United States Department of Labor
Employees' Compensation Appeals Board

J.D., Appellant	)	
and	)	**Docket No. 16-0064**
	)	**Issued: June 1, 2016**
DEPARTMENT OF VETERANS AFFAIRS, ALBANY VETERANS HOSPITAL, Albany, NY, Employer	)	

Appearances:
Thomas S. Harkins, Esq., 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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On October 14, 2015 appellant, through counsel, filed a timely appeal from an August 6, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). 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 claim.

ISSUE

The issue is whether appellant has established a recurrence of disability on or after August 13, 2014 due to her accepted April 17, 2014 work injury.

On appeal appellant's counsel argues that the medical evidence of record unequivocally establishes that appellant sustained a recurrence of total disability as of August 13, 2014 due to her accepted employment injury.

[1] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On April 24, 2014 appellant, then a 63-year-old nurse, filed a traumatic injury claim (Form CA-1) alleging that on April 17, 2014 she sustained a lower back strain when she slipped on gravel/dirt on the elevator floor and twisted her lower back. She did not stop work. Appellant sought treatment with Dr. Sheldon B. Staunton, a Board-certified neurologist.

By decision dated June 10, 2014, OWCP accepted the claim for sprain of back and lumbar region.

On August 13, 2014 appellant filed a recurrence claim (Form CA-2a) alleging a return/increase of disability. She explained that her symptoms had worsened despite medical treatment and she experienced an increase in lower back spasms, as well as leg weakness and numbness. Appellant stopped work on August 13, 2014 and did not return. Her supervisor indicated that appellant was working in full-time capacity with no restrictions during the time of the alleged recurrence.

On September 3, 2014 appellant filed claim for compensation forms (Forms CA-7) for leave without pay beginning August 13, 2014 and continuing.

By letter dated September 9, 2014, OWCP informed appellant that the evidence of record was insufficient to support her recurrence claim. Appellant was advised of the medical and factual evidence needed and was afforded 30 days to submit the additional evidence.

In a July 16, 2014 diagnostic report, Dr. Gary Wood, a Board-certified diagnostic radiologist, reported that a computerized tomography (CT) myelogram of the lumbar spine revealed multilevel degenerative changes of the lumbar disc spaces and facet joints. He explained that the combination of findings suggested mild compressive changes related to the L4 and L5 nerve roots between the regions of the lateral recesses and neural foramen at the levels of L3-4 and L4-5.

In a July 31, 2014 medical report, Dr. Charles J. Buttaci, a doctor of osteopathic medicine, reported that appellant was a nurse practitioner who sustained a work-related injury on April 17, 2014 when she started to slip and fall on loose gravel. He provided findings on physical examination and reviewed diagnostic testing which revealed mild stenosis at L4-5 but no severe neural compression. Dr. Buttaci explained that her nerve studies did not reveal radiculopathy but showed some degree of nerve root irritation. He noted concerns of weakness more prominent in the left leg than right. Dr. Buttaci reported that appellant continued to work full-duty as a nurse practitioner and opined that the incident as described by appellant was the medical cause of her injury.

In an August 7, 2014 medical report, Dr. Staunton reviewed the CT scan of the spine and diagnosed left L5 radiculopathy secondary to a ruptured L4-5 disc. He opined that the cause of her problem was the injury she sustained at work in the elevator several months ago.

In an August 11, 2014 medical report, Dr. Craig R. Goldberg, a Board-certified neurological surgeon, reported that appellant had a history of back and leg pain which began after a workers' compensation injury on April 17, 2014 when she twisted her back at work. He

noted that review of a magnetic resonance imaging (MRI) scan showed varying degrees of degenerative change and foraminal stenosis, none of which explained her current back pain and lower leg numbness and weakness from the knee down, which was not radicular in nature. The CT myelogram revealed decreased filling in some of the nerve root sleeves while electromyography (EMG) studies revealed a mild amount of denervation in the left paraspinals most consistent with a very mild nerve root injury. Upon review of physical examination and diagnostic testing, Dr. Goldberg diagnosed lumbar strain status post work-related incident on April 17, 2014. He opined that surgical intervention would likely not benefit her back pain.

In an August 13, 2014 note, Dr. Staunton, reported that appellant was totally disabled from August 13 through 29, 2014. In an August 27, 2014 report, he diagnosed ruptured L4-5 disc on the left with left L5 nerve root compression that was produced by the injury sustained at work back on April 17, 2014. Dr. Staunton noted that appellant was not working due to pain and concern for a ruptured disc as one good hard tug or twist could prolapse a disc. He opined that she was totally disabled and recommended surgical intervention.

In an August 27, 2014 certification of health care provider form, Dr. Staunton diagnosed ruptured left L4-5 lumbar disc, noting the condition commenced on April 17, 2014. He reported that appellant had a job-related injury and was temporarily totally disabled, requiring surgical intervention.

In a September 8, 2014 medical report, Dr. Philip J. Marra, a Board-certified neurological surgeon, reported that appellant was evaluated for complaints of lower back pain. He noted that she sustained a work-related injury on April 17, 2014 when she slipped and twisted her back after the elevator stopped rather quickly. Dr. Marra reviewed diagnostic studies and provided findings on physical examination. He diagnosed lumbar nerve root compression, probably secondary to lumbar disc protrusion at L4-5. Surgical intervention was discussed as physical therapy failed to alleviate her condition.

In an October 10, 2014 narrative, Dr. Staunton reported that he began providing appellant neurological care on June 12, 2014 for an injury to her back when she slipped in an elevator while working at the employing establishment on April 17, 2014. Appellant complained of pain in her back and down the back of both legs. She denied any known history of previous back problem or back injuries. Dr. Staunton explained that appellant's first back examination revealed tenderness but no abnormal muscle spasm. Neurological examination of the legs revealed the right side was normal and the left side had weakness in muscles that were supplied by the left L5 nerve root. An MRI scan of the lumbar spine revealed normal findings. As such, his first clinical impression was that this was a patient who had twisted her back and developed a problem with a lumbar disc probably at L4-5. Subsequently, a CT lumbar myelogram revealed evidence of L4-5 disc on the left side. Dr. Staunton explained that it was not unusual for an MRI scan to miss a ruptured disc as a CT myelogram was a much more sensitive and accurate way of looking at the low back. He reevaluated appellant on August 7, 2014 with the hopes that her condition had resolved but the pain had worsened and spread into the right leg. Dr. Staunton referred her to Dr. Marra who concurred with the clinical and radiologic diagnosis, as well as surgical intervention. He stated that he kept appellant off work for the past few months because her low back was unstable and she could further injure herself. This placed her at a significant risk to do any type nursing work in the way of bending, picking things up, helping patients, etc.

Dr. Staunton opined with reasonable medical certainty that the soul competent producing cause of appellant's ruptured L4-5 disc in her low back was the injury that she sustained in the elevator while working at the employing establishment back on April 17, 2014. He further concurred with Dr. Marra that in view of the intractability, surgery was the only answer.

In an October 16, 2014 note, Dr. Buttaci reported that appellant had been experiencing discomfort in the back as well as radicular symptoms for sciatica in the lower limbs since a work-related injury in April 2013. Dr. Buttaci noted a diagnosis of spinal stenosis predominantly at L4-5 with some degree in L3-4. He requested authorization for one lumbar epidural steroid injection to treat her ongoing back pain, sciatica, and spinal stenosis.

By decision dated November 7, 2014, OWCP denied appellant's recurrence claim, finding that the medical evidence failed to establish that her alleged disability beginning August 13, 2014 was due to a material change/worsening of her accepted work-related condition.

On May 11, 2015 counsel for appellant submitted a memorandum in support of a reconsideration request. He argued that the medical evidence established that appellant was disabled from her work-related injury beginning August 13, 2014 and further established that her claim should be expanded to include the additional conditions of lumbosacral radiculopathy, L4-5 disc protrusion, left L5 nerve root compression, and a right ankle injury. Counsel referenced and submitted numerous medical records in support of appellant's claim.

In medical reports dated November 25, 2014 to March 12, 2015, Dr. Staunton reported that appellant continued to complain of low back and left leg pain. Appellant further developed a feeling of intense numbness in her higher left foot which was causing difficulty to walk. Dr. Staunton reiterated that appellant suffered from a ruptured disc at L4-5 and possibly even L5-S1. He opined that the sole competent producing cause of this problem was the incident that occurred in the elevator while she was at work at the Veterans hospital back on April 17, 2014. Dr. Staunton explained that appellant's condition continued to worsen and examinations performed revealed a progressively more severe injury to the left L5 nerve root, as well as possible left S1. He reported that this could result in permanent neurological problems, foot drop, pain in her leg, and total disability if she continued to work without the required surgery. Dr. Staunton noted that appellant's work as a nurse practitioner entailed working with patients most of the day. As such, appellant could not do any heavy lifting, prolonged sitting, prolonged standing, or anything else that would aggravate the pain in her back and legs. Dr. Staunton concluded that appellant was totally disabled pending surgery and would most likely be disabled three to four months postsurgery.

In medical reports dated July 24, 2014 through January 13, 2015, Dr. Samuel G. Dellenbaugh, a Board-certified orthopedic surgeon, reported that appellant initially hurt her back while at work on April 17, 2014. Since her injury, she complained of numbness and weakness in the leg, causing her to fall on July 5, 2014 resulting in a turned ankle. Dr. Dellenbaugh diagnosed right ankle sprain which he opined was caused by the incident. A January 7, 2014 MRI scan of the right ankle revealed split tear of the peroneous brevis with associated tenosynovitis, full thickness tear of the calcaneofibular and anterior talofibular ligament, a small stage 1 osteochondral lesion of limited articular cartilage, and lateral aspect of the talar dome

tibiotalar joint effusion. Following her MRI scan, Dr. Dellenbaugh diagnosed right ankle instability.

In a January 2, 2015 narrative report, Dr. Marra reported that a CT myelogram revealed lumbar disc protrusion at L4-5. Appellant attempted physical therapy and steroid injections but her back and lower extremity symptoms continued to worsen. Dr. Marra diagnosed an L4-5 disc protrusion with left L5 nerve root compression. He opined that appellant was totally disabled as a result of the injury sustained on April 17, 2014 when she injured her back and slipped on gravel/dirt in the elevator, causing her to fall. Appellant continued to work despite the pain in her back accompanied by persistent lower extremity pain, weakness and numbness, with hope that conservative treatment such as physical therapy would help her symptoms. However, she was unable to perform her duties as a nurse practitioner because of worsening symptoms and concerns for further damage and disability.

In a January 30, 2015 medical report, Dr. David J. Dixon, a Board-certified orthopedic surgeon, reported that appellant experienced numbness, tingling, and weakness in her bilateral lower extremities from an injury to her back on April 17, 2014. Appellant believed that her abnormal gait, the inability to really feel her ankle, and lower extremity symptoms caused by the back injury resulted in her right ankle injury. Dr. Dixon reviewed diagnostic testing and scheduled appellant for arthroscopic repair of the right ankle. On February 2, 2015 he performed right ankle surgery.

By decision dated August 6, 2015, OWCP denied modification of the November 7, 2014 decision denying appellant's recurrence claim finding that the medical evidence failed to establish that her alleged disability beginning on August 13, 2014 and continuing was due to a material change/worsening of her accepted work-related conditions or residuals.

LEGAL PRECEDENT

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.[2] This term also means an inability to work because a light-duty assignment made specifically to accommodate an employee's physical limitations and which is necessary because of a work-related injury or illness is withdrawn or altered so that the assignment exceeds the employee's physical limitations. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force.[3]

OWCP procedures state that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. That change must result from a previous injury or occupational illness rather than an intervening

[2] 20 C.F.R. § 10.5(x); *see S.F.*, 59 ECAB 525 (2008). *See* 20 C.F.R. § 10.5(y) (defines recurrence of a medical condition as a documented need for medical treatment after release from treatment for the accepted condition).

[3] *Id.*

injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.[4]

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable, and probative evidence that the disability for which she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to the employment injury, and supports that conclusion with medical reasoning.[5] Where no such rationale is present, the medical evidence is of diminished probative value.[6]

ANALYSIS

OWCP accepted appellant's claim for lumbar sprain. Appellant did not stop work until August 13, 2014 when she claimed a recurrence of total disability. The issue is whether appellant has established that she sustained a recurrence of disability on or after August 13, 2014 causally related to her accepted April 17, 2014 work injury.

Appellant has not alleged a change in her light-duty job requirements. Instead, she attributed her inability to work to a change in the nature and extent of her employment-related back condition. Appellant, therefore, has the burden of proof to provide medical evidence to establish that she was disabled due to a worsening of her accepted work-related condition.[7] Appellant filed claims for compensation for the period beginning August 13, 2014, as well as a claim for recurrence of disability, alleging that her back injury was causally related to the accepted April 17, 2014 employment injury. However, appellant did not submit probative medical evidence demonstrating total disability for this period of time due to her accepted condition and failed to provide a sufficiently rationalized medical opinion explaining a causal relationship between her current conditions and her April 17, 2014 injury. The Board finds that she has not met her burden of proof to establish her claim.

In medical reports dated August 7, 2014 through March 12, 2015, Dr. Staunton reported that he began providing appellant neurological care on June 12, 2014 for an injury to her back when she slipped in an elevator while working at the employing establishment on April 17, 2014. His first impression was a twisted back but a CT lumbar myelogram revealed evidence of L4-5 disc rupture on the left. Dr. Staunton diagnosed left L5 radiculopathy, ruptured L4-5 disc on the left, and left L5 nerve root compression which he opined was related to the April 17, 2014 work incident. Despite receiving physical therapy and injections, appellant's condition worsened such

[4] Federal (FECA) Procedure Manual, Part 2 -- *Claims*, *Recurrences*, Chapter 2.1500.2 (June 2013). *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

[5] *Ronald A. Eldridge*, 53 ECAB 218 (2001).

[6] *Mary A. Ceglia*, Docket No. 04-113 (issued July 22, 2004).

[7] *D.L.*, Docket No. 13-1653 (issued November 22, 2013).

that she was unable to resume employment due to an unstable back, pain, and fear of potential future injury.

The Board finds that the opinion of Dr. Staunton is not well rationalized. The reports of Dr. Staunton fail to provide sufficient medical rationale to establish total disability due to a recurrence. Appellant's claim was accepted for sprain of lumbar back. The diagnoses of left L5 radiculopathy, ruptured L4-5 disc on the left, and left L5 nerve root compression, however, have not been accepted as a compensable condition. The Board notes that Dr. Staunton's opinion does not support a spontaneous recurrence of a lumbar sprain, but rather suggests that appellant's claim should be expanded to include additional conditions. In any event, this opinion is insufficiently rationalized to establish appellant's claim.[8] While Dr. Staunton diagnosed left L5 radiculopathy, ruptured L4-5 disc on the left, and left L5 nerve root compression, he failed to provide a sufficient explanation as to how these conditions were causally related to the accepted April 17, 2014 employment injury, nor did he provide adequate bridging evidence to show a spontaneous worsening of the accepted conditions. Rather, he correlated in general terms that appellant's conditions were caused by the work-related April 17, 2014 incident.[9] While Dr. Staunton noted that appellant's conditions occurred when she slipped in an elevator at work, such generalized statements do not establish causal relationship because they merely repeat her allegations and are unsupported by adequate medical rationale explaining how this physical activity actually caused the diagnosed conditions.[10] For conditions not accepted by OWCP as being employment related, it is the employee's burden to provide rationalized medical evidence sufficient to establish causal relation, not OWCP's burden to disprove such relationship.[11] Without explaining how physiologically the movements involved in the employment incident, namely slipping in an elevator, caused or contributed to a disc rupture, Dr. Staunton's opinion is of limited probative value and insufficient to meet appellant's burden of proof.[12]

Dr. Staunton further opined that appellant was off work beginning August 13, 2014. However, he failed to provide a fully rationalized explanation as to why appellant was disabled on those dates due to her accepted condition of lumbar sprain. He noted that subsequent examinations revealed a worsening of her condition showing a progressively more severe injury to the left L5 nerve root, as well as possible left S1. Dr. Staunton reported that this could result in permanent neurological problems, foot drop, pain in appellant's leg, and possible disability if she continued to work without the required surgery. This placed her at a significant risk to do any type nursing work in the way of bending, picking things up, helping patients, heavy lifting, prolonged sitting, and prolonged standing as it would aggravate the pain in her back and legs. The Board has held that prophylactic work restrictions do not establish a basis for wage-loss

[8] *L.G.*, Docket No. 11-142 (issued August 12, 2011).

[9] *J.H.*, Docket No. 14-775 (issues July 14, 2014).

[10] *K.W.*, Docket No. 10-98 (issued September 10, 2010).

[11] *G.A.*, Docket No. 09-2153 (issued June 10, 2010); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Alice J. Tysinger*, 51 ECAB 638 (2000).

[12] *See L.M.*, Docket No. 14-973 (issued August 25, 2014); *R.G.*, Docket No. 14-113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-548 (issued November 16, 2012).

compensation.[13] A fear of future injury is not compensable under FECA.[14] The Board notes that the lumbar CT myelogram Dr. Staunton referenced to provide appellant's diagnoses also revealed multilevel degenerative changes of the lumbar disc spaces and facet joints. Thus, it is unclear if appellant's current complaints and inability to work relate to a preexisting condition.[15] A well-rationalized opinion is particularly warranted when there is a history of preexisting condition.[16] As Dr. Staunton failed to attribute disability to the accepted condition of lumbar sprain for the period beginning August 13, 2014, his reports are insufficient to meet appellant's burden of proof.[17]

In a September 8, 2014 medical report, Dr. Marra reported that appellant was evaluated for complaints of lower back pain, noting a work-related injury on April 17, 2014 when she was jarred in such a way that she slipped and twisted her back when the elevator stopped rather quickly. In a January 2, 2015 report, Dr. Marra reported that on April 17, 2014, appellant was on an elevator at work when she slipped on dirt or gravel causing her to twist her back and fall down. Dr. Marra provided a diagnosis of L4-5 disc protrusion with left L5 nerve root compression and opined that she was totally disabled as a result of the injury sustained on April 17, 2014 when she injured her back and slipped on gravel/dirt in the elevator, causing her to fall.

The Board notes that Dr. Marra has provided two different accounts of the April 17, 2014 employment incident. It does not appear that Dr. Marra has an accurate account of the employment incident to provide a probative opinion on the cause of injury. The Board has held that a physician must provide a narrative description of the identified employment incident and a reasoned opinion on whether the employment incident described caused or contributed to the diagnosed medical condition.[18] Without an accurate history of injury, any opinion pertaining to causal relationship is of limited probative value. Moreover, Dr. Marra's statement did not adequately explain how the April 17, 2014 employment incident would cause or aggravate the L4-5 disc protrusion and left L5 nerve root compression. Medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.[19] While Dr. Marra determined that appellant was disabled and unable to perform her duties as a nurse practitioner because of worsening symptoms and concerns for further damage, he failed to provide any dates establishing the period of disability, nor did he

[13] *S.O.*, Docket No. 14-1303 (issued April 29, 2015).

[14] *P.M.*, Docket No. 15-1895 (issued February 24, 2016).

[15] *R.E.*, Docket No. 14-868 (issued September 24, 2014).

[16] The Board has held that an opinion that a condition is causally related because the employee was asymptomatic before the injury is insufficient, without adequate rationale, to establish causal relationship. *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

[17] *R.A.*, Docket No. 14-1327 (issued October 10, 2014).

[18] *John W. Montoya*, 54 ECAB 306 (2003).

[19] *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

attribute appellant's disability to the accepted condition of lumbar back sprain. Thus, he report is insufficient to meet appellant's burden of proof.[20]

In medical reports dated July 24, 2014 through January 13, 2015, Dr. Dellenbaugh reported that appellant initially hurt her back while at work on April 17, 2014. Since her injury, she complained of numbness and weakness in the leg, causing her to fall on July 5, 2014, resulting in a turned ankle. Dr. Dellenbaugh diagnosed right ankle sprain which he opined was caused by the work injury. In a January 30, 2015 report, Dr. Dixon reported that appellant believed her abnormal gait, the inability to really feel her ankle, and lower extremity symptoms caused by the back injury resulted in her twisted ankle.

The Board notes that the basic rule respecting consequential injuries is that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury likewise arises out of the employment, unless it is the result of an independent intervening event.[21] Once the work-connected character of an injury has been established, the subsequent progression of that condition remains compensable so long as the worsening is not shown to have been produced by an independent, nonindustrial cause.[22] In this instance, appellant has not established a consequential right ankle injury as a result of her work-related lumbar sprain. The evidence does not establish that the claim should be expanded to include the L4-5 disc rupture and left L5 nerve root compression in order to relate any new ankle injury to the initial April 17, 2014 employment incident. Moreover, appellant's complaints pertaining to the employment injury relate to the left lower extremity. It is unclear how this would result in a right ankle injury. Drs. Dellenbaugh and Dixon merely repeat appellant's allegations that her ankle injury is related to the April 17, 2014 work injury without any diagnosis, rationale, explanation, or understanding of appellant's lumbar injuries.[23] Consequently, their reports are of little probative value as they fail to address appellant's lumbar injury to provide an opinion pertaining to her claimed disability.[24]

The remaining medical evidence is also insufficient to establish appellant's recurrence claim.

Dr. Goldberg's August 11, 2014 report provided a diagnosis of lumbar strain post work-related incident on April 17, 2014 yet failed to determine that the claim should be expanded to

[20] *Deborah L. Beatty*, 54 ECAB 334 (2003).

[21] *See Kathy A. Kelley*, 55 ECAB 206 (2004); *Carlos A. Marerro*, 50 ECAB 170 (1998).

[22] Where a person has a preexisting condition that is not disabling, but which becomes disabling because of aggravation causally related to the employment, then regardless of the degree of such aggravation, the resulting disability is compensable. *P.B.*, Docket No. 13-1866 (issued March 7, 2014); *S.W.*, Docket No. 11-1678 (issued February 22, 2012); *Arnold Gustafson*, Docket No. 89-438 (issued October 30, 1989).

[23] *See Sedi L. Graham*, 57 ECAB 494 (2006) (medical form reports and narrative statements merely asserting causal relationship generally do not discharge a claimant's burden of proof).

[24] *P.O.*, Docket No. 14-1675 (issued December 3, 2015).

include additional conditions despite noting review of the lumbar MRI scan, lumbar CT myelogram, and EMG testing.[25]

Dr. Wood's July 16, 2014 report simply interpreted findings pertaining to the lumbar CT myelogram with no opinion on the cause of appellant's injury. The Board has held that medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.[26]

Dr. Buttaci's July 31 and October 16, 2014 reports provided a diagnosis of spinal stenosis at L4-5, which differed from those of appellant's treating physicians. He failed to provide a rationalized and detailed discussion of appellant's medical history, the employment incident, and cause of injury. Dr. Buttaci's opinion that appellant's spinal stenosis was caused by the April 17, 2014 work injury is insufficient to establish appellant's claim.[27]

Contrary to counsel's arguments on appeal, appellant did not submit any medical reports from a physician who, on the basis of a complete and accurate factual and medical history, concluded that she was totally disabled as of August 13, 2014 due to residuals of her accepted injury. She has failed to establish by the weight of the reliable, probative, and substantial evidence, a change in the nature and extent of the injury-related condition resulting in her inability to perform her employment duties.

Appellant may submit new evidence or argument with a written request for reconsideration to the OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish a recurrence of total disability on or after August 13, 2014, causally related to her accepted April 17, 2014 employment injury.

[25] *D.H.*, Docket No. 11-1739 (issued April 18, 2012).

[26] *Michael E. Smith*, 50 ECAB 313 (1999).

[27] *S.W.*, Docket 08-2538 (issued May 21, 2009).

ORDER

IT IS HEREBY ORDERED THAT the August 6, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 1, 2016
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board