

**United States Department of Labor
Employees' Compensation Appeals Board**

_____)	
R.M., Appellant)	
)	
and)	Docket No. 17-1673
)	Issued: May 4, 2018
U.S. POSTAL SERVICE, POST OFFICE,)	
Philadelphia, PA, Employer)	
_____)	

Appearances:
Aaron Aumiller, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 26, 2017 appellant, through counsel, filed a timely appeal from a January 27, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP).² Pursuant to the

¹ In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

² Under the Board's *Rules of Procedure*, an appeal must be filed within 180 days from the date of issuance of an OWCP decision. An appeal is considered filed upon receipt by the Clerk of the Appellate Boards. *See* 20 C.F.R. § 501.3(e)-(f). One hundred and eighty days from OWCP's January 27, 2017 decision was July 26, 2017. Because using August 1, 2017, the date the appeal was received by the Clerk of the Appellate Boards would result in the loss of appeal rights, the date of the postmark is considered the date of filing. The date of the U.S. Postal Service postmark is July 26, 2017, rendering the appeal timely filed. *See* 20 C.F.R. § 501.3(f)(1).

Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish a consequential emotional condition caused by a January 30, 2014 employment injury; (2) whether OWCP properly terminated appellant's wage-loss compensation and medical benefits on March 30, 2016; and, (3) whether appellant has met his burden of proof to establish that he continued to be disabled after that date.

On appeal counsel asserts that the January 27, 2017 decision is erroneous because the referee examiner did not address accepted injuries under other claims and because OWCP did not fully consider the psychiatric component of this case.

FACTUAL HISTORY

On January 30, 2014 appellant, then a 57-year-old custodial laborer, filed a traumatic injury claim (Form CA-1) alleging that he injured his left knee, left elbow, left ankle, left wrist, lower back, and neck that day when he slipped on hydraulic fluid and fell to the floor while in the performance of duty. He stopped work and received continuation of pay from January 31 to March 16, 2014.

Appellant came under the care of Dr. Christopher Belletieri and his associate Dr. Michael B. Fischer, both Board-certified osteopaths specializing in family medicine. They diagnosed cervical sprain and strain, lumbar sprain and strain, aggravation of cervical and lumbar degenerative disc disease, left shoulder sprain and strain, bilateral trapezius sprain and strain, left knee sprain and strain, aggravation of preexisting left knee sprain and strain, left wrist sprain and strain, left ankle sprain and strain, left arm radiculitis, and left elbow contusion. Each physician advised that appellant was totally disabled.

On April 4, 2014 OWCP accepted contusions of left shoulder, left elbow, and left knee, and cervical and lumbar strains.⁴ Appellant thereafter filed claims for compensation (Form CA-7), and was paid wage-loss compensation.

In June 2014, OWCP referred appellant for a second opinion evaluation with Dr. Noubar A. Didizian, Board-certified in orthopedic surgery. In an August 6, 2014 report, Dr. Didizian reported examination findings. He advised that the left elbow contusion and cervical and lumbar strains had resolved in regard to the January 30, 2014 employment injury. Dr. Didizian indicated that appellant had residual limitation of left shoulder motion and had continued

³ 5 U.S.C. § 8101 *et seq.*

⁴ The instant case was adjudicated by OWCP under File No. xxxxxx978. The record indicates that appellant has two additional claims, File No. xxxxxx332, an October 20, 2009 traumatic injury accepted for lumbar strain, and File No. xxxxxx431, a traumatic injury accepted for cervical and lumbar strains.

aggravation of left knee degenerative disease. He advised that appellant could not return to his custodial position, but could return to eight hours of modified duty daily.

On September 10, 2014 OWCP additionally accepted temporary aggravation of preexisting patellofemoral degenerative disease of the left knee as resulting from the January 30, 2014 employment injury. In December 2014, it again referred appellant to Dr. Didizian.

On December 17, 2014 appellant returned to limited duty for four hours daily. He began light duty for six hours a day, three days a week on January 6, 2015, and continued to receive wage-loss compensation for partial disability.

In a January 15, 2015 report, Dr. Didizian noted that he reexamined appellant on January 7, 2015. He advised that the left elbow contusion, neck and lumbar strains, degenerative disease of the left knee, and temporary aggravation of preexisting patellofemoral degenerative disease of the left knee had resolved. Regarding the left shoulder contusion, Dr. Didizian indicated that this had resolved although appellant had limited motion on a voluntary basis with negative provocative tests. He concluded that appellant could work eight hours of restricted duty daily.

On March 17, 2015 Dr. Fischer noted his review of Dr. Didizian's January 15, 2015 report. He reiterated his diagnoses and advised that appellant continued to be symptomatic due to the January 30, 2014 employment injury and that he continued to require medication to control pain and muscle spasms.

In March 2015, OWCP again referred appellant to Dr. Didizian. Dr. Didizian noted reviewing Dr. Fischer's March 17, 2015 report. After examination, he reiterated that all accepted conditions had resolved. Dr. Didizian further advised that appellant had reached maximum medical improvement and required no further treatment due to the January 30, 2014 employment injury. He concluded that appellant could return to full-time regular duty work.

Dr. Belletieri and Dr. Fischer continued to recommend that appellant perform light duty, either four six-hour days or three, seven-hour days. Appellant began this modified schedule in April 2015, working either a three- or four-day week. In a June 1, 2015 treatment note, Dr. Fischer indicated that appellant was seen for therapy. He noted that appellant had increased pain and reiterated his diagnoses. Dr. Fischer prescribed medication and physical therapy.

Dr. Sommer Hammoud and Dr. Craig A. Rubenstein, Board-certified orthopedic surgeons, diagnosed localized primary osteoarthritis of the left lower leg and performed Orthovisc injections to appellant's left knee on May 19 and 26, and June 2, 2015.

On July 20, 2015 OWCP proposed to terminate appellant's wage-loss compensation and medical benefits. It found that the weight of the medical opinion evidence rested with Dr. Didizian who advised that appellant had recovered from the accepted orthopedic conditions.

On July 27, 2015 Dr. Fischer advised that appellant could continue working four six-hour days of light duty. On August 7, 2015 he referenced his March 17, 2015 report and noted reviewing Dr. Didizian's most recent report. Dr. Fischer disagreed that appellant could return to full duty because he had ongoing symptoms and continued to require narcotic analgesics for pain of the left knee and low back, and for left elbow pain, tingling, and numbness. He diagnosed

cervical and lumbar somatic dysfunction, cervical and lumbar sprain and strain, aggravation of cervical and lumbar degenerative disc disease, left shoulder sprain and strain, bilateral trapezius sprain and strain, left knee sprain and strain, aggravation of preexisting left knee sprain and strain, left wrist sprain and strain, left elbow sprain and strain, and left ankle sprain and strain. Dr. Fischer asserted that all diagnoses were related to the January 30, 2014 work injury. He recommended monthly follow-up and treatment with a psychologist.

In treatment notes dated August 7 and 31, 2015, Dr. Belletieri noted appellant's complaints of neck and low back pain. Physical examination demonstrated cervical and lumbar somatic dysfunction and mild spasms in the lumbar spine. Dr. Belletieri additionally diagnosed anxiety and noted that appellant's psychologist advised that he should only work three times a week. He recommended that appellant continue to work six hours of light duty daily, for three days per week. On September 15, 2015 Dr. Belletieri signed a physical performance evaluation that was completed on August 26, 2015. This indicated that appellant was unable to perform static lift due to pain/position, and had bilateral functional deficits in muscle testing and range of motion in upper and lower extremities.

In October 2015, OWCP found a conflict in medical evidence between appellant's attending physicians, Dr. Fischer and Dr. Belletieri, and Dr. Didizian, OWCP's referral orthopedic surgeon, regarding appellant's degree of disability and work capacity medically connected to the January 30, 2014 employment injury and whether appellant required continued medical treatment for the accepted conditions. Dr. Fischer and Dr. Belletieri continued to submit reports in which they reiterated their findings and conclusions and opinion that appellant could only work three, six-hour days of limited duty.

On November 12, 2015 OWCP referred appellant, along with a statement of accepted facts (SOAF) with addendum and a set of questions, to Dr. William H. Spellman, a Board-certified orthopedic surgeon, for an impartial evaluation.⁵

In a December 8, 2015 report, Dr. Kenneth L. Gold, a clinical psychologist, noted that he previously saw appellant for individual therapy from April 2010 to January 2011 and that Dr. Fischer referred appellant in August 2015 for major depressive symptoms and related anxiety, largely secondary to significant physical symptoms and extreme pressures related to appellant's job and dealing with workers' compensation issues. He reported that in the January 2014 slip and fall at work he injured his left shoulder and aggravated previously severe injuries in his back and left knee. Although appellant eventually returned to part-time limited duty in December 2014, Dr. Gold noted that appellant continued to have significant symptoms of depressed mood and severe anxiety due to ongoing pain, limitations in activities, and various interactions he was forced to contend with regarding workers' compensation, including medical evaluations. This reportedly worsened considerably on August 1, 2015 when he received a medical report from an OWCP physician that alleged that he had completely recovered from his injuries and could return to full-time work. Appellant had individual psychotherapy since August 2015, but continued to struggle

⁵ Appellant and counsel were notified that a conflict had been created and that an impartial evaluation had been scheduled. The record contains an OWCP memorandum dated November 10, 2015 explaining why an alternative to the Medical Management Application (MMA) system was utilized in making the appointment. An OWCP ME023 Appointment Schedule Notification form is also in the record.

with chronic pain, severe episodes of major depression, generalized anxiety, severe sleep disruption, and unpredictable episodes of panic related to his employment injury. He opined that it was difficult for appellant to maintain his part-time position due to physical and emotional struggles, and indicated that appellant's activities of daily living were severely limited. Dr. Gold concluded that appellant's psychological prognosis was poor and did not indicate that he could expand his work hours beyond the 18 hours per week he was currently working.

On December 15, 2015 Dr. Hammoud noted that appellant had a good result from the Orthovisc injections for about four months and now wanted repeat injections. She noted findings and diagnosed unilateral primary arthritis of the left knee with a history of posterior cruciate ligament rupture. Dr. Hammoud recommended follow up with Dr. Rubenstein.

Dr. Spellman, the referee physician, provided a January 5, 2016 report in which he noted examining appellant on December 29, 2015. He reported a past history of a previous work-related injury involving the neck, low back, and left knee, and a 2012 left knee injury caused by a fall at home. Dr. Spellman described his review of the medical records including the SOAF. He referenced additional claims, noting that under File No. xxxxxx431 cervical and lumbar strains were accepted, and that under File No. xxxxxx332 a lumbar strain was accepted. Appellant had current complaints of daily neck and radiating left arm pain, low back pain, and right knee pain. He continued to work 18 hours of limited duty per week. Examination showed no significant asymmetry, atrophy, tenderness, or muscle spasm on inspection of the neck, upper back, and shoulder girdle area. Pain was reported with neck and left shoulder range of motion. Tinel's was negative symmetrically in the supraclavicular fossa, and motor strength was grossly full in the arms. Both wrists and hands were unremarkable with painless wrist and distal joint range of motion. On back examination, appellant reported pain with very light, but deliberate and obvious palpation from L3 distally to the sacrum and laterally to the iliac crest. Forward flexion caused pain, and no muscle spasm was present. Seated hip motion and straight-leg raising were negative. Proximal and distal motor strength was grossly full. The left knee had no effusion and slight atrophy in the patellar region and in the quadriceps. The knee was stable and pain-free to stressing with painless range of motion, slightly increased crepitus, and neutral patellar tracking. Dr. Spellman advised that the medical records, including appellant's initial evaluation on January 30, 2014 and the lumbar MRI scan of February 25, 2014, were not consistent with his having sustained an injury from which he would not have fully recovered. He advised that appellant's physical examination was not consistent with an ongoing problem with his neck, upper back, shoulders, left arm including the elbow and wrist, or low back, which was attributable to the employment injury. Dr. Spellman opined that appellant had returned to pre-injury status and that no further treatment due to the January 30, 2014 work injury was indicated. After his review of the job description of custodian, he advised that appellant could return to the position on a full-time basis, without restriction.

On February 8, 2016 OWCP proposed to terminate appellant's wage-loss compensation and medical benefits. It found that the weight of the medical opinion evidence rested with the opinion of Dr. Spellman, which was entitled to special weight, and who advised that appellant had no residuals of the accepted conditions caused by the January 30, 2014 work injury.

Dr. Rubenstein provided Orthovisc injections in appellant's left knee on January 26, February 2, 9, and 16, 2016. He reiterated his diagnosis of left knee unilateral primary

osteoarthritis. On February 16, 2016 Dr. Belletieri reported that appellant complained of excruciating neck pain and that he felt harassed at work because he was on workers' compensation. He reiterated his diagnoses.

On February 22, 2016 Dr. Fischer noted his review of Dr. Spellman's report and disagreed with his conclusion that appellant was fully recovered from the employment injury. He maintained that appellant continued to have ongoing neck and low back symptoms, radiating left shoulder pain, and left knee pain with occasional right knee pain due to compensation for left knee pain. Dr. Fischer reported findings of decreased cervical and lumbar range of motion, and noted appellant's complaint that he was being harassed by OWCP and his coworkers, that his quality of life had been substantially reduced as a result of his work injuries, and that he could not work more than 18 hours per week. He diagnosed aggravation of cervical and lumbar degenerative disc disease, cervical and lumbar sprain and strain, and left knee sprain and strain with aggravation of left knee osteoarthritis. Dr. Fischer described appellant's requirement for medication and indicated that appellant should continue working three, six-hour workdays weekly, opining that any increase in restrictions would worsen appellant's symptoms and potentially cause him to reinjure his neck and back. Dr. Belletieri also advised that appellant should continue his 18-hour workweek.

In a February 18, 2016 report, Dr. Gold disagreed with the proposed termination and commented that appellant's medical status was obviously not in his area of expertise. He indicated that appellant continued to have severe and persistent psychiatric symptomatology including severe depression, marked anxiety with episodic panic, suspiciousness, social anxiety, pronounced avoidance behaviors, and profound social withdrawal which, along with his ongoing medical and chronic-pain conditions, and that this had a marked deleterious effect on his activities of daily living which were largely absent at present. Dr. Gold opined that, considering appellant's decades of consistent gainful employment and in the absence of other explanations, it was reasonable to conclude that his persistent psychological deficits were causally related to his work injuries. He asserted that there was no evidence to suggest that appellant could expand his work hours beyond the 18 hours per week, noting a poor psychological prognosis.

By decision dated March 30, 2016, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that day. It found the special weight of the medical evidence rested with Dr. Spellman, who performed an impartial medical evaluation, with regard to the accepted orthopedic conditions.

Counsel timely requested a hearing with OWCP's Branch of Hearings and Review. Dr. Belletieri and Dr. Fischer continued to submit reports reiterating their findings and conclusions, advising that appellant should only work 18 hours weekly. A March 24, 2016 cervical spine MRI scan demonstrated multilevel degenerative changes with mild central canal stenosis and multilevel foraminal stenosis. No cord compression or abnormal spinal cord signal was seen. On March 28 and April 18, 2016 Dr. Belletieri also diagnosed aggravation of cervical degenerative disc disease. On May 19, 2016 he indicated that appellant could work four, seven-hour days of light duty weekly. Dr. Fischer reiterated these restrictions on June 1, 2016.

In a report dated August 24, 2016, Dr. Hammoud noted that appellant was working 28 hours of light duty weekly and still had left knee soreness. She reported that he would like to

repeat Orthovisc injections. Dr. Hammoud indicated that left knee examination demonstrated no effusion, full range of motion, and 1+ crepitus, with pain on patellofemoral compression and minimal joint line tenderness. She diagnosed unilateral primary osteoarthritis of the left knee and indicated that appellant would see Dr. Rubenstein for Orthovisc injections.

On November 28, 2016 Dr. Gold reiterated that appellant continued to have severe and persistent psychiatric symptomatology and ongoing medical and chronic-pain conditions that affected his daily life. He indicated that, while many of appellant's symptoms appeared to be directly related to his employment injuries, other contributory factors had exacerbated the severity of his condition. As an example, Dr. Gold described appellant's report that he happened upon a van parked outside his home in October 2011 which, he believed, contained surveillance equipment. He reported that this incident further complicated appellant's severe depression and anxiety as he has since felt that he is being watched and scrutinized in all of his activities, in addition to the repeated medical and legal appointments related to his workers' compensation case which further aggravated appellant's depression and anxiety. Dr. Gold again advised that appellant was unable to work more than 18 hours per week.

A hearing was held on December 7, 2016. Counsel argued that the instant case, File No. xxxxxx978, should be combined with File No. xxxxxx332, also accepted for neck and back injuries, asserting that because the cases had not been doubled, the impartial examiner did not have a correct basis on which to render his opinion. He further asserted that Dr. Gold's opinion established a work-related psychiatric condition, or at least warranted appellant's referral for a second opinion psychiatric evaluation.

By January 27, 2017 decision, OWCP's hearing representative found that the evidence of record was insufficient to establish that appellant had a consequential emotional condition. The hearing representative further found that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, finding that the special weight of the medical evidence rested with the opinion of Dr. Spellman who advised that appellant had no residuals of the accepted conditions. The hearing representative affirmed the March 30, 2016 decision.

LEGAL PRECEDENT -- ISSUE 1

In discussing the range of compensable consequences, once the primary injury is causally connected with the employment, Larson's notes that, when the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury, the rules that come into play are essentially based upon the concepts of direct and natural results and of the claimant's own conduct as an independent intervening cause. The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.⁶

An employee has the burden of proof to establish that any specific condition for which compensation is claimed is causally related to the employment injury.⁷ Causal relationship is a

⁶ Lex K. Larson, *The Law of Workers' Compensation* § 3.05 (2014); see Charles W. Downey, 54 ECAB 421 (2003).

⁷ Kenneth R. Love, 50 ECAB 276 (1999).

medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁸ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.⁹ Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁰

A claimant bears the burden of proof to establish a claim for a consequential injury. As part of this burden, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship. The opinion must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.¹¹

ANALYSIS -- ISSUE 1

OWCP accepted that a January 30, 2014 fall at work caused contusions of the left shoulder, left elbow, and left knee as well as neck and lumbar sprains. It also accepted a temporary aggravation of preexisting patellofemoral degenerative disease of the left knee. In his January 27, 2017 decision, OWCP's hearing representative found that the evidence of record was insufficient to establish that appellant had developed a consequential emotional condition.

The Board finds that appellant has not meet his burden of proof to establish that the conditions of severe depression and anxiety disorder that were diagnosed by Dr. Gold were causally related to the January 30, 2014 employment injury.

An emotional condition was first mentioned on July 27, 2015 when Dr. Fisher advised that appellant's chronic pain was causing depression and recommended psychological treatment. In August 2015, Dr. Belletieri diagnosed anxiety. The Board has held that a mere conclusion without the necessary medical rationale explaining how and why the physician believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet the claimant's burden of proof. The medical evidence must also include rationale explaining how the physician reached the conclusion he or she is supporting.¹² Neither physician explained why the January 30, 2014 employment-related fall led to such severe pain that it caused depression and anxiety.

⁸ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁹ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

¹⁰ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹¹ *Charles W. Downey*, *supra* note 6.

¹² *Beverly A. Spencer*, 55 ECAB 501 (2004).

The Board also finds Dr. Gold's opinion insufficient to meet appellant's burden of proof. In his December 8, 2015, and February 18 and November 28, 2016 reports, Dr. Gold merely concluded that appellant's chronic pain due to work injuries caused a consequential emotional condition. While he indicated that appellant fell at work in January 2014, he did not describe the accepted conditions. Dr. Gold also indicated that appellant's psychiatric condition was worsened when an OWCP referral physician advised that he could return to full duty. He further opined that appellant's condition was aggravated by dealing with his workers' compensation case and noted an October 2011 incident in which appellant felt he was under surveillance. However, the development of an emotional condition related to OWCP's or the employing establishment's handling of a compensation claim would not arise in the performance of duty as the processing of compensation claims bears no relation to a claimant's day-to-day or specially assigned duties.¹³

The opinion of a physician supporting causal relationship must be based on a complete factual and medical background, supported by affirmative evidence, must address the specific factual and medical evidence of record, and must provide medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.¹⁴ Dr. Gold did not sufficiently explain how the January 30, 2014 work injury led to appellant's psychiatric diagnoses. The Board has long held that medical opinions not containing rationale on causal relationship are of diminished probative value and are generally insufficient to meet appellant's burden of proof.¹⁵

The Board therefore finds that appellant has not met his burden of proof to establish an employment-related emotional condition.

LEGAL PRECEDENT -- ISSUE 2

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits. It may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.¹⁶ OWCP's burden of proof in terminating compensation includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.¹⁷

In situations where there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.¹⁸

¹³ *Hasty P. Foreman*, 54 ECAB 427, 429 (2003).

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

¹⁵ *A.M.*, Docket No. 16-0811 (issued October 26, 2016).

¹⁶ *Jaja K. Asaramo*, 55 ECAB 200 (2004).

¹⁷ *Id.*

¹⁸ *Manuel Gill*, 52 ECAB 282 (2001).

ANALYSIS -- ISSUE 2

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits on March 30, 2016. OWCP determined that a conflict in medical evidence had been created between the opinions of appellant's attending physicians Drs. Fischer and Belletieri, and Dr. Didizian, an OWCP referral physician, regarding appellant's degree of disability and work capacity due to the January 30, 2014 work injury and whether appellant required continued medical treatment for the accepted conditions. OWCP properly referred him to Dr. Spellman, Board-certified in orthopedic surgery, for an impartial evaluation.

In his January 5, 2016 report, Dr. Spellman, who is a specialist in the relevant field, described the relevant facts and evaluated the course of appellant's employment-related conditions. He addressed the medical record, noting accepted injuries under additional claims. Dr. Spellman made his own examination findings and fully explained his conclusions, including that appellant's accepted conditions had resolved and that he had returned to a pre-injury status. He noted that he had reviewed a job description for custodian and opined that appellant could return to the position on a full-time basis, without restriction. The Board finds that Dr. Spellman provided a comprehensive, well-rationalized opinion in which he clearly advised that any residuals of appellant's accepted conditions had resolved and that he could return to his regular position. Dr. Spellman's opinion, therefore, constitutes the special weight accorded an impartial medical examiner with regard to appellant's accepted orthopedic conditions.¹⁹

Dr. Hammoud and Dr. Rubenstein merely diagnosed left knee unilateral primary osteoarthritis, and Dr. Rubenstein provided Orthovisc injections. Neither physician mentioned the employment injury or provided an opinion regarding appellant's work abilities.

Dr. Fischer and Dr. Belletieri continued to submit reports in which they reiterated their findings and conclusions. Reports from a physician who was on one side of a medical conflict that an impartial specialist resolved, are generally insufficient to overcome the weight accorded to the report of the impartial medical examiner, or to create a new conflict.²⁰ Dr. Fischer and Dr. Belletieri had been on one side of the conflict resolved by Dr. Spellman and their additional reports were insufficient either to overcome the special weight accorded Dr. Spellman's report or to create a new conflict.

Since an emotional condition has not been accepted as employment related, Dr. Gold's opinion that appellant could not increase his work hours is of diminished probative value on the issue of whether appellant continued to have residuals of the accepted orthopedic conditions.

As to counsel's assertion on appeal that the referee examiner did not address accepted injuries under other claims and because OWCP did not fully consider the psychiatric component of this case, it is noted that Dr. Spellman referenced the two additional claims and the accepted

¹⁹ See *H.A.*, Docket No. 16-1184 (issued April 20, 2017).

²⁰ *I.J.*, 59 ECAB 408 (2008).

conditions. Moreover, OWCP's hearing representative, and by this decision of the Board, appellant's claimed consequential emotional condition has been fully addressed.

The Board therefore concludes that Dr. Spellman's opinion that appellant had recovered from the accepted conditions is entitled to the special weight accorded an impartial medical examiner,²¹ and the additional medical evidence submitted is insufficient to overcome the weight accorded him as an impartial medical specialist regarding whether appellant had residuals of his accepted conditions. OWCP therefore properly terminated appellant's wage-loss compensation and medical benefits on March 30, 2016.²²

LEGAL PRECEDENT -- ISSUE 3

As OWCP met its burden of proof to terminate appellant's wage-loss compensation on March 30, 2016, the burden then shifted to him to establish that he had any disability causally related to the accepted conditions.²³ Causal relationship is a medical issue. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.²⁴

ANALYSIS -- ISSUE 3

The Board finds that the medical evidence submitted following the March 30, 2016 termination is insufficient to establish that appellant continued to be disabled due to the accepted conditions.

After the termination, appellant submitted a March 24, 2016 cervical spine MRI scan. This report did not address the cause of any conditions found on the scan. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.²⁵ Likewise, the reports Dr. Hammond and Dr. Rubenstein subsequently submitted also do not address the cause of appellant's left knee condition. Dr. Gold's November 28, 2016 opinion is of limited probative value on the issue of whether appellant has continued disability causally-related to the January 30, 2014 employment injury since an emotional condition has not been accepted as consequential.

While Dr. Fischer and Dr. Belletieri continued to submit reports reiterating their diagnoses, opining that appellant's condition was employment related, and that he could only perform part-

²¹ See *Sharyn D. Bannick*, 54 ECAB 537 (2003).

²² *Supra* note 18.

²³ See *Daniel F. O'Donnell, Jr.*, 54 ECAB 456 (2003).

²⁴ *Supra* note 9.

²⁵ *Willie M. Miller*, 53 ECAB 697 (2002).

time modified duty, these physicians had been on one side of the conflict in medical evidence which was resolved by Dr. Spellman.²⁶

As there is no medical evidence of record of sufficient rationale to establish that appellant continued to be disabled due to the January 30, 2014 work injury, appellant has not met his burden of proof.²⁷

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 not established a consequential emotional condition caused by a January 30, 2014 employment injury; that OWCP properly terminated his wage-loss compensation and medical benefits on March 30, 2016; and that appellant has not established that he continued to be disabled after that date.

²⁶ *Supra* note 20.

²⁷ *G.H.*, Docket No. 16-0432 (issued October 12, 2016).

ORDER

IT IS HEREBY ORDERED THAT the January 27, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 4, 2018
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