



## ISSUE

The issue is whether OWCP met its burden of proof to terminate appellant's medical benefits, effective March 17, 2020.

## FACTUAL HISTORY

On July 21, 2015 appellant, then a 53-year-old motor vehicle operator, filed a traumatic injury claim (Form CA-1) alleging that on July 7, 2015 he developed pain in his lower back and left leg when instructed to assist pushing a patient in a faulty wheelchair, weighing in excess of 600 pounds, up a 45-degree ramp while in the performance of duty. He initially stopped work on July 8, 2015.<sup>3</sup> On December 9, 2016 OWCP accepted strain of the muscle, fascia, and tendon of the lower back.

On March 12, 2018 appellant filed a notice of recurrence (Form CA-2a) alleging that he lost time from work due to his July 7, 2015 employment injury. He noted that he had returned to light-duty work on April 26, 2016 and again stopped work completely as of January 20, 2017.

In an April 26, 2018 development letter, OWCP informed appellant of the deficiencies in his recurrence claim. It advised him of the type of additional medical evidence needed and provided him with a questionnaire for his completion. OWCP afforded appellant 30 days to respond.

Dr. Steve Huang, a Board-certified physiatrist, completed both narrative and form reports on May 8, 2018. He described appellant's history of injury on July 7, 2015 and diagnosed lumbar muscle strain, lumbar radiculopathy, and acute low back pain. Dr. Huang provided work restrictions and on May 10, 2018 prescribed physical therapy.

Appellant underwent a lumbar magnetic resonance imaging (MRI) scan on May 14, 2018, which demonstrated minimal disc bulging at multiple levels without focal disc herniation or high-grade central canal stenosis at any level. It further revealed facet degeneration at L4-5 and mild canal narrowing at L3-4 and L4-5.

On May 30, 2018 OWCP referred appellant, a statement of accepted facts (SOAF), and a series of questions for a second opinion examination with Dr. Frederic G. Nicola, a Board-certified orthopedic surgeon.

In his June 21, 2018 report, Dr. Nicola noted appellant's accepted employment injury on July 7, 2015, resulting in lumbar sprain/strain. He reported that appellant sustained a non-industrial brain hemorrhage on January 29, 2018 and stopped work on this date. Dr. Nicola reviewed his medical records and performed a physical examination. He found paraspinal musculature tenderness to palpation in the lumbosacral spine and diagnosed muscle strain. Dr. Nicola found that appellant had normal motor, reflex, and sensory changes of both lower extremities and that his MRI scans were not clinically substantiated for lumbar radiculopathy. He

---

<sup>3</sup> On November 7, 2017 appellant explained that he performed light-duty work following his accepted employment injury for nine months. He then experienced bilateral medial meniscal tears.

found that appellant continued to experience residuals of his accepted injury in the form of subjective complaints in his lumbar spine. Dr. Nicola noted that he did not exhibit spasm, guarding, or asymmetry of motion and had a normal neurologic examination. He found that no further treatment was necessary for the accepted employment injury and no work restrictions due to the accepted employment injury. Dr. Nicola found that appellant had significant residuals due to his non-industrial traumatic brain injury and still required medical treatment.

On July 13, 2018 OWCP proposed to terminate appellant's medical benefits as a result of his July 7, 2015 employment injury. It provided him 30 days to submit additional evidence or argument if he disagreed with the proposed termination.

On July 26 and August 6, 2018 Dr. Huang continued to diagnose lumbar muscle strain, lumbar radiculopathy, and acute low back pain. He performed a physical examination and found limited range of motion, positive straight leg raising on the right, and tenderness bilaterally over the L3-5 paraspinal muscles. Dr. Huang attributed appellant's current condition to the July 7, 2015 employment injury.

In a letter dated August 11, 2018, appellant disagreed with the proposed termination of medical benefits and alleged that Dr. Nicola's report was not based on a complete review of the medical records nor a complete physical examination.

By decision dated October 4, 2018, OWCP terminated appellant's medical benefits, effective that date. On October 26, 2018 appellant requested an oral hearing from a representative of OWCP's Branch of Hearings and Review.

By decision dated January 15, 2019, OWCP's hearing representative set aside the October 4, 2018 termination decision and remanded the case for further development of the medical evidence including a review by Dr. Nicola of the May 2018 MRI scan.

In a March 28, 2019 supplemental report, Dr. Nicola reviewed the May 14, 2018 MRI scan and found that appellant's lumbar spine was unchanged from the prior MRI scan of September 15, 2015. He noted that review of the May 14, 2018 MRI scan did not alter his opinion that appellant had no medical residuals of the accepted July 7, 2015 employment injury.

On April 15, 2019 OWCP proposed to terminate appellant's medical benefits due to his accepted July 7, 2015 employment injury. It afforded him 30 days to respond.

In an April 30, 2019 report, Dr. Brie Romines, a family practitioner, examined appellant due to chronic low back pain with lumbar radiculopathy. She noted his history of injury on July 7, 2015 and performed a physical examination, finding tenderness to palpation of the left sacroiliac joint and lumbar paraspinal muscles. Dr. Romines reported that appellant had symptoms of tingling in his right toes when bending forward. He requested an additional MRI scan.

On May 13, 2019 Dr. Cameron reviewed appellant's May 7, 2019 MRI scan and found changes at L3-4 where there was mild central canal and mild left neural foraminal stenosis. She diagnosed chronic low back pain with lumbar radiculopathy. Dr. Cameron opined that there were no significant changes in the new MRI scan and that appellant's right toe pain was possibly from metatarsal pressure.

By decision dated May 22, 2019, OWCP terminated appellant's medical benefits, effective that date. On June 20, 2019 appellant requested an oral hearing before a representative of OWCP's Branch of Hearings and Review.

By decision dated September 5, 2019, OWCP's hearing representative set aside OWCP's May 22, 2019 decision and remanded the case for further development, finding that Dr. Nicola's March 28, 2019 supplemental report was equivocal with regard to whether appellant continued to have a medical condition due to his July 7, 2015 employment injury.

In an October 11, 2019 supplemental report, Dr. Nicola found that appellant had no work restrictions due to his July 7, 2015 employment injury. He found that appellant was permanent and stationary with regard to his accepted condition of lumbar sprain/strain and "should be released for his lumbar spine to all activities." Dr. Nicola further concluded that he had no objective findings to document lumbar radiculopathy.

On February 12, 2020 OWCP proposed to terminate appellant's medical benefits due to his July 7, 2015 employment injury. It afforded him 30 days to respond.

By decision dated March 17, 2020, OWCP terminated appellant's medical benefits effective that date.

### **LEGAL PRECEDENT**

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>4</sup> The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.<sup>5</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>6</sup>

### **ANALYSIS**

The Board finds that OWCP has met its burden of proof to terminate appellant's medical benefits, effective March 17, 2020.

OWCP relied upon the reports of Dr. Nicola, the second opinion physician, in finding that appellant had no continuing residuals in terminating his medical benefits. Dr. Nicola opined that appellant did not exhibit spasm, guarding, or asymmetry of motion and had a normal neurologic examination and concluded that appellant had no objective findings to document lumbar radiculopathy. He noted that a review of the September 15, 2015 and May 14, 2018 MRI scans

---

<sup>4</sup> 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).

<sup>5</sup> See *R.P.*, *id.*; *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *A.P.*, Docket No. 08-1822 (issued August 5, 2009). *Furman G. Peake*, 41 ECAB 361, 364 (1990).

<sup>6</sup> See *R.P.*, *supra* note 4; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002); *Furman G. Peake*, *supra* note 5.

confirmed that appellant had no medical residuals of the accepted July 7, 2015 employment injury. Dr. Nicola further opined that no additional treatment was necessary for the accepted employment injury and that he had no work restrictions due to the accepted employment injury. He noted that appellant had significant residuals due to his non-industrial traumatic brain injury that required continued medical treatment. Dr. Nicola concluded that appellant was permanent and stationary with regard to his accepted condition of lumbar sprain/strain and “should be released for his lumbar spine to all activities.” He further concluded that he had no objective findings to document lumbar radiculopathy. The Board finds that his report constitutes the weight of the medical evidence and establishes that appellant has no residuals causally related to the accepted July 7, 2015 employment injury.

Following OWCP’s proposed termination of medical benefits on July 26 and August 6, 2018, Dr. Huang continued to diagnose lumbar muscle strain, lumbar radiculopathy, and acute low back pain based on his physical examination of appellant. Although he attributed appellant’s current condition to the July 7, 2015 employment injury, he provided no medical rationale. The Board has held that medical evidence that states a conclusion but does not offer a rationalized medical explanation regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship.<sup>7</sup> Dr. Huang’s report is, therefore, insufficient to establish that appellant had residuals due to her accepted employment conditions.

Although Dr. Romines and Dr. Cameron diagnosed chronic low back pain with lumbar radiculopathy, neither physician provided an opinion on whether appellant still had residuals due to her accepted employment conditions.<sup>8</sup> As such, these reports are also insufficient to establish continuing employment-related residuals.

The Board finds that the reports of Dr. Nicola, the second opinion physician, constitute the weight of the medical evidence and establish that appellant no longer had residuals causally related to the accepted July 7, 2015 employment injury. OWCP, therefore, has met its burden of proof to terminate appellant’s medical benefits.

### **CONCLUSION**

The Board finds that OWCP has met its burden of proof to terminate appellant’s medical benefits, effective March 17, 2020.

---

<sup>7</sup> *S.S.*, Docket No. 21-1140 (issued June 29, 2022); *P.J.*, Docket No. 18-1738 (issued May 17, 2019); *D.H.*, Docket No. 17-1913 (issued December 13, 2018).

<sup>8</sup> *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 17, 2020 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 29, 2022  
Washington, DC

Alec J. Koromilas, 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