



crackling in her right ear through her headset simultaneously with a lightning strike on the employing establishment premises. The Office initially accepted her claim for effects of electric current, vertigo, dizziness and giddiness on December 13, 1999. By decision dated February 2, 2000, the Office rescinded its acceptance of appellant's claim. Appellant requested an oral hearing and in a May 17, 2000 decision, the hearing representative vacated the February 2, 2000 decision finding that it instead constituted a proposed termination of compensation. By decision dated September 5, 2000, the Office found that the evidence failed to establish that the claimed traumatic injury of November 14, 1999 occurred at the time, place and in the manner alleged. Appellant again requested an oral hearing. By decision dated June 12, 2001, the hearing representative found that the Office had met its burden of proof to rescind acceptance of her claim as the November 14, 1999 incident did not occur as alleged. Appellant requested reconsideration of the June 12, 2001 decision and submitted new evidence. By decision dated September 23, 2002, the Office declined to reopen appellant's claim for reconsideration of the merits.

In the first appeal filed on June 23, 2003, the Board found that on September 23, 2002 the Office had improperly denied appellant's request for further merit review and remanded the case for proper consideration of the merits of her claim.<sup>1</sup> Following the Board's June 23, 2003 decision, the Office issued a December 8, 2003 decision finding that the factual and medical evidence did not establish a work-related incident occurring on November 14, 1999. Appellant appealed the December 8, 2003 Office decision to the Board. In a decision dated April 26, 2005,<sup>2</sup> the Board found that the Office had not met its burden of proof to rescind the acceptance of appellant's claim. The Board concluded that the Office did not establish that the November 14, 1999 incident did not occur as alleged.<sup>3</sup> The Board reversed the December 8, 2003 decision of the Office finding that the factual and medical evidence did not establish a work-related incident occurring on November 14, 1999. The Board also remanded the case to the Office for a determination of the medical conditions related to the November 14, 1999 employment injuries. The facts and the circumstances of the case as set out in the Board's prior decisions are adopted herein by reference.

Appellant initially sought medical treatment on November 19, 1999 from Dr. Richard Hindmarsh, a Board-certified family practitioner, who completed a Form CA-16 and diagnosed vestibular nerve injury secondary to electrical current. He noted findings of vertigo with position change which was reproducible with rapid head movements.

Dr. Rajiv S. Pathak, a Board-certified neurologist, examined appellant on December 7, 1999. He stated that appellant's symptoms were either the after effects of lightening with headaches, dizziness and chest wall pain or a viral infection.

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<sup>1</sup> Docket No. 03-576 (issued June 23, 2003).

<sup>2</sup> Docket No. 04-750 (issued April 26, 2005).

<sup>3</sup> As the Office failed to meet its burden of proof to rescind the acceptance of appellant's claim effective February 2, 2000, appellant is entitled to be compensated for any benefits she repaid as a result of this rescission decision.

Appellant underwent a head computerized tomography (CT) scan on December 1, 1999 which was negative.

David L. Stewart, Ph.D., a licensed psychologist, examined appellant on March 25, 2000 and diagnosed post-traumatic stress disorder, cognitive disorder with deficiencies in attention, concentration and working memory. He noted that appellant was dizzy, sometimes nauseous and had problems with visual focusing. Dr. Stewart further found that appellant had flashbacks to the employment injury, intrusive thoughts, avoidance, mood and anxiety symptoms of post-traumatic stress disorder. He again examined appellant on June 9, 2000. Dr. Stewart listed appellant's physical findings as, "mental confusion, depression and anxiety, excessive irritability, dizziness, headache, earache, nausea, loss of sleep, forgetfulness, weakness in the arms, legs and shoulder, ankle swelling, chest pains, heart palpitations, racing heart, irregular heart rate poor circulation, (cold hands, *etc.*) and problems with hearing and seeing." He also noted appellant's reports of tinnitus, difficulty with telephone conversations and difficulty understanding when more than one conversation was ongoing. Dr. Stewart reported appellant's complaints of visual difficulties, impaired movements, difficulty sleeping, memory loss, confusion, poor concentration and poor attention. He noted that appellant reported bad dreams regarding her employment injury, intense fear of both thunderstorms and headphones. Dr. Stewart interpreted appellant's test results as demonstrating immediate memory problems and problems with attention and concentration.

In a report dated June 12, 2000, Dr. Fredrick H. Fuerst, an optometrist, examined appellant and stated that her evaluation revealed abnormal responses to several binocular motor tests. He stated, "These skills are the sequential luminy [sic] skills and fine motor accuracy in integrating the pursuit and saccadic eye movements in order to track objects effectively." Dr. Fuerst diagnosed fusion range dysfunction, vergence infacility [sic], oculomotor dysfunction and saccadic dysfunction. He stated, "The visual condition that results from a head injury has been termed the post-traumatic vision syndrome (PTVS).

Dr Hindmarsh diagnosed post-traumatic stress disorder and mild traumatic brain injury on June 28, 2000.

Dr. Fuerst submitted additional reports dated December 17, 2000 and March 10, 2001 finding that appellant had vision dysfunctions. He diagnosed oculomotor dysfunction, eye movement dysfunction, smooth pursuit deficiencies and binocular dysfunction. Dr. Fuerst stated that appellant's diagnoses seemed likely to be caused by the lightning strike as she would have been unable to perform her duties as an air traffic controller with such deficiencies.

On December 21, 2000 Dr. Stewart submitted quantitative elector-encephalographs which he found revealed that appellant's brainwaves were not in the appropriate percentages and revealed an injury to the right side. Beginning March 6, 2001, Dr. Stewart stated that appellant's post-traumatic stress disorder was improving.

Dr. Pathak examined appellant on February 15, 2001 and recommended a magnetic resonance imaging (MRI) scan. He stated that appellant's condition was not viral. On March 27, 2001 Dr. Pathak noted that appellant reported blackout spells and that her electroencephalography (EEG) demonstrated abnormal slowing, sharp waves and spikes which

occurred independently over the anterior and middle temporal regions on each side. He stated, "Some of these wave forms are epileptiform in character. This constellation of findings is consistent with independent bitemporal abnormality which may be epileptogenic."

Dr. Robert Burgerman, a neurologist, examined appellant on August 14, 2001 and noted her history of injury. Appellant had a seizure in his waiting room and underwent an EEG on that date. Dr. Burgerman reported that appellant described three kinds of events, mini blackouts, her mind shutting down and big seizures. He diagnosed nonepileptic seizures, possibly psychogenic seizures or possible frontal lobe complex partial seizures.

Dr. Stewart diagnosed seizures on October 1, 2001 as well as adjustment disorder with depressed mood and recommended seizure medication.

Appellant underwent an MRI scan of the brain on October 4, 2001 which did not demonstrate a structural brain lesion. She underwent a video EEG on October 29, 2001. Appellant reported seizures which did not register on the EEG. Her clinical appearance was found to be atypical for epileptic seizures.

In reports dated January 2, 2002 and June 6, 2002, Dr. Mary Ann Cooper, a physician of professorial rank Board-certified in emergency medicine, stated that she specialized in lightning strikes. She did not examine appellant, but reviewed her medical records. Dr. Cooper opined:

"[Appellant's] records also unfortunately document injuries and complaint consistent with lightning injuries including headaches, vertigo, pain, possible autonomic nervous system injury, neurocognitive, motor and attentional deficits consistent with brain injury from lightning, bitemporal EEG abnormalities, eye movement abnormalities processing deficits consistent with traumatic cause, hearing deficits and post-traumatic stress disorder."

She noted that EEG's measured primarily brain surface activity and that these tests miss 50 percent of frontal lobe seizures and 100 percent of hypothalamic seizures.

Dr. Joseph F. Draskowski, a Board-certified neurologist, reviewed appellant's May 2, 2003 MRI scan on October 7, 2003 and stated that appellant had an underlying dysfunction in the right anterior temporal lobe.

Following the Board's April 26, 2005 decision, the Office referred appellant and a statement of accepted facts for a second opinion evaluation with Dr. Michael Bronshvag, a Board-certified neurologist.

In a report dated October 6, 2005, Dr. Bronshvag stated that appellant continued to work a few weeks following the November 14, 1999 employment injury.<sup>4</sup> He also questioned whether the lightning strike occurred and requested additional factual information. Dr. Bronshvag stated that there was no evidence of epilepsy or epileptic seizures, but that appellant had slight difficulty on mental status testing which was "perhaps" compatible with post-traumatic stress

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<sup>4</sup> This statement is not supported by the record.

disorder. He recommended additional psychiatric and neuropsychological testing as well as an MRI scan and audiological evaluation.

Appellant underwent a brain MRI scan on October 24, 2005 which was read as unremarkable. She also underwent an MRI scan of the auditory canals on that date which was also unremarkable.

In a report dated November 3, 2005, Dr. Michael J. Kearns, a Board-certified otolaryngologist, diagnosed subjective hearing loss, normal audiometrics, and intermittent subjective right ear tinnitus and intermittent vertigo. He noted appellant's history of a lightning strike and concluded that her hearing was normal. Dr. Kearns stated that, based on appellant's history of injury, he would expect more hearing loss. He stated that he could not envision a situation in which an injury would cause vertigo, but not hearing loss. Dr. Kearns found no evidence of cochleovestibular injury due to the November 14, 1999 employment injury.

On December 5, 2005 Kathleen M. Ayers, Ph.D., a licensed psychologist, examined appellant and reviewed the medical records. She noted that appellant's evaluation of effort was consistent with a person performing to the best of her abilities and that appellant's scores were similar to those of individuals with traumatic brain injury. On adult intelligence testing, appellant had a large discrepancy between her performance and verbal intelligence quotient, found in approximately three percent of the population. Dr. Ayers stated that appellant's lowest scores suggested left hemisphere temporal lobe injury. She diagnosed cognitive disorder due to work-related lightning injury and major depression disorder.

Dr. Bronshvag completed a report on November 7, 2005 and stated that appellant's MRI scans were normal. He concluded that appellant did not have a seizure disorder or brain damage.

On December 12, 2005 Dr. Bradley A. Daigle, a Board-certified psychiatrist, examined appellant and related her history of injury. He diagnosed cognitive disorder, depressive disorder and history of post-traumatic stress disorder, in remission. Dr. Daigle stated that appellant's primary problem was neuropsychological residuals in the form of the cognitive disorder and depressive disorder. He found that appellant did not require treatment, but was no longer capable of working as an air traffic controller.

The Office requested a supplemental report from Dr. Daigle on January 17, 2006 explaining how appellant's diagnosed cognitive disorder was related to her accepted employment injury of November 14, 1999. Dr. Daigle responded on January 26, 2006 and stated that appellant's cognitive disorder directly resulted from her November 14, 1999 work incident. He again mentioned that appellant did not require further treatment for her post-traumatic stress disorder which he found to be in remission or for her diagnosed depressive disorder.

The Office requested an additional report from Dr. Daigle on February 9, 2006 explaining the relationship between appellant's diagnosed cognitive disorder and her accepted employment injury. In a report dated February 9, 2006, Dr. Daigle stated that he had relied on the reports of Dr. Ayers in reaching his conclusion that this condition was related to appellant's employment incident.

By decision dated March 2, 2006, the Office denied appellant's claim finding that her diagnosed medical condition was not causally related to her November 14, 1999 employment injury. The Office also noted that the claimed event of November 14, 1999 "occurred as alleged," but that there was no medical diagnoses connected to the event.

### **LEGAL PRECEDENT -- ISSUES 1 and 2**

Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.<sup>5</sup> The Office may not terminate compensation without establishing that disability ceased or that it was no longer related to the employment.<sup>6</sup> The Office's burden of proof in the termination of compensation includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>7</sup> The right to medical benefits for an accepted condition is not limited to the period of entitlement of disability. To terminate authorization for medical treatment, the Office must establish that a claimant no longer has residuals of an employment-related condition, which require further medical treatment.<sup>8</sup>

The Board has upheld the Office's authority to reopen a claim at any time on its own motion under 5 U.S.C. § 8128<sup>9</sup> and where supported by the evidence, set aside or modify a prior decision and issue a new decision.<sup>10</sup> The Board has noted, however, that the power to annul an award is not an arbitrary one and that an award for compensation can only be set aside in the manner provided by the compensation statute.<sup>11</sup> It is well established that, once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.<sup>12</sup> This holds true where the Office later decides that it has erroneously accepted a claim for compensation. In establishing that its prior acceptance was erroneous, the Office is required to provide a clear explanation of its rationale for rescission.<sup>13</sup>

### **ANALYSIS -- ISSUES 1 and 2**

The Office accepted that appellant sustained effects of electric current, dizziness and giddiness and vertigo on November 14, 1999 and authorized wage-loss benefits due to this condition. The Office initially rescinded the acceptance of this claim on September 5, 2000,

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<sup>5</sup> *Jorge E. Stotmayor*, 52 ECAB 105, 106 (2000).

<sup>6</sup> *Mary A. Lowe*, 52 ECAB 223, 224 (2001).

<sup>7</sup> *Gewin C. Hawkins*, 52 ECAB 242, 243 (2001).

<sup>8</sup> *Mary A. Lowe*, *supra* note 6.

<sup>9</sup> 5 U.S.C. § 8128.

<sup>10</sup> *Shelly D. Duncan*, 54 ECAB 367, 370 (2003).

<sup>11</sup> *Andrew Wolfgang-Masters*, 56 ECAB \_\_\_\_ (Docket No. 05-1, issued March 22, 2005).

<sup>12</sup> *Jorge E. Stotmayor*, 52 ECAB 105, 106 (2000).

<sup>13</sup> *Andrew Wolfgang-Masters*, *supra* note 11.

declining to modify this decision on June 12, 2001 and December 8, 2003. The Board found that the Office had improperly rescinded acceptance of appellant's claim and reversed the December 8, 2003 decision on April 26, 2005. As the Board reversed the Office's rescission of appellant's claim, her claim reverts to the status it occupied prior to rescission which includes acceptance of the employment injuries sustained on November 14, 1999, consisting of effects of electric current, dizziness, giddiness and vertigo and payment of medical benefits and periods of disability due to these conditions until the date of the improper rescission of appellant's claim. Therefore, the Office retains the burden of proof to establish that appellant no longer has disability or residuals of her accepted conditions.

In the March 2, 2006 decision, the Office denied appellant's claim finding that her diagnosed medical conditions were not causally related to her November 14, 1999 employment injury. The Office further stated that there were no medical diagnoses related to the November 14, 1999 employment injury. The Office's decision does not clearly delineate the separate burdens of proof involved in appellant's case and appears to be either an attempt to rescind the acceptance of appellant's claim or an attempt to terminate her continuing compensation benefits. While appellant retains the burden of proof in establishing any additional medical conditions beyond those previously accepted by the Office, based on the Board's April 26, 2005 decision, the Office retains the burden of proof to terminate compensation benefits or rescind the acceptance of appellant's claim in regard to appellant's accepted conditions of effects of electric current, vertigo, dizziness and giddiness.

The record contains evidence regarding appellant's initially accepted condition of vertigo. Appellant's attending physician, Dr. Hindmarsh, a Board-certified family practitioner, diagnosed vestibular nerve injury secondary to electrical current on November 19, 1999. He noted findings of vertigo with position change. The Office accepted appellant's claim for effects of electric current, dizziness, giddiness and vertigo based on this report.

Following the Board's remand decision dated April 26, 2005, the Office referred appellant for a second opinion evaluation with Dr. Kearns, a Board-certified otolaryngologist, who stated that, on November 3, 2005, based on appellant's history of injury, he would expect more hearing loss. He stated that he could not envision a situation in which an injury would cause vertigo, but not hearing loss. Dr. Kearns found no evidence of cochleovestibular injury due to the November 14, 1999 employment injury. His report is not sufficiently detailed and rationalized to establish that appellant did not sustain vertigo as a result of her employment injury. Furthermore, Dr. Kearns' report does not clearly establish that appellant no longer has symptoms of vertigo related to her accepted employment injury. While he opined that appellant could not sustain an injury causing vertigo which did not also result in hearing loss, he did not explain why he believed this to be the case. Without medical reasoning supporting and explaining his position, Dr. Kearns' report dated almost six years after the injury is not sufficient to establish that appellant did not sustain vertigo as a result of her employment injury and is not sufficiently detailed and rationalized to establish that appellant has no continuing employment-related condition as a result of her employment injury.

The Board finds that Dr. Kearns' report does not meet the Office's burden of proof to rescind the acceptance of appellant's claim for vertigo, dizziness, giddiness and effects of electrical shock as the result of the November 14, 1999 employment injury. As this report does

not contain sufficient detailed and rationalized medical opinion evidence to establish that the employment injury did not result in the diagnosed condition of vertigo, it is not sufficient to provide a clear basis for the Office's attempted rescission of appellant's claim. The Board further finds that Dr. Kearns' report does not meet the Office's burden of proof in establishing that the accepted conditions of vertigo, dizziness, giddiness and effects of electric shock have ceased such that termination of compensation benefits are appropriate. Dr. Kearns' report did not accept that the injury occurred and cannot therefore establish that the effects of the injury have ceased.<sup>14</sup>

### **LEGAL PRECEDENT -- ISSUE 3**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>15</sup> has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>16</sup>

A traumatic injury is defined as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected.<sup>17</sup> An occupational disease or illness, on the other hand, means a condition produced by the work environment over a period longer than a single workday or shift.<sup>18</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether "fact of injury" has been established. Generally "fact of injury" consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident that is alleged to have occurred. The second component is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.<sup>19</sup>

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<sup>14</sup> It is a well-established principle that the Office must make proper findings of fact and a statement of reasons in its final decisions. *Tonja R. Hiebert*, 55 ECAB 706, 710 (2004); *see also* 20 C.F.R. § 10.126.

<sup>15</sup> 5 U.S.C. §§ 8101-8193.

<sup>16</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>17</sup> 20 C.F.R. § 10.5(ee).

<sup>18</sup> 20 C.F.R. § 10.5(q).

<sup>19</sup> *Id.*

The medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>20</sup> The physician must provide an opinion on whether the employment incident described caused or contributed to the claimant's diagnosed medical condition and support that opinion with medical reasoning to demonstrate that the conclusion reached is sound, logical and rational.<sup>21</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>22</sup>

The Act provides that, if there is a disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.<sup>23</sup> The implementing regulation states that, if a conflict exists between the medical opinion of the employee's physician and the medical opinion of either a second opinion physician of an Office medical adviser or consultant, the Office shall appoint a third physician to make an examination. This is called a referee examination and the Office will select a physician who is qualified in the appropriate specialty and who has had no prior connection with the case.<sup>24</sup>

### **ANALYSIS -- ISSUE 3**

In regard to the additional medical conditions not previously accepted by the Office which appellant feels are due to her accepted employment injury, appellant retains the burden of proof to establish the causal relationship between these conditions and her employment. Prior to the Board's April 26, 2005 decision, appellant had submitted evidence regarding her diagnosed conditions of post-traumatic stress disorder and cognitive disorder. Dr. Stewart, a licensed psychologist, examined appellant on March 25, 2000 and diagnosed post-traumatic stress disorder and cognitive disorder. He noted that appellant had difficulty sleeping, memory loss, confusion, flashbacks to the employment incident, intrusive thoughts, avoidance and mood and anxiety symptoms of post-traumatic stress disorder. Dr. Hindmarsh concurred with this diagnosis on June 28, 2000.

Following the Board's April 26, 2005 decision, the Office referred appellant for a second opinion evaluation with Dr. Bronshvag, a Board-certified neurologist, who examined appellant on October 6, 2005 and found that appellant had slight difficulty on mental status testing which was compatible with post-traumatic stress disorder. The Office then referred appellant to Dr. Ayers, a licensed psychologist, who diagnosed cognitive disorder due to the accepted employment incident. Dr. Daigle, a Board-certified psychiatrist, examined appellant on December 12, 2005 and diagnosed cognitive disorder and history of post-traumatic stress

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<sup>20</sup> *John W. Montoya*, 54 ECAB 306, 308 (2003).

<sup>21</sup> *Id.*

<sup>22</sup> *Louis T. Blair*, 54 ECAB 348, 350 (2003).

<sup>23</sup> 5 U.S.C. §§ 8101-8193, 8123.

<sup>24</sup> 20 C.F.R. § 10.321.

disorder in remission. He stated in a supplemental report dated January 26, 2006 that appellant's cognitive disorder was a direct result of appellant's employment incident. In his final supplemental report dated February 9, 2006 Dr. Daigle stated that he based his conclusions on Dr. Ayers' report.

All the reports in the record contain a diagnosis and an opinion that appellant's post-traumatic stress disorder and cognitive disorder were caused by the accepted employment injury. While the reports are not sufficient to meet appellant's burden of proof of establishing a period of disability, the reports do raise an uncontroverted inference of causal relation between appellant's accepted employment injury and her emotional condition cognitive disorder and are sufficient to require the Office to undertake further development of appellant's claim.<sup>25</sup> The Office needs to secure a report whether appellant developed post-traumatic stress disorder as a result of her employment injury and any period of disability due to post-traumatic stress.

The Office should also further develop the medical evidence regarding whether appellant's diagnosed cognitive disorder is due to her accepted employment injury. Dr. Daigle was unwilling or unable to provide the necessary medical reasoning in support of his opinion that this condition was due to appellant's employment. Proceedings under the Act are not adversarial in nature nor is the Office a disinterested arbiter. The Office shares responsibility in the development of the evidence to see that justice is done.<sup>26</sup> As the Office undertook development of the evidence by referring appellant for second opinion evaluations regarding her psychological and cognitive conditions, it must develop this evidence to its logical conclusion.

Appellant also submitted evidence that she sustained brain damage as a result of the accepted employment injury. Dr. Stewart submitted EEG's dated December 21, 2000 which he found were indicative of right side brain injury. Dr. Hindmarsh diagnosed mild traumatic brain injury on January 28, 2000. Dr. Drazkowski, a Board-certified neurologist, reviewed appellant's May 2, 2003 MRI scan on October 7, 2003 and found that appellant had an underlying dysfunction in the right anterior temporal lobe. Dr. Bronshvag, the Office second opinion physician, completed a report on November 7, 2005 and stated that appellant's MRI scans were normal and concluded that appellant did not have brain damage. The Board finds that there is an unresolved conflict of medical opinion evidence regarding the results of appellant's MRI scan. Dr. Drazkowski, appellant's physician, and Dr. Bronshvag, the Office second opinion physician, both examined objective test results and reached opposite conclusions regarding the findings. On remand the Office should refer appellant, her test results and a statement of accepted facts to an appropriate Board-certified physician to determine if appellant has any brain damage as a result of her accepted employment injury.

### **CONCLUSION**

The Board finds that the Office has not met its burden of proof to terminate compensation benefits or to rescind the acceptance of her claim for vertigo, giddiness, dizziness and effects of electrical shock. The Board further finds that the Office has not properly developed the medical

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<sup>25</sup> *John J. Carlone*, 41 ECAB 354, 358-60 (1989).

<sup>26</sup> *Jimmy A. Hammons*, 51 ECAB 219, 223 (1999).

evidence to determine the medical conditions resulting from appellant's accepted employment injuries and any periods of disability associated with these conditions. On remand the Office should follow the directives of the Board in regard to appellant's diagnosed conditions of post-traumatic stress disorder, cognitive disorder and organic brain damage, which were not previously accepted by the Office. After this and such other development as the Office deems necessary, the Office should issue an appropriate decision regarding any continuing conditions and disability resulting from appellant's accepted employment injuries.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 2, 2006 decision of the Office of Workers' Compensation Programs is reversed in part in regard to its attempt to termination compensation benefits or to rescind the acceptance of the claim. With regard to appellant's claim for additional employment conditions due to her November 14, 1999 employment injury, the decision is set aside and remanded in part for further development consistent with this opinion of the Board.

Issued: March 23, 2007  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board