

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

J.R., Appellant)
and) Docket No. 25-0710
U.S. POSTAL SERVICE, MORGAN) Issued: August 28, 2025
PROCESSING & DISTRIBUTION CENTER,)
New York City, NY, Employer)

)

Appearances:

Paul Kalker, Esq., for the appellant¹
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge

JURISDICTION

On July 18, 2025 appellant, through counsel, filed a timely appeal from a June 23, 2025 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.³

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 an 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.*

³ The Board notes that OWCP received additional evidence following the June 23, 2025 decision. However, 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.*

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective December 13, 2024, as she no longer had disability or residuals causally related to her accepted October 27, 2009 employment injury; and (2) whether appellant has met her burden of proof to establish continuing disability and/or residuals on or after December 13, 2024, causally related to the accepted employment injury.

FACTUAL HISTORY

This case was previously before the Board on a different issue.⁴ 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 October 27, 2009 appellant, then a 30-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on that date she injured her back when she lifted and moved heavy parcels while in the performance of duty. OWCP accepted the claim for lumbosacral radiculitis. It paid appellant wage-loss compensation on the supplemental rolls effective December 13, 2009 and on the periodic rolls effective March 14, 2010.

In a medical report dated June 24, 2024, Dr. Guatam Khakhar, a Board-certified physiatrist, noted that appellant related complaints of low back pain with bilateral lower extremity weakness, which she attributed to the October 27, 2009 employment injury. He performed a physical examination and observed tenderness, painful range of motion (ROM), spasm, low back pain with straight leg raising, and reduced strength in the hip and knee flexors. Dr. Khakhar also observed normal sensation and normal deep tendon reflexes. He reviewed a magnetic resonance imaging (MRI) scan of the lumbar spine and diagnosed lumbar disc herniation. Dr. Khakhar recommended physical therapy and an electromyography and nerve conduction velocity (EMG/NCV) study of the lower extremities. He opined that appellant was temporarily totally disabled from work.

On July 10, 2024 OWCP referred appellant, together with the medical record, a statement of accepted facts (SOAF), and a series of questions to Dr. Lawrence Barr, a Board-certified osteopathic orthopedic surgeon, for a second opinion regarding whether appellant continued to suffer from residuals and/or disability causally related to her accepted work-related injury. The SOAF provided to Dr. Barr listed the accepted condition as lumbosacral radiculitis.

In a report dated August 7, 2024, Dr. Barr noted his review of the SOAF and appellant's medical records. He indicated that she related complaints of low back and leg pain. Dr. Barr performed a physical examination, where he observed no deformity with forward flexion, subjective tenderness through the upper and lower paraspinal musculature, negative sitting root and straight leg raise testing, negative Patrick's sign, full strength, normal reflexes and sensation, no clonus or Babinski, equal calf circumference, reduced active ROM in all planes in the lumbar spine, and normal active ROM in the hips. He diagnosed low back pain and opined that the condition had fully resolved. Dr. Barr explained that appellant's normal objective examination findings did not correlate with her subjective complaints. He opined that there was no need for

⁴ Docket No. 13-0720 (issued October 21, 2013).

further medical treatment and that she was medically capable of performing her preinjury position as a city carrier.

In a notice dated October 7, 2024, OWCP advised appellant that it proposed to terminate her wage-loss compensation and medical benefits based on Dr. Barr's opinion that the accepted employment-related conditions had ceased without residuals or disability. It afforded her 30 days to submit additional evidence or argument challenging the proposed termination.

In an October 28, 2024 medical report, Dr. Khakhar repeated appellant's same complaints and examination findings. He diagnosed lumbar disc herniation and continued to recommend physical therapy and an EMG/NCV study of the lower extremities.

By decision dated December 13, 2024, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date. It found that Dr. Barr's opinion constituted the weight of the medical opinion evidence and established that appellant no longer had disability or residuals causally related to the accepted October 27, 2009 employment injury.

On June 2, 2025 appellant, through counsel, requested reconsideration. In support thereof, counsel submitted legal argument and an April 28, 2025 narrative letter by Dr. Khakhar, who reiterated his opinion that appellant was totally disabled from work due to a work-related lumbar disc herniation. He explained that herniated discs cause diminished ROM and difficulty with mobility.

By decision dated June 23, 2025, OWCP denied modification of its December 13, 2024 decision.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify modification or termination of an employee's benefits.⁵ 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.⁶ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁷ The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁸ To

⁵ *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).

⁶ *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).

⁷ *S.P.*, *id.*; *C.R.*, Docket No. 19-1132 (issued October 1, 2020); *G.H.*, Docket No. 18-0414 (issued November 14, 2018).

⁸ *S.P.*, *id.*; *E.J.*, Docket No. 20-0013 (issued November 19, 2020); *L.W.*, Docket No. 18-1372 (issued February 27, 2019).

terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.⁹

ANALYSIS -- ISSUE 1

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

In a report dated August 7, 2024, Dr. Barr noted his review of the SOAF and appellant's medical records. He performed a physical examination, where he observed no deformity with forward flexion, subjective tenderness through the upper and lower paraspinal musculature, negative sitting root and straight leg raise testing, negative Patrick's sign, full strength, normal reflexes and sensation, no clonus or Babinski, equal calf circumference, reduced active ROM in all planes in the lumbar spine, and normal active ROM in the hips. Dr. Barr diagnosed low back pain and opined that the condition had fully resolved, explaining that appellant's normal objective examination findings did not correlate with her subjective complaints. He determined that there was no need for further medical treatment and that she was medically capable of performing her preinjury position as a city carrier. Dr. Barr's opinion, however, was conclusory with regard to the accepted condition of lumbosacral radiculopathy. He did not sufficiently explain how or why the accepted condition had ceased without disability or residuals as of December 13, 2024.

The Board has held that a medical report is of limited probative value if it contains a conclusion which is unsupported by sufficient medical rationale.¹⁰ Dr. Barr's report is therefore insufficient to carry the weight of the medical evidence. The Board thus finds that OWCP failed to meet its burden of proof.¹¹

CONCLUSION

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

⁹ *C.F.*, *supra* note 5; *M.E.*, Docket No. 20-0877 (issued August 17, 2021); *L.S.*, Docket No. 19-0959 (issued September 24, 2019); *R.P.*, Docket No. 18-0900 (issued February 5, 2019).

¹⁰ See *C.B. (S.B.)*, Docket No. 19-1629 (issued April 7, 2020); *V.T.*, Docket No. 18-0881 (issued November 19, 2018); *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).

¹¹ In light of the Board's disposition of Issue 1, Issue 2 is rendered moot.

ORDER

IT IS HEREBY ORDERED THAT the June 23, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: August 28, 2025
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board