

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

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**K.C., Appellant** )

**and** )

**U.S. POSTAL SERVICE, HUNTINGTON** )  
**STATION POST OFFICE,** )  
**Huntington Station, NY, Employer** )  
\_\_\_\_\_ )

**Docket No. 24-0628**  
**Issued: September 17, 2024**

*Appearances:*

*Thomas S. Harkins, Esq., for the appellant<sup>1</sup>*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On May 23, 2024 appellant, through counsel, filed a timely appeal from a December 5, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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<sup>1</sup> 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.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUES**

The issues are: (1) whether appellant has met her burden of proof to expand the acceptance of her claim to include additional conditions as causally related to the accepted December 10, 2019 employment injury;<sup>3</sup> and (2) whether OWCP met its burden of proof to terminate appellant's entitlement to wage-loss compensation and medical benefits with regard to left knee contusion, left knee sprain, bilateral shoulder sprain, thoracolumbar sprain, and whiplash/cervical sprain, effective December 5, 2023, as she no longer had disability causally related to her accepted December 10, 2019 employment injury.

## **FACTUAL HISTORY**

This case has previously been before the Board. The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference.<sup>4</sup> The relevant facts are as follows.

On December 11, 2019 appellant, then a 36-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on December 10, 2019 she sustained injuries to her low back, left hip, and left knee when a truck with a trailer in tow rear-ended her delivery vehicle while in the performance of duty. She stopped work on December 10, 2019.

Appellant submitted December 10, 2019 hospital emergency department aftercare instructions for a motor vehicle collision injury.

In a December 12, 2019 duty status report (Form CA-17) and a work slip of even date, Dr. Igor Stiler, a Board-certified neurologist and psychiatrist, diagnosed derangement of the cervical and lumbar spine, left hip and left knee. He held appellant off work through January 18, 2020.

In a development letter dated December 23, 2019, OWCP informed appellant of the deficiencies of her claim. It advised her of the type of factual and medical evidence necessary and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

In support thereof, appellant submitted a December 30, 2019 statement describing the December 10, 2019 motor vehicle accident and a December 11, 2019 municipal police report of the accident.

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<sup>3</sup> The additional conditions consisted of the following: derangement of the cervical spine; derangement of the lumbar spine; derangement of the left hip; derangement of the left knee; left C5 radiculopathy; post-traumatic L2-3 disc bulge; herniated disc of the lumbar spine at L3-4 and L5-S1 with impingement with an annular tear; post-traumatic L4-5 disc bulge with bilateral foraminal encroachment and foraminal stenosis; labral tear of the left hip; left knee medial and lateral meniscus tear; herniations at C3-4 through C6-7; left knee chondromalacia patella/medial collateral ligament (MCL) sprain; left shoulder partial rotator cuff tear; C4 through C6 spinal canal stenosis and foraminal narrowing; and post-traumatic left rotator cuff tendinosis/tendinopathy with partial thickness bursal surface tear.

<sup>4</sup> Docket No. 22-0788 (issued August 23, 2023).

In a January 9, 2020 Form CA-17, Dr. Stiler diagnosed derangement of the neck, low back, left shoulder, left knee and left hip.

By decision dated January 27, 2020, OWCP accepted that the December 10, 2019 employment incident occurred as alleged. However, it denied the claim, finding that the medical evidence of record was insufficient to establish causal relationship between appellant's diagnosed conditions and the accepted employment incident.

Appellant submitted additional evidence. In a January 8, 2020 report, Dr. Stiler recounted appellant's symptoms of neck and left knee pain. On examination he observed tenderness to palpation of the bilateral trapezius muscles, tenderness to palpation and limited motion of the cervical spine, lumbar spine, left femoroacetabular joint, and left knee, bilaterally positive straight leg raising tests, positive Milgram's and Kemp's tests on the left, positive FABER and McMurray's tests, and left hip and knee flexion strength at 4+/5. Dr. Stiler diagnosed derangement of the cervical spine, lumbar spine, left hip, and left knee. He referred appellant for imaging studies to rule out herniated discs, a labral tear of the left hip, and instability of the left knee.

In a January 25, 2020 Form CA-17, Dr. Stiler noted findings on examination of decreased muscle strength, tenderness to palpation of the spine, and decreased range of motion. He diagnosed derangement of the neck, lower back, left knee, left shoulder, and left hip. Dr. Stiler answered a question "Yes" indicating that the history of the alleged injury presented by appellant corresponded with that contained on the Form CA-17.

On February 14, 2020 appellant requested reconsideration. She submitted a February 7, 2020 report by Dr. Stiler noting the December 10, 2019 employment incident and subsequent treatment. Dr. Stiler recounted that at the moment of impact, appellant had rotated her head and torso toward the left to check her side mirror, then the collision caused her body to "violently jerk forward and backwards," resulting in a "whiplash" injury to the head, neck, and low back. He explained that appellant's left knee had been injured when her body weight shifted over her stationary lower leg and foot. Appellant's "left hip was injured as her body weight shifted forward and the seat belt restrained her." Dr. Stiler opined that the direction of the collision and appellant's position in her seat resulted in the impact being primarily absorbed on the left side of her body. He diagnosed derangement of the cervical spine, lumbar spine, left hip, and left knee.

OWCP continued to receive reports from Dr. Stiler dated January 25 and February 19, 2020, reiterating the findings and diagnoses noted in his February 14, 2020 report.

By decision dated April 10, 2020, OWCP vacated, in part, its January 27, 2020 decision and accepted appellant's claim for whiplash. By separate decision of even date, it denied expansion of the acceptance of her claim to include derangement of the cervical spine, lumbar spine, left hip and left knee.

In a May 8, 2020 Form CA-17, Dr. Stiler found appellant able to perform limited-duty work for four hours a day.

On May 12, 2020 OWCP received reports by Dr. Stiler dated December 12, 2019 and January 8, 2020. Dr. Stiler diagnosed derangement of the cervical spine, lumbar spine, left hip and left knee.

In a May 29, 2020 report, Dr. Stiler diagnosed a whiplash injury to the cervical spine. He opined that appellant had been totally disabled from work from January 25 through February 22, 2020 and partially disabled from work as of February 23, 2020.

In a June 9, 2020 report, Dr. Stiler recounted appellant's continuing neck, left shoulder, low back, and left knee pain. On examination, he observed limited range of cervical and lumbar motion with paraspinal spasm and tenderness, and positive straight leg raising, Milgram's, and Kemp's tests on the left. Dr. Stiler diagnosed cervical radiculopathy, herniated lumbar disc, labral tear of the left hip and meniscal tear of the left knee. He submitted periodic progress notes through July 6, 2020.

In reports dated June 24 through August 31, 2020, Dr. Joseph Gregorace, Board-certified in physiatry and pain management, recounted the December 10, 2019 employment injury and summarized her subsequent treatment. On examination he observed limited range of motion of the cervical spine, left shoulder, lumbar spine, and left knee, positive Neer and Yocum tests of the left shoulder, lumbar paraspinal spasms, medial joint line tenderness in the left knee, and a positive McMurray's test of the left knee. Dr. Gregorace diagnosed cervical spine strain/sprain, herniated discs from C3-4 through C6-7, left shoulder rotator cuff tendinitis, rule out rotator cuff tear, lumbar spine pain with spasms, herniated discs at L3-4 and L5-S1, and a left knee medial meniscal sprain. He found appellant totally disabled from work.

On September 11, 2020 appellant requested reconsideration of the April 10, 2020 expansion decision.

In reports dated September 15 through December 2, 2020, Dr. Aron Rovner, a Board-certified orthopedic surgeon, recounted appellant's history of injury and treatment. On examination he observed limited range of lumbar and left knee motion, positive straight leg raising test, clicking with extension of the left knee, left knee effusion, and a positive McMurray's sign on the left. Dr. Rovner diagnosed lumbar/cervical spine pain, multilevel lumbar disc bulges with radiculopathy, left knee pain, and left shoulder pain, status post December 10, 2019 employment injury. He opined that the diagnosed conditions were "directly causally related to the accident within a reasonable degree of medical certainty." Dr. Rovner recommended intra-articular injections and left knee arthroscopy.

In a report dated September 21, 2020, Dr. Gregorace diagnosed cervical spine strain/sprain, left shoulder strain, lumbar spine strain/sprain, and left knee meniscal tear. He held appellant off work.

On November 3, 2020 OWCP received June 24 and July 27, 2020 work slips by Dr. Gregorace holding appellant off work.

In reports dated August 10, September 10, and November 4, 2020, Dr. Stiler diagnosed cervical radiculopathy, derangement of the lumbar spine, labral tear of the left hip, and meniscal tear of the left knee.

By decision dated December 10, 2020, OWCP denied modification of its prior decision.

From December 11, 2020 through January 14, 2021, OWCP received reports dated October 9 through December 10, 2020, wherein Dr. Stiler diagnosed cervical radiculopathy, derangement of the lumbar spine, labral tear of the left hip and meniscal tear of the left knee.

In reports dated December 14 and 16, 2020, Dr. Gregorace diagnosed left C5 radiculopathy, herniated discs from C3-4 through C6-7, status post cervical epidural steroid injection, partial left rotator cuff tear, herniated discs at L3-4 and L5-S1, left L5 radiculopathy, and left medial meniscus tear. He noted work restrictions.

In January 14 and February 17, 2021 reports, Dr. Stiler diagnosed cervical radiculopathy, derangement of the lumbar spine, labral tear of the left hip and meniscal tear of the left knee.<sup>5</sup>

On May 11, 2021 OWCP received reports dated December 10, 2019 by Dr. Lauren H. Patti, Board-certified in emergency medicine, wherein she recounted the work-related motor vehicle accident that had occurred three hours previously. On examination Dr. Patti noted left lower extremity pain with full range of motion and no muscle tenderness. She obtained x-rays of the left knee and hip, which demonstrated no bone, joint, or soft tissue abnormalities. Dr. Patti diagnosed left knee contusion and left hip strain.

On August 11, 2021 appellant, through counsel, requested reconsideration.

Appellant submitted an April 19, 2021 report by Dr. Stiler, wherein he opined that the impact of the vehicle striking appellant's truck caused her to jerk forward and strike her left knee against a tray at the front of the truck cabin. Dr. Stiler diagnosed cervical radiculopathy, herniated lumbar disc, left medial meniscal tear, and partial left rotator cuff tear causally related to the December 10, 2019 employment injury. He explained that the forces of the accident put pressure on the fibrous exterior of the spinal discs, allowing the nucleus pulposus to protrude, which resulted in pain, spasms, and radiculopathy. Dr. Stiler also opined that the impact of the accident caused appellant's left femur to shift over the tibia, which was stable as her foot had been planted on the floor, resulting in a left meniscal tear. Additionally, he explained that when appellant's vehicle was impacted, her unrestrained left shoulder jerked forward, resulting in a rotator cuff tear due to sudden shifting of the joint.

In a June 8, 2021 report, Dr. Gregorace examined appellant and observed spasm and tenderness to palpation of the cervical and lumbar paraspinal musculature, tenderness to posterolateral palpation of the left shoulder, tenderness along the medial joint line of the left knee, tenderness at the left medial collateral ligament (MCL) with valgus strain, limited motion of the

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<sup>5</sup> By decision dated March 25, 2021, OWCP denied appellant's May 6 and 11, 2020 claims for recurrence of disability commencing February 24, 2020.

cervical spine, lumbar spine, left shoulder, and left knee, and positive Yocum's and Lachman's tests on the left. He diagnosed post-traumatic cervical spine strain/sprain with spasms, post-traumatic cervical disc herniations at C3-4, C4-5, and C5-6 causing spinal canal stenosis and foraminal narrowing, traumatic left C5 radiculopathy, post-traumatic lumbar strain/sprain with spasms, post-traumatic L3-4 disc herniation with impingement upon the L3 root with biforaminal encroachment, post-traumatic L5-S1 disc herniation with annular tear impinging on the thecal sac and S1 nerve roots with foraminal stenosis, traumatic left L5 radiculopathy, post-traumatic L2-3 disc bulge, post-traumatic L4-5 disc bulge with bilateral foraminal encroachment and foraminal stenosis, post-traumatic left shoulder strain, post-traumatic left rotator cuff tendinosis/tendinopathy with partial thickness bursal surface tear, and post-traumatic left medial and lateral meniscus tears with MCL sprain. Dr. Gregorace opined that the December 10, 2019 employment injury caused significant injuries to the cervical and lumbar spine, left shoulder and left knee. He explained that the sudden forceful impact caused by the accident "exerted tremendous pressure to the structural integrity of the nucleus pulposus, annulus fibrosis and facet joints of the cervical and lumbar spine," resulting in C3-4, C4-5, and C5-6 disc herniations with spinal stenosis and foraminal narrowing, L3-4 and L5-S1 disc herniations, and disc bulges at L2-3, L3-4, and L4-5. Dr. Gregorace opined that the cervical spine conditions explained appellant's ongoing neck and lumbar pain with left-sided radiculopathy. He noted that the neck, back, left shoulder, and left knee traumas resulted in post-traumatic sprain/strain syndromes with myofascial derangements and inflammation, leading to scar tissue formation and restricted joint motion.

By decision dated November 9, 2021, OWCP denied modification.

Appellant, through counsel, appealed to the Board. By decision dated August 23, 2023,<sup>6</sup> the Board found that appellant had met her burden of proof to establish that the acceptance of the claim should be expanded to include contusion of the left knee, causally related to the accepted December 10, 2019 employment injury. The Board further found that the case was not in posture for decision regarding whether there were additional conditions causally related to the accepted December 10, 2019 employment injury, and remanded the case to refer appellant, the medical record, and a statement of acceptance facts (SOAF) to a specialist in the appropriate field of medicine for an evaluation and well-rationalized opinion as to whether the additional diagnosed conditions were causally related to the accepted December 10, 2019 employment injury.

By decision dated September 27, 2023, OWCP expanded the acceptance of appellant's claim to include left knee contusion.

On October 19, 2023 OWCP referred appellant, along with the medical record, a SOAF, and a series of questions to Dr. Leon Sultan, a Board-certified orthopedic surgeon, for a second opinion examination to determine the nature and extent of the work-related conditions.

In a November 7, 2023 report, Dr. Sultan reviewed the medical record and SOAF, and recounted a history of injury and treatment. On examination, he observed full motion of the cervical spine without paraspinal spasm, symmetrical biceps and triceps reflexes, strong pinch and grip strength bilaterally, full range of motion of both shoulders, no tenderness to palpation of the

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<sup>6</sup> *Supra* note 4.

acromioclavicular joints or over the long head of the biceps tendon bilaterally, full range of lumbar motion, negative straight leg raise and Patrick’s tests bilaterally, full range of left knee motion with no instability, and no patellofemoral crepitus. Dr. Sultan reported that while Dr. Stiler, Dr. Rovner, and Dr. Gregorace noted orthopedic problems of the cervical spine, lumbar spine, left shoulder, and left knee, they were “not clinically discernable” and were not causally related to the December 10, 2019 employment injury. He opined that while appellant sustained “soft tissue trauma involving her cervical spine, thoracolumbar spine, both shoulders[,] and left knee causally connected to the [employment] injury of December 10, 2019[,]” these conditions had since resolved. Dr. Sultan opined that there was no correlation between his clinical findings, appellant’s subjective symptoms, and the imaging studies of record.

By *de novo* decision dated December 5, 2023, OWCP denied expansion of the acceptance of the claim to include additional conditions.<sup>7</sup> It revised the accepted conditions in the claim to include resolved left knee contusion, resolved left knee sprain, resolved bilateral shoulder sprain, resolved thoracolumbar sprain, and resolved whiplash/cervical sprain. OWCP accorded the weight of the medical evidence to Dr. Sultan, the second opinion specialist.

### **LEGAL PRECEDENT -- ISSUE 1**

When 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.<sup>8</sup>

To establish causal relationship between the claimed condition and the employment injury, an employee must submit rationalized medical evidence.<sup>9</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>10</sup> The weight of the medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician’s opinion.<sup>11</sup>

Section 8123(a) provides that, if there is a disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a

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<sup>7</sup> See *supra* note 3.

<sup>8</sup> *L.F.*, Docket No. 20-0359 (issued January 27, 2021); *S.H.*, Docket No. 19-1128 (issued December 2, 2019); *M.M.*, Docket No. 19-0951 (issued October 24, 2019); *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

<sup>9</sup> *L.F.*, *id.*; *T.K.*, Docket No. 18-1239 (issued May 29, 2019); *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>10</sup> *D.T.*, Docket No. 20-0234 (issued January 8, 2021); *D.S.*, Docket No. 18-0353 (issued February 18, 2020); *T.K.*, *id.*; *I.J.* 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>11</sup> See *D.T.*, *id.*; *P.M.*, Docket No. 18-0287 (issued October 11, 2018).

third physician who shall make an examination.<sup>12</sup> The implementing regulations provide that, if a conflict exists between the medical opinion of the employee's physician and the medical opinion of either a second opinion physician or an OWCP medical adviser, OWCP shall appoint a third physician to make an examination. This is called a referee examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case. In situations where there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.<sup>13</sup>

### **ANALYSIS -- ISSUE 1**

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

A conflict in medical opinion evidence exists between the reports of Dr. Stiler and Dr. Gregorace, appellant's treating physicians, and Dr. Sultan, the second opinion physician, regarding whether the acceptance of her claim should be expanded to include additional conditions<sup>14</sup> as causally related to the accepted December 10, 2019 employment injury.

Dr. Stiler, in reports dated December 12, 2019 through January 25, 2020, diagnosed derangement of the cervical and lumbar spine, left shoulder, left hip, and left knee. In reports dated from June 9, 2020 through February 17, 2021, he diagnosed cervical radiculopathy, labral tear of the left hip, and meniscal tear of the left knee. Dr. Stiler opined in his February 7, 2020 report that the December 10, 2019 employment incident caused a "whiplash" injury to the head, neck, and low back, and a left hip injury, when appellant's body shifted forward while restrained by the seat belt. He added in an April 19, 2021 report that the impact caused appellant to jerk forward and strike her left knee against a tray. Dr. Stiler also opined that the forces of the December 10, 2019 collision put pressure on the fibrous exterior of the spinal discs, causing protrusion of the nucleus pulposus resulting in radiculopathy. He noted that the diagnosed left meniscal tear was caused by the impact of the accident shifting appellant's left femur over the stationary tibia, and that the left rotator cuff tear was caused by appellant's unrestrained left shoulder jerking forward suddenly at the instant of impact.

Dr. Gregorace, in reports dated June 24, 2020 through June 8, 2021, diagnosed post-traumatic cervical spine strain/sprain, herniated discs from C3-4 through C6-7, traumatic left C5 radiculopathy, left shoulder rotator cuff tendinitis, partial left rotator cuff tear, post-traumatic lumbar sprain/strain, post-traumatic L2-3 disc bulge, herniated L3-4 disc with L3 nerve root impingement, post-traumatic L4-5 disc bulge, post-traumatic L5-S1 disc herniation with annular

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<sup>12</sup> 5 U.S.C. § 8123(a); *see C.C.*, Docket No. 20-0151 (issued July 30, 2020); *M.G.*, Docket No. 19-1627 (issued April 17, 2020); *R.C.*, Docket No. 12-0437 (issued October 23, 2012).

<sup>13</sup> 20 C.F.R. § 10.321. *See also S.L.*, Docket No. 24-0220 (issued May 15, 2024); *J.H.*, Docket No. 22-0981 (issued October 30, 2023); *N.D.*, Docket No. 21-1134 (issued July 13, 2022); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts*, 31 ECAB 1010 (1980).

<sup>14</sup> *See supra* note 3.



tear impinging on the thecal sac and S1 nerve roots, traumatic left L5 radiculopathy, post-traumatic left shoulder strain, post-traumatic left rotator cuff tendinosis/tendinopathy with partial tear, and post-traumatic left medial and lateral meniscus tears with MCL sprain. He opined in a June 8, 2021 report that the sudden, forceful impact of the December 10, 2019 motor vehicle collision “exerted tremendous pressure to the structural integrity of the nucleus pulposus, annulus fibrosus and facet joints of the cervical and lumbar spine,” resulting in the diagnosed cervical and lumbar disc herniations and disc bulges with left-sided lumbar radiculopathy. Additionally, Dr. Gregorace explained that the left knee and shoulder trauma resulted in post-traumatic syndromes, myofascial derangements, inflammation, and scar tissue formation.

Dr. Sultan, on the other hand, in his November 7, 2023 report, found no objective abnormalities of the cervical spine, thoracolumbar spine, left knee, or the bilateral shoulders. He opined that the December 10, 2019 employment injury caused soft tissue injuries, which had resolved without residuals.

As noted above, if there is a disagreement between an employee’s physician and an OWCP referral physician, OWCP will appoint a referee physician or impartial medical specialist who shall make an examination.<sup>15</sup> The Board finds that a conflict in medical opinion exists between Drs. Gregorace and Stiler, for appellant, and Dr. Sultan, for the government, regarding whether the acceptance of appellant’s claim should be expanded to include additional conditions<sup>16</sup> as causally related to the accepted December 10, 2019 employment injury.<sup>17</sup>

The Board, therefore, will remand the case for OWCP to refer appellant to an impartial medical specialist for resolution of the conflict in medical opinion evidence in accordance with 5 U.S.C. § 8123(a).<sup>18</sup> After such further development as OWCP deems necessary, it shall issue a *de novo* decision.

### **LEGAL PRECEDENT -- ISSUE 2**

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee’s benefits.<sup>19</sup> After it has been determined that an employee has a disability causally related to his or her employment, it may not terminate compensation without establishing that the disability has ceased or that it is no longer related to

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<sup>15</sup> See *E.B.*, Docket No. 23-0169 (issued August 24, 2023); *S.S.*, Docket No. 19-1658 (issued November 12, 2020); *C.S.*, Docket No. 19-0731 (issued August 22, 2019).

<sup>16</sup> See *supra* note 3.

<sup>17</sup> *S.T.*, Docket No. 21-0906 (issued September 2, 2022); *S.M.*, Docket No. 19-0397 (issued August 7, 2019).

<sup>18</sup> *D.W.*, Docket No. 24-0157 (issued March 26, 2024); *Y.M.*, Docket No. 23-0091 (issued August 4, 2023); *V.B.*, Docket No. 19-1745 (issued February 25, 2021).

<sup>19</sup> *Z.D.*, Docket No. 19-0662 (issued December 5, 2019); see *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.<sup>20</sup> Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>21</sup>

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.<sup>22</sup> In order 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.<sup>23</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's entitlement to wage-loss compensation and medical benefits with regard to left knee contusion, left knee sprain, bilateral shoulder sprain, thoracolumbar sprain, and whiplash/cervical sprain, effective December 5, 2023.

OWCP referred appellant to Dr. Sultan for a second opinion examination to determine the status of her accepted conditions and whether appellant had additional conditions causally related to her accepted December 10, 2019 employment injury. In his November 7, 2023 report, Dr. Sultan observed no clinically discernable orthopedic problems of the cervical spine, lumbar spine, left shoulder, and left knee. He opined that the accepted December 10, 2019 employment injury caused soft tissue trauma to the cervical spine, thoracolumbar spine, both shoulders, and left knee, and that these conditions had resolved with no residuals. However, Dr. Sultan's opinion that the additional conditions had resolved was conclusory and lacked sufficient medical rationale to support his findings.<sup>24</sup>

Once OWCP undertook development of the evidence by referring appellant's case for a second opinion evaluation, it was required to obtain a proper evaluation and report regarding the issue in this case.<sup>25</sup> Since Dr. Sultan's opinion as to whether the cervical spine, lumbar spine, left shoulder, and left knee conditions had ceased was insufficiently rationalized, his opinion is of

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<sup>20</sup> 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).

<sup>21</sup> *S.A.*, Docket No. 24-0353 (issued May 17, 2024); see *R.P., id.*; *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

<sup>22</sup> See *R.P., supra* note 19; *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *A.P.*, Docket No. 08-1822 (issued August 5, 2009). *Furman G. Peake*, 41 ECAB 361, 364 (1990).

<sup>23</sup> See *R.P., supra* note 19; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002); *Furman G. Peake, id.*

<sup>24</sup> *C.W.*, Docket No. 20-1339 (issued September 15, 2021).

<sup>25</sup> *J.M.*, Docket No. 21-0569 (issued December 6, 2021); see *R.L.*, Docket No. 20-1069 (issued April 7, 2021); *W.W.*, Docket No. 18-0093 (issued October 9, 2018); *Peter C. Belkind*, 56 ECAB 580 (2005).

diminished probative value regarding OWCP's termination of appellant's wage-loss compensation and medical benefits for residuals or disability related to these conditions.<sup>26</sup>

As the medical evidence of record is insufficient to establish that appellant no longer had disability causally related to her accepted December 10, 2019 employment injury, the Board finds that OWCP failed to meet its burden of proof.

### **CONCLUSION**

The Board finds that this case is not in posture for decision regarding whether appellant has met her burden of proof to expand the acceptance of her claim to include additional conditions as causally related to the accepted December 10, 2019 employment injury. The Board further finds that OWCP failed to meet its burden of proof to terminate appellant's entitlement to wage-loss compensation and medical benefits with regard to left knee contusion, left knee sprain, bilateral shoulder sprain, thoracolumbar sprain, and whiplash/cervical sprain, effective December 5, 2023.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the December 5, 2023 decision of the Office of Workers' Compensation Programs is remanded in part, reversed in part, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 17, 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

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<sup>26</sup> *S.A.*, *supra* note 21.