

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

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| J.S., Appellant |) | |
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| and |) | Docket No. 17-0804 |
| |) | Issued: August 10, 2018 |
| U.S. POSTAL SERVICE, PROCESSING & DISTRIBUTION CENTER, Kansas City, MO, Employer |) | |
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Appearances:
Thomas R. Uliase, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On February 27, 2017 appellant, through counsel, filed a timely appeal from a November 17, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.³

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² 5 U.S.C. § 8101 *et seq.*

³ The record provided the Board includes evidence received after OWCP issued its November 17, 2016 decision. The Board's jurisdiction is limited to the evidence that was in the case record at the time of OWCP's final decision. Therefore, the Board is precluded from reviewing this additional evidence for the first time on appeal. 20 C.F.R. § 501.2(c)(1).

ISSUES

The issues are: (1) whether appellant met her burden of proof to establish that her additional diagnosed conditions are causally related to the accepted April 5, 2015 employment injury; (2) whether appellant met her burden of proof to establish total disability for the period June 13, 2015 through January 18, 2016, causally related to the accepted April 5, 2015 employment injury; (3) whether OWCP properly terminated appellant's wage-loss compensation and medical benefits effective January 19, 2016; and (4) whether appellant met her burden of proof to establish continuing injury-related residuals and/or disability on or after January 19, 2016.

FACTUAL HISTORY

On April 12, 2015 appellant, then a 43-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that, while reaching down to pick up a mail tray from the floor on April 5, 2015, she was struck and pinned between a pallet lift and a de-sleever food roller, which injured her right side, right leg, thigh, and groin. She stopped work on April 5, 2015.

Appellant was treated in an emergency room by Dr. Grady E. Thiems, a Board-certified emergency medicine physician, on April 5, 2015, for a crush/pin injury which occurred at work. She reported working in a mail sorting facility and a heavy crate of mail weighing approximately 1,000 pounds shot off a conveyer belt and pinned her against the wall. Dr. Thiems noted findings on examination of voluntary guarding of the lower abdomen, no rebound, no peritoneal signs, pelvis was stable, back nontender with normal range of motion and alignment, and right hip pain. He diagnosed acute right hip pain and acute abdominal pain. Dr. Thiems noted the trauma cleared and appellant was ambulating without difficulty and she was discharged with pain medications. Diagnostic testing was conducted in the emergency room on April 5, 2014. A computerized tomography (CT) scan of the abdomen and pelvis revealed no evidence of acute post-traumatic pathology to the upper abdominal solid organs of the gastrointestinal tract. X-rays of the pelvis and chest were normal.

In an attending physician's report (Form CA-20), dated April 9, 2015, Dr. Laurie Fisher, a Board-certified family practitioner, noted that appellant was stuck by a 600-pound skid full of mail on April 5, 2015. She diagnosed right thigh contusion. Dr. Fisher noted by checking a box marked "yes" that appellant's condition was caused or aggravated by an employment activity. She noted that appellant was totally disabled from work for the period April 5 to 23, 2015. In reports dated April 20 to May 15, 2015, Dr. Fisher requested appellant's medical leave be extended until May 28, 2015, noting that she was incapacitated from the work injury.

On June 9, 2015 appellant submitted a claim for compensation (Form CA-7) alleging total disability for the period May 20 to 29, 2015.⁴ The employing establishment advised that she received continuation of pay from April 10 through May 24, 2015.

On June 12, 2015 OWCP advised appellant that her claim originally appeared to be a minor injury which resulted in minimal or no time loss from work. It indicated that the claim was administratively handled to allow limited medical payments, but the merits of the claim had not been formally adjudicated. OWCP advised that because a claim for wage loss was received her

⁴ Appellant continued to file claims for wage-loss compensation for subsequent periods.

claim would be formally adjudicated. It notified appellant that her traumatic injury claim was accepted for contusion of the right thigh. OWCP paid appellant wage-loss compensation from May 25 to 29 and May 30 to June 12, 2015.

Appellant submitted a duty status report (Form CA-17) from Dr. Fisher dated June 1, 2015 who noted clinical findings of pain and weakness of the right lower extremity. Dr. Fisher returned appellant to work full time without restrictions on June 6, 2015. In a note dated June 9, 2015, she requested that appellant's leave be extended until June 20, 2015 and noted that she was currently incapacitated from an injury sustained at work.

Appellant was treated by Dr. David Clark, a Board-certified neurologist, on June 17 and 22, 2015, who noted that appellant sustained a crush injury at her workplace and was incapacitated until July 15, 2015.

On June 26, 2015 appellant submitted a claim for compensation (Form CA-7), for total disability for the period June 13 to 28, 2015. In a leave analysis form (Form CA-7a) appellant's supervisor controverted the requested 40 hours of leave without pay noting that a neurological evaluation and treatment was unrelated to the original contusion injury.

Appellant submitted April 9 and 20, 2015 reports from Dr. Fisher who treated her for a work injury "where her supervisor ran a 600-pound skid into her." Dr. Fisher diagnosed right thigh contusion and lumbar radiculopathy and advised that appellant remained disabled. On May 8, 2015 she diagnosed right thigh contusion and returned appellant to light-duty work on May 18, 2015 and full duty on May 25, 2015. In a June 25, 2015 report, Dr. Fisher noted that appellant was undergoing a magnetic resonance imaging (MRI) scan to further evaluate Arnold-Chiari malformation. She diagnosed Arnold-Chiari malformation, cervical myelopathy, and a right lower leg mass likely a residual hematoma from the contusion. In a work capacity evaluation (Form OWCP-5c), Dr. Fisher noted that appellant could not work as she had a crush injury with weakness, pain, and numbness.

On June 2, 2015 Dr. Clark treated appellant for right arm and leg pain after a crush injury. He noted findings of paresthesias over her right arm and forearm, giveaway weakness throughout, loss of pin prick over the right foot, and loss of vibration over the left foot. Dr. Clark diagnosed right leg paresthesias and arm pain. He noted that it was premature for appellant to return to work. On June 17, 2015 Dr. Clark noted that appellant had a cervical spine MRI scan which revealed a T2 signal change in the rostral spinal cord and Arnold-Chiari malformation. He diagnosed cervical myelopathy and Arnold-Chiari malformation. In a July 9, 2015 work capacity evaluation (Form OWCP-5c), Dr. Clark noted that appellant was unable to work due to pain. On July 9 and 14, 2015 he noted that thigh contusions typically heal over a few weeks, but appellant's leg had not improved. Dr. Clark noted that she continued to have disabling symptoms related to the injury. He advised that appellant was unable to perform her work duties and was excused from work until July 16, 2015.

Appellant was treated by Dr. Mark A. Greenfield, Board-certified in anesthesiology, on July 13, 2015, for right leg pain and swelling. Dr. Greenfield noted decreased strength in both the right upper and lower extremities. He diagnosed cervical spondylosis with myelopathy, low back pain, cervicgia, and pain in soft tissues of the limb. Dr. Greenfield noted appellant's history of

jerking-type movements, altered sensation in the upper and lower extremity, and “certainly nothing to explain her extremis.”

Appellant submitted an August 6, 2015 report from Dr. Fisher who noted a history of injury and appellant’s continued right thigh pain and numbness. Dr. Fisher noted that a cervical spine MRI scan revealed Arnold-Chiari malformation which was noted on a prior MRI scan performed years before, but appellant was asymptomatic at that time. She opined that appellant’s current symptoms were a direct result of her April 5, 2015 work injury as she was completely asymptomatic before this injury. Dr. Fisher noted that appellant was totally disabled.⁵

On August 20, 2015 OWCP referred appellant’s case record to a district medical adviser for an opinion as to whether her claim should be expanded to include additional conditions. In an August 24, 2015 report, the medical adviser noted that an April 5, 2015 CT scan of the abdomen and pelvis showed no indication of a right thigh crush injury and showed only mild infiltration of subcutaneous fat, perhaps on the right side and close to the iliac crest, which may be chronic or represent a mild post-traumatic contusion. He noted that on the day of injury, gait, station, and walking was normal without a limp. The medical adviser indicated that the Arnold-Chiari malformation could not conceivably medically have been caused, aggravated, accelerated, or precipitated by the date-of-injury event. He noted that appellant did not have a mass on the right lower leg and the medical history and limited examination findings did not support lumbar radiculopathy. The medical adviser opined that the medical evidence of record did not support the acceptance of any diagnosis not already accepted by OWCP.

Appellant was treated by Dr. Greenfield on August 17, 2015 for right leg pain. Dr. Greenfield diagnosed cervical spondylosis with myelopathy, low back pain, cervicalgia, and pain in soft tissues of the limb.

In reports dated September 4 to October 8, 2015, Dr. Fisher noted that appellant was currently incapacitated due to a leg injury and unable to work for four to six weeks. On October 8, 2015 she treated appellant for leg pain, numbness, and tingling after an April 5, 2015 work accident. Dr. Fisher noted that cervical spine and brain MRI scans revealed Arnold-Chiari malformation which was present on a 2010 MRI scan, but was not treated because appellant was asymptomatic. She diagnosed a crushing injury to the right hip and thigh, pain of the right arm, Arnold-Chiari malformation, and depression. Dr. Fisher noted that the Arnold-Chiari malformation was aggravated by her crush injury. She indicated that appellant was completely asymptomatic of these symptoms prior to the crush injury and opined that all her symptoms were attributable to her injury.

⁵ Reports of diagnostic testing performed were also received. A June 26, 2015 MRI scan of the brain revealed cerebellar tonsillar ectopia similar to a May 24, 2010 examination with increased bilateral leptomeningeal enhancement. A June 26, 2015 cervical spine MRI scan revealed no abnormal enhancement of the cervical cord. A May 22, 2015 lumbar spine MRI scan showed normal alignment and no significant abnormalities although the image quality was suboptimal due to right leg twitching and trembling that could not be controlled.

On September 10, 2015 OWCP referred appellant to Dr. Edward J. Prostic, a Board-certified orthopedist for a second opinion, to determine if the accepted conditions had resolved. It requested that Dr. Prostic respond to the following questions:

“1. Provide findings from examination....

“2. After performing a physical examination, are there clinical or diagnostic findings, which indicate the accepted condition of 924.00 RIGHT THIGH CONTUSION is still active? Please explain. If not, when did the condition resolve?

“3. Does the medical evidence support additional lumbar or cervical diagnosis(es) in connection to the original work injury or accepted condition, by either direct cause, or aggravation? Please give detailed medical rationale to support your opinion...

“4. Please review the attached Statement of Accepted Facts (SOAF), which describes the physical requirements of Mail Handler. Can the claimant return to work at her full duty position as a Mail Handler?

“5. If not, please provide any work restrictions resulting from the accepted work-related conditions....

“6. Please provide your recommendations, if any, for further medical treatment and/or therapy for the work-related conditions....”

In an October 21, 2015 report, Dr. Prostic indicated that he reviewed the medical evidence of record and examined appellant. Cervical spine findings included satisfactory alignment with range of motion “reluctant and limited at least 50 degrees in all directions.” Nerve root irritability signs were negative. The lumbar spine had satisfactory alignment, tenderness at the lumbosacral junction, and mild tenderness at the right greater trochanter. Range of motion was voluntarily limited and the straight leg raising was negative bilaterally. There was no obvious neurologic deficit in either leg. For the right leg, there was no measurable atrophy and some reluctance to range of motion of the hip. There was some tenderness about the mid quadriceps muscle without palpable abnormality. There was also mild anterior crepitus at the knee with no weakness or instability. Dr. Prostic indicated that x-rays of the pelvis revealed a subchondral cyst in the right acetabulum with good joint space maintenance and no abnormality likely to lead to a labral tear. Right femur x-rays were normal.

In answering OWCP’s questions, Dr. Prostic noted that a review of the diagnostic testing revealed that the subjective complaints were far out of proportion to objective findings. He advised that there was no objective evidence that the right thigh condition was still active. In response to whether the medical evidence supported additional lumbar or cervical diagnoses attributable to the work injury, Dr. Prostic answered, “No.” He opined that, based only on orthopedic findings, appellant was able to return to work as a mail handler in a full-duty capacity. Dr. Prostic advised that appellant’s barrier to a return to work was more likely emotional than orthopedic. He noted that there were no work restrictions from the accepted condition. Dr. Prostic opined that it was likely that the current condition was predominantly emotionally-based and physical testing and treatment was unlikely to be beneficial.

Appellant was seen by Dr. Greenfield, on October 12, 2015, who diagnosed chronic regional pain syndrome (CRPS) of the right leg, neuralgia and neuritis, unspecified, pain in right leg, low back pain, cervicalgia, and other spondylosis with myelopathy. He recommended epidural steroid sympathetic blocks.

Appellant submitted an October 27, 2015 note from Dr. Fisher who noted that appellant was unable to work due to the April 5, 2015 injury and would be incapacitated for six weeks.

On November 23, 2015 OWCP proposed to terminate all compensation benefits, finding that Dr. Prostic's report established that appellant no longer had residuals of her accepted conditions. It afforded her 30 days to respond.

By decision dated November 23, 2015, OWCP denied appellant's claim for wage-loss compensation for the period June 13 through November 13, 2015. It found that the weight of the medical evidence rested with Dr. Prostic, the second opinion physician, who opined that she was not disabled as a result of the accepted thigh contusion.

Appellant submitted a November 6, 2015 report from Dr. Fisher who diagnosed contusion to right thigh. Dr. Fisher noted that appellant had persistent pain and swelling and difficulty ambulating. She noted a cervical spine MRI scan revealed Arnold-Chiari malformation. Dr. Fisher evaluated appellant on September 25, 2015 and was concerned that she had developed CRPS. She opined that it was clear that all of appellant's persistent symptoms were related to the initial crush injury and should be treated as such.

Appellant submitted reports from Dr. Clark dated June 30 and July 14, 2015 in which he diagnosed Arnold-Chiari malformation, cervical myelopathy, and leg pain. Dr. Clark opined that appellant's spinal cord findings could be the result of past trauma, such as a previous car accident. He referred appellant to an orthopedist for ongoing leg pain and weakness related to a work injury. Dr. Clark noted that appellant was unable to work due to leg pain and symptoms. He advised that there was an unclear relationship between some of the neurological symptoms and the April 5, 2015 employment incident.

On December 1, 2015 appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative regarding OWCP's November 23, 2015 decision denying wage-loss compensation. The hearing was held on June 29, 2016.

In that same December 1, 2015 letter, counsel objected to the proposed termination. He contended that Dr. Prostic's report failed to provide sufficient rationale for his conclusions and simply provided one sentence and/or one word answers to questions regarding residual disability and additional lumbar and cervical conditions. Counsel asserted that OWCP did not meet its burden of proof to terminate appellant's compensation as it had not established that appellant no longer had residuals of her accepted work injury. Additionally, he indicated that Dr. Prostic had not provided a reasoned opinion as to whether appellant's Arnold-Chiari malformation was caused or aggravated by the work injury.

On November 29, 2015 Dr. Fisher noted that appellant's April 5, 2015 injury resulted in the development of reflex sympathetic dystrophy or CRPS of the right leg and also resulted in an aggravation of Arnold-Chiari malformation causing numbness and weakness in her right arm and

leg. In December 21, 2015 and January 4, 2016 statements, she noted that appellant was still unable to work due to the work injury sustained on April 5, 2015.

By decision dated January 19, 2016, OWCP terminated appellant's wage-loss compensation and medical benefits, effective January 19, 2016, finding that Dr. Prostic's report established no continuing residuals of her accepted condition.

Appellant submitted a statement from Dr. Fisher dated January 21, 2016 which noted that appellant was incapacitated from work due to an April 5, 2015 work injury.

On February 1, 2016 appellant requested a hearing before an OWCP hearing representative, held on June 7, 2016. She submitted December 22, 2015 and January 23, 2016 reports from Dr. Fisher who opined that the April 5, 2015 work injury resulted in CRPS of the right lower limb, neuralgia, and neuritis, low back pain, cervical spondylosis with myelopathy, cervicgia, and right leg pain. Dr. Fisher noted that conservative treatment had failed and that appellant was permanently disabled. In a February 2, 2016 attending physician's report (Form CA-20), Dr. Fisher diagnosed CRPS of the right leg. She noted by checking a box marked "yes" that appellant's condition was caused or aggravated by a work injury and she had been disabled since April 5, 2015. In statements dated February 2 to June 10, 2016, Dr. Fisher noted that appellant was still incapacitated from the April 5, 2015 work injury. On May 19, 2016 she opined that appellant sustained an aggravation of Arnold-Chiari malformation and CRPS directly related to her work injury that prevented her from being able to perform her job. On July 14, 2016 Dr. Fisher reiterated appellant's work-related disability.

On June 28, 2016 counsel contended that Dr. Prostic failed to discuss the aggravation of the preexisting Arnold-Chiari malformation in his report and failed to provide any rationale for his medical conclusions. He submitted a July 30, 2015 report from Dr. Robert M. Beatty, a Board-certified neurosurgeon, who diagnosed Arnold-Chiari malformation and crush injury to the right arm and leg.

By decision dated August 3, 2016, OWCP's hearing representative affirmed the November 23, 2015 decision denying appellant's claim for wage-loss compensation for the period June 13, 2015 to January 18, 2016. He found that OWCP properly accorded the weight to Dr. Prostic who opined that the accepted thigh contusion had resolved and that there were no additional injury-related disabling conditions.

By decision dated August 18, 2016, another OWCP hearing representative affirmed the January 19, 2016 decision terminating appellant's compensation benefits. The hearing representative also found that appellant had not established that her CRPS and aggravation of Arnold-Chiari malformation were attributable to the accepted work injury.

On August 25, 2016 counsel requested reconsideration of the August 3 and 18, 2016 decisions. He referenced new evidence from Dr. Fisher which he asserted established causal relationship between appellant's April 5, 2015 work injury and the development of CRPS. Counsel further contended that Dr. Prostic provided unreasoned, one sentence conclusory statements regarding appellant's work injury.

In an accompanying August 22, 2016 report, Dr. Fisher noted that appellant sustained a crush injury to her right leg on April 5, 2015 at work. She indicated that, since that injury,

appellant developed CRPS of her right lower extremity due to the initial crush injury. Dr. Fisher opined that no other diagnosis explained her symptoms and these symptoms were not present before the injury. She noted that appellant was disabled from work from June 13, 2015 through January 18, 2016 because of her April 5, 2015 work injury. In notes dated September 8 and 26, 2016, Dr. Fisher indicated that appellant was incapacitated from work due to the April 5, 2015 work injury.

By decision dated November 17, 2016, OWCP denied modification of its August 3 and 18, 2016 decisions. It found that the medical evidence of record supported that the accepted right thigh contusion had resolved, that no other condition arose from the April 5, 2015 work injury, and that appellant was not entitled to wage-loss compensation beginning June 13, 2015.

LEGAL PRECEDENT -- ISSUE 1

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.⁶ Causal relationship is a medical question that generally requires rationalized medical opinion evidence to resolve the issue.⁷ A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.⁸ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).⁹

Proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter. The claimant has the burden to establish entitlement to FECA benefits; however, OWCP shares responsibility in the development of the evidence to see that justice is done.¹⁰ Once OWCP undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.¹¹

ANALYSIS -- ISSUE 1

The Board finds that this case is not in posture for decision.

Appellant has alleged that she developed right lower extremity CRPS as a result of the April 12, 2015 employment injury. She has also alleged that the accepted employment incident aggravated her preexisting Arnold-Chiari malformation. OWCP accepted the claim, as noted, only

⁶ *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

⁷ *Robert G. Morris*, 48 ECAB 238 (1996).

⁸ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁹ *Id.*

¹⁰ *William J. Cantrell*, 34 ECAB 1223 (1983).

¹¹ *Richard F. Williams*, 55 ECAB 343, 346 (2004).

for right thigh contusion. It based its decision to deny the acceptance of the additional conditions on the report from Dr. Prostic, the second opinion physician, dated October 21, 2015.

OWCP provided questions to Dr. Prostic on September 9, 2015 and requested that he provide detailed medical rationale to support his opinion. With regard to whether the medical evidence supported additional lumbar or cervical diagnoses in connection with the work injury, he merely responded “No.” However, OWCP did not properly articulate in its SOAF as to the other claimed conditions for which it requested Dr. Prostic’s opinion.¹² As such Dr. Prostic was unable to properly explain whether appellant’s preexisting Arnold-Chiari malformation, or any other condition, was aggravated by her work injury. As well, in the SOAF appellant’s preexisting or concurrent medical conditions were listed as “unknown.”

Accordingly, the case shall be remanded for further medical development. OWCP shall update the SOAF and develop the medical record consistent with the above-noted directive. Following such further development it shall issue a *de novo* decision regarding the requested expansion of appellant’s claim to include additional diagnosed lumbar and cervical conditions, as well as CRPS and an aggravation of her preexisting Arnold-Chiari malformation.

LEGAL PRECEDENT -- ISSUE 2

A claimant has the burden of establishing the essential elements of his or her claim, including that the medical condition for which compensation is claimed is causally related to the employment injury.¹³ Compensation for wage loss due to disability is available for periods during which an employee’s work-related medical condition prevents her from earning the wages earned before the work-related injury.¹⁴ The claimant must submit medical evidence showing that the condition claimed is disabling.¹⁵ The evidence submitted must be reliable, probative, and substantial.¹⁶ The physician’s opinion must be based on the facts of the case and the complete medical background of the employee, must be one of reasonable medical certainty, and must include objective findings in support of its conclusions.¹⁷ Subjective complaints of pain are not sufficient, in and of themselves, to support payment of continuing compensation.¹⁸ Likewise, medical limitations based solely on the fear of a possible future injury are also insufficient to support payment of continuing compensation.¹⁹

¹² See Federal (FECA) Procedure Manual, Part 3 -- Medical, *OWCP Directed Medical Examinations*, Chapter 3.500.3f(2) (July 2011). As noted, once OWCP undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case. *Supra* note 11.

¹³ 20 C.F.R. § 10.115(e); see *Tammy L. Medley*, 55 ECAB 182, 184 (2003).

¹⁴ *Id.* at § 10.500(a).

¹⁵ *Id.* at § 10.115(f).

¹⁶ *Id.* at § 10.115.

¹⁷ *Id.* at § 10.501(a)(2).

¹⁸ *Id.*

¹⁹ *Id.*

An employee is not entitled to compensation for any wage-loss claimed on a Form CA-7 to the extent: (1) evidence contemporaneous with the claimed period establishes that an employee had medical work restrictions in place; (2) that light duty within those work restrictions was available; and (3) the employee was previously notified in writing that such duty was available.²⁰

ANALYSIS -- ISSUE 2

OWCP accepted appellant's claim for right thigh contusion. Appellant stopped work on April 5, 2015, and received continuation of pay from April 10 to May 24, 2015. OWCP paid wage-loss compensation for temporary total disability for the period May 25 to June 12, 2015. It denied compensation thereafter. OWCP relied on Dr. Prostic's October 21, 2015 report when denying appellant's claim for compensation for the period June 13, 2015 to January 18, 2016 as causally related to her April 5, 2015 employment injury.

Dr. Prostic was provided with questions from OWCP on September 9, 2015, which requested a detailed medical rationale to support his opinion. He failed to provide a fully reasoned medical opinion in response to the questions outlined in the September 9, 2015 referral letter. OWCP provided a SOAF and requested Dr. Prostic review and opine as to whether the claimant could return to work full duty as a mail handler. Dr. Prostic indicated that "Based upon orthopedic findings only, the patient was able to return to work as a mail handler. Appellant's barrier to return to work is more likely emotional than orthopedic." However, he did not provide any medical reasons for this conclusion. With regard to whether there were work restrictions for the accepted condition, Dr. Prostic responded "Again, none are indicated orthopedic only." The Board again finds that Dr. Prostic's opinion is deficient. Dr. Prostic provided little or no explanation in support of his opinions, and failed to adequately address the questions outlined by OWCP in the September 9, 2015 referral letter. Having undertaken development of the record, OWCP must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.²¹ Accordingly, the case is not in posture for decision regarding whether appellant has employment-related disability beginning June 13, 2015. On remand OWCP shall further develop the medical record regarding entitlement to wage-loss compensation for the period beginning June 13, 2015. Following this, and any other further development as deemed necessary, OWCP shall issue an appropriate merit decision on appellant's claim.²²

LEGAL PRECEDENT -- ISSUES 3 & 4

Once OWCP accepts a claim and pays compensation, it bears the burden to justify modification or termination of benefits.²³ Having determined that an employee has a disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.²⁴

²⁰ *Id.* at § 10.500(a).

²¹ *Supra* note 11.

²² *Sandra D. Pruitt*, 57 ECAB 126 (2005).

²³ *Curtis Hall*, 45 ECAB 316 (1994).

²⁴ *Jason C. Armstrong*, 40 ECAB 907 (1989).

The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.²⁵ To terminate authorization for medical treatment, OWCP must establish that the employee no longer has residuals of an employment-related condition that require further medical treatment.²⁶ Once OWCP has properly modified or terminated benefits, the burden of reinstating benefits shifts to the employee.²⁷

ANALYSIS -- ISSUES 3 & 4

The Board finds that OWCP did not properly terminate appellant's wage-loss compensation and medical benefits, effective January 19, 2016.

OWCP terminated entitlement to future wage-loss compensation and medical benefits, effective January 19, 2016. Again, it relied on Dr. Prostic's October 21, 2015 second opinion evaluation as the basis for terminating both wage-loss compensation and medical benefits. He found, *inter alia*, that appellant's accepted right thigh contusion had resolved. Specifically, Dr. Prostic noted there was "no objective evidence that the condition [was] still active." He further noted that it was likely that appellant's current clinical condition was predominantly emotionally based. As such, physical testing and treatment was unlikely to be beneficial.

As previously discussed, Dr. Prostic did not provide a fully reasoned medical opinion in response to the questions outlined in OWCP's September 9, 2015 referral letter. With respect to whether there were clinical or diagnostic findings which indicated that the accepted right thigh contusion was still active, Dr. Prostic merely noted that there was "no objective evidence that the condition [was] still active." He did not describe what clinical or diagnostic findings he relied upon to determine the condition was no longer active, nor did he indicate when the condition resolved. OWCP requested that Dr. Prostic review the SOAF and opine as to whether the claimant could return to work full duty as a mail handler. Dr. Prostic indicated that "Based upon orthopedic findings only, the patient was able to return to work as a mail handler. Her barrier to return to work is more likely emotional than orthopedic." However, he did not provide any medical reasons for this conclusion. With regard to whether there were work restrictions for the accepted condition, Dr. Prostic responded "Again, none are indicated orthopedic only."

The Board finds that Dr. Prostic's opinion is deficient as he provided little or no explanation in support of his opinions. OWCP provided questions to Dr. Prostic and requested that he provide detailed medical rationale to support his opinion. Dr. Prostic failed to adequately address the questions outlined in the September 9, 2015 referral letter. Therefore, his opinion is insufficient to carry the weight of the medical evidence to justify termination of appellant's FECA benefits. As OWCP did not meet its burden of proof, the termination of wage-loss compensation and medical benefits effective January 19, 2016 shall be reversed.²⁸

²⁵ *Furman G. Peake*, 41 ECAB 361, 364 (1990); *Thomas Olivarez, Jr.*, 32 ECAB 1019 (1981).

²⁶ *Calvin S. Mays*, 39 ECAB 993 (1988).

²⁷ *Joseph A. Brown Jr.*, 55 ECAB 542, 544 n. 5 (2004).

²⁸ In light of the Board's disposition regarding Issue 3, Issue 4 is rendered moot.

CONCLUSION

The Board finds the case not in posture with regard to whether appellant has met her burden of proof to establish additional conditions causally related to the accepted April 5, 2015 employment injury. The Board further finds the case not in posture with regard to whether appellant met her burden of proof to establish total disability for the period June 13, 2015 to January 18, 2016 causally related to the accepted April 5, 2015 employment injury. Lastly, the Board finds that OWCP did not meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits effective January 19, 2016.

ORDER

IT IS HEREBY ORDERED THAT the November 17, 2016 decision of the Office of Workers' Compensation Programs is reversed in part and set aside in part, and the case is remanded for further action consistent with this decision.

Issued: August 10, 2018
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

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