

FACTUAL HISTORY

On February 11, 2008 appellant, then a 49-year-old mail carrier, filed a traumatic injury alleging that on February 9, 2008 she injured her right knee when she stepped out of a mail vehicle on the pavement and jammed her right knee. She sought treatment at the Med Center and received the diagnosis of right knee sprain/strain. Appellant returned to light-duty work on February 11, 2008. OWCP accepted her claim for strain of the right knee.

Dr. John Champlin, a Board-certified family practitioner, supported the diagnosis of right knee strain/strain on February 11, 2008. On March 19, 2008 he expanded appellant's claim to include probably chondromalacia of the patella and right patellofemoral pain syndrome. On May 5, 2008 Dr. Champlin included the additional diagnosis of patella subluxation. Appellant underwent a magnetic resonance imaging (MRI) scan on May 7, 2008 which demonstrated no abnormal areas or significant findings. In a note dated May 14, 2008, Dr. Champlin found that her right hip was aching and that she reported feeling depressed and anxious over her injury. On June 12, 2008 he added the diagnosis of degenerative joint disease in the right knee.

Dr. Randall K. Schaefer, a Board-certified orthopedic surgeon, examined appellant on June 5, 2008 and diagnosed right patellofemoral pain syndrome. He provided a history of injury and reviewed the MRI scan. Dr. Schaefer provided work restrictions of no climbing, squatting or kneeling. On July 7, 2008 he repeated his diagnosis and work restrictions.

On October 1, 2008 Dr. Champlin noted that appellant was terminated by her employer due to her disability. In his November 6, 2008 note, he stated that she had depression secondary to her orthopedic injury. Dr. Champlin noted that appellant had developed hip pain secondary to her gait in a note dated December 4, 2008.

OWCP conducted a telephone conference on February 24, 2009. Appellant reported that she was terminated from her employment because of residuals of her February 9, 2008 employment injury. OWCP noted that she was employed as a transitional carrier in September 2007 and ended on September 29, 2008 in a one-year temporary appointment. It informed appellant of her burden to establish a consequential emotional condition and also informed her of her burden to establish a schedule award.

On March 4, 2009 OWCP referred appellant for a second opinion evaluation with Dr. Robert S. Ferretti, a Board-certified orthopedic surgeon. In a report dated April 9, 2009, Dr. Ferretti noted her history of injury and found a slight limp of the right leg on physical examination. He found no swelling, deformity or discoloration of the right knee. Dr. Ferretti stated that appellant had no tenderness on palpation, but that she had a palpable soft patellar region popping sensation during range of motion with no pain or ligamentous laxity. He diagnosed history of right knee sprain/strain. Dr. Ferretti stated, "The currently diagnosed condition would be probably chondromalacia patella syndrome. This is medically connected to the injury described ... with a consequence of a right knee sprain/strain, which most likely involved the patellofemoral joint. As mentioned, the condition is subjective with no objective abnormality found, which can be consistent with a mild chondromalacia patellae pain syndrome. In this case, this would be a presumptive diagnosis with no evidence of any residuals of a specific right knee sprain/strain." Dr. Ferretti found that appellant had no physical limitations

from the work-related injury. He indicated that her hip region pain condition had only subjective findings and he did not consider this a consequential injury. Dr. Ferretti found that appellant reached maximum medical improvement within six months from the injury on August 9, 2008.

In a letter dated March 15, 2010, OWCP proposed to terminate appellant's compensation and medical benefits based on Dr. Ferretti's report. It allowed 30 days for a response.

By decision dated May 5, 2010, OWCP terminated appellant's compensation and medical benefits effective May 5, 2010.

Appellant requested an oral hearing of the May 5, 2010 termination decision on May 7, 2010.²

Appellant testified at the oral hearing on August 10, 2010. She expressed her frustration with OWCP.

By decision dated November 16, 2010, the Branch of Hearings and Review found that appellant recovered from her accepted right knee sprain/strain based on Dr. Ferretti's report. The hearing representative further found that she had not established any additional knee conditions as a result of her accepted February 9, 2008 employment injury.

LEGAL PRECEDENT

Once OWCP accepts a claim, it has the burden of proving that the disability has ceased or lessened in order to justify termination or modification of compensation benefits.³ 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.⁴ Furthermore, the right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁵ 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.⁶

ANALYSIS

OWCP accepted appellant's claim for right knee sprain/strain. Appellant's attending physician, Dr. Champlin continued to support her partial disability for work and diagnosed

² In a decision dated June 28, 2010, OWCP denied modification of a January 27, 2010 decision denying appellant's claim for a consequential shoulder injury. As it issued this decision more than 180 days prior to appellant's appeal to the Board, the Board does not have jurisdiction over this decision and will not consider this issue on appeal. 20 C.F.R. § 501.3.

³ *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

⁴ *Id.*

⁵ *Furman G. Peake*, 41 ECAB 361, 364 (1990).

⁶ *Id.*

additional conditions including chondromalacia patella, right patellofemoral pain syndrome and degenerative joint disease. He referred appellant to Dr. Schaefer who examined her on June 5 and July 7, 2008 and diagnosed right patellofemoral pain syndrome. Dr. Champlin provided work restrictions of no climbing, squatting or kneeling.

OWCP referred appellant for a second opinion evaluation with Dr. Ferretti who completed a report on April 9, 2009 and included a history of injury and physical findings he stated, "The currently diagnosed condition would be probably chondromalacia patella syndrome. This is medically connected to the injury described ... with a consequence of a right knee sprain/strain, which most likely involved the patellofemoral joint. As mentioned, the condition is subjective with no objective abnormality found, which can be consistent with a mild chondromalacia patellae pain syndrome. In this case, this would be a presumptive diagnosis with no evidence of any residuals of a specific right knee sprain/strain." Dr. Ferretti further found that appellant had no physical limitations from the work-related injury.

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's medical benefits. Dr. Ferretti opined that she had a continued medical condition as a result of her accepted employment injury and diagnosed chondromalacia patella syndrome. He stated that this condition was related to appellant's accepted right knee strain/sprain. There is no medical evidence in the record which supports a finding that her accepted right knee condition has resolved without residuals as both Dr. Champlin and Dr. Ferretti continue to support this diagnosis. As the medical evidence in the record supports that appellant has continued medical residuals from her accepted employment injury, OWCP failed to meet its burden of proof to terminate her compensation and medical benefits.

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's compensation and medical benefits.

ORDER

IT IS HEREBY ORDERED THAT the November 16, 2010 decision of the Office of Workers' Compensation Programs is reversed.

Issued: October 14, 2011
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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