

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

M.W., Appellant)

and)

SOCIAL SECURITY ADMINISTRATION,)
OFFICE OF DISABILITY ADJUDICATION &)
REVIEW, Mount Pleasant, MI, Employer)

Docket No. 15-0728
Issued: June 14, 2016

Appearances:

Lonnie L. Boylan, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

CHRISTOPHER J. GODFREY, Chief Judge
COLLEEN DUFFY KIKO, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 3, 2015 appellant, through her representative, filed a timely appeal from a December 23, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits effective October 1, 2013; and (2) whether appellant met her burden of proof to establish continuing employment-related residuals or disability after the termination of her compensation benefits.

¹ 5 U.S.C. § 8101 *et seq.*

On appeal, appellant's representative contends that OWCP failed to provide the impartial medical examiner with a definition of temporary or permanent aggravation or contribution and a proper statement of accepted facts (SOAF).

FACTUAL HISTORY

On January 7, 2012 appellant, then a 53-year-old legal assistant, filed an occupational disease claim (Form CA-2) alleging that her advanced tricompartmental osteoarthritis was employment related. She related that her left knee had been replaced on January 15, 2011² and she returned to work in March 2011 with accommodations that included a seat close to a printer, scanner, and bathroom.³ On September 15, 2011 appellant claimed that she was moved to a new seat which aggravated her deteriorating condition. She stopped work on January 6, 2012.

On January 24, 2012 appellant underwent arthroscopic surgery performed by Dr. Michael D. Austin, an orthopedic surgeon, to repair a tear of the medical meniscus of her right knee.⁴

On April 23, 2012 OWCP accepted appellant's claim for an aggravation of localized unspecified osteoarthritis of the lower right knee and aggravation of a tear of the medial meniscus of the right knee. It authorized Dr. Austin's January 24, 2012 right knee surgery.

On June 21, 2012 Dr. Austin released appellant to return to work with restrictions, three days a week for two months. Appellant worked with these restrictions until August 6, 2012. She filed several claims for compensation (Form CA-7) for leave without pay for the period commencing August 12, 2012.⁵

In support of her claims, appellant submitted a July 10, 2012 report by Dr. Cochran who noted appellant's history of injury, provided examination findings, and diagnosed right knee pain secondary to internal derangement with underlying end-stage osteoarthritis that was likely irritated by her work duties. He recommended right knee total replacement surgery. In work status reports dated July 10 and 17, 2012, Dr. Cochran reiterated his diagnosis of right knee pain, diagnosed right knee swelling, and indicated that appellant was scheduled to undergo right knee total replacement on August 27, 2012. He advised that she was unable to work from August 6 to November 27, 2012. On September 20, 2012 Dr. Cochran diagnosed localized osteoarthrosis of the lower leg and ordered physical therapy and medical equipment following appellant's postsurgical total right knee arthroplasty.

² The record indicates that appellant's nonemployment-related left knee total replacement surgery was performed on January 13, 2011 by Dr. Jason M. Cochran, an attending orthopedic surgeon.

³ Appellant began work at the employing establishment on August 23, 2010.

⁴ Previously, on November 30, 2010, Dr. Austin performed nonemployment-related right knee arthroscopic surgery to repair a partial tear of the posterior horn of the medial meniscus and degenerative arthritis of appellant's right knee.

⁵ OWCP paid appellant wage-loss compensation on the supplemental payment rolls for various periods between October 20, 2011 and August 11, 2012.

In a September 5, 2012 letter, OWCP advised appellant of the deficiencies of her recurrence claim. It requested additional evidence in support of the claim and afforded her 30 days to respond to its inquiries.

By letter dated September 6, 2012, OWCP notified appellant of an October 8, 2012 appointment for a second opinion with Dr. Emmanuel N. Obianwu, a Board-certified orthopedic surgeon. In an October 8, 2012 report, Dr. Obianwu reviewed the SOAF and medical record. He provided findings on physical and x-ray examination and diagnosed tricompartmental arthritis of the right knee and status post total left knee arthroplasty. Dr. Obianwu found that appellant had sustained a temporary aggravation of her right knee osteoarthritis and medial meniscus tear in 2011, "which no longer exists." He found that her medial meniscus tear was not related to a traumatic problem, but rather it was degenerative. Dr. Obianwu opined that appellant's employment did not cause any significant aggravation of her preexisting osteoarthritis of the right knee. He related that her January 24, 2012 arthroscopic right knee surgery may have aggravated her underlying condition. Dr. Obianwu did find a material worsening of appellant's aggravation of right knee osteoarthritis on August 6, 2012 based on his review of the medical records, especially since she was working just three days a week. He concluded that she could work eight hours a day with restrictions in a position that did not require physically demanding activities. Dr. Obianwu further concluded that a right knee total replacement was required.

By letter dated October 24, 2012, OWCP requested that Dr. Obianwu clarify his October 8, 2012 medical opinion as to when the temporary aggravation of appellant's right knee osteoarthritis had ceased, whether she continued to have an aggravation of her right medial meniscus tear condition, and whether her work restrictions were solely due to her preexisting work-related knee conditions.

In a November 13, 2012 supplemental report, Dr. Obianwu clarified that the employment-related temporary aggravation of appellant's preexisting right knee osteoarthritis resolved six weeks after her January 24, 2012 knee surgery. He related that the right knee medial meniscus tear had resolved with the performance of the medial meniscus repair surgery. Dr. Obianwu concluded that appellant's work restrictions were solely due to her preexisting nonwork-related right knee osteoarthritis.

By letter dated November 15, 2012, OWCP asked appellant's treating physician, Dr. Cochran, to review Dr. Obianwu's reports and provide an opinion as to whether appellant's accepted employment-related right knee conditions had resolved. In an undated report, Dr. Cochran opined that appellant's continuing pain was an acute and chronic irritation of her preexisting condition. He related that he did not know whether appellant's right knee condition would be deemed work related or an aggravation of a preexisting condition. Dr. Cochran advised that he supported appellant pursuing the matter as a work-related injury.

On November 30, 2012 OWCP found a conflict in medical opinion between Dr. Obianwu and Dr. Cochran regarding whether appellant had any residuals of her work-related conditions,

her capacity for work, and the need to undergo right knee total replacement surgery.⁶ By letter dated January 30, 2013, it referred her, together with a SOAF, the medical record, and a list of questions, to Dr. James B. Wessinger, a Board-certified orthopedic surgeon, for an impartial medical examination.

In a February 19, 2013 report, Dr. Wessinger noted appellant's history of injury and reviewed the medical record. He related that appellant had a desk job which required her to be sedentary 75 percent of the time. Appellant was up and about getting files and using the copy machine 25 percent of the time. She occasionally carried files weighing three to five pounds. Appellant complained about postoperative right knee pain.

On physical examination of the right knee, Dr. Wessinger noted that she walked without a cane or limp. He found a mild valgus deformity in the standing position. Range of motion was -10 degrees with further flexion to 95 degrees versus 5 degrees of hyperextension on the left with further flexion to 105 degrees. The right knee surgical scar had healed nicely. The knee was stable and there was no tenderness. The right quadriceps was one-half inch larger with minor swelling present. There was no effusion. Dr. Wessinger provided an impression of status post right knee arthroscopy two times with ultimate total knee replacement due to severe arthritis. He did not find there to be a relationship between appellant's severe knee arthritis and her federal employment. Dr. Wessinger reviewed the right knee surgical reports of Dr. Austin and Dr. Cochran and found no evidence of any significant acute pathology in the right knee. He noted that torn menisci were commonly degenerative in nature in the presence of arthritis. Dr. Wessinger opined that appellant's job did not cause, significantly aggravate, or accelerate her underlying right knee arthritis which required a total knee replacement. He concluded that she had not reached maximum medical improvement (MMI) regarding her total knee replacement, but she could return to her job in early April 2013 with possible restrictions.

On March 8, 2013 OWCP requested that Dr. Wessinger respond to the questions it sent with appellant's referral. In a March 15, 2013 addendum report, Dr. Wessinger referenced the examination findings in his prior report dated February 19, 2013 and reiterated his diagnoses. He advised that diagnostic testing was unnecessary. Dr. Wessinger noted that a September 30, 2010 x-ray, performed within one month of appellant's hire, revealed severe patellofemoral arthritis and advised that this finding did not support a work-related condition. He noted that Dr. Austin's November 30, 2010 arthroscopic surgery report found bare bone in the patellofemoral joint. Dr. Wessinger related that it was virtually impossible for a joint to degenerate to this extent in a three-month period. Based on his physical examination and review of the medical record and SOAF, he reiterated his opinion and rationale regarding causal relationship, appellant's work capacity, and need for the January 24, 2012 right knee surgery. Dr. Wessinger found that Dr. Austin's surgical finding of bare bone degenerative changes did not materially alter appellant's knee pathology in a manner that would have required total right knee replacement. He agreed with Dr. Obianwu that her employment did not cause the need for a total knee replacement and that any restrictions required in the future were not work related.

⁶ On January 2, 2013 appellant underwent a right knee total arthroplasty performed by Dr. Cochran. OWCP did not authorize her surgery. On January 14, 2013 Dr. Cochran released appellant to return to regular-duty work.

Dr. Wessinger questioned appellant's resultant disability. He concluded that any future treatment would be based on her nonoccupational degenerative condition.

By decision dated April 12, 2013, OWCP denied appellant's claim for a recurrence of disability commencing August 6, 2012. It found that the weight of the medical evidence rested with the impartial medical opinion of Dr. Wessinger.

On April 22, 2013 appellant, through counsel, requested a telephone hearing with an OWCP hearing representative.

In a July 10, 2013 notice, OWCP proposed to terminate appellant's wage-loss compensation and medical benefits based on Dr. Wessinger's impartial medical opinion. It afforded her 30 days to submit additional evidence or argument regarding the proposed termination.

In an August 5, 2013 letter, appellant disagreed with the proposed action, contending that the reports of Dr. Obianwu and Dr. Wessinger were contradicted by the facts of her case. She contended that the physicians' opinions were based on diagnostic test results related to the left knee rather than the right knee. Appellant also contended that neither physician had reviewed the condition of her right knee prior to her injury or need for right knee replacement.

Appellant submitted diagnostic test results dated September 30 and October 5, 2010 from Dr. Austin, Dr. Roger W. Hynes, a radiologist, and Dr. Mohammad Naveed, a Board-certified radiologist, which addressed her left and right knee conditions. Dr. Austin's October 11, 2010 and January 10, 2011 reports and progress notes also addressed appellant's right knee conditions and medical treatment, including the need for arthroscopic surgery.⁷

In a May 15, 2013 report, Dr. Vicki E. Chessin, a Board-certified family practitioner, released appellant to return to work the next day, four hours a day until her next evaluation in two weeks. On May 28, 2013 she noted that appellant was seeking social security disability due to impairment from her degenerative arthritis which affected knees, and shoulders, resulting in multiple prior surgeries including, bilateral knee replacements. It also caused pain, stiffness, deformity, and swelling in her hands and fingers. Appellant provided examination findings and opined that there was no surgical remedy. Dr. Chessin advised that medications were ineffective and appellant was unable to work at her prior job, or any job in the future. She anticipated that her degenerative arthritis would only progress. In a work capacity evaluation (Form OWCP-5c) dated May 28, 2013, Dr. Chessin advised that appellant was unable to perform her usual job or work eight hours a day with restrictions. She noted that appellant had unsuccessfully attempted to work four hours a day.

On July 23, 2013 Dr. Cochran reported appellant's history and examination findings. He reiterated his diagnosis of preexisting degenerative arthritis. Dr. Cochran noted appellant's complaint that her right knee was functioning well prior to a change in her work status. He advised that she had an apparent flare-up that was possibly related to her meniscal tear which required total knee arthroplasty. Dr. Cochran noted that there were no complications during this

⁷ Appellant also provided a March 13, 2013 bilateral hand x-ray report.

procedure and appellant subsequently had a functional outcome. He noted, however, that she had reported an inability to work after August 6, 2012 as she had difficulty lifting her leg from the gas pedal to the brake while driving. Appellant also reported pain and a fear of falling from instability.

In a September 13, 2013 decision, an OWCP hearing representative affirmed the April 12, 2013 denial of recurrence of disability. The hearing representative found that Dr. Wessinger's impartial medical opinion remained the weight of the medical evidence.

In an October 1, 2013 decision, OWCP terminated appellant's wage-loss compensation and medical benefits effective that date, finding that the weight of the medical evidence rested with the opinion of Dr. Wessinger.⁸

On September 26, 2014 appellant, through her representative, requested reconsideration of the October 1, 2013 termination decision. He contended that Dr. Wessinger's reports were not rationalized and not entitled to the weight of the medical evidence. The representative cited the Board's decision in *Patricia E. McNally*⁹ and contended that OWCP did not provide Dr. Wessinger with a definition of aggravation or contribution when it asked him to state whether the aggravation of appellant's right knee osteoarthritis was temporary or permanent. He asserted that Dr. Wessinger's reports were not based on a complete and proper factual and medical background as he did not mention Dr. Obinawu's October 8, 2012 x-rays of both knees and the SOAF did not accurately quantify the percentage of time appellant performed the physical requirements of her position.

In a December 23, 2014 decision, OWCP addressed appellant's arguments and denied modification of the October 1, 2013 decision.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of justifying termination or modification of an employee's benefits.¹⁰ It may not terminate compensation without establishing that the disability had ceased or that it was no longer related to the employment.¹¹ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.¹² The right to

⁸ In an October 4, 2013 decision, OWCP denied appellant's claim for a right lower extremity schedule award. It found that a June 26, 2013 report from Dr. Mitchell Z. Pollack, an emergency medicine physician, who opined that appellant had 23 percent impairment of the right leg, was based on her right knee total arthroplasty which had not been accepted or authorized. This decision was affirmed by an OWCP hearing representative on April 8, 2014. By decision dated December 1, 2015, the Board affirmed the hearing representative's April 8, 2014 decision. *See* Docket No. 14-1921 (issued December 1, 2015).

⁹ Docket No. 05-338 (issued May 5, 2005).

¹⁰ *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

¹¹ *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

¹² *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.¹³ 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.¹⁴

Section 8123(a) of FECA provides that if there is a disagreement between the physician making the examination for the United States and the physician of an employee, the Secretary shall appoint a third physician (known as a referee physician or impartial medical specialist) who shall make an examination.¹⁵ 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.¹⁶ When there exists 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.¹⁷

ANALYSIS -- ISSUE 1

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits on October 1, 2013.

OWCP accepted appellant's claim for an aggravation of localized unspecified osteoarthritis of the lower right knee and aggravation of a tear of the medial meniscus of the right knee. It terminated her wage-loss compensation and medical benefits effective October 1, 2013 finding that the accepted employment-related conditions had resolved without residuals or disability based on the opinion of the impartial medical examiner, Dr. Wessinger.

OWCP had referred appellant to Dr. Wessinger to resolve a conflict in medical opinion between Dr. Cochran and Dr. Obianwu as to whether she had any continuing employment-related residuals and disability and need for right knee surgery. Dr. Cochran, the treating physician, opined that appellant's right knee condition and need for total right knee arthroplasty were due to factors of her employment and she remained totally disabled for work. Dr. Obianwu, an OWCP referral physician, opined that appellant had no work-related residuals or disability, that she could perform her usual job with restrictions, and that her total right knee replacement was not necessitated by work factors. OWCP properly referred appellant to Dr. Wessinger to resolve the conflict under 5 U.S.C. § 8123(a).

¹³ *A.P.*, Docket No. 08-1822 (issued August 5, 2009); *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

¹⁴ *A.P.*, *id.*; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002).

¹⁵ 5 U.S.C. § 8123(a); *see R.S.*, Docket No. 10-1704 (issued May 13, 2011); *S.T.*, Docket No. 08-1675 (issued May 4, 2009).

¹⁶ 20 C.F.R. § 10.321.

¹⁷ *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001).

In his February 19, 2013 report, Dr. Wessinger reviewed appellant's history, the statement of accepted facts, and provided findings on examination. He determined that appellant no longer had residuals of her accepted employment-related right knee injuries. Dr. Wessinger reported essentially normal examination findings for the right knee with the exception of mild valgus deformity in the standing position, diminished range of motion, and a right quadricep that was one-half inch larger with minor swelling present. He reported that appellant was status post right knee arthroscopy two times with ultimate total knee replacement for severe arthritis. Dr. Wessinger found no evidence of any significant acute pathology in appellant's right knee based on his review of the right knee surgeries performed by Dr. Austin and Dr. Cochran. He explained that torn menisci were commonly degenerative in nature in the presence of arthritis. Dr. Wessinger concluded that appellant's job did not cause, significantly aggravate, or accelerate her underlying right knee arthritis. He further concluded that, although she had not reached MMI from her right knee total replacement, she could return to her regular job in early April 2013 and possibly with restrictions.

OWCP requested a supplemental report from Dr. Wessinger to further respond to the questions it had presented.¹⁸ On March 15, 2013 Dr. Wessinger reiterated that appellant's underlying right knee arthritis was not causally related or aggravated by her federal employment and that although she had not reached MMI regarding her total knee replacement, she was able to return to her regular job duties in early April 2013 with restrictions. He advised that these restrictions were not work related. Dr. Wessinger further advised that any future treatment would be based on appellant's nonwork-related degenerative right knee condition. He explained that his opinion on causal relationship was based on his physical examination and review of the medical record and SOAF. Dr. Wessinger related that the September 30, 2010 right knee x-ray finding of severe patellofemoral arthritis, within one month of appellant's hire, did not support a work-related condition. He noted Dr. Austin's November 30, 2010 surgical finding of bare bone in the patellofemoral joint and found that it was virtually impossible for a joint to degenerate to the extent of appellant's condition within three months. Dr. Wessinger opined that Dr. Austin's January 24, 2012 right knee surgery was not warranted or work related, explaining that there was no evidence of any significant acute pathology in the knee. He noted that torn menisci were very commonly degenerative in nature in the presence of arthritis. Dr. Wessinger concluded that this surgery did not materially alter appellant's knee pathology such that total right knee replacement was required. He reiterated that the need for total knee replacement was due to preexisting bare bone degenerative changes.

The Board finds that Dr. Wessinger had an accurate knowledge of the relevant facts and evaluated the course of appellant's condition. Dr. Wessinger is a specialist in the appropriate field. At the time benefits were terminated, he determined that appellant had no work-related residuals or disability for full-time employment and that total right knee replacement surgery was not warranted. His opinion as set forth in his February 19 and March 15, 2013 reports is probative and reliable evidence. The Board finds that his opinion is entitled to special weight

¹⁸ When OWCP secures an opinion from an impartial medical specialist for the purpose of resolving a conflict in the medical evidence and the opinion from the specialist requires clarification or elaboration, OWCP has the responsibility to secure a supplemental report from the specialist. *Phillip H. Conte*, 56 ECAB 213 (2004).

and constitutes the weight of the medical evidence and is sufficient to justify OWCP's termination of compensation benefits for the accepted conditions.

The Board further finds that the remaining medical evidence submitted prior to OWCP's termination of compensation does not overcome the weight of Dr. Wessinger's reports or create a new conflict in medical evidence.

Dr. Chessin provided a May 15, 2013 report releasing appellant to part-time work and her May 28, 2013 report found that appellant was totally disabled for work. However, Dr. Chessin failed to provide a report opining whether she had any disability causally related to the accepted work injuries. The Board has found that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁹

Dr. Cochran's July 23, 2013 report found that appellant had preexisting degenerative arthritis. He opined that a flare-up of her right knee problem was "possibly" related to her meniscal tear which required surgery. The Board finds that Dr. Cochran's opinion on causal relationship is speculative in nature, and, thus of little probative value.²⁰ Moreover, the Board notes that he was on one side of the conflict that Dr. Wessinger resolved. The Board finds that the additional report from Dr. Cochran is insufficient to overcome the weight accorded Dr. Wessinger as the impartial medical examiner or to create a new conflict.²¹

Other medical reports provided by appellant prior to the termination of benefits either predate the termination or do not address how any continuing condition or disability is casually related to the accepted conditions.²²

Consequently, OWCP met its burden of proof to terminate appellant's compensation and medical benefits on October 1, 2013.

LEGAL PRECEDENT -- ISSUE 2

It is well established that after termination or modification of benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation benefits shifts to appellant. In order to prevail, appellant must establish by the weight of the reliable, probative, and

¹⁹ *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *A.F.*, 59 ECAB 714 (12, 2008); *A.D.*, 58 ECAB 149 (2006); *Michael E. Smith*, 50 ECAB 313 (1999).

²⁰ *Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty the opinion must not be speculative or equivocal; the opinion should be expressed in terms of a reasonable degree of medical certainty).

²¹ *Jaja K. Asaramo*, 55 ECAB 200 (2004) (reports from a physician who was on one side of a medical conflict that an impartial specialist resolved, are generally insufficient to overcome the weight accorded the opinion of the impartial physician or to create a new conflict).

²² See cases cited, *supra* note 19.

substantial evidence that he or she had an employment-related disability or residuals which continued after termination of compensation benefits.²³

ANALYSIS -- ISSUE 2

OWCP accepted that appellant sustained an aggravation of localized unspecified osteoarthritis of the lower right knee and aggravation of a tear of the medial meniscus of the right knee. It properly terminated her wage-loss compensation and medical benefits effective October 1, 2013 based on the opinion of Dr. Wessinger, the referee physician, who found that residuals and disability from the accepted employment-related right knee conditions had ceased. The burden now shifts to appellant to demonstrate that she continued to have residuals or disability for work on and after October 1, 2013 due to the accepted injuries.²⁴

Subsequent to the termination of benefits, appellant did not submit any new medical evidence.

Before OWCP and on appeal before the Board, appellant's representative contended that Dr. Wessinger's reports were not entitled to the weight of the medical evidence. He cited to *Patricia E. McNally*²⁵ and contended that OWCP did not provide Dr. Wessinger with a definition of an aggravation or contribution when it asked him to state whether the aggravation of appellant's right knee osteoarthritis was temporary or permanent in nature. However, the facts in the present case can be distinguished from *Patricia E. McNally*. In *Patricia E. McNally*, the Board found that an impartial medical specialist's opinion on causal relationship was insufficient to resolve the underlying conflict of whether the employee's work-related injuries aggravated her preexisting left knee condition and caused or contributed to the need for surgery. The Board found that the physician had not addressed whether the injury-related aggravation or period of symptoms was temporary or permanent in the questions provided him and OWCP had not requested clarification from him as to whether the aggravation was temporary or permanent.

In the instant case, Dr. Wessinger did not initially address the question of whether the aggravation of appellant's right knee osteoarthritis was temporary or permanent in nature. However, OWCP requested a supplemental report. In response, Dr. Wessinger clearly opined that appellant's federal employment had not caused, significantly aggravated, or accelerated her underlying right knee arthritis. He further opined that her January 24, 2012 right knee total replacement surgery was not work related and indicated that it was necessitated by her preexisting degenerative condition. Thus, the Board finds that the case cited by appellant's representative is not applicable to the instant case.

Appellant's representative also contended that Dr. Wessinger's reports were not based on a complete and proper factual and medical background as it did not mention Dr. Obinawu's October 8, 2012 x-rays of both knees and the SOAF did not accurately quantify the percentage of

²³ See *Virginia Davis-Banks*, 44 ECAB 389 (1993); see also *Howard Y. Miyashiro*, 43 ECAB 1101, 1115 (1992).

²⁴ *Virginia Davis-Banks*, *id.*

²⁵ *Supra* note 9.

time appellant performed the physical requirements of her positions. Dr. Wessinger provided a review of appellant's medical history. While Dr. Wessinger did not summarize every report in the record, this does not mean that these reports were not reviewed. There is no requirement that an examining physician must list every medical report reviewed.²⁶ Moreover, the Board notes that Dr. Wessinger's quantification of the time appellant spent performing her work duties was based on her description of her work duties. The Board finds that Dr. Wessinger's reports provided sufficient discussion of the medical evidence of record and accurately discussed the requirements of appellant's position.

On appeal, appellant's representative further contends that Dr. Wessinger failed to provide sufficient medical rationale to support his medical opinion. Dr. Wessinger, however, explained the basis for his opinion that appellant no longer had any residuals or disability causally related to her accepted employment injuries and, as discussed, his reports represent the special weight of the evidence.

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits effective October 1, 2013 and that she has failed to meet her burden of proof to establish continuing employment-related residuals or disability after the termination of her compensation benefits.

²⁶ *S.N.*, Docket No. 12-123 (issued June 12, 2012).

ORDER

IT IS HEREBY ORDERED THAT the December 23, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 14, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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