

effective March 18, 2010.² OWCP initially referred appellant to Dr. Alan H. Wilde, a Board-certified orthopedic surgeon, to resolve the conflict in the medical opinion evidence between Dr. Karl V. Metz, a second opinion Board-certified orthopedic surgeon, and Dr. William R. Bohl, a Board-certified orthopedic surgeon and appellant's attending physician, with respect to the extent of her work injury. Following the receipt of Dr. Wilde's report, OWCP referred appellant to Dr. Ralph J. Kovach, a Board-certified orthopedic surgeon, to resolve the conflict in the medical opinion evidence regarding whether she continued to suffer residuals from her accepted right knee employment injuries.³ The Board found that OWCP failed to undertake proper development of the medical evidence as it failed to request that Dr. Wilde provide a supplemental report to clarify his opinion on whether appellant continued to have residuals from her accepted employment injury. The facts and circumstances of the case up to that point are set forth in the Board's prior decisions and are incorporated herein by reference.⁴

In an October 11, 2011 letter, OWCP requested that Dr. Wilde provide a supplemental report clarifying his opinion as to whether appellant's residual right thigh and calf muscle atrophy affected her preexisting chondromalacia of the patella and degenerative joint disease.

In an October 14, 2011 progress note, Dr. Bohl reported that appellant had developed post-traumatic arthritis in her knee as a result of her employment injury of right anterior cruciate ligament tear. A review of x-ray interpretations revealed loss of nearly the entire medial joint space.

In an October 19, 2011 report, Dr. Wilde stated that appellant's right thigh and calf atrophy were the result of chondromalacia of the patella and degenerative joint disease and muscle weakness was likely to heighten knee pain symptoms. He noted that appellant continued to have residuals of her right thigh and calf which would increase her right knee pain symptoms. Dr. Wilde opined that there was no evidence that her accepted August 31, 2007 employment injury impacted her preexisting chondromalacia of the patella or degenerative joint disease in view of the lack of any objective evidence prior to the injury which could be compared with evidence after the injury.

By decision dated January 11, 2012, OWCP terminated appellant's medical and wage-loss compensation benefits effective that date. It found the supplemental report from Dr. Wilde

² Docket No. 10-2214 (issued August 22, 2011).

³ The Board found that OWCP incorrectly identified the conflict as between Drs. Metz and Wilde as a conflict under section 8123 cannot exist unless there is a conflict between an attending physician and an OWCP physician. *Delphia Y. Jackson*, 55 ECAB 373 (2004).

⁴ On September 10, 2007 appellant, then a 43-year-old city carrier, filed a traumatic injury claim alleging that on August 30, 2007 she injured her left knee when she tripped while going down a short step. OWCP assigned claim number xxxxxx541 and accepted the claim for right knee contusion, sprain and abrasion, which was subsequently expanded to include a right knee anterior cruciate ligament tear. It authorized arthroscopic surgery, which occurred on March 28, 2008. Appellant stopped work on January 28, 2008 and returned to work with restrictions on June 30, 2008. On March 16, 2009 OWCP combined claim numbers xxxxxx541, xxxxxx639 and xxxxxx504 to prevent further confusion. Claim numbers xxxxxx939 and xxxxxx504 were accepted for a right elbow condition and bilateral carpal tunnel syndrome.

constituted the weight of the evidence in establishing that she no longer had any residuals of her accepted employment injuries.

By letter dated January 18, 2012, appellant's counsel requested a telephonic hearing before an OWCP hearing representative, which was held on April 4, 2012.

By decision dated June 12, 2012, OWCP's hearing representative affirmed the January 11, 2012 decision terminating appellant's compensation benefits.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits.⁵ The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁶ To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.⁷

ANALYSIS

OWCP's January 11, 2012 decision terminated compensation benefits effective that day finding that appellant no longer had any residuals of the accepted employment condition. In terminating appellant's compensation, it relied upon the October 19, 2011 supplemental report from Dr. Wilde. An OWCP hearing representative affirmed this decision on June 12, 2012.

On October 19, 2011 Dr. Wilde found that appellant's right thigh and calf atrophy were the result of chondromalacia of the patella, degenerative joint disease and muscle weakness that could heighten knee pain symptoms. He opined that appellant continued to have residuals of her right thigh and calf conditions. Dr. Wilde stated that there was no evidence that her accepted August 31, 2007 employment injury aggravated the preexisting chondromalacia of the patella or degenerative joint disease in view of the lack of any objective evidence taken before the injury which could be compared with evidence after the injury.

The Board finds that the opinion of Dr. Wilde is insufficiently rationalized to be accorded the special weight of the medical evidence. The report of an impartial medical specialist will be accorded special weight provided his opinion is based upon a proper factual background and is sufficiently rationalized.⁸ The Board looks at such factors as the opportunity for and thoroughness of examination performed by the physician, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the

⁵ *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁶ *A.P.*, Docket No. 08-1822 (issued August 5, 2009); *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

⁷ *B.K.*, Docket No. 08-2002 (issued June 16, 2009); *Kathryn E. Demarsh*, *supra* note 6; *James F. Weikel*, 54 ECAB 660 (2003).

⁸ *A.R.*, Docket No. 12-443 (issued October 9, 2012); *Darlene R. Kennedy*, 57 ECAB 414 (2006).

medical rationale expressed by the physician on the medical issues addressed to him by OWCP.⁹ Dr. Wilde opined that there was no evidence showing any aggravation of appellant's preexisting knee conditions as a result of the August 21, 2007 employment injury. While he did not find any aggravation, he failed to offer adequate medical reasoning in support of his conclusion.¹⁰ Dr. Wilde failed to address whether appellant continued to have any residuals or disability due to her accepted right knee anterior cruciate ligament tear. His supplemental report was conclusory in nature and does not address disability or residuals due to accepted conditions. Dr. Wilde's opinion cannot be given the special weight generally accorded to an impartial medical examiner and is insufficient to resolve the medical conflict. The Board finds, therefore, that OWCP improperly terminated appellant's compensation benefits.

CONCLUSION

The Board finds that OWCP improperly terminated appellant's compensation benefits effective January 11, 2012.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 12, 2012 is reversed.

Issued: April 2, 2013
Washington, DC

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

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

⁹ See *Anna M. Delaney*, 53 ECAB 384 (2002); *Ann C. Leanza*, 48 ECAB 115 (1996); *Connie Johns*, 44 ECAB 560 (1993); *Melvina Jackson*, 38 ECAB 443 (1987).

¹⁰ *J.M.*, 58 ECAB 303 (2007); *Elaine Sneed*, 56 ECAB 373 (2005).