

Pursuant to the Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.⁴

ISSUES

The issues are: (1) whether OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective February 9, 2015; and (2) whether appellant met her burden of proof to establish any continuing residuals or disability after February 9, 2015 causally related to the accepted March 3, 2014 employment injury.

FACTUAL HISTORY

On March 3, 2014 appellant, then a 59-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date she sustained a right shoulder strain when she slipped and fell on ice. OWCP accepted the claim for right shoulder, neck, and lumbar sprains. Appellant stopped work on March 3, 2014 and returned to part-time modified work on April 30, 2014. OWCP paid wage-loss compensation for intermittent dates from March 3 to October 3, 2014.

Appellant was initially treated by Dr. Jesse Crane, a Board-certified family practitioner, who diagnosed cervical and lumbar sprains and right shoulder pain due to the accepted March 3, 2014 injury. Dr. Crane also provided work restrictions.

On July 8, 2014 appellant came under the care of Dr. Russell C. Cantrell, a Board-certified physiatrist, who provided medical and employment injury histories, reviewed medical records, and performed a physical examination. Dr. Cantrell diagnosed cervical, lumbosacral and right shoulder sprains as the result of the accepted March 3, 2014 injury. He also found no evidence of cervical radiculopathy or brachial plexopathy.

Dr. Cantrell, in an August 18, 2014 report, noted that appellant continued to have complaints of right shoulder and neck pain. A physical examination revealed mild bilateral upper trapezius and parascapular musculature and mild lumbar paraspinal tightness. Dr. Cantrell observed that degenerative changes were expected around appellant's cervical fusion given appellant's prior multilevel cervical fusion history. He related that her symptoms were largely myofascial.

In an August 20, 2014 report, Dr. Cantrell reviewed an August 18, 2014 cervical computerized tomography (CT) scan, which revealed mild C3-4 and C4-5 spondylosis, some possible cord impingement and C2-3 canal stenosis secondary to the spondylosis, severe facet joint degenerative changes on the left, left foraminal stenosis, mild C6-7 canal narrowing, and C3-6 postoperative discectomy and fusion with instrumentation changes. He determined that appellant's current symptoms were myofascial in nature and recommended she continue with her restrictions and physical therapy.

³ 5 U.S.C. § 8101 *et seq.*

⁴ *Supra* note 2.

In a letter dated October 8, 2014, OWCP requested clarification from Dr. Cantrell regarding whether appellant had any additional conditions and whether she had any permanent work restrictions causally related to the accepted March 3, 2014 injury.

In a report dated October 13, 2014, Dr. Cantrell noted that appellant had been seen for lumbar, neck, and right shoulder strains caused by accepted March 3, 2014 injury. Based on review of the objective evidence, he reported that she has had a cervical condition attributable to either preexisting postoperative changes or degenerative changes, which were unrelated to the March 3, 2014 accepted injury. Dr. Cantrell concluded that the accepted conditions of lumbar, right shoulder, and neck strains had resolved and no further treatment was required. He further opined that appellant's permanent work restrictions were due to her preexisting and nonemployment-related cervical fusion and the degenerative changes from the fusion. Dr. Cantrell opined that appellant was capable of performing her job as a city postal carrier full time.

On November 18, 2014 OWCP issued a notice proposing to terminate appellant's compensation benefits based on Dr. Cantrell's opinion that the accepted conditions had resolved without residuals or disability.

In a letter dated December 5, 2014, appellant noted her disagreement with the proposal to terminate her benefits. She stated that Dr. Cantrell has ignored her complaints of right shoulder burning and pain and requests for additional testing. Appellant requested authorization for pain management treatment and noted that she had returned to work.

By decision dated February 9, 2015, OWCP finalized the termination of appellant's compensation benefits, effective that date.

In a letter dated February 18, 2015, appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative. A hearing was held on September 16, 2015.

On March 20 and May 16, 2015 OWCP received a December 23, 2014 report from Dr. Jason Hahn, a treating physician specializing in anesthesiology, in which he noted that appellant was seen for neck and shoulder pain. He diagnosed brachial neuritis or radiculitis, myositis, and myalgia. Dr. Hahn related appellant's history of injury, as well as her medical history. Appellant's medical history included cervical surgeries in 2005 and 2006 for a nonwork-related condition, as well as her employment-related slip and fall on March 3, 2014. Physical examination findings included pain on palpation of the right rhomboids, and normal muscle strength.

On April 20, 2015 OWCP received a notification of personnel action form (SF-50) indicating that appellant had retired from the employing establishment, effective March 31, 2015.

In an October 1, 2015 report, Dr. Amanda M. Burkheart, a Board-certified family practitioner, noted that appellant received treatment for continuing shoulder pain. She stated that appellant had been referred to a pain specialist for osteopathic manipulation. Dr. Burkheart opined that appellant had a chronic shoulder pain problem.

By decision dated November 30, 2015, OWCP's hearing representative affirmed the termination of appellant's compensation benefits. He found Dr. Cantrell's opinion established that appellant no longer had any residuals or disability due to the accepted employment conditions as his opinion was well rationalized and he had followed appellant for months.

In a letter dated and received by OWCP on November 4, 2016, appellant, through counsel, requested reconsideration and submitted additional evidence.

An April 7, 2015 magnetic resonance imaging (MRI) scan of the right shoulder revealed right shoulder mild tendinopathy of the supraspinatus and infraspinatus tendon and moderate acromioclavicular osteoarthritis.

In a March 11, 2016 report, Dr. Jerome G. Piontek, a treating Board-certified orthopedic surgeon, diagnosed rotator cuff tendinitis. He noted that in 2014 appellant fell in the snow while her right arm was abducted, that she was a mail carrier, and that she continued to have right shoulder pain. A review of an MRI scan revealed mild tendinopathy of the infraspinatus and supraspinatus tendons. Dr. Piontek, in a March 11, 2016 disability note, indicated that appellant was unable to carry mail.

On May 18, 2016 Dr. Piontek provided examination findings and diagnosed rotator cuff tendinitis and acromioclavicular joint osteoarthritis. Examination findings included some anterolateral subacromial space tenderness, 140 degrees right arm elevation, full abduction strength, and minimal discomfort when abducting arm across the chest.

By decision dated November 16, 2016, OWCP denied modification of its prior decision, finding that the evidence of record was insufficiently rationalized and insufficient to outweigh Dr. Cantrell's opinion.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits.⁵ 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.⁶ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁷

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁸ To terminate authorization for medical treatment, OWCP must

⁵ *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁶ *I.J.*, 59 ECAB 408 (2008); *Elsie L. Price*, 54 ECAB 734 (2003).

⁷ *See J.M.*, 58 ECAB 478 (2007); *Del K. Rykert*, 40 ECAB 284 (1988).

⁸ *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.⁹

ANALYSIS -- ISSUE 1

OWCP accepted appellant's claim for right shoulder, neck and lumbar sprains. Beginning on July 8, 2014 appellant sought medical treatment by Dr. Cantrell, who submitted reports through October 13, 2014 with examination findings and work restrictions.

The Board finds that OWCP met its burden of proof to justify termination of appellant's compensation benefits, effective February 9, 2015 based on Dr. Cantrell's October 13, 2014 report.

In his October 13, 2014 report, Dr. Cantrell, appellant's treating physician, opined that appellant's accepted lumbar, right shoulder, and neck sprains had resolved without residuals or disability. He attributed appellant's permanent work restrictions to her preexisting and nonemployment-related cervical fusion and degenerative changes from the nonwork-related cervical surgery. Dr. Cantrell also opined that appellant was capable of performing her city postal carrier position full time. The Board has found that to terminate compensation benefits, OWCP may properly rely on medical evidence from appellant's own treating physician which establishes that the accepted conditions have resolved.¹⁰ OWCP therefore properly found that the weight of the medical opinion evidence rested with Dr. Cantrell who explained with supporting medical rationale that appellant's accepted conditions had resolved.

OWCP afforded appellant the opportunity to submit any evidence or argument in opposition to Dr. Cantrell's opinion. In a December 5, 2014 letter, appellant disagreed with the proposal to terminate her benefits and requested authorization for pain management treatment. However, she failed to submit any medical evidence showing that she continued to have residuals from her accepted conditions. The Board has reviewed Dr. Cantrell's opinion and finds that it has the reliability, probative value, and convincing quality with respect to its conclusions regarding the relevant issue in the current case.¹¹ Thus, OWCP properly terminated appellant's compensation benefits.

LEGAL PRECEDENT -- ISSUE 2

Once OWCP meets its burden of proof to terminate appellant's wage-loss benefits, the burden of proof shifts to appellant to establish continuing disability causally related to the accepted injuries.¹²

⁹ *Kathryn E. Demarsh, id.; James F. Weikel*, 54 ECAB 660 (2003).

¹⁰ *Katherine Koumoutseas*, Docket No. 02-0523 (issued December 12, 2003).

¹¹ *See D.D.*, Docket No. 15-1075 (issued March 15, 2016).

¹² *See Joseph A. Brown, Jr.*, 55 ECAB 542 (2004); *Manuel Gill*, 52 ECAB 282 (2001).

ANALYSIS -- ISSUE 2

In support of appellant's claim for continued disability, counsel submitted reports from Drs. Hahn, Burkheart, and Piontek.

Dr. Hahn diagnosed myositis, myalgia, and brachial radiculitis. He noted appellant's 2005 and 2006 cervical surgeries and the accepted March 4, 2014 employment injury. Dr. Hahn, however, offered no opinion regarding the cause of the diagnosed conditions or their relationship to the accepted March 4, 2014 employment injury. The Board has found that a physician must provide a narrative description of the identified employment incident and a reasoned opinion as to whether the employment incident described caused or contributed to the diagnosed medical conditions.¹³ Lacking a proper medical explanation of causal relationship, Dr. Hahn's reports are of limited probative value and insufficient to meet appellant's burden of proof.¹⁴

Dr. Burkheart diagnosed a chronic shoulder pain problem and noted appellant had been referred to a pain specialist. As well, she also offered no opinion regarding the cause of the diagnosed chronic shoulder pain condition or whether there was a causal connection to the accepted March 3, 2014 injury.¹⁵ Moreover, the Board notes that pain is a symptom and not a compensable medical diagnosis.¹⁶

Dr. Piontek's opinion is likewise insufficient. He diagnosed rotator cuff tendinitis and acromioclavicular joint osteoarthritis without offering an opinion as to the cause of the diagnosed conditions. Therefore these opinions from Drs. Burkheart, Hahn, and Piontek are insufficient to establish continuing disability after February 9, 2015 as none of the physicians offered any opinion as to whether the diagnosed conditions were causally related to the accepted conditions or accepted March 3, 2014 injury.¹⁷

Appellant also submitted an April 7, 2015 MRI scan indicating right shoulder mild tendinopathy of the supraspinatus and infraspinatus tendon and moderate acromioclavicular osteoarthritis. However, diagnostic reports are insufficient to discharge appellant's burden of proof as they do not offer a physician's opinion on causal relationship.¹⁸

¹³ See *E.R.*, Docket No. 16-1634 (issued May 25, 2017).

¹⁴ See *L.M.*, Docket No. 14-973 (issued August 25, 2014); *R.G.*, Docket No. 14-113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-548 (issued November 16, 2012).

¹⁵ *Supra* note 13.

¹⁶ *C.F.*, Docket No. 08-1102 (issued October 10, 2008); *Robert Broome*, 55 ECAB 339 (2004).

¹⁷ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

¹⁸ See *E.A.*, Docket No. 15-0673 (issued July 14, 2015); *Mary E. Marshall*, 56 ECAB 420 (2005).

Accordingly, the Board finds that appellant has failed to meet her burden of proof to establish continuing disability after the termination of compensation benefits causally related to the accepted employment injury.¹⁹

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 met its burden of proof to terminate appellant's compensation and medical benefits effective February 9, 2015. The Board further finds that appellant has not met her burden of proof to establish continuing disability causally related to the accepted employment injury on and after February 9, 2015.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 16, 2016 is affirmed.

Issued: July 20, 2017
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

¹⁹ See *G.G.*, Docket No. 15-0985 (issued August 21, 2015).