



## **ISSUES**

The issues are: (1) whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective March 6, 2019, as she no longer had disability or residuals due to her accepted February 13, 2004 employment injury; and (2) whether appellant has met her burden of proof to establish continuing employment-related disability or residuals on or after March 6, 2019 causally related to her accepted February 13, 2004 employment injury.

## **FACTUAL HISTORY**

On February 23, 2004 appellant, then a 46-year-old transportation security screener, filed a traumatic injury claim (Form CA-1) alleging that on February 13, 2004 she injured her back when lifting a bag during a bag check while in the performance of duty. She stopped work on February 13, 2004. OWCP accepted the claim for sprain of lumbosacral joint/ligament, right ankle sprain, and right tibialis tendinitis. It paid appellant wage-loss compensation on the supplemental compensation rolls, effective March 28, 2004, and on the periodic compensation rolls, effective May 16, 2004.

On November 6, 2018 OWCP referred appellant along with a statement of accepted facts (SOAF) for a second opinion evaluation with Dr. Andrew Farber, an osteopath and Board-certified orthopedic surgeon, to determine the status of her accepted employment-related conditions.

In a November 27, 2018 report, Dr. Farber noted the SOAF, appellant's history of injury and medical treatment. He reported that appellant walked with a slightly antalgic gait. Appellant's physical examination revealed that she was mildly tender to palpation in the paraspinal region, with 50 degrees flexion, 20 degrees extension and 20 degrees bilateral side bending, 5/5 strength in the lower extremity with ability to heel and toe rise. Appellant had negative straight leg raising sign bilaterally. The right ankle had mild anterolateral tenderness and swelling with full strength and no gross instability noted. Range of motion findings were reported and no focal neurovascular deficit was noted. Dr. Farber opined, based on his physical examination findings and the medical records provided, that appellant did not currently have any objective findings of the accepted conditions. He further noted that the medical evidence did not indicate that a preexisting condition was aggravated or affected by the employment injury. Dr. Farber opined that appellant did not have any residuals of the accepted conditions or any additional diagnosed conditions as a result of the employment injury. He indicated that she had reached maximum medical improvement, there was no disability as a result of the employment injury, and she could return to her full-time regular duties with no restrictions. Dr. Farber also found that no further treatment was recommended based on his examination.

On December 17, 2018 OWCP proposed to terminate appellant's wage-loss compensation and medical benefits, as the evidence of record established that she no longer had employment-related residuals or disability due to her accepted work-related conditions. It afforded her 30 days to submit additional evidence or argument, in writing, if she disagreed with the proposed termination of benefits.

In a December 27, 2018 statement, appellant disagreed with the proposed termination. In a January 11, 2019 statement, counsel also disagreed with the proposed termination of benefits based on new medical evidence, which he contended supported that she continued to have residuals of her accepted employment conditions.

In a December 11, 2018 report, Dr. Igor Stiler, a Board-certified neurologist, noted appellant's complaints of back pain radiating to both legs and that she stopped trigger point injections as those did not help. Examination revealed L4-S1 tenderness, left greater than right, with decreased range of motion of left-sided flexion and extension and positive straight leg raise bilaterally. There was also decreased pinprick and light touch sensation involving the left leg distally and ¼ deep tendon reflexes in the upper and lower extremities. Dr. Stiler opined that appellant was disabled from work. He also recommended physical therapy. In a December 14, 2018 progress report, Dr. Stiler indicated that he examined appellant on December 11 and 12, 2018. He diagnosed lumbar radiculopathy and Type 2 diabetes mellitus with diabetic neuropathy. Dr. Stiler opined, with a checkmark "yes," that the employment injury was the competent medical cause of the conditions and that appellant was temporary totally disabled.

In a January 30, 2019 letter, OWCP advised appellant that her physician needed to provide medical rationale, which explained how the diagnosed lumbar radiculopathy was caused or aggravated by the February 13, 2004 employment injury. It afforded her 30 days to provide the requested information.

In another letter of even date, OWCP noted that Dr. Farber had indicated in his report that appellant did not suffer from any residuals of the accepted conditions or any additional diagnosed conditions as a result of the employment injury. It requested that he address whether the diagnosed lumbar radiculopathy was caused or aggravated by the February 13, 2004 employment-related injury and, if so, whether there were any residuals or whether the condition had resolved.

In a February 7, 2019 addendum report, Dr. Farber responded that the diagnosed lumbar radiculopathy was caused by the February 13, 2004 employment injury. He indicated that, at the time of his examination, there were no residuals present and appellant had a negative straight leg raising sign bilaterally with full strength in the lower extremities. Dr. Farber concluded that the lumbar radiculopathy condition had resolved.

In a February 27, 2018 report, Dr. Stiler noted the history of appellant's February 13, 2004 employment injury and that her electromyography (EMG) studies revealed bilateral L4, L5, and S1 radiculopathy. He reported examination findings for both the cervical and lumbar spine, noting tenderness bilaterally and abnormal range of motion findings for left-side extension lumbar spine with positive bilateral straight leg raise. Dr. Stiler diagnosed chronic lumbar radiculopathy with diabetic neuropathy. He opined that appellant was totally disabled and that she should resume physical therapy since her symptoms worsened after she stopped physical therapy.

On February 28, 2019 OWCP expanded the acceptance of appellant's claim to include the additional condition of lumbar radiculopathy.

OWCP received January 18 and 24 and February 7, 2019 form reports from Dr. Stiler wherein he opined that appellant was totally disabled as a result of lumbar radiculopathy and Type 2 diabetes mellitus with diabetic neuropathy.

By decision dated March 5, 2019, OWCP terminated appellant's wage-loss compensation and medical benefits effective March 6, 2019. It found that the weight of the medical evidence rested with Dr. Farber's opinions in his reports dated November 27, 2018 and February 7, 2019 that she did not have a current disability due to the February 13, 2004 employment injury, including a lumbar radiculopathy condition, which had resolved at the time of his examination.

OWCP received additional form reports from Dr. Stiler dated March 15, April 15, May 15, and June 7 and 21, 2019 in which he continued to opine that appellant was totally disabled as a result of lumbar radiculopathy and Type 2 diabetes mellitus with diabetic neuropathy.

In a June 20, 2019 report, Dr. Stiler reported examination findings of appellant's lumbar spine, which included abnormal range of motion findings and positive straight leg raise bilaterally with decreased sensory examination of the distal lateral left lower extremity and deep tendon reflects 1-2/4. He opined that her bladder issues were likely secondary to the lumbar radiculopathy. Dr. Stiler opined that appellant was totally disabled from working.

On November 13, 2019 appellant, through counsel, requested reconsideration. In a statement of even date, counsel argued that the medical evidence established that appellant continues to establish disability due to her accepted conditions and that the class of accepted medical conditions must be expanded.

In an October 8, 2019 report, Dr. Stiler noted that appellant was first evaluated in his office during February 2018. He noted the history of the February 13, 2004 employment injury and her medical course. Based on the history of injury, Dr. Stiler's neurologic examinations performed between February 27, 2018 and June 20, 2019, and his review of the medical records, he diagnosed appellant with chronic lumbar radiculopathy, progressive, with L2-3 herniated disc impinging on the left L2 nerve root and bulging disc at L5-S1, chronic cervical radiculopathy with derangement with herniated discs at C2-3, C3-4, C3-5, C5-6, and C6-7, internal derangement of both knees with lateral meniscal tear of the right knee, and diabetic peripheral neuropathy. He opined that she has remained symptomatic from her diagnosed conditions since her work injury and should be considered totally disabled. Dr. Stiler also indicated that appellant had restrictions on lifting, sitting, and standing in an eight-hour workday.

In a March 28, 2019 report, Dr. Sudharam Idupuganti, a Board-certified psychiatrist, reported that appellant had been treated since November 2006 for various complaints, including increasing back pain. He also reported that she became increasingly more depressed in the past two years after her mother's prolonged illness, nursing home stay and death in April 2017. Dr. Idupuganti opined that appellant's depression began after she was injured in her job on February 13, 2004. Appellant developed back pain and was diagnosed as having L5-S1 disc prolapse and right ankle and tendon and ligament injury. Dr. Idupuganti reported her symptoms, noting that she had a past history of panic attacks that lasted a few months in the 1980's, which did not require psychiatric treatment. He opined that appellant was a well-adjusted individual prior to her employment-related fall and back and ankle injury. Dr. Idupuganti noted her mental status

examination and diagnosed major depression, single episode, severe with melancholia, post-traumatic stress disorder, continued panic disorder, and dysthymic disorder. He reported that appellant's conditions had continued since 2004 and had not significantly improved with psychiatric treatment to date. Dr. Idupuganti, thus, opined that she was unable to work in any gainful employment due to the intensity of her anxiety and depression as well as her back and ankle pain, which were a direct consequence of her February 13, 2004 employment injury.

By decision dated February 14, 2020, OWCP denied modification of its March 5, 2019 decision.

### **LEGAL PRECEDENT -- ISSUE 1**

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.<sup>3</sup> It may not terminate compensation without establishing that the disability had ceased or that it was no longer related to the employment.<sup>4</sup> OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>5</sup>

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.<sup>6</sup> To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which require further medical treatment.<sup>7</sup>

### **ANALYSIS -- ISSUE 1**

The Board finds that OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective March 6, 2019, as she no longer had disability or residuals due to her accepted February 13, 2004 employment injury.

In his November 27, 2018 report, Dr. Farber described the February 13, 2004 employment injury and noted that appellant's claim was accepted for sprain of lumbosacral joint/ligament, right ankle sprain, and right tibialis tendinitis. He also noted that the diagnostic testing showed lumbar radiculopathy. Dr. Farber conducted a physical examination and related appellant's examination findings. He opined, based on his physical examination findings and the medical records provided, that she did not currently have any objective findings of the accepted conditions. Dr. Farber also indicated that the medical evidence of record did not indicate that a preexisting condition was

---

<sup>3</sup> *C.C.*, Docket No. 19-1062 (issued February 5, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

<sup>4</sup> *See T.M.*, Docket No. 19-1058 (issued March 30, 2021); *G.T.*, Docket No. 18-01302 (issued October 22, 2019); *A.G.*, Docket No. 18-0749 (issued November 7, 2018); *Elsie L. Price*, 54 ECAB 734 (2003).

<sup>5</sup> *R.R.*, Docket No. 19-0173 (issued May 2, 2019); *Del K. Rykert*, 40 ECAB 284 (1988).

<sup>6</sup> *L.W.*, Docket No. 18-1372 (issued February 27, 2019); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

<sup>7</sup> *See T.M.*, *supra* note 4; *A.M.*, Docket No. 18-1243 (issued October 7, 2019); *R.P.*, Docket No. 17-1133 (issued January 18, 2018); *A.P.*, Docket No. 08-1822 (issued August 5, 2009).

aggravated or affected by the employment injury. Thus, he opined that appellant did not have any residuals of the accepted conditions or any additional diagnosed conditions as a result of the employment injury, there was no disability as a result of the employment injury, and she was able to return to her full-time regular duties with no restrictions. In his February 7, 2019 addendum report, Dr. Farber indicated that her diagnosed lumbar radiculopathy was caused by the February 13, 2004 employment injury. He opined that the lumbar radiculopathy had resolved without residuals since, at the time of his examination, appellant had a negative straight leg raising sign bilaterally with full strength in the lower extremities.

The Board finds that OWCP properly determined that Dr. Farber's opinion constitutes the weight of the medical opinion evidence. Dr. Farber based his opinion on a proper factual and medical history and physical examination findings and provided medical rationale for his opinion that appellant did not have a current residual injury. He noted that examination findings were normal with objective findings to indicate any residuals of the accepted conditions. The Board finds that Dr. Farber provided a well-rationalized opinion based on medical evidence regarding appellant's February 13, 2004 employment injury residuals and disability. Accordingly, OWCP properly relied on his second opinion reports in terminating her wage-loss compensation and medical benefits for the February 13, 2004 employment injury.<sup>8</sup>

Following its December 17, 2018 notice of proposed termination, OWCP received a February 27 and December 11 and 14, 2018 reports, and January 18 and 24 and February 7, 2019 form reports from Dr. Stiler, who opined that appellant was totally disabled as a result of lumbar radiculopathy and Type 2 diabetes mellitus with diabetic neuropathy. In his February 27, 2018 report, Dr. Stiler noted the history of the February 13, 2004 employment injury and that EMG diagnostic testing revealed bilateral L4, L5, and S1 radiculopathy. He conducted a physical examination of appellant's cervical and lumbar spine and noted examination findings. Dr. Stiler diagnosed chronic lumbar radiculopathy with diabetic neuropathy and opined that she was totally disabled. However, he did not address in his December 2018 and 2019 reports whether appellant had continued residuals of her employment-related lumbar radiculopathy, based upon objective medical findings. Dr. Stiller did not provide a probative medical opinion, based on objective medical findings that she was disabled or currently required medical treatment due to an employment-related condition.<sup>9</sup> The Board finds, therefore, that the remaining contemporaneous medical evidence is insufficient to overcome the weight of medical evidence given to Dr. Farber's second opinion reports in terminating appellant's wage-loss compensation and medical benefits, effective March 6, 2019, for the February 13, 2004 employment injury.<sup>10</sup>

### **LEGAL PRECEDENT -- ISSUE 2**

As OWCP properly terminated appellant's wage-loss and medical benefits, the burden shifted to her to establish continuing disability or residuals, after that date, causally related to her

---

<sup>8</sup> See *C.C.*, *supra* note 3; *S.M.*, Docket No. 18-0673 (issued January 25, 2019); *see also A.F.*, Docket No. 16-0393 (issued June 24, 2016).

<sup>9</sup> See *A.M.*, *supra* note 7; *see E.C.*, Docket No. 17-1645 (issued June 11, 2018).

<sup>10</sup> See *N.G.*, Docket No. 18-1340 (issued March 6, 2019); *see also J.P.*, Docket No. 16-1103 (issued November 25, 2016).

accepted injury.<sup>11</sup> To establish a causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such a causal relationship.<sup>12</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>13</sup>

When an employee claims that, a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>14</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that appellant has not met her burden of proof to establish continuing employment-related disability or residuals on or after March 6, 2019 causally related to her accepted February 13, 2004 employment injury.

Following the termination of her wage-loss compensation and medical benefits, effective March 6, 2019, appellant submitted additional reports from Dr. Stiler. In his form reports dated March 15, April 15, May 15, and June 7 and 21, 2019, Dr. Stiler again concluded that she was totally disabled as a result of lumbar radiculopathy and Type 2 diabetes mellitus with diabetic neuropathy. While he continued to provide an opinion that appellant was unable to return to work, his opinion was merely conclusory in nature.<sup>15</sup> Dr. Stiler did not provide medical rationale explaining the objective findings substantiating his diagnosis and how the diagnosed condition was disabling. A medical opinion not fortified by medical rationale is of diminished probative value.<sup>16</sup> These reports, therefore, are of diminished probative value to establish appellant's entitlement to continued wage-loss compensation and medical benefits.<sup>17</sup>

In his June 20, 2019 report, Dr. Stiler reported abnormal examination physical examination findings regarding appellant's lumbar spine. He opined that her bladder issues were likely secondary to the lumbar radiculopathy and that she was totally disabled. Again, Dr. Stiler failed

---

<sup>11</sup> *E.J.*, Docket No. 20-0013 (issued November 19, 2020); *B.A.*, Docket No. 17-1471 (issued July 27, 2018); *Manuel Gill*, 52 ECAB 282 (2001).

<sup>12</sup> *C.L.*, Docket No. 18-1379 (issued February 3, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

<sup>13</sup> *See C.S.*, Docket No. 18-0952 (issued October 23, 2018); *Paul Foster*, 56 ECAB 208 (2004); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>14</sup> *See S.L.*, Docket No. 19-0603 (issued January 28, 2020); *T.E.*, Docket No. 18-1595 (issued March 13, 2019); *T.F.*, Docket No. 17-0645 (issued August 15, 2018); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

<sup>15</sup> *See A.T.*, Docket No. 20-0334 (issued October 8, 2020).

<sup>16</sup> *See L.S.*, Docket No. 19-0959 (issued September 24, 2019); *M.H.*, Docket No. 17-0210 (issued June 3, 2018).

<sup>17</sup> *See R.R.*, Docket No. 19-0173 (issued May 2, 2019); *O.W.*, Docket No. 17-1881 (issued May 1, 2018).

to address the relevant issue of whether appellant had continued residuals of her employment-related lumbar radiculopathy, based upon objective findings.<sup>18</sup>

In his October 8, 2019 report, Dr. Stiler noted the history of the February 13, 2004 employment injury and appellant's medical course, including his neurologic examinations performed between February 27, 2018 and June 20, 2019, and his review of the medical records. He diagnosed chronic lumbar radiculopathy, progressive, with L2-3 herniated disc impinging on the left L2 nerve root and bulging disc at L5-S1, chronic cervical radiculopathy with derangement with herniated discs at C2-3, C3-4, C3-5, C5-6, and C6-7, internal derangement of both knees with lateral meniscal tear of the right knee, and diabetic peripheral neuropathy. Dr. Stiler opined that appellant has remained symptomatic from her diagnosed conditions since her work injury and should be considered totally disabled. He also provided work restrictions on lifting, sitting, and standing in an eight-hour work day. Besides providing conflicting opinions on whether appellant was totally or partially disabled, Dr. Stiler again did not relate current objective diagnostic findings. He also diagnosed her with cervical and bilateral knee conditions and diabetic peripheral neuropathy which have not been accepted under this claim, but he did not provide an opinion as to whether the reported neck and bilateral knee conditions and diabetic peripheral neuropathy are causally related to the accepted February 13, 2004 employment injury. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.<sup>19</sup> Thus, Dr. Stiler's reports are insufficient to cause a conflict of medical opinion with Dr. Farber's opinion.<sup>20</sup>

Appellant also submitted a March 28, 2019 report from Dr. Idupuganti. Dr. Idupuganti began treating her two years after the February 13, 2004 employment injury. He opined that appellant's depression began after the February 13, 2004 employment injury, noting that she developed back pain and was diagnosed as having L5-S1 disc prolapse and right ankle and tendon and ligament injury, and that she was a well-adjusted individual prior to her employment-related fall and back and ankle injury. Dr. Idupuganti diagnosed major depression, single episode, severe with melancholia, post-traumatic stress disorder, and continued panic disorder and dysthymic disorder. He opined that the intensity of appellant's anxiety and depression, as well as her back and ankle pain, are a direct consequence of her February 13, 2004 employment injury and rendered her totally disabled from any gainful employment. OWCP has not accepted anxiety and depression conditions in this claim. Besides indicating that appellant was a well-adjusted individual prior to the employment-related injury, Dr. Idupuganti has not offered any medical rationale which explained how or why her emotional conditions and disability arose due to her employment injury.<sup>21</sup>

---

<sup>18</sup> *Id.*

<sup>19</sup> *A.M.*, Docket No. 18-0562 (issued January 23, 2020); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018); *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>20</sup> *See V.P.*, Docket No., 19-0645 (issued February 22, 2021).

<sup>21</sup> *See supra* note 16.



The Board thus finds that appellant has not met her burden of proof to establish continuing employment-related disability or residuals, on or after March 6, 2019, due to the accepted employment injury.

On appeal counsel asserts that the termination is contrary to the medical evidence on file and the law. As explained above, OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits. Additionally appellant has not met her burden of proof to establish continuing employment-related disability or residuals on or after March 6, 2019 due to the accepted employment injury.

**CONCLUSION**

The Board finds that OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective March 6, 2019, as she no longer had disability or residuals due to her accepted February 13, 2004 employment injury. The Board further finds that she has not met her burden of proof to establish continuing employment-related disability or residuals on or after March 6, 2019 causally related to her accepted February 13, 2004 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 14, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 8, 2021  
Washington, DC

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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

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