

further argues that appellant did not refuse employment and that the offered employment was not suitable when the medical evidence is considered, including evidence that she could not work or drive.

FACTUAL HISTORY

On October 1, 2010 appellant, then a 49-year-old transportation security officer (screener) filed a traumatic injury claim alleging that on August 21, 2010 she felt something pull in her neck and left shoulder after picking up a set golf clubs. She listed the nature of injury as strain of the neck and left shoulder. On December 10, 2010 OWCP accepted appellant's claim for temporary aggravation of cervical spondylosis without myelopathy; sprain of back and thoracic region; and sprain of shoulder and upper arm and other specified left sites. On August 28, 2012 it accepted her claim for the additional condition of other syndromes affecting cervical region. OWCP paid appropriate compensation benefits.

On September 6, 2011 Dr. Robert Masson, Jr., a Board-certified neurosurgeon, performed a C3-4 anterior cervical discectomy and anterior cervical arthroplasty, intervertebral implant, biplanar intraoperative fluoroscopy, and intraoperative microdissection on appellant. Appellant received follow-up treatment from him and in a note from an October 25, 2011 visit, he indicated that she had done fairly well postoperatively. Dr. Masson noted that she had relief from her left cervicooccipital pain, but continued to describe right cervicooccipital pain, more with movement. He noted that x-rays showed the implant was positioned satisfactorily. Dr. Masson recommended physical therapy, which was initiated. On April 12, 2012 appellant underwent a functional capacity evaluation. The physical therapist noted that she did not evince consistent effort and demonstrated inappropriate pain behaviors, so results should be interpreted as minimum level of function and not representative of her true abilities. The evaluation indicated that appellant can perform light work. In a May 10, 2012 follow-up visit note, Dr. Masson indicated that appellant could return to her employment as a baggage screener as long as her work restrictions meet her functional capacity evaluation (FCE). He noted that she reached maximum medical improvement on March 14, 2012.

Dr. Marc Sharfman, a Board-certified neurologist, started treating appellant on August 15, 2012. In an October 22, 2012 workers' compensation form, he listed her differential diagnoses as: (1) post-traumatic cervical spine trauma; (2) post-traumatic cervical cranial syndrome; (3) post-traumatic cervical brachial syndrome; (4) post-traumatic greater occipital neuralgia; and (5) post-traumatic adjustment disorder. Dr. Sharfman listed appellant's work restrictions as carrying, lifting, or pulling limited to 10 pounds.

On December 3, 2012 the employing establishment, through Danielle Enevoldsen, human resource specialist, offered appellant a limited-duty job assignment as a modified transportation security officer at the same pay as she earned at the time of her injury. The position would require intermittent lifting, carrying, or pulling of not over 10 pounds. The duties of the position would also include intermittent sitting, walking, standing, and squatting/kneeling/climbing. The letter told appellant that, if she accepted the job offer, she should notify either Ms. Enevoldsen or Brenda Young to confirm acceptance and her date of return to duty.

In a form reply dated December 7, 2012, appellant refused the employing establishment's job offer.

Appellant saw Dr. Sharfman on December 11, 2012 and brought forms for him to review. Dr. Sharfman noted that she told him that she could not safely perform her job duties, that her neurosurgeon had told her not to work and that she could not drive. He stated that, for appellant's safety and others, he would keep her off work while obtaining further information. Dr. Sharfman noted that she reported a combination of headache, neck pain, back pain, dizziness, and memory difficulty which would not allow her to work. In a December 11, 2012 occupational work status slip, he indicated that "per [appellant's] neurosurgeon states no work." Dr. Sharfman noted that work status would be deferred to Dr. Masson. In a December 18, 2012 report, he noted that appellant reported persistence of headache, neck pain, back pain, leg pain, shoulder pain, vision problems, stress, and depression, which she attributed to the August 21, 2010 accident. Dr. Sharfman listed her differential diagnoses as post-traumatic syndrome.

In a December 20, 2012 psychosocial assessment summary, Dr. Sharfman countersigned a report by Veronica White, Ph.D., a therapist, diagnosing appellant with adjustment disorder. Dr. White recommended treatment sessions with routine frequency.

In a December 21, 2012 medical narrative, Dr. Sharfman listed appellant's diagnosed condition as post-traumatic cervical spine trauma secondary to an August 21, 2010 accident; indicated that the condition was still medically present and disabling; that based on history there was no preexisting cervical spine trauma; and that appellant had not returned to preinjury status. He noted that the employment injury produced a permanent condition and she has had surgery which is irreversible. Dr. Sharfman stated that based on the history, neurologic examination, musculoskeletal examination, diagnostic testing, review of neurosurgeon notes, and review of the FCE, appellant appears to be able to perform some type of job with restrictions. He did note that vocational rehabilitation was needed. Dr. Sharfman requested a revisit with pain management and neurosurgeon. In a form report, also dated December 21, 2012, he reiterated that appellant should be limited to carrying, lifting, and pulling 10 pounds. In a January 21, 2013 report, Dr. Sharfman listed differential diagnoses as post-traumatic cervical cranial syndrome, cervical brachial syndrome, and occipital neuralgia.

On February 15, 2013 OWCP noted that appellant had been offered a position as a modified transportation security officer with the employing establishment and that the duties and physical requirements of the offered position are in accordance with her medical limitations as provided by Dr. Sharfman in his October 22, 2012 report. It advised her that the job offer was suitable. OWCP noted that, if appellant failed to report to the offered position and failed to demonstrate that the failure was justified, her right to compensation and schedule award would be terminated. It allotted her 30 days to either report for duty or to provide a written explanation for refusing the job offer.

In a March 6, 2013 report, Dr. Sharfman noted that appellant attributed her depression and inability to work to her symptoms from her employment injury. He noted that she did not feel safe to return to work. In an accompanying work restriction form, Dr. Sharfman continued to indicate that appellant was restricted from carrying, lifting, or pulling more than 10 pounds. On March 21, 2013 he signed a form indicating that he believed that she could perform the

position of security officer. In reports dated May 8 and July 26, 2013, Dr. Sharfman continued to indicate that appellant could work with restrictions of no carrying, lifting, or pulling more than 10 pounds.

In a note received by OWCP on March 18, 2013, appellant stated that she accepted the job offer stemming from the letter dated February 22, 2013. She indicated that she was willing to work with vocational rehabilitation training to determine what position is best for her given her limitations and injuries. Appellant also stated that she was currently unable to drive due to injuries in her neck and would need assistance in getting to and from an appropriate position.

In a June 5, 2013 report, OWCP gave appellant an additional 15 days to accept and make arrangements to report to the suitable position. It noted that it would not consider any further reasons for refusal of the suitable position.

On June 12, 2013 OWCP denied appellant's request for a visit with a psychologist.

Appellant commenced treatment with physicians and other medical personnel at AmeriMed Diagnostic Services, Inc. on June 17, 2013. In a June 17, 2013 duty status report, Dr. Claude Barosy, a general practitioner, indicated that she could not work or drive for five weeks. In a June 27, 2013 report, he listed appellant's diagnoses as: cervical strain with radiculopathy; status postoperative surgical repair of the cervical discs; cervical disc syndrome with radiculopathy; bilateral shoulder sprain with radiculopathy; internal derangement of the right shoulder; internal derangement of the left shoulder; lumbosacral strain with radiculopathy; status post laminectomy of L5-S1; and lumbosacral disc syndrome. Dr. Barosy indicated that her condition could deteriorate if she continued doing any stressful exercise or physical activities that require pulling, pushing, or bending. He advised appellant to not do any activities prior to diagnostic studies. Dr. Barosy submitted another duty status report dated July 17, 2013 indicating that she could not drive or work for four weeks. He submitted further duty status reports dated August 14, September 11, October 9, and November 18, 2013, indicating that appellant could not work, but did not list any driving restrictions.

By letter dated June 18, 2013, appellant's counsel stated that appellant would love to work, was willing to try to work within her limitations, and that she called her employing establishment indicating that she could return to work no later than June 20, 2013. He noted that she advised the employing establishment that her new physician, Dr. Barosy, indicated that she could not drive or work for five weeks. Counsel noted that Dr. Masson would not see appellant anymore since she declined to undergo surgery, and asked that OWCP approve Dr. Barosy at AmeriMed Diagnostic Services, Inc. (AmeriMed) as her new authorized medical provider.

In a June 25, 2013 letter, Ms. Enevoldsen from the employing establishment indicated that appellant has not contacted the employing establishment to respond to the job offer of December 3, 2012.

Appellant resubmitted an August 10, 2011 report, wherein Jenifer A. Garrido, a licensed social worker, diagnosed appellant with major depressive disorder, single episode, and without psychosis. Ms. Garrido stated that, as appellant's depression occurred only after her work-related injuries and subsequent loss of employment, it was her opinion that appellant's diagnosis

of major depressive disorder was caused and exacerbated by her injuries, resulting in chronic pain, and her reported loss of independence and ability to continue employment.

By decision dated July 17, 2013, OWCP denied appellant's claim for manual therapy, infrared therapy, electrical stimulation, ultrasound therapy, therapeutic exercise, neuromuscular reeducation, mechanical traction therapy, vasopneumatic device therapy, and electrical stimulation other than wound.

On February 15, 2013 OWCP informed appellant again of the offered position and provided her 30 days to respond to the offer. Appellant failed to submit appropriate evidence. On June 5, 2013 OWCP provided her an additional 15 days to accept the offer of employment.

By decision dated July 26, 2013, OWCP terminated appellant's compensation for wage loss effective July 28, 2013 for refusal of suitable work.

On August 5, 2013 appellant requested an oral hearing before an OWCP hearing representative.

In an August 14, 2013 report, Dr. Sharfman noted adjustment disorder with anxiety and depression in addition to post-traumatic cervicocranial syndrome and post-traumatic cervicobrachial syndrome. In a letter of the same date, he requested that diagnoses be accepted for cranial syndrome, cervicobrachial syndrome and adjustment disorder with mixed anxiety/depressed mood. Dr. Sharfman noted that this request is medically necessary as it is directly related to the occupational injury that occurred on August 21, 2010 due to the mechanism of injury. He indicated that adjustment disorder is a stress related, nonpsychotic disturbance, and that persons with adjustment disorder are often viewed as disproportionately overwhelmed or overly intense in their response to given stimuli. Dr. Sharfman also opined that cognitive behavior therapy is reasonable, effective, and expected to reduce or ameliorate the mental effects of the August 21, 2010 injury. He opined that it will assist appellant to achieve or maintain maximum functional capacity in performing daily activities. In a functional limitations report of the same date, Dr. Sharfman continued to indicate that she should be restricted to carrying, lifting, and pulling 10 pounds.

In an August 30, 2013 report, Dr. Samy F. Bishai, an orthopedic surgeon with AmeriMed, diagnosed appellant with: internal derangement of the left shoulder joint; full thickness tear of rotator cuff of left shoulder; left shoulder impingement syndrome; internal derangement of the right shoulder; right shoulder impingement syndrome; partial thickness tear of the supraspinatus and infraspinatus tendons of the right shoulder; cervical disc syndrome; herniated cervical discs at C5-6 and C6-7 with bilateral radiculopathy; status post operative anterior cervical disc excision and fusion; herniated thoracic disc excision and fusion; herniated thoracic disc at T11-12 and T12-L1 levels; degenerative disc disease of the lumbosacral spine; herniated lumbar disc at L4-5 level with bilateral radiculopathy; bilateral spinal stenosis and foraminal narrowing of the lumbosacral spine; and status post operative lumbar laminectomy, disc excision and fusion of the lumbar spine. He concluded that she still had serious injuries to her left shoulder and to her neck and back from working for the employing establishment on August 21, 2010. Dr. Bishai stated that appellant has been disabled from work since December 19, 2010 due to the severity of the pain in multiple areas of her body including her

neck with radiculopathy in the arms and back with radiculopathy down the legs. He also noted that she experienced pain in her shoulders, more on the left side than the right.

In a September 5, 2013 note, Dr. Sharfman noted that he has treated appellant but that she should obtain a treating physician to take over further medical needs within the next 30 days. He referred her to AmeriMed for continued treatment and work on her employment-related injury and opined that this was medically necessary.

In an October 9, 2013 report, Dr. Barosy from AmeriMed continued to keep appellant off work. He concluded that her injuries are employment related, and that she was undergoing physical therapy which is helping her. In a November 18, 2013 report, Dr. Gregory F. Saric, a family practitioner from AmeriMed, noted continuing treatment for appellant, released her from another four weeks of work and recommended follow up with Dr. Bishai.

By letter dated October 25, 2013, OWCP noted that the evidence was not sufficient to support appellant's claims for cranial syndrome; cervicobrachial syndrome and adjustment disorder with mixed anxiety/depressed mood; cervical sprain with radiculopathy; internal derangement of right shoulder; internal derangement of left shoulder; and lumbar sprain with radiculopathy. It gave her the opportunity to submit further information.

In an October 25, 2013 report by Dr. Marianne Cloren, an internist and the physician, who reviewed appellant's case on behalf of the employing establishment, contended that appellant was at maximum medical improvement and no longer needed further musculoskeletal treatment per her treating surgeon and neurologist, who believed that she would benefit from cognitive behavioral therapy. She further opined that, based on the FCE and the most recent information in the record, appellant is able to work at a low physical demand capacity.

Appellant continued to submit duty status reports from AmeriMed indicating that she should not work.

At the telephonic hearing held on January 8, 2014 appellant testified that when she asked to go back to work she called and spoke with Bill Hale and told him that she could not drive and he told her that she needed to send medical information showing this. She stated that she sent the paperwork and never heard anything back from him. Appellant testified that she had surgery for disc replacement of C3. She noted that from August 21, 2010 until the date of the hearing she has always had pain in her neck and shoulder. Appellant stated that, when Dr. Sharfman began seeing her, he gave her therapy in his office, but he also referred her to an in-office psychologist with whom she had one visit with, but whom OWCP did not approve further visits. She noted that Dr. Sharfman indicated in early 2013 that he could not treat her anymore and referred her to AmeriMed.

Appellant contended that the job offered was the same job she had when she was on light duty before she stopped working and that the job involved sitting on exit lane for eight hours, and that she could not sit for eight hours because of a back injury she sustained in 2006 or 2007. She also noted that she could not turn her head to the left or the right very far and that it was unsafe for her to drive. Appellant stated that she began driving short distances approximately two months ago but that her ability to drive depends on what kind of day she is having.

Appellant's counsel argued that there were additional diagnosed conditions, that at the time of the termination she could not drive, and that termination was harsh when there are so many injuries many of which have not been accepted. He also contended that appellant did not refuse employment.

In a February 5, 2014 report, Dr. Bishai noted that he was aware that on August 21, 2010 appellant was lifting heavy items at work when she felt a pop in her neck area as well as her left shoulder. He noted that she had symptoms from the date of the injury and has had no intervening accidents or injuries which would explain her continued discomfort other than the original accident. Dr. Bishai noted that OWCP had only accepted the conditions of temporary aggravation of cervical spondylosis without myelopathy, sprain of back, thoracic region, sprain of shoulder and upper arm, and post-traumatic occipital neuralgia. He indicated that, for some reason, OWCP did not revise the accepted conditions as the medical records show that the surgery performed and the underlying conditions causing the surgery were directly related to the accepted employment incident as the mechanism of injury and herniations that were objectively shown on the magnetic resonance imaging scans are all consistent with that type of injury. Dr. Bishai concluded that, based upon a full understanding of the several workers' compensation accidents sustained by appellant as well as the most recent one, as well as taking a history from her as to any other potential accidents, it was his opinion that his diagnoses in his August 2013 report are related to her injury with the possible exception of her lumbosacral spine issues which are related to her previous November 2006 workers' compensation injury for which she had a laminectomy and fusion in her lower back. He opined that she still had symptoms that were disabling. Dr. Bishai noted that, when AmeriMed saw appellant in June 2013, she could not drive or work in any position, even light duty. He noted that she had difficulty with range of motion in her cervical area, severe pain in her neck as well as her shoulder, and that she continued with low back pain which she has had for years. Dr. Bishai also noted that appellant appeared depressed and needed a workup by a psychiatrist and it was apparent that her current physical impairments related to the August 21, 2010 accident that contributed to her psychological condition. He stated that AmeriMed continued her limitations from driving and working during the next few visits and that he believed that she needed additional therapy in order to be functional. Dr. Bishai noted that at this point appellant is still unable to work a full day, but could perhaps work partial days. However, he noted that she has no one to take her to and from work. Dr. Bishai opined that appellant could work if the employing establishment could work out an arrangement that allowed her to work half days in a very light-duty capacity until she can work longer hours. He indicated that referral to a psychiatrist/psychologist was reasonably necessary and there may be additional limitations once she was evaluated.

In a February 7, 2014 letter, appellant's counsel rejected the notion that appellant refused to take the position as she was awaiting a call back from a representative of the employing establishment. He further noted that her physicians did not believe that she could handle the position, noting the February 5, 2014 report by Dr. Bishai.

In an April 10, 2014 psychiatric evaluation, Dr. Gary K. Arthur, a Board-certified psychiatrist, diagnosed appellant with depressive disorder secondary to medical illness and generalized anxiety disorder with panic attacks. He opined that her depression and anxiety are directly related to the chronic pain and physical injuries brought on by her on-the-job accident.

Dr. Arthur noted that appellant had no prior history of psychiatric problems, had been a steady worker for over 20 years, and that there were no domestic stressors.

By decision dated April 23, 2014, an OWCP hearing representative affirmed the July 26, 2013 decision.

LEGAL PRECEDENT

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits. It may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.² OWCP's burden of proof in terminating compensation includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.³ The fact that OWCP accepts a claim for a specified period of disability does not shift the burden of proof to the claimant to show that he or she is still disabled. The burden is on OWCP to demonstrate an absence of employment-related disability in the period subsequent to the date when compensation is terminated or modified.⁴ Pursuant to the Federal (FECA) Procedure Manual, before terminating benefits, the claims examiner is responsible for advising the claimant of the proposed termination or reduction, including the reasons for the proposed action, and provide the claimant an opportunity to respond in writing.⁵ The Board has held that OWCP must follow its procedures and provide notice and opportunity to respond prior to the termination of compensation benefits.⁶

Section 8106(c) of FECA provides in pertinent part, "A partially disabled employee who (2) refuses or neglects to work after suitable work is offered ... is not entitled to compensation."⁷ It is OWCP's burden to terminate compensation under section 8106(c) for refusing to accept suitable work or neglecting to perform suitable work.⁸ The Board has long held that section 8106(c) will be narrowly construed as it is a serious penalty provision that may bar an employee's entitlement to compensation based on a refusal to accept a suitable offer of employment.⁹

² *Mohamed Yunis*, 42 ECAB 325, 334 (1991); *see also J.P.*, Docket No. 13-1049 (issued August 16, 2013).

³ *Gewin C. Hawkins*, 52 ECAB 242 (2001).

⁴ *J.S.*, Docket No. 13-1678 (issued April 3, 2014).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.2(b) (February 2013).

⁶ *K.S.*, Docket No. 11-2021 (issued August 21, 2012).

⁷ 5 U.S.C. § 8106(c).

⁸ *Joyce M. Doll*, 53 ECAB 790 (2002).

⁹ *G.M.*, Docket No. 11-1752 (issued April 24, 2012); *Gloria J. Godfrey*, 52 ECAB 486 (2001).

ANALYSIS

OWCP accepted appellant's claim for temporary aggravation of cervical spondylosis without myelopathy and sprain of the thoracic region of the back, shoulder, and upper arm as well as other unspecified sites. On August 28, 2012 it accepted her claim for the additional condition of other syndromes affecting the cervical region.

Appellant received treatment from Dr. Masson, who performed surgery on her on September 6, 2011. In a May 10, 2012 note, Dr. Masson indicated that she could return to her employment as a baggage screener as long as her work restrictions met her functional capability examination, which indicated that she was capable of light work. Appellant began treatment with Dr. Sharfman on August 15, 2012. In an October 22, 2012 report, Dr. Sharfman listed her work restrictions as carrying, lifting, or pulling limited to 10 pounds.

Based on the limitations listed in Dr. Sharfman's October 22, 2012 report, the employing establishment offered appellant a limited-duty job assignment as a modified security officer, with restrictions of intermittent lifting, carrying, or pulling of not over 10 pounds. The position also required intermittent sitting, walking, standing, and squatting/kneeling/climbing. However, appellant refused the employment offer.

Subsequent to the offer by the employing establishment of limited duty, appellant returned to Dr. Sharfman on December 11, 2012 and informed him that she could not safely perform her duties, that her neurosurgeon told her not to work, and that she could not drive. In a December 11, 2013 occupational work status slip, Dr. Sharfman indicated that per patient, appellant's neurosurgeon stated that she could not work, and that he would defer her work status to Dr. Masson. However, as of December 11, 2012, there was no evidence in the record that appellant's neurosurgeon instructed appellant that she could not work, and in fact there was evidence that Dr. Masson stated that she could work with restrictions. In a report dated December 21, 2012, Dr. Sharfman returned her to the earlier restrictions prohibiting her from carrying, lifting, and pulling more than 10 pounds. Accordingly, he only stated that appellant could not work for a period of 10 days, placed her on this restriction based solely on her statement that her surgeon told her not to work, and resumed the restrictions when it became evident that there was no evidence that appellant's neurosurgeon had released her from work.

On February 15, 2013 OWCP noted that appellant had been offered a suitable position within the restrictions of her treating physician, Dr. Sharfman. It informed her that it found the position suitable and gave her an opportunity to respond; 30 days as required. Afterward Dr. Sharfman continued to indicate that appellant was able to work with restrictions of 10 pounds lifting, carrying, or pulling and indicated in a March 21, 2013 form that she could work in the position of security officer.

As appellant had not submitted any evidence indicating that she was unable to perform the offered position, on June 5, 2013 OWCP gave her an additional 15 days to accept the position and informed her that no further evidence for refusal would be considered.

Appellant began to see various medical professionals at AmeriMed on June 17, 2013, and these physicians placed greater restrictions on her. Dr. Barosy first examined her and indicated

in reports dated from June 17 through November 18, 2013 that she could not work. He also noted that appellant could not drive in his June 17, 2013 report, but this requirement was eliminated as of August 14, 2013. In explaining his conclusion, Dr. Barosy noted that her condition could deteriorate if she continues doing any stressful exercise or physical activities that require pulling, pushing, or bending. However, the Board has long held that prophylactic work restrictions do not establish a basis for wage-loss compensation.¹⁰ A fear of future injury is not compensable under FECA.¹¹ Furthermore, when Dr. Bishai noted that when AmeriMed first saw appellant in June 2013, she could not drive or work in any position, even light duty. This opinion that appellant could not work or drive was not consistent with the opinion of her treating physician at that time, Dr. Sharfman. Although Dr. Bishai mentioned her prior physicians in his August 30, 2013 report, it does not appear that he understood that Dr. Sharfman and Dr. Masson believed that she could work limited duty. Nor does Dr. Barosy, Dr. Bishai, or Dr. Saric indicate that they reviewed the limited-duty job offer, a job offer that was based on the restrictions noted by Dr. Sharfman. The fact that Dr. Bishai, Dr. Barosy, and the physicians at AmeriMed were unaware of the fact that appellants' treating physician, Dr. Sharfman, believed that appellant could work with restrictions, and the fact that she had been offered a position within his restrictions is especially questionable given that she only began seeing AmeriMed after she received the letter from OWCP dated June 5, 2013 giving her an additional 15 days to accept the position. The fact that these physicians did not review the prior physicians reports and the job offer indicates that they failed to have a proper understanding of appellant's injury and appeared to be basing their opinions more on her statements than on her medical history, objective reports, and tests. Accordingly, the Board finds that the medical evidence submitted by her from the AmeriMed physicians, including Drs. Barosy and Bishai, does not adequately show that she was unable to perform the offered job.¹²

None of the other medical evidence establishes that appellant could not perform the offered job. Dr. Cloren opined that appellant was able to work in a low physical demand capacity.

Appellant's counsel contends that appellant did not refuse the job. This argument is without merit. In a note received by OWCP on March 18, 2013, appellant stated that she accepted the job offer stemming from the February 22, 2013 letter and was willing to work with vocational rehabilitation training to determine what position was best for her given her limitations and injuries. She also stated that she was unable to drive. Any reasonable reading of this letter indicates that appellant was not accepting the position. OWCP had determined that, the position was suitable, there was no medical evidence at that time that she could not drive, and there was no need for vocational rehabilitation. It determined that appellant could perform the job and she was simply listing reasons that she did not wish to perform the job. Furthermore, in a June 25, 2013 letter, Ms. Enevoldsen from the employing establishment noted that appellant had not contacted the employing establishment about the job offer. At the hearing, appellant testified that she called Mr. Hale and told him that she could not drive and he told her that she

¹⁰ *D.N.*, Docket No. 14-657 (issued June 26, 2014).

¹¹ *Manuel Gill*, 52 ECAB 282, 286 n.5 (2001).

¹² *M.W.*, Docket No. 12-502 (issued January 16, 2013).

needed to send medical information. She indicated that she did not hear from him after that. However, the June 25, 2013 letter clearly indicates that, to accept the position, appellant shall contact either Ms. Enevoldsen or Ms. Young. Appellant did not do so and did not accept the job offer.

Appellant's counsel also argued that OWCP had unjustifiably limited its characterization of appellant's work-related condition. Whether appellant's claim should be accepted for additional medical conditions is an issue not currently before the Board.¹³

The Board finds that OWCP properly terminated appellant's monetary compensation due to her refusal of suitable work. OWCP followed all established protocols, as explained in detail above in determining that the offered position was suitable. After it established that the offered work was suitable, the burden shifted to appellant to show that her refusal was suitable, or justified.¹⁴ Appellant did not establish that her refusal of suitable work after the July 26, 2013 decision was justified. The Board will therefore affirm the April 23, 2014 OWCP decision.

CONCLUSION

The Board finds that OWCP properly terminated appellant's wage-loss compensation under 5 U.S.C. § 8106(c)(2) for refusal of suitable work.

¹³ *J.N.*, Docket No. 09-1621 (issued July 14, 2010).

¹⁴ *T.S.*, Docket No. 13-1046 (issued November 15, 2013).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 23, 2014 is affirmed.

Issued: April 29, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board