

towel to dry her face. The towel hit her on the left side of her head. Appellant listed the nature of her injury as contusion of the left side of the head.

OWCP accepted that appellant sustained a left scalp contusion, postconcussion syndrome, aggravation of temporomandibular joint (TMJ) disorder and aggravation of psychosis with paranoid and suicidal features, as a result of the incident. Appellant has preexisting history of brain surgery due to aneurysm in 1970 and vestibular lesion secondary to the 1970 surgery which caused her vertigo. She also had a preexisting history of seizure disorder and psychosis.

The record contains a large gap in the submission of medical reports from appellant's treating physicians. In a January 18, 2002 work capacity evaluation, Dr. Shawki Haffar, a psychiatrist, diagnosed recurrent major depression and noted that appellant was totally disabled, noting stress, symptoms of seizures and depression. He also noted that she had a low tolerance of stress. On May 22, 2002 Dr. James A. Schmidt, appellant's treating Board-certified family practitioner, requested two months of medicine for her as she was to be travelling overseas.

By letters dated March 17, 2003, January 29 and October 27, 2004 and February 28, 2007, OWCP requested that appellant provide an updated narrative medical report from her attending physician with regards to her work-related medical conditions. In a May 29, 2007 work capacity evaluation, Dr. Schmidt stated that she had permanent restrictions and could not work.

By letter dated December 1, 2008, OWCP informed appellant that it needed an updated report from her treating physician. Although appellant did follow up with a telephone call to OWCP, no updated medical report was ever received by OWCP.

In a January 5, 2009 letter, OWCP requested that Dr. Schmidt provide a narrative medical report discussing the current objective findings for appellant's scalp, head/skull and/or TMJ areas and explain how they related to the September 3, 1974 employment injury. Dr. Schmidt did not respond to this letter.

On August 20, 2010 OWCP referred appellant to Dr. Hooshang Kasravi, a Board-certified neurosurgeon, and Dr. E. Richard Dorsey, a Board-certified psychiatrist, for second opinions.

On the same date, OWCP referred appellant to Dr. Sunil Goyal, a dentist, for an opinion with regards to the employment-related aggravation of appellant's TMJ. In a September 14, 2010 report, Dr. Goyal opined that the employment-related aggravation of TMJ had not ceased and that the aggravation was permanent.

In a September 8, 2010 report, Dr. Dorsey noted that appellant met the criteria for a diagnosis of major depression with psychosis for many years, as documented in the reports of multiple previous examiners. He noted that against the odds, she has experienced essentially complete remission and now has only minimal residual symptoms and impairment related to this condition. Dr. Dorsey noted that appellant has been off medication and out of any formal mental health treatment for the last two years with no recurrences of symptoms. He opined that the accepted September 3, 1974 work-related aggravation of psychosis with paranoid and suicidal features has ceased and that it is more likely than not that her remission will continue for the

foreseeable feature. Dr. Dorsey noted that appellant's current condition, which is largely in remission and always was due primarily to nonoccupational factors, which were aggravated by the occupational injury. He noted that at this point she is essentially asymptomatic without mental health treatment and that as long as remission continues she has no need for or interest in any form of mental health treatment. Dr. Dorsey noted that appellant was mentally able to function in the workplace as well as any other 87-year-old individual. He noted that she is not willing to resume working for the employing establishment because of what she believes to be mistreatment in the distant past and more likely than not would experience recurrent mental symptoms if she was compelled to do so. Dr. Dorsey opined that appellant was mentally capable, consistent with her age, to engage in comparable work for a different employing establishment, but that, as a practical matter, claimant's age and physical condition are such that she is not a candidate for gainful employment or rehabilitation.

In a September 16, 2010 report, Dr. Kasravi diagnosed: (1) status post head/face trauma, cerebral concussion and scalp contusion; (2) status postsurgical treatment of intracranial aneurysm; (3) major depression with suicidal factors; (4) seizure disorder, possibly due to brain surgery; and (5) subjective chronic left TMJ pain of unknown origin. He noted that the medical description of a cerebral concussion is due to trauma to the head, usually sudden shaking of the brain, which causes no structural lesion. Dr. Kasravi noted that the symptoms of a cerebral concussion, if any, are transient; no long term or permanent subjective or objective symptoms could medically be accepted as a result of cerebral concussion. He noted that, with regards to appellant's left scalp contusion or laceration of skin of her head, it would heal with local treatment and usually with no scar formation. Dr. Kasravi opined that the scalp contusion had properly healed within 7 to 10 days following her head injury in 1974. He opined that appellant does not suffer with objective residuals from her September 3, 1974 injury. Dr. Kasravi opined that she was totally and permanently disabled due to her preexisting conditions of seizure disorder and suicidal depression, but that these conditions are outside of his specialty. He did advise that appellant be under the care of a neuropsychiatrist for her depression/seizure disorder.

On November 14, 2011 OWCP proposed terminating appellant's medical and compensation benefits for left scalp contusion, postconcussion syndrome and aggravation of psychosis with paranoid and suicidal features for the reason that the weight of medical evidence established that she no longer had residuals or disability from these conditions due to her September 3, 1974 work injury.

In a response dated December 17, 2011, appellant stated that she had a head injury to her jaw on the left side of her head, not a scalp contusion. She noted that on the right side of her head she had a clot under her brain due to stress at her job and that her doctor told her was aneurysm. Appellant also stated that OWCP did not follow a court order to pay her compensation. She did not submit any new medical evidence.

On December 27, 2012 OWCP terminated appellant's entitlement for medical and wage-loss benefits for left scalp contusion, postconcussion syndrome and aggravation of psychosis with paranoid and suicidal features effective December 27, 2012. It noted that she remained entitled to medical and monetary benefits for the accepted aggravation of TMJ disorder.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of employee's benefits. It may not terminate compensation without establishment that the disability cease or that it was no longer related to the employment.² 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.³

The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.⁴ To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition which requires further medical treatment.⁵

ANALYSIS

The Board finds that OWCP met its burden of proof to terminate appellant's medical and wage-loss compensation benefits with regard to her left scalp contusion, postconcussion syndrome and aggravation of psychosis conditions. Despite multiple attempts by OWCP to obtain current medical reports from appellant's treating physicians, there has been no rationalized medical evidence submitted by appellant's treating physicians in over a decade. The last medical report from a treating psychiatrist was a January 18, 2002 work capacity evaluation wherein Dr. Haffar indicated that appellant was totally disabled and noted stress, symptoms of seizures and depression. The last two submissions from appellant's family practitioner consist of a May 22, 2002 note wherein Dr. Schmidt asked for two months of medicine for appellant and a May 29, 2007 work capacity evaluation wherein Dr. Schmidt indicated that appellant was totally disabled but provided no details.

The weight of the medical evidence rests with the opinions of the second opinion physicians. Dr. Kasravi, a Board-certified neurosurgeon, opined that appellant suffered no residuals from her September 3, 1974 employment injury. He explained that symptoms of a cerebral concussion are transient and no long term or permanent subjective or objective symptoms could be accepted as a result of the cerebral concussion. Dr. Kasravi also noted that appellant's laceration to her head would have healed within 7 to 10 days following her head injury in 1974. Dr. Dorsey, a Board-certified psychiatrist, opined that the employment-related aggravation of psychosis with paranoid and suicidal features had ceased and that her current condition, which was largely in remission, is primarily due to nonoccupational factors. He reported that appellant was asymptomatic without mental health treatment.

² *Mohamed Yunis*, 42 ECAB 325, 334 (1991); *see also J.P.*, Docket No. 13-1049 (issued August 16, 2013).

³ *Gewin C. Hawkins*, 52 ECAB 242 (2001).

⁴ *See T.P.*, 58 ECAB 524 (2007).

⁵ *See I.J.*, 59 ECAB 408 (2008); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

Drs. Kasravi and Dorsey, submitted well-rationalized reports indicating that the accepted employment-related conditions of left scalp contusion, postconcussion syndrome and aggravation of psychosis with paranoid and suicidal features had ceased. There is no rationalized medical evidence in the record in the past decade from appellant's physicians indicating that she still had residuals from these conditions. Accordingly, the weight of the evidence rests with the opinions of the second opinion physicians and OWCP properly terminated appellant's medical and compensation benefits.

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

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's compensation and medical benefits for left scalp contusion, postconcussion syndrome and aggravation of psychosis with paranoid and suicidal features effective December 27, 2012.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 27, 2012 is affirmed.

Issued: March 5, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board