



OWCP met its burden of proof to terminate benefits effective April 17, 2009 and that appellant failed to establish that she had any continuing disability due to her accepted condition after April 17, 2009.<sup>3</sup> The facts and circumstances of the case up to that point are set forth in the Board's prior decision and incorporated herein by reference.

There is evidence in the prior appeal that is relevant to the current appeal before the Board. Appellant came under the treatment of Dr. Paul S. Lieber, a Board-certified orthopedist, from August 3, 2007 to March 24, 2008, for a lumbar strain sustained in a work-related fall. Dr. Lieber diagnosed right shoulder supraspinatus tendinitis secondary to right shoulder strain/sprain, right quadriceps and hip flexor weakness of unclear etiology and thoracic strain/sprain and opined that appellant remained totally disabled from work. In reports dated April 24 to March 10, 2009, he noted that appellant had a bizarre antalgic gait with gluteus medius weakness. Dr. Lieber diagnosed lumbosacral strain/sprain and internal disc disruption, L4-5 disc with right L5 radiculopathy and advised that appellant would remain off work. He opined that appellant's disc injuries at L4-5 and L5-S1 with midline disc herniations, right L5 radiculopathy, and lumbar sprain were all caused by appellant's work injury of June 4, 2007. Dr. Lieber noted that she was not capable of resuming her preinjury employment.

On July 28, 2014 appellant requested reconsideration of the termination decision. She submitted several diagnostic tests. A June 26, 1997 x-ray of the thoracic spine was normal and a February 12, 1998 x-ray of the thoracic spine showed slight dextroscoliosis. A February 17, 1998 magnetic resonance imaging (MRI) scan of the thoracic spine and a June 15, 1998 MRI scan of the cervical spine were normal. A March 30, 2000 x-ray of the cervical spine showed neural foramen narrowing on both sides. A June 12, 2007 lumbar MRI scan revealed small midline annular tears at L4-5 and L5-S1 with minimal neural canal encroachment. A July 12, 2007 MRI scan of the pelvis was normal. A January 27, 2009 lumbar myelogram and a computerized tomography (CT) scan of the lumbar spine postmyelogram showed no evidence of focal disc herniation, nerve root compression or spinal stenosis, and a mild diffuse annular bulge at L4-5 encroaching the neural foramen. A May 20, 2009 lumbar MRI scan revealed a fracture at S3 with edema within the sacrum likely related to recent trauma. A June 23, 2009 cervical MRI scan was normal. A May 3, 2011 MRI scan of the lumbar spine revealed mild degenerative change at L4-5 and L5-S1 with mild bulging resulting in mild narrowing of the spinal canal. An October 16, 2012 lumbar MRI scan was normal.

Appellant submitted an April 25, 2014 report from Dr. Lieber who treated her since August 30, 2007 for a work-related injury on June 4, 2007 while working as a postal service mail handler. She reported that she slipped on an oily floor and fell onto her right side and developed low back pain. Dr. Lieber noted that a May 20, 2009 MRI scan of the lumbar spine showed a fracture at the S3 vertebra with some edema within the sacrum which was likely a recent trauma. He noted that ligaments of the sacroiliac joint did not heal and appellant continued to be symptomatic from the June 4, 2007 injury and continued to exhibit a bizarre antalgic gait on the right. Dr. Lieber diagnosed work-related lumbosacral strain/sprain, sprain of the sacroiliac joint ligaments and fracture of the S3 vertebral body. He opined to within a reasonable degree of

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<sup>3</sup> On June 4, 2007 appellant, then a 46-year-old mail handler, was injured when she slipped and fell on an oil spill while in the performance of duty. OWCP accepted appellant's claim for a neck sprain, lumbar sprain, and right shoulder contusion. Appellant returned to a limited-duty position and stopped work completely on August 17, 2007.

medical certainty, the diagnoses above were causally related to the work injury sustained on June 4, 2007. Dr. Lieber advised that appellant had not recovered from these events and continues to have residuals of the June 4, 2007 work injury.

Appellant submitted a statement from coworkers, Tanya Phillips, dated June 17, 2014, and Gloria Hagan, dated July 9, 2014, who observed her return from her car on June 4, 2007 in pain and limping. She reported falling on oil in the garage. A July 4, 2014 statement from Kathy Griffin, appellant's neighbor, noted appellant's difficulty getting out of her car and her balance issues. A July 8 2014 note from appellant's son, noted that her injury changed his mother's life and that of her children. A July 14, 2014 note from Charlene Ragin, a coworker, observed appellant on June 4, 2007 in the break room limping and she reported falling in the garage. An August 4, 2014 letter from Charles Davis, noted appellant had a positive moral character and was a pillar in the community.

In a decision dated November 6, 2014, OWCP denied appellant's request for reconsideration of the March 21, 2012 decision denying continuing disability benefits.

### **LEGAL PRECEDENT**

As OWCP met its burden of proof to terminate appellant's compensation benefits, the burden shifted to appellant to establish that she had continuing disability causally related to her accepted employment injury.<sup>4</sup> To establish causal relationship between the claimed disability and the employment injury, appellant must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.<sup>5</sup>

### **ANALYSIS**

OWCP accepted appellant's claim for a neck sprain and sprain of the back and lumbar spine and contusion of the right shoulder region. Appellant returned to a limited-duty position and stopped work completely on August 17, 2007. In a March 21, 2012 decision, OWCP terminated appellant's benefits effective April 17, 2009 finding that she failed to establish that she had any continuing residuals of her work-related injury on or after April 17, 2009. The Board affirmed OWCP's decision and appellant requested reconsideration. The Board finds that appellant has not established that she has any residuals of her neck, back, and lumbar spine sprain or of the contusion of the right shoulder region causally related to her work injury after April 17, 2009.

After the termination of benefits on April 17, 2009 appellant submitted an April 25, 2014 report from Dr. Lieber who noted a history of injury and diagnosed work-related lumbosacral strain/sprain, sprain of the sacroiliac joint ligaments and fracture of the S3 vertebral body. Dr. Lieber noted that appellant developed a bizarre antalgic gait pattern. He noted that a May 20, 2009 lumbar spine MRI scan revealed a fracture at S3 and appellant remained symptomatic because the ligaments had not healed. Dr. Lieber opined with a reasonable degree of medical

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<sup>4</sup> See *Joseph A. Brown, Jr.*, 55 ECAB 542 (2004); *Manuel Gill*, 52 ECAB 282 (2001).

<sup>5</sup> *Daniel F. O'Donnell, Jr.*, 54 ECAB 456 (2003).

certainty that the diagnoses above were causally related to the work injury sustained on June 4, 2007. He advised that appellant had not recovered from these events and continues to have residuals of the June 4, 2007 work injury. The Board notes that OWCP never accepted that appellant sustained a fracture of her sacral bone as a result of her June 4, 2007 work injury and there is no medical evidence to support such a conclusion.<sup>6</sup> Additionally, Dr. Lieber provides only a conclusory statement on causal relationship without providing medical reasoning or rationale to explain the basis for his opinion. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.<sup>7</sup>

Appellant also submitted several diagnostic reports on reconsideration. However, these reports are of limited probative value as they fail to provide an opinion as to whether appellant continued to have residuals of her accepted work conditions after April 17, 2009.<sup>8</sup> For this reason, this evidence is insufficient to meet appellant's burden of proof.

Appellant submitted witness statements from Ms. Phillips dated June 17, 2014, Ms. Hagan dated July 9, 2014, Ms. Griffin dated July 4, 2014, Mr. Clark dated July 8 2014, Ms. Ragin dated July 14, 2014, and Mr. Davis dated August 4, 2014. However, this evidence is insufficient to meet appellant's burden of proof. The issue in this case is medical in nature and can only be addressed by rationalized medical evidence. As this evidence is lay witness evidence and not medical evidence it is insufficient to meet appellant's burden of proof.

None of the reports submitted by appellant after the termination of benefits included a rationalized opinion regarding the causal relationship between her current condition and her accepted work-related conditions. Consequently, appellant did not establish that she had any employment-related condition or disability after April 17, 2009.

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 appellant has failed to establish that she had any continuing disability due to her accepted condition after April 17, 2009.

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<sup>6</sup> See *Alice J. Tysinger*, 51 ECAB 638 (2000) (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, not OWCP's burden to disprove such relationship).

<sup>7</sup> See *Theron J. Barham*, 34 ECAB 1070 (1983).

<sup>8</sup> *Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 6, 2014 is affirmed.<sup>9</sup>

Issued: August 2, 2016  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

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<sup>9</sup> James A. Haynes, Alternate Judge, participated in the original decision but was no longer a member of the Board effective November 16, 2015.