United States Department of Labor
Employees' Compensation Appeals Board

G.C., Appellant	)	
and	)	**Docket No. 17-0062**
	)	**Issued: December 11, 2017**
DEPARTMENT OF HEALTH & HUMAN SERVICES, SOCIAL SECURITY ADMINISTRATION, Kennewick, WA, Employer	)	

Appearances:
Stephanie N. Leet, 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 October 17, 2016 appellant, through counsel, filed a timely appeal from a September 2, 2016 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 to consider the merits of this case.

[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.*

ISSUES

The issues are: (1) whether OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 19, 2015; and (2) whether appellant met her burden of proof to establish continuing residuals or disability after September 19, 2015.

FACTUAL HISTORY

On June 14, 2001 appellant, then a 39-year-old service representative, filed an occupational disease claim (Form CA-2) alleging that on April 2, 2001 she first became aware of her bilateral carpal tunnel syndrome.[3] She stopped work on June 5, 2001 and returned to full-duty work on July 9, 2001. On July 24, 2001 appellant underwent left carpal tunnel release surgery, which was followed by right carpal tunnel release surgery on August 15, 2001. On September 17, 2001 OWCP accepted the claim for bilateral carpal tunnel syndrome. It paid wage-loss compensation for the period June 3 to August 25, 2001.

On May 20, 2003 appellant filed a claim for a recurrence of disability (Form CA-2a) beginning February 2002. She noted that she stopped work on May 16, 2003. By decision dated May 11, 2004, OWCP denied appellant's claim for recurrence of disability. Appellant thereafter returned to full duty.

On March 28, 2004 appellant filed an occupational disease claim (Form CA-2) alleging that on February 1, 2002 she first realized that her bilateral cubital tunnel syndrome was employment related.[4] The employing establishment noted that she was no longer employed.[5] On May 12, 2004 OWCP accepted the claim for bilateral cubital tunnel syndrome and authorized elbow ulnar revision and tennis elbow revision surgery, which was performed on October 19, 2004. By letter dated August 14, 2007, it placed appellant on the periodic rolls for temporary total disability with the first payment for the period August 5 to September 1, 2007.

By letters dated August 14 and September 20, 2007, OWCP referred appellant for a second opinion evaluation with Dr. Chester S. McLaughlin, a Board-certified orthopedic surgeon to determine her current disability status.

In an October 19, 2007 report, Dr. McLaughlin provided a history of appellant's condition, provided physical examination findings, and reviewed diagnostic testing and medical evidence. He reported an inconclusive physical examination due to functional behavior and opined that appellant might have chronic pain syndrome. Dr. McLaughlin recommended evaluation at a medical facility to evaluate her carpal tunnel and cubital tunnel conditions and

[3] This claim was assigned OWCP File No. xxxxxx865.

[4] This was assigned OWCP File No. xxxxxx813. On May 17, 2007 OWCP administratively combined OWCP File Nos. xxxxxx865 and xxxxxx813, with the latter serving as the master file.

[5] At the time appellant filed her claim with the employing establishment, she was employed as a migrant home visitor with Kennewick School District #17. Kennewick School District advised that she had been employed from November 16, 2003 until she resigned on March 19, 2004 due to health reasons.

that functional capacity evaluation (FCE) test should be performed to determine her work capacity. Subsequently, he completed a work capacity evaluation form (Form OWCP-5c) dated July 24, 2007 from him indicating that appellant was capable of working with no restrictions.

On August 21, 2008 OWCP received the results from an FCE performed on July 15, 2008 indicating that appellant was capable of working in a light-duty job.

On September 5, 2008 OWCP issued a notice proposing to terminate appellant's wage-loss compensation based on Dr. McLaughlin's opinion. By decision dated November 28, 2008, it finalized the termination of her wage-loss compensation, effective November 21, 2008.

On December 5, 2008 appellant requested a telephonic hearing before an OWCP hearing representative, which was held on March 25, 2009.

By decision dated June 26, 2009, OWCP's hearing representative found that Dr. McLaughlin's opinion regarding appellant's work capacity was inconsistent and insufficiently rationalized and therefore insufficient for OWCP's burden of proof to terminate wage-loss compensation. OWCP vacated the November 28, 2008 termination decision and remanded the case for referral to another second opinion physician.

On October 5, 2009 OWCP referred appellant for another second opinion evaluation with Dr. Clarence Fossier, an orthopedic surgeon, to determine her work capability and the status of her accepted employment conditions.

In a November 5, 2009 report, based upon a review of the medical evidence, a statement of accepted facts (SOAF), and his physical examination findings, Dr. Fossier diagnosed bilateral carpal tunnel and bilateral cubital tunnel conditions. A physical examination revealed positive bilateral Tinel's and Phalen's signs at the wrist, positive bilateral elbow Tinel's sign, bilateral tenderness at medial epicondyle, full right elbow extension, and full wrist range of motion. Dr. Fossier determined that appellant was at maximum medical improvement and required no further medical treatment. He completed an OWCP 5c form indicating that she was capable of working full time with restrictions.

In a March 30, 2010 supplemental report, Dr. Fossier reviewed additional medical evidence and the position description for a contract service representative and concluded that appellant was capable of performing the job as it was described. In an attached April 5, 2010 OWCP 5c form, Dr. Fossier indicated that she was capable of working full time with no restrictions.

Due to Dr. Fossier's inconsistent and contradictory opinion regarding appellant's work capability, OWCP referred appellant to Dr. Paul H. Reiss, a Board-certified orthopedic surgeon, for a new second opinion evaluation.

In an August 11, 2010 report, Dr. Reiss reviewed the medical evidence, a SOAF, and physical examination findings and diagnosed bilateral carpal tunnel and bilateral cubital tunnel syndromes. He opined that no further medical treatment was recommended or indicated. Dr. Reiss also opined that appellant was capable of performing her date-of-injury job. In an

attached OWCP 5c form, he found no limitations or work restrictions. No further action was taken by OWCP at that time.

On April 9, 2012 Dr. Ryan Luoma, a treating physician Board-certified in osteopathic manipulative medicine, diagnosed lateral epicondylitis and ulnar nerve lesion, which he opined rendered appellant totally disabled from any type of work. He further opined that no improvement in her condition was anticipated. In an attached April 26, 2012 OWCP 5c form, Dr. Luoma diagnosed bilateral ulnar nerve lesion and bilateral medial epicondylitis and determined that appellant was permanently disabled from work.

In a June 5, 2014 SOAF, OWCP noted that the accepted conditions (under OWCP File No. xxxxxx813) were bilateral cubital tunnel syndrome and bilateral medial epicondylitis and (under OWCP File No. xxxxxx865) bilateral carpal tunnel syndrome. It noted that appellant's job duties as a contact service representative involved up to seven hours per day five days a week of intermittent data entry, answering public inquiries, and manually filling out forms. Dates of her surgeries were provided, as was information regarding her job working for the Kennewick School District.

On June 10, 2014 OWCP again referred appellant for a second opinion evaluation with Dr. Scott Kitchel, a Board-certified orthopedic surgeon, for an evaluation of her accepted conditions and work capability.

Appellant subsequently submitted a May 28, 2014 report and OWCP 5c form from Dr. Gerald B.R. Craigg, a treating Board-certified internist. Dr. Craigg detailed her medical and employment injury history and provided examination findings. Diagnoses included carpal tunnel syndrome, ulnar nerve lesion, and medial epicondylitis. In an attached OWCP5c form, Dr. Craigg indicated that appellant was capable of working eight hours per day with restrictions and recommended an occupational therapist assessment.

In a July 15, 2014 report, Dr. Kitchel reviewed appellant's medical records and the June 5, 2014 SOAF. He detailed the medical records reviewed and summarized the June 5, 2014 SOAF. Dr. Kitchel noted diagnoses of bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and bilateral medial epicondylitis. He provided examination findings and thereafter opined that the accepted conditions had resolved without residuals or disability. Physical findings included nonreproducible two-point discrimination testing, 2+ bilateral radial pulses, and positive Tinel's sign at the right elbow at the medial and posterior aspect and her bilateral wrists. Dr. Kitchel found that the objective evidence was not supportive of appellant's subjective complaints. He reported that it did not appear that she gave full effort with the range of motion testing and the two-point hand discrimination testing could not be replicated. Dr. Kitchel concluded that appellant was capable of performing the duties of contract service representative with no restrictions. An attached OWCP 5c form indicated that she was capable of performing her date-of-injury job with no restrictions.

An electromyography (EMG) and nerve conduction velocity (NCV) study performed on July 17, 2014 reported normal findings. On September 10, 2014 a repeat EMG/NCV was performed and again reported normal findings.

OWCP received progress notes and reports covering the period August 12 to December 5, 2014 from Dr. Craigg who noted appellant's symptoms and treatment for carpal tunnel syndrome. Dr. Craigg noted that recent EMG/NCV studies were negative. Diagnoses included ulnar nerve lesion and carpal tunnel syndrome.

By letter dated March 16, 2015, OWCP sought clarification regarding appellant's condition from Dr. Craigg.

On April 2, 2015 OWCP issued a notice proposing to terminate appellant's wage-loss compensation and medical benefits based on Dr. Kitchel's opinion.

Following the April 2, 2015 proposed termination OWCP received a March 30, 2015 report from Dr. Craigg, which was unchanged from his prior reports. It also received Dr. Craigg's response to its March 16, 2015 letter. Dr. Craigg opined that appellant continued to have residuals and disability from her accepted bilateral carpal tunnel and bilateral cubital tunnel conditions. In support of this conclusion, he referred to examination findings including positive Tinel's and Phalen's signs.

On May 5, 2015 OWCP reissued the proposal to terminate appellant's wage-loss compensation and medical benefits based on Dr. Kitchel's opinion.

On July 16, 2015 OWCP referred appellant to Dr. Lowell Anderson, a Board-certified orthopedic surgeon, to resolve the conflict in the medical opinion evidence between Dr. Craigg, appellant's treating Board-certified internist, and Dr. Kitchel, a second opinion Board-certified orthopedic surgeon, as to whether appellant continued to have residuals and disability due to her accepted employment conditions.

OWCP provided Dr. Anderson with the SOAF dated June 5, 2014, which noted that the accepted conditions under OWCP File No. xxxxxx813 were bilateral cubital tunnel syndrome and bilateral medial epicondylitis and under OWCP File No. xxxxxx865 it had accepted bilateral carpal tunnel syndrome. It noted that appellant's job duties as a contact service representative involved up to seven hours per day five days a week of intermittent data entry, answering public inquiries, and manually filling out forms. The SOAF noted that appellant began a position as Para-educator/Migrant Home Visitor on November 16, 2003 with the Kennewick School District, Kennewick, WA. Duties of this position included approximately one hour per day of data entry, completing logs, and correspondence; assisting families with filling out forms, which involved some handwriting; and the remainder of the day was spent contacting district staff and families. On March 8, 2004 appellant resigned this position. Next, OWCP noted that appellant had undergone right ulnar nerve decompression and a partial epicondylar ostectomy with reattachment of the flexor tendon origin on October 19, 2014. Under OWCP File No. xxxxxx865, OWCP noted that appellant had undergone left carpal tunnel release surgery on July 24, 2001 and right carpal tunnel release surgery on August 15, 2001.

In an August 6, 2015 report, Dr. Anderson, based on a review of the June 5, 2014 SOAF, medical and injury histories, medical reports, and his physical examination findings, concluded that appellant was capable of performing her date-of-injury job with no restrictions. In his report, Dr. Anderson summarized the June 5, 2014 SOAF by noting the two claims and the

accepted conditions, the work duties that caused the accepted employment condition and the surgeries performed, that she resigned from federal service on May 17, 2013, that on November 16, 2003 she started work Para-educator/Migrant Home Visitor with the Kennewick School District, Kennewick, WA, and that she quit this position on March 8, 2014. He also noted appellant's subjective complaints were unsupported by the objective evidence. A physical examination revealed an unreliable two-point discrimination test, full active bilateral elbow range of motion, bilateral normal intrinsic and open muscle strength, no bilateral radial tunnel, flexor, or extensor tenderness, and mild bilateral nonspecific soft forearm tissue tenderness. Appellant complained of burning pain, paresthesias radiating into the median nerve with a Phalen's test and with her elbow flexion test, and significant local tenderness in the ulnar nerve region bilaterally. Dr. Anderson reported appellant's complaints of burning pain and paresthesias were unsupported by any objective findings and that examination findings were based on her subjective complaints. Based on the lack of any objective findings, normal grip strength, and two normal EMG/NCV studies, he concluded that appellant was capable of performing her job with no restrictions. In an attached OWCP-5c form, Dr. Anderson indicated that appellant had no work restrictions.

By decision dated September 15, 2015, OWCP terminated appellant's wage-loss compensation and medical benefits effective September 19, 2015. It found that the weight of the evidence rested with the opinion of the impartial medical specialist, Dr. Anderson, who concluded that appellant no longer had any residuals or disability due to the accepted conditions.

On October 7, 2015 appellant requested a telephonic hearing before an OWCP hearing representative, which was held on June 20, 2016. At the hearing she was represented by counsel. Counsel contended at the hearing that the SOAF provided to Dr. Kitchel was inaccurate with respect to her job duties at the employing establishment and the accepted conditions. Specifically, she argued that the SOAF failed to include bilateral medial epicondylitis as an accepted condition and it failed to specify what appellant's job duties were. Thus, counsel argued that appellant should have been referred for another second opinion evaluation, rather than for an impartial medical examination. She also argued that the SOAF provided to Dr. Anderson failed to adequately describe appellant's job duties.

In progress notes dated March 28, 2016, Dr. Hui-Juan Zhang, an examining Board-certified neurologist, reported that appellant was seen for complaints of right arm paresthesia and pain. Examination findings and a medical history were provided. Dr. Zhang noted that appellant reported good results from her bilateral carpal tunnel release surgery, but no improvement following her 2004 bilateral cubital tunnel ulnar release surgery. Diagnoses were noted as bilateral cubital tunnel syndrome and bilateral carpal tunnel syndrome.

In progress notes dated April 5, 2016, Dr. Michael Turner, a treating Board-certified physiatrist, reported that appellant had been seen for significant bilateral carpal tunnel syndrome and right ulnar nerve surgeries.

In a June 20, 2016 report, Dr. Turner reported seeing appellant several times for her cubital tunnel syndrome. A physical examination revealed claw hand deformity, atrophy, weakness, and numbness. Dr. Turner opined that, despite a normal EMG/NCV, appellant continued to have ulnar nerve symptoms. He attributed the continued symptoms to the failed

bilateral cubital tunnel surgery. Dr. Turner explained that failed surgeries can cause scarring, traction, neuroma formation, or incomplete release.

In a July 18, 2016 report, Dr. Turner noted that he had been appellant's treating physician for the past several months. He opined that she continued to have residuals from her accepted conditions and was disabled from performing her date-of-injury position as a contact service representative. Dr. Turner based his opinion on objective findings of numbness, ulnar nerve hand atrophy, decreased sensation, positive elbow flexion test, Tinel's sign, and Phalen's test, and numbness to all digits. He recommended an updated FCE for an accurate measure of appellant's deficits and work capability. Dr. Turner indicated that she was capable of working with restrictions including no lifting more than five pounds with her right hand, no repetitive gripping or writing with her right hand, up to 5 minutes every 30 minutes of typing using her right hand, and no repetitive right elbow pressure or pressure over the right elbow. Regarding the normal EMG findings, he again explained that failed surgeries can cause scarring, traction, neuroma formation, or incomplete release.

By decision dated September 2, 2016, OWCP's hearing representative affirmed the termination of appellant's benefits. She found that the special weight of the medical opinion evidence rested with the well-rationalized opinion of Dr. Anderson, the impartial medical examiner, who found that appellant no longer had any residuals or disability from her accepted employment conditions.

LEGAL PRECEDENT -- ISSUE 1

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits.[6] After it has determined that an employee has disability causally related to his or her federal employment, OWCP may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.[7] OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.[8]

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.[9] To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.[10]

Section 8123(a) of FECA provides in pertinent part: if there is disagreement between the physician making the examination for the United States and the physician of the employee, the

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

[7] *I.J.*, 59 ECAB 408 (2008); *Elsie L. Price*, 54 ECAB 734 (2003).

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

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

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

Secretary shall appoint a third physician who shall make an examination.[11] Where a case is referred to an impartial medical examiner for the purpose of resolving a conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual and medical background must be given special weight.[12]

ANALYSIS -- ISSUE 1

OWCP accepted the conditions of bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and medial epicondylitis. It authorized elbow ulnar revision, tennis elbow revision surgery, and authorized bilateral carpal tunnel release surgery. OWCP placed appellant on the periodic rolls for temporary total disability commencing August 14, 2007. In a decision dated September 15, 2016, it terminated her wage-loss compensation and medical benefits based upon the opinion of Dr. Anderson, the impartial medical examiner. An OWCP hearing representative affirmed the termination of benefits by decision dated September 2, 2016.

The Board finds that OWCP met its burden of proof to terminate appellant's compensation benefits effective September 19, 2015.

OWCP had referred appellant to Dr. Anderson for an impartial medical examination to resolve the existing conflict in medical opinion evidence between Drs. Kitchel and Craigg, pursuant to 5 U.S.C. § 8123(a).

In his August 6, 2015 report, Dr. Anderson explained that appellant's subjective complaints were unsupported by the objective evidence and that examination findings were based on her subjective complaints. He reported an unreliable two-point discrimination test, full active bilateral elbow range of motion, bilateral normal intrinsic and open muscle strength, no bilateral radial tunnel, flexor, or extensor tenderness, and mild bilateral nonspecific soft forearm tissue tenderness. Dr. Anderson concluded, based on the lack of any supporting objective findings, normal grip strength, and two normal EMG/NCV studies, that appellant was capable of performing her job with no restrictions. His findings and conclusions establish that she has no employment-related disability or medical residuals due to her accepted conditions.

The Board finds that Dr. Anderson's August 6, 2015 report is well rationalized and based on a complete and accurate history, a complete SOAF and the entire case record. Dr. Anderson's report reflects a thorough examination, a review of the medical records, and an understanding of appellant's medical and employment histories. Thus, his opinion that the accepted conditions have resolved without residuals is entitled to special weight.[13]

On appeal counsel argues that the June 5, 2014 SOAF provided to Drs. Anderson and Kitchel was inaccurate with respect to appellant's job duties. She also contends the SOAF did not contain a complete and accurate medical history. The June 5, 2014 SOAF provided to both physicians described the essential elements, including the accepted conditions, the job title and

[11] 5 U.S.C. § 8123(a); *R.C.*, 58 ECAB 238 (2006); *Darlene R. Kennedy*, 57 ECAB 414 (2006).

[12] *V.G.*, 59 ECAB 635 (2008); *Sharyn D. Bannick*, 54 ECAB 537 (2003); *Gary R. Sieber*, 46 ECAB 215 (1994).

[13] *See E.H.*, Docket No. 08-1862 (issued July 8, 2009); *Bryan O. Crane*, 56 ECAB 713 (2005).

work history, and the relevant medical history. Dr. Anderson, in his report, fully addressed appellant's job and medical history.[14] He provided a thorough, exhaustive medical opinion based on his examination findings, the SOAF, and her medical history. Dr. Anderson concluded that appellant had no residuals from the accepted conditions of bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and medial epicondylitis and opined that she was physically capable of performing full duty at her date-of-injury job. OWCP relied on his opinion in its September 15, 2015 decision, finding that she had no residual disability or impairment causally related to her accepted bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and medial epicondylitis, and in the September 2, 2016 hearing representative's decision affirming the termination of her benefits.

Counsel has also alleged multiple errors regarding Dr. Kitchel's opinion rendering it of diminished probative value. She asserts that he erred in relying on an August 28, 2009 SOAF and that the report was stale and insufficient to support termination. In terminating appellant's compensation, OWCP relied upon the opinion of Dr. Anderson, the impartial medical examiner. Counsel argues that Dr. Anderson should be considered a second opinion physician instead of an impartial examiner as Dr. Kitchel's opinion was insufficient to create a conflict in the medical opinion evidence.

Counsel also contends Dr. Kitchel's opinion was not based on a review of the entire medical record. Contrary to counsel's assertions, Dr. Kitchel did not rely on the August 28, 2009 SOAF as he was provided the updated June 5, 2014 SOAF for review. The Board finds counsel's contention that Dr. Kitchel's opinion was not based on a proper medical background to be without merit as he reviewed the relevant medical records. Dr. Kitchel's opinion was based on a proper review of the medical evidence, physical examination, and updated SOAF and sufficient to create a conflict in the medical opinion evidence as discussed above.

Counsel further contends that Dr. Kitchel's opinion was insufficient to create a conflict as it was stale. This contention of counsel is also without merit. Dr. Kitchel's report was dated July 15, 2014 with a physical examination of appellant performed that day. At the time of the conflict of opinion in 2015, Dr. Kitchel's July 15, 2014 report and Dr. Craigg's March 19, 2015 were reasonably current and sufficient to establish a conflict of opinion. With respect to Dr. Anderson's opinion, counsel argues that due to the deficiencies with Dr. Kitchel's report, that Dr. Anderson should be treated as a second opinion physician and that a new conflict has arisen. As discussed above, OWCP found a conflict in the medical opinion evidence between Dr. Kitchel and Dr. Craigg and referred appellant to Dr. Anderson for resolution of this conflict. As discussed above, the Board found OWCP properly accorded Dr. Anderson's opinion the special weight as it was well rationalized and based on an accurate and complete medical history.

LEGAL PRECEDENT -- ISSUE 2

As OWCP properly terminated appellant's compensation benefits, the burden shifts to the employee to establish continuing disability after that date causally related to his or her accepted injury.[15] To establish causal relationship between the accepted conditions as well as any

[14] *Darlene R. Kennedy*, 57 ECAB 414 (2006).

[15] *Manuel Gill*, 52 ECAB 282 (2001).

attendant disability claimed and the employment injury, the employee must submit rationalized medical evidence based on a complete medical and factual background supporting such causal relationship.[16] Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.[17]

ANALYSIS -- ISSUE 2

The Board finds that appellant failed to establish that she has any continuing residuals of her accepted bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and medial epicondylitis, on or after September 19, 2015.

The issue of whether appellant remains entitled to compensation for continuing disability and whether she continued to experience residuals from her accepted condition is a medical one, based on the medical evidence of record.[18] Following the telephonic hearing held on June 20, 2016, she submitted June 20 and July 18, 2016 reports from Dr. Turner and a March 28, 2016 report from Dr. Zhang. These reports did not provide a probative medical opinion as to whether she was disabled or currently required medical treatment due to an employment-related condition. Dr. Zhang and Dr. Turner both noted that appellant had normal EMG/NCV findings. They did not explain why appellant would have continuing disability, while objective testing revealed normal findings. The Board has found that medical reports that provide a conclusion, but fail to offer any rationalized medical explanation, are of limited probative value.[19]

Neither Dr. Zhang nor Dr. Turner provided a well-reasoned and sufficiently supported opinion that would vitiate OWCP's September 15, 2015 determination that she did not have any employment-related disability or residuals stemming from her accepted bilateral carpal tunnel syndrome, bilateral cubital tunnel syndrome, and medial epicondylitis. Medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet appellant's burden of proof.[20] Appellant did not provide a probative medical opinion as to whether she was disabled or currently required medical treatment due to an employment-related condition.

For the reasons discussed above, appellant has not met her burden of proof to establish continuing disability after September 19, 2015.

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.

---

[16] *R.D.*, Docket No. 16-0982 (issued December 20, 2016); *R.F.*, Docket No. 16-0845 (issued July 25, 2017).

[17] *Paul Foster,* 56 ECAB 208 (2004); *Jacqueline M. Nixon-Steward,* 52 ECAB 140 (2000).

[18] *Gary R. Sieber*, 46 ECAB 215 (1994).

[19] *See generally, D.A.*, Docket No. 16-0408 (issued May 19, 2016).

[20] *See F.T.*, Docket No. 09-919 (issued December 7, 2009); *Cecelia M. Corley*, 56 ECAB 662 (2005) (a medical opinion not fortified by rationale is of diminished probative value).

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective September 19, 2015, as she no longer had any residuals or disability due to the accepted employment conditions. The Board further finds that she has not met her burden of proof to establish any continuing residuals or disability after September 19, 2015.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 2, 2016 is affirmed.[21]

Issued: December 11, 2017
Washington, DC

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

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

[21] Colleen Duffy Kiko, Judge, participated in the original decision but was no longer a member of the Board effective December 11, 2017.