



work on January 4, 2005, pending left foot surgery. Appellant underwent surgery on February 3 and March 3, 2005, related to her other accepted claim.

In a March 8, 2005 report, Dr. Henry Fuentes, Board-certified in orthopedic surgery, stated that he had examined appellant. He summarized his assessment of appellant's condition as "status post low back contusion and right wrist contusion, symptomatically improved degenerative joint disease of her knees." Appellant was released to full work duties on March 14, 2005 by Dr. Fuentes. In an April 19, 2005 letter, Dr. Fuentes opined that the incident on January 3, 2005 aggravated the degenerative joint disease in appellant's knees.

In an April 21, 2005 letter, the Office informed appellant that it proposed to terminate her compensation on the basis that she no longer had disability related to the January 3, 2005 injury.

In a progress note dated February 14, 2006, Dr. Fuentes stated that appellant was seen for complaints of persistent back pain, since January 3, 2005. He recommended that appellant undergo a magnetic resonance imaging (MRI) scan. Dr. Jon R. Jester, a Board-certified radiologist, obtained an MRI scan on February 25, 2006 which revealed facet arthropathy, disc bulging and spondylosis at L3-4 with severe right and moderate left foraminal narrowing; spondylosis, disc bulging and facet arthropathy at L2-3, moderately severe left and moderate right foraminal narrowing.

On April 5, 2006 appellant filed a claim for compensation for the period March 14, 2005 through March 14, 2006. In an April 19, 2006 letter, the Office informed appellant that additional evidence was needed. The Office subsequently scheduled appellant for a second opinion medical examination with Dr. Leonard R. Smith, Board-certified in orthopedic surgery.

In a May 16, 2006 report, Dr. Smith opined that appellant's accepted diagnoses of right low back contusion, right wrist contusion and right knee contusion had resolved. He noted that appellant was 5'3" and weighed 312 pounds. Dr. Smith stated:

"Based upon the present objective findings, diagnoses of right lower back contusion, right wrist contusion and right knee contusion have subsided or healed. She does exhibit symptoms of possible residual knee discomfort based on prior knee condition nonrelated to her work injury. Her most predominant problem at this time is morbid obesity and depression. As far as her nonrelated conditions, she is disabled from work at this time."

In a July 14, 2006 decision, the Office terminated appellant's entitlement to compensation for wage-loss benefits based on Dr. Smith's opinion that her accepted conditions had healed.

On August 15, 2006 appellant requested a review of the written record. By decision dated December 13, 2006, an Office hearing representative affirmed the termination of benefits.

## LEGAL PRECEDENT

Once the Office accepts a claim and pays compensation, it bears the burden to justify modification or termination of benefits.<sup>1</sup> Having determined that an employee has a disability causally related to his or her federal employment, the Office may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.<sup>2</sup>

## ANALYSIS

Appellant fell at work on January 3, 2005. This claim was accepted for a right low back contusion, right wrist contusion and right knee contusion. Her treating physician, Dr. Fuentes, opined as early as March 14, 2005, based on a thorough medical examination, that she was no longer disabled due to these accepted conditions. On May 15, 2006 appellant was referred for a second opinion medical examination. Dr. Smith also found that appellant's accepted conditions had healed. He opined that physical examination and objective finding substantiated that appellant's continuing disability was due to her morbid obesity and her nonwork-related medical conditions. The Office bears the burden to justify termination of benefits and has done so by establishing that appellant's accepted conditions have ceased. There is no medical evidence of record disputing that her accepted conditions have resolved.

Although Dr. Fuentes opined in a report dated April 19, 2005 that the work incident on January 3, 2005 aggravated appellant's degenerative joint disease of the knees, he did not provide any rationalized medical opinion in support of his conclusion. The Board notes that appellant had a long history of bilateral knee complaints, but that her January 3, 2005 claim form did not indicate that she had injured her knees in any manner on that day. Where an employee claims that a condition not accepted or approved by the Office was due to an employment injury, she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>3</sup> Appellant has not met her burden to prove that her bilateral knee degenerative joint disease was aggravated by the work incident on January 3, 2005 because she did not provide sufficient rationalized medical opinion, based on a proper medical history and history of injury to support causal relationship. Dr. Fuentes reexamined appellant in 2006 for continuing back complaints and recommended MRI scan examination. Following the MRI scan examination Dr. Fuentes offered no opinion relating the findings to the January 3, 2005 injury. The reports from Dr. Fuentes are not sufficient to establish that appellant's spondylosis facet arthropathy or disc bulging is related to the January 3, 2005 injury.

## CONCLUSION

The Office properly terminated appellant's wage-loss compensation effective July 14, 2006.

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<sup>1</sup> *Curtis Hall*, 45 ECAB 316 (1994).

<sup>2</sup> *Jason C. Armstrong*, 40 ECAB 907 (1989).

<sup>3</sup> *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 13, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 17, 2007  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

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