, 2000 is affirmed.

Dated, Washington, DC
April 17, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

⁵ Medical conclusions unsupported by rationale are of diminished probative value. *Jacquelyn L. Oliver*, 48 ECAB 232 (1996); *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).