

FACTUAL HISTORY

This matter has previously been before the Board.²

On March 16, 2003 appellant, then a 51-year-old clerk, filed an occupational disease claim alleging that on February 3, 2003 she first realized her carpal tunnel condition was due to continuous movement and typing on a 1000 machine. OWCP accepted the claim for right carpal tunnel syndrome, which was expanded to include right ulnar nerve compression, and a July 4, 2006 claim for a recurrence of disability. By letter dated May 21, 2007, OWCP placed appellant on the periodic rolls for temporary total disability.

On March 27, 2008 OWCP found a conflict in the medical opinion evidence between Dr. Scott Fried, a treating Board-certified osteopathic orthopedic surgeon, and Dr. Robert A. Smith, a second opinion Board-certified orthopedic surgeon, on the issue of appellant's disability status and need for additional treatment. On April 23, 2008 appellant was referred to Dr. Elliot Menkowitz, a Board-certified orthopedic surgeon, to resolve this conflict.

In a May 6, 2008 report, Dr. Menkowitz, based upon a review of the medical evidence, statement of accepted facts, and physical examination, concluded that appellant was capable of working. He noted that appellant had right carpal tunnel surgery on July 15, 2005 and that she was currently not working. A physical examination revealed normal finger, hand, and wrist range of motion, normal pinch and grip strength and no shoulder atrophy. Dr. Menkowitz opined that appellant was capable of returning full time to a modified job, provided restrictions, and concluded that she had recovered from her 2003 employment injury.

On August 21, 2008 the employing establishment offered appellant a modified mail processor position based on Dr. Menkowitz's restrictions.³ Appellant accepted the position and started work on October 3, 2008.

In an October 23, 2008 progress note, Dr. Fried related that appellant reported increased symptoms following the start of her modified job on October 3, 2008. Appellant reported throbbing pain, numbness, and tingling as a result of casing mail. Dr. Fried, in an October 23, 2008 disability note, opined that appellant was unable to work and was under his care.

On October 24, 2008 appellant filed a claim for a recurrence of disability beginning October 23, 2008.

² Docket No. 10-2399 (issued September 28, 2011).

³ The duties of the position included up to four hours of casing mail and manual letter distribution and up to four hours of verifying caller trays in acceptance unit. The physical requirements of the position were listed as no standing more than 6 hours; reaching up to 2 hours; up to 1 hour of lifting up to 10 pounds; less than 1 hour of reaching above the shoulder; and 10-minute breaks every 3 hours. Appellant initially rejected the position as she was unable to case mail due to the severity of her condition. She accepted the position following a September 8, 2008 letter from OWCP informing her that the position was found to be suitable and advising her of the penalty provision of 5 U.S.C. § 8106(c).

In a November 13, 2008 progress note, Dr. Fried and Dana Steiner, a certified physician assistant, reported that appellant continued to be disabled from work due to flared upper extremity symptoms. They noted her symptoms have calmed down since stopping work on October 23, 2008, but she has not returned to baseline. Dr. Fried and Ms. Steiner opined that the modified job appellant returned to was not suitable as the activities required of the position were outside her physical restrictions.

Dr. Fried and Ms. Steiner, in December 8, 2008 progress notes, reported that appellant continued to experience numbness spreading bilaterally from her shoulders into her hands. Appellant continued to be disabled from working.

In subsequent progress notes dated January 19 and February 16, 2009, Dr. Fried and Ms. Steiner reported that appellant continued to have ongoing numbness which was worsening. They opined that she continued to be disabled due to her accepted employment injuries.

In a February 3, 2009 report, Dr. Menkowitz related that his physical examination revealed a normal examination of the upper extremities, no atrophy and “[t]he sensory patterns did not follow any anatomic description.” He reported that he found no evidence of any orthopedic abnormalities and recommended a psychological evaluation. Dr. Menkowitz opined that appellant had recovered from her accepted employment injury.

In a March 11, 2009 report, Dr. Fried opined that appellant’s work injuries were substantial, severe, and worsening. A physical examination revealed bilateral positive median nerve dysesthesias, a positive Tinel’s sign of the left ulnar nerve, positive Roos and Hunter tests, and spasm in the trapezius muscle. Diagnoses included: bilateral tenosynovitis, bilateral neuropathy, and bilateral carpal tunnel syndrome.

In a supplemental report dated April 10, 2009, Dr. Menkowitz opined that appellant did not have a recurrence of disability on October 23, 2008 as a result of her accepted employment injury.

By decision dated April 9, 2009, OWCP denied appellant’s recurrence claim.

In a letter dated April 14, 2009, appellant’s counsel requested an oral hearing before an OWCP hearing representative.

By decision dated June 11, 2009, an OWCP hearing representative set aside the denial of appellant’s recurrence claim as the statement of accepted facts provided to Dr. Menkowitz contained “irrelevant” and “potentially prejudicial” information. In this regard, the statement included a prior denial of appellant’s claim for hypnotherapy and that appellant was being represented by a law firm. The hearing representative remanded the case to OWCP for preparation of a new statement of accepted facts and referral to another physician.

The record reflects that a new statement of accepted facts was prepared on August 19, 2009 pursuant to OWCP’s hearing representative’s instructions and a referee medical referral form was ordered noting physicians involved in the case.

On August 28, 2009 OWCP referred appellant to Dr. Stephanie Sweet, a Board-certified orthopedic surgeon, to resolve the conflict in the medical opinion evidence between Dr. Fried and Drs. Smith and Menkowitz on the issue of appellant's disability status and need for additional treatment. It also requested that Dr. Sweet provide an opinion as to whether appellant sustained a recurrence of disability beginning October 23, 2008.

On October 15, 2009 Dr. Sweet, based upon a statement of accepted facts, review of the medical evidence and physical examination, opined that appellant did not sustain a recurrence of disability on October 23, 2008 due to her accepted employment injury. She reported signs of symptom magnification on physical examination. A physical examination revealed no obvious right shoulder restriction, no atrophy, nonanatomic radiation at the right cubital tunnel, negative Phalen's test, and no true loss of strength. Dr. Sweet reviewed electromyography (EMG) studies performed on July 5 and August 1, 2006 and October 21, 2008, which showed no abnormalities. In support of this conclusion, she related that she found no evidence of any ongoing work-related problem and her complaints of pain were out of proportion to the objective and physical findings. Dr. Sweet related the EMG studies did not correlate with appellant's symptoms. She noted that appellant had been previously treated for right carpal tunnel syndrome with successful right nerve compression surgery. Dr. Sweet concluded that appellant was capable of returning to work with no restrictions and required no further medical treatment.

By decision dated December 2, 2009, OWCP denied appellant's claim for a recurrence of disability beginning October 23, 2008. It found the report of Dr. Sweet established that appellant did not have a recurrence of disability due to her accepted employment injury.

In a letter dated December 8, 2009, appellant's counsel requested an oral hearing before an OWCP hearing representative, which was held on March 31, 2010.

By decision dated July 12, 2010, OWCP hearing representative affirmed the December 2, 2009 decision denying appellant's claim for a recurrence of disability.

Appellant appealed to the Board on September 27, 2010. In an order dated September 28, 2011, the Board set aside the July 12, 2010 OWCP hearing representative's decision and remanded the case to OWCP as the evidence of record was insufficient to establish that OWCP had properly selected Dr. Sweet as an impartial medical examiner.⁴ On May 25, 2012 the Board issued an order denying the Director of OWCP's petition for reconsideration.⁵ The Board also issued a separate order denying the Director of OWCP's request for an oral argument.⁶

In a September 13, 2011 report, Dr. Arthur Becan, an orthopedic surgeon, noted appellant's employment and medical history. He noted that EMG studies dated February 22, 2003, May 13 and October 14, 2004 showed abnormalities in the carpal tunnel. Dr. Becan diagnosed right carpal tunnel syndrome, status post right carpal tunnel release, right elbow ulnar

⁴ Docket No. 10-2399 (issued September 28, 2011).

⁵ *Order Denying Petition for Recon.*, Docket No. 10-2399 (issued May 25, 2012).

⁶ *Order Denying Request for Oral Argument*, Docket No. 10-2399 (issued May 25, 2012).

neuropathy, and status post right wrist ulnar nerve neurolysis. On physical examination he noted a positive Tinel's sign along the right elbow ulnar nerve, restricted right elbow range of motion, pain on flexion and extension, right wrist palmar tenderness, positive right wrist Tinel's and Phalen's signs, restricted right wrist range of motion, and pain on palmar flexion, ulnar deviation, and dorsiflexion. Using the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*), Dr. Becan found 11 percent right upper extremity permanent impairment.

On December 15, 2011 appellant filed a claim for a schedule award.

OWCP prepared a statement of accepted facts, a list of specific questions, and a statement of the conflict. The record contains a memorandum of Referral to Specialist, an ME023-Appointment Schedule Notification referring appellant to Dr. John R. Donahue, a Board-certified orthopedic surgeon, screen captures indicating that Drs. Menkowitz and Sweet were bypassed to perform the impartial medical examination as they had previously seen appellant, and screen captures indicating that Dr. Evan Kovalsky, a Board-certified orthopedic surgeon, and Dr. William Spellman, a Board-certified orthopedic surgeon, were bypassed to perform the impartial medical examination as they did not perform impairment ratings.

By letter dated August 9, 2012, OWCP requested that Dr. Donahue resolve the conflict in the medical opinion evidence regarding appellant's claim of a recurrence of disability beginning October 23, 2008 and the issue of appellant's disability status and need for additional treatment. It also requested him to assess appellant's right upper extremity impairment pursuant to the sixth edition of the A.M.A., *Guides*.

In a September 17, 2012 report, Dr. Donahue detailed the reports and objective tests that he reviewed. A physical examination revealed negative elbow Tinel's sign; negative bilateral Spurling's test; no evidence of thenar eminence weakness; normal pinch strength; normal elbow and wrist extension, flexion, abduction, and adduction; full bilateral wrist, hand, elbows, and shoulders range of motion without pain; normal stability and strength; unremarkable motor, reflex, and sensory examination although appellant complained of right arm variable tingling. He related that a physical examination revealed no objective findings supporting ongoing carpal tunnel syndrome or ulnar nerve compression. Thus, he concluded that appellant was capable of performing her date-of-injury position with no restrictions and required no further medical treatment for the accepted employment conditions. In an attached work capacity evaluation (Form OWCP-5c) dated July 18, 2012, Dr. Donahue indicated that appellant had no restrictions and was capable of performing her date-of-injury job.

By decision dated October 1, 2012, based on Dr. Donahue's report, OWCP denied appellant's claim for a schedule award as there was no employment-related permanent impairment entitling appellant to a schedule award.

On October 12, 2012 OWCP issued a notice proposing to terminate appellant's compensation benefits based on Dr. Donahue's report. It allotted appellant 30 days to submit additional information. Appellant did not respond within the allotted time.

By decision dated February 6, 2013, OWCP terminated appellant's compensation benefits effective that day.

In a letter dated February 11, 2013, appellant's counsel requested an oral hearing before an OWCP hearing representative, which was changed to a request for review of the written record.

On February 26, 2013 OWCP received a December 11, 2012 report by Dr. Stanton O. Bree, an examining Board-certified physiatrist, and a February 11, 2013 report from Dr. Fried. In a December 11, 2012 EMG report, Dr. Bree noted that appellant was seen that day and provided a medical and employment injury history. He performed motor and sensory conduction studies and an EMG examination. Based on these studies, Dr. Bree diagnosed mild right wrist median neuropathy, moderate left wrist neuropathy, and mild right C5 radiculopathy. A motor conduction study revealed right median nerve prolonged distal latency, normal conduction velocity and normal amplitude, and right ulnar nerve above and below the elbow normal amplitude, distal latency, and conduction velocity. A sensory examination revealed normal right ulnar nerve latency and amplitude.

In a February 11, 2013 report, Dr. Fried noted the history of appellant's employment injury, her work history, and medical care received. He disagreed with Dr. Donahue's opinion that appellant's condition had resolved as the report did not contain any documentation that "standard neurologic testing for carpal tunnel or brachial plexus involvement in either upper extremity" was performed. Dr. Fried diagnosed bilateral flexor tenosynovitis, bilateral radial neuropathy at the radial tunnel, brachial plexitis, carpal tunnel median neuropathy due to work activities, and right Raynaud's *versus* White hand syndrome. He related that objective testing in the form of EMG examination and nerve conduction studies show that appellant continues to have residuals of right carpal tunnel syndrome as well as "[p]roximal involvement at the brachial plexus" and radial and ulnar nerve involvement.

By decision dated August 14, 2013, OWCP's hearing representative affirmed the termination of appellant's compensation benefits, but remanded for further development of the evidence based on the new evidence received following the February 6, 2013 decision terminating appellant's compensation.

In a September 13, 2013 letter, OWCP requested a supplemental report from Dr. Donahue based on an OWCP hearing representative's findings in the August 14, 2013 decision.

In a supplemental report dated October 3, 2013, Dr. Donahue, based on a review of a December 11, 2012 EMG report by Dr. Bree, and a February 11, 2013 report from Dr. Fried, reiterated his conclusion that appellant had no residuals or disability due to her accepted conditions. He stated that he "inadvertently left out the negative Tinel's and Phalen's sign" on the examination of appellant's right wrist. Dr. Donahue related that he found no evidence of carpal tunnel syndrome either clinically or objectively and that the condition had been surgically corrected.

In a November 12, 2013 report, an OWCP medical adviser reviewed the evidence relevant to appellant's schedule award claim. The medical adviser noted that "[m]ultiple EMG studies have demonstrated significant distal latencies in the carpal tunnel" including the most recent study of December 11, 2012." Based on review of this objective evidence, the medical adviser opined that there was "definite abnormality in regard to the EMG study." The medical adviser stated that Dr. Donahue omitted key examination findings in his original report, but stated they were normal in the October 3, 2013 supplemental report.

In a December 13, 2013 decision, OWCP found the evidence insufficient to establish that she had any residuals from her accepted right ulnar nerve lesion and right carpal tunnel disease and she was not entitled to any further wage-loss compensation based on the termination of her benefits. It found the special weight of the evidence rested with Dr. Donahue that appellant's accepted conditions had resolved with no residuals or disability. Dr. Donahue also opined that appellant was not entitled to a schedule award as there was no hand impairment.

In a letter dated December 19, 2013, appellant's counsel requested an oral hearing before an OWCP hearing representative, which was held on May 22, 2014.

By decision dated August 21, 2014 an OWCP hearing representative affirmed the December 13, 2013 OWCP decision.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits.⁷ After it has determined that an employee has disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.⁸ OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.⁹

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.¹⁰ To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.¹¹

Section 8123(a) of FECA provides in pertinent part: if there is 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.¹² This is called a

⁷ *S.F.*, 59 ECAB 642 (2008); *Kelly Y. Simpson*, 57 ECAB 197 (2005); *Paul L. Stewart*, 54 ECAB 824 (2003).

⁸ *I.J.*, 59 ECAB 524 (2008); *Elsie L. Price*, 54 ECAB 734 (2003).

⁹ *See J.M.*, 58 ECAB 478 (2007); *Del K. Rykert*, 40 ECAB 284 (1988).

¹⁰ *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

¹¹ *Kathryn E. Demarsh, id.*; *James F. Weikel*, 54 ECAB 660 (2003).

¹² 5 U.S.C. § 8123(a); *R.C.*, 58 ECAB 238 (2006); *Darlene R. Kennedy*, 57 ECAB 414 (2006).

referee examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case.¹³

When there exists opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.¹⁴

A physician selected by OWCP to serve as an impartial medical specialist should be wholly free to make a completely independent evaluation and judgment. In order to achieve this, OWCP has developed specific procedures for the selection of the impartial medical specialist designed to provide adequate safeguards against any possible appearance that the selected physician's opinion was biased or prejudiced. The procedures contemplate that the impartial medical specialist will be selected on a strict rotating basis in order to negate any appearance that preferential treatment exists between a particular physician and OWCP.¹⁵

The Medical Management Application (MMA), which replaced the Physician Directory System (PDS), allows users to access a database of Board-certified specialist physicians and is used to schedule referee examinations. The application contains an automatic and strict rotational scheduling feature to provide for consistent rotation among physicians and to record the information needed to document the selection of the physician.¹⁶

The claims examiner is not able to determine which physician serves as the impartial medical specialist. A medical scheduler inputs the claim number into the application, from which the claimant's home zip is loaded. The scheduler chooses the type of examination to be performed (second opinion or impartial referee) and the applicable medical specialty. The next physician in the roster appears on the screen and remains until an appointment is scheduled or the physician is bypassed. If the physician agrees to the appointment, the date and time are entered into the application. Upon entry of the appointment information, the application prompts the medical scheduler to prepare an ME023 appointment notification report for imaging into the case file. Once an appointment with a medical referee is scheduled, the claimant and any authorized representative are to be notified.¹⁷

If an appointment cannot be scheduled in a timely manner or cannot be scheduled for some other reason such as a conflict or the physician is of the wrong specialty, the scheduler will

¹³ 20 C.F.R. § 10.321.

¹⁴ *S.R.*, Docket No. 09-2332 (issued August 16, 2010); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001).

¹⁵ *D.A.*, Docket No. 09-936 (issued January 13, 2010); *Raymond J. Brown*, 52 ECAB 192 (2001).

¹⁶ Federal (FECA) Procedure Manual, Part 3 -- Medical, *OWCP Directed Medical Examinations*, Chapter 3.500.5 (May 2013); see also *R.C.*, Docket No. 12-468 (issued October 25, 2012).

¹⁷ *Id.*

update the application with an appropriate bypass code. Upon the entering of a bypass code, the MMA will select the next physician in the rotation.¹⁸

ANALYSIS -- ISSUE 1

OWCP accepted the claim for right carpal tunnel syndrome and right ulnar nerve compression. In a February 6, 2013 decision, it terminated her wage-loss compensation and medical benefits finding that she had no residuals of her accepted February 3, 2003 work injury. OWCP relied on the September 17, 2012 report of Dr. Donahue, a Board-certified orthopedic surgeon, who served as an impartial medical specialist. On August 14, 2013 an OWCP hearing representative affirmed the termination of appellant's compensation benefits, but remanded for further development based on new evidence submitted subsequent to the February 6, 2013 decision. The issue on appeal is whether OWCP met its burden of proof to terminate appellant's compensation. The Board finds that OWCP met its burden of proof to terminate appellant's compensation benefits.

Contrary to counsel's argument, the record demonstrates that OWCP properly utilized the MMA in selecting Dr. Donahue as the impartial medical examiner. OWCP confirmed Dr. Donahue's availability on August 9, 2012 and scheduled appellant for an appointment. The record includes a RME Referral Form, iFECS Report: ME023 -- Appointment Schedule Notification and iFECS screen captures which indicated that Drs. Kovalsky, Menkowitz, Spellman, and Sweet had been properly bypassed. Drs. Menkowitz and Sweet were bypassed because they had previously seen appellant while Drs. Kovalsky and Spellman were bypassed because they did not perform impairment ratings. The Board finds OWCP properly selected Dr. Donahue as an IME.¹⁹

In his reports of September 17, 2012 and October 3, 2013, Dr. Donahue concluded, based on physical examination findings, that appellant had no objective findings supporting ongoing right carpal tunnel or right ulnar nerve compression. He also concluded that appellant no longer had any residuals or disability due to the employment-related conditions and was capable of performing her date-of-injury position without restrictions. Dr. Donahue related that he found normal range of motion of the right upper extremity, no evidence of carpal tunnel syndrome either clinically or objectively, and that the condition had been surgically corrected. His opinion is sufficient to resolve the question of whether appellant continued to suffer from any residuals or disability causally related to her accepted right carpal tunnel syndrome and right ulnar nerve compression.²⁰

The Board finds that, under the circumstances of this case, the opinion of Dr. Donahue is sufficiently well rationalized and based upon a proper factual background such that it is entitled to special weight and establishes that appellant's work-related conditions had ceased.²¹ Where

¹⁸ *Id.*

¹⁹ C.W., Docket No. 12-1211 (issued November 15, 2012); *Darlene R. Kennedy, supra* note 14.

²⁰ D.C., Docket No. 12-1921 (issued August 13, 2013); *Darlene R. Kennedy, supra* note 14.

²¹ T.B., Docket No. 13-1960 (issued February 18, 2014); *Jaja K. Asaramo, 55 ECAB 200* (2004).

there exists a conflict of medical opinion and the case is referred to an impartial specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, is entitled to special weight.²²

The Board has carefully reviewed the opinion of Dr. Donahue and finds that it has reliability, probative value, and convincing quality with respect to its conclusions regarding the relevant issue in the present case. Dr. Donahue reviewed the statement of accepted facts and provided detailed physical examination findings.²³ He related his comprehensive examination findings to opine that appellant no longer had any residuals from her accepted right carpal tunnel or right ulnar nerve compression. As there were no objective findings related to her accepted conditions, Dr. Donahue further opined, that appellant's disability had ceased, there were no limitations on her physical capacity, and that she could resume her normal work activities. He provided medical rationale for his opinion by explaining that appellant's carpal tunnel surgery corrected her accepted conditions. Dr. Donahue's opinion is sufficiently probative, rationalized, and based upon a proper factual background.²⁴ Dr. Donahue's report is entitled to special weight as the impartial medical examiner and establishes that OWCP properly terminated her compensation benefits effective February 6, 2013.

LEGAL PRECEDENT -- ISSUE 2

As OWCP met its burden of proof to terminate appellant's compensation benefits, the burden shifts to appellant to establish that she had any disability causally related to her accepted injury.²⁵

ANALYSIS -- ISSUE 2

The Board finds that this case is not in posture for a decision on the issue of whether appellant had continuing disability or residuals as a result of her accepted right carpal tunnel syndrome and right ulnar nerve compression conditions.

In a February 11, 2013 report, Dr. Fried disagreed with Dr. Donahue's opinion that appellant's condition resolved as the report did not contain any documentation that "standard neurologic testing for carpal tunnel or brachial plexus involvement in either upper extremity" was performed. He diagnosed bilateral flexor tenosynovitis, bilateral radial neuropathy at the radial tunnel, brachial plexitis, carpal tunnel median neuropathy due to work activities, and right Raynaud's versus White hand syndrome. Dr. Fried related that objective testing in the form of EMG study examination and nerve conduction studies show that appellant continues to have residuals of right carpal tunnel syndrome as well as "[p]roximal involvement at the brachial plexus" and radial and ulnar nerve involvement.

²² *Solomon Polen*, 51 ECAB 341 (2000). See 5 U.S.C. § 8123(a).

²³ See *Melvina Jackson*, 38 ECAB 443 (1987).

²⁴ *L.S.*, Docket No. 13-716 (issued June 4, 2013).

²⁵ See *Joseph A. Brown, Jr.*, 55 ECAB 542 (2004); *Manuel Gill*, 52 ECAB 282 (2001).

In a supplemental report dated October 3, 2013, Dr. Donahue, reviewed a December 11, 2012 EMG report by Dr. Bree, and a February 11, 2013 report from Dr. Fried and reiterated his conclusion that appellant had no residuals or disability due to her accepted conditions

In a November 12, 2013 report, an OWCP medical adviser disagreed with Dr. Donahue's opinion regarding the objective evidence as "[m]ultiple EMG studies have demonstrated significant distal latencies in the carpal tunnel" including the most recent study of December 11, 2012." Based on review of this objective evidence, the medical adviser opined there was "definite abnormality in regard to the EMG study."

The Board finds that there is an unresolved conflict in the medical opinion evidence with respect to issue of whether appellant continues to have residuals or disability due to her accepted conditions. Dr. Donahue's opinion is in conflict with that of appellant's treating physician and the OWCP medical adviser regarding the interpretation of EMG studies and continued residuals. Dr. Fried submitted a February 11, 2013 report explaining his disagreement with Dr. Donahue's opinion and that the objective evidence supports continued residuals. His opinion supports appellant's contention that her accepted conditions had not resolved and that she continued to have residuals of her accepted conditions.

Due to the unresolved conflict of the medical opinion, OWCP should refer appellant to an appropriate Board-certified specialist for an impartial medical examination, pursuant to 5 U.S.C. § 8123(a), to resolve this remaining issue. After this and such other development as OWCP deems necessary, OWCP should issue a *de novo* decision on the issue.

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's compensation benefits effective February 6, 2013. The Board further finds that the case is not in posture for a decision as to whether appellant continued to suffer from employment-related residuals or disability as a result of her accepted right carpal tunnel syndrome and right ulnar nerve compression conditions.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 21, 2014 is affirmed in part with regard to termination of benefits and set aside in part with regard to continuing disability. The case is remanded for further action consistent as set forth above.

Issued: September 8, 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