United States Department of Labor
Employees' Compensation Appeals Board

C.B., Appellant	)	
and	)	**Docket No. 26-0671**
U.S. POSTAL SERVICE, LIBBY MAIN POST OFFICE, Libby, MT, Employer	)	**Issued: October 9, 2026**

Appearances:
Debra Hauser, Esq., for the appellant[1]
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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On July 13, 2026 appellant, through counsel, filed a timely appeal from a May 28, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 30, 2025, as she no longer had disability or residuals causally related to the accepted November 14, 2023 employment injury; and (2) whether appellant has met her burden of proof to establish continuing disability and/or

[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 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.*

residuals on or after September 30, 2025, causally related to the accepted November 14, 2023 employment injury.

FACTUAL HISTORY

On November 16, 2023 appellant, then a 53-year-old rural carrier, filed a traumatic injury claim (Form CA-1) alleging that on November 14, 2023 she sustained an injury to her upper neck and mid/lower back when she lifted a parcel weighing approximately 20 pounds while in the performance of duty. She stopped work on November 16, 2023. OWCP accepted the claim for acute right lumbar radiculopathy, and acute cervical radiculopathy. It paid appellant wage-loss compensation for disability from work on the supplemental rolls, effective December 30, 2023.

Appellant returned to limited-duty work in late-November 2023 and periodically stopped work thereafter.

In a February 4, 2025 report, Dr. Sarah L. Sanders, a Board-certified family practice physician, documented physical examination findings, noting that appellant had continuing neck and back pain, headaches, cervicalgia, and paresthesia of the skin.

In an April 23, 2025 report, Dr. Sanders advised that appellant reported experiencing worsening symptoms. In a note of even date, she recommended that appellant take a month off work to rest and "rehabilitate without exacerbation of symptoms due to working."

In late-April 2025, OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Catherine A. Cunagin, a Board-certified orthopedic surgeon, for an examination and opinion regarding appellant's disability and/or residuals causally related to the accepted November 14, 2023 employment injury.

In a May 20, 2025 report, Dr. Sanders diagnosed segmental and somatic dysfunction of the cervical region, cervicalgia, and neck pain, and indicated that appellant remained disabled from work.

In a May 23, 2025 report, Dr. Cunagin discussed the accepted November 14, 2023 employment injury and documented physical examination findings, noting that appellant had tenderness to palpation in multiple neck muscle groups, tenderness to palpation at the L5 and S1 joints of the lumbosacral spine, and 5/5 strength in the upper and lower extremities. She opined that appellant did not suffer from residuals of the November 14, 2023 employment injury which was accepted for acute radiculopathy of the cervical region and acute radiculopathy of the lumbar region. There was no objective diagnostic evidence to support several of appellant's complaints, including right-sided shoulder pain, right-sided neck pain, and sensation to light touch in the first web space of the right foot and over the right lateral calf. Dr. Cunagin opined that the degenerative changes in the cervical spine at the C4-5 level were due to a combination of factors, including appellant's rheumatoid arthritis and adjacent-level degeneration after C5-to-C7 fusion surgery in 2012. She stated that there were no objective findings on the present examination, or in the medical record, to support persistent acute radiculopathy of either the cervical or lumbar region. Dr. Cunagin opined that, considering only residuals of work-related conditions, appellant was medically capable of performing her date-of-injury job as a rural carrier, as outlined in the SOAF. She stated, "No work limitations or restrictions are medically necessary for conditions developed

prior to the date of injury." In a work capacity evaluation (Form OWCP-5c) dated May 23, 2025, Dr. Cunagin opined that appellant could perform her usual job without restrictions.

In a notice dated August 15, 2025, OWCP informed appellant of its proposed termination of her wage-loss compensation and medical benefits. It advised her that the May 23, 2025 report of Dr. Cunagin, the OWCP referral physician, established that she ceased to have disability or residuals causally related to the accepted November 14, 2023 employment injury. OWCP afforded appellant 30 days to challenge the proposed termination action.

In response, appellant submitted additional evidence, including August 19 and September 9, 2025 progress reports wherein Dr. Sanders documented physical examination findings and diagnosed segmental and somatic dysfunction of the cervical region, cervicalgia, and neck pain, and opined that appellant remained disabled from work.

Appellant also submitted a September 11, 2025 report wherein Dr. Sanders indicated that her current complaints included sharp, radiating pain in her neck and lower back, and persistent numbness and tingling in her extremities which were indicative of nerve root irritation and compression. She noted that Dr. Cunagin opined in her May 23, 2025 report that appellant had complaints of pain, numbness, and functional limitations that were inconsistent with objective findings. However, Dr. Sanders explained that pain and radiculopathy did not always align perfectly with imaging or diagnostic tests. She indicated that Dr. Cunagin acknowledged findings such as moderate-to-severe right neural foraminal stenosis at C4-5 observed in April 17, 2024 diagnostic testing, and mild chronic denervation in the right S1 motor nerve root distribution observed in August 13, 2024 diagnostic testing, which aligned with appellant's symptoms. Dr. Sanders stated that these findings could not be dismissed as irrelevant as they provided a plausible explanation for her ongoing pain and functional limitations. She stated, "[Appellant's] debilitating symptoms, supported by diagnostic findings and her medical history, indicate that she continues to suffer from cervical and lumbar radiculopathy. These conditions significantly impair her ability to perform her job and warrant further treatment and accommodations." Dr. Sanders concluded that appellant had continuing disability and residuals causally related to the accepted November 14, 2023 employment injury.

By decision dated September 30, 2025, OWCP terminated appellant's wage-loss compensation and medical benefits, effective the date of the decision. It afforded the weight of the medical evidence regarding continuing employment-related disability and residuals to the May 23, 2025 report of Dr. Cunagin.

On October 28, 2025 appellant, through counsel, requested a review of the written record by a representative of OWCP's Branch of Hearings and Review.

Appellant submitted October 8, November 5, and December 3, 2025 reports wherein Dr. Sanders documented continued complaints of chronic neck pain, headaches, paresthesia, and chronic cervical radicular pain. In an October 28, 2025 report, she opined that appellant's continuing medical problems were due to the accepted November 14, 2025 employment injury. In duty status reports (Form CA-17) dated October 8, 2025, and January 14, February 3, and April 28, 2026, Dr. Sanders recommended work restrictions.

Appellant also submitted an October 16, 2025 report wherein James Currin, Ph.D., a licensed clinical psychologist, evaluated her psychological condition. Dr. Currin diagnosed chronic pain syndrome, major depressive disorder, and generalized anxiety disorder.

By decision dated May 28, 2026, OWCP's hearing representative affirmed the September 30, 2025 decision. The hearing representative found that OWCP met its burden of proof to terminate appellant's compensation, and that appellant did not meet her burden of proof to establish continuing disability or residuals on or after September 30, 2025 causally related to the accepted November 14, 2023 employment injury.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of proof to justify termination or modification of an employee's benefits.[3] After it has determined that, an employee has a disability causally related to his or her employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.[4] Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.[5]

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.[6] To terminate authorization for medical treatment, OWCP must establish that the claimant no longer has residuals of an employment-related condition, which would require further medical treatment.[7]

Section 8123(a) of FECA provides that if there is a disagreement between the physician making the examination for the United States and the physician of an employee, the Secretary shall appoint a third physician (known as a referee physician or impartial medical specialist) who shall

[3] *See R.A.,* Docket No. 26-0062 (issued May 1, 2026); *Z.D.,* Docket No. 19-0662 (issued December 5, 2019); *see R.P.,* Docket No. 17-1133 (issued January 18, 2018); *S.F.,* 59 ECAB 642 (2008); *Kelly Y. Simpson,* 57 ECAB 197 (2005); *Paul L. Stewart,* 54 ECAB 824 (2003).

[4] *See S.S.,* Docket No. 26-0526 (issued August 26, 2026)*; Jason C. Armstrong,* 40 ECAB 907 (1989); *Charles E. Minnis,* 40 ECAB 708 (1989); *Vivien L. Minor,* 37 ECAB 541 (1986).

[5] *See P.T.,* Docket No. 21-0328 (issued May 2, 2022); *Del K. Rykert,* 40 ECAB 284, 295-96 (1988).

[6] *H.D.,* Docket No. 26-0438 (issued August 24, 2026); *T.P.,* 58 ECAB 524 (2007); *Kathryn E. Demarsh,* 56 ECAB 677 (2005); *A.P.,* Docket No. 08-1822 (issued August 5, 2009). *See also Furman G. Peake,* 41 ECAB 361, 364 (1990).

[7] *T.C.,* Docket No. 20-1163 (issued July 13, 2021); *James F. Weikel,* 54 ECAB 660 (2003); *Pamela K. Guesford,* 53 ECAB 727 (2002); *Furman G. Peake, id.*

make an examination.[8] For a conflict to arise, the opposing physicians' opinions must be of virtually equal weight and rationale.[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 September 30, 2025.

In a May 23, 2025 report, Dr. Cunagin, the OWCP referral physician, opined that appellant did not suffer from residuals of the accepted November 14, 2023 employment injury which was accepted for acute radiculopathy of the cervical region and acute radiculopathy of the lumbar region. There was no objective diagnostic evidence to support several of appellant's complaints, including right-sided shoulder pain, right-sided neck pain, and sensation to light touch in the first web space of the right foot and over the right lateral calf. Dr. Cunagin opined that the degenerative changes in the cervical spine at the C4-5 level were due to a combination of factors, including appellant's rheumatoid arthritis and adjacent-level degeneration after C5 to C7 fusion surgery in 2012. She stated that there were no objective findings on the present examination, or in the medical record, to support persistent acute radiculopathy of either the cervical or lumbar region. Dr. Cunagin opined that, considering only residuals of the work-related conditions, appellant was medically capable of performing her date-of-injury job as a rural carrier.

In contrast, Dr. Sanders, an attending physician, opined in a September 11, 2025 report that appellant continued to have disability and residuals causally related to the accepted November 14, 2023 employment injury. She indicated that appellant's current complaints included sharp, radiating pain in her neck and lower back, and persistent numbness and tingling in her extremities which were indicative of nerve root irritation and compression. Dr. Sanders noted that Dr. Cunagin opined in her May 23, 2025 report that appellant had complaints of pain, numbness, and functional limitations that were inconsistent with objective findings. However, Dr. Sanders explained that pain and radiculopathy did not always align perfectly with imaging or diagnostic tests. She indicated that Dr. Cunagin acknowledged findings such as moderate-to-severe right neural foraminal stenosis at C4-5 observed in April 17, 2024 diagnostic testing, and mild chronic denervation in the right S1 motor nerve root distribution observed in August 13, 2024 diagnostic testing, which aligned with appellant's symptoms. Dr. Sanders stated that these findings could not be dismissed as irrelevant as they provided a plausible explanation for her ongoing pain and functional limitations. She stated, "[Appellant's] debilitating symptoms, supported by diagnostic findings and her medical history, indicate that she continues to suffer from cervical and lumbar radiculopathy. These conditions significantly impair her ability to perform her job and warrant further treatment and accommodations."

As noted above, section 8123(a) of FECA provides that if there is a disagreement between the physician making the examination for the United States and the physician of an employee, the

[8] 5 U.S.C. § 8123(a); *see E.L.,* Docket No. 20-0944 (issued August 30, 2021); *R.S.*, Docket No. 10-1704 (issued May 13, 2011); *S.T.*, Docket No. 08-1675 (issued May 4, 2009); *M.S.*, 58 ECAB 328 (2007).

[9] *R.C.*, Docket No. 26-0309 (issued June 11, 2026); *P.R.*, Docket No. 18-0022 (issued April 9, 2018); *see also Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *James P. Roberts,* 30 ECAB 1010 (1980).

Secretary shall appoint a third physician (known as a referee physician or impartial medical specialist) who shall make an examination.[10]

The Board finds that there is an unresolved conflict in the medical evidence between Dr. Cunagin and Dr. Sanders regarding whether appellant has disability and/or residuals causally related to the accepted November 14, 2023 employment injury.

Because OWCP relied on the opinion of Dr. Cunagin to terminate appellant's wage-loss and medical benefits effective September 30, 2025 without having resolved the existing conflict, OWCP failed to meet its burden of proof in terminating appellant's benefits.[11]

CONCLUSION

The Board finds that OWCP has not met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 30, 2025.

ORDER

IT IS HEREBY ORDERED THAT the May 28, 2026 decision of the Office of Workers' Compensation Programs is reversed.[12]

Issued: October 9, 2026
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

[10] *Id.*

[11] *See P.J.,* Docket No. 20-0550 (issued April 26, 2021); *Gail D. Painton*, 41 ECAB 492, 498 (1990); *Craig M. Crenshaw, Jr.*, 40 ECAB 919, 922-23 (1989) (finding that termination is not supported when there is a continuing conflict in the medical evidence regarding work-related disability/residuals).

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