

ISSUES

The issues are: (1) whether OWCP met its burden of proof to terminate appellant's wage-loss compensation effective November 15, 2015; and (2) whether appellant met her burden of proof to establish continuing disability after November 15, 2015.

FACTUAL HISTORY

This case has previously been before the Board.³ The facts of the prior appeal are incorporated herein by reference. The relevant facts follow.

On March 14, 2001 appellant, then a 42-year-old distribution clerk, filed an occupational disease claim (Form CA-2) alleging that her bilateral carpal tunnel syndrome and tendinitis were due to her repetitive work duties. On February 12, 1991 she first became aware that her claimed conditions were due to repetitive activities, particularly work performed on flat sorting and letter sorting machines from 1985 to 1991. On June 13, 2001 OWCP accepted the claim for bilateral medial neuropathy and brachial plexopathy.

The employing establishment offered appellant a part-time modified sign painter/letterer position based on an October 23, 2006 medical opinion of Dr. Scott M. Fried, an attending osteopath. Appellant accepted the offer and returned to work on October 25, 2006. She continued working in this position and, by decision dated July 30, 2007, OWCP determined that the position fairly and reasonably represented her wage-earning capacity.⁴

On September 7, 2010 appellant requested a review of the written record by an OWCP hearing representative. In a September 30, 2010 decision, OWCP's Branch of Hearings and Review denied the request because it was not requested within 30 days of the July 30, 2007 decision. Appellant appealed to the Board. In a November 17, 2011 decision, the Board affirmed in part and remanded in part the September 30, 2010 decision.⁵ The Board found that OWCP had properly denied appellant's hearing request as untimely filed. The Board further found, however, that OWCP had abused its discretion by failing to set forth its reasons for failing to grant a discretionary review of the written record.

Thereafter, OWCP received reports from Dr. Fried regarding appellant's conditions and disability. On May 20, 2014 Dr. Fried examined appellant and diagnosed Dupuytren's secondary to use of a paper cutter, contusions and abrasions of the hands and right knee post a June 30, 2004 fall, contusion of the right hand, wrist, and forearm due to a May 18, 2013 motor vehicle accident, right and left flexor tenosynovitis, sympathetically mediated pain syndrome of the left arm, cervical strain and sprain status post the May 18, 2013 accident, bilateral posterior occipital neuralgia, right and left median neuropathy, neurogenic right brachial plexopathy/cervical

³ Docket No. 11-645 (issued November 17, 2011).

⁴ On August 20, 2010 appellant stopped work due to temporary aggravation of major depressive disorder which had been accepted as work related by OWCP in her claim for a June 26, 1990 injury assigned File No. xxxxxx133. OWCP paid compensation for partial disability. Appellant returned to work on September 1, 2010.

⁵ *Supra* note 3.

radiculopathy, and left brachial plexopathy/cervical radiculopathy with long thoracic neuritis. He found that she remained symptomatic and limited and could not return to her regular work activities due to her work injury. Dr. Fried recommended continued medical treatment.

On July 9, 2014 OWCP referred appellant, together with a statement of accepted facts (SOAF), a set of questions, and the medical record, to Dr. Willie E. Thompson, a Board-certified orthopedic surgeon, for a second opinion examination. In an August 15, 2014 report, Dr. Thompson detailed appellant's history, reviewed the medical record, and provided findings on examination. He found no clinical data to support her accepted conditions of bilateral brachial plexus lesions and bilateral carpal tunnel syndrome. Dr. Thompson opined that appellant had no residuals of her January 1, 1991 employment-related injuries. He concluded that she could immediately return to her usual job duties with no restrictions.

On August 21, 2014 OWCP determined a conflict in medical opinion existed between Drs. Fried and Thompson regarding appellant's residual disability. It referred her, together with a SOAF, a set of questions, and the medical record, to Dr. Richard J. Mandel, a Board-certified orthopedic surgeon for an impartial medical examination.

The record contained a copy of an ME023 Appointment Schedule Notification dated September 24, 2014 which indicated that appellant was scheduled to see Dr. Mandel on November 6, 2014. A bypass history report dated September 24, 2014 indicated that no bypasses were made and that Dr. Mandel was located 3.13 miles from appellant's zip code. This documentation provides that, "This report serves as certification that the Medical Management Application [MMA] in the Integrated Federal Employees' Compensation System (iFECS) was used to schedule this appointment."

In a November 6, 2014 report, Dr. Mandel reviewed the medical record and noted appellant's history, which included sorting mail and using a letter and flat mail sorting machines when she began working at the employing establishment in 1985. Appellant had numbness and tingling in both hands in 1991. Also, in 1991 she worked in a clerk sign painter/letterer position which included using a label maker, cutting labels, cleaning the case surface, and applying labels. Appellant continued to have numbness and tingling in both hands, mainly in the thumb through long fingers. On examination, she had a completely normal cervical spine. There was no tenderness, tightness, spasm, or fibrosis of the cervical musculature. Range of motion was full in flexion, extension, rotation, and lateral bending. Spurling's and L'hermitte's tests were negative. Adson's and Tinel's tests were negative bilaterally for brachial plexopathy and thoracic outlet syndrome. A Roo's test was mildly positive on the left at 15 seconds and was negative on the right. There was no trapezial tenderness, tightness, or spasm.

On examination of the shoulder girdle, Dr. Mandel found no deformity, atrophy, swelling, induration, or erythema. Active and passive range of motion was full and unrestricted. There was no associated crepitus with range of motion. The impingement sign, adduction sign, push off test, and relocation test were negative. There was no localized tenderness and no instability of the acromioclavicular joint or glenohumeral joint. Shoulder girdle muscle strength was 5/5. Glenohumeral and scapulothoracic excursion and rhythm were normal. There was no scapular winging. A distal neurovascular examination was intact.

On examination of the arms, Dr. Mandel reported no visible atrophy. Arm and forearm circumferences were equal bilaterally at 12¾ inches and 10½ inches. There was no alteration or abnormality in skin color, temperature, sweating pattern, or hair distribution. There was no thenar atrophy, hand swelling, or fasciculations. Appellant had full range of motion of the wrists and digits. Tendon function was preserved. There was no carpal instability. Froment's cross-finger and Wartenberg's tests were negative. Watson and Finkelstein tests were negative. Wrist grind and shake tests were negative. Pulses were +2 and Allen's tests were negative. Grip strength was 40, 55, and 42 pounds on the right and 38, 70, and 45 pounds on the left. Other motor findings were 5/5. Neurologic examination of the arms revealed normal sensory testing using monofilaments over all digits and in the distribution of the superficial radial nerve. Tinel's test was negative bilaterally. Carpal tunnel compression and Phalen's tests were positive on the left and negative on the right. Tinel's was negative over the course of the ulnar and radial nerves and over the course of the median nerve more proximally. Median innervated thenar strength was normal. There was no intrinsic weakness or atrophy. Upper extremity reflexes were +2 and symmetrical.

In response to OWCP's series of questions, Dr. Mandel advised that there were no objective abnormalities on examination to substantiate appellant's complaints. There were subjective findings of a positive carpal tunnel compression test and positive Phalen's test on the left, but no diagnostic evidence of left carpal tunnel syndrome. Sensory testing using Semmes-Weinstein monofilaments, was normal and indicated that, if median neuropathy was present, it was very mild. There were no subjective or objective abnormalities on the right side to suggest ongoing carpal tunnel syndrome or neuropathy. Roo's test was subjectively positive on the left at 15 seconds which was suggestive, but not diagnostic of left thoracic outlet syndrome. Dr. Mandel noted that appellant had no preexisting disability. He also noted a history of a 2013 motor vehicle accident in the medical record, but indicated that she did not tell him about this accident. Dr. Mandel opined that the only ongoing diagnosis related to the accepted injuries was minimal left carpal tunnel syndrome. He opined that appellant may work full time without restrictions except for a Futuro-type wrist support on the left while performing her work activities. Dr. Mandel advised that appellant required periodic checkups with her treating physician every three to four months. Appellant did not need physical or occupational therapy or injections. Dr. Mandel concluded that, if appellant's symptoms increased in the future, then upper extremity electrodiagnostic testing would be indicated.

On January 7, 2015 OWCP proposed to terminate appellant's wage-loss compensation based on Dr. Mandel's report. Appellant was afforded 30 days to submit additional evidence or argument if she was in disagreement with the proposed action.

In a January 14, 2015 letter, counsel disagreed with the proposed termination of wage-loss benefits. He requested an explanation as to how Dr. Mandel was selected from the MMA. Counsel argued that the SOAF provided to Dr. Mandel was deficient as the physician believed that appellant could return to work, but did not demonstrate an awareness of her date-of-injury clerk position which required repetitive work duties and lifting up to 70 pounds. He maintained that this was important since Dr. Mandel found that she still had residuals of her left carpal tunnel syndrome and needed to wear a brace on her left arm. Counsel thus contended that Dr. Mandel's report could not carry the weight of the medical evidence.

In letters dated January 19 and 22, 2015, Dr. Fried requested an extension of time to respond to the proposed notice of termination.

By decision dated February 24, 2015, OWCP terminated appellant's wage-loss compensation effective March 8, 2015. It accorded special weight to Dr. Mandel's November 6, 2014 report.

Appellant, through counsel, requested an oral hearing before an OWCP hearing representative in a letter dated March 3, 2015. In February 12 and May 4, 2015 reports, Dr. Fried noted appellant's history of injury, medical treatment, and examination findings. His review included Dr. Thompson's August 15, 2014 report and Dr. Mandel's November 6, 2014 report. Dr. Fried disagreed with the physicians' findings and restated his opinion that appellant had ongoing objective evidence of bilateral brachial plexus and bilateral median nerve carpal tunnel involvement which limited her to working four hours a day with restrictions. He concluded that she could never return to her full regular repetitive work duties. In a May 4, 2015 prescription, Dr. Fried diagnosed bilateral median nerve lesion and bilateral brachial plexus lesion. He also ordered a functional capacity evaluation (FCE).

By decision dated May 18, 2015, an OWCP hearing representative reversed the February 24, 2015 decision. She found that Dr. Mandel's opinion was deficient as it was not based on a complete SOAF regarding appellant's date-of-injury job duties and it was unclear as to whether appellant could perform her regular work duties without restrictions. The hearing representative directed OWCP to update its SOAF to include a description of appellant's date-of-injury regular work duties and obtain a supplemental report from Dr. Mandel regarding whether appellant's accepted work injuries would allow her to work without restrictions.

On remand, OWCP prepared an updated SOAF dated July 7, 2015 that included a description of appellant's job duties as a distribution clerk who used a multi-position letter sorting machine (MPLSM) provided by the employing establishment. It identified this position as her date-of-injury position. The duties and responsibilities of the position included reading the address of each piece of mail as it was positioned by the machine, depressing a proper combination of keys to enable the machine to divert each letter to the proper bin, and a high degree of manual and visual coordination and close visual attention for sustained periods. It also included serving for a portion of time on a rotational basis as a loader or sweeper-tyer, or culling mail to remove that which was nonmachinable, loading consoles, removing mail from distribution boxes in the back of the machine, verifying sorted mail for accuracy of sorting, tying mail in bundles, and traying and/or dispatching as required. The position required possible qualification on one or more distribution schemes, as essential to the assignment and performance of manual distribution.

In a July 16, 2015 supplemental report, Dr. Mandel reviewed additional medical records, including Dr. Fried's reports and diagnostic test findings, the description of appellant's distribution clerk MPLSM position, and the updated SOAF. He related that his review of these additional records did not change his previously expressed opinions. Dr. Mandel related that his opinion remained the same, that appellant had fully recovered from her accepted bilateral brachial plexopathy condition and that she had ongoing minimal left carpal tunnel syndrome. He further related that it was his continued opinion that despite her left carpal tunnel syndrome, she

was capable of returning full time to her preinjury job as a distribution clerk. Dr. Mandel noted that his previous comments regarding ongoing treatment were unchanged.

In reports dated July 1 and August 3, 2015, Dr. Fried provided examination findings and reviewed FCE results. He reiterated his prior opinion that appellant could not return to her original job.

In a September 23, 2015 notice, OWCP again proposed to terminate appellant's wage-loss compensation based upon the medical opinion of Dr. Mandel which established that she was no longer disabled for work due to her accepted employment injuries.

On October 14, 2015 counsel disagreed with the proposed termination. He asserted that Dr. Mandel's reports were not well rationalized as he did not explain how appellant could return to her repetitive duties as a distribution clerk while she still had carpal tunnel syndrome residuals that required her to wear a wrist splint at work. He also noted that Dr. Mandel's report was speculative as the physician recommended additional EMG testing.

In an October 27, 2015 decision, OWCP terminated appellant's wage-loss compensation effective November 15, 2015. It found that the special weight of the medical evidence rested with Dr. Mandel's impartial opinion.

Counsel requested an oral hearing before an OWCP hearing representative by November 4, 2015 letter. In reports dated November 30 and December 17, 2015, Dr. Fried reiterated his prior bilateral upper extremity and cervical diagnoses and disagreement with Dr. Mandel's opinion. He also restated his opinion that, although appellant could not perform her regular work activities, she could perform a part-time modified job with restrictions based on FCE results. Dr. Fried advised that it would be dangerous for her to return to her regular work activities. In a March 3, 2016 report, Dr. Fried examined appellant and again opined that she could not perform her regular work activities.

At the February 17, 2016 hearing, counsel argued that the July 7, 2015 SOAF was deficient as it did not contain a description of appellant's sign painter/letterer position. He also argued that OWCP had not properly selected Dr. Mandel as the referee physician because the file lacked appropriate documentation for the use of the MMA. Appellant testified that when she began working at the employing establishment in 1985 she worked in manual letters and flats. Later, she worked on a flat sorter machine for four years and one to one and one-half years on a letter sorting machine and then she went back to the flat sorter machine for a few months. Appellant later worked as a sign painter/letterer. She testified that when she worked on the machines, she lifted tubs of mail that she loaded and unloaded onto ledges and a conveyor belt. Appellant noted keying one zip code per second for one-half hour on a letter machine.

By decision dated March 23, 2016, an OWCP hearing representative affirmed as modified the October 27, 2015 termination decision. He affirmed that the special weight of the medical evidence rested with the impartial medical opinion of Dr. Mandel and established that appellant's employment-related disability had ceased.⁶ The hearing representative found that

⁶ OWCP's hearing representative noted that appellant had elected to receive retirement benefits from the Office of Personnel Management effective February 7, 2016.

Dr. Fried's supplemental reports did not outweigh the weight accorded to Dr. Mandel's opinion. He modified the earlier decision to allow for continued medical benefits based on Dr. Mandel's recommendation for periodic check-ups by a treating physician.⁷

LEGAL PRECEDENT -- ISSUE 1

Under FECA, once OWCP has accepted a claim it has the burden of justifying termination or modification of compensation benefits.⁸ OWCP may not terminate compensation without establishing that the disability has ceased or that it was no longer related to the employment.⁹ Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.¹⁰

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.¹¹ The implementing regulations state 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.¹²

When there exists 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.¹³

A physician selected by OWCP to serve as an impartial medical specialist should be wholly free to make a completely independent evaluation and judgment. In order to achieve this, OWCP has developed specific procedures for the selection of the impartial medical specialist designed to provide adequate safeguards against any possible appearance that the selected physician's opinion was biased or prejudiced. The procedures contemplate that the impartial medical specialist will be selected on a strict rotating basis in order to negate any appearance that preferential treatment exists between a particular physician and OWCP.¹⁴

⁷ OWCP's October 27, 2015 termination decision, however, did not terminate appellant's medical benefits.

⁸ *I.J.*, 59 ECAB 408 (2008); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

⁹ *Charles E. Minniss*, 40 ECAB 708, 716 (1989).

¹⁰ *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

¹¹ 5 U.S.C. § 8123(a).

¹² 20 C.F.R. § 10.321.

¹³ *S.R.*, Docket No. 09-2332 (issued August 16, 2010); *Darlene R. Kennedy*, 57 ECAB 414 (2006); *Gloria J. Godfrey*, 52 ECAB 486 (2001).

¹⁴ *D.A.*, Docket No. 09-936 (issued January 13, 2010); *Raymond J. Brown*, 52 ECAB 192 (2001).

The MMA, which replaced the Physicians' Directory System (PDS), allows users to access a database of Board-certified specialist physicians and is used to schedule referee examinations. The application contains an automatic and strict rotational scheduling feature to provide for consistent rotation among physicians and to record the information needed to document the selection of the physician.¹⁵

The claims examiner is not able to determine which physician serves as the impartial medical specialist. A medical scheduler inputs the claim number into the application, from which the claimant's home zip is loaded. The scheduler chooses the type of examination to be performed (second opinion or impartial referee) and the applicable medical specialty. The next physician in the roster appears on the screen and remains until an appointment is scheduled or the physician is bypassed. If the physician agrees to the appointment, the date and time are entered into the application. Upon entry of the appointment information, the application prompts the medical scheduler to prepare an ME023 appointment notification report for imaging into the case file. Once an appointment with a medical referee is scheduled, the claimant and any authorized representative are to be notified.¹⁶

ANALYSIS -- ISSUE 1

OWCP accepted that appellant sustained bilateral medial neuropathy and brachial plexopathy due to her federal employment.

On February 24, 2015 OWCP terminated appellant's entitlement to wage-loss compensation finding that she had no disability causally related to her accepted employment injuries. It had relied on the November 6, 2014 report of Dr. Mandel, who served as an impartial medical specialist. On May 18, 2015 OWCP's hearing representative reversed the February 24, 2015 decision and remanded the case to OWCP for further development of the factual and medical evidence regarding appellant's date-of-injury work duties and capacity to work without restrictions. In an October 27, 2015 decision, OWCP terminated appellant's wage-loss compensation effective November 15, 2015. It did not terminate her medical benefits. OWCP relied upon Dr. Mandel's opinion, including his July 16, 2015 supplemental report. The Board finds that OWCP met its burden of proof to terminate appellant's wage-loss compensation benefits.

OWCP found a conflict in medical opinion between appellant's treating physician, Dr. Fried, and OWCP's referral physician, Dr. Thompson, regarding whether appellant had any continuing disability causally related to her accepted employment injuries and therefore referred her to Dr. Mandel to resolve the conflict pursuant to 5 U.S.C. § 8123(a).

Before OWCP and on appeal before the Board, counsel contended that Dr. Mandel was improperly selected as the impartial medical specialist. Contrary to his argument, the Board finds that OWCP properly utilized the MMA in selecting Dr. Mandel as an impartial medical

¹⁵ Federal (FECA) Procedure Manual, Part 3 -- Medical, *OWCP Directed Medical Examinations*, Chapter 3.500.5 (May 2013); *see also R.C.*, Docket No. 12-468 (issued October 25, 2012).

¹⁶ *Id.*

specialist. OWCP utilized the MMA as evidenced by the September 24, 2014 ME023 form, provided information that no additional physicians were selected or bypassed through the MMA, and included documentation that the MMA was used to schedule the appointment with Dr. Mandel. The Board finds, therefore, that OWCP properly selected Dr. Mandel as an impartial medical specialist.¹⁷

The Board further finds that Dr. Mandel's impartial medical opinion is entitled to special weight and establishes that appellant no longer has any disability due to the accepted employment injuries. In a November 6, 2014 report, Dr. Mandel reviewed the SOAF and the medical file and noted essentially normal findings on examination. He opined that appellant had minimal left carpal tunnel syndrome causally related to her accepted injuries, but could perform her work duties on a full-time basis without restrictions. Dr. Mandel advised that the only caveat was that she had to wear a left wrist support while performing work duties. On May 18, 2015 an OWCP hearing representative found that Dr. Mandel's opinion was deficient because it was not based on a complete SOAF which described the physical demands of appellant's previous job at the employing establishment. As noted, she remanded the case for OWCP to undertake further development of the evidence regarding these matters.

In his July 16, 2015 supplemental report, Dr. Mandel provided a well-rationalized opinion that appellant's accepted work injuries had resolved sufficient to return to full-time work without restrictions. While he restated that appellant had minimal left carpal tunnel syndrome, he found that she had fully recovered from the accepted bilateral brachial plexopathy and had the capacity to return to her preinjury position of distribution clerk on a full-time basis. Dr. Mandel noted reviewing the updated SOAF dated July 7, 2015 which included a description of the position and additional medical evidence of record. He also noted that his previous comments regarding appellant's ongoing treatment were unchanged. Despite residuals of symptoms from the accepted conditions, Dr. Mandel found that appellant could perform the regular work duties of her position.

The Board finds that Dr. Mandel's opinion is based on a proper factual and medical background and is sufficiently well rationalized such that it is entitled to the special weight accorded to an impartial medical specialist and establishes that appellant has no continuing disability due to her accepted employment injuries.

Before OWCP and on appeal before the Board, counsel contended that the SOAF reviewed by Dr. Mandel was deficient as it did not describe the physical requirements and repetitive work duties of appellant's date-of-injury the sign painter/letterer position or provide additional rationale as requested by OWCP regarding whether appellant had any continuing employment-related residuals. The Board notes that the updated SOAF identified the physical demands of appellant's date-of-injury position based on the job description submitted by the employing establishment. The position description listed work duties that involved the use of sorting machines to process mail. While the term sign painter/letterer clerk was used by appellant on her occupational disease claim form, she attributed her accepted employment injuries to the work she performed on flat sorting and letter sorting machines from 1985 to 1991.

¹⁷ C.W., Docket No. 12-1211 (issued November 15, 2012); *Darlene R. Kennedy*, *supra* note 13.

She continued to attribute her accepted employment injuries to these same work factors during her hearing testimony on February 17, 2016. In addition, Dr. Mandel, in his November 6, 2014 report, provided a history that appellant sorted mail and used a letter and flat mail sorting machines when she began working at the employing establishment in 1985 and experienced numbness and tingling in both hands in 1991. He also noted her duties when she worked as a sign painter. Thus, the Board finds that Dr. Mandel's opinion was based on an accurate SOAF and he was aware of appellant's duties at the relevant times.

LEGAL PRECEDENT -- ISSUE 2

Once OWCP properly terminates appellant's compensation benefits, the burden shifts to appellant to establish that he or she has continuing disability after that date related to his or her accepted injury.¹⁸ To establish causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such a causal relationship.¹⁹ Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.²⁰

ANALYSIS -- ISSUE 2

Following the termination of her wage-loss compensation on October 27, 2015 (effective November 15, 2015) appellant submitted Dr. Fried's November 30 and December 17, 2015 and March 3, 2016 reports. In these reports, Dr. Fried found that appellant continued to have residuals of her accepted employment injuries and, although she was unable to perform her regular work duties on a full-time basis, she could perform a part-time modified position with restrictions based on the results of an FCE. He reasoned that it would be dangerous for appellant to return to her regular work activities. Dr. Fried's restrictions on appellant's return to work, however, are prophylactic in nature, and the possibility of a future injury does not form the basis for the payment of compensation under FECA.²¹ Moreover, the Board has long held that reports from a physician who was on one side of a medical conflict that an impartial medical specialist resolved, are generally insufficient to overcome the special weight accorded to the report of the impartial medical specialist, or to create a new conflict.²² The Board notes that as Dr. Fried was on one side of the conflict resolved by Dr. Mandel, Dr. Fried's additional reports and prescription are of insufficient weight to overcome the special weight accorded to Dr. Mandel's opinion or to create a new medical conflict. The Board finds, therefore, that appellant has not

¹⁸ See *Manuel Gill*, 52 ECAB 282 (2001).

¹⁹ *Id.*

²⁰ *Paul Foster*, 56 ECAB 208 (2004); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

²¹ See *Mary Geary*, 43 ECAB 300, 309 (1991); *Pat Lazzara*, 31 ECAB 1169, 1174 (1980) (finding that appellant's fear of a recurrence of disability upon return to work is not a basis for compensation).

²² *I.J.*, 59 ECAB 408 (2008).

established continuing disability after November 15, 2015 causally related to the accepted injuries.²³

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 OWCP met its burden of proof to terminate appellant's wage-loss compensation effective November 15, 2015. The Board further finds that appellant has not met her burden of proof to establish continuing disability after November 15, 2015.

ORDER

IT IS HEREBY ORDERED THAT the March 23, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 2, 2017
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

²³ *Virginia Davis-Banks*, 44 ECAB 389 (1993); *Dorothy Sidwell*, 41 ECAB 857 (1990).