

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

P.M., Appellant)	
)	
and)	Docket No. 22-1171
)	Issued: January 10, 2024
U.S. POSTAL SERVICE, POST OFFICE,)	
Egg Harbor Township, NJ, Employer)	
)	

Appearances: *Case Submitted on the Record*
Michael D. Overman, Esq., for the appellant¹
Office of Solicitor, for the Director

DECISION AND ORDER

Before:
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On August 5, 2022 appellant, through counsel, filed a timely appeal from a February 24, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. § 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish that the acceptance of her claim should be expanded to include osteoarthritis and degenerative joint disease

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 5 U.S.C. § 8101 *et seq.*

(DJD) of the left knee causally related to her accepted February 26, 2015 employment injury; (2) whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 17, 2021, as she no longer had disability or residuals causally related to her accepted February 26, 2015 employment injury; and (3) whether appellant has met her burden of proof to establish continuing disability or residuals on or after September 17, 2021 causally related to her accepted February 26, 2015 employment injury.

FACTUAL HISTORY

This case was previously before the Board on a different issue.³ The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On February 26, 2015 appellant, then a 46-year-old rural carrier associate, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her right hip and left knee when she slipped out of her mail truck due to snow and icy conditions while in the performance of duty. She stopped work on that date and returned to work in a full-time limited-duty capacity on April 6, 2015. On April 24, 2015 OWCP initially accepted the claim for sprains of the right hip and thigh, left knee and leg, and right shoulder and upper arm. On May 17, 2016 it expanded its acceptance of the claim to include a left knee medial meniscus tear. Appellant stopped work and underwent OWCP-authorized arthroscopic surgery to her left knee including partial medial meniscectomy and tricompartmental synovectomy on April 14, 2016. She returned to full-time modified work on June 21, 2016. Appellant stopped work thereafter and OWCP paid her wage-loss compensation for disability from work on the supplemental rolls commencing March 30, 2018 and on the periodic rolls commencing May 26, 2019.

On September 6, 2016 OWCP received a request for authorization of a left knee total arthroplasty. By decision dated April 3, 2017, it denied appellant's request for authorization of a left knee arthroplasty. OWCP found that Dr. Zachary D. Post, a Board-certified orthopedic surgeon and appellant's treating physician, had not established the medical necessity for the requested procedure and that both OWCP's district medical advisers (DMA) and Dr. Stanley Askin, a Board-certified orthopedic surgeon who provided a second evaluation, had opined that the requested procedure was not medically necessary to treat her accepted employment injury. By decision dated August 21, 2017, an OWCP hearing representative affirmed the denial of authorization of a left knee arthroplasty, finding that Dr. Askin's opinion constituted the weight of the medical evidence.

Appellant appealed to the Board. By decision dated November 7, 2018,⁴ the Board affirmed OWCP's August 21, 2017 decision, finding that OWCP did not abuse its discretion in denying authorization for the requested left knee arthroplasty as the evidence established that the

³ Docket No. 20-0114 (issued December 23, 2020); Docket No. 18-0543 (issued November 7, 2018).

⁴ Docket No. 18-0543 (issued November 7, 2018).

procedure was not recommended for a condition causally related to the accepted employment injury and that it was not medically warranted.⁵

In a September 5, 2018 report, Dr. Andrew Farber, an osteopathic physician specializing in orthopedic surgery, acting as an OWCP second opinion physician, reviewed a statement of accepted facts (SOAF), the evidence of record, and noted examination findings. He opined that appellant's left knee medial meniscus tear remained active and may have worsened. Dr. Farber also noted that appellant had underlying degenerative changes and a history of rheumatoid arthritis. He opined that further treatment was needed and vicosupplementation should be considered.

Dr. Post continued to submit treatment notes diagnosing primary osteoarthritis of left knee.

In a March 2, 2018 report, Dr. Matthew R. Arkebauer, a Board-certified rheumatologist, noted that appellant was being treated for rheumatoid arthritis at various sites.

On February 8, 2019 counsel requested reconsideration regarding the denial of appellant's request for left knee arthroplasty.

In a December 12, 2018 report, Dr. Post diagnosed primary osteoarthritis of left knee due to the employment injury of February 26, 2015. He indicated that the series of x-rays taken in 2015, 2016, 2017 and now 2018 demonstrated mild degenerative changes that had progressed over the years.

In a January 24, 2019 statement, appellant indicated that her right knee was getting worse and that she was waiting for her left knee to be repaired. Statements from appellant and counsel concerning a suitability finding were also received.

By decision dated May 8, 2019, OWCP denied modification of its November 7, 2018 decision. It found that appellant had not established that the accepted employment injury caused or aggravated her preexisting left knee arthritis, and did not establish that the requested left knee total arthroplasty procedure was medically necessary for treatment of her accepted left knee conditions.

Appellant, through counsel, filed an appeal to the Board. By decision dated December 23, 2020,⁶ the Board affirmed OWCP's May 8, 2019 decision, finding that Dr. Post's report was insufficient to establish that the requested left knee total arthroscopy was medically warranted as a result of the accepted February 26, 2015 employment injury. The Board noted that OWCP had obtained a second opinion evaluation, which the Board previously found was well rationalized, and supported a finding that the requested surgical procedure was not medically warranted as it was due to appellant's preexisting conditions, not the February 26, 2015 work injury.

On February 10, 2020 OWCP referred appellant, along with a statement of accepted facts (SOAF), the medical record, and a series of questions, to Dr. John Bannon, a Board-certified orthopedic surgeon, for a second opinion examination. At the time of the evaluation, he requested

⁵ *Id.*

⁶ Docket No. 20-0114 (issued December 23, 2020).

updated magnetic resonance imaging (MRI) of her left knee, which was completed on May 18, 2020. Upon receipt of the updated MRI results, Dr. Bannon issued a report dated March 6, 2020.

In his March 6, 2020 report, Dr. Bannon indicated that a December 2, 2014 MRI scan of the left knee, which preexisted the February 26, 2015 employment injury, revealed degenerative changes, effusion, a tear of the posterior horn of the medial meniscus, and some anterior displacement of the anterior horn of the medial meniscus along with a meniscal cyst. He noted that appellant underwent surgery on April 14, 2016 by Dr. Matthew D. Pepe, appellant's attending Board-certified orthopedic surgeon, including an arthroscopic partial meniscectomy and major tricompartmental synovectomy. Dr. Bannon also reviewed the May 18, 2020 MRI scan, which revealed tricompartmental osteoarthritis with areas of full thickness cartilage loss across the medial compartment with subchondral bone edema in the lateral and patellofemoral compartments and a complex tear of the left medial meniscus posterior horn extending into the inner margin of its body. He performed a physical examination of the right hip and right shoulder and documented full and painless range of motion. Examination of the left knee and leg revealed an antalgic gait favoring the left, varus and pain in the medial aspect of the knee, inability to squat or step up due to pain, diffuse medial joint line tenderness, patellofemoral crepitus with passive and active motion, but no effusion or instability. Dr. Bannon opined that the February 26, 2015 work injury resulted in worsening of a medial meniscus tear of the left knee, which was satisfactorily addressed the time of the April 14, 2016 surgery. He also diagnosed osteoarthritis and DJD in the left knee and opined that the conditions were present prior to and were not caused by the February 26, 2015 employment injury. Dr. Bannon found no current diagnoses causally connected to the work injury and that appellant's current disability resulted from painful osteoarthritis in the left knee, which was not work related. He noted that appellant had preexisting DJD of the left knee according to the MRI scan prior to her employment injury and that, while the injury worsened her medial meniscal tear, this had been addressed with surgery in April 2016.

In a report dated June 10, 2020, Dr. Laura Ross, a Board-certified orthopedic surgeon, noted the history of the February 26, 2015 work injury and appellant's complaints of knee pain and difficulty walking. She performed a physical examination, which revealed mild effusion, crepitus with range of motion, no gross instability, a severely antalgic gait favoring the left knee, and an inability to squat on her left knee. The right knee examination was benign. Dr. Ross reviewed the May 18, 2020 MRI scan and noted tricompartmental osteoarthritis with evidence of previous meniscectomy and possible new tear of the medial meniscus. She diagnosed post-traumatic exacerbation of arthrosis of the left knee and recommended a total knee replacement.

By letter dated July 15, 2020, OWCP requested clarification of Dr. Bannon's March 6, 2020 report. In a supplemental report dated July 28, 2020, he opined that all of the accepted conditions had resolved, including sprains of the right hip, right thigh, left knee and leg, right shoulder, and upper arm, and left medial meniscus tear. Dr. Bannon repeated his opinion that the additional diagnoses of primary osteoarthritis and DJD of the left knee were not related to the February 26, 2015 employment injury. He explained that the findings were noted on a pre-injury MRI scan dated December 2, 2014 and opined that there was "no relationship between the osteoarthritis and left knee DJD to the work incident."

In a development letter dated September 1, 2020, OWCP advised appellant that the evidence of record was insufficient to establish additional diagnoses of primary osteoarthritis of the left knee and left knee DJD causally related to the February 26, 2015 employment injury. It requested that she provide additional medical evidence which clearly explained the causal relationship between her currently diagnosed conditions and her accepted work injury. OWCP afforded appellant 30 days to respond.

In an attending physician's report (Form CA-20) dated January 18, 2021, Dr. Ross diagnosed post-traumatic DJD of the left knee. She checked a box marked "Yes," indicating that appellant's condition was caused or aggravated by an employment activity.

On March 12, 2021 appellant, through counsel, requested reconsideration. In support of the request, counsel submitted a February 25, 2021 narrative report by Dr. Ross, who described her findings during visits on June 10, 2020 and January 18, 2021. She indicated she had reviewed the December 2, 2014 left knee MRI report, which she noted revealed mild degenerative changes of the left knee without significant chondromalacia, modest anterior/suprapatellar effusion, a tear of the inner aspect of the posterior horn of the medial meniscus and some anterior displacement of the anterior horn of the same meniscus along with a meniscal cyst in association with the anterior horn of the lateral meniscus and a small popliteal cyst noted behind the knee. Dr. Ross diagnosed post-traumatic medial meniscus tear of the left knee, status post arthroscopic synovectomy and meniscectomy of the left knee, and post-traumatic exacerbation of left knee osteoarthritis with tricompartmental DJD. She opined that appellant sustained these additional conditions as a direct result of the work-related incident that occurred on February 26, 2015. Dr. Ross indicated that she had also injured her right knee and right hip due on February 26, 2015, but advised that her treatment was limited to her left knee. She opined that appellant had never returned to her pre-injury state and would require a total knee replacement for the work injury.

In a note dated March 2, 2021, Dr. Ross indicated that appellant could perform sedentary duty work and was not able to perform a limited-duty job.

In a report dated April 19, 2021, Dr. Steven H. Kahn, a Board-certified orthopedic surgeon, discussed appellant's history of injury and treatment and her current complaints, including ongoing left knee pain anteriorly and medially, stiffness, and pain with knee bending and squatting. He noted that she had undergone a functional capacity evaluation (FCE) which was consistent with sedentary work. Dr. Kahn performed a physical examination and reviewed the May 18, 2020 MRI scan. He diagnosed status postsurgical arthroscopy of the left knee with partial medial meniscectomy and moderate to severe osteoarthritis of the left knee preexistent to and exacerbated by the work-related injury of February 26, 2015. Dr. Kahn opined that appellant's treatment to date had been reasonable, but that she remained symptomatic. He recommended that she undergo standing x-rays to assess severity of the arthritic changes.

By decision dated June 10, 2021, OWCP denied modification of its prior decision.

OWCP thereafter received a June 7, 2021 report by Dr. Kahn, who reviewed updated x-rays and recommended viscosupplementation injections in lieu of total knee replacement. He opined that the treatment was medically necessary and reasonable. Dr. Kahn again diagnosed moderate-to-severe osteoarthritis of the left knee preexistent to and exacerbated by the work-

related injury of February 26, 2015. He related that appellant's attending physicians would address her work capacity but indicated that she should be able to perform sedentary employment.

By decision dated August 5, 2021, OWCP denied appellant's request to expand its acceptance of the claim to include primary osteoarthritis of the left knee and left knee DJD as causally related to the February 26, 2015 employment injury.

On August 6, 2021 OWCP issued a notice of proposed termination of appellant's wage-loss compensation and medical benefits based on the March 6, 2020 second opinion examination report from Dr. Bannon, which related that the accepted conditions had resolved without residuals or disability. It afforded appellant 30 days to submit additional evidence or argument challenging the proposed termination.

On August 10, 2021 appellant, through counsel, requested a hearing before a representative of OWCP's Branch of Hearings and Review regarding OWCP's August 5, 2021 expansion decision.

By letter dated August 23, 2021, appellant, through counsel, opposed OWCP's notice of proposed termination.

OWCP thereafter received a report of x-rays of the left knee dated May 10, 2021, which revealed marked osteoarthritis of the medial compartment of the left knee.

By decision dated September 17, 2021, OWCP finalized its termination of appellant's wage-loss compensation and medical benefits, effective that date, as she no longer had disability or residuals causally related to her accepted February 26, 2015 employment injury. It based its decision on the opinion of Dr. Bannon.

On September 21, 2021 appellant, through counsel, requested a hearing before a representative of OWCP's Branch of Hearings and Review regarding OWCP's September 17, 2021 termination decision.

A telephonic hearing was held on December 10, 2021, during which appellant testified that she was out of work and had difficulty walking due to left knee pain and instability. She indicated that she had symptoms in the left knee since 2014, which significantly worsened after she fell on February 26, 2015. Appellant further related that the surgery by Dr. Pepe and physical therapy improved her symptoms for a short period of time, but her pain returned and she experienced clicking in the knee. The hearing representative held the record open for 30 days.

OWCP thereafter received a report dated November 29, 2021 by Dr. Kahn, who documented appellant's complaints and examination findings and diagnosed moderate-to-severe osteoarthritis of the left knee, which he opined was preexistent to and exacerbated by the February 26, 2015 employment injury. He again recommended viscosupplementation injections.

By decision dated February 24, 2022, OWCP's hearing representative affirmed the August 5 and September 17, 2021 decisions.

LEGAL PRECEDENT -- ISSUE 1

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.⁷

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.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 claimant.⁹ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.¹⁰

In a case in which a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.¹¹

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish that the acceptance of her claim should be expanded to additional conditions causally related to the accepted February 26, 2015 employment injury.

Preliminarily, the Board notes that it is unnecessary to consider the evidence appellant submitted prior to the issuance of OWCP's May 8, 2019 decision because the Board considered that evidence in its December 23, 2020 decision. Findings made in prior Board decisions are *res judicata* absent any further review by OWCP under section 8128 of FECA.¹²

⁷ See *M.M.*, Docket No. 22-0037 (issued October 12, 2022); *S.B.*, Docket No. 19-0634 (issued September 19, 2019); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁸ *B.W.*, Docket No. 21-0536 (issued March 6, 2023); *T.K.*, Docket No. 18-1239 (issued May 29, 2019).

⁹ *D.E.*, Docket No. 20-0936 (issued June 24, 2021); *R.P.*, Docket No. 18-1591 (issued May 8, 2019).

¹⁰ See *D.L.*, Docket No. 21-0047 (issued February 22, 2023); *D.T.*, Docket No. 20-0234 (issued January 8, 2021); *P.M.*, Docket No. 18-0287 (issued October 11, 2018).

¹¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013); *J.L.*, Docket No. 20-0717 (issued October 15, 2020).

¹² *C.H.*, Docket No. 19-0669 (issued October 9, 2019); *J.D.*, Docket No. 18-1765 (issued June 11, 2019); *J.L.*, Docket No. 17-1460 (issued December 21, 2018); *Clinton E. Anthony, Jr.*, 49 ECAB 476, 479 (1998).

In her June 10, 2020 report, Dr. Ross diagnosed post-traumatic exacerbation of arthrosis of the left knee and recommended a total knee replacement. However, she did not explain how the accepted employment incident of February 26, 2015 physiologically caused the diagnosed condition. The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how a given medical condition is causally related to the accepted employment injury.¹³ Further, the Board has held that medical rationale is particularly necessary where, as here, there are preexisting conditions involving some of the same body parts.¹⁴ In such cases, the Board has required medical rationale differentiating between the effects of the work-related injury and the preexisting condition.¹⁵ As Dr. Ross failed to provide this rationale, her June 10, 2020 report is insufficient to meet appellant's burden of proof.

In a Form CA-20 dated January 18, 2021, Dr. Ross diagnosed post-traumatic DJD of the left knee. She checked a box marked "Yes" that the condition was caused or aggravated by the February 26, 2015 employment incident. However, Dr. Ross did not offer medical rationale sufficient to explain how and why she believed that the accepted employment injury resulted in or contributed to the diagnosed condition. When a physician's opinion on causal relationship consists only of checking a box marked "Yes" in response to a form question, without rationale explaining causal relationship, that opinion has limited probative value and is insufficient to establish a claim.¹⁶ Thus, the January 18, 2021 Form CA-20 is insufficient to meet appellant's burden of proof.

In her February 25, 2021 narrative report, Dr. Ross noted her review of the December 2, 2014 MRI scan and diagnosed post-traumatic medial meniscus tear of the left knee, status post arthroscopic synovectomy and meniscectomy of the left knee, and post-traumatic exacerbation of left knee osteoarthritis with tricompartmental DJD as a direct result of the February 26, 2015 employment injury. Dr. Ross did not provide medical reasoning as to how the February 26, 2015 employment injury caused the additional diagnosed conditions.¹⁷ Thus, the Board finds that her February 25, 2021 report is also insufficient to meet appellant's burden of proof.

In her March 2, 2021 note, Dr. Ross offered no opinion as to the cause of the diagnosed condition. The Board has held that medical evidence offering no opinion regarding the cause of

¹³ *S.S.*, Docket No. 21-1140 (issued June 29, 2022); *A.P.*, Docket No. 20-1668 (issued March 2, 2022); *D.S.*, Docket No. 21-0673 (issued October 10, 2021); *R.A.*, Docket No. 20-0969 (issued August 9, 2021); *see also T.M.*, Docket No. 08-0975 (issued February 6, 2009) (a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

¹⁴ *Supra* note 11; *see also R.W.*, Docket No. 19-0844 (issued May 29, 2020); *A.M.*, Docket No. 19-1138 (issued February 18, 2020); *A.J.*, Docket No. 18-1116 (issued January 23, 2019).

¹⁵ *Id.*

¹⁶ *J.K.*, Docket No. 20-0527 (issued May 24, 2022); *J.K.*, Docket No. 20-0590 (issued July 17, 2020); *J.A.*, Docket No. 17-1936 (issued August 13, 2018); *Donald W. Long*, 41 ECAB 142 (1989); *Lillian M. Jones*, 34 ECAB 379, 381 (1982).

¹⁷ *Supra* note 13.

an employee's condition is of no probative value on the issue of causal relationship.¹⁸ Therefore, this note is insufficient to establish appellant's claim.

In his April 19, June 7, and November 29, 2021 reports, Dr. Kahn diagnosed moderate-to-severe osteoarthritis of the left knee, which he opined preexisted and was exacerbated by the work-related injury of February 26, 2015. However, he did not explain how the accepted employment incident of February 26, 2015 physiologically caused the diagnosed condition¹⁹ and he did not provide medical rationale differentiating between the effects of the work-related injury and her preexisting conditions.²⁰ As Dr. Kahn failed to provide this rationale, his reports are insufficient to meet appellant's burden of proof.

Appellant also submitted diagnostic studies including the May 18, 2020 left knee MRI scan and the May 10, 2021 left knee x-rays. However, diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment incident caused the diagnosed condition.²¹

Appellant has not submitted rationalized medical evidence establishing that the acceptance of her claim should be expanded to include osteoarthritis and DJD of the left knee causally related to her accepted February 26, 2015 employment injury and, therefore, has not met her burden of proof.

LEGAL PRECEDENT -- ISSUE 2

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.²² After it has determined that, an employee has disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.²³ Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.²⁴

¹⁸ *L.S.*, Docket No. 23-0778 (issued December 27, 2023); *T.S.*, Docket No. 18-1501 (issued March 4, 2019); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹⁹ *Supra* note 13.

²⁰ *Supra* note 11.

²¹ *C.A.*, Docket No. 21-0601 (issued November 15, 2021); *K.R.*, Docket No. 20-1103 (issued January 5, 2021); *F.S.*, Docket No. 19-0205 (issued June 19, 2019); *A.B.*, Docket No. 17-0301 (issued May 19, 2017).

²² *R.G.*, Docket No. 22-0165 (issued August 11, 2022); *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

²³ *See J.S.* Docket No. 22-1388 (issued April 4, 2023); *R.P.*, Docket No. 17-1133 (issued January 18, 2018); *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

²⁴ *S.P.*, Docket No. 22-0393 (issued August 26, 2022); *M.C.*, Docket No. 18-1374 (issued April 23, 2019); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.²⁵ 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.²⁶

ANALYSIS -- ISSUE 2

The Board finds that OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 17, 2021, as she no longer had disability or residuals causally related to her accepted February 26, 2015 employment injury.

In his March 6, 2020 narrative report and July 28, 2020 addendum, Dr. Bannon, the second opinion physician, discussed appellant's factual and medical history, and reported the findings of his March 6, 2020 physical examination. On examination Dr. Bannon documented full and painless range of motion of appellant's right hip and right shoulder, and he documented positive examination findings in the left knee. He noted that she had additional diagnoses of osteoarthritis and DJD of the left knee but opined that those conditions were present prior to the February 26, 2015 fall at work. Dr. Bannon indicated that the accepted left knee meniscus tear was satisfactorily addressed and removed during arthroscopic surgery. He explained that appellant's current pain and disability were the result of progressively worsening osteoarthritis of the left knee, which he opined was unrelated to the February 26, 2015 employment injury, finding that "there is no relationship between the osteoarthritis and left knee DJD to the work incident."

The Board has reviewed the opinion of Dr. Bannon and finds that it has reliability, probative value, and convincing quality with respect to its conclusions regarding the relevant issue of work-related disability/residuals. He provided a thorough factual and medical history and accurately summarized the relevant medical evidence. Dr. Bannon also provided medical rationale for his opinion by explaining that appellant did not exhibit objective evidence of any ongoing injury to the right shoulder or hip and that the left knee meniscus tear was satisfactorily addressed and removed during arthroscopic surgery in 2016. He also explained that her continuing left knee problems were due to nonwork-related factors, including osteoarthritis and DJD which preexisted the February 26, 2015 employment injury.²⁷ Consequently, Dr. Bannon's opinion is entitled to the weight of the evidence.²⁸

²⁵ *E.J.*, Docket No. 20-0013 (issued November 19, 2020); *A.G.*, Docket No. 19-0220 (issued August 1, 2019); *A.P.*, Docket No. 08-1822 (issued August 5, 2009); *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *Furman G. Peake*, 41 ECAB 361, 364 (1990).

²⁶ *See A.G., id.*; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002).

²⁷ *See R.G.*, Docket No. 22-0165 (issued August 11, 2022); *W.C.*, Docket No. 18-1386 (issued January 22, 2019); *D.W.*, Docket No. 18-0123 (issued October 4, 2018); *Melvina Jackson*, 38 ECAB 443 (1987) (regarding the importance, when assessing medical evidence, of such factors as a physician's knowledge of the facts and medical history, and the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion).

²⁸ *See P.H.*, Docket No. 21-1072 (issued May 18, 2022); *A.M.*, Docket No. 18-1243 (issued October 7, 2019); *C.V.*, Docket No. 17-1159 (issued April 6, 2018); *Manuel Gill*, 52 ECAB 282 (2001).

Appellant submitted the reports of Dr. Ross and Dr. Kahn who did not explain how and/or why appellant remained disabled due to the accepted February 26, 2015 employment-related conditions. Their reports are insufficient to overcome the weight accorded to Dr. Bannon, or to create a conflict in medical opinion; therefore, the Board finds that OWCP has met its burden of proof.

LEGAL PRECEDENT -- ISSUE 3

When OWCP properly terminates compensation benefits, the burden shifts to appellant to establish continuing disability or residuals after that date, causally related to the accepted employment injury.²⁹ To establish 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 causal relationship.³⁰

ANALYSIS -- ISSUE 3

The Board finds that appellant has not met her burden of proof to establish continuing disability or residuals on or after September 17, 2021 causally related to her accepted February 26, 2015 employment injury.

After OWCP's September 17, 2021 decision terminating appellant's compensation effective that date, appellant requested a hearing and submitted the November 29, 2021 report from Dr. Kahn. However, as explained above, the report of Dr. Kahn is of limited probative value regarding continuing work-related disability or residuals because Dr. Kahn failed to provide adequate medical rationale in support of his opinion on causal relationship.³¹

As appellant has not provided rationalized medical evidence establishing continuing disability or residuals on or after September 17, 2021 causally related to her accepted employment injury, the Board finds that she has not met her burden of proof.³²

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 met her burden of proof to expand the acceptance of her claim to include osteoarthritis and DJD of the left knee causally related to the accepted

²⁹ See *J.C.*, Docket No. 22-0033 (issued June 8, 2022); *S.M.*, Docket No. 18-0673 (issued January 25, 2019); *C.S.*, Docket No. 18-0952 (issued October 23, 2018); *Manuel Gill*, 52 ECAB 282 (2001).

³⁰ *Id.*

³¹ *Supra* note 29.

³² *J.R.*, Docket No. 20-0211 (issued November 5, 2020); *C.C.*, Docket No. 19-1062 (issued February 6, 2020).

February 26, 2015 employment injury. The Board further finds that OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 17, 2021, as she no longer had disability or residuals causally related to her accepted February 26, 2015 employment injury. The Board also finds that appellant has not met her burden of proof to establish continuing disability or residuals on or after September 17, 2021 causally related to her accepted February 26, 2015 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the February 24, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 10, 2024
Washington, DC

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board