United States Department of Labor
Employees' Compensation Appeals Board

E.C., Appellant	)	
and	)	**Docket No. 15-0603**
	)	**Issued: July 15, 2015**
U.S. POSTAL SERVICE, POST OFFICE, Flushing, NY, Employer	)	

Appearances:
Stephen Larkin, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On January 26, 2015 appellant, through her representative, filed a timely appeal from an Office of Workers' Compensation Programs' (OWCP) merit decision dated October 31, 2014. Pursuant to the Federal Employees' Compensation Act[1] (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 benefits for appellant's accepted neck, right wrist ganglion cyst, bilateral hand and wrist tenosynovitis, right shoulder impingement, bilateral carpal tunnel syndrome, cervical disc displacement, and lumbar radiculopathy conditions, effective February 10, 2014.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On May 9, 2010 appellant, then a 56-year-old mail processor, filed a Form CA-2 occupational disease claim, alleging that she developed bilateral shoulder and neck conditions causally related to employment factors. OWCP accepted the claim for neck strain. The claim was subsequently expanded to include the conditions of right wrist ganglion cyst, bilateral hand and wrist tenosynovitis, right shoulder impingement, bilateral carpal tunnel syndrome, cervical disc displacement, and lumbar radiculopathy. Appellant stopped working on September 9, 2010 and received temporary total disability compensation from OWCP on the periodic rolls.

In order to determine appellant's current condition and ascertain whether she still suffered residuals from her accepted conditions, OWCP referred her for a second opinion examination with Dr. Leon Sultan, a Board-certified orthopedic surgeon. In a report dated December 19, 2011, Dr. Sultan opined that, based on his examination, appellant's cervical spine, thoracolumbar spine, right shoulder, and bilateral hand/wrist conditions had clinically resolved. He advised that she had no residual, work-related disability. Dr. Sultan noted that appellant was capable of performing her date-of-injury job as a mail processor.

In a May 1, 2012 report, Dr. Agustin Sanchez, Board-certified in physical medicine and rehabilitation and appellant's treating physician, advised that he had been treating her since June 3, 2010 for multiple disc herniations of her cervical spine, lumbar spine radiculopathy, right shoulder impingement, and bilateral wrist and tendon injuries with degenerative changes at the first metacarpophalangeal joint of the left wrist along with subluxation. He reported that she was status post carpal tunnel release of the left wrist, performed on May 16, 2011, and he indicated that she could require further surgery to her right wrist. Dr. Sanchez noted that appellant had decreased motor strength and numbness in the left hand and bilateral wrist pain. He advised that she underwent injections to the ganglion of the right wrist on February 28 and April 3, 2012. Dr. Sanchez advised that during appellant's April 19, 2012 examination she complained of cervical pain radiating to both shoulders, with Form C4-7 point tenderness, in addition to a positive Spurling test and trapezial spasm. Appellant was scheduled to begin receiving physical therapy for her neck, shoulders, and back.

Dr. Sanchez opined that appellant's medical condition was causally related to the repetitive work-related duties she performed on a daily basis for 22 years, five days a week, eight hours a day. He found that her manual dexterity had become considerably impaired as well as her ability to bend, twist her neck, or performing any type of lifting duties or repetitive wrist flexion. Based on these reasons, Dr. Sanchez opined that appellant remained totally disabled and was unable to return to gainful employment due to the residual effects of her work-related conditions.

OWCP found that there was a conflict in the medical evidence between Dr. Sanchez and Dr. Sultan, the second opinion physician, as to whether appellant still had residuals from her accepted conditions. On October 24, 2012 OWCP, using its medical management scheduling application, scheduled appellant for a referee medical examination with Dr. Eial Faierman, Board-certified in orthopedic surgery, on November 27, 2012 in Jackson Heights, New York. The record contains an MEO23 appointment scheduling notification for the examination by Dr. Faierman on November 27, 2012. OWCP issued screenshots of its selection process which

indicated that Dr. Faierman had been bypassed nine times since being added to the rotational system, but that no physicians were bypassed in scheduling this examination for appellant. Effective November 1, 2012, appellant changed her address to West Orange, New Jersey. On November 19, 2012 OWCP rescheduled her examination for January 24, 2013 due to the effects of Hurricane Sandy. On November 20, 2012 it acknowledged receipt of the claimant's notification of appellant's address change. On January 24, 2013 another MEO23 notification was prepared which related that OWCP rescheduled appellant's examination with Dr. Faierman for March 12, 2013 because more time was needed to send out the appointment letter, because of Hurricane Sandy.

In a March 12, 2013 report, Dr. Faierman stated that appellant had experienced repetitive stress in her job which produced multiple pains throughout her body. He advised that, with regard to carpal tunnel syndrome, she underwent left carpal tunnel release which markedly decreased her pain. Dr. Faierman stated that appellant had experienced an aggravation of carpal tunnel syndrome on the left side; on examination, however, she no longer showed any evidence of any left carpal tunnel syndrome, which was now resolved. He asserted that there was no objective evidence of any significant pathology on either hand and no need for any further treatment or surgery regarding her hands or wrists.

Dr. Faierman stated that, with regard to appellant's lumbar spine, a magnetic resonance imaging (MRI) scan only revealed a bulging disc and a normal anatomic variant unrelated to trauma or repetitive stress syndrome. He advised that based on the objective MRI scan findings there was no post-traumatic pathology and no need for any further treatment regarding the lumbar spine. Dr. Faierman further stated that it was difficult to examine appellant in light of her significant symptom magnification. With regard to the right shoulder, an MRI scan of the right shoulder showed mild tenosynovitis, but no rotator cuff tear, cartilage damage or fractures; Dr. Faierman opined that these findings were highly nonspecific and routinely mild. He advised that, although repetitive work can cause bursitis or tendinitis, these conditions usually resolve when the patient stops work. Dr. Faierman reported that, as with the lumbar spine, appellant's examination responses were highly exaggerated. He opined based on her history, physical examination and the MRI scan findings that there was no pathology in the right shoulder whatsoever.

Lastly, Dr. Faierman advised that appellant's cervical spine examination again was highly exaggerated with significant symptom magnification. He stated that her cervical spine MRI scan revealed multiple herniated discs. However, Dr. Faierman advised that herniated discs occur due to trauma but that appellant did not experience any significant trauma. He opined that she had complaints of repetitive stress syndrome which would be unrelated to herniated discs. Dr. Faierman further reported that there were multiple herniated discs which caused him to question whether these were simply bulging discs. He concluded:

> "In conclusion, the examination of [appellant's] cervical spine, right shoulder and lower back was in my opinion highly exaggerative and nonspecific. [Appellant] can return to light work as has been offered to her in the past. Because the pain is subjective, it is difficult to determine whether this patient will ever return to full[-]duty work. Still, the only significant signs are the multiple herniated discs

in the cervical spine. Again herniated discs occur due to traumatic injury not repetitive stress syndrome."

Dr. Faierman reiterated that there was no objective evidence to any pathology in the bilateral hand or left shoulder[2] examinations. He advised that, because the examination findings of appellant's hands were essentially the same as those reached by Dr. Sultan in December 2011, he had to conclude that the bilateral hand and right shoulder pathology[3] were resolved by December 19, 2011. With regard to the cervical and lumbar spine examinations, Dr. Faierman found no objective evidence of any neurological pathology on the examinations of the upper extremities and lower extremities. He advised that there were no motor, sensory, or reflex examination changes in the bilateral upper extremity or bilateral lower extremities. Dr. Faierman reported that based on observation of the patient he believed that appellant's range of motion testing in the cervical and lumbar spine were highly exaggerated and that there were no obvious objective findings of pathology on the cervical spine and lumbar spine examinations. He reiterated that with regard to the right shoulder she also displayed significant symptom magnification; appellant was able to lift her body onto the examination table with no difficulty on three separate occasions, but could not lift her arm past 90 degrees.

Dr. Faierman opined that appellant did not have any current work-related disability. He reported, however, that her symptom magnification limited the probative value of her examination. Dr. Faierman found that the right shoulder MRI scan revealed minimal transient pathology and that nothing should currently cause the symptoms appellant described. Based on the completely nonanatomic examination, the obvious symptom magnification and the minimal MRI scan findings, he did not believe that she had any current disability regarding her accepted conditions. Dr. Faierman indicated that appellant was not currently able to return to her date-of-injury job and noted that, although he did not believe she had any current disability or pathology related to the repetitive stress injury, the described job appeared to be a very physically demanding position. He recommended that she attempt to return to a less demanding position with some restrictions and see how she fared. Dr. Faierman opined that there was absolutely no reason appellant could not return to a light-duty job and reiterated that no further treatment was recommended.

In the March 14, 2013 work capacity evaluation form attached to his report, Dr. Faierman reported that he would start off appellant with light-duty work for eight hours a day due to her subjective complaints. He prescribed the following restrictions: bending, stooping, and repetitive movements of the wrists and elbows for no more than one hour; and pushing, pulling, lifting, and squatting for no more than two hours and no more than 30 pounds.

In an August 21, 2013 report, Dr. Sanchez expressed his disagreement with Dr. Faierman's opinion that appellant had no residuals from his accepted conditions, that these conditions had resolved, and that she was no longer disabled. He asserted that he had been treating appellant for multiple disc cervical and lumbar herniations with radiculopathy and right

[2] Dr. Faierman actually stated that appellant's left shoulder pathology was resolved. He was apparently referring to appellant's right shoulder, which was the condition accepted by OWCP.

[3] *Id.*

shoulder impingement and showed evidence of injury to the wrists and tendons of her hands with degenerative changes at the first metacarpophalangeal joint of the left wrist, along with subluxation. Dr. Sanchez reported that she was status post carpal tunnel release of the left wrist on May 16, 2011 and could require further surgery to her right wrist to remove a ganglion formation. He advised that appellant's manual dexterity had become considerably impaired as well as her ability to bend, twist her neck or perform any type of lifting duties or repetitive wrist flexion. Dr. Sanchez opined that her medical condition was causally related to the repetitive work-related duties which she performed on a daily basis for 22 years, 5 days a week for eight hours a day. Based on reasons stated above, he disagreed with Dr. Faierman's statement that appellant was magnifying her symptoms during his examination. Dr. Sanchez noted that her medical history confirmed her present physical and medical condition. He reiterated that appellant was totally disabled and was unable to return to her gainful employment; her condition remained guarded.

In a report dated October 22, 2013, Dr. Faierman reported that a June 21, 2013 MRI scan of the cervical spine showed minimal disc bulges with tiny osteophytes at C3-5 and C5-S1 which were consistent with appellant's age and mild degenerative changes. He reiterated that his opinion that her examination responses were highly exaggerated and that she should have started light duty and progressed to full duty overtime, a progression that would take approximately three months.

By letter dated October 28, 2013, OWCP asked Dr. Faierman whether it was his recommendation for appellant to start with a light-duty job a result of the unresolved accepted conditions, or to other factors that would prevent an immediate return to full duty. It also asked him why he believed appellant was incapable of performing full duty now if the accepted conditions had resolved; whether the tenosynovitis he noted was associated with the accepted condition of right shoulder impingement; whether her right shoulder impingement resolved completely; whether the mild tenosynovitis prevented her from returning to full duty; whether her subjective complaints were the only reasons for her inability to return to full duty immediately; whether there was objective evidence of residuals of the accepted condition; and whether her condition was static or stable.

In his October 28, 2013 response to OWCP's follow-up questions, Dr. Faierman reported that his recommendation for appellant to begin with a light-duty job was the result of subjective pain; that mild tenosynovitis was a subjective evaluation by a radiologist and was not clinically relevant; that her work restrictions should last for three months; that her subjective complaints were the only reasons for her inability to return to full duty immediately; and that her condition had stabilized.

On January 6, 2014 OWCP issued a notice of proposed termination of compensation to appellant. It found that the weight of the medical evidence, as represented by Dr. Faierman's impartial opinion, established that appellant accepted neck, right wrist ganglion cyst, bilateral hand and wrist tenosynovitis, right shoulder impingement, bilateral carpal tunnel syndrome, cervical disc displacement, and lumbar radiculopathy conditions had ceased and that she had no work-related residuals stemming from this condition.

In a report dated February 5, 2014, received by OWCP on February 7, 2014, Dr. Sanchez essentially reiterated the opinions, findings, and conclusions that he set forth in his August 21, 2013 report.

By decision dated February 10, 2014, OWCP terminated appellant's compensation for medical benefits, finding that Dr. Faierman's impartial opinion represented the weight of the medical evidence.

On February 24, 2014 appellant, through her representative, requested an oral hearing, which was held on August 11, 2014. At the hearing, she asserted that OWCP did not provide a reason why her referee medical appointment with Dr. Faierman was not rescheduled closer to her home. Appellant further stated that Dr. Faierman did not release her to full, unrestricted duty. Her representative argued at the hearing that the MRI scan reports clearly indicated that appellant had disc herniations, not disc bulges, as asserted by Dr. Faierman which indicated that appellant had residual effects from her accepted conditions. Appellant's representative also stated that Dr. Faierman was not selected in accordance with proper OWCP procedures because the case file did not explain why nine physicians were bypassed in favor of Dr. Faierman for the referee examination, or why OWCP bypassed physicians closer to appellant's new address.

By letter to OWCP dated July 25, 2014, appellant's representative requested an explanation and documentation as to why orthopedic surgeons from appellant's new zip code of 07052 were bypassed in favor of Dr. Faierman during the Physicians Directory System (PDS) impartial medical examiner selection process. He cited the case of *M.A.*, 59 ECAB 355 (2008), in support of his contention that OWCP has an obligation to verify that it selected Dr. Faierman in a fair and unbiased manner for doing a referee examination on appellant. OWCP did not respond to this letter.

By decision dated October 31, 2014, an OWCP hearing representative affirmed the February 10, 2014 termination decision. He found that Dr. Faierman's opinion that appellant no longer suffered residuals from his accepted conditions represented the weight of the medical evidence and that his opinion merited the special weight of a referee medical examiner. The hearing representative found that Dr. Faierman's March 12, 2013 report was thorough, well rationalized and supported by the record. He noted that Dr. Faierman had subsequently reviewed a June 21, 2013 cervical MRI scan and found that this diagnostic test showed only age-related degenerative conditions in the cervical spine. The hearing representative found that Dr. Faierman, while recommending a transition to full duty, explained that the only reason appellant could not immediately return to full-duty work was due to her subjective complaints alone, as opposed to objective findings. He found that this statement by Dr. Faierman did not constitute a finding that appellant continued to have residual disability from her accepted conditions. Further, the hearing representative found that, although appellant provided an additional report from Dr. Sanchez, after Dr. Faierman submitted his impartial medical report in which he stated his disagreement with Dr. Faierman, this report merely restated one side of the conflict in the medical evidence and was not sufficient to vitiate Dr. Faierman's opinion, which represented the weight of the medical evidence.

The hearing representative further found that the contention by counsel that OWCP did not document why Dr. Faierman was chosen as the physician rather than a physician closer to

her new address, or that other physicians were bypassed in the PDS selection was without merit. He found that OWCP chose a physician within her proper "zip code cluster," beginning in 113, when she still lived in that "zip code cluster" in October 2012. In addition, the hearing representative found that there was no evidence that any physician was bypassed when scheduling this examination; he stated that the nine bypasses noted by appellant's representative in the screenshot appeared to be historical bypasses of Dr. Faierman himself. He therefore found that there was no basis for a finding that Dr. Faierman was inappropriately consistently chosen as the impartial medical specialist.

LEGAL PRECEDENT

Once OWCP accepts a claim, it has the burden of justifying termination or modification of compensation benefits.[4] Section 8123(a) provides that, if there is a disagreement between the physician making the examination for the United States and the physician of the employee the Secretary shall appoint a third physician who shall make an examination.[5] It is well established that, when a case is referred to an impartial medical specialist for the purpose of resolving a conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background, must be given special weight.[6]

ANALYSIS -- ISSUE 1

On appeal appellant's representative argues that OWCP failed to follow proper procedures set forth in accordance with Federal (FECA) Procedure Manual Chapter 3.500 in selecting Dr. Faierman as the impartial medical examiner. He argues that it did not make sufficient efforts to find a referee physician within appellant's home zip code. Appellant's representative contends that the initial scheduling was undertaken prior to her change of address and was prior to a change in the Federal (FECA) Procedure Manual in 2013; the scheduling should have been done in accordance with both of these developments. He further argues that OWCP failed to respond to his July 25, 2014 letter asking why it did not select a physician from appellant's zip code and which doctors from her zip code were bypassed.

The Board does not accept appellant's representative's contentions. The record reflects that OWCP acted in accordance with the procedures set forth above in Chapter 3.500 of the Federal (FECA) Procedure Manual at the time it found there was a conflict in the medical evidence.[7] There is no indication that Dr. Faierman was not chosen through "an automatic and strict rotational scheduling feature." The record contains proper documentation of the MEO23 forms produced as a result of the scheduled examination. As the hearing representative noted, there was no evidence that other physicians were bypassed when scheduling this examination;

[4] *Mohamed Yunis*, 42 ECAB 325, 334 (1991).

[5] *Regina T. Pellecchia*, 53 ECAB 155 (2001).

[6] *Jacqueline Brasch (Ronald Brasch)*, 52 ECAB 252 (2001).

[7] The relevant sections of the Federal (FECA) Procedure Manual in effect at the time the impartial medical examiner was selected were found at Federal (FECA) Procedure Manual, Part 3 -- Medical, *Referee Examinations*, Chapter 3.500.4(b) (July 2011).

the nine bypasses noted by appellant's representative in the screenshot were previous bypasses of Dr. Faierman. There is no indication that any other physician was bypassed in this case.[8] Although OWCP did not choose another physician after appellant moved to an address in another zip code, Dr. Faierman's office was still within the 200-mile limit imposed by Chapter 3.500 of the Federal (FECA) Procedure Manual.[9] The May 2013 revisions to Chapter 3.500, cited by counsel in his appeal to the Board, contain the same 200-mile limit and therefore do not affect the propriety of OWCP's selection process and decision.[10] Accordingly, the Board finds that the hearing representative properly found that Dr. Faierman was appropriately chosen as the impartial medical specialist.[11]

Appellant's representative further argues that Dr. Faierman's impartial medical reports were insufficiently rationalized and did not merit the special weight of a referee medical examiner. He notes that Dr. Faierman stated in his October 28, 2013 response letter that, although he did not believe appellant had any current disability related to his work-related conditions his examination of appellant had limited value as it pertained to his right shoulder, cervical spine and lumbar spine. Appellant's representative argues that this statement was speculative and diminished the weight of his opinion. He further argues that Dr. Faierman mischaracterized findings of herniated discs at C3-4, C4-5, and C5-6 as disc bulges on the June 31, 2013 cervical MRI scan, which further diminished the probative weight of his opinion as an impartial medical examiner, and did not adequately address whether appellant's right shoulder or lumbar spine conditions had resolved.

In his March 12, 2013 report, Dr. Faierman advised that appellant had experienced repetitive stress in her job which produced multiple symptoms throughout her body. With regard to her bilateral carpal tunnel syndrome, he noted that her surgery for left carpal tunnel release had significantly diminished her pain. Dr. Faierman also noted that appellant no longer showed any evidence of left carpal tunnel syndrome and found that this condition had resolved. He opined that there was no objective evidence of any significant pathology on either hand and no need for any further treatment or surgery regarding her hands or wrists.

Regarding her lumbar spine condition, Dr. Faierman found that an MRI scan showed only a bulging disc and a normal anatomic variant unrelated to trauma or repetitive stress syndrome. He found based on the objective MRI scan findings that appellant had no post-traumatic pathology and no need for any further treatment regarding the lumbar spine. Dr. Faierman asserted that it was difficult to examine appellant in light of her significant

[8] *See J.B.*, Docket No. 14-313 (July 10, 2014).

[9] Federal (FECA) Procedure Manual, *supra* note 7 at Chapter 3.500.5 (July 2011).

[10] *Id.* at 3.500.5(e)(3) (May 2013).

[11] The Board rejects the representative's contention that OWCP's selection of Dr. Faierman as an impartial medical examiner was governed by the Board's holding in *M.A.*, 59 ECAB 355 (2007). In that case, the claimant objected to the selection of a particular referee examiner prior to the examination, a fact pattern different from that presented in the instant case. Accordingly, both the facts and the issue presented in *M.A.* are distinguished from those posed in the instant case. The case cited by counsel is therefore not applicable to the instant case.

symptom magnification, a tendency which affected all of his findings pertaining to appellant's accepted conditions.

With regard to the right shoulder, an MRI scan showed mild tenosynovitis, but no rotator cuff tear, cartilage damage, or fractures; Dr. Faierman asserted that these findings were highly nonspecific and routinely mild. He opined that, although repetitive work can cause bursitis or tendinitis, these conditions usually resolve when the patient stops work. Dr. Faierman noted that, as with the lumbar spine, appellant's examination responses were highly exaggerated. He opined that, based on her history, physical examination, and the MRI scan findings, that there was no pathology in the right shoulder whatsoever.

Finally, Dr. Faierman advised that appellant's cervical spine examination again was also highly exaggerated, with significant symptom magnification. He noted that her cervical spine MRI scan revealed multiple herniated discs; he, however, advised that herniated discs occur due to trauma but that appellant did not experience any significant trauma. Dr. Faierman opined that appellant had complaints of repetitive stress syndrome which would be unrelated to herniated discs. He further noted that there were multiple herniated discs which caused him to question whether these were simply bulging discs. Dr. Faierman reiterated that there was no objective evidence to support any pathology in the bilateral hand, right shoulder, cervical spine, and lumbar spine examinations. He opined that appellant did not have any current work-related disability, although her symptom magnification limited the probative value of her examination. Dr. Faierman advised that, although she was not currently able to return to her date-of-injury job, she could start out working light duty for eight hours a day in a less demanding position with restrictions on bending, stooping, repetitive movements of the wrists and elbows, pushing, pulling, lifting, and squatting.

In his October 28, 2013 report, Dr. Faierman reiterated that appellant should begin her return to work with a light-duty job and restrictions stemming from her subjective pain, which should last for three months. He explained that her subjective complaints were the only reasons for her inability to return to full duty immediately and there were no objective findings to substantiate residuals of the accepted conditions. Dr. Faierman noted that the diagnosis of mild tenosynovitis was a subjective evaluation by a radiologist and was not clinically relevant. He opined that appellant's overall condition had stabilized. OWCP relied on Dr. Faierman opinion in its February 10, 2014 decision, finding that appellant had no continuing disability or impairment causally related to her accepted neck, right wrist ganglion cyst, bilateral hand and wrist tenosynovitis, right shoulder impingement, bilateral carpal tunnel syndrome, cervical disc displacement, and lumbar radiculopathy conditions. Continued subjective complaints alone are not sufficient to establish that appellant has residuals of an accepted injury.[12]

The Board finds that Dr. Faierman's impartial opinion establishes that appellant no longer has any residuals from her accepted neck, right wrist ganglion cyst, bilateral hand and wrist tenosynovitis, right shoulder impingement, bilateral carpal tunnel syndrome, cervical disc displacement, and lumbar radiculopathy conditions.

[12] *See generally M.F.*, Docket No. 13-1159 (issued November 1, 2013).

The Board notes that a determination of causation must be based solely on the medical evidence of record. Dr. Faierman's opinion is sufficiently probative, rationalized, and based upon a proper factual background. Therefore, OWCP properly accorded his opinion the special weight of an impartial medical examiner.[13] The Board, therefore, finds that Dr. Faierman's opinion constituted the weight of medical opinion and supports OWCP's February 10, 2014 decision to deny any entitlement to continuing compensation based on her accepted conditions.

Appellant subsequently requested an oral hearing but did not submit any additional medical evidence. Thus the Board will affirm the hearing representative's October 31, 2014 decision, which affirmed the February 10, 2014 termination.[14]

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's compensation benefits as of February 10, 2014.

[13] *Gary R. Seiber*, 46 ECAB 215 (1994).

[14] The Board notes that appellant's representative also contended that the February 10, 2014 termination decision was erroneous because it stated, inaccurately, that OWCP had received no documentation challenging Dr. Faierman's March 12, 2013 report; appellant's representative notes that OWCP received Dr. Sanchez's February 5, 2014 report on February 7, 2014, prior to the issuance of its February 10, 2014 decision. The Board finds that any error is harmless. The hearing representative noted in his October 31, 2014 decision that this report had been received in the record but found that it did not vitiate the determination that Dr. Faierman's impartial opinion represented the weight of the medical evidence. The Board further notes that the findings and conclusions in Dr. Sanchez's February 3, 2014 report were virtually identical to those presented by Dr. Sanchez in his August 21, 2013 report, which were reviewed by OWCP prior to the February 10, 2014 termination decision.

ORDER

IT IS HEREBY ORDERED THAT the October 31, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 15, 2015
Washington, DC

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

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

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