

**ATTACHMENT C**

**RESPONDENT'S ARGUMENT**

**Respondent's Argument**

I disagree with the order and determination that I am no longer substantially incapacitated from performing my usual job duties as a Social Worker III for Solano County and should be reinstated to my former position. On or about April 1, 2021, I reported to Workers Compensation (WC) that I was experiencing mental health symptoms related to my job and disclosed my injury. On or about May 11, 2021, I submitted a claim of Disability Insurance Benefits due to depressive disorder (see attachment 1-claim). I request that the Court requires CalPERS to include my mental health history and symptoms, which resulted due to my work at Child Protective Services (CPS). My mental health symptoms were reported to WC and were also part of the WC case as noted on April 14, 2021 by C. Ochoa PsyD from Kaiser for depression, noting work stress, s/p filing for workman's comp due to wrist/arm injury. I was referred to mental health services through WC (see attachment 2-past psychiatric history section). On November 24, 2021, I was seen by Christine Chang Lim (Psychiatry) depression/mood disorder, anxiety, and occupational/work related stressors. It also noted that I reported to have depression and anxiety are the direct result of arm injury, which has resulted in job loss (see attachment 3-assessment section). On December 27, 2021, I was seen by Rachel Grande from Kaiser (Psychiatry Department), it was noted that I was diagnosed with mood disorder unspecified type, anxiety, and occupational problems. It was noted that depression and anxiety are the direct result of arm injury and not being able to work (see attachment 4-assessment section). WC was also notified, and I was getting SDI for mental health related to my work exposure and arm injury since April 2021 through May 2022.

The Administrative Law Judge did not consider my mental health diagnosis and symptoms that were directly related to me as SWIII for Solano County. The WC was advised that in addition to my injury to my right elbow, I was suffering from Depression, Anxiety and Post Traumatic Stress Disorder (PTSD) symptoms related to being exposed to frequent information that was traumatizing to me. The Court failed to consider my mental health symptoms and diagnosis that were previously reported to WC and that are not considered in this decision. I am requesting that the Courts consider that my injuries to my right elbow and also to my mind resulted in PTSD symptoms and diagnosis, which prohibits me from working as SWIII since I am unable to work in a place where my PTSD symptoms will be triggered. I am requesting that this Court specifically address my mental health symptoms that resulted from working at CPS as SWIII and that were reported to WC.

The SWIII position involves more than physical abilities. Mental agility is also needed, which I do not have due to mental health and PTSD that was caused by working at CPS for almost 15 years. The County of Solano did not provide appropriate mental health supports or supervision to individuals that were constantly exposed to information about trauma and human suffering and therefore I was exposed to secondary trauma events. I would like to also point out that increase stress could affect my heart condition and recently diagnosed aneurysm of ascending aorta.

On or about February 1, 2024, I received a notice from CalPERS that an Administrative Law Judge of the Office of Administrative Hearings of the State of California for one day, on July 29, 2024, at 9am. During this time, I needed some assistance and/or guidance from CalPERS regarding this hearing

2024/10/16 09:20:08 52 011

2024/10/16 09:29:05 52 012

and it was very difficult. I was unable to locate an attorney to represent my case and/or had the budget to pay out of pocket. I was surprised that I needed to represent myself as an attorney. I was not aware that I needed to ask Dr. Henrichsen questions about his recommendations.

Dr. Henrichsen does not have the authority to explain my other health conditions as he is not a mental health professional. He was speaking and explaining situations that were out of scope of practice. CalPERS has the burden to prove that I was no longer disabled or incapacitated to perform my usual duties as a SWIII, not only that they did not consider my mental health symptoms previously reported to WC, which WC did not schedule a psychological evaluation from a competent psychiatrist practicing within their scope to give opinions about other health conditions.

I am requesting that CalPERS provide me a discovery list of documents to verify that they were aware of my reported Depression, Anxiety and PTSD and purposely failed to include this decision in consideration of it.

I have participated in Mental health treatment to WC since April 2021 regarding PTSD, depression and anxiety. An initial psychiatric assessment in April 2021 showed that I had depressed mood. I was in an intensive outpatient program for my mental health conditions from July 9, 2021, to July 23, 2022 including therapy and medications. My initial symptoms included high anxiety, hypervigilance, dysphoria, insomnia, appetite change, hopelessness and morbid thinking. I was diagnosed with a mood disorder and PTSD. (see attachment 5-SSA Findings)

**Evidence**

**Regarding #14: page 7 of 11-Respondent’s Evidence of Decision**

Not allowing the Social Security Administration (SSA) decision to be consider in its entirety. SSA decision does satisfy the CalPERS incapacity standard for example, SSA psychiatrist evaluated me and provided clinical information related to my diagnosis. SSA order page 5.

**Regarding #19: page 9 of 11-Analysis Section**

I would also like to reference #19 analysis section, the decision states that other medical professionals did not testify at the hearing, since CalPERS have the burden to prove they should of call my other medical professionals. As you know, I was not able to afford to bring those professionals to the Court to defend myself from CalPERS denials and allegations.

**Regarding #3: page 10 of 11-Legal Conclusions**

I would also like to note that I do qualify under CalPERS since I have been out of work for more than three (3) years and my condition does not allow me to go back to work to the same position. I would like to state that CalPERS request to deny my retirement despite SSA decision that I am disabled, has and continues to cause additional stress, anxiety and has further aggravated my mental health.

**Conclusion**

If the County of Solano along with CalPERS had read thoroughly my medical file from Kaiser, they would of establish that my mental health condition was part of my disability as reported. During this whole process, I been feeling useless and worthless due to my physical limitations that prevented me from

RECEIVED BY CALPERS 05/16/2024 09:20:09 52 013

working or completing activities on my own without assistance from others. On July 26, 2024, the Court and CalPERS did not consider my mental health diagnosis and symptoms that were directly related to me as SWIII for Solano County. The WC was advised that in addition to my injury to my right elbow I was suffering from Depression, Anxiety and Post Traumatic Stress Disorder (PTSD) symptoms related to being exposed to frequent information that was traumatizing to me. The Court and CalPERS failed to consider my mental health symptoms and diagnosis that were previously reported to WC and that are not considered in this decision. I am requesting that the Courts and CalPERS consider that my injuries to my right elbow and also to my mind resulted in PTSD symptoms and diagnosis, which prohibits me from working as SWIII.

I request that CalPERS reviews my entire Kaiser file regarding my orthopedic condition along with my mental health conditions and Social Security Administration and psych evaluations that were part of my work-related injury.

**Attachments**

1. **Claim for Disability Insurance (DI) Benefits (DE 2501) by Matthew Holland (Psychologist) on 05/11/2021; pages 5 and 6**
2. **Kaiser- Psychiatry on 11/24/2021; Past Psychiatric History Section**
3. **Kaiser-Psychiatry on 11/24/2021; Assessment Section**
4. **Kaiser-Psychiatry on 12/27/2021; Assessment Section**
5. **Social Security Administration-Findings of Fact and Conclusions of Law; Pages 4 and 5**



Social Security Number:	XXX-XX-XXXX
Date of Birth:	MM/DD/YYYY
File Number:	XXXXXXXXXX

**Section 2 - Physician/Practitioner Information**

Name:	MATTHEW HOLLAND
License Number:	PSY29693
State of Licensure:	CA
Treatment Address:	1 Quality Dr Vacaville, CA 95688-9494 United States
Phone Number:	707-624-2366
License Type:	Psychologist (Ph.D.)
Specialty (if any):	

**Section 3 - Treatment Information**

This patient has been under my care and treatment for this medical problem:	
From:	05-04-2021
To:	
Are you presently treating the patient for this medical condition?	Yes
Treatment Intervals:	As Needed
Was the patient seen previously by another physician/practitioner or medical facility for the current disability/illness/injury?	
If "Yes," enter the date of first treatment?	
At any time during your attendance for this medical problem, has the patient been incapable of performing his/her regular or customary work?	Yes

**Section 4 - Claim Information**

Date Disability Began:	05-04-2021
Was the disability caused by an accident or trauma?	No
If "Yes," indicate the date the accident or trauma occurred:	
Date you released or anticipate releasing patient to return to his/her regular or customary work:	05-22-2021
Patient's disability is permanent and you never anticipate releasing patient to return to his/her regular or customary work:	No
Enter the ICD Diagnosis Code and version for the primary disabling condition that prevents the patient from performing his/her regular or customary work below:	
ICD Diagnosis Code:	F32.9
Diagnosis Code Version:	ICD-10
ICD Diagnosis Code(s) for Secondary Disabling Condition(s):	



UNRECORDED RECEIVED BY CLAIMS SERVICE UNIT 10/14/12 10:27 AM

52 615

ICD Diagnosis Code:	Z56.9	Diagnosis Code Version:	ICD-10
ICD Diagnosis Code:	Z13.30	Diagnosis Code Version:	ICD-10
ICD Diagnosis Code:		Diagnosis Code Version:	
Diagnosis - If no diagnosis has been determined, enter a detailed statement of symptoms:		DEPRESSIVE DISORDER	
Findings - State nature, severity, and extent of the incapacitating disease or injury, including any other disabling conditions:		DEPRESSIVE DISORDER. Uncontrolled Symptoms	
Type of treatment/medication rendered to patient:			
If patient was hospitalized, date of entry:			
Date of discharge:			
Patient is still hospitalized?		No	
Is the patient deceased?		No	
Date of death:			
City:			
County:			
State:			
Type of surgery/procedure:			
Date of surgery/procedure:			
Enter the ICD Procedure Code and version for surgery/procedure(s) planned or performed below:			
ICD Procedure Code:		Procedure Code Version:	
ICD Procedure Code:		Procedure Code Version:	
ICD Procedure Code:		Procedure Code Version:	
ICD Procedure Code:		Procedure Code Version:	
Enter the CPT code for surgery/procedure(s) planned or performed below:			
CPT Code:			
CPT Code:			
CPT Code:			
CPT Code:			
Was the patient unable to work immediately prior to the surgery or procedure?			
If "Yes," please provide the first date the patient was unable to work prior to the surgery or procedure?			
Was this disabling condition caused and/or aggravated by the patient's regular or customary work?		No	
Are you completing this form for the sole purpose of referral/recommendation to an alcoholic recovery home or drug-free residential facility (as indicated by the patient on the DE 2501 Claim for Disability Insurance (DI) Benefits Claimant's Statement)?		No	
Date your patient became a resident of a drug or alcohol facility (if known):			
Would disclosure of the information on this form be medically or psychologically detrimental to your patient?		No	

11/24/2021 - Video Visit - MH/BH in PSYCHIATRY (continued)

Clinical Notes (continued)

Version 1 of 1

Author: Lim, Christine Chang (M.D.)  
Filed: 11/24/2021 4:42 PM  
Status: Signed

Service: —  
Encounter Date: 11/24/2021  
Editor: Lim, Christine Chang (M.D.) (Physician)

Author Type: Physician  
Creation Time: 11/24/2021 3:21 PM

ADULT PSYCHIATRY VIDEO FOLLOW UP APPOINTMENT

Patient's Full Name: Claudia E Orozco  
Present Location (for use in the event of a safety check): 5254 Ralph Moore Lane  
Fairfield CA 94533  
Time of Session: 3:30PM

CC:

Chief Complaint

Patient presents with

- MEDICATION MANAGEMENT

HISTORY OF PRESENT ILLNESS:

Claudia E Orozco is a 47 Y female with a past psychiatric history of childhood abuse, depression/mood disorder, anxiety, occupational/work related stressors, some OC personality traits, h/o pulling hair when anxious.

Last appt 10/26/2021 with R. Grande, PharmD -please see note for details

Today pt reports:

- increase of effexor/venlafaxine seems to help. Not getting as aggressive/irritable. Hasn't been screaming as much. Taking things day by day. Less ups and downs.
- since starting venlafaxine, poor appetite. This was why she didn't want to increase to 150mg. Not losing weight. C/o being overweight after gaining weight d/t pandemic. Just started walking.
- Hair loss. A couple of times she started choking and mom told her that that's the start of thyroid issues but labs were ok.
- Can't sleep at night. Right now c/o being tired. Teas, melatonin. Nothing is helping.
- c/o pain and her meds make her sleepy so she can't take them during the day. Flexeril. I'm screwed.
- has ups and downs. Still depressed because of the whole work situation. Getting help from union, she applied for Calpers but this isn't settled and it's been going on since August. At least getting SDI but it's going to expire 12/17th. Really worried about what to do after that? She will have no funds. No one can tell her what to do. Will apply for SS but it takes forever. Really stressing out a lot, afraid her time is going to be up in re: to finances. Cost of gas. Prices are so high. Husband doesn't get paid for holidays or if it rains.
- Keeps forgetting things. Poor memory worries her. Couldn't remember she met with this MD last time when she was filling out Tridium. Can't concentrate on stuff, like questions. Gets frustrated, it's upsetting. Too much is going on in her brain.
- applied for job for Napa County and was told she didn't qualify. No luck. Feels like it's because some of the supervisors moved to Napa County & they have something to do with this. Retaliation. Friend told her there are 19 positions open. Lawyer said they Want to compensate her \$30,000 but she's still physically limited and she's feeling useless. That wouldn't be helpful.

PAST PSYCHIATRIC HISTORY

Reason for initial visit: 4/28/2021 - SLNPSY for depression, seen 4/14/2021 C. Ochoa PsyD for depression, noting work stress, s/p filing for workman's comp d/t wrist/arm injury, was on venlafaxine -> IOP 6/16/2021 d/t worsening sx, HA, nightmares, nausea, poor appetite.

Abuse/trauma: 6/16/2021 - inappropriate touching by uncle, father used to physical discipline on pt

11/24/2021 - Video Visit - MH/BH in PSYCHIATRY (continued)

Clinical Notes (continued)

Lab Results Component	Value	Date
TSH	1.4	09/30/2021
Lab Results Component	Value	Date
Free T4	1.2	09/30/2021

DIAGNOSIS:

1. ANXIETY	ICD-10-CM F41.9
2. OCCUPATIONAL PROBLEMS OR WORK CIRCUMSTANCES	Z56.9
3. MOOD DISORDER, UNSPECIFIED TYPE	F39
4. HX OF ABUSE IN CHILDHOOD	Z62.819

I have confirmed the presence of the above clinical diagnoses, which were considered in the current and ongoing care of the patient. At the time of this visit, the medical record indicates, and/or the patient states, that there are no changes in these conditions unless otherwise noted. As treatment warrants, the patient has been advised to follow up with her PCP or appropriate specialist.

**ASSESSMENT:** This is a 47 Y F with h/o childhood abuse, depression/mood disorder, anxiety, occupational/work related stressors, some OC personality traits, h/o pulling hair when anxious. Worsening stressors r/t finances, inability to find new job, uncertainty of funds after 12/17. Feels like effexor/venlafaxine helps with her mood/irritability but her anxiety remains high given stressors, insomnia persists. Labs were WNL for thyroid/iron. D/w pt negative effects of insomnia, likely contributing to physical effects (hair loss, sometimes feels like she's choking) and cognitive sx (poor memory, can't focus, feels overwhelmed). Risks/benefits/adverse effects of trial of gabapentin/neurontin or trazodone/desyrel discussed. Pt amenable to trying.

PLAN:

- 1) Medication instructions:
  - CONTINUE buspar/buspirone 15mg 1 tab twice daily for anxiety
  - CONTINUE venlafaxine/effexor XR 37.5mg 3 caps every morning for depression/anxiety
  - NEW gabapentin/neurontin 300mg 1-2 caps at bedtime for anxiety/insomnia.
- 2) Laboratory orders: no new orders
- 3) Lifestyle modifications: Finding time for self-care, following a healthy diet, exercising regularly (aim for 30 minutes of exercise five days a week), and practicing good sleep hygiene are important practices for improving well-being. It is strongly recommended that you do not drink alcohol or use marijuana or other drugs. Please visit kp.org's Health and Wellness page for helpful tips in supporting your wellness goals.
- 4) Psychoeducation and supportive therapy provided.
- 5) Individual/group therapy: A. Hurtado, LCSW
- 6) Referrals: no new ref
- 7) Return Visit: Follow up as scheduled or sooner if needed. Please call 707- 645-2700 to schedule/reschedule mental health appointments or if you have any medication concerns prior to our next appointment.



**12/27/2021 - Video Visit - MH/BH in PSYCHIATRY (continued)**

**Clinical Notes (continued)**

• XL) 25 mg Oral 24hr SR Tab	Service, call (888) 218-6245
• Venlafaxine (EFFEXOR XR) 37.5 mg Oral 24hr SR Cap	Take 3 capsules orally daily. Take with food.
• Amoxicillin 500 mg Oral Cap	Take 4 capsules by mouth 1 hour before procedure.
• Cyclobenzaprine (FLEXERIL) 10 mg Oral Tab	Take 1 tablet by mouth daily as needed for muscle spasms
• Nabumetone (RELAFEN) 500 mg Oral Tab	Take 1 tablet by mouth 2 times a day as needed for pain. Take with food
• Naproxen (NAPROSYN) 500 mg Oral Tab	Take 1 tablet by mouth 2 times a day
• Naproxen (NAPROSYN) 500 mg Oral Tab	Take 1 tablet by mouth 2 times a day as needed
• Aspirin (ADULT LOW DOSE ASPIRIN) 81 mg Oral Tab	None Entered

No current facility-administered medications for this visit.

**Psychotropic medication trials per 9/28/21 psychiatrist note**

**Past psychiatric medications:**

Antidepressants: venlafaxine

Anxiolytics/sedatives/other: diazepam. Atarax/hydroxyzine/vistari. Buspar/buspirone.

Mood stabilizers/anticonvulsants:

Antipsychotics:

Stimulants/adhd/other:

Other:

**Assessment**

47 Y female diagnosed with mood disorder unspecified type, anxiety, occupational problems, h/o abuse in childhood followed by Dr. Lim who was referred to this writer for medication follow up. Venlafaxine has been helpful for depressed mood/anxiety, remains on a relatively low dose, agreed to increase to 150 mg daily today. Patient instructed to stop duloxetine, had been taking 30 mg daily for a couple of days, no need to taper. Will continue current gabapentin dose, improvement in ability to fall asleep. Patient stated that depression and anxiety are the direct result of arm injury and not being able to work. Much of the appointment was spent talking about issues related to occupational problems.

**Plan**

Medication		Sig
Increase from 112.5 mg daily	Venlafaxine (EFFEXOR XR) 150 mg Oral 24hr SR Cap	Take 1 capsule by mouth daily with a meal . Note change in capsule strength and directions.
Continue	busPIRone (BUSPAR) 15 mg Oral Tab	Take 1 tablet by mouth 2 times a day
Continue	Gabapentin (NEURONTIN) 300 mg Oral Cap	Take 1 to 2 capsules by mouth at bedtime for anxiety/insomnia

or reaching back, or combing her hair. She noted that her right shoulder was painful to move, it cracked with most activities, and it was weak. She stated she had grip loss, her right hand felt numb, she could not open things, and she had pain and a burning sensation at the mid-wrist. Examination of the right shoulder revealed decreased range of motion and tenderness to palpation over the posterior aspect of the shoulder. She had positive Hawkins test and positive crossed arm adduction test. Examination of the right elbow showed tenderness to palpation over the lateral and medial epicondyle. She was noted to have electrodiagnostic evidence for a compressive neuropathy of the median nerve at the wrist. She was prescribed Lidocaine and Lansoprazole. Plasma injections for the right elbow and Hylagan injections in the right shoulder were recommended but denied by worker's compensation.

Treating source, Gary Martinovsky, M.D., opined in September 2022 that the claimant had significant pain and greatly increased pain with physical activity that would cause distraction from or total abandonment of task; she can stand and walk a full eight hours; could lift and carry rarely 20 pounds, never 50 pounds; had limited reaching, grasping, torquing, keyboarding, use of a mouse with the right upper extremity, can use her right upper extremity 50 percent of an eight-hour workday; needed to take a 15-minute break after 30 minutes of typing; and would be absent three days per month (Ex. 16F). He also opined the claimant was in significant pain, had loss of function in the right shoulder and elbow; would be off task 25 percent or more; and absent three days per month (Ex. 19F). These limitations, as set forth below, are reasonable in light of the findings in Dr. Bellomo's Independent Medical Examination report (Ex. 7F/3).

As for the claimant's mental conditions, she has a depressive disorder, an anxiety disorder, and a post-traumatic stress disorder (Exs. 3F, 4F, 5F, 6F, 10F, 12F, 13F, 14F, 17F). An initial psychiatric assessment in April 2021 showed she had a depressed mood and congruent affect, and she was tearful (Ex. 3F/52-58).

The claimant was in an intensive outpatient program for her mental health conditions from July 9, 2021 to July 23, 2021 including therapy and medications (Ex. 3F/18). Her initial symptoms included high anxiety, hypervigilance, dysphoria, insomnia, appetite change, hopelessness, and morbid thinking (Ex. 3F/22). Upon discharge, she was less anxious and less depressed (Ex. 3F/18). She was diagnosed with a mood disorder and post-traumatic stress disorder.

Examinations during the period showed mostly intact mental status examination findings, except for depressed, anxious, and frustrated moods and some rambling and rapid speech at times, especially in reaction to situational stress, and she reported some memory loss (Exs. 3F, 4F, 5F, 6F, 10F, 12F, 13F, 14F, 17F, 20F). Therefore, she is limited to perform simple and detailed tasks; can have occasional contact with the general public; and can adapt to occasional changes in a routine work environment.

These conditions have resulted in persistent symptoms of pain, tingling, numbness, and moderate difficulties within understanding, remembering, or applying information; interacting with others; concentrating, persisting, or maintaining pace; and adapting or managing oneself, which continued during the period at issue despite medical treatment. The description of the symptoms and limitations, which the claimant has provided throughout the record, have generally been consistent and persuasive.

Further, the above medical evidence supports the determination that the claimant is limited to less than a full range of light work with manipulative, postural, environmental, and mental limitations, including that she can lift, carry, push, and pull 10 pounds with the dominant right upper extremity; can reach, handle, and finger four hours out of an eight-hour day with the right upper extremity; and must take a 15-minute right upper extremity break after 30 minutes of typing, to account for symptoms of her severe impairments during the period at issue. With regard to the claimant's limitations, objective medical evidence shows that the claimant had partial right shoulder rotator cuff tear, right medial and lateral epicondylitis, de Quervain's syndrome, right carpal tunnel syndrome, depressive disorder, anxiety disorder, and post-traumatic stress disorder during the period at issue (Exs. 2F, 3F, 4F, 5F, 6F, 7F, 10F, 12F, 13F, 14F, 17F).

Likewise; the claimant's statements and testimony regarding her physical and mental limitations further support that she can do less than a full range of light work with manipulative, postural, environmental, and mental limitations, including that she is limited to lift, carry, push, and pull 10 pounds with the dominant right upper extremity; can reach, handle, and finger four hours out of an eight-hour day with the right upper extremity; and must take a 15-minute right upper extremity break after 30 minutes of typing (Exs. 5E, 8E; Hearing Testimony). According to the claimant's most recent function report, her conditions affected lifting, reaching, walking, sitting, memory, completing tasks, concentration, understanding, following instructions, using hands, and getting along with others (Ex. 8E). These limitations are consistent with her daily functioning. Thus, the objective medical evidence and the claimant's statements and testimony establish that the claimant's allegations regarding her physical and mental impairments are consistent with the evidence.

As for medical opinion(s) and prior administrative medical finding(s), we will not defer or give any specific evidentiary weight, including controlling weight, to any prior administrative medical finding(s) or medical opinion(s), including those from your medical sources. We fully considered the medical opinions and prior administrative medical findings in your case as follows:

The State agency psychological consultant (R. Garland, Ph.D.), found in a prior administrative finding on initial review in October 2021 that the claimant was limited to moderate limitation in each of the B paragraph criteria and limited to relatively low interpersonal contact; simple instructions; simple judgments and work-related decisions; can respond appropriately to supervision, co-workers, and work situations; and can deal with changes in a routine work setting (Ex. 1A). This finding is partially persuasive. Although the consultant supported the finding with detailed medical evidence from the record, the finding is not entirely consistent with the longitudinal medical evidence, which demonstrates that the claimant is can perform simple and detailed tasks; can have occasional contact with the general public; and can adapt to occasional changes in a routine work environment to account for her moderate limitations. The claimant was in an intensive outpatient program for her mental health conditions from July 9, 2021 to July 23, 2021 including therapy and medications (Ex. 3F/18). Her initial symptoms included high anxiety, hypervigilance, dysphoria, insomnia, appetite change, hopelessness, and morbid thinking (Ex. 3F/22). Upon discharge, she was less anxious and less depressed (Ex. 3F/18). She was diagnosed with a mood disorder and post-traumatic stress disorder. Examinations during the

2024/10/16 09:26:13 52 020

UNIVERSITY MICROFILMS INTERNATIONAL

