

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA L. WHITE and U.S. POSTAL SERVICE,
POST OFFICE, Spokane, WA

*Docket No. 01-433; Submitted on the Record;
Issued March 20, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
DAVID S. GERSON

The issue is whether the Office of Workers' Compensation Programs properly terminated appellant's compensation benefits effective July 14, 2000.

The case is on appeal to the Board for the second time.¹ On the first appeal, the Board affirmed the Office's May 30, 1997 decision insofar as the Office found that the evidence failed to establish that appellant struck her head on April 20, 1995, as alleged. The Board set aside the Office's May 30, 1997 decision insofar as there was a conflict in the medical evidence between appellant's attending physician and the Office's referral physicians regarding whether the accepted employment injuries caused or contributed to appellant's subsequent headaches. The Board therefore remanded the case for the Office to refer appellant, together with the medical record and a statement of accepted facts, to an appropriate impartial specialist to resolve the conflict.

On remand the Office referred appellant to the impartial medical specialist, Dr. Jacquelyn A. Weiss, a Board-certified psychiatrist and neurologist. In her report dated May 26, 2000, Dr. Weiss considered appellant's history of injury, performed a physical examination and reviewed x-rays, a magnetic resonance imaging scan, a cranial computerized axial tomography scan, electrodiagnostic studies and gastrointestinal tests. She diagnosed multiple superficial dog bite wounds in both arms and a cervical strain related to the April 1995 work injury which had resolved. Dr. Weiss also diagnosed mixed vascular and tension-type headaches with unusual visual disturbance which were not related to the April 20, 1995 employment injury. Dr. Weiss explained that her examination revealed no objective findings. She noted that there was no indication of a head injury in appellant's accident and she stated that there was no mention of neck symptoms until approximately May 1, 1995 which "would suggest that any straining injury to her neck would have been very mild." Dr. Weiss stated that no

¹ Docket No. 97-2208 (issued January 7, 2000). The facts and history surrounding the prior appeal is set forth in the initial decision and are hereby incorporated by reference.

mention was made of headaches in the medical records until June 8, 1995 and concluded that she could not attribute a headache condition to the injury. She opined that psychological problems were playing a significant role in appellant's complaints. Dr. Weiss reiterated that appellant's current mixed headache syndrome was not related to the April 20, 1995 cervical strain injury due to the absence of objective findings and the fact that the headaches did not occur until approximately seven weeks after the injury when the cervical strain would have healed.

By decision dated August 30, 2000, the Office terminated appellant's compensation benefits effective July 14, 2000, stating that Dr. Weiss' opinion constituted the weight of the evidence and established that appellant recovered from all effects of her April 20, 1995 employment injury.

The Board finds that the Office properly terminated appellant's compensation benefits effective July 14, 2000.

The Board has held that in situations where there are opposing medical reports of virtually equal weight and rationale, and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.² In this case to resolve the conflict between appellant's treating physician, Dr. Paula A. Lantsberger, a specialist in occupational medicine, and the referral physicians, Dr. Scott V. Linder, an orthopedic surgeon, and Dr. Richard E. Marks, a neurologist, as to whether appellant's headaches resulted from the April 20, 1995 employment injury, the Office referred appellant to the impartial medical specialist, Dr. Weiss. In her May 26, 2000 report, based on appellant's history of injury, a physical examination and her review of diagnostic tests, Dr. Weiss concluded that appellant's headaches were not related to the April 20, 1995 employment injury. She explained that appellant did not have a head injury at the time of the injury, there were no objective findings and appellant did not sustain headaches until approximately seven weeks after the injury when the cervical strain would have healed. She believed psychological problems were playing a significant role in appellant's complaints. Dr. Weiss' opinion is complete and well rationalized. As the impartial medical specialist, her opinion constitutes the weight of the evidence.

² *Kathryn Haggerty*, 45 ECAB 383, 389 (1994); *Jane B. Roanhaus*, 42 ECAB 288 (1990).

The August 30, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
March 20, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

David S. Gerson
Alternate Member