

FACTUAL HISTORY

OWCP accepted that on August 30, 2010 appellant, then a 55-year-old letter carrier, sustained a right quadriceps tendon strain when he stumbled while exiting his postal vehicle. He struck his right ankle against the curb and twisted his right leg. Appellant stopped work on August 30, 2010 and did not return. Dr. Kathlyne Anderson, an attending internist, held appellant off work through September 17, 2010.

In a September 21, 2010 report, Dr. Ethan M. Healy, an attending Board-certified orthopedic surgeon, provided a history of injury. He noted that appellant previously underwent three surgeries for a right forefoot deformity. On examination, Dr. Healy found slight effusion of the right knee, tenderness to palpation along the medial border anteriorly, a positive grind test and a McMurray's sign positive to pain. On August 31, 2010 right knee x-rays showed no fracture or dislocation, with well-maintained joint spaces. Dr. Healy diagnosed a possible meniscal tear versus a patellar subluxation.² He submitted periodic reports, finding appellant "basically asymptomatic" on December 2, 2010. Dr. Healy continued to hold appellant off work.

Appellant claimed wage-loss compensation for the period December 20, 2010 to January 14, 2011. In a February 4, 2011 letter, OWCP requested medical evidence supporting work-related disability for the claimed period. By decision dated March 9, 2011, it denied appellant's claim for compensation for the period December 20, 2010 to January 14, 2011 on the grounds that he failed to submit medical evidence supporting that he was disabled for work during that time due to the accepted right knee injury.

Appellant claimed wage-loss compensation for the period January 15 to April 8, 2011.³ In a February 18, 2011 letter, OWCP again requested additional medical evidence to substantiate his work-related disability for the claimed period.

In a March 4, 2011 report, Dr. Healy noted intermittent diffuse right knee pain. He diagnosed resolved right quadriceps tendinitis with "very mild underlying right knee osteoarthritis" and an asymptomatic right ankle. Dr. Healy noted "no ligamentous or intra[-]articular injury per se."

By notice dated March 29, 2011, OWCP advised appellant that it proposed to terminate his medical benefits on the grounds that Dr. Healy's March 4, 2011 report found that the accepted right knee and ankle injuries had resolved without residuals. It afforded appellant 30 days to submit additional evidence or argument regarding the proposed termination. Appellant did not submit additional medical evidence.

By decision dated April 11, 2011, OWCP denied appellant's claim for wage-loss compensation beginning January 15, 2011 on the grounds that he did not submit medical

² A September 28, 2010 magnetic resonance imaging (MRI) scan of the right knee showed mucoid degeneration in the medial meniscus, prepatellar soft tissue swelling and possible mild tendinopathy of the distal quadriceps tendon, without effusion or other abnormalities. December 10, 2010 right knee x-rays were normal.

³ The record indicates that appellant did not receive any wage-loss compensation benefits pursuant to the accepted August 30, 2010 injury.

evidence establishing that he was disabled for work during that period due to the accepted injuries.

By decision dated April 29, 2011, OWCP terminated appellant's medical benefits effective that day on the grounds that the accepted right knee and ankle injuries had resolved without residuals.

In an October 20, 2011 letter, appellant requested reconsideration "of the denial of [his] claim and benefits." He asserted that a medical report from Dr. John S. Stevenson, an attending physician Board-certified in sports medicine and family practice, provided "new medical rationale and support[e]d the application for benefits."⁴

In an April 26, 2011 report, Dr. James T. McGlowan, an attending Board-certified orthopedic surgeon, listed a history of injury. On examination, he noted significant discomfort at the medial joint line, mild effusion, a positive McMurray's sign and slightly restricted flexion. Dr. McGlowan diagnosed a right knee strain with ongoing pain despite a normal MRI scan. In a May 17, 2011 follow-up report, he stated that an MRI scan revealed a meniscal tear. Dr. McGlowan scheduled a right knee arthroscopy.

In a September 20, 2011 report, Dr. Anderson found that appellant remained totally disabled for work and recommended a psychiatric evaluation.

In an October 5, 2011 report, Dr. Stevenson noted a normal clinical examination of the right knee and that August 31, 2011 x-rays were also normal. He diagnosed right knee pain.

By decision dated January 25, 2012, OWCP denied modification of the April 29, 2011 decision terminating his medical benefits. It found that the medical evidence submitted on reconsideration contained insufficient rationale explaining how and why the accepted injuries would continue to cause or aggravate any medical condition on and after April 29, 2011.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits.⁵ 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.⁶ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁷

⁴ OWCP interpreted appellant's October 20, 2011 letter as a request for reconsideration of only the April 29, 2011 termination of medical benefits and not the March 9 or April 11, 2011 denials of wage-loss compensation.

⁵ *I.J.*, 59 ECAB 408 (2008); *Elsie L. Price*, 54 ECAB 734 (2003).

⁶ *J.M.*, 58 ECAB 478 (2007); *Del K. Rykert*, 40 ECAB 284 (1988); *see I.R.*, Docket No. 09-1229 (issued February 24, 2010).

⁷ *A.P.*, Docket No. 08-1822 (issued August 5, 2009); *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability. To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require medical treatment.⁸

ANALYSIS -- ISSUE 1

OWCP accepted that appellant sustained a right quadriceps tendon strain in the performance of duty on August 30, 2010. Beginning on September 21, 2010, appellant was treated by Dr. Healy, an attending Board-certified orthopedic surgeon, who submitted reports through October 2010 noting continued right knee pain with an essentially normal clinical examination and imaging studies. Dr. Healy found appellant's right knee basically asymptomatic as of December 2, 2010, noting on March 4, 2011 that any right quadriceps tendinitis resolved with no objective injury.

Based on Dr. Healy's opinion there was no objective abnormality of appellant's right knee as of December 2, 2010. OWCP terminated appellant's medical benefits effective April 29, 2011. It properly found that the weight of the medical opinion evidence rested with Dr. Healy as treating physician. OWCP afforded appellant the opportunity to submit any evidence or argument in opposition to Dr. Healy's opinion. However, appellant did not submit such evidence. OWCP's termination of his medical benefits was therefore proper under the law and facts of the case.

On appeal, appellant contends that OWCP did not meet its burden of proof to terminate his medical benefits and wrongly resolved disputes in favor of the employing establishment. As found, OWCP properly terminated his medical benefits effective April 29, 2011 based on the opinion of his attending physician, Dr. Healy. There is no indication of record of any bias or impropriety by OWCP in the adjudication of appellant's compensation claim.

LEGAL PRECEDENT -- ISSUE 2

After termination or modification of benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation benefits shifts to the claimant. In order to prevail, the claimant must establish by the weight of reliable, probative and substantial evidence that he or she had an employment-related disability that continued after termination of compensation benefits.⁹ For conditions not accepted by OWCP as being employment related, it is the employee's burden to provide rationalized medical evidence sufficient to establish causal relation.¹⁰ The fact that a condition's etiology is unknown or obscure neither relieves appellant of the burden of establishing a causal relationship by the weight of the medical evidence, nor shifts the burden of proof to OWCP to disprove an employment relationship.¹¹

⁸ *Kathryn E. Demarche*, *supra* note 7.

⁹ *See Virginia Davis-Banks*, 44 ECAB 389 (1993); *see also Howard Y. Miyashiro*, 43 ECAB 1101, 1115 (1992).

¹⁰ *Alice J. Tysinger*, 51 ECAB 638 (2000).

¹¹ *Judith J. Montage*, 48 ECAB 292, 294-95 (1997).

ANALYSIS -- ISSUE 2

In an October 20, 2011 letter, appellant requested reconsideration. In support of his request, he submitted April 26 and May 17, 2011 reports from Dr. McGlowan, an attending Board-certified orthopedic surgeon, who diagnosed a right knee strain and a meniscal tear. Dr. McGlowan did not provide adequate medical explanation of the path physiologic relationship between the accepted right quadriceps tendon strain and conditions diagnosed after April 29, 2011.¹² The meniscal tear is not a condition that OWCP ever accepted. Dr. McGlowan did not provide medical rationale supporting a medical causal relationship between these conditions and work factors.¹³ Therefore, Dr. McGowan's reports are insufficiently rationalized to meet appellant's burden of proof.

Appellant also submitted a September 20, 2011 report from Dr. Anderson recommending that appellant consult a physiatrist. However, she did not diagnose a condition related to the accepted right quadriceps tendon strain.

Appellant also submitted an October 5, 2011 report from Dr. Stevenson, an attending physician Board-certified in sports medicine and family practice, who diagnosed right knee pain, noting that a physical examination and imaging studies were normal. The Board has held repeatedly that pain is a symptom and not a diagnosis.¹⁴ Therefore, Dr. Stevenson's report does not support a continuing work-related condition on and after April 29, 2011 as he did not diagnose any medical condition.

The Board finds that appellant submitted insufficient rationalized medical evidence to establish a causal relationship between his condition on and after April 29, 2011 and the accepted right quadriceps tendon strain. Therefore, appellant has failed to meet his burden of proof.

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 medical benefits effective April 29, 2011. The Board further finds that he has not established that he had a continuing medical condition on and after April 29, 2011 causally related to an accepted right quadriceps strain.

¹² *Mary E. Marshall*, 56 ECAB 420 (2005).

¹³ *Alice J. Tysinger*, *supra* note 10.

¹⁴ *Robert Broome*, 55 ECAB 339, 342 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 25, 2012 is affirmed.

Issued: September 11, 2012
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