

Due to a conflict in medical opinion the Office referred appellant to Dr. Eric E. Goranson, a Board-certified psychiatrist, for an impartial medical evaluation.¹ In a June 7, 2006 report, Dr. Goranson found there was no current debilitating psychiatric symptomatology and no need for further psychiatric treatment. The Office relied upon Dr. Goranson's opinion to terminate benefits effective November 9, 2006. On June 26, 2007 the Branch of Hearings & Review again set aside the termination of benefits and ordered that wage-loss compensation be reinstated retroactive to November 9, 2006. The hearing representative found that Dr. Goranson had not been provided a complete copy of the record or appellant's initial psychiatric evaluation dated September 16, 1999. The hearing representative instructed the Office to provide Dr. Goranson with appellant's entire medical record, including treatment she received in 1999.

On remand, the Office did not return the case to Dr. Goranson as instructed, but instead issued a February 25, 2008 pretermination notice. It again proposed to terminate benefits based on Dr. Goranson's June 7, 2006 report. While acknowledging the hearing representative's June 26, 2007 instructions, the claims examiner noted that Dr. Goranson had previously provided a complete copy of the file, including all medical records. Moreover, appellant had not provided a copy of Dr. Davis' September 16, 1999 initial evaluation or any other chart notes for medical treatment she reportedly received in 1999. The Office advised appellant that it would base its final decision on the current record if it did not receive a copy of Dr. Davis' initial evaluation or any other 1999 treatment records. During the 30-day period that followed, it received a January 23, 2008 progress report from Dr. Davis. Appellant, however, did not resubmit any of the 1999 treatment records. On March 27, 2008 the Office again terminated compensation and medical benefits based on Dr. Goranson's June 7, 2006 report.

Appellant filed the instant appeal on April 8, 2008 and requested oral argument. On August 21, 2008 the Office filed a motion to remand and cancel oral argument. It acknowledged that the 1999 treatment records were already part of the record and this information should have been forwarded to Dr. Goranson. Because his June 7, 2006 medical opinion was based on an incomplete record, the Office conceded that this report was insufficient to terminate appellant's benefits. It proposed remanding the case to Dr. Goranson as previously instructed by the hearing representative. Appellant's counsel opposed the motion which was denied by the Board on September 5, 2008.

LEGAL PRECEDENT

Once the Office accepts a claim and pays compensation, it bears the burden to justify modification or termination of benefits.² Having determined that an employee has a disability causally related to his or her federal employment, the Office may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.³ The right to medical benefits for an accepted condition is not limited to the period

¹ The Office declared a conflict between appellant's treating psychiatrist, Dr. William E. Davis and Dr. Roger E. Jacobson, a Board-certified psychiatrist and Office referral physician.

² *Curtis Hall*, 45 ECAB 316 (1994).

³ *Jason C. Armstrong*, 40 ECAB 907 (1989).

of entitlement to compensation for disability.⁴ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁵

ANALYSIS

On appeal, the Office conceded that Dr. Goranson's June 7, 2006 opinion was based on an incomplete record. The Board agrees. Dr. Davis' September 16, 1999 report and other treatment records from 1999 are part of the record. The impartial medical examiner, Dr. Goranson, was not provided access to this information. Accordingly, the Board finds that Goranson's June 7, 2006 opinion was based on an incomplete record.⁶ As such, Dr. Goranson's opinion is insufficient to meet the Office's burden to terminate appellant's benefits. Consequently, the March 27, 2008 decision terminating benefits is reversed.

CONCLUSION

The Office did not meet its burden to terminate appellant's compensation and medical benefits. Appellant's entitlement to wage-loss compensation will be reinstated retroactive to March 27, 2008.

⁴ *Furman G. Peake*, 41 ECAB 361, 364 (1990); *Thomas Olivarez, Jr.*, 32 ECAB 1019 (1981).

⁵ *Calvin S. Mays*, 39 ECAB 993 (1988).

⁶ Where the Office has referred appellant to an impartial medical examiner to resolve a conflict in the medical evidence, the opinion of such a specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight. *Gary R. Sieber*, 46 ECAB 215, 225 (1994).

ORDER

IT IS HEREBY ORDERED THAT the March 27, 2008 decision of the Office of Workers' Compensation Programs is reversed.

Issued: October 20, 2008
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board