

have residuals of his work injuries after that date; and (2) whether appellant met his burden of proof to establish that he had continuing disability or need for medical care due to his work injuries after April 17, 2015.

FACTUAL HISTORY

On March 5, 2012 appellant, then a 42-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date he sustained injury due to a fall at work. OWCP accepted his claim for a lumbar sprain and metacarpophalangeal sprain of his right hand. Appellant stopped work on March 5, 2012 and returned to light-duty work on a part-time basis on March 15, 2012. He received disability compensation on the daily rolls beginning April 24, 2012.

OWCP had previously accepted, under OWCP File No. xxxxxx208, that on July 2, 2005 appellant sustained a lumbar sprain. After a period of disability, appellant returned to light-duty work in February 2009. He was referred in July 2009 to Dr. Arnold Goldman, a Board-certified orthopedic surgeon, for an impartial medical examination and opinion to resolve a conflict in the medical opinion evidence regarding the nature and extent of his work-related medical residuals and disability. On July 16, 2009 Dr. Goldman diagnosed lumbar strain and noted that appellant had a mild disability related to the July 2, 2005 work injury. He saw no evidence of a permanent residual of the accepted condition. Dr. Goldman indicated that appellant could perform light-duty work on a full-time basis for six weeks, after which appellant could wean himself back to full duties.³

OWCP also previously accepted, under OWCP File No. xxxxxx821, that on July 8, 2009 appellant sustained a traumatic injury in the form of a lumbar sprain. Appellant returned to light-duty work on February 3, 2010. On July 11, 2011 he participated in a second opinion examination conducted by Dr. Leon Sultan, a Board-certified orthopedic surgeon. In a July 11, 2011 report, Dr. Sultan indicated that appellant did not continue to have disabling residuals of his July 8, 2009 work injury. He noted that appellant required no further treatment for the work injury. In a supplemental report dated August 16, 2011, Dr. Sultan provided work restrictions that were intended to last for six weeks. He examined appellant again on November 7, 2011. Dr. Sultan noted that appellant had underlying L4-5 and L5-S1 disc herniations with degenerative changes, but indicated that he was capable of performing light-duty work on a full-time basis subject to restrictions. Appellant continued to work six hours per day under the restrictions assigned by Dr. Sultan. On September 20, 2011 he returned to light-duty work for an average of five hours per day.

The files for appellant's July 2, 2005 and July 8, 2009 injuries were administratively combined with the present file for his March 5, 2012 work injury. On March 15, 2015 appellant returned to part-time light-duty work.

³ Dr. Goldman examined appellant again on November 5, 2009. He diagnosed lumbosacral sprain/strain and noted that appellant suffered a new work injury on July 8, 2009, resulting in an exacerbation of his prior condition. Dr. Goldman noted that appellant was disabled as a result of the new incident, but indicated that he could perform light-duty work on a full-time basis.

In several reports dated between March and September 2014, Dr. Robert Donadt, an attending Board-certified orthopedic surgeon, generally indicated that appellant remained partially disabled due to the accepted lumbar and right hand sprains. He opined that appellant could perform light-duty work for three hours per day.

In October 2014, OWCP referred appellant to Dr. Sultan for examination and an opinion on the nature and extent of appellant's employment-related medical residuals and disability.⁴ In a November 12, 2014 report, Dr. Sultan detailed appellant's factual and medical background, noted the medical records he reviewed, and provided physical examination findings. He found no objective findings in appellant's right hand due to the March 5, 2012 work injury. The thoracolumbar examination was unremarkable with intact range of motion and intact lower extremity neurological functions. Dr. Sultan noted that the examination did not confirm disabling residuals of any of the accepted conditions or related disability. He indicated that appellant could return to full regular duties. Dr. Sultan further noted that the orthopedic examination of appellant's right hand and thoracolumbar spine did not confirm any ongoing disability causally related to the March 5, 2012 work injury. He completed a work capacity evaluation (Form OWCP-5) indicating that appellant could return to full unrestricted duties.

In brief reports dated in early 2015, Dr. Donadt continued to opine that appellant could perform only three hours per day of light-duty work due to his right hand sprain, lumbar sprain, and radiculopathy.

In a March 16, 2015 letter, OWCP advised appellant that it proposed to terminate his wage-loss compensation and medical benefits because he ceased to have residuals of his work injuries. It informed him that the weight the medical opinion evidence rested with the November 12, 2014 opinion of Dr. Sultan, OWCP's referral physician, who determined that his injury-related medical residuals and disability had ceased. OWCP afforded appellant 30 days to submit evidence and argument challenging the proposed termination action. No response was received within the time allotted.

In a decision dated April 20, 2015, OWCP terminated appellant's wage-loss compensation and medical benefits effective April 17, 2015 because he ceased to have residuals of his work injuries. It found that the weight of the medical opinion evidence rested with the November 12, 2014 opinion of Dr. Sultan, the referral physician. OWCP noted that the reports of Dr. Donadt were not well rationalized.

Appellant disagreed with OWCP's April 20, 2015 decision and, by letter postmarked May 12, 2015, he requested a hearing with an OWCP hearing representative.

Appellant submitted numerous reports dated between mid-2014 and mid-2015, *i.e.*, a period after the April 2015 termination of compensation, in which Dr. Donadt generally described his complaints and recommended light-duty work of three hours per day. Dr. Donadt diagnosed lumbar sprain with spondylosis and disc herniations with stenosis, left greater than right leg radiculopathy, and right hand sprain.

⁴ Dr. Sultan was provided with a statement of accepted facts that described the three work injuries and noted his prior examination of appellant on July 11, 2011.

During the hearing held on December 17, 2015, counsel asserted that the November 12, 2014 report of Dr. Sultan was not sufficiently rationalized. He argued that Dr. Sultan had a reputation for denying workers' claims. Appellant testified that he was unable to work due to his accepted work injuries.

By decision dated February 25, 2016, OWCP's hearing representative affirmed the April 20, 2015 decision of OWCP. She found that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective April 17, 2015, because he ceased to have residuals of his work injuries after that date. The hearing representative further noted that the reports of Dr. Donadt submitted by appellant after the April 2015 termination action were not well rationalized and did not meet appellant's burden to establish work-related residuals after April 17, 2015.

LEGAL PRECEDENT -- ISSUE 1

Under FECA, once OWCP has accepted a claim it has the burden of justifying termination or modification of compensation benefits.⁵ OWCP may not terminate compensation without establishing that the disability ceased or that it was 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

ANALYSIS -- ISSUE 1

In connection with the present claim, OWCP accepted that appellant sustained a lumbar sprain and metacarpophalangeal sprain of his right hand on March 5, 2012. It had previously accepted that he sustained a lumbar sprain on July 2, 2005 and another lumbar sprain on July 8, 2009. OWCP paid compensation for periods of disability, but terminated appellant's wage-loss compensation and medical benefits, effective April 7, 2015, based on a November 12, 2014 opinion of Dr. Sultan, an OWCP referral physician.

The Board finds that the weight of the medical evidence is represented by the thorough, well-rationalized opinion of Dr. Sultan, OWCP's referral physician. The November 12, 2014 report of Dr. Sultan establishes that appellant had no disability due to his work injuries after April 17, 2015.

In his November 12, 2014 report, Dr. Sultan detailed appellant's factual and medical background, noted the medical records he reviewed, and provided physical examination findings. He found no objective findings in appellant's right hand due to the March 5, 2012 work injury. Dr. Sultan noted that the examination did not confirm residuals of any of the three accepted work injuries (dated July 2, 2005, July 8, 2009, and March 5, 2012) and indicated that appellant could return to full, regular duties. He opined that the orthopedic examination of appellant's right hand

⁵ *I.J.*, 59 ECAB 408 (2008); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

⁶ *Charles E. Minniss*, 40 ECAB 708, 716 (1989).

⁷ *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

and thoracolumbar spine did not confirm any ongoing disability causally related to the March 5, 2012 work injury. Dr. Sultan completed a Form OWCP-5 noting that appellant could return to full, unrestricted duties.

The Board has carefully reviewed the November 12, 2014 opinion of Dr. Sultan and finds that it has reliability, probative value, and convincing quality with respect to its conclusions regarding the relevant issue of the present case. Dr. Sultan provided a thorough factual and medical history and accurately summarized the relevant medical evidence.⁸ He provided medical rationale for his opinion by explaining that appellant no longer had objective evidence of his July 2, 2005, July 8, 2009, or March 5, 2012 work injury.

In several reports dated between early-2014 and early-2015, Dr. Donadt generally indicated that appellant remained partially disabled due to the accepted lumbar and right hand sprains. However, these reports are of limited probative value because Dr. Donadt did not provide any medical rationale in support of his opinions. The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.⁹ A mere conclusory opinion provided by a physician without the necessary rationale explaining how and why the incident or work factors were sufficient to result in the diagnosed medical condition or period of disability is insufficient to meet a claimant's burden of proof.¹⁰

On appeal, counsel argues that OWCP engaged in physician shopping by referring appellant to Dr. Sultan for a second time and asserted that OWCP went to Dr. Sultan in order to get "the report they sought." However, he did not articulate why it was improper to refer appellant to Dr. Sultan and his suggestion that Dr. Sultan is biased against workers is not supported by any evidence of record.

For these reasons, OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective April 17, 2015, as he ceased to have residuals of his work injuries after that date.

LEGAL PRECEDENT -- ISSUE 2

After termination or modification of compensation benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation benefits shifts to appellant. In order to prevail, appellant must establish by the weight of the reliable, probative, and substantial evidence that he had an employment-related disability, which continued after termination of compensation benefits.¹¹

⁸ See *Melvina Jackson*, 38 ECAB 443, 449-50 (1987); *Naomi Lilly*, 10 ECAB 560, 573 (1957).

⁹ *C.M.*, Docket No. 14-0088 (issued April 18, 2014).

¹⁰ *J.D.*, Docket No. 14-2061 (issued February 27, 2015).

¹¹ *Wentworth M. Murray*, 7 ECAB 570, 572 (1955).

ANALYSIS -- ISSUE 2

Following OWCP's April 20, 2015 decision terminating appellant's wage-loss compensation and medical benefits, effective April 17, 2015, he submitted additional medical evidence, which he alleged was sufficient to establish that he was entitled to compensation after April 17, 2015 due to residuals of his work injuries. Given that the Board has found that OWCP properly relied on the opinion of OWCP's referral physician, Dr. Sultan, in terminating appellant's compensation effective April 17, 2015, the burden shifts to appellant to establish that he is entitled to compensation after that date.

The Board has reviewed the additional evidence submitted by appellant and finds that it is not of sufficient probative value to establish that he had residuals of his work injuries after April 17, 2015. Appellant submitted numerous reports dated between mid-2014 and mid-2015, *i.e.*, a period after the April 2015 termination of compensation, in which Dr. Donadt generally described his complaints and recommended light-duty work of three hours per day. Dr. Donadt diagnosed lumbar sprain with spondylosis and disc herniations with stenosis, left greater than right leg radiculopathy, and right hand sprain. The Board notes, however, that none of these reports contains a rationalized medical opinion that appellant had work-related disability or need for medical care after April 17, 2015. Therefore, the Board finds that he has not met his burden of proof to establish that he had disability or need for medical care due to his work injuries after April 17, 2015.

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 wage-loss compensation and medical benefits, effective April 17, 2015, because he ceased to have residuals of his work injuries after that date. The Board further finds that he has not met his burden of proof to establish that he had disability or need for medical care due to his work injuries after April 17, 2015.

ORDER

IT IS HEREBY ORDERED THAT the February 25, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 9, 2016
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board