

ISSUE

The issue is whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective February 4, 2017.

FACTUAL HISTORY

On July 13, 2012 appellant, then a 54-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that, on July 12, 2012, he sustained injuries when he was involved in a head-on collision, in the performance of his federal employment duties. He stopped work on July 12, 2012 and returned to full-time light-duty work on August 29, 2012. OWCP initially accepted the claim for multiple abdomen contusions. It subsequently expanded acceptance of the claim to include acceleration of osteoarthritis of bilateral knees and cervical strain, based on an August 15, 2014 report from Dr. Joseph R. Cecil, Jr., an internist and second opinion physician.

On April 8, 2015 appellant filed a claim for a schedule award (Form CA-7). In further development of the schedule award claim, OWCP referred appellant, along with a statement of accepted facts (SOAF) and the medical record, to Dr. Stanley W. Collis, a Board-certified orthopedic surgeon.

In a June 9, 2015 report, Dr. Collis reviewed the SOAFs and medical reports and performed an examination. He diagnosed bilateral osteoarthritis of both knees, more pronounced on the left than the right and mild neck sprain with no neurological effects on either upper extremity. Dr. Collis reported that appellant had no residual abdominal problems and examination of the cervical spine was unremarkable, except for a minimal decrease of the cervical curvature. There were no neurological complaints of either upper extremity and examination of both upper extremities was negative. Examination of the knees revealed no traumatic problem with either knee and appellant's complaints of pain were thought to be due to developmental osteoarthritis without contribution by the work injury. Dr. Collis found that appellant's bilateral knee complaints were consistent with preexisting arthritis.

On July 13, 2015 OWCP requested that Dr. Collis provide a supplemental report as to whether appellant's accepted work injuries had resolved or whether residuals of the work injuries remained. In a July 21, 2015 addendum, Dr. Collis indicated that appellant's work-related injuries had resolved with no residuals. He found that appellant had no complaints of abdominal problems and there were no neurological problems in either upper extremity arising from the neck. Dr. Collis noted that appellant had preexisting bilateral knee osteoarthritis and while he may have had some aggravation during the accident, it had resolved.

On August 10, 2015 OWCP issued a notice of proposed termination of appellant's wage-loss compensation and medical benefits based on the weight of the medical evidence, as represented by Dr. Collis, supported that he no longer had residuals of the accepted work-related conditions. It afforded him 30 days to submit additional evidence or argument to contest the termination of his benefits. No additional evidence or argument was received.

By decision dated September 21, 2015, OWCP terminated appellant's wage-loss compensation and medical benefits, effective September 22, 2015. It found that the weight of medical evidence rested with Dr. Collis and supported that appellant no longer had residuals of or disability from the accepted work-related conditions.

On October 2, 2015 appellant, through counsel, requested a telephonic hearing before an OWCP hearing representative, which was held on June 20, 2016.

In an August 17, 2015 report, Dr. James Eisenmenger, a Board-certified family practitioner, provided an assessment of neck pain and osteoarthritis of knee. He reported decreased neck range of motion. Dr. Eisenmenger also reported osteoarthritic changes in the knees, which included inability to extend the right knee completely with less limitation of the left knee.

April 18, 2016 x-ray reports of appellant's knees documented advanced osteoarthritis in both knees.

By decision dated September 6, 2016, an OWCP hearing representative set aside OWCP's September 21, 2015 decision and remanded the case for further development. He found that OWCP had not met its burden of proof when it terminated benefits based on the second opinion report of Dr. Collis. The hearing representative found that Dr. Collis failed to acknowledge the accepted work-related condition of acceleration of bilateral osteoarthritis of the knees and had failed to offer medical reasoning to explain how, if any, material changes in the underlying conditions had been affected by appellant's employment injury and whether such symptoms or changes were indicative of a temporary or permanent aggravation.

Pursuant to the hearing representative's instructions, OWCP requested that Dr. Collis provide a supplemental report which discussed the objective evidence and discussed the nature of the underlying conditions, their natural or traditional course, how the underlying conditions may have been affected by the work injury as determined by the medical records covering the relevant period; whether such affects, if any, caused material changes in the underlying conditions; or, if no material changes occurred, would the symptoms or changes be indicative that a temporary aggravation subsided or resolved immediately upon appellant's removal from the employment environment and, if not, at what point would such symptoms or changes have resolved; and whether any aggravation of the underlying conditions caused by factors of his employment caused disability during or subsequent to appellant's employment. OWCP provided Dr. Collis with a SOAF and appellant's medical record, which included a copy of Dr. Cecil's report.

In a December 6, 2016 supplemental report, Dr. Collis noted the history of appellant's 2012 employment injury and that appellant had a history of preexisting problems with both knees for several years with numerous treatments on both knees prior to the work injury. He noted that appellant walked with an obvious limp and had difficulty squatting on either knee. Dr. Collis provided examination findings of both knees, noting that both knees had some swelling, right greater than left knee, and some limitations on full flexion and extension, but no fusion or instability. He advised that knee arthritis and symptoms become progressively worse with time. Dr. Collis noted that appellant received a laceration of the right leg from the work injury, but was not provided medication, crutches, or a knee immobilization brace from the emergency room. Based on those facts, he opined that there was no work-related problem with either knee. However, since OWCP accepted acceleration of preexisting bilateral osteoarthritis of the knees, Dr. Collis opined that the aggravation was not very severe and had resolved. He noted that appellant would probably require total knee replacement, but opined that the necessity for surgery on either knee was not work related.

On December 28, 2016 OWCP again requested that Dr. Collis provide a supplemental opinion as to whether preexisting osteoarthritis of the knees were accelerated by the work injury. And, if so, whether any work-related residuals remained or whether it had resolved.

In a January 24, 2017 supplemental report, Dr. Collis opined, based on the facts that were mentioned in his previous report, that it was possible that appellant mildly aggravated his preexisting arthritis to both knees, but this had resolved. He concluded that appellant's preexisting condition of arthritis was not work related and appellant's new problems were not related to the work-related accident.

By decision dated February 3, 2017, OWCP terminated appellant's wage-loss compensation and medical benefits, effective February 4, 2017. It found that Dr. Collis had provided a well-reasoned and unequivocal medical opinion that the accepted conditions of contusion, cervical strain, and acceleration of osteoarthritis of bilateral knees had resolved with no remaining residuals.

On February 10, 2017 appellant, through counsel, requested a telephonic hearing before OWCP's hearing representative, which was held on August 7, 2017. During the hearing, appellant described the July 12, 2012 work incident and the injuries he sustained. In response to a question regarding what symptoms he still experienced from the accepted conditions, he only addressed his ongoing bilateral knee limitations. Appellant also testified that he had not received medical treatment since 2015.

By decision dated October 24, 2017, the hearing representative affirmed OWCP's February 3, 2017 decision, finding that Dr. Collis' opinion constituted the weight of the medical evidence and established that the injury-related residuals had resolved.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it bears the burden of proof to justify modification or termination of benefits.⁴ Having determined that an employee has a disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.⁵ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁶

The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.⁷ To terminate authorization for medical treatment,

⁴ See *R.P.*, Docket No. 17-1133 (issued January 18, 2018); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁵ See *R.P.*, *id.*; *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989).

⁶ See *R.P.*, *supra* note 4; *J.M.*, 58 ECAB 478 (2007); *Del K. Rykert*, 40 ECAB 284 (1988).

⁷ See *R.P.*, *supra* note 4; *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

OWCP must establish that the employee no longer has residuals of an employment-related condition that require further medical treatment.⁸

ANALYSIS

The Board finds that OWCP has met its burden of proof to terminate appellant's medical benefits for the accepted conditions of abdomen contusion and cervical strain.

During the hearing held on August 7, 2017 appellant was asked to clarify what symptoms he still experienced as a result of the accepted injury. He did not note any symptoms related to the accepted conditions of abdomen contusion or cervical strain. Furthermore, Dr. Collis related in his report that appellant had no findings relative to the accepted abdomen condition, and appellant's examination findings regarding the accepted cervical condition were unremarkable. The Board therefore concludes that as there is no evidence of record that appellant continued to have residuals of these conditions which required medical treatment, OWCP properly terminated appellant's medical benefits for these conditions.⁹

The Board, however, further finds that OWCP has not met its burden of proof to terminate appellant's wage-loss compensation and medical benefits for the accepted condition of acceleration of bilateral knee osteoarthritis effective February 4, 2017 based upon the medical reports of Dr. Collis.

The Board notes that following OWCP's hearing representative's September 6, 2016 decision, appellant underwent another second opinion evaluation with Dr. Collis on December 6, 2016. OWCP asked Dr. Collis to provide a report which included an opinion as to whether the July 12, 2012 work injury caused an acceleration of the bilateral knee osteoarthritis. The Board finds that Dr. Collis failed to provide sufficient medical reasoning either in his December 6, 2016 or January 24, 2017 reports to support his opinion that appellant's accepted condition of aggravation of preexisting osteoarthritis of the bilateral knees had ceased.

In his December 6, 2016 report, Dr. Collis noted the history of the 2012 work injury and that appellant had a history of preexisting problems with both knees for several years with numerous treatments on both knees prior to the work injury. He provided examination findings of both knees and indicated that knee arthritis and symptoms become progressively worse with time. Dr. Collis also noted that, while appellant received a laceration of the right leg from the work injury, he was not provided medication, crutches, or a knee immobilization brace from the emergency room. Based on those facts, he opined that there was no work-related problem with either knee. Dr. Collis noted that since OWCP accepted acceleration of preexisting bilateral osteoarthritis of the knees, he opined that the aggravation was not very severe and had resolved. In his January 24, 2017 supplemental report, he essentially reiterated his prior opinion. Dr. Collis opined that based on the facts that were mentioned in his previous report that it was possible that appellant mildly aggravated his preexisting arthritis to both knees and that this had been resolved.

⁸ See *R.P.*, *supra* note 4; *James F. Weikel*, 54 ECAB 660 (2003).

⁹ *Id.*

The Board finds, however, that Dr. Collis' reports are conclusory in nature and lack sufficient medical rationale to support the termination of appellant's compensation benefits.¹⁰ Dr. Collis offered no supporting medical rationale to support his opinion in either report regarding the relationship between appellant's preexisting osteoarthritis of the bilateral knees and the work-related injury. He failed to provide a well-rationalized explanation, with objective evidence, which supported how he arrived at the conclusion that the mild aggravation of appellant's preexisting knee arthritis had resolved.¹¹ Furthermore, while Dr. Collis also opined that appellant had no work-related problem with his knees at the time of examination and was suffering from preexisting osteoarthritis of the knees, unrelated to work, he offered no medical reasoning to explain how he reached the conclusion that appellant's knee arthritis and current symptoms were consistent with the normal progress of the disease. He also failed to discuss objective testing to support his conclusion. As Dr. Collis' opinions are conclusory without sufficient rationale, his reports are of little probative value.¹²

Dr. Collis had been specifically instructed to provide detailed reasoning for his medical conclusion that appellant's accepted conditions had resolved without any residuals, but his responses lacked sufficient reasoning supporting his conclusion.¹³ Because his second opinion report failed to provide medical rationale in support of his findings, Dr. Collis' opinion is of diminished probative value and is insufficient for OWCP to meet its burden of proof to justify the termination of appellant's compensation benefits.

The Board, therefore, finds that OWCP erred in terminating appellant's wage-loss compensation and medical benefits effective February 4, 2017 for the accepted condition of acceleration of osteoarthritis of bilateral knees based on Dr. Collis' second opinion reports. The Board will reverse OWCP's determination terminating his wage-loss compensation and medical benefits.

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's medical benefits for the accepted conditions of abdomen contusions and cervical strain. The Board also finds that OWCP did not meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits effective February 4, 2017 for the accepted condition of acceleration of osteoarthritis of bilateral knees.

¹⁰ See *S.W.*, Docket No. 18-0005 (issued May 24, 2018); *C.L.*, Docket No. 14-1585 (issued December 16, 2014).

¹¹ See *D.G.*, Docket No. 17-1152 (issued April 24, 2018).

¹² See *S.W.*, *supra* note 10; *N.M.*, Docket No. 10-0283 (issued August 19, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006); *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

¹³ *A.R.*, Docket No. 12-0443 (issued October 9, 2012); *see also P.F.*, Docket No. 13-0728 (issued September 9, 2014); *T.M.*, Docket No. 08-0975 (issued February 6, 2009) (a medical report consisting solely of conclusory statements without supporting rationale is of little probative value).

ORDER

IT IS HEREBY ORDERED THAT the October 24, 2017 decision of the Office of Workers' Compensation Programs is affirmed in part and reversed in part.

Issued: January 9, 2019
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