

ISSUE

The issue is whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 18, 2024, as he no longer had disability or residuals causally related to his accepted May 4, 2017 employment injury.

FACTUAL HISTORY

On June 16, 2017, appellant, then a 77-year-old mail handler equipment operator, filed a traumatic injury claim (Form CA-1) alleging that on May 4, 2017 he injured his left knee, feet, and ankles when he was lifting, pushing, walking, and bending to separate tray containers while in the performance of duty. He stopped work on the date of injury and returned to work on May 15, 2017. OWCP accepted the claim for aggravations of primary osteoarthritis of the right shoulder, knees, ankles, and feet; aggravations of cervical, thoracic, and lumbar radiculopathy; and aggravations of bilateral peroneus brevis tendon tears.³

Appellant underwent partial arthroplasty and lateral meniscectomy excision of osteophytes and patelloplasty to the left knee on December 9, 2021 and to the right knee on September 29, 2022.

OWCP paid appellant wage-loss compensation on the supplemental rolls effective April 22, 2019, and on the periodic rolls, effective July 14, 2024.

In an August 11, 2023 narrative report, Dr. Steven S. Moalemi, a Board-certified physiatrist, diagnosed cervical radiculopathy, trauma to the neck, right shoulder, lower back, and feet, and bilateral knee osteoarthritis. He opined that appellant had reached maximum medical improvement (MMI) and indicated that he could perform his pre-injury position without restrictions. In a work capacity evaluation (Form OWCP-5c) of even date, Dr. Moalemi indicated that appellant could work eight hours per day, lifting up to 50 pounds, with breaks every 15 minutes. He noted that the restrictions were permanent.

OWCP also received reports from Swati Shekhada, a physical therapist, dated February 6 through July 10, 2024.

On June 17, 2024, OWCP referred the case record, a statement of accepted facts (SOAF), and a series of questions to Dr. Sean Lager, a Board-certified orthopedic surgeon and sports medicine specialist, for a second opinion evaluation.

³ OWCP assigned the present claim OWCP File No. xxxxxx352. Appellant has previously accepted claims under OWCP File Nos. xxxxxx288 (right leg radiculopathy), xxxxxx026 (right knee and rotator cuff sprains), xxxxxx203 (aggravations of preexisting right shoulder sprain and preexisting cervical radiculopathy), xxxxxx602 (calcifying tendinitis of the right shoulder and brachial neuritis), and xxxxxx543 (aggravation of cervical radiculopathy). He also has prior claims under OWCP File Nos. xxxxxx474 (right knee and left foot) and xxxxxx029 (neck and back), which OWCP denied. Additionally, appellant filed a December 16, 2015 traumatic injury claim for injuries to his neck and feet, which OWCP processed as a short form closure under OWCP File No. xxxxxx042. OWCP has not administratively combined the claims.

In a July 18, 2024 report, Dr. Lager reviewed the SOAF and medical record. He noted that appellant related no pain in his neck, back, legs, and ankles; moderate pain with movement in the right shoulder; and hamstring pain, which he attributed to physical therapy. Dr. Lager performed a physical examination where he observed intact ROM and good strength in the shoulders, spine, hips, and legs and reduced dorsiflexion of the left foot compared to the right. He indicated that appellant's subjective complaints corresponded with the objective examination findings. Dr. Lager opined that appellant did not suffer from active residuals of the accepted employment injuries, had good ROM and strength, was not in need of any further medical treatment for the accepted employment injuries, and could return to his date-of-injury position without restrictions.

By notice dated August 13, 2024, OWCP advised appellant that it proposed to terminate his wage-loss compensation and medical benefits based on Dr. Lager's opinion that the accepted employment-related conditions had ceased without residuals or disability. It afforded him 30 days to submit additional evidence or arguments challenging the proposed termination.

OWCP thereafter received an August 14, 2024 physical therapy report by Ms. Shekhada.

By decision dated September 18, 2024, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date. It found that Dr. Lager's opinion constituted the weight of the medical evidence, establishing that he no longer had disability or residuals causally related to the accepted May 4, 2017 employment injury.

On September 27, 2024, appellant, through counsel, requested a telephonic hearing before OWCP's Branch of Hearings and Review.

OWCP thereafter received an October 24, 2024 note by Dr. Moalemi, who indicated that appellant had reached MMI on August 11, 2023.

A telephonic hearing took place on January 17, 2025 where appellant testified that he had returned to work with the employing establishment but had not received the correct pay. He indicated that he was not contesting OWCP's termination of his compensation benefits with respect to his disability.

OWCP thereafter received January 24, 2025 magnetic resonance imaging (MRI) scans of appellant's hands, which noted a history of "chronic hand pain" and revealed mild osteoarthritis in the right hand and cartilage loss in the left hand.

In a March 4, 2025 Equal Employment Opportunity Commission pre-hearing statement, appellant indicated that he had "fully overcome an injury more than one year ago."

By decision dated March 31, 2025, OWCP's hearing representative affirmed the September 18, 2024 termination decision.

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.⁴ 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.⁵ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁶ The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.⁷ 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.⁸

ANALYSIS

The Board finds that OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 18, 2024, as he no longer had disability or residuals causally related to his accepted May 4, 2017 employment injury.

In a July 18, 2024 report, Dr. Lager, OWCP's second opinion physician, reviewed appellant's factual and medical history, and reported physical examination findings. He noted that appellant had no complaints of pain in his neck, back, legs, or ankles, and that he had good ROM and strength throughout. Dr. Lager concluded that appellant no longer had disability or residuals due to the accepted May 4, 2017 employment injury, did not require any further treatment, and could return to his date-of-injury position without restrictions.

The Board finds that the weight of the medical opinion evidence with respect to appellant's continuing work-related disability/residuals is represented by the well-rationalized opinion of Dr. Lager, OWCP's referral physician. The Board has reviewed the opinion of Dr. Lager and finds that it is sufficiently rationalized to carry the weight of the medical evidence with respect to its conclusions regarding the relevant issue of continuing work-related disability/residuals.

⁴ *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).

⁵ *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).

⁶ *S.P.*, *id.*; *C.R.*, Docket No. 19-1132 (issued October 1, 2020); *G.H.*, Docket No. 18-0414 (issued November 14, 2018).

⁷ *S.P.*, *id.*; *E.J.*, Docket No. 20-0013 (issued November 19, 2020); *L.W.*, Docket No. 18-1372 (issued February 27, 2019).

⁸ *C.F.*, *supra* note 4; *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).

Accordingly, OWCP properly relied on Dr. Lager's opinion in terminating appellant's wage-loss compensation and medical benefits, effective September 18, 2024.⁹

Appellant submitted an October 24, 2024 note by Dr. Moalemi, who indicated that appellant had reached MMI as of his most recent evaluation on August 11, 2023. He also submitted a medical report and Form OWCP-5c by Dr. Moalemi dated August 11, 2023, more than one year prior to Dr. Lager's second opinion. The Board has held that stale medical evidence cannot form the basis for current evaluation of residual symptomatology or disability determination.¹⁰ The Board finds that Dr. Moalemi's medical reports are internally inconsistent. As such, they are of diminished probative value.¹¹

Appellant also submitted an August 14, 2024 physical therapy report by Ms. Shekhada and January 24, 2025 MRI scans. However, certain health care providers such as nurses, physician assistants, and physical therapists are not considered physicians under FECA and, therefore, are not competent to provide a medical opinion.¹² Moreover, the Board has held that diagnostic studies, standing alone, lack probative value on the issue of causal relationship.¹³

As the medical evidence of record establishes that appellant no longer had disability or residuals causally related to the accepted May 4, 2017 employment injury, the Board finds that OWCP met its burden of proof.

CONCLUSION

The Board finds that OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 18, 2024, as he no longer had disability or residuals causally related to his accepted May 4, 2017 employment injury.

⁹ *D.G.*, Docket No. 25-0024 (issued February 26, 2025); *R.P.*, Docket No. 17-1133 (issued January 18, 2018); *A.P.*, Docket No. 08-1822 (issued August 5, 2009).

¹⁰ *S.H.*, Docket No. 18-1297 (issued January 3, 2019); *see K.S.*, Docket No. 15-1082 (issued April 18, 2017); *see also Keith Hanselman*, 42 ECAB 680 (1991); *Ellen G. Trimmer*, 32 ECAB 1878 (1981).

¹¹ *See D.T. (W.T.)*, Docket No. 24-0649 (issued February 3, 2025); *C.C.*, Docket No. 18-1229 (issued March 8, 2019); *S.K.*, Docket No. 18-0836 (issued February 1, 2019); *E.D.*, Docket No. 17-1064 (issued March 22, 2018).

¹² Section 8102(2) of FECA provides as follows: physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8102(2); 20 C.F.R. § 10.5(t). *See Federal (FECA) Procedure Manual*, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3a(1) (May 2023); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as physician assistants, nurses, and physical therapists are not competent to render a medical opinion under FECA).

¹³ *F.D.*, Docket No. 19-0932 (issued October 3, 2019); *J.S.*, Docket No. 17-1039 (issued October 6, 2017).

ORDER

IT IS HEREBY ORDERED THAT the March 31, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 27, 2025
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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