

**United States Department of Labor  
Employees' Compensation Appeals Board**

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S.G., Appellant

and

DEPARTMENT OF THE AIR FORCE,  
WRIGHT-PATTERSON AIR FORCE BASE,  
Fairborn, OH, Employer

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**Docket No. 07-1148  
Issued: September 26, 2007**

*Appearances:*  
Alan J. Shapiro, Esq., for the appellant  
Office of Solicitor, for the Director

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On March 22, 2007 appellant filed a timely appeal from a March 1, 2007 decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met his burden of proof to establish that he had any continuing employment-related disability after April 21, 2004.

**FACTUAL HISTORY**

This case has previously been before the Board. By decision dated February 3, 2006, the Board found that the Office met its burden of proof to terminate appellant's compensation benefits effective April 21, 2004 on the grounds that his accepted temporary aggravation of obsessive compulsive disorder (OCD) had resolved. The Board also found that appellant did not meet his burden of proof to establish that he had continuing employment-related disability after

April 21, 2004.<sup>1</sup> The law and the facts of the previous Board decision are incorporated herein by reference.

On January 20, 2007 appellant, through his attorney, requested reconsideration before the Office. In a December 12, 2006 report, James M. Medling, Ph.D., a clinical psychologist, noted his review of medical and documentary evidence. He provided a history of appellant's previous employment, education and the accepted condition, discussed his complaints, activities of daily living and socialization and provided psychological test results. Dr. Medling diagnosed OCD, depressive disorder, dependent personality disorder, avoidant personality disorder with negativistic personality traits and self-defeating personality traits. Psychosocial stressors were unemployment and chronic health problems related to gastroesophageal reflux disease, hypothyroidism and hypercholesterolemia. Dr. Medling advised that appellant's symptoms of OCD were chronic and due to his federal employment from August 1989 through October 28, 2000 when he was separated from employment, that the condition was permanent, and any current symptoms were the result of the disorder that arose in 1989 in response to workplace stress. He opined that appellant's depressive disorder resulted from the chronicity of the OCD and should be accepted as a direct aggravation. Dr. Medling concluded that appellant was unable to tolerate more than a mild to low moderate degree of personal stress, that his coping strategies were marginal, and therefore his disability was permanent. In an addendum dated January 30, 2007, he noted that Cynthia B. Levy, Ph.D., appellant's attending psychologist, opined that appellant did not meet the diagnostic criteria of OCD prior to August 1989 and that his current OCD symptoms were permanent and caused by employment. In a February 2, 2007 report, Dr. Samuel A. Nigro, an attending psychiatrist, concurred with Dr. Medling's findings that appellant was permanently disabled due to his OCD and depressive disorder.

By decision dated March 1, 2007, the Office denied modification of its prior decisions. The Office reviewed the evidence submitted with appellant's reconsideration request and concluded that the weight of the medical evidence continued to rest with Dr. Gary A. Balster, a Board-certified psychiatrist who had performed an impartial medical evaluation for the Office.

### **LEGAL PRECEDENT**

As the Office met its burden of proof to terminate appellant's compensation benefits effective April 21, 2004, the burden shifted to him to establish that he had any continuing disability causally related to his accepted injuries.<sup>2</sup> To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>3</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>4</sup> Rationalized medical evidence is medical evidence which includes a physician's rationalized

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<sup>1</sup> Docket No. 05-1707 (issued February 3, 2006).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Donna L. Mims*, 53 ECAB 730 (2002).

medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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 specific employment factors identified by the claimant.<sup>5</sup>

### ANALYSIS

The Board find that Dr. Medling's reports are not sufficient to overcome the weight of the medical opinion accorded to Dr. Balster as the impartial specialist.<sup>6</sup> Dr. Medling based his opinion on a review of the medical record that had been reviewed by Dr. Balster, and his opinion mirrors that of Dr. Kenneth D. Glass, an attending Board-certified psychiatrist, who had been on one side of the conflict in medical evidence resolved by Dr. Balster. His report provided no new rationale to support his opinion,<sup>7</sup> and is therefore insufficient to meet appellant's burden to establish that he continues to be disabled due to the accepted emotional condition or to give rise to a new conflict.<sup>8</sup> Dr. Medling's report of Dr. Levy's opinion is of no evidentiary value as her report is not in the record. Further, by Dr. Medling's report, Dr. Levy merely reiterated her previous conclusions, which had been reviewed by Dr. Balster, the Office and the Board. The Board has held that evidence that repeats or duplicates evidence already in the case record has no evidentiary value.<sup>9</sup> Dr. Nigro merely advised that he agreed with Dr. Medling. Thus, as the opinions of Drs. Levy and Nigro did not contain new findings or rationale upon which a new conflict might be based, they too are insufficient to overcome that of Dr. Balster or to create a new medical conflict.<sup>10</sup> Appellant therefore did not submit the necessary rationalized medical evidence to substantiate that any claimed disability on or after April 21, 2004 was causally related to his federal employment.<sup>11</sup>

### CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he had any disability after April 21, 2004 causally related to employment.

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<sup>5</sup> *Leslie C. Moore*, 52 ECAB 132 (2000); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> 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. *Manuel Gill*, 52 ECAB 282 (2001).

<sup>7</sup> *See Jimmie H. Duckett*, 52 ECAB 332 (2001).

<sup>8</sup> *See John F. Glynn*, 53 ECAB 562 (2002).

<sup>9</sup> *See Jaja K. Asaramo*, 55 ECAB 200 (2004).

<sup>10</sup> *See Jimmie H. Duckett*, *supra* note 7.

<sup>11</sup> *See Mary A. Ceglia*, 55 ECAB 626 (2004).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 1, 2007 be affirmed.

Issued: September 26, 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