# United States Department of Labor
# Employees' Compensation Appeals Board

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| **N.P., Appellant** | ) | |
| **and** | ) | **Docket No. 15-1580** |
| | ) | **Issued: September 1, 2016** |
| **U.S. POSTAL SERVICE, CANAL STREET STATION, New York, NY, Employer** | ) | |

*Appearances:*
*James D. Muirhead, 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 July 10, 2015 appellant, through counsel, filed a timely appeal from a January 13, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP).[2] Pursuant to

[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] The Board notes that appellant had filed a second appeal with the Board regarding an overpayment of compensation (OWCP file number xxxxxx618). *N.P.*, Docket No. 15-1799 (issued January 8, 2016).

the Federal Employees' Compensation Act[3] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[4]

## ***ISSUE***

The issue is whether appellant established any continuing employment-related disability or condition after May 20, 2013 due to her December 21, 2010 employment injury.

On appeal counsel asserts that the statement of accepted facts (SOAF) was incomplete because it did not list all accepted conditions and that the referee opinion was insufficient to carry the weight of the medical evidence.

## ***FACTUAL HISTORY***

On December 21, 2010 appellant, then a 45-year-old letter carrier working in a part-time modified-duty position, filed a traumatic injury claim (Form CA-1) asserting that she "miss-stepped" and slipped on a ramp, injuring her left ankle and foot that day. In an attached statement, she indicated that she was walking onto a ramp when she stepped on a crack and twisted her left ankle. Appellant stopped work and did not return. The employing establishment controverted the claim, maintaining that she had taken a short cut up over the ramp causing her injury when she stepped over the side of the ramp.

An emergency services report dated December 21, 2010 provided a history that appellant tripped over a crack on a metal ramp. The report indicated that her left ankle was swollen and very painful. Appellant was treated with an icepack and medication and transported to Beth Israel Hospital. A left foot and ankle x-ray at Beth Israel Hospital on December 21, 2010 demonstrated mild soft tissue swelling without evidence of fracture or dislocation.[5]

A December 31, 2010 emergency department report from New York Methodist Hospital, signed by Dr. Reda Hadpawat, Board-certified in emergency medicine, described a history that appellant had sustained an inversion injury to the left ankle and foot at work on December 21, 2010. Left ankle examination demonstrated tenderness, swelling, and decreased range of motion. An x-ray of the left lower leg, ankle, and foot demonstrated severe soft tissue

[3] 5 U.S.C. § 8101 *et seq.*

[4] 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 January 13, 2015, the date of OWCP's last decision, was July 12, 2015. As this fell on a Sunday the appeal would have been timely filed if received by the next business day which was Monday, July 13, 2015. Since using July 15, 2015, the date the appeal was received by the Clerk of the Appellate Boards, would result in the loss of appeal rights, the date of the postmark is considered the date of filing. The date of the U.S. Postal Service postmark is July 10, 2015 rendering the appeal timely filed. *See* 20 C.F.R. § 501.3(f)(1).

[5] Other than the x-ray report and unsigned patient instructions in Spanish, with a note in English that appellant sustained a small foot fracture, a complete copy of the Beth Israel Hospital report from December 21, 2010 is not found in the case record.

swelling surrounding the left ankle, with no acute displaced fracture or dislocation of bones identified. Dr. Hadpawat diagnosed ankle and foot sprains.

A January 5, 2011 left ankle magnetic resonance imaging (MRI) scan showed ligament tears with remodeling and thickening, tibiotalar joint effusion with impaction injury of the plantar medial distal talus, contusion of the distal cuboid with no fracture, and an os trigonum with fluid through the synchondrosis, compatible with instability. A March 1, 2011 left ankle x-ray was negative. A March 11, 2011 computerized tomography (CT) scan of the left foot was normal.

Dr. Craig Kaiser, an attending podiatrist, submitted treatment notes dated from January 3 to February 28, 2011, but they are illegible.

On April 20, 2011 OWCP accepted left ankle and foot sprains. Appellant received compensation and was placed on the periodic compensation rolls.

A May 9, 2011 left ankle MRI scan showed no fracture or tenosynovitis, scarring and thickening of the lateral ligaments and deltoid ligament, compatible with nonacute trauma, no Achilles tendon tear, and no tarsal tunnel lesion.[6] In May 20, 2011 electrodiagnostic testing, Dr. Kaiser noted a history for approximately one year of diabetes and reported complaints of stabbing pain in the left foot. The test was abnormal with significant evidence of a moderate polyneuropathic compromise of both legs. A June 7, 2011 left ankle x-ray was negative for fracture. Soft tissue swelling was present.

In July 2011 OWCP referred appellant, along with a SOAF and the medical record, to Dr. Leon Sultan, a Board-certified orthopedic surgeon, for a second opinion evaluation. In an August 16, 2011 report, Dr. Sultan noted the history of injury, his review of the record, her complaint of localized soreness, and that she used crutches to ambulate. He indicated that appellant was 5 feet 4 inches tall and weighed 280 pounds, and described left ankle/foot examination findings of swelling, intact sensation, diminished ankle motion, and mild left calf atrophy. Dr. Sultan found her totally disabled, that maximum medical improvement (MMI) had not been reached, and that surgery was appropriate for a medial plantar fascial release. He did not find that any additional work-related conditions should be accepted.

A December 12, 2011 left foot and ankle x-ray demonstrated no definite acute osseous abnormality with nonspecific swelling present. On December 15, 2011 Dr. Kaiser performed an authorized left tarsal tunnel release.

In March 2012 OWCP again referred appellant to Dr. Sultan for an updated report. In his March 29, 2012 report, Dr. Sultan noted that appellant complained of residual left ankle pain and restricted motion. He provided left ankle/foot examination findings and opined that her current disability was due to the December 21, 2010 employment injury. Dr. Sultan again advised that the accepted conditions should not be expanded but that appellant had not reached MMI. He opined that she could perform sedentary employment.

[6] The January 5 and May 9, 2011 MRI scans were both read by Dr. Mark J. Decker, a Board-certified radiologist.

In August 2012 appellant experienced increased pain in the left foot after stepping out of bed while at home.

Dr. Kaiser continued to submit reports in which he diagnosed plantar nerve lesion, nontraumatic rupture of other tendons of foot and ankle, plantar fascial fibromatosis, and sprain and strain of the left foot. He performed additional authorized left tarsal tunnel release surgery on November 16, 2012.

Following appellant's November 2012 surgery, OWCP referred appellant to Dr. Joel L. Teicher, a Board-certified orthopedic surgeon, for a second opinion evaluation. Dr. Teicher was provided a SOAF and the medical record, and was asked to respond to a set of questions. In his January 15, 2013 report, he noted the history of injury and his review of the medical record. Dr. Teicher advised that appellant presented in a wheelchair with a walking boot on the left leg. The device was removed and examination was conducted in a seated position. Dr. Teicher provided extensive examination findings and diagnosed acute contusion and sprain of the left foot and ankle which had resolved after conservative management. He noted that this had resolved prior to the second accident in August 2012 and second surgery of November 16, 2012. Dr. Teicher advised that the repair of tarsal tunnel syndrome, recurrent dislocation of the ankle and foot, and Achilles tendinitis were not documented by x-rays or clinical studies, and were not accepted as due to the December 21, 2010 work injury. He reported that he had no medical documentation concerning the second injury, but that appellant should have been able to return to her regular duties prior to that time. Dr. Teicher concluded that her examination findings that day were referable to injuries unrelated to the December 21, 2010 employment injury. He advised that appellant could not perform letter carrier job duties because she recently had surgery unrelated to the accepted conditions and had not reached MMI. In an attached work capacity evaluation, Dr. Teicher advised that she could not work due to a subsequent injury and surgery that were not related to the employment injury.

On April 11, 2013 OWCP proposed to terminate appellant's wage-loss compensation and medical benefits. It found that Dr. Teicher's opinion that her work-related conditions had resolved constituted the weight of the medical evidence.

Appellant disagreed with the proposed termination, indicating that she continued to have left ankle pain and swelling. In an April 23, 2013 report, Dr. Kaiser related that he began treating her in early 2011, shortly after the December 2010 work injury. He described appellant's treatment, and maintained that she had sustained a recurrence on August 23, 2012 after which additional surgery was done, and that she was currently improving and could walk unassisted with a left foot brace. In an undated attending physician's report, Dr. Kaiser noted findings of left ankle swelling and pain. He diagnosed ankle and tarsal tunnel instability and checked a form box marked "yes," writing that the diagnoses were caused by a fall at work. Dr. Kaiser advised that it was undetermined when appellant could return to work.

In a May 20, 2013 decision, OWCP finalized the termination of wage-loss compensation and medical benefits, finding that the weight of the medical evidence rested with the opinion of Dr. Teicher.

Appellant, through counsel, timely requested a hearing and submitted reports from Dr. Kaiser dated June 11 and July 30, 2013. Dr. Kaiser noted her complaint of pain between the fourth and fifth digits and left ankle pain, and described mild edema on foot examination with no heel pain, and a positive moulder sign in the third interspace. He diagnosed sprain and strain of foot, nontraumatic rupture of other tendons of foot and ankle, and lesion of plantar nerve. Dr. Kaiser disagreed with Dr. Teicher's report, as he believed that appellant had sustained a hairline fracture and torn ligament and tendons when she stepped in a hole on December 21, 2010. He indicated that she improved following the December 2011 surgery until she sustained a recurrence on August 23, 2012 and opined that she needed additional surgery. Dr. Kaiser reiterated his disagreement with Dr. Teicher's report.

At the hearing, held on September 11, 2013, appellant testified that on December 21, 2010 she had been working six hours a day due to a prior injury and continued to receive two hours compensation following termination of the instant claim. She stated that her job duties on December 21, 2010 were delivering express mail, checking routes, answering the telephone, and responding to complaints. Appellant indicated that as she was walking up a ramp at the employee entrance on December 21, 2010 she fell in a hole and hurt her left foot, ankle, and toes. She also indicated that on August 23, 2012 when she stepped out of bed, her left ankle started to throb, and that after the November 2012 surgery, she had continued pain, and swelling. Counsel argued that the accepted conditions should be updated and that Dr. Teicher's opinion was insufficient to carry the weight of the medical evidence.

In a November 15, 2013 report, Dr. Kaiser advised that a March 9, 2011 MRI scan showed scarring and thickening of lateral and deltoid ligaments, and that a May 20, 2011 electrodiagnostic study was abnormal. He advised that appellant was not responding to conservative care and recommended surgery.

On December 24, 2013 OWCP's hearing representative affirmed the May 20, 2013 decision, finding that OWCP properly terminated appellant's wage-loss compensation and medical benefits based on the opinion of Dr. Teicher. He further found that a conflict in medical evidence had been created between Dr. Teicher and Dr. Kaiser regarding whether she continued to be disabled after that day. The hearing representative directed OWCP to update the SOAF and obtain a referee opinion as to whether additional conditions should be accepted, whether the December 15, 2011 and/or November 16, 2012 surgical procedures were necessitated by the December 21, 2010 injury, and whether appellant still required medical treatment for the accepted injury.

On remand OWCP prepared an updated SOAF noting that the accepted conditions were sprains of the left ankle and foot, and included a description of the part-time duties appellant was performing on December 21, 2010. It noted that she had a second claim for a March 28, 1996 employment injury, which had been accepted for right hand, left knee, and lumbosacral sprains and it referenced the two surgical procedures.[7]

On January 21, 2014 OWCP referred appellant, along with a SOAF, a set of questions, and the medical record to Dr. Stanley Soren, a Board-certified orthopedic surgeon, for an

[7] *Supra* note 3.

impartial evaluation.[8] In a February 11, 2014 report, Dr. Soren noted a history of injury, relating that she fell forward and hit her left foot and ankle and was transported to an emergency room where she reportedly was told that she had an ankle sprain and a hairline fracture of the left foot. He described appellant's complaint of constant pain or throbbing of the left ankle and foot with decreased strength. Dr. Soren also referenced her medical and surgical care, noting preexisting diabetes, and his review of the SOAF and medical record, including records regarding the 1996 work injury. He noted that appellant used an electric scooter because she reported left foot and ankle pain. Dr. Soren recorded her height at 5 feet 5 inches and weight at 263 pounds. He indicated that appellant could walk in the examination room and used a cane most of the time. Examination of the ankles and feet demonstrated equal inframalleolar girth, normal color and temperature, and normal dorsalis pedis pulses bilaterally. Dr. Soren described trace tenderness over two left ankle scars. Both were well healed with no inflammation or drainage, and there was no instability of either ankle. Left ankle dorsiflexion was diminished, and there was no perimalleolar tenderness of either ankle. Appellant had trace sensitivity to touch in the left fifth toe with no indication of deformity, fracture, or intermetatarsal neuroma. Dr. Soren diagnosed sprain of left foot and left ankle. He reported reviewing diagnostic testing and surgical findings. Dr. Soren discussed the January 5, 2011 MRI scan findings[9] and electrodiagnostic abnormalities of the legs by Dr. Kaiser on May 20, 2011 which, he opined, were related to diabetic neuropathy and not the December 2010 work injury. He diagnosed tarsal tunnel syndrome with ankle tendinitis, lateral ankle instability, status post December 15, 2011 tarsal tunnel release and lateral ankle and Achilles tendon repair; and tarsal tunnel area navicular, chronic sprain left foot and ankle, status post tarsal tunnel release on November 16, 2002 with repair of the ankle ligaments, removal of accessory bone and tendon, and plantar fascia release.

Dr. Soren advised that appellant had recovered from the December 2010 injury by the time she had sustained the second injury which led to the November 2012 surgery, and that the December 2011 surgery had primarily been due to her excessive weight. He further advised any additional conditions were unrelated to the December 2010 work injury, and that her left ankle and foot condition had been aggravated by excessive weight. Dr. Soren further indicated that while left ankle loss of flexion could have been partially caused by the December 2010 injury it was not sufficiently symptomatic to produce problems, noting that diabetic peripheral neuropathy could increase appellant's pain. He advised that there were no residuals of the December 2010 employment injury, that there was no need for further treatment or surgery, and that MMI had been reached as of Dr. Teicher's report on January 15, 2013. Dr. Soren found that appellant could work full-time, light duty in a sedentary position and should avoid prolonged, uninterrupted standing or walking, and should not squat, kneel, or climb. Any residual symptoms were not employment related, but were related to the August 23, 2012 injury and to her excessive weight. On an attached work capacity evaluation, Dr. Soren diagnosed left ankle and foot sprains. He advised that appellant could not perform her regular job due to limited ability for prolonged walking and standing. Dr. Soren provided indefinite restrictions, limiting

[8] The record includes screen shots of bypassed physicians and a bypass log, a screen shot showing an appointment with Dr. Soren was scheduled, an OWCP ME023 report, and an OWCP referral form.)

[9] These findings were described as of partial tear anterior talofibular ligament, posterior talofibular ligament intact, calcaneofibular ligament partial tear, deltoid ligament minimally thickened, tear of the peroneal retinacular, no subluxation of peroneal tendon, contusion of the distal cuboid, and no fracture.

walking and standing to two hours daily, with lifting limited to 20 pounds occasionally and no squatting, kneeling, or climbing. Appellant was to have hourly breaks of 5 to 10 minutes.

On March 12, 2014 OWCP proposed to terminate appellant's wage-loss compensation based on his impartial medical opinion. It noted that the case had been remanded by a hearing representative as to whether she was entitled to continuing wage-loss compensation or medical benefits after the date of termination. On March 12, 2014 OWCP asked Dr. Soren to clarify whether any further treatment was necessary.

On March 17, 2014 Dr. Soren responded that he had answered all questions in his February 11, 2014 report and referred OWCP to pages 13 to 15 of his report, noting that he indicated that no specific orthopedic medical treatment was necessary.

On March 20, 2014, following additional clarification from Dr. Soren, OWCP issued a new notice to terminate appellant's medical benefits based on the impartial opinion of Dr. Soren. It again noted that the case had been remanded to OWCP by an OWCP hearing representative regarding whether she was entitled to wage-loss compensation or medical benefits after the date of termination.

Appellant, through counsel, disagreed with the proposed termination, maintaining that Dr. Soren's opinion lacked rationale. In an April 7, 2014 report, Dr. Kaiser reiterated the findings and conclusions he described in a July 30, 2013 report. He further indicated that appellant was pending an additional MRI scan study and surgery for a left foot neuroma.

By decision dated April 21, 2014, OWCP found that the weight of the medical evidence rested with referee physician Dr. Soren. It finalized the termination of wage loss and medical benefits, essentially finding no continuing disability or residuals of the accepted injury following the May 20, 2013 termination of wage-loss compensation and medical benefits.

Counsel timely requested a hearing.[10] In an April 1, 2014 report, Dr. Kaiser noted treating appellant since January 3, 2011, following a December 21, 2010 injury. He maintained that she remained disabled and could not put any weight on her left ankle. Dr. Kaiser indicated that appellant was still awaiting authorization for surgery.

At a November 12, 2014 hearing, counsel generally maintained that appellant should have been returned to the compensation rolls after the December 14, 2013 hearing representative decision and that additional conditions should be accepted. He reported that she recently had a third foot surgery. Appellant testified about a prior injury, stating that she continued to receive two hours compensation under a separate claim for knee injuries. She stated that she had foot and ankle pain and swelling since the December 21, 2010 work injury and related that she sometimes delivered mail after her knee surgery. Appellant stated that she had always been heavy, was borderline diabetic since 2010, and recently retired on disability.

In a December 4, 2014 report, Dr. Kaiser described appellant's history, noting that on August 23, 2012 she complained of intense pain at the injury site. He disagreed with Dr. Soren's

[10] Counsel also requested supportive materials regarding the selection of Dr. Soren as referee physician. *Id.*

report, maintaining that she had a hairline fracture, torn ligaments, and tendons on December 21, 2010 when she stepped into a hole and injured her left foot and leg. Dr. Kaiser related that appellant had a third surgery on July 22, 2014 to remove a neuroma which was most likely a complication of the original injury. Appellant also submitted duplicates of the December 15, 2011 and November 16, 2012 operative reports.

On January 13, 2015 an OWCP hearing representative affirmed the April 21, 2014 decision, finding that the weight of the medical evidence rested with the referee opinion of Dr. Soren.

## ***LEGAL PRECEDENT***

As OWCP had met its burden of proof to terminate appellant's compensation benefits on May 20, 2013, the burden shifted to appellant to establish continuing disability causally related to the accepted conditions.[11] Causal relationship is a medical issue. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[12]

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.[13] The implementing regulations provides 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.[14] 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.[15]

## ***ANALYSIS***

The Board finds that appellant has not established continuing residuals of the accepted left ankle and foot sprains after May 20, 2013. OWCP terminated benefits by decision dated May 20, 2013. That decision was affirmed by OWCP's hearing representative on December 24, 2013. Although the January 13, 2015 decision referenced termination of both

[11] *See Joseph A. Brown, Jr.*, 55 ECAB 542 (2004).

[12] *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

[13] 5 U.S.C. § 8123(a); *see Y.A.*, 59 ECAB 701 (2008).

[14] 20 C.F.R. § 10.321.

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

wage-loss and medical benefits, the Board notes that the benefits had previously been terminated. The case before the Board, therefore, is solely that of continuing benefits for which appellant bears the burden of proof.

In a December 24, 2013 decision, an OWCP hearing representative found that OWCP had properly terminated appellant's wage-loss compensation and medical benefits based on the opinion of Dr. Teicher and affirmed the May 20, 2013 decision. He, however, found a conflict in medical evidence between Dr. Teicher and Dr. Kaiser regarding whether she continued to be disabled after that day. The hearing representative remanded the case for OWCP to obtain a referee opinion regarding whether additional conditions should be accepted, whether the December 15, 2011 and/or November 16, 2012 surgeries were necessitated by the December 21, 2010 injury, and whether appellant continued to require medical treatment for the accepted injury.

On January 21, 2014 OWCP referred appellant, along with an updated SOAF, a set of questions, and the medical record to Dr. Soren for an impartial evaluation. In a comprehensive February 11, 2014 report, Dr. Soren noted the history of injury, and her complaint of constant left ankle and foot pain and decreased strength. He noted appellant's preexisting diabetes, his review of the SOAF and medical record, including records regarding a 1996 employment injury. Dr. Soren provided extensive physical examination findings. He diagnosed sprain of left foot and left ankle and noted additional diagnoses that were unrelated to the December 2010 employment injury. Dr. Soren advised that appellant had recovered from the December 2010 injury prior to when she sustained the second injury, which then led to the November 2012 surgery. He further advised that additional conditions were unrelated to the December 2010 employment injury, that she had no residuals of the December 2010 employment injury, that there was no need for further treatment or surgery, and that MMI had been reached as of Dr. Teicher's report on January 15, 2013. Dr. Soren concluded that any residual symptoms were not employment related, but instead were related to the August 23, 2012 injury when appellant stepped out of bed and had symptomatology and to her excessive weight.

In an April 1, 2014 report, Dr. Kaiser advised that appellant had been under his care since January 3, 2011, following a December 21, 2010 injury. He reiterated the findings and conclusions from his July 30, 2013 report and maintained that she remained disabled and could not put any weight on the left ankle. Dr. Kaiser indicated that appellant was pending a new MRI scan study and surgery for a left foot neuroma. On December 4, 2014 he again described her history, noting that on August 23, 2012 she complained of intense pain at the site of the injury. Dr. Kaiser indicated that he disagreed with Dr. Soren's report, maintaining that appellant sustained a hairline fracture, torn ligaments, and tendons on December 21, 2010 when she stepped into a hole and injured her left foot and leg. He related that she had another surgery on July 22, 2014 to remove a neuroma and this was most likely a complication from the original injury.

The Board has long held that reports from a physician who was on one side of a medical conflict that an impartial specialist resolved, are generally insufficient to overcome the weight accorded to the report of the impartial medical examiner, or to create a new conflict.[16]

[16] *I.J.*, 59 ECAB 408 (2008).

Dr. Kaiser had been on one side of the conflict resolved by Dr. Soren. He merely reiterated his opinion that additional conditions should be accepted. Dr. Kaiser's reports are therefore insufficient to outweigh Dr. Soren's opinion or to create a new conflict in medical evidence.[17]

As to counsel's arguments on appeal, the SOAF dated January 9, 2014 that was forwarded to Dr. Soren, described the accepted conditions, appellant's medical and surgical history, and her additional claim. The Board further notes that, even though OWCP authorized and paid for some medical treatment, this does not establish that the condition for which she received treatment was employment related.[18]

The Board finds that Dr. Soren provided a comprehensive, well-rationalized opinion in which he clearly advised that any residuals of appellant's accepted left foot and ankle sprains had resolved and that her current condition was not due to the accepted injury, but rather, to an August 2012 injury that she had at home. The Board has carefully reviewed the opinion of Dr. Soren 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. Soren's opinion is based on a proper factual and medical history and he thoroughly reviewed the factual and medical history and accurately summarized the relevant medical evidence.[19] His opinion is entitled to special weight as the impartial medical examiner and establishes that appellant has no continuing employment-related disability causally related to the December 21, 2010 employment injury.[20]

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.

## ***CONCLUSION***

The Board finds that appellant failed to establish continuing employment-related disability after the date of termination, May 20, 2013, causally related to the December 21, 2010 employment injury.

[17] *See B.T.*, Docket No. 08-1885 (issued June 3, 2009).

[18] *See G.A.*, *supra* note 14. *See also Gary L. Whitmore*, 43 ECAB 441 (1992); *James F. Aue*, 25 ECAB 151 (1974) (the mere fact that OWCP authorized and paid for medical treatment does not establish that the condition for which the employee received treatment was employment related).

[19] *See Melvina Jackson*, 38 ECAB 443 (1987).

[20] *Barry Neutuch*, 54 ECAB 313 (2003).

## ***ORDER***

**IT IS HEREBY ORDERED THAT** the January 13, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 1, 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