

FACTUAL HISTORY

On October 23, 1990 appellant, then a 40-year-old bulk mail clerk, filed an occupational disease claim alleging that he sustained major depression and anxiety causally related to factors of his federal employment. OWCP accepted his claim for anxiety disorder and provided him compensation benefits beginning June 15, 1990.²

On January 4 and June 1, 2010 OWCP requested that appellant submit a current medical report addressing his condition and its relationship to the accepted employment injury. In a March 9, 2011 work capacity evaluation, Dr. Robert J. Brooks, a Board-certified psychiatrist, diagnosed post-traumatic stress disorder due to “unresolved conflicts with authorities.” He opined that appellant was permanently disabled from work due to his periodic inability to “tolerate even [five] minutes [of] frustration with others.”

By letter dated March 26, 2013, OWCP referred appellant to Dr. Gary R. Hudak, a Board-certified psychiatrist, for a second opinion evaluation. In the accompanying statement of accepted facts, it identified, as compensable employment incidents, appellant working overtime to correct deficiencies in a bulk mail audit in March 1989, performing an additional duty of separating collection mail in July 1989, working overtime in November 1989 and the delay in allowing appellant to see a physician about a cut on his forehead on December 21, 1989.

In a report dated May 10, 2013, Dr. Hudak reviewed in detail appellant’s history of injury and the medical reports of record. He discussed his past history of “a pattern of interpersonal conflict starting in high school.” On examination Dr. Hudak found appropriate affect, good memory and concentration and no signs of “anxiety, angry hostility, mood lability, depression, dysphoria or melancholia.” He found that appellant had no current psychiatric diagnosis. Dr. Hudak determined that appellant had a personality disorder not otherwise specified with narcissistic features which he indicated was not considered a mental disorder. He opined that the personality disorder was unrelated to the accepted employment injury. Dr. Hudak stated, “The long-standing personality disorder has been his baseline prior to the claim. As a result of his maladaptive character traits that results in constant conflict with work supervisors, neighbors, friends, family members and the general public, the claimant’s anxiety is self-generated and is not related to any condition of employment.” He concluded that appellant could work full time without restrictions.

On May 16, 2013 OWCP advised appellant of its proposed termination of his compensation and authorization for medical treatment.³

In a decision dated June 18, 2013, OWCP terminated appellant’s compensation and authorization for medical benefits effective June 19, 2013. It determined that Dr. Hudak’s

² In decisions dated February 28 and June 24, 1996 and February 4, 1997, OWCP denied appellant’s claim that he sustained a dental condition due to his employment-related anxiety disorder.

³ OWCP referred to a report by Dr. David Powley, an osteopath, finding that appellant continued to experience an employment-related mental condition; however, such a report is not contained in the case record.

opinion represented the weight of the evidence and established that he had no further employment-related disability or need for medical treatment.

On appeal appellant questioned the accuracy of the case record, indicating that Dr. Hudak referred to physicians who had not treated him and also referenced his employment as occurring in Maine rather than Washington State.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits. It may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.⁴ OWCP's burden of proof in terminating compensation includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁵

ANALYSIS -- ISSUE 1

OWCP accepted that appellant sustained anxiety disorder causally related to factors of his federal employment. He received compensation for total disability beginning June 15, 1990.

On March 26, 2013 OWCP referred appellant to Dr. Hudak for a second opinion examination. The Board finds that OWCP met its burden of proof to terminate his compensation through the opinion of Dr. Hudak, who determined that he had no current mental condition. In a report dated May 10, 2013, Dr. Hudak reviewed appellant's factual and medical history and conducted a detailed evaluation. He found no evidence of an anxiety disorder but instead found evidence of a preexisting personality disorder with narcissistic features not related to the accepted work injury.⁶ Dr. Hudak related that a personality disorder did not constitute a mental illness and opined that he had no work restrictions from a psychiatric standpoint. He explained that the objective findings on examination did not support the subjective complaints. Dr. Hudak provided a thorough review of the factual and medical background and accurately summarized the relevant medical evidence. Moreover, he reached conclusions regarding appellant's condition which comported with his findings.⁷ Consequently, Dr. Hudak's report represents the weight of the evidence and establishes that he has no further employment-related disability.

The remaining evidence of record submitted prior to OWCP's termination of medical benefits is insufficient to show that appellant had residuals of his accepted employment injury. In a work restriction evaluation dated March 9, 2011, Dr. Brooks diagnosed post-traumatic stress disorder as a result of conflict with authorities that remained unresolved. He found that appellant

⁴ *Elaine Sneed*, 56 ECAB 373 (2005); *Gloria J. Godfrey*, 52 ECAB 486 (2001).

⁵ *Gewin C. Hawkins*, 52 ECAB 242 (2001).

⁶ The statement of accepted facts indicated that OWCP accepted an aggravation of anxiety disorder rather than anxiety disorder. However, in view of Dr. Hudak's finding that appellant had no current diagnosable mental condition, this discrepancy does not affect the outcome of the case.

⁷ *See Pamela K. Guesford*, 53 ECAB 727 (2002).

was totally disabled. Dr. Brooks, however, did not address the accepted condition of anxiety disorder or attribute his disability to a compensable work factor. The Board thus finds that the weight of the evidence establishes that appellant had no disability due to his work injury effective of his accepted work injury effective June 19, 2013, the date OWCP terminated his compensation.

LEGAL PRECEDENT -- ISSUE 2

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.⁸ To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁹

ANALYSIS -- ISSUE 2

OWCP met its burden of proof to terminate authorization for medical benefits through the opinion of Dr. Hudak, the second opinion physician who found that appellant had no residuals of his accepted work injury. Dr. Hudak explained that he had no diagnosable psychiatric condition based on a review of the evidence, the history of injury and the findings on examination. His opinion, which is detailed and well rationalized, constitutes the weight of the evidence and establishes that appellant has no further need for medical treatment due to his accepted employment injury.

On appeal appellant argues that Dr. Hudak referred in his report to physicians that he had not seen and believed that he worked for the employing establishment in Maine rather than Washington State. However, Dr. Hudak accurately summarized the medical evidence of record. While he referred to appellant as working in Maine rather than Washington, he provided an otherwise correct description of his work history and the compensable work factors; consequently, this reference does not alter the weight of his report. The statement of accepted facts provided by OWCP correctly indicated that appellant worked for the employing establishment in Washington.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP properly terminated appellant's compensation and authorization for medical benefits effective June 19, 2013 on the grounds that he had no further disability or need for medical treatment causally related to his accepted employment injury.

⁸ *T.P.*, 58 ECAB 524 (2007); *Id.*

⁹ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the June 18, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 2, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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