

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of HAROLD M. ARNOLD and DEPARTMENT OF THE NAVY,  
MEDICAL CENTER, Pensacola, FL

*Docket No. 01-1908; Submitted on the Record;  
Issued June 5, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,  
MICHAEL E. GROOM

The issue is whether the Office of Workers' Compensation Programs met its burden of proof to terminate appellant's compensation as of July 16, 2000.

The Office accepted that appellant sustained an aggravation of asthenic personality and schizoid personality, psychogenic pain disorder and conversion disorder causally related to his job duties as a file clerk from 1976 to 1978.

By decision dated June 22, 2000, the Office terminated compensation for wage loss and medical benefits effective July 16, 2000. In a decision dated May 23, 2001, an Office hearing representative affirmed the termination 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.<sup>1</sup>

In this case, the Office found a conflict in the medical evidence on the issue of whether appellant continued to have an employment-related emotional condition. An attending psychiatrist, Dr. Fernando Lopez, opined that appellant's emotional condition was chronic and disabling. A second opinion psychiatrist, Dr. John Laubenthal, opined that, although employment factors may have temporarily exacerbated his condition, it was difficult to believe that the work factors caused any long-term condition, as it had been 19 years since he was last exposed to work stress.

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<sup>1</sup> *Patricia A. Keller*, 45 ECAB 278 (1993).

To resolve the conflict, the Office referred appellant and relevant evidence to Dr. Robert S. Benson, a Board-certified psychiatrist. In a report dated April 20, 2000, he provided a history and results on examination. Dr. Benson noted that appellant had suffered most of his lifetime from anxiety symptoms similar to social phobia. He stated that “while placement in the medical records position in 1976 may have aggravated his social phobia it is unlikely the increased anxiety would have produced the degree of somatic symptoms that developed and have persisted even with removal from that stress.” Dr. Benson concluded that appellant had a temporary aggravation of his social phobia which ended when he was removed from the workplace.

It is well established that when a case is referred to an impartial medical specialist for the purpose of resolving a conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background, must be given special weight.<sup>2</sup> The Board finds that Dr. Benson’s report is entitled to special weight in this case. He provided a reasoned medical opinion that appellant’s continuing psychiatric condition was related to an underlying condition, not appellant’s employment from 1976 to 1978.

The Board notes that, prior to the termination decision, appellant submitted a May 26, 2000 report from Dr. Lopez, reiterating his opinion that appellant’s condition was employment related. In an undated report received by the Office on September 11, 2000, Dr. Lopez indicated that he disagreed with Dr. Benson’s report. Additional reports from a physician on one side of the conflict that is properly resolved by an impartial specialist are generally insufficient to overcome the weight accorded the impartial specialist’s report or create a new conflict.<sup>3</sup>

The Board finds that the impartial specialist, Dr. Benson, represents the weight of the evidence. Accordingly, the Office met its burden of proof to terminate compensation in this case.

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<sup>2</sup> *Harrison Combs, Jr.*, 45 ECAB 716, 727 (1994).

<sup>3</sup> *See id.*; *Dorothy Sidwell*, 41 ECAB 857 (1990).

The decision of the Office of Workers' Compensation Programs dated May 23, 2001 is affirmed.

Dated, Washington, DC  
June 5, 2002

Alec J. Koromilas  
Member

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member