United States Department of Labor
Employees' Compensation Appeals Board

R.C., Appellant	)	
and	)	**Docket No. 26-0309**
	)	**Issued: June 11, 2026**
DEPARTMENT OF THE NAVY, CHARLESTON NAVAL SHIPYARD, Charleston, SC, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On February 5, 2026 appellant filed a timely appeal from an August 22, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective March 31, 2025, as he no longer had disability

[1] 5 U.S.C. § 8101 *et seq.*

[2] The Board notes that, following the August 22, 2025 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.*

or residuals causally related to his accepted employment injury; and (2) whether appellant has met his burden of proof to establish continuing disability and/or residuals with regard to the accepted physical conditions, on or after March 31, 2025, causally related to the accepted employment injury.

FACTUAL HISTORY

On June 29, 1992 appellant, then a 28-year-old sandblaster/painter, filed an occupational disease claim (Form CA-2) alleging that he developed macronodular cirrhosis and neurocognitive dysfunction due to factors of his federal employment, including the inhalation of absorbing paints, chemicals, and solvents. He noted that he first became aware of his condition in December 1990 and realized its relation to factors of his federal employment on January 8, 1991. OWCP initially accepted the claim for temporary aggravation of cirrhosis, ceasing no later than May 9, 1994, and neurocognitive dysfunction. It later expanded its acceptance of the claim to include hepatitis and acute hepatitis C without coma. OWCP paid appellant wage-loss compensation on the periodic rolls effective June 14, 1992.

In reports dated January 8, 2016 through December 1, 2020, Dr. Jennifer Goddard, a family practitioner, diagnosed neurocognitive impairment, hepatitis C with macronodular cirrhosis, and depression due to exposure to chemical fumes. She related that appellant's condition had not improved since 1991 and opined that he was unlikely to have improvement that would allow him to be gainfully employed.

In an attending physician's report (Form CA-20) dated December 1, 2020, Dr. Goddard noted findings of impaired liver function, neurocognitive deficits that had not improved in 29 years, permanent neurological impairment, major depressive disorder, and non-alcohol related cirrhosis. She indicated that appellant had been totally disabled since January 8, 1991, and required assistance with his affairs.

A May 7, 2019 abdominal ultrasound demonstrated stable altered liver echogenicity that may reflect mild hepatic steatosis and/or chronic hepatocellular disease.

On July 2, 2024 OWCP referred appellant, together with a statement of accepted facts (SOAF), the medical record, and a series of questions to Dr. Temisan Etikerentse, a Board-certified internist, for a second opinion evaluation to determine whether he continued to suffer from disability and/or residuals causally related to his accepted work-related injury.

In a July 18, 2024 report, Dr. Etikerentse noted his review of the SOAF and appellant's medical records. He performed a physical examination and observed distended veins in the abdominal wall and difficulty with serial sevens past 86, but an otherwise normal examination. Dr. Etikerentse diagnosed acute hepatitis C without coma, cirrhosis of liver, hepatitis unspecified, and persistent mental disorders due to conditions identified elsewhere. He indicated that appellant's examination findings were normal, noting a lack of gastrointestinal complaints, and that his cognitive complaints should be evaluated by an appropriate specialist. Dr. Etikerentse opined that he had no active residuals from the accepted conditions of cirrhosis or hepatitis, noting that his medical records and diagnostic testing demonstrated that those conditions had resolved.

He indicated that appellant was capable of performing the duties of his date-of-injury position as a painter without restrictions, and that no further medical treatment was necessary.

On September 5, 2024 OWCP referred appellant, together with a SOAF, the medical record, and a series of questions to Dr. Michael Taormina, a Board-certified neurologist, for a second opinion evaluation to determine whether he continued to suffer from disability and/or residuals causally related to his accepted work-related injury.

In an October 16, 2024 report, Dr. Taormina reviewed the SOAF and appellant's medical records and noted his subjective complaints of persistent forgetfulness, headache, numbness, tingling, memory loss, depression, anxiety, and difficulty concentrating. He performed a neurological examination, which he indicated was normal, and diagnosed other specified mental disorders due to known physiological condition. Dr. Taormina opined that appellant had no residuals of the accepted conditions, noting that there were no objective findings of impaired cognitive function. He opined that appellant was capable of performing the duties of his date-of-injury position as a painter without restrictions, and that no further medical treatment was necessary as "his conditions have resolved or never existed in terms of cognitive dysfunction."

By notice dated February 28, 2025, OWCP advised appellant that it proposed to terminate his wage-loss compensation and medical benefits based on the opinions of Drs. Etikerentse and Taormina that the accepted employment-related conditions had ceased without residuals or disability. It afforded him 30 days to submit additional evidence or argument challenging the proposed termination.

In a March 22, 2025 statement, appellant's mother related that appellant was incapable of submitting the information requested in the February 28, 2025 proposal to terminate without assistance. She attached a series of medical records and indicated that he continued to experience memory loss, sleep disturbances, delayed speech articulation, anxiety, impaired learning, and agitation.

In a March 12, 2025 medical report, Dr. Nathan J. Shores, Board-certified in gastroenterology, transplant hepatology, and internal medicine, diagnosed active cirrhosis, fatty liver, and insomnia. He recommended dietary modifications.

In a narrative medical report dated March 27, 2025, Dr. William Weirs, Board-certified in emergency medicine, noted that he evaluated appellant on March 14, 2025. He performed a physical examination and observed slow responses to questions, flat affect, positive Romberg test, mild tremor in the right hand, and difficulty understanding commands, mentally processing instructions, following his finger during ocular motion testing, and staying on task. Dr. Weirs opined that appellant was not mentally capable of gainful employment. He explained that he could not process complex information and would not be able to stay on task long enough to accomplish basic jobs. Dr. Weirs noted that it would be particularly dangerous for him to resume work around paint or other volatile chemicals, which would cause progression of his neurological injuries. He opined that appellant's condition was permanent.

By decision dated March 31, 2025, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date. It found that the opinions of Drs. Etikerentse and

Taormina constituted the weight of the medical opinion evidence and established that appellant no longer had disability or residuals causally related to the accepted employment injury.

On April 29, 2025 appellant, with assistance, requested a review of the written record by a representative of OWCP's Branch of Hearings and Review. In support thereof, he submitted a statement of even date and an undated addendum to Dr. Weirs' March 27, 2025 narrative medical report. Dr. Weirs indicated that appellant's disability was cognitive, not musculoskeletal, in nature. He noted that he did not possess the short- and long-term memory, assessment and planning skills, or safety knowledge required to clean, degrease, and prepare boiler surfaces for painting or to climb in and out of boilers and other machinery. Dr. Weirs explained that chronic exposure to solvents, as in appellant's case, was a known cause of toxic encephalopathy, an irreversible condition. He indicated that he displayed many of the symptoms associated with toxic encephalopathy, including fatigue, irritability, depression, mood disturbances, lack of concentration, short-term memory deficits, and psycho-motor dysfunctions. Dr. Weirs also reiterated that appellant had difficulty following simple commands during his March 14, 2025 evaluation and opined that he was not capable of gainful employment.

By decision dated August 22, 2025, OWCP's hearing representative affirmed the March 31, 2025 termination decision finding that appellant no longer had disability or residuals causally related to his accepted employment injury as of March 31, 2025. The hearing representative also found that the medical evidence of record submitted after the March 31, 2025 termination decision was insufficient to establish continuing disability and/or residuals, on or after March 31, 2025, causally related to the accepted employment injury with regard to the accepted physical conditions.[3]

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.[4] 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.[5] Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.[6]

[3] Additionally, the hearing representative remanded the case for further development regarding continuing disability and/or residuals with regard to appellant's accepted cognitive/mental conditions.

[4] *R.G.*, Docket No. 22-0165 (issued August 11, 2022); *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

[5] *See R.P.*, Docket No. 17-1133 (issued January 18, 2018); *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

[6] *R.L.*, Docket No. 22-1175 (issued May 11, 2023); *M.C.*, Docket No. 18-1374 (issued April 23, 2019); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.[7] 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.[8]

Section 8123(a) of FECA provides that if there is a disagreement between the physician making the examination for the United States and the physician of an employee, the Secretary shall appoint a third physician (known as a referee physician or impartial medical examiner (IME)) who shall make an examination.[9] For a conflict to arise, the opposing physicians' opinions must be of virtually equal weight and rationale.[10] In situations where the case is properly 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.[11]

ANALYSIS -- ISSUE 1

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective March 31, 2025.

Dr. Etikerentse, the second opinion physician, who evaluated appellant's accepted physical conditions, noted his review of the SOAF and the medical record in his July 18, 2024 report. He diagnosed acute hepatitis C without coma, cirrhosis of liver, hepatitis unspecified, and persistent mental disorders due to conditions identified elsewhere. Dr. Etikerentse indicated that the accepted conditions of cirrhosis and hepatitis had resolved. He did not, however, provide sufficient rationale explaining how appellant ceased to have residuals causally related to the accepted physical conditions. 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.[12]

Dr. Taormina, the second opinion physician, who evaluated appellant's accepted cognitive injury, provided an opinion that was not fully in keeping with the SOAF that OWCP provided him to use as a frame of reference in forming his opinion. The SOAF noted that OWCP had accepted appellant's claim for neurocognitive dysfunction. In his October 16, 2024 report, Dr. Taormina

[7] *P.K.*, Docket No. 22-1345 (issued June 28, 2023); *A.G.*, Docket No. 19-0220 (issued August 1, 2019); *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *Furman G. Peake*, 41 ECAB 361, 364 (1990).

[8] *See A.G.*, *id.*; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002).

[9] 5 U.S.C. § 8123(a); *see E.L.,* Docket No. 20-0944 (issued August 30, 2021); *R.S.,* Docket No. 10-1704 (issued May 13, 2011); *S.T.,* Docket No. 08-1675 (issued May 4, 2009); *M.S.*, 58 ECAB 328 (2007).

[10] *P.R.,* Docket No. 18-0022 (issued April 9, 2018).

[11] *See D.M.,* Docket No. 18-0746 (issued November 26, 2018); *R.H.,* 59 ECAB 382 (2008); *James P. Roberts,* 31 ECAB 1010 (1980).

[12] *See V.D.*, Docket No. 26-0229 (issued May 5, 2026); *J.F.*, Docket No. 26-0068 (issued February 24, 2026); *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).

opined that appellant's "conditions have resolved or never existed in terms of cognitive dysfunction."

The Board has held that the findings of an OWCP referral physician must be based on the factual underpinnings of the claim, as set forth in the SOAF.[13] OWCP's procedures dictate that when an OWCP medical adviser, second opinion specialist, or IME renders a medical opinion that does not use the SOAF as the framework in forming his or her opinion, the probative value of the opinion is seriously diminished or negated altogether.[14]

Given his failure to acknowledge and adequately address the accepted cognitive condition, Dr. Taormina's opinion on whether appellant continued to have disability/residuals on or after March 31, 2025, causally related to his accepted work-related conditions is of limited probative value.[15]

As the medical evidence of record is insufficient to establish that appellant no longer had disability or residuals causally related to his accepted January 8, 1991 employment injury, the Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective March 31, 2025.

CONCLUSION

The Board finds that OWCP has not met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective March 31, 2025.[16]

[13] *See K.Y.,* Docket No. 26-0070 (issued February 24, 2026); *A.D.,* Docket No. 20-0553 (issued April 19, 2021).

[14] Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.3a(10) (October 1990). *See K.Y., id.*; *B.B.,* Docket No. 25-0607 (issued August 28, 2025); *C.M.,* Docket No. 24-0581 (issued October 8, 2024); *C.B.,* Docket No. 24-0597 (issued October 8, 2024); *U.R.,* Docket No. 23-0614 (issued September 26, 2024); *V.L.,* Docket No. 24-0739 (issued August 26, 2024); *S.T.,* Docket No. 18-1144 (issued August 9, 2019).

[15] *Supra* notes 13 and 14; *see also S.G.*, Docket No. 26-0185 (issued April 6, 2026).

[16] In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the August 22, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: June 11, 2026
Washington, DC

Alec J. Koromilas, 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