

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

W.S., Appellant)
and) Docket No. 25-0329
U.S. POSTAL SERVICE, SEATTLE NETWORK)
DISTRIBUTION CENTER, Federal Way, WA,)
Employer) Issued: August 6, 2025

Appearances:
Appellant, *pro se*
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On February 23, 2025, appellant filed a timely appeal from a September 13, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation, effective September 13, 2024, as she no longer had disability causally related to her accepted September 25, 2023 employment injury.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that following the September 13, 2024 decision, OWCP received additional evidence. The Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

FACTUAL HISTORY

On September 29, 2023, appellant, then a 39-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on September 25, 2023 she sustained dog bites on her right arm, stomach, and leg while in the performance of duty. She stopped work on September 28, 2023. OWCP accepted the claim for dog bite/open bite of right forearm and other articular cartilage disorders of right wrist. It paid appellant wage-loss compensation on the supplemental rolls, effective December 9, 2023.

In a November 3, 2023 report, Dr. Christopher J. Godbout, a Board-certified physiatrist, noted the history of the September 25, 2023 dog bite on right forearm and that appellant had persistent pain and weakness in her little and ring finger. He indicated that an electromyography (EMG) study of the right upper extremity of the same date was normal, but a nerve conduction velocity (NCV) study revealed decreased conduction velocity of the right ulnar motor nerve with no evidence of electrical instability. Dr. Godbout opined that appellant's symptoms in the ulnar nerve distribution of the right upper extremity may be related to a tendon injury. He recommended a magnetic resonance imaging (MRI) scan of the forearm and work modification. A copy of the November 3, 2023 EMG/NCV report was included.

A December 14, 2023 MRI scan of right wrist revealed tearing of the triangular fibrocartilage (TFCC); tendinosis; septated ganglion or synovial cyst volar to the radial styloid; and no evidence of acute bony abnormality.

A January 8, 2024 MRI scan of right forearm revealed no acute bony abnormality; no abnormal edema like signal or atrophy of the muscles; and mild edema signal along the biceps tendon suggestive of strain and/or partial-thickness low-grade tearing.

In an April 10, 2024 report, Dr. Alan B. Thomas, a Board-certified orthopedic surgeon, noted the history of injury along with appellant's post-injury symptoms, reviewed the January 8, 2024 MRI scan of right wrist and an MRI scan of right biceps imaging studies of even date, and performed a physical examination. He diagnosed right upper extremity shoulder hand syndrome (a component of complex regional pain syndrome (CRPS)), with frozen shoulder/adhesive capsulitis. Dr. Thomas opined that it would be at least one year before appellant was stable enough to return to work. He also provided progress reports.

On May 29, 2024, OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Aleksandar Curcin, a Board-certified orthopedic surgeon, for a second opinion examination regarding her work capacity. It also requested that Dr. Curcin opine whether the acceptance of the claim should be expanded to include the additional medical condition(s) of right biceps tendon tear, tendinitis of extensor carpi ulnaris of right wrist, paresthesia of right arm, right upper extremity shoulder hand syndrome (a component of CRPS), and trigger finger right little finger.

In a June 20, 2024 report, Dr. Curcin noted his review of the SOAF and appellant's medical records, pointing out that the accepted September 25, 2023 conditions included dog bite of upper arm and other articular cartilage disorders, right wrist. He related that his examination findings were limited and curtailed as a result of appellant's overall presentation, which included noting that she was spontaneously tremoring the right upper extremity throughout the examination. Dr. Curcin indicated that appellant's current objective findings consisted of diagnostic testing,

which included right biceps tendon tear, tendinitis of extensor carpi ulnaris of right wrist, paresthesia of right arm, right upper extremity shoulder hand syndrome (a component of CRPS), and trigger finger right little finger, but noted that her subjective findings outweighed the objective findings identified on imaging studies. Based on the mechanism of injury and his review of the diagnostic imaging studies, he found no evidence that appellant was suffering from residuals strictly attributed to the accepted employment conditions of dog bite of upper arm and other articular cartilage disorders, right wrist, finding that her symptomatology extended beyond the anticipated/expected sequela of a one-time dog bite. Dr. Curcin thus opined that, considering only the accepted employment conditions on the SOAF, appellant was capable of returning to regular-duty work without restrictions. He further opined that he did not recommend any further curative treatment on the basis of the accepted employment conditions as appellant's condition had metastasized far beyond the original injury into a variety of complaints and diagnoses unsupported by the initial mechanism of injury. Dr. Curcin also set forth his opinions regarding appellant's other diagnosed conditions. Based on the mechanism of injury and the diagnostic imaging studies, he opined that there was no evidence of a right biceps tendon tear and the tendinosis of the extensor carpi ulnaris tendon represented a chronic finding unrelated to appellant's current employment injury. Dr. Curcin also stated that he was unable to comment on appellant's right arm paresthesia based on his inability to perform a physical examination, CRPS was beyond his area of expertise, and the trigger finger of the right little finger could not be validated. In a work-capacity evaluation (Form OWCP-5c) of even date, he opined that appellant was capable of performing her usual work without restrictions.

In a July 3, 2024 report, Margaret L. Rodgers, a certified physician assistant, assessed right upper extremity shoulder hand syndrome (a component of CRPS) with frozen shoulder/adhesive capsulitis from traumatic dog bite while at work.

In a July 3, 2024 duty status report (Form CA-17), Dr. Thomas opined that appellant's CRPS was due to the September 25, 2023 employment injury. He also opined that appellant was not able to resume work.

By notice dated July 26, 2024, OWCP advised appellant that it proposed to terminate her wage-loss compensation based on Dr. Curcin's opinion that the accepted employment conditions had resolved without residual disability. It afforded her 30 days to submit additional evidence or argument challenging the proposed action.

OWCP subsequently received an August 14, 2024 report from Dr. Thomas, who provided examination findings and continued to assess right upper extremity shoulder hand syndrome (a component of CRPS) with frozen shoulder/adhesive capsulitis from traumatic event while at work from dog bite. He opined that the diagnoses were the aftereffects of a dog bite to her forearm as she has developed severe shoulder-hand syndrome (a variant of CRPS). Dr. Thomas also opined that appellant could not work, noting that improvement from the injury residuals would likely take one to two years. He also indicated that the January 8, 2024 MRI scan of the right wrist showed cyst at the volar wrist radial styloid, tearing of the TFCC, inflammation over the dorsal aspect of the wrist and that the January 8, 2024 MRI scan of the right biceps showed partial thickness low grade tearing of the biceps tendon. In a Form CA-17 of even date, Dr. Thomas continued to opine that appellant was disabled from work.

By decision dated September 13, 2024, OWCP terminated appellant's wage-loss compensation, effective that date, based on Dr. Curcin's second opinion.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify modification or termination of an employee's benefits.³ 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.⁴ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁵

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation, effective September 13, 2024.

In his June 20, 2024 second opinion report and accompanying Form OWCP-5c, Dr. Curcin noted his review of the SOAF and appellant's medical record. He indicated that the objective findings were derived from the diagnostic imaging studies as his examination findings were limited and curtailed due to appellant's overall presentation. Dr. Curcin opined that appellant no longer had residuals of her accepted employment conditions noted on the SOAF, which included dog bite/open bite of right forearm and other articular cartilage disorders of right wrist, and that she could perform her usual work without restriction as her symptomatology had extended far beyond the anticipated/expected sequela of a one-time dog bite. He also addressed the issue of whether the acceptance of appellant's claim should be expanded to include additionally diagnosed conditions. In this regard, Dr. Curcin opined that, based on the mechanism of injury and the diagnostic imaging studies, there was no evidence of a right biceps tendon tear and the tendinosis of the extensor carpi ulnaris tendon represented a chronic finding unrelated to appellant's current employment injury. He noted that he was unable to comment on appellant's right arm paresthesia based on his inability to perform a physical examination, CRPS was beyond his area of expertise, and the trigger finger of the right little finger could not be validated.

As OWCP undertook development of the medical record to determine whether the acceptance of appellant's claim should be expanded to include additional medical conditions, the Board finds that OWCP has not resolved this issue. Dr. Curcin indicated that he was unable to comment on appellant's right arm paresthesia based on his inability to perform a physical examination, CRPS was beyond his area of expertise, and the trigger finger of the right little finger

³ *R.R.*, Docket No. 25-0090 (issued January 31, 2025); *M.R.*, Docket No. 25-0148 (issued January 27, 2025); *C.F.*, Docket No. 21-0003 (issued January 21, 2022); *J.T.*, Docket No. 19-1723 (issued August 24, 2020); *S.P.*, Docket No. 19-0196 (issued June 24, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁴ *R.R.*, *id.*; *S.P.*, Docket No. 22-0393 (issued August 26, 2022); *A.T.*, Docket No. 20-0334 (issued October 8, 2020); *E.B.*, Docket No. 18-1060 (issued November 1, 2018).

⁵ *S.P.*, *id.*; *C.R.*, Docket No. 19-1132 (issued October 1, 2020); *G.H.*, Docket No. 18-0414 (issued November 14, 2018).

could not be validated. As the issue of expansion is not in posture for decision, the Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation.⁶

On remand, OWCP shall prepare an updated SOAF and refer appellant to a second opinion physician in the appropriate field of medicine for an examination and a rationalized medical opinion on the issue of expansion.⁷ After this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

CONCLUSION

The Board finds that OWCP has improperly terminated appellant's entitlement to wage-loss compensation, effective September 13, 2024.

ORDER

IT IS HEREBY ORDERED THAT the September 13, 2024 decision of the Office of Workers' Compensation Programs is reversed.

Issued: August 6, 2025
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

⁶ See *D.T.*, Docket No. 22-0206 (issued October 11, 2024); *C.M.*, Docket No. 22-0183 (issued January 9, 2024); *M.B.*, Docket No. 22-1180 (issued August 17, 2023).

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (May 2023); *C.C.*, Docket No. 19-1631 (issued February 12, 2020).