United States Department of Labor
Employees' Compensation Appeals Board

S.R., Appellant	)	
and	)	**Docket No. 16-1832**
	)	**Issued: June 6, 2017**
U.S. POSTAL SERVICE, ESCONDIDO POSTAL STORE, Escondido, CA, Employer	)	

Appearances:
Sara Kincaid, Esq., for the appellant[1]
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 15, 2016 appellant, through counsel, filed a timely appeal of a May 26, 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.[3]

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

[2] 5 U.S.C. § 8101 *et seq.*

[3] The Board notes that, following the May 26, 2016 decision, OWCP received additional evidence. However, the Board may only review evidence that was in the record at the time OWCP issued its final decision. Thus, the Board is unable to review this evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c)(1); *M.B.*, Docket No. 09-176 (issued September 23, 2009); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

ISSUES

The issues are: (1) whether OWCP met its burden of proof to terminate appellant's wage-loss compensation effective March 8, 2015; and (2) whether appellant met her burden of proof to establish any continuing disability on and after March 8, 2015 causally related to her accepted employment injuries.

On appeal counsel argues that OWCP failed to meet its burden of proof to terminate appellant's compensation benefits. She also argues that appellant was not sent to an appropriate specialist.

FACTUAL HISTORY

On March 21, 2003 appellant, then a 48-year-old passport clerk, filed a traumatic injury claim (Form CA-1) alleging that on that day she injured her back when she made a hard landing while sitting down in a chair.[4] She did not stop work on the day of her injury, but started working a modified job as a "clerk/rehab" beginning March 22, 2003.[5] On August 9, 2003 appellant filed a new Form CA-1 alleging that on August 5, 2003 she injured her right knee, shoulder, and neck when her left leg collapsed while she was trying to photograph a customer.[6] She stopped work on August 5, 2003 and has not returned to work.

From 2003 through 2013 OWCP accepted the conditions of low back strain, L5-S1 herniated disc, cauda equine with neurogenic bladder, aggravation of thoracic/lumbosacral radiculitis/neuritis, aggravation lumbar (L5-S1) intervertebral disc displacement without myelopathy, closed left tibia fracture with fibula, acute cystitis, urinary incontinence, right open trimalleolar ankle fracture, right ankle medial malleolus fracture, closed ankle bimalleolar fracture, bilateral carpal tunnel syndrome, paralytic ileus, and pain disorder related to psychological disorders.

OWCP paid wage-loss compensation for the period September 20 to November 1, 2003 on the daily rolls for disability before placing appellant on the periodic rolls for temporary disability beginning November 2, 2003.

Surgeries authorized by OWCP included L4-5 disc excision and L4-5 fusion on October 30, 2003, interbody lumbar fusion on January 3 and June 20, 2007, right carpal tunnel release on November 2, 2007, left carpal tunnel release on September 23, 2008, and exploration of fusion, removal of hardware, and laminectomy decompression on May 18, 2009.

In a May 20, 2010 report, Dr. Timothy A. Peppers, a treating Board-certified orthopedic surgeon, reported that appellant was seen for a follow-up evaluation of her accepted cauda

[4] OWCP was assigned File No. xxxxxx091.

[5] Appellant was given work restrictions of no repetitive twisting or bending and no climbing, squatting, or stooping.

[6] OWCP assigned File No. xxxxxx034. On November 18, 2003 OWCP combined OWCP File Nos. xxxxxx034 and xxxxxx091 with the latter as the Master File.

equina syndrome and post-laminectomy lumbar spine syndrome. He provided physical examination findings and noted that she complained of increased pain complaints and inability to stand for more than a few minutes. Dr. Peppers diagnosed lumbar spine post-laminectomy syndrome, probable arachnoiditis, cauda equina syndrome, chronic back and leg pain due to above, and chronic bladder dysfunction due to cauda equina syndrome. He opined that appellant was totally disabled from work.

The record contains progress notes and reports from Dr. Peppers covering the period July 1, 2010 to June 30, 2011 indicating that appellant continued to be totally disabled and unable to work.

In reports dated May 30 and June 11, 2012, Dr. Yogesh Patel, a treating Board-certified anesthesiologist and pain medicine physician, noted that appellant was referred by Dr. Peppers for treatment of her low back pain. Medical and employment injuries and appellant's pain complaints were noted by Dr. Patel. Dr. Patel diagnosed spinal cord injury, lumbar radiculopathy, depressive disorder, peripheral neuropathy, lumbar spinal stenosis, bladder and bowel incontinence, lumbar spondylosis, and lumbar post-laminectomy syndrome.[7]

In a March 12, 2013 investigative report, an investigator related that he had observed appellant's activities on 13 different occasions over the period December 14, 2012 to March 12, 2013. He observed appellant driving three different vehicles with no difficulty on seven occasions. The investigator also observed appellant speeding in excess of 90 miles per hour, walking without her cane, pushing a grocery cart without any assistance, extending her right arm above shoulder level to close her vehicle's door, and reaching and grasping glasses from top shelves.

On October 3, 2013 OWCP referred appellant to Dr. Frederick Close, a Board-certified orthopedic surgeon, for a second opinion evaluation to determine the extent of her disability.

In a separate letter to appellant dated October 3, 2013, OWCP advised that a surveillance video provided by the employing establishment had been provided to the second opinion physician and had become part of the record.

In an October 24, 2013 report, Dr. Close, based upon a physical examination, review of the statement of accepted facts, and medical records, diagnosed bilateral carpal tunnel releases, status post lumbar laminectomies decompression and discectomies at L2-3, L3-4, L4-5, and L5-S1, spinal fusion at L2-3, L3-4, L3-4, L4-5, and L5-S1, and posterior L2-S1 instrumentation. Physical examination findings included difficulty standing, significant bilateral lumbar stiffness, tenderness and spasm. Dr. Close also noted negative Hoffmann's test, negative bilateral Tinel's and Phalen's signs at elbows and wrist, no hypothenar or thenar atrophy, and no lower extremity interosseous atrophy. He related that OWCP had provided a DVD for his review, but that it was not reviewable. Dr. Close concluded that appellant appeared to be totally disabled based on her significant back pain, which he noted would preclude any meaningful employment.

[7] The record contains numerous reports from Dr. Patel's initial referral from July 9, 2012 to April 13, 2016 describing treatment, recommendations, objective evidence reviewed, and examination findings.

In a December 13, 2013 letter, OWCP noted Dr. Close's problems with the video provided and informed appellant that it was in the process of sending the doctor the surveillance video for review and comment. It advised that a copy of the surveillance video would be sent to appellant following receipt of Dr. Close's supplemental report.

On December 27, 2013 OWCP received a supplemental report dated December 8, 2013 from Dr. Close. Dr. Close reported reviewing the postal investigation DVDs provided by OWCP, beginning with the January 28, 2013 DVD. He described appellant's actions as seen on the postal investigation DVDs. Dr. Close reported the video showed appellant on several occasions walking normally and without a cane. Appellant was also videotaped driving a pickup truck, appellant working with her arm outstretched, shopping in a store, and going to the post office with no problem. Next, Dr. Close reported appellant was videotaped using an electric wheel chair, standing up from the wheel chair with the assistance of a cane, and getting into the front seat of an SUV. Based on his review of the postal investigation DVD, Dr. Close reported a significant discrepancy between appellant's demeanor during his examination and her standing and walking without any obvious difficulty on the DVD. He observed that appellant only used the motorized wheelchair in attending her appointment with him and used a cane only when visiting her doctors. Dr. Close observed there was no correlation between appellant's symptomatology and complaints and her movements on the postal investigation DVD. Based on her movements in the postal investigation DVD, he opined that appellant was malingering, which had probably been going on for a long period. Dr. Close concluded that appellant was not as impaired as she claimed and that it was difficult for him to determine whether she was capable of performing duties at the employing establishment.

In a January 3, 2014 report, Dr. Peppers reported appellant was seen that day for a fracture and twisted ankle sustained on December 25, 2013. He provided examination findings and diagnosed cauda equine syndrome, post-laminectomy lumbar spine syndrome, lumbar radiculopathy, and low back pain. Dr. Peppers opined that appellant was limited to 15 minutes of driving time due to increased pain with sitting.

On January 9, 2014 OWCP requested clarification from Dr. Close as to whether appellant could return to work.

In a January 28, 2014 supplemental report, Dr. Close opined that appellant was capable of performing the duties of a modified window clerk, her date-of-injury position. He further observed that the physical requirement of the position "appeared to be within her physical capability."

On September 5, 2014 OWCP issued a notice proposing to terminate appellant's wage-loss benefits. It found the weight of the evidence rested with the well-rationalized opinion of Dr. Close. OWCP found Dr. Peppers' January 3, 2014 opinion was insufficient to create a conflict as he had not addressed whether appellant was capable of performing the duties of her date-of-injury modified position.

In a letter dated September 18, 2014, appellant disagreed with OWCP's proposal to terminate her wage-loss compensation. She contended that Dr. Close was not a qualified specialist to evaluate her accepted medical conditions and work capacity.

On November 13, 2014 OWCP received medical evidence covering the period January 3 to October 28, 2014.

In a report dated April 15, 2014, Dr. Peppers related that appellant was seen for complaints of increased back and leg pain. He noted that she was seen in her motorized wheelchair. Diagnoses included: status post cauda equine syndrome, low back pain, lumbar post-laminectomy syndrome. Dr. Peppers related confronting both appellant and her husband over the surveillance video and discussed the inconsistencies with appellant's presentation and what he observed on the surveillance video.

In an October, 3, 2014 report, Dr. Peppers noted that appellant was seen for increased complaints of back pain. Appellant related being unable to climb stairs due to the pain and that her thigh, calve, and feet pain worsened following surgery. Dr. Peppers stated that the surveillance video was discussed with appellant. Appellant informed Dr. Peppers that the surveillance video was taken prior to the worsening of her symptoms and increased limitations.

Dr. Peppers, in an October 28, 2014 report, observed that appellant had always used a wheelchair when coming to his office. Based upon his viewing of the surveillance video, he opined that he found no violations of her restrictions by the activities seen on the surveillance video, nor would those activities be detrimental to her recovery. Dr. Peppers stated that appellant informed him that she was unable to perform the activities seen on the surveillance video. He opined that she was capable of returning to work part time and with restrictions based on his review of activities performed by appellant on the surveillance video. Dr. Peppers reviewed the job description for a passport window clerk and opined that appellant was capable of performing that position. He concluded that, based on review of the surveillance video and medical records, she had misrepresented her medical condition. Dr. Peppers further opined that appellant did sustain a significant injury and had permanent neurological impairment. However, he concluded that her objective findings outweighed her subjective symptoms and there was symptom magnification on the part of appellant.

In a letter dated October 17, 2014 and received by OWCP on November 17, 2014, appellant contended that OWCP erred in terminating her wage-loss compensation benefits based on the Board's case law concerning surveillance video. She argued that the surveillance video should not have been provided to either the second opinion or her treating physician without first notifying and providing an opportunity to review and comment on it. Appellant also contended that the employing establishment inspectors should not have provided the second opinion physician with a copy of the surveillance video for review as this was contrary to Board law and OWCP regulations. She further argued that Dr. Close was not an appropriate physician to evaluate her condition as he was not a neurological specialist. Appellant related that she was permanently and totally disabled due to her accepted cauda equina syndrome and spinal cord injury.

In a letter dated October 21, 2014, OWCP responded to appellant's request for a copy of her record. It provided her with an electronic copy of her imaged case record along with a copy of the surveillance video.

On December 24, 2014 OWCP received a November 4, 2014 report from Dr. Peppers. Dr. Peppers related that appellant stated that she had been informed by counsel that the surveillance video was illegal. He and appellant discussed what was seen on the surveillance video. Appellant related that she never claimed she could not walk. Dr. Peppers reported that appellant had increased complaints of back and left leg pain. He also related having "somewhat heated discussion" concerning the legality of the surveillance video and her capabilities. Appellant informed Dr. Peppers that since the surveillance video had been taken her condition had significantly worsened. Dr. Peppers reported that she complained of increased or worsening weakness and pain both prior and during the time frame of the surveillance video, but that the video clearly showed appellant's functional ability exceeded what she related her abilities were. He opined that appellant had restrictions due to her accepted employment injuries which included no climbing, repetitive bending, lifting more than 15 to 20 pounds, or working with heights. Dr. Peppers noted that she informed him that her cauda equina syndrome rendered her totally disabled from any work and that she was unable to perform the duties of lifting and bending that her modified date-of-injury job required. He advised appellant that she was capable of performing the duties of passport desk clerk part time.

By decision dated March 4, 2015, OWCP terminated appellant's entitlement to wage-loss compensation effective March 8, 2015. It found that she was capable of performing the duties of a modified window clerk based on the opinion of Dr. Close. OWCP also found that she had been made aware of the surveillance video by letter dated October 3, 2013 and a copy of the surveillance video had been given to her upon her request.

In a report dated August 31, 2015, Dr. Jack D. Schim, a treating Board-certified neurologist, diagnosed paraplegia and extremities edema. Appellant was seen for a follow-up on her accepted March 21, 2003 employment injuries of weakness and cauda equine syndrome. She complained of worsening leg and back pain since her last visit in February 2015. Appellant related that she currently wore adult diapers due to worsened bladder/bowel control. She also informed Dr. Peppers that her walking and balance had worsened to the extent that she spent most of her time in bed, she did not run errands or drive, required 24/7 use of a wheelchair, and had not worked in 12 years. Dr. Schim reviewed appellant's medication and provided examination findings.

In a form dated February 16, 2016, and received by OWCP on February 22, 2016, appellant requested reconsideration.

By letter dated February 19, 2016, which accompanied appellant's reconsideration request, counsel argued that OWCP erred in terminating appellant's wage-loss compensation benefits. Counsel argued that OWCP had failed to refer appellant to an appropriate specialist as it should have referred appellant to a Board-certified neurologist and not a Board-certified orthopedic surgeon. She further argued that Dr. Close's report and supplemental report were insufficiently rationalized and failed to meet OWCP's burden.

In an undated report and fax date of January 28, 2016, Dr. Schim noted appellant's employment injury history and medical treatment. He diagnosed bilateral lower extremity neurological deficits, bilateral lower extremity paraplegia due to cauda equina syndrome, bladder and bowel dysfunction, and saddle anesthesia with numbness. Dr. Schim observed that appellant

had difficulty with walking, and had experienced multiple falls. He noted that chronic foot drop had caused difficulties with ambulating without any assistance. Appellant's physical examination revealed bilateral L5-S1 sensory loss, bilateral lower extremity foot drop, and diminished ankle jerks. Review of objective data revealed abnormal findings. Dr. Schim noted that appellant required a wheelchair 24/7, and that she used a cane when walking short distances at home, had numerous falls due to her lower extremity weakness. He opined that appellant's cauda equina syndrome was permanent and that she was totally disabled due to this condition.

In a work capacity evaluation form (Form OWCP-5c) dated January 28, 2016, Dr. Schim determined that appellant had permanent work restrictions and was totally disabled from work.

In a March 22, 2016 report, Dr. Schim reported that appellant was seen for a follow-up visit for her cauda equina syndrome. Appellant related that her last appointment with Dr. Peppers had been in September 2014 and that her balance, walking, and bladder and bowel control issues had worsened. She stated that due to pain and weakness she now used her cane at home to walk short distances and used her wheelchair constantly. Appellant informed Dr. Schim that Dr. Peppers had released her to return to work, a decision with which she disagreed.

In a decision dated May 26, 2016, OWCP denied modification. It found the reports of Dr. Close, who had found that appellant was capable of working with restrictions, constituted the weight of the medical opinion evidence as it was based on a review of the record and surveillance video. OWCP considered appellant's argument regarding the physician's specialty and concluded that Dr. Close's specialty was appropriate to determine her work capacity.

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.[8] After it has determined that an employee has disability causally related to 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.[9] OWCP's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.[10]

ANALYSIS -- ISSUE 1

OWCP accepted the conditions of low back strain, L5-S1 herniated disc, cauda equine with neurogenic bladder, aggravation of thoracic/lumbosacral radiculitis/neuritis, aggravation L5-S1 intervertebral disc displacement without myelopathy, closed left tibia fracture with fibula, acute cystitis, urinary incontinence, right open trimalleolar ankle fracture, right ankle medial malleolus fracture, closed ankle bimalleolar fracture, bilateral carpal tunnel syndrome, paralytic ileus, and pain disorder related to psychological disorders. It terminated appellant's wage-loss

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

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

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

compensation effective March 8, 2015 as it found she was capable of performing the duties of a modified window clerk, her date-of-injury position. The issue on appeal is whether OWCP met its burden of proof to terminate wage-loss compensation.

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation benefits effective March 8, 2015

In an October 24, 2013 report, Dr. Close reviewed appellant's medical history, including the statement of accepted facts, and diagnosed bilateral carpal tunnel releases, status post lumbar laminectomies decompression and discectomies at L2-3, L3-4, L4-5, and L5-S1, spinal fusion at L2-3, L3-4, L3-4, L4-5, and L5-S1, and posterior L2-S1 instrumentation. He conducted a physical examination, provided examination findings, and noted he had been unable to review the DVD OWCP had given for his review. Dr. Close concluded that appellant appeared to be totally disabled based on her significant back pain, which would preclude any meaningful employment. In a December 8, 2013 supplemental report, he stated that his review of the surveillance videos revealed a significant discrepancy between appellant's demeanor during his examination and her standing and walking without any obvious difficulty on the surveillance video. Next, Dr. Close pointed out that appellant only used the motorized wheelchair coming to her appointment with him and used a cane only when visiting her other doctors. He concluded, that based on her movements in the surveillance video, that appellant was malingering, which had probably been going on for a long period and was not as impaired as she claimed. On January 28, 2014 Dr. Close determined appellant was capable of performing the duties of a modified window clerk, her date-of-injury position.

OWCP procedures provide that if a surveillance video of a claimant has been submitted by the employing establishment or an investigative agency, and OWCP's claims examiner has determined that this evidence should be incorporated as part of the case record and is germane to issues being addressed by the second opinion specialist, the claims examiner should direct the specialist to review the video evidence and reference it in his or her report.[11] As noted above, OWCP provided a copy of the video evidence to Dr. Close, the second opinion physician, and Dr. Peppers, appellant's treating physician. The Board has previously held that although video footage may be of some value to a physician asked to render a medical opinion, it may also be misleading if material facts are omitted. Thus, OWCP is obliged to notify the claimant when such footage is given to a physician and, upon request, provide a copy of the recording and a reasonable opportunity to respond to its accuracy.[12] Appellant was made aware of the surveillance video and of the fact that Dr. Close had reviewed this video prior to the notice of proposed termination, which was issued on March 5, 2014. On October 21, 2014 OWCP in response to appellant's only request for a copy of the record, a copy of the surveillance video was provided.[13] The Board finds that OWCP properly handled the video evidence.

[11] *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.9 (September 2010); *K.M.*, Docket No.15-1929 (issued September 26, 2016).

[12] *A.P.*, Docket No. 13-30 (issued March 18, 2013); *see also J.J.*, Docket No. 15-0475 (issued September 28, 2016); *Y.S.*, Docket No. 15-1949 (issued April 11, 2016).

[13] *See P.M.*, Docket No. 16-1321 (issued January 10, 2017); *J.J.*, *id.*; *N.M.*, Docket No. 15-1553 (issued March 2, 2016).

The Board has held that the weight of the medical opinion evidence is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts of the case, the medical history, the care of analysis performed, and the medical rationale expressed in support of the stated conclusions.[14] In this case, Dr. Close discussed the history of injury and explained that there was no objective evidence supporting total disability causally related to the accepted employment injuries. The Board finds that his opinion is detailed, well rationalized and based upon a complete and accurate history and thorough examination.

Accordingly, the Board finds that OWCP properly accorded the weight of the medical evidence to Dr. Close, who based his opinion on the complete medical record, the video, a statement of accepted facts, and a thorough examination.

The Board further finds that the additional reports from Dr. Peppers dated October 28 and December 24, 2014 support Dr. Close's opinion that appellant was no longer totally disabled due to the March 21, 2003 employment injuries. Dr. Peppers, based upon a review of the surveillance video and examination findings, also concluded that appellant was capable of working with restrictions. He also concluded that her objective findings outweighed her subjective symptoms, there was misrepresentation of her condition, and symptom magnification. Dr. Peppers reviewed the job description for modified passport desk clerk and determined that she was capable of performing that position.

The record also contains reports from Dr. Patel providing examination findings and treatment. None of Dr. Patel's reports offer any opinion regarding disability.[15] The Board has held that opinions not addressing the relevant issue of the case are of diminished probative value.[16]

For the above reasons, the Board finds that OWCP properly terminated appellant's wage-loss compensation effective March 8, 2015 as the weight of the medical opinion evidence established that she had no disability due to her accepted conditions.

On appeal counsel argues that Dr. Close's specialty as an orthopedic surgeon was not appropriate as OWCP should have referred appellant to a neurologist. Contrary to counsel's argument, Dr. Close was an appropriate specialist. The Board notes that he is a Board-certified orthopedic surgeon, and had the appropriate specialty qualifications to render an opinion in this case.[17] Dr. Close made a determination that appellant was capable of working which is within his orthopedic specialty. Counsel failed to support her argument for a neurology specialist.

Counsel also argues that OWCP erred in terminating appellant's wage-loss compensation as the medical evidence establishes that she is totally disabled due to her accepted cauda equina

[14] *See K.W.*, 59 ECAB 271 (2007); *Ann C. Leanza*, 48 ECAB 115 (1996).

[15] *A.F.*, 59 ECAB 714 (2008); *Virginia Davis-Banks*, 44 ECAB 389 (1993).

[16] *Id.*

[17] *See D.F.*, Docket No. 14-00030 (issued August 26, 2014).

syndrome. As discussed above, the medical evidence, including reports from Dr. Peppers, her treating physician, opined that she was no longer totally disabled and capable of working. Thus, OWCP met its burden to terminate appellant's wage-loss compensation.

LEGAL PRECEDENT -- ISSUE 2

As OWCP met its burden of proof to terminate appellant's wage-loss benefits, the burden shifted to her to establish that she had any disability causally related to her accepted injuries.[18]

ANALYSIS -- ISSUE 2

The Board finds that appellant has not established any continuing disability causally related to her accepted employment injuries on and after March 8, 2015.

Following OWCP's termination of appellant's wage-loss compensation effective March 8, 2015, the burden of proof shifted to appellant to demonstrate that she continued to be disabled from work on and after that date due to her accepted employment injuries.[19]

Subsequent to the March 4, 2015 decision terminating her wage-loss compensation, OWCP received reports from Dr. Schim. In an undated report with a fax date of January 28, 2016, Dr. Schim opined that appellant was totally disabled due to cauda equina syndrome, which was permanent with no recovery. In a January 28, 2016 work capacity evaluation form, Dr. Schim indicated that appellant was permanently disabled from work. Dr. Schim, in a March 22, 2016 report, noted that appellant informed him of her increased use of her cane at home and constant use of her wheelchair due to her pain and weakness. The Board has long held that medical conclusions unsupported by rationale are of diminished probative value and insufficient to establish disability.[20] None of Dr. Schim's reports explain with sufficient rationale how her accepted conditions caused her to be totally disabled.[21] Thus, the Board finds Dr. Schim's reports are insufficient to support disability or to create a conflict with the opinion of Dr. Close. Appellant has not met her burden of proof to establish disability on and after March 8, 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.

[18] *See Joseph A. Brown, Jr.*, 55 ECAB 542 (2004); *Manuel Gill*, 52 ECAB 282 (2001).

[19] *Virginia Davis-Banks*, *supra* note 15.

[20] *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

[21] *See S.B.*, Docket No. 13-1162 (issued December 12, 2013).

CONCLUSION

The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation effective March 8, 2015. The Board further finds that appellant failed to meet her burden of proof to establish any continuing disability on and after March 8, 2015 causally related to her accepted employment injuries.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 26, 2016 is affirmed.

Issued: June 6, 2017
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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