

FACTUAL HISTORY

This case has previously been on appeal before the Board. On September 24, 1985 appellant, then a 58-year-old nursing assistant, injured her right wrist while moving a patient. OWCP accepted her claim for right wrist strain, fracture of the right radial styloid and *de Quervain's* syndrome of the right wrist. Appellant stopped work on September 22, 1986 and on November 18, 1986 received a schedule award for 43 percent impairment of her upper extremity. OWCP proposed to terminate her compensation benefits on April 22, 2005 and finalized this decision on May 23, 2005. Appellant requested reconsideration and OWCP denied modification of its prior decision on June 22, 2005. The Board reviewed OWCP's decisions on March 2, 2006² and determined that OWCP did not meet its burden of proof to terminate her compensation benefits effective May 23, 2005. The facts and the circumstances of the case as set out in the Board's prior decision are incorporated herein by reference. OWCP reinstated appellant on the periodic rolls.

On September 18, 2008 OWCP determined that the position offered by the employing establishment of customer care assistant was suitable work and allowed appellant 30 days to accept the position or provide her reasons for refusal. In a letter dated February 13, 2009, it notified appellant that her reasons for refusing the offered position were not acceptable and allowed her an additional 15 day to accept the position prior to termination of her wage loss and schedule award benefits. OWCP terminated her wage loss and schedule award benefits in accordance with 5 U.S.C. § 8106(c) in a March 6, 2009 decision.

Appellant requested reconsideration and on May 24, 2010 OWCP reinstated her benefits finding that she was not offered employment within her commuting area. OWCP reinstated her compensation benefits and entered her on the periodic rolls.

On June 3, 2008 OWCP's second opinion physician, Dr. James Hood, a Board-certified orthopedic surgeon, examined appellant and diagnosed right carpal tunnel syndrome, right *de Quervain's* tenosynovitis and bilateral carpometacarpal arthritis. A March 31, 2009 medical report discusses many conditions, including failed back syndrome, glaucoma, hyperlipidemia, hypertension, ischemic heart disease, osteoporosis and spondylosis lumbar.

OWCP referred appellant for a second opinion evaluation on September 9, 2010 with Dr. Sofia M. Weigel, a physician Board-certified in physical medicine and rehabilitation, who completed a report on October 15, 2010 describing appellant's history of injury. Dr. Weigel stated that appellant was cooperative with the examination and was able to handle her purse and wallet with her right hand to find items without difficulty. On physical examination, she found that appellant's muscles had normal bulk and tone with no focal neurological deficits. Dr. Weigel noted that appellant had diffuse nodules on her finger joints with arthritic changes and functional range of motion throughout the right wrist. She found a bilateral mild Finkelstein's test and no trigger points in the forearm region. Dr. Weigel stated that appellant had no signs of an ongoing wrist sprain or strain or *de Quervain's* syndrome and concluded that residuals from these conditions had resolved. She further found that appellant did not have a

² Docket No. 05-1872 (issued March 2, 2006).

chronic disability due to her accepted conditions and stated that she could return to full-duty work with no restrictions regarding her right wrist. Dr. Weigel noted that, due to hypertension, appellant was unable to participate in a functional capacity evaluation.

On February 7, 2011 OWCP proposed to terminate appellant's compensation and medical benefits based on Dr. Weigel's report. It allowed 30 days for a response. Appellant did not respond.

By decision dated March 10, 2011, OWCP terminated her medical and wage-loss benefits effective March 13, 2011.

Appellant requested reconsideration and submitted an affidavit alleging that Dr. Weigel did not physically examine her hand or wrist or perform any testing. She argued that, as Dr. Weigel did not perform a physical examination, her conclusions that appellant had no residuals and could return to full duty were not adequate.

By decision dated November 9, 2011, OWCP denied modification of its March 10, 2011 decision finding that appellant had not submitted sufficient medical evidence to establish continuing disability or medical residuals as a result of her accepted employment injury.

LEGAL PRECEDENT -- ISSUE 1

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 -- ISSUE 1

OWCP accepted that appellant sustained right wrist strain, fracture of the right radial styloid and *de Quervain's* syndrome of the right wrist due to her September 24, 1985 employment injury. Appellant continued to receive compensation and medical benefits as well as a schedule award due to her accepted conditions through March 13, 2011 despite various attempts by OWCP to properly terminate or reduce her benefits.

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

⁴ *Id.*

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

⁶ *Id.*

OWCP reinstated appellant's compensation benefits on the periodic rolls. The most recent medical evidence addressing her employment-related conditions was the 2008 report from Dr. Hood, the referral physician, finding right carpal tunnel syndrome, right *de Quervain's* tenosynovitis and bilateral carpometacarpal arthritis. OWCP referred appellant for a second opinion evaluation with Dr. Weigel, who completed a report on October 15, 2010. Dr. Weigel described appellant's history of injury and provided findings on physical examination. She noted that appellant was cooperative and able to handle personal items in her right hand. Dr. Weigel reported that appellant had normal muscle tone, no focal neurological defect and functional range of motion through the right wrist. She found a bilateral mild Finkelstein's test and no trigger points in the forearm region. Dr. Weigel stated that appellant had no signs of ongoing wrist sprain or strain or *de Quervain's* syndrome and concluded that residuals from these conditions had resolved. She further found that appellant did not have a chronic disability due to her accepted conditions and stated that she could return to full-duty work with no restrictions regarding her right wrist.

The Board finds that the report of Dr. Weigel is sufficiently detailed and well reasoned to constitute the weight of the medical opinion evidence and establishes that appellant had no disability or residuals due to her accepted conditions. Dr. Weigel provided detailed findings on physical examination and concluded that there were no objective signs of continuing residuals of the accepted conditions. She opined that appellant's accepted conditions did not prevent her from returning to full duty. While Dr. Weigel noted that appellant had nonemployment-related conditions such as hypertension, she did not attribute any disability to appellant's accepted right wrist conditions. There is no recent medical evidence in the record supporting that appellant has continued work-related disability or residuals. As Dr. Weigel's report contains an accurate factual history, medical findings and reasoned opinion, the Board finds that OWCP met its burden of proof to terminate appellant's compensation benefits.

LEGAL PRECEDENT -- ISSUE 2

As OWCP met its burden of proof to terminate appellant's compensation benefits, the burden shifted to establish that she had disability causally related to her accepted employment injury.⁷ To establish a causal relationship between the condition, as well as any disability claimed, and the employment injury, the employee must submit rationalized medical opinion evidence, based on a complete factual background, supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. The weight of medical evidence is determined by its reliability, its

⁷ *George Servetas*, 43 ECAB 424, 430 (1992).

probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁸

ANALYSIS -- ISSUE 2

Following OWCP's March 10, 2011 decision terminating appellant's compensation benefits effective March 13, 2011, appellant disagreed with this decision and requested reconsideration. She submitted an affidavit and argument that Dr. Weigel's report was spurious as it was not based on a physical examination and that the findings contained in the report were fabricated. As previously noted, Dr. Weigel provided specific physical findings and observations regarding appellant's wrist and finger conditions, range of motion and test results. While appellant disagrees with the conclusions drawn, the Board is unable to discount Dr. Weigel's signed medical report describing appellant's right wrist. Furthermore, without any contemporaneous medical evidence supporting that appellant continues to experience either medical residuals or disability from her accepted conditions, her arguments are not sufficient to establish that she continues to experience medical residuals or disability due to her accepted right wrist condition.

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(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's compensation and medical benefits effective March 13, 2011. The Board further finds that appellant has not met her burden of proof in establishing any continuing medical residuals or disability due to her accepted right wrist conditions on or after March 13, 2011.

⁸ *James Mack*, 43 ECAB 321 (1991).

ORDER

IT IS HEREBY ORDERED THAT the November 9, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 8, 2012
Washington, DC

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

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

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