

¹ 5 U.S.C. § 8101 *et seq.*

level, while in the performance of duty. He stopped work on December 19, 2023. OWCP accepted the claim for fracture, distal fibula, closed, right ankle. It paid appellant wage-loss compensation on the supplemental rolls, effective February 3, 2024, and on the periodic rolls, effective May 19, 2024.²

In an August 6, 2024 report, Dr. Ankur Dharia, a podiatric foot and ankle surgery specialist and appellant's treating physician, noted examination findings, including that he had full weight bearing status of the right distal fibula with brace and work boot, lateral malleolus tender to palpation, ankle pain and localized edema. In that report and in a work capacity evaluation (Form OWCP-5c) dated August 8, 2024, he opined that appellant could return to his usual work, full duty, without restrictions on August 19, 2024. In a prescription note dated August 8, 2024, Dr. Dharia related that appellant was released from work starting August 19, 2024 with restrictions of wearing an ankle brace in his work boot.

In August 8 and 16, 2024 notes, Paula Medlock, a registered nurse, indicated that appellant was released to full-duty work on August 19, 2024, but must wear an ankle brace in work shoe.

On September 9, 2024 OWCP advised appellant that it proposed to terminate his wage-loss compensation and medical benefits based on Dr. Dharia's opinion that the February 19, 2023 accepted conditions had ceased without disability or residuals. It afforded him 30 days to submit additional evidence or argument, in writing, if he disagreed with the proposed termination.

In response, OWCP received x-ray reports of the right ankle dated February 14, March 18, May 28, June 27, and July 18, 2024, which described various stages of the right ankle fracture of the distal fibula.

By decision dated October 11, 2024, OWCP finalized the termination of appellant's wage-loss compensation and medical benefits, effective that date. It found that the weight of the medical evidence rested with Dr. Dharia's August 6, 2024 report.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.³ 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.⁴ Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁵ The right to medical benefits

² The employing establishment indicated that he had voluntarily resigned on February 1, 2024, and that his last day in pay status was February 4, 2024.

³ *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁴ *See R.P.*, Docket No. 17-1133 (issued January 18, 2018); *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

⁵ *M.C.*, Docket No. 18-1374 (issued April 23, 2019); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

for an accepted condition is not limited to the period of entitlement for disability compensation.⁶ 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.⁷

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective October 11, 2024.

In an August 6, 2024 report and Form OWCP-5c, Dr. Dharia found that appellant had full weight bearing capacity of the right distal fibula with a brace and work boot. He opined that appellant's work-related conditions had resolved, and he was able to return to full duty without restrictions on August 19, 2024. Additionally, in a prescription note dated August 8, 2024, Dr. Dharia opined that appellant could return to full duty with restrictions of wearing the ankle brace in his work boot. On examination, he found that appellant had full weight bearing capacity of the right distal fibula with brace and work boot. Dr. Dharia, however, provided conclusory opinion, without rationale supporting that appellant's disability and residuals had ceased.⁸ His opinion is therefore of limited probative value.⁹ Thus, the Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits effective October 11, 2024.

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective October 11, 2024.

⁶ A.G., Docket No. 19-0220 (issued August 1, 2019); A.P., Docket No. 08-1822 (issued August 5, 2009); T.P., 58 ECAB 524 (2007); Kathryn E. Demarsh, 56 ECAB 677 (2005); Furman G. Peake, 41 ECAB 361, 364 (1990).

⁷ See A.G., *id.*; James F. Weikel, 54 ECAB 660 (2003); Pamela K. Guesford, 53 ECAB 727 (2002).

⁸ See W.N., Docket No. 20-1600 (issued August 18, 2022); see also A.R., Docket No. 20-0335 (issued August 7, 2000); R.G., Docket No. 16-0271 (issued May 18, 2017).

⁹ W.N., *id.*; G.B., Docket No. 20-0750 (issued October 27, 2020); A.R., *id.*

ORDER

IT IS HEREBY ORDERED THAT the October 11, 2024 decision of the Office of Workers' Compensation Programs is reversed.¹⁰

Issued: January 31, 2025
Washington, DC

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

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

¹⁰ James D. McGinley, Alternate Judge, participated in the preparation of this decision, but was no longer a member of the Board effective January 12, 2025.