

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

F.D., Appellant)
and) Docket No. 25-0512
DEPARTMENT OF THE NAVY, MARE)
ISLAND NAVAL SHIPYARD, Mare Island, CA,)
Employer)
Issued: June 9, 2025

Appearances:
Appellant, pro se
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 April 23, 2025 appellant filed a timely appeal from a January 10, 2025 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.

ISSUE

The issue is whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective January 10, 2025, as he no longer had disability or residuals causally related to his accepted December 22, 1994 employment injury.

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

This case has previously been before the Board on a different issue.² 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 December 22, 1994 appellant, then a 55-year-old painter, filed an occupational disease claim alleging that he sustained right knee strain and medial meniscal tear due to factors of his federal employment.³ OWCP accepted the claim for right knee sprain and medial meniscal tear.⁴ By decision dated December 13, 1999, it determined that the position of computer graphic artist fairly and reasonably represented appellant's wage-earning capacity pursuant to 5 U.S.C. § 8115. OWCP paid wage-loss compensation on the periodic rolls commencing April 2, 1996.

In a January 27, 2017 report, appellant's attending physician, Dr. Gregory Coe, a Board-certified family practitioner, diagnosed right medial collateral ligament strain, right derangement of anterior horn of the meniscus, and knee sprain, which were permanent and stationary on March 24, 2008. He opined that appellant was totally disabled from work. Dr. Coe provided treatment notes dated December 9, 2010 through January 27, 2017 diagnosing osteoarthritis of the right knee with an onset date of December 9, 2010.

On December 5, 2019 OWCP requested an updated medical report from Dr. Coe. No response was received.

On May 17, 2021 OWCP referred appellant, along with a statement of accepted facts (SOAF), the medical record, and a series of questions, to Dr. John H. Welborn, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine the nature and extent of appellant's employment-related residuals and disability.

In a July 19, 2021 report, Dr. Welborn noted his review of the SOAF and his evaluation findings. He diagnosed employment-related chronic derangement of the medial meniscus of the right knee, which had not resolved, and sprain of medial collateral ligament injury. Dr. Welborn further diagnosed right knee arthritis which he opined was due to appellant's advanced age and degeneration. He attributed appellant's ongoing disability to the right knee arthritis rather than the right knee degenerative medial meniscus tear. Dr. Welborn recommended a total right knee replacement on a nonindustrial basis. He also completed a work capacity evaluation (Form OWCP-5c) of even date and found that appellant could not return to his date-of-injury position

² Docket No. 98-680 (issued August 16, 1999).

³ OWCP assigned the present claim OWCP File No. xxxxxx800. Appellant previously filed a May 12, 1988 traumatic injury claim for a right knee injury. OWCP assigned this file OWCP File No. xxxxxx936. It administratively combined OWCP File Nos. xxxxxx936 and xxxxxx800, with the latter serving as the master file.

⁴ The employing establishment closed in 1996 and appellant applied for disability retirement. Appellant elected to receive FECA wage-loss compensation effective April 1, 1996. By decision dated November 21, 1997, OWCP granted appellant a schedule award for five percent permanent impairment of the right lower extremity.

but could work eight hours a day with restrictions. Dr. Welborn noted that he could perform sedentary strength level work. He diagnosed knee arthritis as an additional condition.

On August 1, 2024 OWCP again referred appellant, the SOAF, the medical record, and a series of questions to Dr. Welborn for a supplemental opinion regarding the nature and extent of appellant's employment-related residuals and disability.

In an August 28, 2024 supplemental report, Dr. Welborn noted his review of the SOAF and his evaluation findings. He diagnosed sprain of the medial collateral ligament of the right knee, improved, deteriorating right knee arthritis, and stable chronic derangement of the medial meniscus of the right knee. Dr. Welborn opined that appellant did not have active residuals of the accepted conditions, but was experiencing symptoms of nonindustrial right knee arthritis. He determined that appellant could not return to his date-of-injury position noting that he was 84 years old with multiple medical problems including walking with a cane and low back pain. Dr. Welborn opined that appellant could perform sedentary work and recommended additional right knee arthritis treatments including cortisone injections and knee replacement. He also completed an OWCP-5c of even date indicating that appellant could perform sedentary exertion work with restrictions on pushing, pulling, and lifting greater than 10 pounds.

In a notice dated October 10, 2024, OWCP proposed to terminate appellant's wage-loss compensation and medical benefits based on Dr. Welborn's August 28, 2024 report. It afforded him 30 days to submit additional evidence or argument.

Appellant responded on October 21, 2024. He asserted that he continued to experience constant pain in his knee, and that Dr. Welborn had diagnosed right knee arthritis.

On November 21, 2024 OWCP requested a supplemental report from Dr. Welborn addressing whether appellant's diagnosed right knee arthritis was a consequence of his accepted employment injury.

In a November 25, 2024 report, Dr. Welborn reviewed the medical evidence of record and opined that appellant's right knee arthritis was not industrially related; rather it was due to advanced age and degeneration. He further explained that appellant's right knee arthritis was due to the varus angulation in his right knee, and not causally related to the accepted employment injury. Dr. Welborn concluded that appellant had generalized osteoarthritis and not traumatic arthritis.

By decision dated January 10, 2025, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date. It found that Dr. Welborn'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 December 22, 1994 employment injury.

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.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 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

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective January 10, 2025, as he no longer had disability or residuals causally related to his accepted December 22, 1994 employment injury.

In a July 19, 2021 report, Dr. Welborn noted his review of the SOAF and his evaluation findings. He diagnosed employment-related chronic derangement of the medial meniscus of the right knee, which had not resolved, and sprain of medial collateral ligament injury. Dr. Welborn further diagnosed right knee arthritis which he opined was due to appellant's advanced age and degeneration. He attributed appellant's ongoing disability to the right knee arthritis rather than the right knee degenerative medial meniscus tear. Dr. Welborn recommended a total right knee replacement on a nonindustrial basis. He also completed a Form OWCP-5c of even date and found that appellant could not return to his date-of-injury position but could work eight hours a day with restrictions. Dr. Welborn noted that he could perform sedentary strength level work. He diagnosed knee arthritis as an additional condition.

In his August 28, 2024 report, Dr. Welborn noted his review of the SOAF and his evaluation findings. He diagnosed sprain of the medial collateral ligament of the right knee, improved, deteriorating right knee arthritis, and stable chronic derangement of the medial

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).

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).

meniscus of the right knee. Dr. Welborn explained that appellant did not have active residuals of the accepted conditions but was experiencing symptoms of nonindustrial right knee arthritis. In his supplemental report dated November 25, 2024, he explained that the right knee arthritis was not industrially related and was due to advanced age and degeneration in addition to the varus angulation in appellant's right knee. Dr. Welborn concluded that appellant had generalized osteoarthritis and not traumatic arthritis. He determined that appellant could not return to his date-of-injury position due to his age and additional nonemployment-related conditions.

Dr. Welborn based his opinion on detailed findings on examination, review of the medical history.¹⁰ He further provided a sufficiently rationalized opinion that appellant was no longer disabled as he no longer had residuals or disability causally related to his accepted employment injury, explaining that findings on examination demonstrated no continued employment-related condition.¹¹ Accordingly, the Board finds that Dr. Welborn's second opinion represents the weight of the medical evidence in terminating appellant's wage-loss compensation and medical benefits.¹²

The Board, therefore, finds that OWCP properly terminated appellant's wage-loss compensation and medical benefits, effective January 10, 2025.

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective January 10, 2025, as he no longer had disability or residuals causally related to his accepted December 22, 1994 employment injury.

¹⁰ See *M.R.*, Docket No. 23-1052 (issued March 5, 2024); *S.V.*, Docket No. 23-0474 (issued August 1, 2023); *J.S.*, Docket No. 20-1409 (issued September 1, 2021).

¹¹ *J.P.*, Docket No. 23-0075 (issued March 26, 2023); *J.S.*, *id.*

¹² *H.J.*, Docket No. 24-0879 (issued October 29, 2024); *M.H.*, Docket No. 24-0470 (issued July 25, 2024); *R.P.*, Docket No. 20-0891 (issued September 20, 2021); *N.G.*, Docket No. 18-1340 (issued March 6, 2019); *A.F.*, Docket No. 16-0393 (issued June 24, 2016).

ORDER

IT IS HEREBY ORDERED THAT the January 10, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 9, 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