

leg.³ It paid appellant compensation for total disability from April 2 until October 6, 2014, when she resumed full-time modified employment.

By decision dated March 10, 2016, OWCP terminated appellant's wage-loss compensation and medical benefits effective that date. By decision dated September 7, 2016, an OWCP hearing representative affirmed the March 10, 2016 decision.

Appellant appealed the September 7, 2016 decision to the Board. By decision dated April 25, 2017, the Board affirmed in part and set aside in part the September 7, 2016 decision.⁴ The Board found that OWCP had properly terminated appellant's medical benefits effective March 10, 2016 as she had no residuals of her February 14, 2014 employment injury.⁵ The Board further found that she had not established continuing employment-related residuals due to her accepted conditions after February 14, 2014. The Board determined, however, that the case was not in posture for decision regarding whether appellant's claim should be expanded to include disc herniations at C5-6 and L4-5, right L5 radiculopathy, and patellofemoral arthritis caused or aggravated by the February 14, 2014 employment injury.

Following further development, by decision dated September 26, 2018, OWCP expanded acceptance of appellant's claim to include a temporary aggravation of degenerative protruding cervical and lumbar disc disease, resolved, and a resolved temporary aggravation of patellofemoral arthritis of the left knee. It explained that given the expansion that it would honor medical claims through March 10, 2016.

OWCP subsequently determined that a conflict in medical opinion existed between appellant's treating physician, Dr. Laura E. Ross, an osteopath and Board-certified orthopedic surgeon, and Dr. Robert F. Draper, Jr., a Board-certified orthopedic surgeon and OWCP referral physician, regarding whether appellant's claim should be expanded to include additional conditions. It prepared an updated statement of accepted facts (SOAF) and referred her to Dr. Andrew Collier, a Board-certified orthopedic surgeon, for an impartial medical examination.

In a report dated February 20, 2019, Dr. Collier discussed appellant's history of a February 14, 2014 employment injury. He indicated that she had previously injured her neck, lumbar spine, and thoracic spine in a March 2010 motor vehicle accident. Dr. Collier noted that appellant had resumed work after the February 14, 2014 employment injury until June 2018, when her back and neck symptoms worsened after her vehicle was rear-ended. He opined that appellant had sustained a temporary aggravation of her protruding cervical and lumbar disc disease that had resolved and back and thoracic strain, also resolved. Dr. Collier asserted that she had not injured her knee at the time of her accident. He related, "The mechanism of injury during her fall does not fit any that would cause patellofemoral arthritis. She fell backwards, striking her back...."

³ OWCP previously accepted that appellant sustained lumbosacral strain due to an October 5, 2004 injury, assigned OWCP File No. xxxxxx349.

⁴ Docket No. 17-0272 (issued April 25, 2017).

⁵ The Board noted that appellant was not receiving wage-loss compensation at the time of OWCP's termination and thus it had improperly characterized the decision as a termination of wage-loss compensation.

Dr. Collier noted that appellant currently had symptoms due to her June 2018 motor vehicle accident.

By decision dated April 8, 2019, OWCP denied modification of its September 26, 2018 decision.

The Board, having duly considered the matter, finds that this case is not in posture for decision.

The Board finds that Dr. Collier's opinion is not entitled to the special weight afforded an impartial medical examiner (IME) as he failed to accept the facts as presented in the SOAF in rendering his opinion. In a February 20, 2019 report, he diagnosed as employment-related a resolved temporary aggravation of protruding cervical and lumbar disc disease and resolved lumbar and thoracic strain. Additionally, he found that appellant had not sustained a knee injury due to her February 14, 2014 employment injury based on the mechanism of her fall. The SOAF, however, set forth OWCP's acceptance of left knee and leg sprain and a resolved temporary aggravation of left knee patellofemoral arthritis as causally related to the accepted employment injury.

OWCP's procedures and Board precedent dictate that when an OWCP medical adviser, second opinion specialist, or referee physician renders a medical opinion based on a SOAF which is incomplete or inaccurate or does not use the SOAF as the framework in forming his or her opinion, the probative value of the opinion is seriously diminished or negated altogether.⁶ The Board has explained that the report of an IME who disregards a critical element of the SOAF and disagrees with the medical basis for acceptance of a condition is defective and insufficient to resolve the existing conflict of medical opinion evidence.⁷ Dr. Collier's report is of diminished probative value as his opinion did not rely on the SOAF and it contradicted critical elements of the SOAF. The Board notes that it is the function of a medical expert to give an opinion only on medical questions, not to find facts.⁸ As Dr. Collier failed to rely on the SOAF, his report is not based on an accurate history.⁹ His opinion is thus insufficient to resolve the existing conflict in medical opinion evidence.¹⁰

The Board has held that, when OWCP obtains an opinion from an IME for the purpose of resolving a conflict in the medical evidence and the IME's opinion requires clarification or

⁶ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.3 (October 1990). *See also* D.E., Docket No. 17-1794 (issued April 13, 2018); K.V., Docket No. 15-0960 (issued March 9, 2016); Paul King, 54 ECAB 356 (2003).

⁷ M.D., Docket No. 18-0468 (issued September 4, 2018).

⁸ *Id.*

⁹ V.K., Docket No. 19-0422 (issued June 10, 2020); Douglas M. McQuaid, 52 ECAB 382 (2001).

¹⁰ V.K., *id.*

elaboration, it must secure a supplemental report to correct the defect in his or her original report.¹¹ Upon return of the case record, OWCP should obtain a supplemental report from Dr. Collier clarifying whether appellant sustained additional conditions due to her accepted employment injury. If the IME is unable to clarify or elaborate on his original report, or if the supplemental report is also vague, speculative, or lacking in rationale, OWCP must submit the case record and a detailed SOAF to another IME for the purpose of obtaining a rationalized medical opinion on the issue.¹² Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.¹³

IT IS HEREBY ORDERED THAT the April 8, 2019 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this opinion of the Board.

Issued: November 16, 2020
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Alternate Judge
Employees' Compensation Appeals Board

¹¹ *R.O.*, Docket No. 19-0885 (issued November 4, 2019); *Talmadge Miller*, 47 ECAB 673 (1996); *see also supra* note 6 at Part 2 -- Claims, *Developing and Evaluation Medical Evidence*, Chapter 2.810.11(c)(1)-(2) (September 2010).

¹² *Id.*

¹³ *V.K.*, *supra* note 9.