



the left ulnar nerve, bilateral cubital tunnel syndrome and bilateral carpal tunnel syndrome. Appellant stopped work on September 9, 1999 and was off work intermittently through December 9, 1999. She returned to work on light duty on March 21, 2000.<sup>2</sup>

On June 20, 2001 appellant filed a Form CA-1 claim for traumatic injury stating that she experienced neck and shoulder pain. OWCP accepted a cervical sprain and bilateral shoulder impingement syndrome.

On July 30, 2003 appellant underwent right carpal tunnel syndrome and right cubital tunnel syndrome release. She underwent left carpal tunnel syndrome and left cubital tunnel syndrome release on September 5, 2003. Appellant returned to light duty and worked intermittently until April 5, 2008.

On October 16, 2008 appellant's treating physician, Dr. Kevin J. Collins, Board-certified in physical medical and rehabilitation, completed a work restriction form indicating that appellant was permanently restricted from all work activities.

On March 5, 2009 appellant was examined by Dr. Robert Holladay IV, Board-certified in orthopedic surgery and an OWCP second opinion physician, who reported that she has residual signs and symptoms at both shoulders, both elbows and both carpal tunnel areas that had not resolved. Dr. Holladay noted that she had undergone surgical treatment for these conditions, which were all accepted as employment related. He found that appellant could not return to her full-duty position, but could return to work with permanent restrictions, primarily to avoid repetitive activities particularly above shoulder height or with a forceful grip.

On June 12, 2009 OWCP determined that there was a conflict in the medical evidence regarding whether appellant was totally disabled for work. It referred appellant to Dr. Charles Varela, Board-certified in orthopedic surgery, for an impartial medical examination. In a July 20, 2009 report, Dr. Varela stated findings on examination, reviewed the medical history and the statement of accepted facts. He found that appellant could work an eight-hour day with restrictions on overhead lifting and lifting exceeding 25 to 30 pounds. Appellant had generalized right shoulder pain, most likely secondary to subacromial bursitis; mild left subacromial bursitis, minimally symptomatic; postbilateral carpal tunnel syndrome, stable; postbilateral ulnar nerve decompression, anterior transposition, elbows, stable and no rotator cuff weakness. Dr. Varela advised that her only active diagnosis was right shoulder pain, though he believed that she might be exaggerating her symptoms. He stated that appellant's symptoms occurred primarily with overhead activities and sleeping, which was typical of subacromial bursitis. Dr. Varela advised that she was stable, not totally disabled and had reached maximum medical improvement. Appellant should return to work in a limited capacity until her right shoulder condition was better clarified. Dr. Varela recommended subacromial injection; in the event the shoulder did not improve after the injection, he would then conclude that it was stable. Appellant could return to normal activities and no further surgical treatment was warranted. Dr. Varela stated that she was

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<sup>2</sup> The Board notes that much of the contemporaneous documentation pertaining to appellant's injuries and accepted conditions is not contained in the instant record. The essential facts of this case, however, are not in dispute.

not able to return to full duty because she continued to experience difficulty with overhead activities.

On October 5, 2009 appellant accepted a modified mail processing clerk position with the employing establishment for eight hours a day based on the restrictions listed by Dr. Varela. She returned to work on October 7, 2009.

On November 18, 2009 appellant informed OWCP that she had returned to Dr. Collins, who took her off work. She asserted that she had been sent back to work to perform work exceeding her restrictions and that consequently she was not able to recover.

On November 18, 2009 appellant filed a Form CA-7 claim for compensation for wage loss commencing November 18, 2009.

In an October 5, 2009 report, Dr. Collins stated that he last examined appellant in August 2009, at which time he noted his disagreement with “any physician” regarding her physical restrictions and her work capacity. He reviewed the job description for modified mail processing clerk and found that she was not capable of performing the position. The duties of casing letters from one to four hours required increased repetitive motion, which was not conducive to her restrictions.

In a November 16, 2009 Form CA-17 duty status report, Dr. Collins listed restrictions and wrote “no work at anytime!” due to appellant’s carpal tunnel and ulnar nerve conditions. He indicated that she could perform continuous lifting up to 20 pounds and intermittent lifting up to 50 pounds for two to three hours a day.

In a November 16, 2009 report, Dr. Collins stated that appellant was not a candidate to return to her previous duties or any other job, and recommended that she be kept off work. He noted that she had undergone multiple surgeries and had bilateral upper extremity overuse syndrome, chronic pain and depression and rotator cuff tears. In a November 18, 2009 Form CA-20 report, Dr. Collins reiterated that appellant was unable to work at any job and checked a box indicating that the diagnosed conditions were caused or aggravated by employment activity.

On November 19, 2009 OWCP confirmed with the employing establishment that the light-duty position remained available.

By letter dated November 23, 2009, OWCP advised appellant to submit additional factual and medical evidence to support that she sustained a recurrence of her work-related disability as of November 18, 2009. It asked her to submit a statement describing the specific duties and the physical requirements of her limited-duty job which she felt she was unable to perform when she stopped working on November 18, 2009. OWCP also requested that appellant submit a comprehensive medical report, containing rationalized medical opinion evidence, which established the relationship of her current condition to her accepted conditions.

On December 18, 2009 appellant listed the duties of her mail processing clerk position. These included: surface visibility scanning; repetitive squeezing of a scanning machine from one to four hours; casing manual letters; continuous and repetitive casing of mail; carrying trays of various size and weight; and working flats in flat tubs; pulling trays after they are full and placing

them on floats; working mail from floats; and facing letters. Appellant stated that the job required simple grasping, fine manipulation, continuous repetitive motions, overhead reaching and heavy lifting. She asserted that she had sustained a recurrence of disability.

In a report dated December 10, 2009, Dr. Collins stated findings on examination and noted that he had treated appellant for bilateral rotator cuff tears, myofascial pain in her trapezoids, ulnar neuropathy, bilateral carpal tunnel syndrome, chronic pain and overuse syndrome, carpal tunnel syndrome, ulnar neuropathy and rotator cuff tears. Appellant had recovered from her “original disability” and had returned to work. Dr. Collins explained that she currently had a repeat tear on the right side and that a causal relationship between the current condition and the original injury was established by overuse syndrome. He advised that appellant’s job as modified mail clerk required her to perform tasks which involved substantial repetitive motion, such as casing mail and picking up things. The repetitive motion led directly to her findings. Dr. Collins concluded that appellant should not return to her usual job. He reiterated his disagreement with Dr. Varela’s opinion that the modified mail clerk job was within appellant’s physical restrictions and that she was capable of working at this job.

By decision dated March 12, 2010, OWCP denied appellant’s recurrence of disability claim. It found that she failed to establish that the modified mail processing job exceeded her work restrictions or that there was worsening of her work-related bilateral wrist, hand, elbow, shoulder and neck conditions.

By letter dated March 24, 2010, appellant’s attorney requested an oral hearing, which was held on July 9, 2010. Appellant reiterated that she experienced difficulties at the modified mail processing job.

In an October 10, 2009 report, Dr. Collins reiterated that appellant was unable to work due to pain in her shoulders, elbows, wrists and hands and had been disabled since November 18, 2009. He stated that he had recommended right shoulder surgery which was denied after she was seen by Dr. Varela. In subsequent reports the physician addressed appellant’s permanent disability for work.

By decision dated October 15, 2010, OWCP’s hearing representative affirmed the March 12, 2010 decision.

### **LEGAL PRECEDENT**

OWCP’s regulations define the term recurrence of disability as follows: “[r]ecurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition, which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness. This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee’s physical limitations due to his or her work-related injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.”<sup>3</sup>

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<sup>3</sup> *J.F.*, 58 ECAB 124 (2006); *Elaine Sneed*, 56 ECAB 373, 379 (2005); 20 C.F.R. § 10.5(x).

## ANALYSIS

The Board finds that appellant has not met her burden to establish a change in the nature and extent of her injury-related conditions, such that she was unable to perform her light-work duties as of November 18, 2009. Appellant has not established that light work within her restrictions was not available as of November 18, 2009. For these reasons, she has failed to establish a recurrence of disability as a result of her accepted employment conditions.

OWCP accepted bilateral wrist, hand, elbow, shoulder and neck conditions. On October 7, 2009 appellant returned to work at light duty, at a modified mail processing job based on restrictions outlined by Dr. Varela, the impartial medical specialist. In a July 20, 2009 report, Dr. Varela found that she had generalized right shoulder pain, most likely secondary to subacromial bursitis; mild left subacromial bursitis, minimally symptomatic; postbilateral carpal tunnel syndrome, stable; postbilateral ulnar nerve decompression and anterior transposition. He advised that appellant's only active diagnosis was right shoulder pain, though there was some symptom exaggeration. While Dr. Varela stated that her right shoulder condition could be better clarified, he did not find her totally disabled due to any residuals or candidate for surgery and opined that she had reached maximum medical improvement. He concluded that appellant could work an eight-hour day with restrictions on overhead lifting and lifting not exceeding 25 to 30 pounds. Appellant accepted the light-duty job and worked until November 18, 2009, at which time she alleged a recurrence of disability.

Appellant submitted Dr. Collins periodic reports. Dr. Collins advised that she remained totally disabled from work due to her accepted bilateral wrist, hand, elbow, shoulder and neck conditions. On October 5, 2009 he opined that appellant was not capable of performing the modified mail processing job because it required casing letters and increased repetitive motion, which violated her work restrictions. Dr. Collins noted that appellant was permanently restricted from all work activities. On November 16, 2009 appellant was not able to perform any work because of her carpal tunnel and ulnar nerve conditions. In a December 10, 2009 report, Dr. Collins opined that she had sustained a repeat tear of her right shoulder which was causally related to overuse syndrome and repetitive tasks in her light-duty job which involved repetitive motion, such as casing mail. He stated that appellant did recover from her original injury and had returned to work, but he concluded that he did not see any reason to return her to work at this time. Dr. Collins explained that factors "that reproduced the recurrence" were overuse, casing mail, and picking things up and he noted that she now had a repeat tear on the right side. In as far as he suggests that appellant's light work activities caused a newly diagnosed tear of the rotator cuff, she may file a claim for a new injury.

Dr. Collins, however, did not provide sufficient discussion with reference to objective findings addressing how appellant had a spontaneous worsening of any of her accepted conditions as of November 18, 2009 which caused increased disability. His opinion that appellant was totally disabled due to her multiple accepted conditions repeated that which he expressed over the years, and which led OWCP to seek a second opinion examination and ultimately an impartial medical examination regarding her ability to perform light work.

Dr. Collins also disagreed with Dr. Valera's opinion. However, Dr. Valera explained in his July 20, 2009 report that appellant would be able to perform light duty, regardless of any complications she had due to her right shoulder condition, as long as there were restrictions on overhead lifting and on lifting exceeding 30 pounds.<sup>4</sup> OWCP properly found that his report represented the weight of the medical evidence and appellant accepted the light-duty position.

Appellant continued to submit April 19, May 19 and August 11, 2010 reports from Dr. Collins. These reports reiterated Dr. Collins previous conclusions. Dr. Collins failed to provide a medical opinion which sufficiently described a worsening of appellant's condition, and therefore his reports do not constitute probative, rationalized opinion evidence demonstrating that a change occurred in the nature and extent of the injury-related condition.<sup>5</sup>

In addition, appellant did not submit any evidence to show that there was a change in the nature and extent of her work requirements. OWCP contacted the employing establishment and confirmed that the light-duty position remained available to appellant. The record indicates appellant returned to work for the employing establishment from October 7 to November 18, 2009 at a modified mail processing job with restrictions entailed by her work-related bilateral wrist, hand, elbow, and shoulder and neck conditions. While appellant continued to claim that the job forced her to exceed her work restrictions, thus contributing to the aggravation of these conditions, she failed to submit factual evidence supporting her claim.

Accordingly, as appellant has not submitted any factual or medical evidence supporting her claim that she was totally disabled from performing her light-duty assignment as of November 18, 2009 as a result of her accepted bilateral wrist, hand, elbow, shoulder and neck conditions, she failed to meet her burden of proof. She was not entitled to compensation based on a recurrence of her employment-related disability. The Board will affirm the October 15, 2010 decision.

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<sup>4</sup> The Board notes that appellant had asserted that her wrist, elbow, shoulder and neck pain had increased because Dr. Varela had changed her work restrictions, particularly those pertaining to lifting. Appellant testified at the hearing that the modified mail processing job became intolerable because Dr. Varela had increased her lifting restriction from 5 to 30 pounds. However, Dr. Collins indicated in his November 16, 2009 form report that she could perform continuous lifting up to 20 pounds and intermittent lifting up to 50 pounds for two to three hours a day.

<sup>5</sup> *William C. Thomas*, 45 ECAB 591 (1994).

**CONCLUSION**

The Board finds that appellant has not met her burden to establish that she was entitled to compensation for a recurrence of disability as of November 18, 2009 causally related to her accepted bilateral wrist, hand, elbow, shoulder and neck conditions.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 15, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 13, 2011  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board

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