

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

F.B., Appellant

and

**U.S. POSTAL SERVICE, NORTH TRYON
STATION, Charlotte, NC, Employer**

)
)
)
) **Docket No. 25-0332**
) **Issued: April 24, 2025**
)
)

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 13, 2025 appellant filed a timely appeal from December 10 and 20, 2024 merit decisions of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective December 10, 2024, as she no longer had disability or residuals causally related to her accepted August 16, 2005 employment injury; and (2) whether appellant has met her burden of proof to establish continuing disability or residuals,

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the December 20, 2024 decision, OWCP received additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

on or after December 10, 2024, causally related to the accepted August 16, 2005 employment injury.

FACTUAL HISTORY

On August 17, 2005 appellant, then a 36-year-old lead sales and services associate, filed a traumatic injury claim (Form CA-1) alleging that on August 16, 2005 she sustained emotional stress, anxiety, migraine headache, and pain in her chest and right hand due to a threatening verbal and physical altercation with a customer while in the performance of duty. She stopped work on August 18, 2005. OWCP accepted the claim for acute post-traumatic stress disorder (PTSD). It paid appellant wage-loss compensation on the supplemental rolls commencing October 27, 2005, and on the periodic rolls commencing November 27, 2005.

OWCP subsequently received a series of reports from Janet L. Cross, an adult psychiatric-mental health clinical and certified addiction registered nurse, dated from May 22, 2014.

Ms. Cross continued to provide treatment notes dated April 23, 2020 through October 26, 2023.

In development letters dated February 16 and April 10, 2024, OWCP requested that appellant submit a medical report providing an opinion with reasonable medical certainty that she remained disabled due to her accepted employment injury. It explained that nurse practitioners and physician assistants were not considered qualified physicians under FECA. OWCP provided appellant with an attending physician's report (Form CA-20) and afforded her 30 days to respond.

On March 29, 2024 appellant indicated that she did not have a physician. On April 30, 2024 OWCP referred appellant, a SOAF, the medical record, and a series of questions to Dr. Vincent A. Izediuno, a Board-certified psychiatrist, for a second opinion evaluation to determine the nature and extent of appellant's employment-related residuals and disability.

Appellant continued to submit treatment notes from Ms. Cross dated November 30, 2023 through January 4, 2024.

In a May 21, 2024 second opinion report, Dr. Izediuno noted his review of the SOAF and his evaluation findings. He diagnosed PTSD, as resolved, and explained that she had no residuals or symptoms of PTSD such as daytime reliving of the traumatic event, nightmares, emotional numbing, nor hyperarousal. Dr. Izediuno found that appellant was capable of performing her date-of-injury position. He determined that she was at her baseline level of function without medication or therapy.

On June 28, 2024 OWCP provided additional medical records with an updated SOAF dated June 28, 2024 to Dr. Izediuno for a supplemental report addressing appellant's ongoing work-related residuals and disability from work due to the accepted employment condition.

In his August 12, 2024 supplemental report, Dr. Izediuno maintained that appellant no longer had disability or residuals due to her accepted condition. He completed a work capacity evaluation (Form OWCP-5a) and found that appellant could return to work eight hours a day in her date-of-injury position.

In a notice dated November 8, 2024, OWCP proposed to terminate appellant's wage-loss compensation and medical benefits based on Dr. Izediuno's May 21 and August 12, 2024 reports. It afforded her 30 days to submit additional evidence or argument challenging the proposed termination. No response was received.

By decision dated December 10, 2024, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date. It found that Dr. Izediuno's opinion constituted the weight of the medical opinion evidence and established that appellant no longer had disability or residuals causally related to the accepted August 16, 2005 employment injury.

OWCP continued to receive evidence.

On December 17, 2024 appellant requested reconsideration. In a December 17, 2024 report, Dr. Thomas Fitzgerald, a Board-certified psychiatrist, provided a history of injury on August 16, 2005 and diagnosed PTSD and acute stress disorder. He listed appellant's ongoing symptoms as intrusive memories of the incident, avoidance of reminders of the traumatic event, negative alterations in cognition and mood with persistent exaggerated negative beliefs and emotional states contributing to functional impairment. Dr. Fitzgerald found that her continued social withdrawal and panic attacks aligned with the criteria for PTSD and resulted from the accepted employment injury.

By decision dated December 20, 2024, OWCP denied modification.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify modification or termination of an employee's benefits.³ 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.⁴ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁵ The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁶ To

³ *C.F.*, Docket No. 21-0003 (issued January 21, 2022); *J.T.*, Docket No. 19-1723 (issued August 24, 2020); *S.P.*, Docket No. 19-0196 (issued June 24, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁴ *S.P.*, Docket No. 22-0393 (issued August 26, 2022); *A.T.*, Docket No. 20-0334 (issued October 8, 2020); *E.B.*, Docket No. 18-1060 (issued November 1, 2018).

⁵ *S.P.*, *id.*; *C.R.*, Docket No. 19-1132 (issued October 1, 2020); *G.H.*, Docket No. 18-0414 (issued November 14, 2018).

⁶ *S.P.*, *id.*; *E.J.*, Docket No. 20-0013 (issued November 19, 2020); *L.W.*, Docket No. 18-1372 (issued February 27, 2019).

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.⁷

ANALYSIS -- ISSUE 1

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective December 10, 2024, as she no longer had disability or residuals causally related to her accepted August 16, 2005 employment injury.

In his May 21 report, Dr. Izediuno, noted his review of the SOAF and his evaluation findings. He diagnosed PTSD, as resolved, and explained that she had no residuals or symptoms of PTSD such as daytime reliving of the traumatic event, nightmares, emotional numbing, nor hyperarousal. Dr. Izediuno found that appellant was capable of performing her date-of-injury position. He determined that she was at her baseline level of function without medication or therapy. In his August 12, 2024 supplemental report, Dr. Izediuno maintained that appellant no longer had disability or residuals due to her accepted condition. He completed a work capacity evaluation (Form OWCP-5a) and found that appellant could return to work eight hours a day in her date-of-injury position.

Dr. Izediuno based his opinion on a prior factual and medical history of detailed findings on prior examination.⁸ He further provided a sufficiently rationalized opinion that appellant was no longer disabled as she had no further residuals causally related to her accepted employment injury, explaining that findings on examination demonstrated no continued employment-related condition.⁹ Accordingly, the Board finds that Dr. Izediuno's second opinion reports represent the weight of the medical evidence in terminating appellant's wage-loss compensation and medical benefits.¹⁰

The Board, therefore, finds that OWCP properly terminated appellant's wage-loss compensation and medical benefits, effective December 10, 2024.

LEGAL PRECEDENT -- ISSUE 2

Once OWCP properly terminates a claimant's compensation benefits, the burden shifts to appellant to establish continuing disability after that date causally related to the accepted injury.¹¹

⁷ *C.F.*, *supra* note 3; *M.E.*, Docket No. 20-0877 (issued August 17, 2021); *L.S.*, Docket No. 19-0959 (issued September 24, 2019); *R.P.*, Docket No. 18-0900 (issued February 5, 2019).

⁸ *See M.R.*, Docket No. 23-1052 (issued March 5, 2024); *S.V.*, Docket No. 23-0474 (issued August 1, 2023); *J.S.*, Docket No. 20-1409 (issued September 1, 2021).

⁹ *J.P.*, Docket No. 23-0075 (issued March 26, 2023); *J.S.*, *id.*

¹⁰ *H.J.*, Docket No. 24-0879 (issued October 29, 2024); *M.H.*, Docket No. 24-0470 (issued July 25, 2024); *R.P.*, Docket No. 20-0891 (issued September 20, 2021); *N.G.*, Docket No. 18-1340 (issued March 6, 2019); *A.F.*, Docket No. 16-0393 (issued June 24, 2016).

¹¹ *S.G.*, Docket No. 23-0652 (issued October 11, 2023); *V.W.*, Docket No. 20-0693 (issued June 2, 2021); *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *S.M.*, Docket No. 18-0673 (issued January 25, 2019); *J.R.*, Docket No. 17-1352 (issued August 13, 2018); *Manuel Gill*, 52 ECAB 282 (2001).

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.¹²

Section 8123(a) of FECA provides, in pertinent part: “If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician (known as a referee physician or an impartial medical examiner (IME)) who shall make an examination.”¹³ This is called an impartial medical examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case.¹⁴ When there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an IME for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.¹⁵

ANALYSIS -- ISSUE 2

The Board finds that this case is not in posture for decision regarding whether appellant has met her burden of proof to establish continuing disability or residuals on or after December 10, 2024 causally related to her accepted August 16, 2005 employment injury.

Following the termination of her wage-loss compensation and medical benefits, effective December 10, 2024, appellant submitted additional medical evidence.

In a report dated December 17, 2024, Dr. Fitzgerald provided a history of injury describing the events of August 16, 2005, and diagnosed PTSD. He listed appellant’s ongoing symptoms as intrusive memories of the incident, avoidance of reminders of the traumatic event, negative alterations in cognition and mood with persistent exaggerated negative beliefs and emotional states contributing to functional impairment. Dr. Fitzgerald found that her continued social withdrawal and panic attacks aligned with the criteria for PTSD and resulted from the accepted employment injury.

As discussed, Dr. Izediuno, the second opinion examiner, found that appellant no longer had disability or residuals due to her accepted employment-related PTSD. As the reports of Drs. Izediuno and Fitzgerald are of virtually equal weight, the Board finds that a conflict in medical opinion exists regarding whether appellant has established continuing employment-related

¹² *Id.*

¹³ 5 U.S.C. § 8123(a).

¹⁴ 20 C.F.R. § 10.321; *P.B.*, Docket No. 20-0984 (issued November 25, 2020); *R.C.*, 58 ECAB 238 (2006).

¹⁵ See *W.N.*, Docket No. 21-0123 (issued December 29, 2021); *A.G.*, Docket No. 21-0315 (issued December 29, 2021); *R.R.*, Docket No. 19-0086 (issued February 10, 2021); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts*, 31 ECAB 1010 (1980).

disability and/or residuals on or after December 10, 2024, causally related to the accepted August 16, 2005 employment injury.¹⁶

The Board shall, therefore, remand the case for OWCP to refer appellant to an IME, pursuant to 5 U.S.C. § 8123(a), to determine whether she has met her burden of proof to establish continuing employment-related disability or residuals on or after December 10, 2024 due to her accepted employment injury. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective December 10, 2024, as she no longer had disability or residuals causally related to her accepted August 16, 2005 employment injury. The Board further finds that the case is not in posture for decision regarding whether appellant has met her burden of proof to establish continuing disability or residuals on or after December 10, 2024 causally related to her accepted August 16, 2005 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the December 10, 2024 decision of the Office of Workers' Compensation Programs is affirmed. The December 20, 2024 decision of the Office of

¹⁶ *Id.* See also *R.M.*, Docket No. 21-1150 (issued April 5, 2022); *J.B.*, Docket No. 20-0147 (issued September 20, 2021).

Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: April 24, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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