



accident. He stopped work on January 1, 2007 and returned to work on January 2, 2007. OWCP accepted the claim for sprains of the lumbar, cervical and thoracic spine.

Appellant filed claims for compensation for intermittent dates that he missed work due to medical appointments beginning November 2, 2010. On November 2, 2010 Dr. Ramoun D. Jones, an anesthesiologist, discussed his complaints of moderate back pain and listed findings on examination. He diagnosed lumbar spondylosis and treated appellant with “left-sided radiofrequency ablation at L2 through S1.” Dr. Jones provided similar pain management services from December 2010 through May 2011.

On May 9, 2011 OWCP referred appellant to Dr. William P. Curran, a Board-certified orthopedic surgeon, for a second opinion evaluation. In a report dated May 23, 2011, Dr. Curran reviewed the history of injury and medical evidence of record. He noted that a magnetic resonance imaging scan study revealed a left lateral bulging disc at C3-4 with stenosis and that x-rays showed osteoarthritis of the facet joints at L3 through S1 and mild degenerative joint degeneration at C5 through 7. On examination Dr. Curran found “palpable tenderness without spasms of the cervical spine and both trapezia” and a positive cervical compression test. He found tenderness but no spasms in the thoracolumbar spine at the sciatic notches. Dr. Curran stated, “It is my opinion that [appellant’s] current complaints are related to myelodegenerative changes involving cervical, thoracic and lumbar spine as his strains/sprains have resolved.” He related that “[Appellant’s] objective findings on physical examination do not corroborate his subjective complaints.” Dr. Curran found that appellant had no residuals of his December 31, 2006 motor vehicle accident. In a June 8, 2011 work restriction evaluation, he opined that appellant could perform his usual employment.

On July 28, 2011 OWCP advised appellant of its proposed termination of his compensation and medical benefits on the grounds that he had no residuals of his employment injury.

In a report dated July 29, 2011, Dr. Jones diagnosed cervical and thoracic spondylosis with facet syndrome and provided cervical radiofrequency.<sup>2</sup> He provided similar pain management services through November 2011.

By decision dated November 10, 2011, OWCP denied appellant’s claim for compensation for intermittent dates from November 2, 2010 to June 24, 2011.

In a decision dated November 15, 2011, OWCP terminated appellant’s authorization for medical benefits effective that date.<sup>3</sup> It found that Dr. Curran’s opinion represented the weight of the evidence and established that he had no further residuals of his accepted work injury.

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<sup>2</sup> On July 15, 2011 appellant received treatment from a physician’s assistant in the emergency room for back pain.

<sup>3</sup> OWCP indicated that it was terminating appellant’s compensation and entitlement to medical treatment. As it was not paying him compensation, however, OWCP improperly characterized the issue as termination of wage-loss compensation. The issue is whether appellant has residuals of his employment injury entitling him to further medical treatment.

On November 22, 2011 appellant, through his attorney, requested a telephone hearing before an OWCP hearing representative on the November 10 and 15, 2011 decisions. A hearing was held on March 5, 2012.

In a report dated April 4, 2012, Dr. Jones related that he had treated appellant since November 2007 for pain in the back of his head, neck and trapezius. He recommended trial implantation of a spinal cord stimulator. Dr. Jones stated, “Essentially, all of these issues stem from pain which [appellant] states started with his motor vehicle accident [of December 31, 2006].”

By decision dated May 8, 2012, an OWCP hearing representative reversed the November 10, 2011 decision denying compensation for intermittent dates from November 2010 to June 2011 and affirmed the November 15, 2011 termination of medical benefits. He found that appellant had established entitlement to compensation for intermittent days lost from work while obtaining medical treatment from Dr. Jones. The hearing representative determined that Dr. Curran’s opinion established that he had no further residuals of his work injury.

### **LEGAL PRECEDENT**

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee’s benefits. It may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.<sup>4</sup> OWCP’s burden of proof in terminating compensation includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>5</sup> The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.<sup>6</sup> 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>7</sup>

### **ANALYSIS**

OWCP accepted that appellant sustained lumbar, cervical and thoracic sprain due to a December 31, 2006 motor vehicle accident. Appellant stopped work on January 1, 2007 and returned to work on January 2, 2007.

In reports dated 2010 to 2011, Dr. Jones listed findings on examination and provided pain management services. He did not, however, address whether appellant had residuals of his December 31, 2006 employment injury or why he required medical treatment. Medical evidence

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<sup>4</sup> *Elaine Sneed*, 56 ECAB 373 (2005); *Gloria J. Godfrey*, 52 ECAB 486 (2001).

<sup>5</sup> *Gewin C. Hawkins*, 52 ECAB 242 (2001).

<sup>6</sup> *T.P.*, 58 ECAB 524 (2007); *Pamela K. Guesford*, 53 ECAB 727 (2002).

<sup>7</sup> *Id.*

that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.<sup>8</sup>

On May 9, 2011 OWCP referred appellant to Dr. Curran for a second opinion examination. The Board finds that OWCP met its burden of proof to terminate his authorization for medical benefits through the opinion of Dr. Curran, who determined that he had no residuals of his accepted employment injury. In a report dated May 23, 2011, Dr. Curran reviewed the history of injury and listed detailed findings on physical examination. He found tenderness to palpation but no spasms of the cervical and thoracic spine. Dr. Curran noted that diagnostic studies revealed a left lateral C3-4 disc bulge with stenosis, osteoarthritis at L3 through S1 and mild cervical degenerative joint disease. He diagnosed myelodegenerative changes of the cervical, thoracic and lumbar spine. Dr. Curran found that appellant had no residuals of his cervical, thoracic and lumbar spine. He explained that the objective findings on examination did not support the subjective complaints. Dr. Curran provided a thorough review of the factual and medical background and accurately summarized the relevant medical evidence. Moreover, he provided detailed findings on examination and reached conclusions regarding appellant's condition which comported with his findings.<sup>9</sup>

The remaining evidence of record submitted prior to OWCP's termination of medical benefits is insufficient to show that appellant had residuals of his December 31, 2006 employment injury. In a report dated April 4, 2012, Dr. Jones indicated that he had treated appellant since 2007 for head, neck and trapezius pain. He asserted that the diagnosed conditions resulted from pain that appellant related began after a December 2006 motor vehicle accident. While Dr. Jones described appellant's belief that his problems began after his motor vehicle accident, he did not provide an independent opinion regarding causation. A physician's report is of little probative value when it is based on a claimant's belief rather than the physician's independent judgment.<sup>10</sup> The Board thus finds that the weight of the evidence establishes that appellant had no residuals of his accepted work injury, effective November 15, 2011, the date OWCP terminated his authorization for medical benefits.

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 and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that OWCP properly terminated appellant's authorization for medical benefits effective November 15, 2011 on the grounds that he had no further need for medical treatment due to his December 31, 2006 employment injury.

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<sup>8</sup> *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Conrad Hightower*, 54 ECAB 796 (2003).

<sup>9</sup> See *Pamela K. Guesford*, *supra* note 6.

<sup>10</sup> *Earl David Seale*, 49 ECAB 152 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 8, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 17, 2013  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board