

ISSUE

The issue is whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective August 21, 2023, as he no longer had residuals or disability causally related to his accepted January 26, 1988 employment injury.

FACTUAL HISTORY

On March 12, 1988 appellant, then a 36-year-old customs inspector, filed a traumatic injury claim (Form CA-1) alleging that on January 26, 1988 he sustained injury while in the performance of duty. He stopped work on the date of injury. OWCP initially accepted appellant's claim for a left ankle fracture. On July 12, 1989 it expanded the acceptance of appellant's claim to include post-traumatic stress disorder (PTSD). OWCP paid appellant wage-loss compensation for disability from work on the periodic rolls, effective June 16, 2002.

On December 9, 2022, OWCP referred the medical record, a statement of accepted facts, and a series of questions to Dr. Peter E. Sass, a Board-certified psychiatrist, for a second opinion evaluation regarding appellant's psychiatric condition.

In an undated report received by OWCP on January 30, 2023, Dr. Sass noted his review of the medical record and detailed appellant's factual and medical history, including the treatment for his accepted January 26, 1988 employment injury. Dr. Sass noted that appellant had been diagnosed with PTSD. He further stated, "However, review of the clinical records reveals that he was also diagnosed with an adjustment disorder with mixed features[,] [w]hich I believe is the more likely diagnosis, given circumstances of [appellant's] injury and psychiatric diagnoses that typically result from an orthopedic injury under these conditions." Dr. Sass indicated that it was unclear how long appellant had received psychiatric treatment from a psychiatrist he saw on a monthly basis, but he suspected that he had received psychiatric treatment for one or two years. In response to OWCP's request to review "nonindustrial situations" and evaluate their contribution, if any, to appellant's condition, he responded that there was no nonindustrial stress situation that had contributed to appellant's condition. Dr. Sass responded to OWCP's request to describe the results of a mental status examination and any psychological/personality testing performed, that no such examination/testing was performed. He opined that appellant had a depressive episode secondary to multiple medical conditions that did not include the ankle fracture from the January 26, 1988 employment injury. Dr. Sass indicated that appellant had orthopedic problems at multiple other sites, hypertension, chronic obstructive pulmonary disease, status post stroke, and multiple sclerosis (MS). Dr. Sass opined that appellant was in a physically debilitated state which was "causally related to the major depressive episode and not to the accepted work injury or any other employment factors." He further stated that appellant's work injury did not aggravate any underlying or preexisting condition. Dr. Sass opined that he had previous psychiatric symptomatology many years ago referable only to the broken ankle sustained at work, and that his work-related psychiatric conditions had completely resolved. He stated that appellant's "psychiatric symptoms completely resolved from this work-related injury many years ago." Dr. Sass stated that appellant could return to his job as a customs inspector from a psychiatric point of view, noting that his psychiatric symptomatology had resolved from the January 26, 1988 employment injury. He advised that several other severe medical conditions had arisen which caused appellant to

become psychiatrically disabled, noting that his current psychiatric symptomatology or disability was not connected in anyway with the January 26, 1988 employment injury. Dr. Sass stated, “Therefore, it is my opinion that the claimant is capable of returning to his date of injury job as a customs inspector from a psychiatric point of view.” He indicated that appellant did not require any further treatment for a work-related psychiatric condition as he did not currently have a psychiatric condition stemming from the January 26, 1988 employment injury. In a January 27, 2023 Form OWCP-5c, Dr. Sass noted that appellant could work eight hours per day in his usual job without restrictions.

On February 7, 2023 OWCP referred the case record to Dr. Lawrence I. Barr, an osteopath and Board-certified orthopedic surgeon, for an opinion regarding the status of appellant’s injury-related orthopedic condition.

In a March 13, 2023 report, Dr. Barr noted his review of the medial record. He indicated that appellant suffered a work injury to his left ankle and underwent surgery. Dr. Barr noted that appellant had persistent pain in his left ankle and was not a surgical candidate. He opined that the fracture had healed and that appellant was not in need of any treatment or future care for “this resolved condition.” Dr. Barr advised that appellant was not ambulatory and used a motorized wheelchair for “unrelated issues.” He stated, “He can resume work in regards [sic] to the ankle injury; however, he is unable to work for unrelated issues.”

On June 1, 2023 OWCP expanded the accepted conditions of appellant’s claim to include adjustment disorder with anxiety and depression.

In a June 20, 2023 notice, OWCP informed appellant that it proposed to terminate his wage-loss compensation and medical benefits relating to his orthopedic condition as he no longer had residuals or disability causally related to his accepted January 26, 1988 employment injury from an orthopedic standpoint. It found that the weight of the medical opinion evidence regarding work-related disability and residuals relating to his orthopedic condition rested with the opinion of Dr. Barr, OWCP’s referral physician. OWCP afforded appellant 30 days to submit additional evidence or argument.

In a separate June 20, 2023 notice, OWCP informed appellant that it proposed to terminate his wage-loss compensation and medical benefits relating to his psychiatric condition as he no longer had residuals or disability causally related to his accepted January 26, 1988 employment injury from a psychiatric standpoint. It found that the weight of the medical opinion evidence regarding work-related disability and residuals relating to his psychiatric condition rested with the opinion of Dr. Sass, OWCP’s referral physician. OWCP afforded appellant 30 days to submit additional evidence or argument.

By decision dated August 21, 2023, OWCP terminated appellant’s wage-loss compensation and medical benefits, effective that date, as he no longer had residuals or disability causally related to his accepted January 26, 1988 employment injury from an orthopedic or psychiatric standpoint. It accorded the weight of the medical evidence to Drs. Barr and Sass.

On August 30, 2023 appellant, through counsel, requested an oral hearing before a representative of OWCP’s Branch of Hearings and Review.

By decision dated May 9, 2025, OWCP's hearing representative affirmed OWCP's August 21, 2023 termination decision.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.³ After it has determined that, an employee has a disability causally related to his or her employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.⁴ Its 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 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

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits.

In a June 6, 2022 report, Dr. Barr, an OWCP referral physician, reported physical examination findings and diagnosed fractured left ankle, MS, chronic obstructive pulmonary disease, hypertension, history of cerebrovascular accident, degenerative disc disease of the cervical and lumbar spine, and left shoulder surgery. He indicated that appellant was not in need of any further treatment for his accepted left ankle injury. Dr. Barr opined that appellant had reached maximum medical improvement and that his work-related condition had resolved. He advised that appellant was incapable of working, noting that the current disability was not related to the work injury. Dr. Barr indicated that appellant was in a motorized wheelchair, had profound right leg weakness due to MS, and had a stroke which apparently affected his right arm. In a June 6, 2022 Form OWCP-5c, he noted that appellant could not perform his usual job for eight hours per day and could not work for eight hours per day with restrictions. In a March 13, 2023 supplemental report, Dr. Barr indicated that appellant suffered a work injury to his left ankle and underwent surgery. He noted that appellant had persistent pain in his left ankle and was not a surgical candidate. Dr. Barr opined that the fracture had healed and that appellant was not in need of any treatment or future care for "this resolved condition." He advised that

³ *Z.D.*, Docket No. 19-0662 (issued December 5, 2019); *see R.P.*, Docket No. 17-1133 (issued January 18, 2018); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁴ *See R.P.*, *id.*; *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

⁵ *See P.T.*, Docket No. 21-0328 (issued May 2, 2022); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

⁶ *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *A.P.*, Docket No. 08-1822 (issued August 5, 2009). *See also Furman G. Peake*, 41 ECAB 361, 364 (1990).

⁷ *T.C.*, Docket No. 20-1163 (issued July 13, 2021); *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002); *Furman G. Peake*, *id.*

appellant was not ambulatory and used a motorized wheelchair for “unrelated issues.” Dr. Barr stated, “He can resume work in regards [sic] to the ankle injury, however he is unable to work for unrelated issues.”

The Board finds that Dr. Barr did not sufficiently explain how or why the accepted orthopedic condition, left ankle fracture, had ceased without disability or residuals as of August 21, 2023. Dr. Barr did not describe the accepted orthopedic condition in any detail or adequately explain why appellant’s continuing left ankle problems had no connection to the accepted January 26, 1988 employment injury. The Board has held that a medical report is of limited probative value if it contains a conclusion which is unsupported by sufficient medical rationale.⁸ The Board thus finds that OWCP failed to meet its burden of proof to terminate appellant’s wage-loss compensation and medical benefits relating to his accepted orthopedic condition.⁹

In an undated report received by OWCP on January 30, 2023, Dr. Sass, an OWCP referral physician, noted his review of the medical record. In response to OWCP’s request to review “nonindustrial situations” and evaluate their contribution, if any, to appellant’s condition, he responded that there was no nonindustrial stress situation that had contributed to appellant’s condition. In response to OWCP’s request to describe the results of a mental status examination and any psychological/personality testing performed, Dr. Sass responded that no such examination/testing was performed. He opined that appellant was in a physically debilitated state which was “causally related to the major depressive episode and not to the accepted work injury or any other employment factors.” Dr. Sass indicated that appellant had previous psychiatric symptomatology many years prior, referable only to the broken ankle sustained at work and that his work-related psychiatric conditions had completely resolved. He stated that appellant’s “psychiatric symptoms completely resolved from this work-related injury many years ago.” Dr. Sass opined that appellant could return to his job as a customs inspector from a psychiatric point of view, noting that his psychiatric symptomatology had resolved from the January 26, 1988 employment injury. In a January 27, 2023 Form OWCP-5c, he indicated that appellant could work eight hours per day in his usual job without restrictions.

The Board finds that Dr. Sass did not sufficiently explain how or why appellant’s accepted psychiatric condition had ceased without disability or residuals as of August 21, 2023. He provided a limited discussion of appellant’s present psychiatric condition and did not adequately explain why he ceased to have psychiatric residuals/disability related to the January 26, 1988 employment injury. As explained above, the Board has held that a medical report is of limited probative value if it contains a conclusion which is unsupported by sufficient medical rationale.¹⁰ The Board thus finds that OWCP failed to meet its burden of proof to

⁸ *N.R.*, Docket No. 25-0861 (issued December 23, 2025); *C.G.*, Docket No. 23-0013 (issued April 24, 2023); *C.B.*, Docket No. 20-0629 (issued May 26, 2021); *A.G.*, Docket No. 20-0187 (issued December 31, 2020); *see J.W.*, Docket No. 19-1014 (issued October 24, 2019); *S.W.*, Docket No. 18-0005 (issued May 24, 2018).

⁹ *See J.R.*, Docket No. 25-0710 (issued August 28, 2025); *C.B.*, (*S.B.*), Docket No. 19-1629 (issued April 7, 2020); *V.T.*, Docket No. 18-0881 (issued November 19, 2018); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

¹⁰ *See supra* note 8.

terminate appellant's wage-loss compensation and medical benefits relating to his accepted psychiatric condition.¹¹

As OWCP did not establish that appellant ceased to have residuals or disability causally related to his accepted January 26, 1988 employment injury from an orthopedic or psychiatric standpoint as of August 21, 2023, it failed to meet its burden of proof to terminate his wage-loss compensation and medical benefits.

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits.

ORDER

IT IS HEREBY ORDERED THAT the May 9, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: February 24, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

¹¹ See *supra* note 9.