United States Department of Labor
Employees' Compensation Appeals Board

T.C., Appellant	)	
and	)	**Docket No. 16-0484**
	)	**Issued: October 18, 2016**
U.S. POSTAL SERVICE, ST. PAUL PROCESSING & DISTRIBUTION CENTER, St. Paul, MN, Employer	)	

Appearances:
Aaron B. Aumiller, Esq., for the appellant[1]
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
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On January 11, 2016 appellant, through counsel, filed a timely appeal from a July 16, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[3]

[1] In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.; see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

[2] 5 U.S.C. § 8101 *et seq.*

[3] Under the Board's *Rules of Procedure*, an appeal must be filed within 180 days from the date of issuance of an OWCP decision. An appeal is considered filed upon receipt by the Clerk of the Appellate Boards. *See* 20 C.F.R. 501.3(e)-(f). One hundred and eighty days from July 16, 2015, the date of OWCP's last decision, was January 12, 2016. Since using January 19, 2016, the date the appeal was received by the Clerk of the Appellate Boards, would result in the loss of appeal rights, the date of mailing is considered the date of filing. The date of mailing, January 11, 2016, renders the appeal timely filed. *See* 20 C.F.R. § 501.3(f)(1).

ISSUE

The issue is whether OWCP met its burden of proof to terminate appellant's compensation benefits on September 12, 2014 pursuant to 5 U.S.C. § 8106(c).

On appeal counsel asserts that appellant was incapable of performing the modified assignment due to medical conditions other than the accepted left great toe injury.[4]

FACTUAL HISTORY

On August 9, 2010 appellant, a deaf then 50-year-old general expediter, filed a traumatic injury claim (Form CA-1) alleging that she injured her left big toe at work that day when it became trapped while she was pulling a large bin. She did not stop work. OWCP accepted left great toe contusion and expanded the claim to include other acquired deformity of left toe and lesion of left plantar nerve.

Dr. Eugene L. Dela Cruz, a podiatrist, began treating appellant. In an August 25, 2010 report, he related that appellant's left big toe pain was improving. He diagnosed improved contusion of the first metatarsophalangeal (MTP) of the left foot. Dr. Dela Cruz also noted a history of a rotator cuff repair in 1997 and a right carpal tunnel release. He continued to treat appellant and on June 30, 2011 performed surgery on her left great toe. Appellant stopped work that day and did not return. She began receiving wage-loss compensation on July 16, 2011, and was placed on the periodic compensation rolls in March 2012. In a March 5, 2012 decision, OWCP denied appellant's claim for compensation for periods from January 2 through July 14, 2011.[5]

In reports dated April 18, 2012, Dr. Dela Cruz noted that appellant had a hypertrophic scar at the surgical site on the left great toe and remained totally disabled. On August 29, 2012 he reported that appellant had left foot pain resulting from a slip in a hotel in Las Vegas four weeks previously. On February 27, 2013 Dr. Dela Cruz advised that appellant had hallux limitus of the left foot and due to the accumulation of hypertrophic scar tissue in the area she needed physical therapy. He noted that appellant was severely restricted in activities of daily living and for potential work.

In March 2013 OWCP referred appellant to Dr. Douglas Alan Becker, a Board-certified orthopedic surgeon, for a second opinion evaluation.[6] Appellant did not attend the first scheduled appointment with Dr. Becker because the notice had been sent to an incorrect address. The appointment was rescheduled.

[4] Counsel referenced conditions accepted under OWCP file number xxxxxx358 and xxxxxx389. The instant case was adjudicated by OWCP under file number xxxxxx226.

[5] The record, however, indicates that appellant was paid compensation for this period.

[6] On March 14, 2013 OWCP suspended appellant's compensation because she failed to submit a required CA-1032 form. She submitted the form on April 15, 2013 and compensation was reinstated retroactively. On July 1, 2013 OWCP issued a preliminary decision finding appellant at fault in creating a $627.07 overpayment of compensation because she had been improperly paid at the augmented rate. In an August 29, 2013 decision, an OWCP hearing representative found that appellant's request for a prerecoupment hearing was untimely. The overpayment was finalized on October 4, 2013 and on June 20, 2014 OWCP acknowledged that it had been repaid.

In a July 24, 2013 report, Dr. Becker noted that appellant was examined with a sign language interpreter present and that she walked with a limp on the left side. He described examination findings of a benign-appearing dorsomedial scar over the left first MTP joint with only slight swelling, no erythema or superficial tenderness, and tenderness to deep palpation of the MTP joint. Stability was normal and the neurological examination was grossly intact. Dr. Becker diagnosed left foot first MTP hallux rigidus. In answer to OWCP questions, he noted evidence of preexisting degenerative changes and indicated that the August 9, 2010 work injury caused a permanent aggravation of the left foot first MTP hallux rigidus with persistent pain, stiffness, and difficulty with prolonged standing activities. Dr. Becker advised that appellant was partially disabled and, although she could not return to her regular position, she could work an eight-hour workday with limitations of one hour daily of combined walking and standing.

OWCP determined that a conflict in medical opinion evidence had been created between the opinions of Dr. Dela Cruz and Dr. Becker regarding whether appellant was partially or totally disabled.

On September 27, 2013 Dr. Dela Cruz advised that appellant had increased spasm of the leg and foot and excruciating left big toe pain. He indicated that she could not perform sedentary or light work because the employer did not allow such positions and that appellant could not stand for long periods of time. Dr. Dela Cruz recommended additional surgery.

On October 15, 2013 the employing establishment informed Dr. Dela Cruz that it could accommodate sedentary job duties and had work for appellant requiring one hour of standing and walking with no running or jumping. The position involved sitting for up to 8 hours with intermittent standing and walking for a total of 30 minutes or less. Dr. Dela Cruz was asked to respond if appellant could perform the duties described. A check mark on a copy of the letter signified "yes," that appellant could perform the described duties. There was no signature or other notation to identify who checked "yes."

In correspondence dated December 20, 2013, the employing establishment indicated that Dr. Dela Cruz had checked a box marked "yes," that appellant could perform sedentary duty, but that he later advised on December 16, 2013 that appellant could not work until she had a second foot procedure.

The employing establishment forwarded a December 13, 2013 offer for a modified mark-up clerk position. The job duties were to scan mail with intermittent keying for 2 hours at a time, up to 6 hours daily, load and sweep machine for 15 minutes intermittently, and prepare return mail for up to 2 hours with sitting for 1.75 hours and standing for .25 hours. The physical requirements were sitting for seven hours, standing and walking less than two hours total, and fine manipulation, simple grasping, and keying for six to eight hours. Appellant rejected the job offer on December 16, 2013, noting that she had a shoulder injury and mild carpal tunnel syndrome on the left. Attached was a December 16, 2013 report in which Dr. Dela Cruz advised that appellant needed reconstructive fusion surgery, would be unable to work until six to eight weeks after the surgery, and also could not perform limited duty due to carpal tunnel and shoulder issues.

On January 22, 2014 OWCP informed appellant that an impartial medical examination was scheduled on February 15, 2014 with Dr. Jack Drogt, a Board-certified orthopedic surgeon. On January 24, 2013 it ascertained that the offered modified position was still available.

By letter dated January 24, 2014, OWCP advised appellant that the position offered was suitable. Appellant was notified that if she failed to report to work or failed to demonstrate that the failure was justified, pursuant to section 8106(c)(2) of FECA, her right to compensation for wage loss or a schedule award would be terminated. She was given 30 days to respond.[7]

In a March 10, 2014 report, Dr. Drogt indicated that a sign language interpreter was present for the examination. He noted his review of the medical evidence and appellant's report of the employment injury and continued complaints of toe pain, sensitivity, and stiffness. Examination of the right foot was normal. Examination of the left foot demonstrated a well-healed scar over the left MTP joint incision. Dr. Drogt advised that appellant was exquisitely sensitive to any attempt at motion of the MTP joint which was stable. He opined that the examination was consistent with severe hallux rigidus, a degenerative condition of the first MTP joint, resulting in painful loss of motion with extreme stiffness that was secondary to the August 9, 2010 employment injury. Dr. Drogt indicated that these residuals of the work injury were quite disabling, prevented appellant from walking normally, and reduced her walking endurance and ability to remain active on her feet. He advised that appellant was totally disabled from work as a general expediter and was unable to bear weight in a safe and comfortable manner but was capable of working eight hours per day in a clerical, sedentary position until the surgery recommended by Dr. Dela Cruz was done. Dr. Drogt concluded that appellant would not be at maximum medical improvement until three to six months after the recommended surgery. He repeated these recommendations in an attached work capacity evaluation.

In correspondence to Dr. Drogt dated March 11, 2014, OWCP noted that, although Dr. Dela Cruz recommended additional surgery, it had not been scheduled and no request for authorization had been received. It asked Dr. Drogt to complete a work capacity evaluation (Form 5-c) so that a suitable job offer could be prepared.

On April 23, 2014 Dr. Drogt reiterated that appellant was unable to perform the duties of a general expediter, but was capable of full-time work in a clerical sedentary position. He indicated that he had reviewed the December 13, 2013 job offer for mark-up clerk and, with regard to appellant's left foot injury, she was capable of performing the described duties. In a second work capacity evaluation dated April 23, 2014, Dr. Drogt advised that appellant had restrictions of one hour of walking and standing, and no bending, stooping, squatting, kneeling, or climbing. He reported that the restrictions would apply until there was resolution of appellant's foot condition and, if no further surgery was done, she would be at maximum medical improvement.

On April 25, 2014 OWCP forwarded Dr. Drogt's report to the employing establishment and asked for a job offer that accommodated his restrictions.

In a letter dated May 21, 2014, Dr. Dela Cruz advised that he considered appellant's left foot injury permanent, and that she had reached maximum medical improvement. He maintained that the job offer did not take into account her permanent restrictions.

[7] On March 5, 2014 OWCP informed appellant that her wage-loss compensation was being suspended on March 9, 2014 because she did not respond to requests to submit a CA-1032 form. On May 20, 2014 appellant informed OWCP that she was married and was entitled to augmented compensation at the 3/4 rate, effective January 12, 2014. She was paid retroactive compensation at the augmented rate.

The employing establishment again forwarded appellant an offer for a modified mark-up clerk position dated July 2, 2014. The job duties were the same as listed in the December 2013 job offer.

By letter dated July 10, 2014, OWCP advised appellant that the position offered was suitable. Appellant was notified that if she failed to report to work or failed to demonstrate that the failure was justified, pursuant to section 8106(c)(2) of FECA, her right to compensation for wage loss or a schedule award would be terminated. Appellant was given 30 days to respond.[8]

In a treatment note dated May 21, 2014, Dr. Dela Cruz described appellant's condition and treatment. He diagnosed progressive osteoarthritis of the first MTP of the left foot and hallux rigidus of the left foot. Dr. Heidi M. Dalzell, a Board-certified internist, provided treatment notes dated May 2 to July 9, 2014. She noted complaints of lower back pain after colonoscopy, chronic neck and back pain, and depression. Dr. Dalzell described a problem list of deafness, asthma, shoulder pain and impingement, elbow pain and arthritis, lateral epicondylitis of the elbow, Achilles bursitis, contusion of foot, hallux rigidus, hypothyroidism, major depressive disorder and depression, and motor vehicle accident. She noted a history of rotator cuff repair on the right in 1997, a right carpal tunnel release, and endolymphatic sac decompression. Dr. Dalzell described the work injury to appellant's left foot. Appellant had reported that the offered job required lots of typing, mail sorting, and lifting, and appellant did not think she could physically perform these duties due to her right shoulder and bilateral carpal tunnel conditions. Dr. Dalzell diagnosed deafness, depression, shoulder impingement, carpal tunnel syndrome, hallux rigidus, and asthma.

By letter dated August 13, 2014, OWCP advised appellant that her reasons for refusing the offered position were not valid. Appellant was afforded 15 days to accept the position. She did not accept the offer,[9] which the employing establishment indicated remained available.

In a July 9, 2014 report, received by OWCP on August 19, 2014, Dr. Dalzell advised that, in additional to appellant's foot problems, she had chronic problems with bilateral carpal tunnel syndrome and right shoulder problems that would impact her ability to perform regular typing as well as repetitive reaching and even light lifting. She opined that appellant could not perform the job duties outlined in the July 2, 2014 job offer.

An August 6, 2014 physical performance test demonstrated that appellant had limitations in stair climbing, kneeling, repeated bending, walking, and standing. These included pain, demonstration of pain behaviors, decreased motion, decreased strength, balance, and slow pace. Regarding right upper extremity coordination, appellant demonstrated pain, pain behaviors, decreased motion, and slow pace. The testing therapist reported that appellant demonstrated frequent pain behaviors and limited ability to complete tasks throughout the testing. The therapist concluded that appellant's tested physical capacities fell below the sedentary work level due to her perception of pain tolerance rather than ability to perform at her physical maximum.

[8] On March 5, 2014 OWCP informed appellant that her wage-loss compensation was being suspended on March 9, 2014 because she did not respond to requests to submit a CA-1032 form. On May 20, 2014 appellant informed OWCP that she was married and was entitled to augmented compensation at the 3/4 rate, effective January 12, 2014. She was paid retroactive compensation at the augmented rate.

[9] Appellant formally rejected the offer on July 11, 2014.

The therapist concluded that appellant met most of the requirements for sedentary work, except for use of the right upper extremity, and therefore did not appear capable of employment at that time.

In an August 18, 2014 treatment note, Dr. Dalzell reiterated appellant's symptoms. She recommended pain management. On August 29, 2014 Dr. Dalzell noted that Dr. Dela Cruz had moved out of state and that she would be leaving her practice soon. She recommended that appellant not return to work until after she was seen by a replacement podiatrist. Dr. Dalzell also noted her review of the physical performance test which detailed appellant's capabilities.

On September 12, 2014 the employing establishment informed OWCP that the offered position was a permanent job and that appellant continued to be a no-show.

By separate decision dated September 12, 2014, OWCP terminated appellant's wage-loss compensation because she refused an offer of suitable work. It found that the weight of medical evidence rested with the opinion of Dr. Drogt who provided an impartial medical evaluation. Appellant timely requested a hearing.

In a September 24, 2014 report, Dr. Mindy L. Benton, a podiatrist, noted appellant's complaint of great toe pain, decreased toe motion, and Dr. Dela Cruz's surgery recommendation. Physical examination of the left foot demonstrated palpatory pain at MTP head with decreased MTP joint motion. In a November 22, 2014 report, Dr. Ryan M. McCarthy, a podiatrist, noted appellant's past medical history regarding hallux rigidus and her complaint of left big toe pain. He noted palpatory pain and decreased range of motion on toe examination and recommended physical therapy to increase range of motion.

At the hearing, held on May 5, 2015, counsel asserted that OWCP did not sufficiently develop appellant's right upper extremity condition, which had been accepted under OWCP File No. xxxxxx583, prior to terminating her wage-loss compensation. Appellant testified that she was receiving no medical treatment for her upper extremity conditions, but had residual symptoms, and that her left toe surgery had not been scheduled.

Subsequent to the hearing, appellant submitted a November 3, 2014 report in which Dr. Laura O. Suurmeyer, a Board-certified internist, noted that she performed a preoperative examination. Dr. Suurmeyer indicated that appellant was not prepared to have surgery because there was a question of authorization and she had no private insurance. She commented that she agreed with appellant's plan to work with an attorney to settle the matter of surgery. In a November 19, 2014 report, Dr. Benton noted discussing appellant's options regarding the hallux limitus of the left foot. She advised that appellant's foot appeared nonacute and that she was on narcotic pain medication for neck pain.

On June 4, 2015 Nancy Schmitz, with health and resource management at the employing establishment, provided comments on the hearing transcript. She noted that appellant had never reported that she injured her foot when she slipped in a hotel room on July 29, 2012, maintaining that this would be a new injury. Ms. Schmitz advised that the modified position did not require typing, only occasional key strokes that could be done with one finger from either hand and that no mail sorting was required, only taking a piece of mail at waist height from a tub/tray, placing it under a scanner, placing a label on the mail, and then placing it in another tub/tray.

By decision dated July 16, 2015, an OWCP hearing representative affirmed the September 12, 2014 decision. She found the weight of the medical opinion rested with Dr. Drogt who provided an impartial medical evaluation. The hearing representative explained that, although Dr. Drogt advised that appellant continued to have residuals of the August 9, 2010 toe injury, she could work eight hours daily in a sedentary position. She found that, while Dr. Dalzell related that appellant could not perform the modified assignment because it did not take her bilateral wrist and shoulder condition into consideration, Dr. Dalzell merely reported appellant's opinion that she could not perform the job duties and her description of the requirements of the offered position was inaccurate and, moreover, Dr. Dalzell provided no objective testing or results of physical examination to support her conclusion.

LEGAL PRECEDENT

Section 8106(c) of FECA provides in pertinent part, "A partially disabled employee who (2) refuses or neglects to work after suitable work is offered ... is not entitled to compensation."[10] It is OWCP's burden to terminate compensation under section 8106(c) for refusing to accept suitable work or neglecting to perform suitable work.[11] The implementing regulations provide that an employee who refuses or neglects to work after suitable work has been offered or secured for the employee has the burden of showing that such refusal or failure to work was reasonable or justified and shall be provided with the opportunity to make such a showing before entitlement to compensation is terminated.[12] To justify termination, OWCP must show that the work offered was suitable and that appellant was informed of the consequences of his refusal to accept such employment.[13] In determining what constitutes "suitable work" for a particular disabled employee, OWCP considers the employee's current physical limitations, whether the work is available within the employee's demonstrated commuting area, the employee's qualifications to perform such work and other relevant factors.[14] The issue of whether an employee has the physical ability to perform a modified position offered by the employing establishment is primarily a medical question that must be resolved by medical evidence.[15] OWCP procedures state that acceptable reasons for refusing an offered position include withdrawal of the offer or medical evidence of inability to do the work or travel to the job.[16]

Section 8123(a) of FECA provides that, 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.[17] The implementing regulation

[10] 5 U.S.C. § 8106(c).

[11] *Joyce M. Doll*, 53 ECAB 790 (2002).

[12] 20 C.F.R. § 10.517(a).

[13] *Linda Hilton*, 52 ECAB 476 (2001); *Maggie L. Moore*, 42 ECAB 484 (1991), *reaff'd on recon.*, 43 ECAB 818 (1992).

[14] 20 C.F.R. § 10.500(b); *see Ozine J. Hagan*, 55 ECAB 681 (2004).

[15] *Gayle Harris*, 52 ECAB 319 (2001).

[16] Federal (FECA) Procedure Manual, Part -- 2 Claims, *Reemployment: Determining Wage-Earning Capacity, Refusal of Job Offer*, Chapter 2.814.5 (June 2013); *see Lorraine C. Hall*, 51 ECAB 477 (2000).

[17] 5 U.S.C. § 8123(a); *see Y.A.*, 59 ECAB 701 (2008).

states that, if a conflict exists between the medical opinion of the employee's physician and the medical opinion of either a second opinion physician or an OWCP medical adviser, OWCP shall appoint a third physician to make an examination. This is called a referee examination, and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case.[18] When there exist 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.[19]

ANALYSIS

Once OWCP accepts a claim it has the burden of proof to justify termination or modification of compensation benefits.[20] This includes cases where OWCP terminates compensation under section 8106(c) of FECA for refusal of suitable work.[21] Section 8106(c) is a penalty provision and shall be narrowly construed.[22]

The Board finds that OWCP met its burden of proof to terminate wage-loss compensation on September 12, 2014 as appellant had refused to accept an offer of suitable work. OWCP determined that a conflict in medical evidence had been created between Dr. Dela Cruz, an attending podiatrist, and Dr. Becker, an OWCP referral Board-certified orthopedic surgeon, regarding appellant's work abilities and referred her to Dr. Drogt for an impartial evaluation. It found the weight of the medical evidence rested with the opinion of Dr. Drogt who provided an impartial medical evaluation regarding the work duties appellant could perform, based on the accepted left great toe contusion and other acquired deformity of left toe and lesion of left plantar nerve.

In his comprehensive March 10, 2014 report, Dr. Drogt noted his review of the medical evidence and appellant's report of the employment injury and continued complaints of toe pain, sensitivity, and stiffness. He described physical examination findings. Dr. Drogt related that appellant was exquisitely sensitive to any attempt at motion of the MTP joint of the left foot, which was stable. He diagnosed severe hallux rigidus, a degenerative condition of the first MTP joint and advised that this resulted in painful loss of motion with extreme stiffness that was secondary to the August 9, 2010 employment injury. Dr. Drogt indicated that these residuals of the work injury were quite disabling, prevented appellant from walking normally, and reduced her walking endurance and ability to remain active on her feet. He advised that she could not work as a general expediter, but was capable of working eight hours per day in a clerical, sedentary position. On April 23, 2014 Dr. Drogt advised that appellant had restrictions of one hour of walking and standing, and no bending, stooping, squatting, kneeling, or climbing. He reported that the restrictions would apply until there was resolution of appellant's foot condition and, if no further surgery was done, she would be at maximum medical improvement.

[18] 20 C.F.R. § 10.321.

[19] *V.G.*, 59 ECAB 635 (2008).

[20] *Supra* note 12.

[21] *Y.A.*, 59 ECAB 701 (2008).

[22] *Stephen A. Pasquale*, 57 ECAB 396 (2006).

The modified position offered to appellant included duties of scanning mail with intermittent keying for 2 hours at a time, up to 6 hours daily, loading and sweeping machines for 15 minutes intermittently, and preparing return mail for up to 2 hours with sitting for 1.75 hours and standing for .25 hours. The physical requirements were sitting for seven hours, standing and walking less than two hours total, and fine manipulation, simple grasping, and keying for six to eight hours. These were within Dr. Drogt's restrictions.

As noted above, in situations where there are 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 on a proper factual background, must be given special weight.[23]

While Dr. Dalzell noted appellant's report that the job duties involved a lot of typing, mail sorting, and lifting and that she could not perform repetitive reaching or even light lifting, he expressed no knowledge of the duties of the actual job offer for the sedentary position which only required intermittent keying and no lifting. Thus, Dr. Dalzell's reports are insufficient to establish that appellant was physically unable to perform the duties of the offered position.[24]

The Board finds that OWCP properly relied on Dr. Drogt's comprehensive, well-rationalized opinion that appellant could perform the suitable work position offered by the employing establishment. Accordingly, the Board finds appellant's compensation benefits were properly terminated.[25]

There is also no evidence of a procedural defect in this case as OWCP provided appellant with proper notice of termination. She was offered a suitable position by the employing establishment which she abandoned after working several days. Thus, under section 8106(c) of FECA, OWCP met its burden of proof to terminate appellant's wage-loss compensation on September 12, 2014 because she refused an offer of suitable work.[26]

The burden thereafter shifted to appellant to show that her refusal was justified.[27] Appellant submitted medical evidence after the termination from Dr. Benton, Dr. McCarthy, and Dr. Suurmeyer. None of these physicians, however, provided a narrative opinion discussing specific work restrictions or appellant's ability to perform the duties of the offered position and are, therefore, insufficient to meet appellant's burden of proof.[28]

Appellant may submit new evidence or argument with a written request for reconsideration to 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.

[23] *V.G., supra* note 19.

[24] *See W.B.*, Docket No. 11-239 (issued January 27, 2012).

[25] *V.G., supra* note 19.

[26] *Joyce M. Doll, supra* note 11.

[27] *Gloria Godfrey*, 52 ECAB 486 (2001).

[28] *E.H.*, Docket No. 08-1862 (July 8, 2009).

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's compensation benefits on September 12, 2014 pursuant to 5 U.S.C. § 8106(c).

ORDER

IT IS HEREBY ORDERED THAT the July 16, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 18, 2016
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board