

ISSUE

The issue is whether appellant has established a recurrence of disability commencing July 4, 2011 due to his accepted July 13, 2009 work injury.

FACTUAL HISTORY

This case has previously been before the Board.³ On June 4, 2013 appellant, through counsel, filed for review of a May 16, 2013 OWCP informational letter. By order dated September 3, 2013, the Board dismissed appellant's appeal finding that there was no final adverse decision issued by OWCP on May 16, 2013. The facts set forth in the prior order are incorporated herein by reference.

On April 7, 2011 appellant, then a 28-year-old equipment cleaner, filed a traumatic injury claim (Form CA-1) alleging that on July 13, 2009 he sustained back pain and several bulging discs. He reported that he was moving an air conditioning (AC) unit on its side while tilted, and turned to grab sandpaper when the unit moved causing him pain in his neck, right shoulder, and spine. Appellant first sought treatment and notified his supervisor on the date of injury. His supervisor noted on the claim form that appellant was currently claiming several bulging discs despite having been treated at the health clinic on the date of injury and released with no restrictions or further treatment.

By decision dated May 20, 2011, OWCP accepted the claim for cervical radiculitis and lumbosacral radiculitis.⁴

In a May 24, 2011 narrative statement, appellant informed OWCP that he was in a prior motor vehicle accident and sustained injury to his left wrist, left knee, and back resulting in a minimal bulge at L4-5. He submitted medical and physical therapy reports dated June 21, 2005 through October 17, 2008 documenting his treatment. In an October 27, 2005 medical report, Dr. Brent L. Millet, Board-certified in physical medicine and rehabilitation, reported that appellant sustained an injury on June 14, 2005 when he was riding in a trailer and fell out. A May 30, 2006 report indicated that appellant complained of pain just over the mid lumbar spine. Dr. Millet provided findings on physical examination and review of diagnostic testing. He noted that an August 2005 magnetic resonance imaging (MRI) scan revealed minimal annular bulge at the L4-5 level. Dr. Millet diagnosed chronic axial lumbar spine pain following significant trauma and normal appearing x-rays of the lumbar spine.

Review of the record reflects that appellant was a temporary employee at the time of his July 13, 2009 injury. He did not stop work following the employment injury but worked in a

³ Docket No. 13-1532 (issued September 3, 2013).

⁴ The Board notes that on April 26, 2011, appellant filed a claim for anxiety secondary to sexual harassment at work, File No. xxxxxx109. By decision dated October 20, 2011, OWCP accepted the claim for generalized anxiety disorder. No work modifications were based on this injury. Appellant continued treatment with psychiatrist Dr. Matthew Berger for this injury. The record before the Board contains no other information pertaining to this claim.

light-duty capacity. In a July 4, 2011 notification of personnel action, appellant was terminated by the employing establishment after his appointment expired.

Beginning April 11, 2011, appellant sought treatment with Dr. Vithal D. Dhaduk, a neurologist. Dr. Dhaduk reported that appellant initially injured his back in 2003 and was doing reasonably well, but was lifting heavy sand blasting equipment weighing almost 280 pounds at work on July 13, 2009, resulting in severe neck and lower back pain. Appellant also complained of continued neck and lower back pain which radiated to his upper and lower extremities on October 29, 2010 while lifting air conditioners at work. Dr. Dhaduk reported that a March 22, 2011 MRI scan of the cervical spine revealed minimally bulging disc at C4-5 and C5-6 level. A lumbosacral spine MRI scan showed mild bulging disc at the L5-S1 level. Dr. Dhaduk diagnosed progressive spondylosis of the cervical spine with bulging disc, progressive cervical radiculopathy with paraspinal muscle spasms with no herniation of the disc, progressive severe lumbar radiculopathy with paraspinal muscle spasms with no herniation of the disc, and bulging disc at L4-5 level with neural foramina narrowing. He opined that these conditions were related to the work injury on July 13, 2009 and October 29, 2010. Dr. Dhaduk recommended physical therapy, encouraged appellant to keep up with activities and exercise, and recommended that he continue his work. No work restrictions were provided.

In an April 15, 2011 electromyography (EMG) and nerve conduction velocity (NCV) study, Dr. Dhaduk reported electrophysiologic evidence of mild and acute chronic radiculopathy bilaterally at C5-6, mild acute and chronic radiculopathy bilaterally at L5-S1, and no evidence of a peripheral neuropathy.

In an April 26, 2011 prescription note, Dr. Eugene Daniel Harasym, appellant's family physician, noted "light duty only." No accompanying report was provided.

On April 27, 2011 appellant began treatment with Dr. Sheryl Oleski, an osteopath. Dr. Oleski diagnosed cervical and lumbar strain due to a 2009 work-related injury. She recommended continued physical therapy. No work restrictions were provided. In a May 2, 2011 note, Dr. Oleski excused appellant from work on that date due to increased pain. In a July 6, 2011 report, she diagnosed cervical and lumbar strain. Dr. Oleski recommended that appellant continue his course of physical therapy and provided new medication due to complaints of continued pain.

By letter dated July 20, 2011, counsel reported that appellant's contract with the Tobyhanna Army Depot was recently not renewed. As such, appellant was no longer receiving light-duty work. Counsel noted that appellant should be entitled to wage-loss compensation benefits as he remained on restricted duty due to his July 13, 2009 work injury.

By letter dated February 11, 2013, OWCP informed appellant that the evidence of record was insufficient to support his claim for compensation. Appellant was provided 30 days to provide additional detail pertaining to his work status and medical evidence in support of disability.

On March 7, 2013 the employing establishment reported that appellant was terminated due to expiration of his term appointment on July 4, 2011. Appellant was in an active pay status,

working eight hours per day from the date of injury (July 13, 2009) through his termination date (July 4, 2011). The employing establishment noted that he did not stop work on the date of injury and even worked overtime and once on a holiday.

In an October 21, 2013 medical report, Dr. Dhaduk reported that appellant complained of continued back pain related to his work injury. He diagnosed work-related injury on July 13, 2009 and October 29, 2010 resulting in progressive spondylosis of the cervical spine with bulging disc, progressive cervical radiculitis with paraspinal muscle spasms, progressive severe lumbosacral radiculitis with paraspinal muscle spasms, bulging disc at L4-5 level with neural foramina narrowing, and post-traumatic vascular headaches. Dr. Dhaduk recommended light-duty work if appellant could find it.

On November 29, 2013 appellant filed claims for compensation (Forms CA-7) for leave without pay beginning July 4, 2011 and continuing.

In a December 2, 2013 medical report, Dr. Oleski provided findings on physical examination and diagnosed chronic cervical lumbar and thoracic sprain and suspected myofascial syndrome.

In a December 11, 2013 e-mail correspondence, Andrew Mounkes, a Department of the Army Injury Compensation Specialist, noted that appellant's last medical report of record dated May 4, 2011 indicated that appellant could continue working in a light-duty capacity with restrictions lasting approximately one month. No other medical reports existed restoring him to duty or continuing with light duty until his separation on July 4, 2011.

By letter dated December 24, 2013, the employing establishment reported that the most recent documentation related to appellant's claim dated May 4, 2011 indicated that he could return to work with restrictions. However, the document was signed by a nurse and not countersigned by a physician. The employing establishment reported that appellant informed them that he returned to duty prior to his July 4, 2011 separation. It further noted that there was no indication that appellant returned back to work without restrictions prior to his separation date. The employing establishment provided the accompanying May 4, 2011 work restrictions from the registered nurse who prescribed limited-duty work for one month.

On February 24, 2014 OWCP referred appellant, a statement of accepted facts (SOAF), the case file, and a series of questions to Dr. Mohammad Aslam, a Board-certified neurologist, for a second opinion examination regarding the nature and extent of appellant's disability. Dr. Aslam reviewed appellant's medical history, summarized diagnostic reports, and provided findings on physical examination. He opined that appellant's medical records did not reveal disc herniation. Dr. Aslam noted some loss of normal lordotic curve in the cervical spine due to paravertebral muscle spasms and some degenerative changes. He diagnosed cervical and lumbosacral strain, cervical radiculitis, and lumbosacral radiculitis. Dr. Aslam opined that the cervical and lumbosacral radiculitis had resolved and appellant did not have any residuals from the 2009 injury. He noted that appellant was capable of working full duty as related to this injury. Dr. Aslam noted some limitations resulting from a prior sexual assault, including a weight limit of 20 to 25 pounds while working. He concluded that he could not provide any opinion with respect to whether appellant was capable of working full duty in May 2011.

In a March 3, 2014 medical report, Dr. Oleski provided findings on physical examination and diagnosed suspected myofascial syndrome and chronic cervical, lumbar, and thoracic sprain.

By decision dated March 24, 2014, OWCP denied appellant's claim for disability compensation for the period beginning July 4, 2011 and ongoing finding that the evidence of record failed to establish disability following termination of his employment.

On April 9, 2014 appellant, through counsel, requested an oral hearing before an OWCP hearing representative.

A hearing was held on November 12, 2014. Counsel stated that he submitted many medical reports which established appellant's claim for disability. He argued that appellant was entitled to disability compensation because he had work restrictions as a result of the July 13, 2009 work injury at the time of his termination. Counsel reported that the medical records documented ongoing injuries from 2009, as well as work restrictions, and that appellant's disability presently continued despite the withdrawal of his temporary assignment on July 4, 2011.

Appellant testified that his work as an equipment cleaner involved heavy lifting when he was injured in July 2009. Following his work injury, he was moved to the position of electronics mechanic helper to work on radios since he was limited to lifting 15 pounds and was able to perform the work sitting at a desk using hand tools. Appellant continued in this capacity until his termination in 2011. He denied any subsequent injury and explained that his condition continued to worsen with numbness and tingling in his arms and legs, as well as back pain. Appellant argued that Dr. Aslam provided a minimal examination. He further explained that in October 2010, he fell backwards when removing a shelter floor, hitting his hands on the floor, but reported no injury. The record was held open for 30 days to submit additional evidence.

On December 29, 2014 the employing establishment provided comments regarding the hearing and explained that appellant's temporary assignment was to expire on July 7, 2010 but was extended a final year with no further extension considered. It noted that he did not file his claim until two years after the injury. The employing establishment further argued that at the time of expiration of the temporary appointment on July 4, 2011, there was no medical documentation on file with the employing establishment to support any work limitations. The last record of work restrictions was dated May 3, 2011, and expired on June 2, 2011.

In support of his claim, appellant submitted medical evidence and diagnostic reports previously of record, as well as new medical evidence. Handwritten notes dated April 15, 2008 through September 13, 2010 were submitted documenting treatment with Dr. Harasym. Acupuncture treatment notes dated August 1 through November 8, 2011 were also submitted documenting treatment pertaining to cervicgia and lumbago with a physical therapist. Counsel submitted chart notes and reports dated November 21, 2011 through April 29, 2014 from Dr. Matthew Berger, a treating psychiatrist, documenting appellant's mental health and anxiety treatment.

In medical reports dated April 11, 2011 through October 27, 2014, Dr. Dhaduk documented treatment for appellant's July 13, 2009 injury. He noted the diagnoses of work-

related injury on July 13, 2009 and October 29, 2010 resulting in progressive spondylosis of the cervical spine with bulging disc, progressive cervical radiculopathy with paraspinal muscle spasms, progressive severe lumbar radiculopathy with paraspinal muscle spasms, and bulging disc at L4-5 level with neural foramina narrowing. Dr. Dhaduk recommended that appellant continue his work, continue going to the gym, and to keep up activities and exercise. No work restrictions were provided. In an October 21, 2013 report, Dr. Dhaduk recommended light-duty work. In newly submitted medical reports dated December 2, 2013 through October 27, 2014, he repeated the history of injury, physical examination findings, and review of diagnostic reports. Dr. Dhaduk noted the list of diagnoses previously submitted and recommended physical therapy and light-duty work if he could find it.

In medical reports dated April 27, 2011 through November 3, 2014, Dr. Oleski documented treatment for appellant's cervical and lumbar conditions. She diagnosed cervical, thoracic, and lumbar sprain, as well as cervicgia. Dr. Oleski documented appellant's complaints of pain recommending medication, physical therapy, acupuncture, and exercise. In a July 25, 2012 report, she noted an additional diagnosis of suspected myofascial pain syndrome and pes planus deformity with tibialis tendinitis bilaterally. In more recent reports dated March 3 through November 3, 2014, Dr. Oleski provided findings on physical examination and diagnosed chronic cervical, lumbar, and thoracic sprain. She noted that appellant was trying to find work but could not get hired because of an open workers' compensation claim. Dr. Oleski provided no opinion on disability or work restrictions.

By decision dated January 28, 2015, OWCP's hearing representative affirmed the March 24, 2014 decision finding that the evidence of record failed to establish a recurrence of disability commencing July 4, 2011 causally related to the July 13, 2009 work injury.

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.⁵ 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.⁶

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

⁵ 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).

⁶ *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.⁷

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 he or 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.⁸ Where no such rationale is present, the medical evidence is of diminished probative value.⁹

ANALYSIS

OWCP accepted appellant's claim for cervical radiculitis and lumbosacral radiculitis. Appellant did not stop work until July 4, 2011 when he was terminated by the employing establishment after his temporary appointment expired. The issue is whether appellant has established disability on or after July 4, 2011 causally related to his accepted July 13, 2009 work injury.

Appellant has not alleged a change in the nature and extent of his light-duty job requirements. He worked until his temporary appointment expired on July 4, 2011. Although withdrawal of a light-duty position may establish a recurrence of disability, the termination of a temporary appointment, when the employee was a temporary employee at the time of injury, does not in itself establish a recurrence of disability.¹⁰ Appellant must thus provide medical evidence to establish that he was disabled for the light-duty position.¹¹

Appellant sought treatment with Dr. Dhaduk from April 11, 2011 through October 27, 2014. In his initial April 11 and 29, 2011 reports, Dr. Dhaduk reported that appellant first injured his back in 2003 and was doing reasonably well. On July 13, 2009 he was lifting heavy sand blasting equipment at work weighing 280 pounds which resulted in severe neck and lower back pain. On October 29, 2010 appellant was lifting air conditioners at work and complained of continued neck and lower back pain which radiated to the upper and lower extremities. Dr. Dhaduk opined that appellant sustained a work-related injury on July 13, 2009 and October 29, 2010 resulting in progressive spondylosis of the cervical spine with bulging disc; progressive cervical radiculopathy with paraspinous muscle spasms; progressive severe

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2 (June 2013). *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

⁸ *Ronald A. Eldridge*, 53 ECAB 218 (2001).

⁹ *Mary A. Ceglia*, Docket No. 04-113 (issued July 22, 2004).

¹⁰ FECA Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(c)(1) (June 2013); *see also Shelly A. Paolinetti*, 52 ECAB 291 (2001).

¹¹ *See Jackie D. West*, 54 ECAB 158 (2002).

lumbar radiculopathy with paraspinal muscle spasms; and bulging disc at L4-5 level with neural foramina narrowing.

The Board notes that OWCP only accepted cervical radiculitis and lumbosacral radiculitis as employment related. Where appellant claims that a condition not accepted or approved by OWCP was due to his employment injury, he bears the burden of proof to establish that the condition is causally related to the employment injury through the submission of rationalized medical evidence.¹² Dr. Dhaduk failed to provide any rationale that the progressive spondylosis of the cervical spine with bulging disc and bulging disc at L4-5 level with neural foramina narrowing was related to the July 13, 2009 work injury. Moreover, it appears that appellant's disc bulge at L4-5 is a preexisting nonwork-related condition as revealed by an August 2005 MRI scan of the lumbar spine.¹³ Dr. Dhaduk failed to address why appellant's complaints were not caused by his preexisting lumbar injury.¹⁴ A well-rationalized opinion is particularly warranted when there is a history of preexisting condition.¹⁵ Moreover, Dr. Dhaduk did not 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 July 13, 2009 work-related injury.¹⁶ Medical conclusions unsupported by rationale are of little probative value.¹⁷ Though he generally supported that appellant's continued symptoms were a result of his employment injury, Dr. Dhaduk's opinion on causal relationship was conclusory without any additional explanation as to how the conditions caused disability or remained symptomatic.¹⁸

The Board further notes that Dr. Dhaduk's initial reports leading up to the July 4, 2011 recurrence fail to establish that appellant was disabled as a result of his July 13, 2009 work injury. Dr. Dhaduk did not provide any opinion that appellant was totally disabled nor did he recommend light-duty work. In fact, he provided a contrary assertion explaining that appellant should continue working. Dr. Dhaduk's subsequent reports also fail to provide support for a work-related disability. He only generally noted that appellant should try to find light-duty work and failed to provide any opinion that he sustained a recurrence of disability. Although Dr. Dhaduk noted that appellant complained of continued pain, an increase in pain alone does

¹² *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004).

¹³ The Board notes that the medical evidence of record establishes that appellant was involved in a nonwork-related motor vehicle accident on June 14, 2005 when he was riding in a trailer and fell off. In a May 30, 2006 medical report, Dr. Miller reported that an August 2005 MRI scan revealed minimal annular bulge at the L4-5 level. He diagnosed chronic axial lumbar spine pain following significant trauma and normal appearing x-rays of the lumbar spine.

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

¹⁵ *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Michael S. Mina*, 57 ECAB 379 (2006).

¹⁶ *J.H.*, Docket No. 14-775 (issued July 14, 2014).

¹⁷ *Willa M. Frazier*, 55 ECAB 379 (2004); *Jimmy H. Duckett*, 52 ECAB 332 (2001).

¹⁸ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

not constitute objective evidence of disability.¹⁹ As his reports contain no rationale explaining why appellant was disabled beginning July 4, 2011, Dr. Dhaduk's opinion is insufficient to support that appellant sustained a worsening of his work-related condition.²⁰

In medical reports dated April 27, 2011 through November 3, 2014, Dr. Oleski documented treatment for appellant's cervical and lumbar conditions. In an April 27, 2011 report, she diagnosed cervical and lumbar strain due to a 2009 work-related injury. No work restrictions were provided. In a May 2, 2011 note, Dr. Oleski excused appellant from work on that same date due to increased pain. In a May 12 and July 6, 2011 report, she diagnosed cervical and lumbar strain. Dr. Oleski provided no work restrictions. The Board notes that none of Dr. Oleski's reports contemporaneous to the date of disability claimed provide support for total disability as a result of the July 13, 2009 work injury. Her subsequent reports provided diagnoses of suspected myofascial pain syndrome and chronic cervical, lumbar, and thoracic sprain, yet these reports also failed to provide any opinion pertaining to appellant's disability or work restrictions. As Dr. Oleski failed to attribute any disability to appellant's work injury, or explain how his employment-related condition changed such that he was unable to work, her reports are insufficient to meet his burden of proof.²¹

The remaining medical evidence is also insufficient to establish appellant's claim for recurrence of disability. Dr. Aslam's February 24, 2014 second opinion evaluation determined that appellant was capable of working full duty as related to the July 13, 2009 work injury because his cervical and lumbosacral radiculitis had resolved with no residuals.

The acupuncture treatment notes dated August 1 through November 8, 2011 were submitted by a licensed physical therapist. Registered nurses, physical therapists, and physician assistants are not physicians as defined under FECA, and their opinions are of no probative value.²²

The March 22, 2011 diagnostic reports of record are also insufficient to establish appellant's claim as the physician's interpreted diagnostic imaging studies and provided no opinion on disability or the cause of appellant's injury.²³ Dr. Berger's reports dated November 21, 2011 through April 29, 2014 have no bearing on appellant's cervical and lumbar injury as the physician discusses mental health treatment unrelated to this claim. Moreover, the reports provide no indication of any disability from modified work prior to the expiration of appellant's employment contract.

¹⁹ See FECA Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.6.a(2) (June 2013).

²⁰ 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).

²¹ See *K.W.*, 59 ECAB 271 (2008).

²² 5 U.S.C. § 8102(2) of FECA provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. See also *Roy L. Humphrey*, 57 ECAB 238 (2005).

²³ *J.P.*, Docket No. 14-87 (issued March 14, 2014).

Dr. Harasym's April 26, 2011 prescription note stated "light duty only." He provided no accompanying report explaining these light-duty restrictions, nor did he determine that appellant was totally disabled as a result of the July 13, 2009 injury. Dr. Harasym's progress notes dated April 15, 2008 through September 13, 2010 are irrelevant to establishing appellant's claim as they predate the July 4, 2011 date of disability. Moreover, many of his handwritten reports are illegible and thus lack probative value.²⁴

On appeal, counsel contends that appellant was working restricted duty at the time of his July 4, 2011 termination. He notes that, despite not having formally changed his job title, the employing establishment was accommodating appellant with work restrictions related to his employment injury at the time of his termination. As such, appellant was entitled to disability compensation.

The Board finds that because appellant was a temporary employee, he was not entitled to disability compensation at the time of his termination, irrespective of whether he was performing modified duty.²⁵ He worked in his position through July 4, 2011 when the term appointment ended. The Board has held that, when a claimant stops work for reasons unrelated to the accepted employment injury, there is no disability within the meaning of FECA.²⁶ A recurrence of disability also does not include work stoppage caused by the termination of a temporary employment.²⁷ In this case, both the employing establishment and appellant stated that he was a temporary employee and that his term appointment terminated on July 4, 2011.²⁸ The evidence of record does not establish that he was off work due to a medical disability.

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 he was totally disabled on or after July 4, 2011 due to his accepted July 13, 2009 work injuries. He 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 his inability to perform his employment duties on or after July 4, 2011. As appellant has not submitted sufficient medical evidence showing that he sustained a recurrence of disability due to his accepted employment injury, the Board finds that he has not met his burden of proof.

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.

²⁴ See *Sheila A. Johnson*, 46 ECAB 323, 327 (1994); see *Merton J. Sills*, 39 ECAB 572, 575 (1988).

²⁵ *M.S.*, Docket No. 11-1184 (issued December 12, 2011).

²⁶ *Hubert A. Jones*, 57 ECAB 467 (2006); *John W. Normand*, 39 ECAB 1378 (1988).

²⁷ See *D.M.*, Docket No. 11-194 (issued October 5, 2011). The Board has also noted that an employee generally will not be considered to have experienced a compensable recurrence of disability as defined in 20 C.F.R. § 10.5(x) merely because his or her employer has eliminated the employee's light-duty position in a reduction-in-force or some other form of downsizing. See 20 C.F.R. § 10.509.

²⁸ *E.H.*, Docket No. 11-1427 (issued May 16, 2012).

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish a recurrence of disability on or after July 4, 2011, causally related to his accepted July 13, 2009 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the January 28, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 14, 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