

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

A.M., Appellant	)	
	)	
and	)	Docket No. 24-0533
	)	Issued: July 5, 2024
DEPARTMENT OF VETERANS AFFAIRS,	)	
VETERANS HEALTH ADMINISTRATION,	)	
Miami, FL, 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  
JANICE B. ASKIN, Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On April 23, 2024 appellant filed a timely appeal from an April 11, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. § 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether OWCP has met its burden of proof to terminate appellant's compensation benefits for the accepted conditions of neck sprain and scalp contusion effective April 11, 2024.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On March 2, 2024 appellant, then a 54-year-old program support assistant, filed a traumatic injury claim (Form CA-1) alleging that on February 28, 2024 she injured her head and neck when she tripped and fell when entering an elevator while in the performance of duty. She stopped work on the date of injury. Appellant returned to full-time, modified-duty work on February 29, 2024 and to full-time, full-duty work, effective March 1, 2024.

In a February 28, 2024 emergency room report, Dr. Tanaz Berahman, an osteopath Board-certified in emergency medicine, noted that appellant related complaints of headache and a hematoma, which she attributed to a fall inside an elevator at work. On physical examination, she noted a hematoma above the right eye. Dr. Berahman ordered a computerized tomography (CT) scan of the head, which revealed mild soft tissue scalp swelling/contusion along the right supraorbital ridge region. She diagnosed a closed head injury and instructed appellant to return to the emergency department if her symptoms worsened.

In a separate emergency room report also dated February 28, 2024, Dr. Joseph Patrick Bowers, a Board-certified internal medicine specialist, noted that appellant related complaints of worsening head and neck pain since a fall at work that morning. He performed a physical examination, which revealed tenderness and soft tissue swelling to the lateral right brow and spasm and muscular tenderness of the cervical spine. Dr. Bowers ordered a CT scan of the brain, which was normal, and a CT scan of the cervical spine, which revealed mild reversal of normal lordotic curvature of the cervical spine and degenerative changes. He diagnosed a head injury and a neck sprain.

A March 4, 2024 unsigned intake form noted that appellant complained of constant aching in the cervical spine with radiation to the right shoulder after a fall in an elevator and recommended a magnetic resonance imaging (MRI) scan of the cervical spine.

In a March 4, 2024 medical report, Dr. Makda Isabella Majette, a Board-certified family medicine specialist, noted that appellant related complaints of intermittent pounding headaches in the right supraorbital region and throbbing, sharp pain in the right shoulder and neck region. She further related that appellant was unable to lift 20 pounds due to right neck and shoulder pain. Dr. Majette performed a physical examination, which revealed a tender hematoma over the right lateral third of the eyebrow, tenderness to palpation of the right trapezius muscle and shoulder, and reduced range of motion of the right shoulder. She diagnosed a head injury and neck sprain and recommended the use of her current medication and warm/cold compresses. In a separate form report of even date, Dr. Majette notes appellant was fit for duty and recommended light-duty work with no lifting greater than 30 pounds for the next three days.

By decision dated April 11, 2024, OWCP advised appellant that it had accepted her claim for neck sprain and scalp contusion. It further related that no further benefits would be paid for the accepted diagnoses after April 11, 2024 based upon the March 4, 2024 report of Dr. Majette.

## LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify modification or termination of an employee's benefits.<sup>2</sup> 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.<sup>3</sup> OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>4</sup> The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.<sup>5</sup> 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.<sup>6</sup>

## ANALYSIS

The Board finds that OWCP has not met its burden of proof to terminate appellant's compensation benefits for the accepted conditions of neck sprain and scalp contusion.

OWCP terminated appellant's wage-loss compensation and medical benefits based upon the March 4, 2024 report of Dr. Majette.

In her March 4, 2024 medical report, Dr. Majette noted appellant's complaints of intermittent pounding headaches in the right supraorbital region; throbbing, sharp pain in the right shoulder and neck region; and difficulty lifting over 30 pounds due to right-sided neck and shoulder pain. On physical examination, she documented a tender hematoma over the right lateral third of the eyebrow, tenderness to palpation of the right trapezius muscle and shoulder, and reduced range of motion of the right shoulder. Dr. Majette diagnosed a head injury and neck sprain and recommended ongoing use of her current medication, warm/cold compresses, and work restrictions for three days.

The Board, therefore, finds that the March 4, 2024 report of Dr. Majette does not contain a rationalized medical opinion to establish that appellant no longer had residuals or disability due

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<sup>2</sup> *C.F.*, Docket No. 21-0003 (issued January 21, 2022); *J.T.*, Docket No. 19-1723 (issued August 24, 2020); *S.P.*, Docket No. 19-0196 (issued June 24, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

<sup>3</sup> *S.P.*, Docket No. 22-0393 (issued August 26, 2022); *A.T.*, Docket No. 20-0334 (issued October 8, 2020); *E.B.*, Docket No. 18-1060 (issued November 1, 2018).

<sup>4</sup> *S.P.*, *id.*; *C.R.*, Docket No. 19-1132 (issued October 1, 2020); *G.H.*, Docket No. 18-0414 (issued November 14, 2018).

<sup>5</sup> *S.P.*, *id.*; *E.J.*, Docket No. 20-0013 (issued November 19, 2020); *L.W.*, Docket No. 18-1372 (issued February 27, 2019).

<sup>6</sup> *C.F.*, *supra* note 2; *M.E.*, Docket No. 20-0877 (issued August 17, 2021); *L.S.*, Docket No. 19-0959 (issued September 24, 2019); *R.P.*, Docket No. 18-0900 (issued February 5, 2019).

to her accepted employment injury.<sup>7</sup> Accordingly, OWCP has not met its burden of proof to terminate appellant's compensation benefits.

**CONCLUSION**

The Board finds that OWCP has not met its burden of proof to terminate appellant's compensation benefits for the accepted diagnoses of neck sprain and scalp contusion, effective April 11, 2024.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 11, 2024 decision of the Office of Workers' Compensation Programs is reversed, in part.

Issued: July 5, 2024  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>7</sup> *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.*, 19-1014 (issued October 24, 2019); *S.W.*, Docket No. 18-0005 (issued May 24, 2018).