

supplemental rolls commencing November 27, 1992, and on the periodic rolls commencing September 18, 1994.

Following an October 6, 2021 pretermination notice, by decision dated April 4, 2022, OWCP finalized the termination of appellant's wage-loss compensation and medical benefits effective that date, based on the opinion of Dr. Rafael Lopez, a Board-certified orthopedic surgeon serving as a second opinion physician.

On April 12, 2022 appellant filed an appeal with the Board. By decision dated October 14, 2022, the Board reversed the April 4, 2022 termination decision, finding that OWCP had not met its burden of proof to terminate appellant's compensation benefits because the statement of accepted facts (SOAF) provided to Dr. Lopez was deficient as it failed to note all of the accepted conditions. Thus, the Board found that Dr. Lopez' opinion was diminished and insufficient to support OWCP's burden of proof.

Following the Board's decision reversing the termination of appellant's wage-loss compensation and medical benefits, the record reflects that OWCP did not reinstate payment of appellant's compensation benefits on the periodic rolls.

On December 6, 2022 OWCP referred appellant, along with the November 30, 2022 SOAF, a copy of the case record, and a series of questions, for a second opinion evaluation with Dr. Kevin F. Hanley, a Board-certified orthopedic surgeon, for an opinion regarding the status of appellant's accepted employment-related conditions, and her current work restrictions. In a report dated January 5, 2023, Dr. Hanley recounted appellant's history of injury and medical treatment. Following appellant's physical examination, he opined that she had made a full recovery from her cervical, lumbosacral, and thoracic sprains/strains and her wrist conditions. Dr. Hanley concluded that she had no residuals from her accepted October 11, 1992 employment injury, that appellant required no further medical treatment, and that she was capable of returning to her date-of-injury job.

By decision dated January 13, 2023, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date, based on the January 5, 2023 opinion of Dr. Hanley.

On December 5, 2023 appellant requested reconsideration and submitted a statement and medical evidence.

By decision dated February 7, 2024, OWCP denied modification.

The Board, having duly considered this matter, finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits.

Once OWCP accepts a claim and pays compensation, it bears the burden of proof to justify termination or modification of benefits.²

² See *Z.K.*, Docket No. 19-1113 (issued March 17, 2021); *A.R.*, Docket No. 20-0335 (issued August 7, 2020); *R.C.*, Docket No. 08-1641 (issued January 12, 2009); *Kelly Y. Simpson*, 57 ECAB 197 (2005).

By its October 14, 2022 decision, the Board reversed the April 4, 2022 termination of appellant's wage-loss compensation. As appellant had been paid wage-loss compensation on the periodic rolls, OWCP was required at that time to reinstate benefits and pay retroactive wage-loss compensation at the previously determined rate.³ Appellant was not required to submit Form CA-7 claims for wage-loss compensation.⁴ OWCP, however, to date, has not retroactively reinstated appellant's wage-loss compensation benefits. As appellant's wage-loss compensation benefits were required to have been restored retroactively to April 4, 2022, it was thereafter required to provide appellant with a new pretermination notice to allow appellant 30 days to submit relevant evidence or argument to support her entitlement to continued payment of wage-loss compensation.⁵ OWCP subsequently further developed the claim, and on January 13, 2023 again terminated appellant's wage-loss compensation and medical benefits. However, it failed to issue a new pretermination notice in accordance with its procedures. The February 7, 2024 decision denying modification of the January 13, 2023 termination decision must therefore be reversed. Upon return of the case record, OWCP shall reinstate payment of appellant's wage-loss compensation on the periodic rolls retroactive to April 4, 2022. Accordingly,

IT IS HEREBY ORDERED THAT the February 7, 2024 decision of the Office of Workers' Compensation Programs is reversed.

Issued: September 22, 2025
Washington, DC

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

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

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

³ *Id.*; see also *Lori J. Sennett*, Docket No. 04-0507 (issued July 7, 2004).

⁴ *Id.*

⁵ 20 C.F.R. § 10.540; see also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.4(b) (February 2013); *J.T.*, Docket No. 19-1723 (issued August 24, 2020).