

On appeal appellant contends that the statement of accepted facts (SOAF) was incomplete as it did not include conditions accepted under File No. xxxxxx370 and failed to consider all the relevant diagnostic tests.

FACTUAL HISTORY

On September 20, 2014 appellant, then a 57-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on September 18, 2014 she sustained right wrist and elbow and bruised knees when she tripped and fell while delivering a parcel. She stopped work on September 19, 2014 and has not returned. OWCP accepted the claim for right wrist radiocarpal sprain and right forearm traumatic arthropathy. It paid appellant wage-loss compensation beginning November 3, 2014 on the supplemental roll. OWCP also authorized right wrist arthroscopic surgery and right ulna shortening osteoplasty which occurred on February 25, 2015.

In a report dated September 29, 2014 Dr. Michael W. Kessler, a treating Board-certified orthopedic surgeon, diagnosed right distal radioulnar joint strain. He provided a history of injury and physical examination findings. Dr. Kessler reported appellant was disabled from lifting and repetitive work using her right arm. In duty status reports (Forms CA-17) dated September 29 and October 17, 2014, appellant was advised that she could resume work on September 30, 2014 with restrictions. The restrictions included no lifting or repetitive activity using the right arm, up to four hours per day of standing, and up to eight hours per day of sitting.

In attending physician's reports (Forms CA-20) dated February 9, June 1 and 30, 2015, Dr. Kessler diagnosed right wrist triangular fibrocartilage complex (TFCC) and ulnar abutment syndrome, which he opined had been exacerbated by her fall. Dr. Kessler found appellant totally disabled for the period February 25 to May 25, 2015 but could resume her usual work duties on June 25, 2015.

OWCP received duty status reports (Forms CA-17) dated March 16, 27, April 21, June 1, 30, and July 10, 2015 from Dr. Kessler found appellant continued to be disabled from work.

OWCP referred appellant for a second opinion evaluation with Dr. Burke Haskins, a Board-certified orthopedic surgeon, to determine whether appellant continued to suffer from residuals of the accepted conditions and whether she was disabled from work.³ The SOAF noted that appellant's claim had been accepted for right wrist radiocarpal sprain and right forearm traumatic arthropathy. It noted appellant's occupation of rural carrier, the mechanism of injury, that appellant had been released to limited-duty work in November 2014, that she had right triangular fibrocartilage complex tear surgery on February 25, 2015, and had undergone occupational therapy. The SOAF also listed a series of preexisting and concurrent medical conditions. It reported that appellant was currently not working.

In a June 14, 2015 report, Dr. Kessler reported that appellant continued to have small and ring finger stiffness, numbness and tingling. Appellant also had pain complaints and a feeling as if something was inside her hand. Dr. Kessler diagnosed status post right ulnar shortening

³ OWCP also requested Dr. Haskins to provide an impairment rating using sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).

osteotomy, rule out median or ulnar neuropathy, and right small and ring trigger fingers. He concluded that appellant would continue with therapy to increase her range of motion.

In a July 10, 2015 Form CA-20, Dr. Kessler diagnosed right wrist TFCC and ulnar abutment syndrome, which he opined had been exacerbated by her fall. He indicated that appellant was totally disabled for the period February 25 to June 25, 2015. Dr. Kessler also completed a Form CA-17 on July 10, 2015 indicating appellant was disabled from work.

In a July 10, 2015 report, Dr. Haskins, based upon a review of the SOAF, medical history, and physical examination, diagnosed wrist sprain, TFCC tear due to the employment injury and preexisting right radioulnar degenerative joint disease. A physical examination revealed negative right Tinel's sign at wrist and elbows, and no complaints of discomfort on palpation of right distal radioulnar joint. Right wrist range of motion included 70 degrees dorsiflexion, 63 degrees palmar flexion, 36 degrees ulnar deviation, and 22 degrees radial deviation. Dr. Haskins reported that appellant had pain complaints with activity in her palmar region and fifth and fourth digits. The pain complaints and symptoms, according to Dr. Haskins, were unrelated to the accepted conditions or employment injury. Dr. Haskins reported appellant was at maximum medical improvement and no longer required further medical treatment for her employment injuries. With respect to her ability to work, Dr. Haskins opined that appellant had no work limitations and was able to return to full work duty. In an attached work capacity evaluation (Form OWCP-5c), Dr. Haskins checked "yes" to the question of whether appellant could return to her usual job with no restrictions.⁴

On August 18, 2015 OWCP issued a notice proposing to terminate appellant's wage-loss compensation and medical benefits. It found the weight of the evidence established that she no longer had any residuals or disability due to her accepted conditions, based upon the opinion of Dr. Haskins, the OWCP referral physician.

In a letter dated September 2, 2015 appellant's representative disagreed with OWCP's proposal to terminate her compensation benefits. The representative argued that the SOAF prepared by OWCP contained inaccurate information and failed to list all the conditions accepted by OWCP. Inaccuracies included a statement that appellant had been released to limited-duty work, which appellant contended did not occur. In addition, the SOAF had failed to include conditions accepted under another claim,⁵ including bilateral carpal tunnel syndrome, bilateral hand and wrist tenosynovitis, and left chondromalacia patellae, which she argued was relevant to the instant claim.

A functional capacity evaluation (FCE), which Dr. Kessler ordered, was performed on September 17, 2015.⁶ The FCE noted that appellant's usual job duties would be classified as medium, but that appellant was only capable of performing light-duty work for eight hours. The FCE concluded that appellant had right wrist and hand objective musculoskeletal findings which

⁴ Dr. Haskins also provided an impairment rating for appellant's right upper extremity using the sixth edition of the A.M.A., *Guides*.

⁵ The representative referenced File No. xxxxxx370.

⁶ The report contains no signatures.

interfered with the performance of her usual job. It found that the physical restrictions of her usual job were outside her current restrictions of light-duty work as it required a medium work level.

In a September 18, 2015 report, Dr. Kessler noted that appellant continued to complain of right wrist distal ulnar discomfort and stiffness with her digits when attempting flexion and minor discomfort on pronation and supination activities with the ulnar side of her wrist. A physical examination of the right wrist revealed negative fovea sign, negative TFCC grind test, normal median radial ulnar nerves sensation, no tenderness on palpation of the small finger or thumb index long ring finger, and negative Tinel's sign over ulnar nerve dorsal sensory branch. Dr. Kessler reported appellant was status post right ulnar shortening osteotomy for ulnar impaction syndrome.

The record also contains CA-17 and CA-20 forms dated August 18, 2015 by Dr. Kessler. The CA-20 form indicated appellant was released to light-duty work on June 25, 2015 while Dr. Kessler indicated in the CA-17 form that she was disabled from work.

By decision dated October 16, 2015, OWCP terminated appellant's wage-loss compensation and medical benefits effective that day. It found the weight of the evidence rested with Dr. Haskins' opinion that appellant no longer had any residuals or disability due to her accepted right wrist radiocarpal sprain and right forearm traumatic arthropathy.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits.⁷ After it has determined that an employee has disability causally related to 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.⁸ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁹

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.¹⁰ 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.¹¹

⁷ *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁸ *I.J.*, 59 ECAB 408 (2008); *Elsie L. Price*, 54 ECAB 734 (2003).

⁹ *See J.M.*, 58 ECAB 478 (2007); *Del K. Rykert*, 40 ECAB 284 (1988).

¹⁰ *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

¹¹ *Kathryn E. Demarsh, id.*; *James F. Weikel*, 54 ECAB 660 (2003).

ANALYSIS

OWCP accepted appellant's claim for right wrist radiocarpal sprain and right forearm traumatic arthropathy and authorized right wrist arthroscopic surgery and right ulna shortening osteoplasty, which occurred on February 25, 2015. By decision dated October 16, 2016, OWCP terminated appellant's compensation effective that day, based on the opinion of Dr. Haskins who found the accepted conditions had ceased without residuals. The issue on appeal is whether OWCP met its burden of proof. The Board finds that OWCP met its burden of proof to terminate appellant's compensation benefits effective October 16, 2015.

Appellant submitted reports from Dr. Kessler, an attending Board-certified orthopedic surgeon, who diagnosed right distal radioulnar strain, ulnar abutment syndrome, and right wrist TFCC. In CA-20 forms dated June 1 and 30, and August 18, 2015, Dr. Kessler indicated that appellant could return to either full-duty or light-duty work; while in CA-17 forms dated June 1 and 30, July 10 and August 18, 2015, he indicated that appellant was totally disabled. Dr. Kessler did not explain how and why the accepted conditions disabled appellant on and after June 25, 2015 or required continuing medical treatment. In addition, Dr. Kessler failed to explain why he concluded that appellant was capable of working in CA-20 forms while finding she was totally disabled from work in CA-17 forms dated the same day.

In contrast, Dr. Haskins, the second opinion physician, explained that appellant no longer required work restrictions as the accepted conditions had resolved. Following a thorough clinical examination, he explained that appellant's pain complaints and symptoms were unrelated to her accepted employment injuries as they involved the palmar region and fourth and fifth digits. Dr. Haskins, also based his opinion on a detailed review of the medical record and the SOAF. He found nothing in appellant's history, test results, or clinical presentation that precluded her from returning to full duty as a rural carrier.

OWCP also received an unsigned September 17, 2015 FCE. This report is of no probative value, however, as the preparer is unidentified. It is well established that medical evidence lacking proper identification is of no probative medical value.¹²

The Board finds that OWCP properly accorded Dr. Haskin's opinion the weight of the medical evidence. Dr. Haskin was clear in his findings and opinions and provided a detailed explanation as to why the accepted conditions were no longer present or active. His opinion was also based on a complete and accurate factual and medical history. OWCP's October 16, 2015 decision terminating appellant's wage-loss compensation and medical benefits was therefore proper under the law and facts of this case.

On appeal appellant argues that the SOAF OWCP prepared and provided to Dr. Haskins was flawed as it failed to include accepted employment conditions under another claim. She also argues that OWCP failed to consider a July 7, 2015 electromyograph study (EMG). This study is not in the record before the Board. With regard to her argument regarding the SOAF, the Board finds it contained all the conditions accepted by OWCP for the present claim along with a series

¹² *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004); *Merton J. Sills*, 39 ECAB 572 (1988)

of preexisting and concurrent conditions. The issue presented to Dr. Haskins concerned whether appellant continued to have residuals and disability due to the accepted conditions of right wrist radiocarpal sprain and right forearm traumatic arthropathy under the present case. Dr. Haskins was not asked to provide an opinion regarding the conditions OWCP had accepted under File No. xxxxxx370. As the SOAF contained all the conditions accepted under the current claim, it was complete.

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits effective October 16, 2015.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 16, 2015 is affirmed.

Issued: May 26, 2016
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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