

In an undated statement, received on September 10, 2007, appellant requested that the Office accept her aggravated knee and osteoarthritis conditions. She submitted additional medical reports in support of her request. On October 24, 2007 appellant filed a claim for compensation beginning September 16, 2007. The employing establishment noted that she stopped work on September 4, 2007.

In a November 7, 2007 decision, the Office denied appellant's claim for lumbar degenerative disc disease at L3-4 and L4-5 and osteoarthritis of the right knee, finding that the medical evidence did not establish that these conditions were related to the June 28, 2007 fall from her chair. In a December 28, 2007 decision, it denied appellant's claim for compensation between September 16 and November 24, 2007 finding that the medical evidence did not support disability for that period.

In a January 28, 2008 report, Dr. Irina Borissova, an internist, noted that appellant was being treated for low back pain, right knee pain and bilateral carpal tunnel syndrome. She noted that appellant had injured her right knee and lower back from a chair breaking at work and began to experience hand pain after the accident. Dr. Borissova also noted that appellant had a history of degenerative joint disease of the lower back but had been pain free for some time prior to the work injury. She stated that appellant had preexisting degenerative joint disease within the back and right knee which had not caused any significant disability. Dr. Borissova opined that the fall at work exacerbated appellant's back pain and caused her to develop chronic right knee pain. She further opined that it was difficult to state that bilateral carpal tunnel syndrome was caused by appellant's fall but that it had exacerbated the condition. Dr. Borissova advised that appellant's prognosis and ability to return to work was unknown until appellant completed treatment.

Appellant submitted claims for compensation commencing February 15, 2008. She also requested that the Office accept, as a consequential injury, aggravated degenerative disc disease, osteoarthritis of the right knee and bilateral carpal tunnel syndrome.

In an April 10, 2008 decision, an Office hearing representative remanded the case for further development. The Office was directed to advise appellant of the medical evidence necessary to expand her claim. The hearing representative noted that she had filed a separate claim for right-sided carpal tunnel syndrome, claim number xxxxxx921, which was denied on December 27, 2007.¹

In a May 12, 2008 report, Dr. Borissova opined that appellant's low back pain was aggravated by her fall at work. The presentation and clinical findings from her previous back examinations were in different anatomical locations than those found on examination after the June 28, 2007 accident. Dr. Borissova stated that the work accident caused right knee symptoms as appellant had no right knee complaint in prior clinical visits. She further opined that x-ray findings of degenerative joint disease should not be construed as the main source of pain, as this condition only added to pain.

¹ There are no issues regarding this claim currently before the Board.

In a May 19, 2008 decision, the Office denied expansion of the accepted conditions in appellant's claim finding she did not establish that the claimed degenerative disc disease, osteoarthritis or carpal tunnel were related to the accepted work incident. In a May 20, 2008 decision, it denied appellant's claim for compensation between February 15 and April 5, 2008 finding that the medical evidence was insufficient to establish disability for the accepted work conditions or nonaccepted carpal tunnel syndrome. Appellant appealed this decision to the Board.

Appellant submitted reports from Dr. Edward Blocker, a Board-certified orthopedic surgeon. On June 30, 2008 Dr. Blocker noted her complaint of low back pain and right knee pain. He stated that appellant reported that her back did not really bother her and that her knee only bothered her when she used the stairs. Dr. Blocker advised that appellant's symptoms began in June 2007 when a chair roller broke off causing her to fall forward onto her knees. Upon examination, he found full extension of the right knee, tenderness along the medial joint line, soft and nontender calves, no significant pretibial edema and normal sensation to light touch over the right lower extremity. Dr. Blocker found significant degenerative arthritis of the right knee. He advised that appellant could continue working in her current duties. In a June 30, 2008, x-ray report Dr. Blocker found spondylitic changes in the lumbar spine with no obvious acute bony abnormalities. He also found severe degenerative arthritis greatest in the medial compartment of the right knee with medial patellar subluxation.

In a May 5, 2009 order, the Board remanded the case to the Office to combine case claim numbers xxxxxx000 and xxxxxx921.² The Board directed the Office to issue an appropriate merit decision regarding appellant's claim.

On July 30, 2009 the Office referred appellant, with a statement of accepted facts, to Dr. Stephen Allen, a Board-certified orthopedic surgeon, for a second opinion regarding whether appellant's accepted conditions had resolved and whether the June 28, 2007 incident caused or aggravated other conditions.

In an August 31, 2009 report, Dr. Allen reviewed appellant's medical records, summarized her history of injury and noted her complaints of right knee pain and intermittent low back pain. On examination, appellant walked with a slight limp favoring the right leg and her shoulders were level. She was able to walk on her toes, heels and knees while flexed. Appellant had no atrophy, no loss of sensation and stable knees. Valgus stressing of the right knee caused right medial knee pain. Dr. Allen found no significant effusion but there was tenderness on palpating the medial joint line and anterior right knee femoral patella crepitus. Knee extension was more painful on the right than the left. Dr. Allen diagnosed right knee degenerative arthrosis, obesity, degenerative disc disease of the lumbosacral spine, lumbar spondylosis, degenerative arthrosis of the left knee and electrical compartment syndrome of both hands. He advised that appellant sustained a work-related strain of the knee and back that aggravated and caused her arthritic condition to become symptomatic. Appellant admitted to minor recurring low back pain prior to her fall and Dr. Allen suspected that it was a result of obesity, lack of exercise and core strength and degenerative changes related to her age and size.

² Docket No. 08-2029 (issued May 5, 2009).

Dr. Allen found that the strain to appellant's knee and back from the June 2007 fall had resolved and that her present residuals were due to underlying arthritic and degenerative changes. He advised that appellant was capable of working in a sedentary position.

Dr. Allen explained his opinion that appellant's work-related lumbar and right knee sprain had resolved by noting that the description of the injury indicated that she had low impact trauma and that the knee was stable with the ligaments and menisci intact with no fractures. He advised that arthritis demonstrated on June 29, 2007 x-rays predated the work injury and that it was not causing back and knee pain. The electrical studies established carpal tunnel syndrome but appellant did not exhibit any symptoms of this condition.

Dr. Allen opined that appellant's fall may have temporarily caused carpal tunnel syndrome to become more significant at the time of the fall, but that presently and after six to eight weeks following the June 2007 incident, the aggravation should have resolved. He stated that appellant's fall aggravated her condition and caused her prior asymptomatic knee and back conditions to become symptomatic but that her present complaints were due to obesity and the natural aging process. The x-rays of the knee and back, over a period of one year, did not change significantly. Dr. Allen explained that, if the fall had been the cause of appellant's complaints, significant changes on x-rays would have occurred. He noted that subjective evidence indicated that her knee and lower back were worsened by the injury while objective evidence supported that the condition was not worsened by the injury. Dr. Allen stated that there was no examination showing range of motion before the June 2007 injury so that loss of motion could be associated with the injury but would not be the sole cause. He opined that her current loss of motion was likely due to preexisting arthrosis. Dr. Allen opined that appellant's work injury made her underlying condition symptomatic and that she did not return to a baseline level of progression but he reiterated that she had no current residuals from the work injury that would prevent her from returning to work to her date-of-injury position. He advised that appellant had permanent work restrictions but these were due to her underlying arthritis. Dr. Allen advised that appellant would eventually need surgical correction of her knee arthritis. In an August 31, 2009 work capacity evaluation form, he noted appellant's work restrictions.

On September 11, 2009 the Office issued a notice of proposed termination of appellant's compensation benefits finding that the weight of the medical evidence supported that she no longer had any disability or residuals due to the accepted work-related conditions. It also noted that the medical evidence not support that her other conditions were work related.

In an October 15, 2009 decision, the Office terminated appellant's compensation benefits effective that day.

LEGAL PRECEDENT

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.³ After it has determined that an employee has disability causally related to his federal employment, the Office may not terminate compensation without

³ *I.J.*, 59 ECAB 408 (2008); *Fermin G. Olascoaga*, 13 ECAB 102, 104 (1961).

establishing that the disability has ceased or that it is no longer related to the employment.⁴ The Office's 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 for an accepted condition is not limited to the period of entitlement to compensation for disability. To terminate authorization for medical treatment, the Office must establish that the claimant no longer has residuals of an employment-related condition, which requires further medical treatment.⁶

ANALYSIS

The record reflects that appellant sustained an injury to her back and right knee on June 28, 2007. The Office accepted her claim for lumbar and right knee sprain. It terminated her compensation benefits effective October 15, 2009 based on the report from Dr. Allen.

In an August 31, 2009 report, Dr. Allen provided a detailed summary of appellant's history and advised that her right knee and back strain from the June 2007 injury at work had resolved. He explained that the injury was caused by a low impact event, that the knees were stable and there were no fractures. Dr. Allen opined that any present residuals or continued disability were due to appellant's preexisting arthritis and degenerative changes. He also noted that, although the fall aggravated her condition; obesity, arthritis and the natural aging process caused her present complaints as x-rays did not reflect significant change to her condition within a year of her fall. Dr. Allen opined that any aggravation of appellant's carpal tunnel syndrome would have resolved within six to eight weeks. He attributed appellant's recurring low back condition to obesity, lack of exercise and core strength and degenerative changes related to her age and size. After reviewing appellant's records and conducting his own examination, Dr. Allen determined that her accepted lumbar and right knee strain had resolved without residuals and without continued disability due to the work injury. He advised that appellant was able to return to her date-of-injury position and that his recommended work restrictions were due to her unaccepted arthritic condition.

The Board finds that Dr. Allen's report represents the weight of the medical evidence and that the Office properly relied on his report in terminating appellant's benefits. Dr. Allen's opinion is based on proper factual and medical history and his report contained a detailed summary of this history. He addressed the medical records to make his own examination findings to reach a reasoned conclusion regarding appellant's condition.⁷ Dr. Allen found no basis on which to attribute any residuals or continued disability to appellant's accepted injury.

⁴ *Vivien L. Minor*, 37 ECAB 541 (1986).

⁵ *T.P.*, 58 ECAB 524 (2007); *Larry Warner*, 43 ECAB 1027 (1992).

⁶ *E.J.*, 59 ECAB 695 (2008).

⁷ *See Naomi Lilly*, 10 ECAB 560 (1959) (the opportunity for and thoroughness of examination, the accuracy and completeness of the doctor's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the doctor's opinion are factors which enter into the weight of an evaluation).

He also found no basis on which to attribute any of appellant's current nonaccepted conditions to the June 28, 2007 employment injury.⁸

Although the record contains medical reports submitted prior to Dr. Allen's report, these are insufficient to create a conflict or to overcome Dr. Allen's report. Dr. Blocker's June 30, 2008 reports noted appellant's complaints and found significant degenerative arthritis of the right knee but he provided no reasoned opinion explaining how this nonaccepted condition was due to the June 28, 2007 employment injury. His January 28, 2008 report opined that appellant had preexisting degenerative joint disease within the back and right knee which had not caused any significant disability. Appellant opined that the fall at work exacerbated appellant's back pain and caused her to develop chronic right knee pain. Dr. Borissova also noted bilateral carpal tunnel syndrome. However, she did not specifically address whether appellant had residuals of the accepted right knee and lumbar condition and she provided little rationale to explain why nonaccepted conditions were caused or aggravated by the June 28, 2007 work injury. Dr. Borissova did not provide a full history of appellant's preexisting degenerative disease or explain how the accepted injury in 2007 was complete to contribute to appellant's osteoarthritis.

There is no other medical evidence contemporaneous with the termination of appellant's compensation benefits which supports that she had any continuing employment-related condition. Consequently, the weight of the medical evidence rests with Dr. Allen and establishes that appellant had no residuals due to her accepted right knee and lumbar strain.

On appeal, appellant asserts that Dr. Allen is not able to determine her capabilities just because he was an Office referral physician. As noted, Dr. Allen represents the weight of the medical evidence as he provided a rationalized medical opinion explaining the reasons for his findings. No other contemporaneous medical report supports that appellant had any residuals or continued disability due to her accepted work injuries.

CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits effective October 15, 2009.

⁸ See *T.M.*, 60 ECAB ___ (Docket No. 08-975, issued February 6, 2009) (for conditions not accepted by the Office, the claimant bears the burden of proof to establish that the condition is causally related to the employment injury through the submission of rationalized medical evidence).

ORDER

IT IS HEREBY ORDERED THAT the October 15, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 18, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board