United States Department of Labor
Employees' Compensation Appeals Board

K.L., Appellant	)	
and	)	**Docket No. 17-2003**
	)	**Issued: April 16, 2018**
DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Philadelphia, PA, Employer	)	

Appearances:
Jeffrey P. Zeelander, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 26, 2017 appellant, through counsel, filed a timely appeal from a July 13, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.; see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

ISSUES

The issues are: (1) whether OWCP properly terminated appellant's wage-loss compensation and medical benefits effective March 22, 2017 as she had no further disability or need for medical treatment causally related to her September 4, 2015 employment injury; and (2) whether appellant has established continuing employment-related disability after March 22, 2017.

FACTUAL HISTORY

On September 9, 2015 appellant, then a 41-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that, on September 4, 2015, a patient kicked her left knee when she intervened in an altercation at work. She stopped work on September 4, 2015. OWCP accepted the claim for a left knee contusion and a left anterior cruciate ligament sprain. Appellant returned to part-time, limited-duty employment on July 25, 2016.

A magnetic resonance imaging (MRI) scan dated October 5, 2015 revealed a partial tear of the anterior cruciate ligament.[4]

In a report dated August 1, 2016, Dr. Marc L. Harwood, an attending physician Board-certified in family practice, evaluated appellant for knee pain subsequent to an employment injury. On examination he found no effusion, crepitus, instability, weakness, or tenderness on palpation. Dr. Harwood diagnosed left knee pain and recommended against a diagnostic arthroscopy. He found that appellant could continue performing modified employment.

On August 8, 2016 Dr. Harwood noted that appellant had undergone six months of physical therapy and a steroid injection for an "essentially unremarkable MRI [scan] of the left knee." He advised that she did not have any "catching, locking, instability, or other mechanical symptoms." On examination he found no tenderness, effusion, or laxity and negative McMurray's and Lachman's tests. Dr. Harwood diagnosed left knee pain. He noted that appellant had no improvement after the steroid injection which he found revealed a lack of intraarticular pathology. Dr. Harwood related, "At this point, I suggest that she return to full duty, but [she] is rather fear-avoidant about going back to work and being put in the position where she would need to break

[2] 5 U.S.C. § 8101 *et seq.*

[3] The record provided the Board includes evidence received after OWCP issued its July 13, 2017 decision. The Board's jurisdiction is limited to the evidence that was in the case record at the time of OWCP's final decision. Therefore, the Board is precluded from reviewing this additional evidence for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

[4] OWCP referred appellant to Dr. Lawrence Barr, an osteopath, for a second opinion examination. On February 17, 2016 Dr. Barr discussed the history of the September 4, 2015 work injury and her continued complaints of left knee pain and swelling. He found a positive grind test and parapatellar tenderness with no effusion or loss or strength. Dr. Barr diagnosed a left knee contusion and chondromalacia patella without normal tracking. He recommended a diagnostic arthroscopy of the left knee and found that appellant could work limited duty.

up an altercation on the psychiatric unit." He recommended a functional capacity evaluation (FCE) given appellant's fear, noting that she had obtained maximum medical improvement (MMI).

An FCE performed on September 13, 2016 demonstrated that appellant could perform work at a medium physical demand level.

A September 22, 2016 MRI scan of the left knee demonstrated a patellar tilt with mild chondromalacia, a small popliteal cyst, and small effusion.

OWCP, by letter dated September 29, 2016, notified appellant of its proposed termination of her wage-loss compensation and medical benefits. It advised that her attending physician, Dr. Harwood, found on August 8, 2016 that she could resume her usual employment.

In a report dated October 10, 2016, Dr. Mark J. Reiner, an osteopath, evaluated appellant for knee pain after an injury. He noted that she was currently working as a nurse, but continued to experience soreness. Dr. Reiner reviewed the results of MRI scans of the left knee and her complaints of left knee "swelling, clicking, popping, and intermittently giving way." He diagnosed internal derangement of the left knee with a possible occult meniscal tear. Dr. Reiner recommended possible arthroscopic surgery.

On October 10, 2016 Dr. Harwood reviewed the September 22, 2016 MRI scan, which he found showed mild chondromalacia, a small effusion, an intact anterior cruciate ligament, and no injury to the meniscus. He noted that the FCE indicated that appellant could perform medium-level work. Dr. Harwood diagnosed left knee pain. He related:

> "At this point, I have two MRI [scans] that are essentially unremarkable except for mild chondromalacia. I have an FCE report that reveals that she is capable of medium duty and pain out of proportion to any objective data that I have obtained over the past year that I have seen her. At this point, we had an extensive negotiation with regard to her work status. It is difficult to argue with an FCE that reveals that restrictions are recommended and as such I have provided her permanent work restrictions to include medium[-]duty work…."

Dr. Harwood also found that appellant could not perform repetitive bending or kneeling. He recommended against arthroscopic surgery. In a form report dated October 10, 2016, Dr. Harwood indicated that appellant could perform modified-duty work at a medium level with no repetitive bending or kneeling.

Appellant returned to full-time limited-duty work in October 2016.

On October 19, 2016 Dr. Franklin Scarlett, who specializes in family medicine, discussed appellant's history of a work injury attempting to stop an altercation between patients. He indicated that, at his last evaluation on October 3, 2016, she complained of continued left knee pain and swelling such that she had difficulty performing daily activities. Dr. Scarlett noted that a left knee MRI scan showed mild chondromalacia, a popliteal cyst, small effusions, a grade 1 to 2 intrameniscal signal, and mild thinning of the articular hyaline cartilage. He opined that the findings on the MRI scan study were "directly correlated to [appellant's] workplace injury…." Dr. Scarlett disagreed with Dr. Harwood's opinion that she could resume her usual employment.

He opined that appellant could perform medium work in accordance with the FCE results without repetitive bending, squatting, or kneeling.

The employing establishment provided a position description for a staff nurse on November 18, 2016. The physical requirements included heavy lifting up to 45 pounds and carrying under 15 pounds, walking up to four hours per day, and standing for four hours per day.

OWCP, on December 8, 2016, referred appellant to Dr. Stanley Askin, a Board-certified orthopedic surgeon, for a second opinion examination. In the statement of accepted facts, it noted that, as a staff nurse, she provided full nursing care to patients with physical and behavior problems.

In a December 20, 2016 progress report, Dr. Reiner found synovitis, tenderness, crepitus, and clicking on examination of the left knee.[5] He diagnosed internal derangement of the left knee with a possible meniscal tear and again recommended possible arthroscopic surgery.

On December 22, 2016 Dr. Askin discussed appellant's history of a September 9, 2015 left knee injury at work. He advised that she also reported a history of two prior work injuries that occurred during assaults by patients. Dr. Askin noted that appellant experienced left knee discomfort with bending over a half hour, driving over 15 minutes, or after a day at work. He found no significant findings on review of the September 22, 2016 MRI scan study. On examination, Dr. Askin found no effusion, patellar subluxation, loss of sensation, or laxity of the knee, but some tenderness at the anteromedial joint line. He opined that appellant had no objective findings of the accepted employment injury and that the accepted conditions had resolved, noting that "her left knee examines equivalently to her right knee, and in fact there are no clinical imperfections evident." Regarding her continued subjective complaints, Dr. Askin advised that she might have "a phenomenon termed perseveration." He related:

> "I have no injury-related reason to preclude her return to the employment that was described in her formal job description. Please note, however, that I would not counsel a nonathletic lady of average build to be 'mixing it up' with aggressive or violent male patients. Doing so would be beyond what is offered as the formal job description, and I do not approve that sort of activity for [appellant] as she is likely to have additional injuries going forward under similar circumstances."

Dr. Askin recommended against surgery given that he had not identified any left knee issue that would benefit from such intervention. Regarding medical treatment, he found that appellant should maintain physical fitness and perhaps have training in restraining violent patients, noting that this did not seem necessary for the position of staff nurse. In a December 22, 2016 work capacity evaluation (OWCP-5c), Dr. Askin found that appellant could resume work without restrictions, but indicated that she should not try to "restrain violent patients."

On February 6, 2017 OWCP advised appellant of its proposed termination of her wage-loss compensation and medical benefits as the weight of the evidence, as represented by the

[5] Dr. Reiner provided a similar progress report on November 15, 2016.

opinion of Dr. Askin, established that she had no further employment-related condition or disability.

In a note dated December 28, 2016, Dr. Carlos P. Borromeo, Jr., who specializes in family medicine, advised that appellant was disabled from employment due to "anxiety related to [the] work injury and setting."

Appellant submitted an impairment evaluation dated January 24, 2017 from Dr. Nicholas Diamond, an osteopath. On examination, Dr. Diamond found tenderness and crepitus with no instability. He diagnosed a post-traumatic left knee contusion and sprain, patellar chondromalacia, and an anterior cruciate ligament sprain and provided an impairment rating.

Appellant returned to her usual employment without restrictions on February 13, 2017.

In a report dated February 14, 2017, Dr. Reiner noted that Dr. Askin believed that appellant required no further treatment and could resume her usual employment. He indicated that a left knee MRI scan dated December 22, 2016 showed chondromalacia patella, effusion, and a small cyst. On examination, Dr. Reiner found synovitis, crepitus, clicking, and popping of the left knee with quadriceps weakness. He diagnosed left knee internal derangement with a possible occult meniscal tear and chondromalacia patella. Dr. Reiner related, "[Appellant] does have an abnormal MRI [scan] and has an abnormal evaluation. She does continue to be symptomatic at this time. I disagree with Dr. Askin's findings and recommendations." He recommended a diagnostic arthroscopy.

Appellant, on February 18, 2017, filed a notice of recurrence (Form CA-2a), claiming disability commencing on February 15, 2017 causally related to her September 4, 2015 employment injury.[6] She advised that she had continued problems with her knee and also was receiving psychiatric treatment due to being attacked by a patient. Appellant related that she returned to work in a locked psychiatric unit, but began experiencing panic attacks.

On February 22, 2017 Dr. Harry A. Doyle, a Board-certified psychiatrist, found that appellant was totally disabled from work due to post-traumatic stress disorder (PTSD) related to employment factors.

Counsel, by letter dated February 28, 2017, asserted that a conflict existed between Dr. Askin and appellant's attending physicians regarding her physical findings and work ability. He noted that she experienced panic attacks after being returned to work in the locked psychiatric floor due to "the severity of her PTSD arising from being injured by a patient in this claim, as well as the several prior accepted claims where she was also injured by patients." Counsel further asserted that Dr. Askin found that appellant could not work with violent patients.

[6] On February 24, 2017 appellant filed a claim for a schedule award (Form CA-7). OWCP, on May 11, 2017, advised her that it would not take any further action regarding her schedule award claim as the evidence did not demonstrate that she had reached MMI from her September 4, 2015 work injury. It noted that appellant had filed a notice of recurrence claiming disability for the injury that had been converted into a new occupational disease claim.

By letter dated March 17, 2017, OWCP advised appellant that it was adjudicating her notice of recurrence as an occupational disease claim as she described an injury due to work exposure that occurred over the course of more than one work shift.

In a decision dated March 22, 2017, OWCP terminated appellant's wage-loss compensation and authorization for medical benefits due to her September 4, 2015 employment injury effective that date. It found that the opinion of Dr. Askin constituted the weight of the evidence and established that she had no further disability or residuals of her accepted employment injury. OWCP advised that it was separately considering her occupational disease claim for a psychological condition subsequent to resuming employment on February 13, 2017.[7]

Appellant, through counsel, on April 10, 2017 requested a review of the written record before an OWCP hearing representative. He maintained that a conflict in medical opinion existed regarding whether she had residuals of her left knee condition and further asserted that she had sustained a consequential emotional condition. Counsel advised that the employing establishment withdrew appellant's limited-duty position after OWCP's proposed termination of her compensation and returned her to work with locked psychiatric patients. He noted that the evidence supported that she sustained an emotional condition due at least in part to her September 4, 2015 work injury.

In a February 23, 2017 psychiatric evaluation, received by OWCP on June 21, 2017, Dr. Doyle reviewed the history of the September 4, 2015 work injury and the medical evidence of record. He diagnosed PTSD. Dr. Doyle noted that appellant had a history of being assaulted at work on August 1, 2009, March 18, 2011, and September 4, 2015. He opined that the September 4, 2015 assault caused an aggravation of preexisting employment-related acute stress disorder and adjustment disorder with depressed mood and precipitated PTSD. Dr. Doyle found that appellant was disabled from employment.[8]

Counsel, on June 29, 2017, asserted that Dr. Askin's report was inconsistent and unrationalized. He further maintained that a conflict existed between Dr. Askin and appellant's physicians, Dr. Reiner, Dr. Diamond, and Dr. Scarlett. Counsel noted that the employing establishment withdrew her limited-duty position when it received OWCP's proposed termination of her compensation. Appellant tried to resume her regular employment, but experienced panic attacks and her physicians advised her not to work. Counsel contended that she sustained a recurrence of disability due to the withdrawal of her modified employment. He also asserted that Dr. Doyle's report established that she has a disabling employment-related psychiatric condition and that Dr. Askin found that she might have a somatoform disorder. Counsel advised that Dr. Askin found it was not appropriate for appellant to contend with violent patients.

[7] OWCP noted that appellant had not submitted probative medical evidence that she sustained a psychological condition due to her February 17, 2016 work injury.

[8] On June 28, 2017 Dr. Doyle again discussed the history of injury and medical evidence of record. He asserted that due to the third assault on September 4, 2015, appellant sustained an aggravation of preexisting psychiatric disorders and opined that the aggravation precipitated PTSD. Dr. Doyle opined that she was totally disabled from employment.

By decision dated July 13, 2017, OWCP's hearing representative affirmed the March 22, 2017 decision. He found that Dr. Askin's opinion constituted the weight of the evidence and established that appellant had no residuals of her accepted left knee contusion and sprain. The hearing representative noted that OWCP was separately adjudicating whether she sustained an emotional condition due to the August 1, 2009, March 18, 2011, and September 4, 2015 employment incidents. He thus found that considering her emotional condition claim would duplicate the other claim. The hearing representative also found that OWCP was separately considering appellant's notice of recurrence of disability as a new claim.

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.[9] After it has determined that an employee has disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.[10] Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.[11]

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.[12] To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.[13]

ANALYSIS -- ISSUE 1

OWCP accepted that appellant sustained a left knee contusion and a sprain of the left anterior cruciate ligament due to a September 4, 2015 work injury. She returned to part-time, modified employment on July 25, 2016 and to full-time, modified employment in October 2016. Appellant returned to work without restriction on February 13, 2017, but stopped work on February 15, 2017 and filed a notice of recurrence of disability. By decision dated March 22, 2017, OWCP terminated her wage-loss compensation and medical benefits effective that date based on the report of Dr. Askin, the second opinion physician.

The Board finds that OWCP properly terminated appellant's wage-loss compensation and medical benefits as the opinion of Dr. Askin constitutes the weight of the evidence and establishes that she had no further residuals of her work injury effective March 22, 2017.[14]

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[9] *See S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005).

[10] *See I.J.*, 59 ECAB 408 (2008); *Elsie L. Price*, 54 ECAB 734 (2003).

[11] *See J.M.*, 58 ECAB 478 (2007); *Del K. Rykert*, 40 ECAB 284 (1988).

[12] *See T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

[13] *See Kathryn E. Demarsh, id.; James F. Weikel*, 54 ECAB 660 (2003).

[14] *See A.H.*, Docket No. 16-1828 (issued August 17, 2017).

On December 22, 2016 Dr. Askin discussed appellant's history of the September 4, 2015 work injury and reviewed the medical evidence of record, including the results of diagnostic testing. He found that the most recent MRI scan demonstrated no significant findings. Dr. Askin found no effusion, patellar subluxation, laxity, or reduced sensation on examination, but noted that appellant had some anteromedial joint line tenderness. He found that the accepted conditions had resolved and that her continued subjective complaints might indicate perseveration. Dr. Askin provided rationale for his opinion by explaining that there were no objective examination findings of the accepted employment injury and that her left knee was the equivalent of her right knee with no "clinical imperfections." He found that appellant could resume her usual employment, but recommended against her restraining violent patients in order to prevent future injury, noting that such action was outside of her normal job description. Dr. Askin further found that she did not need surgery for her left knee as she had no further left knee condition. He recommended physical training if appellant was going to engage with aggressive patients, again noting that such action did not seem required for a staff nurse position. Dr. Askin provided a thorough review of the factual and medical background and accurately summarized the relevant medical evidence. Moreover, he provided detailed findings on examination and reached conclusions regarding appellant's condition which comported with his findings.[15] Consequently, Dr. Askin's opinion is entitled to the weight of the evidence and establishes that she had no further disability or need for medical treatment due to her employment injury of a left knee contusion and strain of the anterior cruciate ligament after March 22, 2017.[16]

The remaining evidence of record submitted prior to OWCP's termination of appellant's compensation is insufficient to demonstrate that she had continuing disability or need for medical treatment due to her September 4, 2015 work injury. On August 8, 2016 Dr. Harwood noted that she had undergone extensive physical therapy and a steroid injection after an unremarkable left knee MRI scan. He found no tenderness, effusion, laxity, instability, or locking on examination and recommended appellant return to her usual employment. Dr. Harwood noted that she was fearful of return to work and having to break up altercations with psychiatric patients, and referred her for an FCE, which demonstrated that she could perform medium work. On October 10, 2016 he indicated that both of appellant's left knee MRI scans were unremarkable demonstrating only mild chondromalacia. Dr. Harwood found that she had pain out of proportion to objective findings. He opined that appellant could perform medium work in accordance with the FCE. Dr. Harwood, however, did not specifically attribute her work restrictions to the September 4, 2015 work injury or identify the diagnosed condition that necessitated the work restrictions. Consequently, his opinion is of diminished probative value.

Dr. Reiner, on October 10, 2016, found clicking, swelling, and popping of the left knee. He diagnosed internal derangement of the left knee and a possible occult meniscal tear. Dr. Reiner did not, however, specifically address causation. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of

[15] *See Pamela K. Guesford*, 53 ECAB 726 (2002).

[16] *See S.W.*, Docket No. 17-0215 (issued September 19, 2017).

causal relationship.[17] Additionally, Dr. Reiner did not address the relevant issue of whether appellant was disabled from work due to her accepted injury.[18]

In a report dated October 19, 2016, Dr. Scarlett discussed appellant's history of a work injury breaking up an altercation between patients. He noted that she had continued complaints of left knee pain and difficulty with activities, and disagreed with Dr. Harwood's finding that she could resume her usual employment. Dr. Scarlett attributed the findings on the MRI scan study chondromalacia, a small cyst, and small effusions to the accepted work injury. OWCP, however, only accepted appellant's claim for a left knee contusion and left anterior cruciate ligament sprain. Where a claimant alleges that a condition not accepted or approved was due to her employment injury, she bears the burden of proof to establish that the condition is causally related to the employment injury through the submission of rationalized medical evidence.[19] Dr. Scarlett, however, did not provide any rationale for his opinion that the work injury caused the findings on the left knee MRI scan study. Medical conclusions unsupported by rationale are of little probative value.[20]

Dr. Reiner, on December 20, 2016, provided left knee examination findings of synovitis, tenderness, crepitus, and clicking. He diagnosed left knee internal derangement and a possible tear and recommended arthroscopic surgery. In a report dated February 14, 2017, Dr. Reiner diagnosed internal derangement of the left knee with a possible occult meniscal tear and chondromalacia patella. On examination he found synovitis, crepitus, and clicking of the left knee with quadriceps weakness. Dr. Reiner disagreed with Dr. Askin's finding that appellant did not require further treatment and could return to her usual employment. As discussed, however, OWCP did not accept internal derangement of the left knee as work related, and Dr. Reiner has not provided any rationale explaining how the condition resulted from the September 4, 2015 employment injury.[21] Consequently, his opinion is of diminished probative value.

The Board finds that the weight of the evidence, as represented by Dr. Askin the second opinion physician, establishes that appellant had no employment-related disability or need for medical treatment, effective March 22, 2017, the date OWCP terminated her compensation.[22]

On appeal counsel asserts that a conflict exists between Dr. Askin and appellant's attending physicians. He further contends that Dr. Askin's opinion is contradictory and not well reasoned. As discussed, however, Dr. Askin provided rationale for his opinion that appellant had no further disability or need for medical treatment due to her accepted work injury. Dr. Harwood and Dr. Reiner did not sufficiently explain how she had continued work restrictions or need for

[17] *See S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Conard Hightower*, 54 ECAB 796 (2003).

[18] *Carol A. Lyles*, 57 ECAB 265 (2005) (whether a particular injury caused an employee disability from employment is a medical issue which must be resolved by competent medical evidence).

[19] *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

[20] *Willa M. Frazier*, 55 ECAB 379 (2004); *Jimmy H. Duckett*, 52 ECAB 332 (2001).

[21] *See E.C.*, Docket No. 15-1943 (issued May 5, 2016).

[22] *See A.H.*, Docket No. 16-1828 (issued August 17, 2017).

treatment for her left knee contusion and sprain. Dr. Diamond addressed only the extent of appellant's permanent impairment. Consequently, their opinions are insufficient to create a conflict with the opinion of Dr. Askin.[23]

Regarding counsel's argument that Dr. Askin found that appellant was unable to manage violent patients, he indicated that in order to prevent future injury she should not engage in altercations with patients, noting that this appeared outside her job description. A fear of future injury, however, is not compensable under FECA.[24]

Counsel also maintains that Dr. Askin found a possible somatoform disorder, and that he submitted medical evidence demonstrating that appellant had a psychiatric condition due in part to the September 4, 2015 work injury. OWCP, however, is adjudicating the emotional aspect of the claim under a separate OWCP file number.

Counsel additionally contends that the employing establishment withdrew appellant's limited-duty employment and she sustained a recurrence of disability. The evidence establishes that she resumed her usual employment on February 13, 2017, but stopped work on February 15, 2017 and filed a notice of recurrence of disability. OWCP is adjudicating the notice of recurrence of disability as an occupational disease claim under a separate file number.

LEGAL PRECEDENT -- ISSUE 2

Once OWCP properly terminates a claimant's compensation benefits, he or she has the burden of proof to establish that he or she has continuing disability after that date related to the accepted injury.[25] To establish 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 medical and factual background, supporting such causal relationship.[26] Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.[27] A claimant must establish by the weight of the reliable, probative, and substantial evidence that he or she had an employment-related disability which continued after termination of compensation benefits.[28]

[23] *See S.P.*, Docket No. 16-0341 (issued November 7, 2016).

[24] *See M.S.*, Docket No. 17-0105 (issued December 7, 2017).

[25] *See T.M.*, Docket No. 17-0915 (issued August 29, 2017); *Manuel Gill*, 52 ECAB 282 (2001).

[26] *Id*.

[27] *Paul Foster*, 56 ECAB 208 (2004); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[28] *See J.A.*, Docket No. 15-0908 (issued August 6, 2015).

ANALYSIS -- ISSUE 2

Given the Board's finding that OWCP properly relied upon the opinion of Dr. Askin in terminating wage-loss compensation and medical benefits, the burden of proof shifted to appellant to establish that she remained entitled to compensation after that date.[29]

Appellant submitted February 23 and June 28, 2017 reports from Dr. Doyle diagnosing a psychiatric condition due in part to her September 4, 2015 work injury. Dr. Doyle also noted that she had a history of two other assaults at work. OWCP, however, is separately adjudicating appellant's emotional condition arising from her history of assaults at work. Additionally, this evidence is not relevant to the pertinent issue of whether she had any continuing employment-related disability or need for medical treatment after March 22, 2017. Appellant, therefore, has not met her burden to proof to establish employment-related disability after March 22, 2017.

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 wage-loss compensation and medical benefits, effective March 22, 2017, as she had no further disability or need for medical treatment causally related to her September 4, 2015 employment injury. The Board further finds that she has not established continuing employment-related disability after March 22, 2017.

[29] *See Manuel Gill, supra* note 25.

ORDER

IT IS HEREBY ORDERED THAT the July 13, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 16, 2018
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board