

or residuals causally related to her accepted employment injury; and (2) whether appellant has met her burden of proof to establish continuing disability or residuals, on or after August 23, 2023, causally related to her accepted employment injury.

FACTUAL HISTORY

This case has previously been before the Board on a different issue.³ The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On December 18, 1991 appellant, then a 32-year-old postal distribution clerk, filed an occupational disease claim (Form CA-2) alleging that she developed left-sided neck, arm, and hand pain due to factors of her federal employment. She noted that she first became aware of her conditions on September 16, 1991, and realized their relation to factors of her federal employment on October 3, 1991. OWCP accepted appellant's claim for a cervical strain, bilateral carpal tunnel syndrome, bilateral ulnar nerve compression, and left ulnar nerve transposition. Appellant stopped work and subsequently returned to light-duty work. On September 2, 2010 she stopped work again due to a recurrence and OWCP paid her wage-loss compensation on the supplemental rolls, effective September 3, 2010, and on the periodic rolls, effective February 4, 2018.

In a January 4, 2022 report, Dr. Keith Cooper, Board-certified in family medicine, evaluated appellant for an employment injury, which developed in 1991. He reported that she underwent ulnar nerve decompression in 1993 and was restricted to limited-duty work until 2010 when she was unable to return to work due to her ongoing injuries. Dr. Cooper diagnosed carpal tunnel syndrome and lateral epicondylitis. He opined that appellant's status had not changed and she remained disabled and unable to return to work.

In a January 7, 2022 report, Dr. Cooper noted appellant's right knee complaints following a fall in December 2021. He diagnosed right knee osteoarthritis with potential internal derangement such as medial meniscus.

On April 28, 2023 OWCP referred appellant, along with the case record, a statement of accepted facts (SOAF) and a series of questions to Dr. Jason G. Stewart, a Board-certified orthopedic surgeon, for a second opinion evaluation and determination regarding whether she had any disability or residuals causally related to the accepted employment injury.

On June 5, 2023 Dr. Stewart evaluated appellant for the purpose of the second opinion evaluation. In his report of June 6, 2023, he documented her physical examination findings and discussed her history of injury. Dr. Stewart noted that appellant's occupational disease claim was accepted for cervicalgia; lesion of ulnar never, bilateral upper extremities; and carpal tunnel syndrome, bilateral upper extremities. He explained that appellant sustained an employment injury due to her repetitive employment duties involving her upper extremities. Dr. Stewart opined that her work-related conditions had resolved, noting that his clinical examination revealed no objective findings that would support her continued subjective complaints. He further discussed her postoperative neurodiagnostic studies of both upper extremities from 1997 and 2011, which

³ Docket No. 14-1797 (issued September 16, 2015); Docket No. 13-475 (issued May 17, 2013).

revealed normal findings, indicating the absence and/or resolution of any type of upper extremity compressive neuropathy. Dr. Stewart opined that appellant did not have a preexisting condition that was aggravated as a result of her employment conditions. He explained that her recent cervical spine magnetic resonance imaging (MRI) scan indicated an incidental finding of a congenitally small spinal canal, although there was no evidence of stenosis and the spinal canal was within normal size limits. Dr. Stewart explained that the diagnostic studies indicated that the cervical canal was in the lower limits of normal, meaning that her prior values would have also been within normal limits and therefore would not have attributed to her previous diagnoses. He further reported that appellant's grip strength was tested using a Jamar dynamometer with repeated trials, which fell far outside the normative range indicating a less than maximum effort. Dr. Stewart concluded that appellant could return to her date-of-injury job, full-duty, without restrictions as her work-related conditions had resolved and she had not sought treatment for several years.

In a June 5, 2023 work capacity evaluation (Form OWCP-5c), Dr. Stewart noted the diagnoses of cervical strain, bilateral carpal tunnel syndrome, and bilateral ulnar nerve compression and opined that appellant could return to her date-of-injury job, without restrictions.

On July 12, 2023 OWCP proposed to terminate appellant's wage-loss compensation and medical benefits as the weight of the medical evidence established that she no longer had any disability or residuals causally related to her accepted employment injury. It afforded her 30 days to submit additional evidence or argument if she disagreed with the proposed termination.

On August 2, 2023 appellant responded to the notice of proposed termination. She argued that her conditions had not resolved which continued to limit her activities of daily living.

In response to the notice of proposed termination, appellant submitted a July 28, 2023 report, wherein, Dr. Cooper reported that he left his prior practice in August 2022, and appellant did not reestablish treatment with him until May 2023, causing a delay in completing her forms. He explained that appellant developed a work-related repetitive use injury in 1991, which required ulnar nerve decompression in 1993. Dr. Cooper reported that she continued limited-duty work until 2010 when she was unable to return to work due to her employment conditions. He explained that appellant's condition remained unchanged over the years, and she continued to be disabled from work. Dr. Cooper reported that appellant complained of continued chronic weakness and pain in the left arm and had been referred to orthopedics on and off for the last 10 years, but he was not privy to that information. He noted that appellant's symptoms were mainly subjective with chronic weakness and pain in the left arm and hand. Dr. Cooper diagnosed bilateral carpal tunnel syndrome and history of decompression of left ulnar nerve and opined that appellant continued to have permanent limitations, which prohibited her from returning to her pre-injury job. He discussed her original limitations, which included no lifting above 10 pounds, no repetitive hand use, no lifting above the shoulders, and no continual fine manipulation. Dr. Cooper explained that appellant's conditions and symptoms remained unchanged, and her limitations would remain in effect.

By decision dated August 23, 2023, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date, finding that the weight of the medical evidence rested with Dr. Stewart.

On August 31, 2023 appellant, through counsel, requested a telephonic hearing before a representative of OWCP's Branch of Hearings and Review.

In support of her claim, appellant submitted a September 12, 2023 x-ray of the cervical spine, which revealed an impression of multilevel facet degenerative change left greater than right mid cervical levels, moderate neural foraminal stenosis on the right at C3-4 and C5-6 levels, and left neural foraminal stenosis seen at C4-5.

A November 20, 2023 cervical spine MRI scan revealed an impression of no signal abnormalities of the cervical spinal cord, moderate spinal canal stenosis at C3-4, moderate-to-severe bilateral neural foraminal stenosis at C3-4, moderate-to-severe bilateral neural foraminal stenosis at C4-5 and C6-7, and severe right neural foraminal stenosis at C5-6.

In a November 28, 2023 medical report, Dr. Cooper reported that he had evaluated appellant over the years for neck and upper extremity problems resulting in numbness, weakness, and shooting pain. He explained that diagnostic testing revealed significant degenerative nerve impingement throughout the lower cervical spine and appellant was referred for a neurosurgical consultation to discuss treatment options. Dr. Cooper opined that appellant's findings tied in closely to the medical problems and symptoms that she had dealt with over the years related to her on-the-job injury.

A hearing was held on December 5, 2023.

In a statement dated December 30, 2023, appellant asserted that OWCP's March 31, 2006 letter stated that her claim should never be closed because she received a schedule award. In support of her assertion, she submitted OWCP's March 31, 2006 letter, which advised her that during that time, her claim should have never been closed due to the fact that she received a schedule award.

By decision dated January 23, 2024, OWCP's hearing representative affirmed the August 23, 2023 decision.

On February 27, 2024 appellant, through counsel, requested reconsideration.

By decision dated February 29, 2024, OWCP denied modification of the January 23, 2024 decision.

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 been determined that an employee has a disability causally related to his or her employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to

⁴ See *P.B.*, Docket No. 21-0894 (issued February 8, 2023); *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *R.P.*, Docket No. 17-1133 (issued January 18, 2018); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

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

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

ANALYSIS -- ISSUE 1

The Board finds that OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective August 23, 2023, as she no longer had disability or residuals causally related to her accepted October 3, 1991 employment injury.

In a June 5, 2023 report, Dr. Stewart, OWCP's second opinion physician, reviewed appellant's history of injury, provided physical examination findings, and opined that appellant's current condition was not related to the accepted employment injury. He further explained that his examination of the cervical spine and upper extremities revealed stable findings that were neurologically intact, noting that there were no objective physical findings to correlate with appellant's subjective complaints of generalized pain. Dr. Stewart concluded that appellant's work-related condition had resolved, and that no further treatment was medically warranted.

The Board finds that the weight of the medical evidence with respect to OWCP's termination action is represented by the well-rationalized opinion of Dr. Stewart. The June 5, 2023 report of Dr. Stewart establishes that appellant no longer had employment-related disability or residuals causally related to the accepted employment injury. The Board has reviewed the opinion of Dr. Stewart and finds that it has reliability, probative value, and convincing quality with respect to its conclusions regarding the relevant issue of work-related disability and residuals. Accordingly, OWCP properly relied on Dr. Stewart's opinion in terminating appellant's wage-loss compensation and medical benefits.⁹

The remaining evidence submitted prior to OWCP's termination of appellant's compensation is insufficient to overcome the weight accorded to Dr. Stewart as the second-opinion physician.

Appellant submitted a July 28, 2023 medical report from Dr. Cooper documenting findings related to her neck and upper extremity conditions. In his report, Dr. Cooper reported that

⁵ See *R.P., id.*; *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

⁶ See *P.T.*, Docket No. 21-0328 (issued May 2, 2022); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

⁷ *J.W.*, Docket No. 19-1014 (issued October 24, 2019); *L.W.*, Docket No. 18-1372 (issued February 27, 2019).

⁸ *T.C.*, Docket No. 20-1163 (issued July 13, 2021); *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002).

⁹ *S.V.*, Docket No. 23-0474 (issued August 1, 2023).

appellant complained of continued chronic weakness and pain in the left arm, noting that her complaints were mainly subjective. He diagnosed bilateral carpal tunnel syndrome and history of decompression of left ulnar nerve and reported that appellant continued to have permanent limitations, which prohibited her from returning to her pre-injury job. Dr. Cooper's report, however, is of limited probative value as he fails to provide medical rationale explaining how appellant had continuing disability or residuals causally related to the accepted employment injury.¹⁰ Accordingly, his report is insufficient to overcome the weight of the medical evidence accorded to Dr. Stewart, or to create a conflict in medical opinion as to whether appellant's accepted conditions had resolved.¹¹

The Board, therefore, finds that OWCP properly terminated appellant's wage-loss compensation and medical benefits for the accepted employment injury, effective August 23, 2023.¹²

LEGAL PRECEDENT -- ISSUE 2

Once OWCP properly terminated compensation benefits, the burden shifts to appellant to establish continuing disability on or after that date causally related to the accepted injury.¹³ To establish causal relationship between the accepted conditions as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background supporting such causal relationship.¹⁴

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met her burden of proof to establish continuing disability or residuals, on or after August 23, 2023, causally related to her accepted employment injury.

Following the termination of her wage-loss compensation and medical benefits, appellant submitted Dr. Cooper's November 28, 2023 medical report wherein he explained that appellant's diagnostic testing revealed significant degenerative nerve impingement throughout the lower cervical spine resulting in a neurosurgical consultation to discuss treatment options. He opined that appellant's findings tied in closely to the medical problems and symptoms that she had dealt with over the years related to her on-the-job injury. Dr. Cooper, however, failed to provide sufficient medical rationale to establish that appellant had continuing residuals of her accepted employment injury.¹⁵ The Board has held that a report is of limited probative value regarding

¹⁰ See *E.H.*, Docket No. 23-0503 (issued July 20, 2023); *L.S.*, Docket No. 19-0959 (issued September 24, 2019); *J.F.*, Docket No. 17-1716 (issued March 1, 2018).

¹¹ *D.L.*, Docket No. 22-0161 (issued March 10, 2023).

¹² *D.G.*, Docket No. 17-0608 (issued March 19, 2018).

¹³ See *J.N.*, Docket No. 20-1030 (issued November 20, 2020); *L.C.*, Docket No. 18-1759 (issued June 26, 2019).

¹⁴ *Id.*

¹⁵ *A.V.*, Docket No. 23-0230 (issued July 28, 2023).

causal relationship if it does not contain sufficient medical rationale explaining how an employment injury could have caused or aggravated a medical condition.¹⁶ Accordingly, this report is of limited probative value.¹⁷

As the medical evidence of record is insufficient to establish continuing disability or residuals causally related to her accepted employment injury, the Board finds that appellant has not met her burden of proof.¹⁸

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective August 23, 2023, as she no longer had disability or residuals causally related to her accepted employment injury. The Board further finds that appellant has not met her burden of proof to establish continuing disability or residuals, on or after August 23, 2023, causally related to her accepted employment injury.

¹⁶ *W.C.*, Docket No. 18-1386 (issued January 22, 2019); *D.W.*, Docket No. 18-0123 (issued October 4, 2018); *Melvina Jackson*, 38 ECAB 443 (1987).

¹⁷ *Id.*

¹⁸ *See R.G.*, Docket No. 22-0165 (issued August 11, 2022).

ORDER

IT IS HEREBY ORDERED THAT the February 29, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 26, 2024
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board

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