

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

M.W., Appellant)	
)	
and)	Docket No. 26-0111
)	Issued: April 22, 2026
DEPARTMENT OF AGRICULTURE, U.S.)	
FOREST SERVICE, ELDORADO NATIONAL)	
FOREST, Placerville, CA, Employer)	
)	

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 15, 2025 appellant filed a timely appeal from an August 22, 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 met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective August 22, 2025, as he no longer had disability or residuals causally related to his accepted October 28, 1991 employment injury.

FACTUAL HISTORY

On October 30, 1991 appellant, then a 33-year-old forestry aid, filed a traumatic injury claim (Form CA-1) alleging on October 28, 1991 he injured his back when he slipped, twisted,

¹ 5 U.S.C. § 8101 *et seq.*

and tripped while walking a trail while in the performance of duty. He previously underwent lumbar discectomy surgeries in 1980 and 1985. OWCP accepted the claim for lumbar sprain, lumbar herniated disc, and authorized decompressive laminectomy with fusion on July 11, 1992. It paid appellant on the supplemental rolls commencing December 14, 1991, and on the periodic rolls commencing June 2, 1992.

The record reveals that appellant's date-of-injury position required frequent lifting and carrying of up to 25 pounds, occasional lifting and carrying of no more than 50 pounds, and standing, walking, climbing, and reaching.

On March 4, 2013 appellant underwent an OWCP-authorized repeat decompression of L2-3, interbody fusion with pedicle screw instrumentation due to L2-3 central stenosis and instability. On July 24, 2019 OWCP expanded acceptance of the claim to include herniated discs at L4-5.

Appellant sought treatment from Brent Egan, a family nurse practitioner, from September 20, 2016 through December 18, 2019.

Appellant sought treatment from Brad Jones, a physical therapist, commencing January 8, 2020.

On January 31, 2020 OWCP expanded acceptance of the claim to include lumbosacral radiculopathy at L5-S1.

Appellant continued to seek treatment from Mr. Egan from March 4, 2020 through April 7, 2021.²

On February 14, 2024 OWCP referred appellant, together with statements of accepted facts (SOAF), medical record, and a series of questions, to Dr. Qing-Min Chen, a Board-certified orthopedic surgeon, for a second opinion evaluation. It provided SOAFs dated November 27, 2019, and February 6, 2024 which did not include the physical requirements of the date-of-injury position of forestry aid.

On August 29, 2024 Dr. Dallin L. Demordaunt, a Board-certified physiatrist, reviewed appellant's medical history and diagnosed chronic low back pain, chronic bilateral lower limb numbness, and right-foot drop and weakness, lumbar spine surgeries, and diabetes. He performed electromyogram/nerve conduction velocity (EMG/NCV) testing which was abnormal. Dr. Demordaunt related evidence of an axonal neuropathy which "may be due to diabetes." He found an old left L5-S1 radiculopathy with good reinnervation and scar tissue due to surgeries. Dr. Demordaunt suggested that appellant's findings could be from scar tissue or from some acute radiculopathy. He noted that the lack of any changes in the thigh muscles made an acute upper to mid lumbar radiculopathy less likely and changes due to scar tissue more likely the cause of paraspinal muscle changes. Dr. Demordaunt concluded that he could not "fully rule out some L5 radiculopathy on the right," but the prominent peroneal neuropathy would be a more consistent explanation for these changes from peripheral neuropathy.

² In September 2019 appellant underwent an unauthorized left below-the-knee amputation.

In his March 5, 2024 report, received September 9, 2024,³ Dr. Chen noted his review of the SOAF, and the medical record. He related appellant's current complaints and provided findings on physical examination of the spine and extremities. Dr. Chen related that appellant's right motor examination was normal as was his left motor examination with the exception of his below-the-knee amputation. He observed that sensation was decreased circumferentially down both legs, which would be considered nonanatomic, and that appellant had 0/4 deep tendon reflexes in the right patella and Achilles. Dr. Chen diagnosed displacement of lumbar intervertebral disc without myelopathy, lumbosacral radiculopathy, and lumbar back sprain. He opined that objective findings did not support subjective complaints as circumferential numbness did not comport with anatomic findings but could be related to peripheral neuropathy secondary to diabetes. Dr. Chen determined that appellant's sprains and radiculopathy had resolved, but that he continued to experience work-related conditions including intervertebral disc displacement. He related that appellant could return to his date-of-injury position as the accepted intervertebral disc displacement was causing subjective pain, but that "pain is not itself a limiting factor for OWCP." Dr. Chen completed a March 5, 2024 work capacity evaluation (Form OWCP-5c) and indicated that appellant could not perform his usual job without restrictions. He opined that appellant could perform sedentary work and that EMG/NCV testing was necessary prior to releasing appellant to return to work.

On December 31, 2024 OWCP requested a supplemental report from Dr. Chen addressing appellant's ability to return to his date-of-injury position. In a January 7, 2025 addendum, Dr. Chen opined that appellant could return to his date-of-injury position.

On February 20, 2025 OWCP requested a supplemental report from Dr. Chen following review of EMG/NCV testing. In a March 3, 2025 report, Dr. Chen addressed the findings in Dr. Demordaunt's August 28, 2024 report and EMG/NCV testing and determined lumbar disc displacement without myelopathy was still an ongoing condition but that there was no objective evidence that this condition was active and causing symptoms of radiculopathy or neurogenic claudication. He indicated that there was evidence of right peroneal motor, tibial motor, and sural sensory neuropathy, and atrophy of the foot intrinsic musculature. Dr. Chen opined that he could not rule out acute radiculopathy but that he was "more inclined to believe" these findings were due to scar tissue. He opined that appellant did not require any additional treatment for this condition. Dr. Chen further determined that appellant could return to his date-of-injury position "only because all of the issues that he is currently experiencing were not work related." He, however, noted that he continued to experience chronic low back pain but that "we do not have great understanding of what exactly is causing his pain." Dr. Chen advised that appellant could work eight hours a day and lift 20 pounds. He completed a March 5, 2025 Form OWCP-5c and indicated that he could return to work in his date-of-injury position.

In a notice dated March 17, 2025, OWCP advised appellant that it proposed to terminate his wage-loss compensation and medical benefits based on Dr. Chen's opinion that the accepted employment-related conditions had ceased without residuals or disability. It afforded him 30 days to submit additional evidence or argument challenging the proposed termination.

³ This report is dated March 5, 2024, but includes the August 28, 2024 EMG/NCV testing and analysis provided by Dr. Demordaunt.

On April 1, 2025 Dr. Charles Canfield completed a Form OWCP-5c opining that appellant was totally disabled due to his left below-the-knee amputation and chronic back pain.

By decision dated August 22, 2025, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that date, finding that Dr. Chen's opinion constituted the weight of the medical opinion evidence that appellant no longer had residuals or disability causally related to the accepted October 28, 1991 employment injury.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification 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 Its 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 compensation.⁷ To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁸

ANALYSIS

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective August 22, 2025.

Dr. Chen, the second opinion physician, noted his review of the SOAF and appellant's current complaints in his September 9, 2024 report. He diagnosed displacement of lumbar intervertebral disc without myelopathy, lumbosacral radiculopathy, and lumbar back sprain. Dr. Chen opined that objective findings did not support subjective complaints and determined that appellant's sprains and radiculopathy had resolved, but that he continued to experience intervertebral disc displacement. In a January 7, 2025 addendum, in response to OWCP's December 31, 2024 request for a supplemental report, he opined that appellant could return to his date-of-injury position.

⁴ *R.G.*, Docket No. 22-0165 (issued August 11, 2022); *D.G.*, Docket No. 19-1259 (issued January 29, 2020); *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁵ *See R.P.*, Docket No. 17-1133 (issued January 18, 2018); *Jason C. Armstrong*, 40 ECAB 907 (1989); *Charles E. Minnis*, 40 ECAB 708 (1989); *Vivien L. Minor*, 37 ECAB 541 (1986).

⁶ *R.L.*, Docket No. 22-1175 (issued May 11, 2023); *M.C.*, Docket No. 18-1374 (issued April 23, 2019); *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

⁷ *P.K.*, Docket No. 22-1345 (issued June 28, 2023); *A.G.*, Docket No. 19-0220 (issued August 1, 2019); *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005); *Furman G. Peake*, 41 ECAB 361, 364 (1990).

⁸ *See A.G., id.*; *James F. Weikel*, 54 ECAB 660 (2003); *Pamela K. Guesford*, 53 ECAB 727 (2002).

In a March 3, 2025 supplemental report, Dr. Chen diagnosed ongoing lumbar disc displacement without myelopathy, opined that appellant did not require any additional treatment for this condition, and noted that appellant continued to experience chronic low back pain but that “we do not have great understanding of what exactly is causing his pain.” He related that there was evidence of right peroneal motor, tibial motor, and sural sensory neuropathy, and atrophy of the foot intrinsic musculature. Dr. Chen opined that he could not rule out acute radiculopathy but that he was “more inclined to believe” these findings were due to scar tissue. In response to OWCP’s February 20, 2025 request, he further determined that appellant could return to his date-of-injury position as he could work eight hours a day and lift 20 pounds.

OWCP based its termination of appellant’s wage-loss compensation and medical benefits, effective August 22, 2025, on the September 9, 2024, and January 7, and March 3, 2025 reports of Dr. Chen.

It is OWCP’s responsibility to provide a complete and proper frame of reference for a physician by preparing a SOAF.⁹ OWCP’s procedures dictate that, when a district medical adviser, second opinion specialist, or referee physician renders a medical opinion based on a SOAF, which is incomplete or inaccurate, or does not use the SOAF as the framework in forming his or her opinion, the probative value of the opinion is seriously diminished or negated altogether.¹⁰

The Board finds that OWCP did not provide Dr. Chen with a complete, accurate SOAF. The November 27, 2019, and February 6, 2024 SOAFs provided to Dr. Chen did not include the physical requirements of the date-of-injury position of forestry aid. As Dr. Chen’s opinion regarding appellant’s disability from work was not based on a proper SOAF, it is of diminished probative value.¹¹

In addressing medical residuals, Dr. Chen noted in a conclusory manner that appellant’s accepted sprains and radiculopathy had resolved, and he provided a general opinion that appellant no longer had work-related residuals, however, he failed to provide a well-rationalized medical opinion explaining how he ceased to have residuals related to all of his accepted conditions, *i.e.*, lumbar sprain, lumbar herniated disc, lumbosacral radiculopathy at L5-S1, and authorized decompressive laminectomy with fusion on July 11, 1992.¹² Dr. Chen related that appellant continued to experience intervertebral disc displacement and low back pain. He further opined that he could not rule out acute radiculopathy but that he was “more inclined to believe” these

⁹ *A.B.*, Docket No. 25-0419 (issued May 13, 2025); *R.V.*, Docket No. 23-1151 (issued April 9, 2024); *M.B.*, Docket No. 21-0060 (issued March 17, 2022); *J.N.*, Docket No. 19-0215 (issued July 15, 2019); *Kathryn E. Demarsh*, *supra* note 7.

¹⁰ *Order Remanding Case, R.W.*, Docket No. 19-1109 (issued January 2, 2020); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.3 (October 1990).

¹¹ *Id.* See also *B.C.*, Docket No. 20-1672 (issued February 8, 2023); *C.S.*, Docket No. 20-1475 (issued October 4, 2021).

¹² *K.Y.*, Docket No. 26-0070 (issued February 24, 2026).

findings were due to scar tissue. The Board has held that medical opinions that are speculative or equivocal are of diminished probative value.¹³

The Board finds that the opinion of Dr. Chen does not have sufficient probative value to constitute the weight of the medical opinion evidence regarding whether appellant continued to have residuals or disability causally related to his accepted October 28, 1991 employment injury. Therefore, the Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective August 22, 2025.

CONCLUSION

The Board finds that OWCP failed to meet its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective August 22, 2025.

ORDER

IT IS HEREBY ORDERED THAT the August 22, 2025 decision of the Office of Workers' Compensation Programs is reversed.

Issued: April 22, 2026
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

¹³ See *D.D.*, Docket No. 25-0751 (issued August 27, 2025); *S.A.*, Docket No. 24-0353 (issued May 17, 2024); *F.S.*, Docket No. 22-0070 (issued June 14, 2023); *M.L.*, Docket No. 18-0153 (issued January 22, 2020); *N.B.*, Docket No. 19-0221 (issued July 15, 2019); *Z.B.*, Docket No. 17-1336 (issued January 10, 2019); *T.M.*, Docket No. 08-0975 (issued February 6, 2009).