United States Department of Labor
Employees' Compensation Appeals Board

R.N., Appellant	)	
and	)	**Docket No. 16-1279**
	)	**Issued: November 7, 2017**
DEPARTMENT OF THE ARMY, NATIONAL MUSEUM OF HEALTH & MEDICINE, Silver Spring, MD, Employer	)	

Appearances:
Appellant, pro se
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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 6, 2016 appellant filed a timely appeal from a December 24, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant met her burden of proof to establish a recurrence of total disability commencing September 11, 2014 due to her February 28, 2014 work injury.

FACTUAL HISTORY

On March 6, 2014 appellant, then a 53-year-old management analyst, filed a traumatic injury claim (Form CA-1) alleging that, on February 28, 2014, she sustained injury to her right

[1] 5 U.S.C. § 8101 *et seq.*

upper extremity while lifting binders at work.[2] She stopped work on February 28, 2014. OWCP accepted that appellant sustained a sprain of her right shoulder and upper arm.[3]

Appellant returned to limited-duty work on a full-time basis on March 16, 2014, but she periodically stopped work for various periods thereafter. She was restricted from lifting, pushing, or pulling more than five pounds and from reaching above her shoulders. Appellant filed a claim for compensation (Form CA-7) for disability from work during the period April 6 to 19, 2014 due to her February 28, 2014 work injury and later filed Forms CA-7 for additional periods of claimed disability. She received compensation for intermittent periods of disability on the daily rolls beginning April 6, 2014.

The findings of June 4, 2014 electromyogram (EMG) testing of appellant's upper extremities contained an impression of normal electrodiagnostic examination with no electrodiagnostic evidence of C5, C6, or C7 neuropathy, right radial neuropathy, median neuropathy, or ulnar neuropathy.

In a report dated June 17, 2014, Dr. David L. Taragin, an attending Board-certified neurologist, indicated that appellant was seen in neurologic follow-up on that date and that she reported having continuing pain in her right arm "due to an injury at work when binders fell in the right arm." He advised that she underwent EMG testing which was "reportedly normal." In the impression portion of the report, Dr. Taragin noted that appellant had been followed for right arm pain "due to complex regional pain syndrome or reflex sympathetic dystrophy as well as a possible brachial plexopathy both of which are a direct result of a right arm strain and injury that occurred when binders fell on her arm while at work." He advised that neurologic examination revealed intact cranial nerves, motor examination, and deep tendon reflexes. Dr. Taragin recommended a trial of physical therapy and opined that appellant's current symptoms were a direct result of the February 28, 2014 work injury and had evolved from a direct strain injury to a possible brachial plexopathy stretch injury and complex regional pain syndrome.

Appellant stopped work on September 11, 2014. On October 6, 2014 she filed a notice of recurrence (Form CA-2a) claiming a recurrence of total disability commencing September 11, 2014 due to her February 28, 2014 work injury. Appellant asserted that the right shoulder/arm

[2] The earliest medical report of record which addresses the then alleged February 28, 2014 work injury is a March 4, 2014 report in which an attending physician indicated that appellant reported that on February 28, 2014 she used her right arm in an attempt to catch a group of binders sliding from a shelf at work. Appellant suspected that she pulled muscles in her right shoulder and arm. On March 6, 2014 an attending physician noted that appellant reported that on February 28, 2014 she was lifting binders at work and she hyperextended her right arm while attempting to catch/cradle some binders which had slipped. In a March 20, 2014 report, appellant advised an attending physician that on February 28, 2014 a group of binders, weighing approximately 15 pounds, fell on her right arm when she attempted to catch them. The March 20, 2014 report is the earliest document in the record in which appellant specifically mentioned binders falling on her right arm in an attempt to catch them.

[3] Under a separate OWCP File No. xxxxxx834 for a claim not currently before the Board, appellant filed a Form CA-1 on September 2, 2011 claiming that on August 31, 2011 she sustained a traumatic injury when she stepped into a hole of a loading dock floor with her left leg and fell to the floor. OWCP administratively handled the claim and paid a limited amount of medical benefits without formally considering the merits of the claim. Appellant also had a history of a nonindustrial cervical radiculopathy from 2008.

condition she sustained on February 28, 2014 had never improved and that it caused severe pain.[4]

In support of her recurrence of total disability claim, appellant submitted a September 4, 2014 report in which Dr. Taragin noted that she was examined on that date and complained of continuing right arm pain due to possible brachial plexus injury and right complex regional pain syndrome. She reported that the pain was worsened by her job, including the ergonomics of her workspace. In the impression portion of the report, Dr. Taragin indicated that appellant "has been followed for complex regional pain syndrome and possible brachial plexopathy as well as a strain of the right arm and shoulder after a work-related injury." He reported that she continued to have symptoms of pain to the point that she was unable to work and found that work worsened her symptoms. Dr. Taragin advised that neurologic examination revealed intact cranial nerves, motor function, deep tendon reflexes, and gait. He recommended that, because appellant had persistent pain, she should go on disability until further evaluation so that "[appellant] can recover fully from her work-related injury." Dr. Taragin also recommended a retrial of physical therapy and prescribed increased pain medication.

In a September 4, 2014 work capacity evaluation form (Form OWCP-5c), Dr. Taragin listed the condition accepted by OWCP as sprain of the right shoulder and upper arm. He indicated that appellant would not be able to perform her usual job as she needed to take breaks and had limited use of her right arm. Appellant would not be able to work eight hours per day with restrictions due to her conditions of right brachial plexopathy and right complex regional pain syndrome. Dr. Taragin checked boxes marked "Yes" denoting restrictions from such activities as reaching, lifting, and engaging in repetitive wrist/elbow motions and indicated that these restrictions would last for an indeterminate period. He also noted, "Request telework if and when available and work is tolerated."

In a Form OWCP-5c dated September 18, 2014, Dr. Taragin noted that appellant would not be able to perform her usual job due to her right arm sprain, right brachial plexopathy injury, and right complex regional pain syndrome. He found that she would not be able to work eight hours per day with restrictions and noted, "[Appellant] has persistent pain and is currently unable to work." Dr. Taragin again denoted restrictions from such activities as reaching, lifting, and engaging in repetitive wrist/elbow motions and noted that these restrictions would last for an undetermined period. In a September 18, 2014 letter, he indicated that appellant needed time off work, until the next evaluation in two months, due to her ongoing medical issues.

In a letter dated October 28, 2014, OWCP requested that appellant submit additional factual and medical evidence in support of her claim. It noted that the reports of Dr. Taragin related her medical problems to conditions that had not been accepted as related to her February 28, 2014 work injury.

In an October 31, 2014 report, Dr. Taragin indicated that appellant was seen in neurologic consult on that date at which time she reported that she continued to have pain in her right arm and that occasionally her right arm gave out. He noted, "Because of this [appellant] is

[4] Appellant also filed Forms CA-7 claiming disability for the period September 11, 2014 and continuing. She continued to receive compensation for intermittent periods of disability on the daily rolls.

unable to work." Dr. Taragin indicated that appellant reported that the ergonomics of her workstation were "quite difficult" and caused more pain, and that she experienced significant fatigue with use of her right arm. He advised that she had been followed for the brachial plexopathy, complex regional pain syndrome, and muscle sprain and that she continued to be disabled due to these problems. Dr. Taragin indicated that appellant still had significant pain in her right arm that was "worsened by work." Appellant experienced significant fatigue and limited her own work capabilities. Dr. Taragin advised that neurologic examination revealed intact cranial nerves, motor strength, and deep tendon reflexes and noted, "[Appellant] needs to be on disabled status until further notice because of these diagnoses and problems."

In a Form OWCP-5c dated October 31, 2014, Dr. Taragin noted that appellant would not be able to perform her usual job because the sprain of her right shoulder/upper arm had evolved to possible brachial plexopathy, and regional pain syndrome. He found that she would not be able to work eight hours per day with restrictions and noted that, as a direct result of the accepted sprain of her right shoulder/upper arm, she suffered from persistent mononeuritis of upper limb (unspecified), spasm of muscle, muscle weakness (generalized), myalgia and myositis (unspecified), and symptoms involving skin and other integumentary tissue.[5] Dr. Taragin indicated that appellant was totally disabled for an undetermined period. In an October 31, 2014 letter, he indicated that she needed time off work, until the next evaluation in three months, due to ongoing medical issues.

In late October 2014, OWCP referred appellant for a second opinion examination to Dr. Robert A. Smith, a Board-certified orthopedic surgeon. It requested that he provide an opinion regarding whether she continued to have residuals of her February 28, 2014 work injury and whether she was able to return to her regular work on a full-time basis.

In a report dated November 19, 2014, Dr. Smith discussed appellant's factual and medical history, noting that she had a nonindustrial history of cervical radiculopathy from 2008 and that she sustained a sprain of her right shoulder and upper arm while lifting binders with her right arm at work on February 28, 2014. Appellant currently complained of diffuse paresthetic pain and numbness in her right shoulder, right arm, and neck. Dr. Smith discussed the findings of the physical examination he performed on November 19, 2014. He reported that his examination of appellant's neck produced completely normal findings with satisfactory range of motion and no spasm, atrophy, trigger points, or deformity. Examination of appellant's upper extremities revealed no joint ankyloses or atrophy, and motor strength was normal in the elbows and hands (including normal grip, pinch, and opposition). Dr. Smith found that range of right shoulder motion was limited due to pain complaints, but observed that there were no signs of spasm, atrophy, scapular winging, or internal derangement. He indicated that the accepted February 28, 2014 work injury, sprain of the right shoulder and upper arm, had fully resolved based on the benign clinical examination he conducted and on the findings of diagnostic testing. Dr. Smith opined that Dr. Taragin's diagnoses of brachial plexopathy and chronic regional pain syndrome were not supported because clinical or diagnostic testing results did not show that

[5] Dr. Taragin did not name these conditions in his report, but provided the ICD-9 codes (International Classification of Diseases, 9th revision), *i.e.*, 354.9 for persistent mononeuritis of upper limb (unspecified), 728.85 for spasm of muscle, 728.87 for muscle weakness (generalized), 729.1 for myalgia and myositis (unspecified), and 782.0 for disturbance of skin sensation.

these conditions actually existed. He found that there was no reason that appellant could not immediately return to full-duty work in her previous position as a management analyst, as described in a job description he reviewed. In an attached Form OWCP-5c completed on November 19, 2014, Dr. Smith advised that she could perform her usual job.

In a December 11, 2014 decision, OWCP denied appellant's recurrence of total disability claim finding that she did not submit sufficient medical evidence to establish a recurrence of total disability on or after September 11, 2014 due to her February 28, 2014 work injury. It discussed the reports of Dr. Taragin and explained that they failed to establish her claim for a work-related recurrence of total disability. OWCP indicated that Dr. Taragin diagnosed appellant with brachial plexus injury and right complex regional pain syndrome, two conditions not accepted as work related, and found that his reports did not establish total disability due to a change/worsening of her accepted work-related condition, sprain of the right shoulder and upper arm.

Appellant requested a review of the written record by an OWCP hearing representative with respect to OWCP's December 11, 2014 decision denying her claim for a recurrence of total disability commencing on September 11, 2014 due to her February 28, 2014 work injury.

In a letter dated December 11, 2014, OWCP informed appellant that it proposed to terminate her entitlement to wage-loss compensation and medical benefits because she ceased to have residuals of her February 28, 2014 work injury. It advised that it had determined that the weight of the medical evidence with respect to work-related residuals rested with the opinion of Dr. Smith. OWCP noted that the reports of Dr. Taragin were of limited probative value regarding residuals of the February 28, 2014 work injury. It provided appellant 30 days to submit evidence and argument challenging the proposed termination action.

Appellant submitted a December 17, 2014 report in which Dr. Dexter W. Love, an attending Board-certified orthopedic surgeon, noted that she reported that binders fell off a shelf onto her right shoulder/arm on February 28, 2014. Dr. Love advised that x-ray testing demonstrated disc degeneration at C5-6 and he diagnosed probable cervical radiculopathy.[6] In a disability certificate dated December 17, 2014, he diagnosed cervical radiculopathy, checked a box marked "Work Related," and noted that appellant was totally disabled.[7]

In a January 14, 2015 report, Dr. Love noted that the findings of a magnetic resonance imaging (MRI) scan of appellant's cervical spine showed multilevel spondylosis with significant disc bulges at C5-6 and C6-7.[8] He advised that she could not return to her full duties as a management analyst due to severe pain/burning radiating into her right upper extremity and that she was not fit for light-duty work due to the amount of conscious-altering medications she required for pain management. Dr. Love opined that appellant's claim for a right shoulder/arm

[6] The record does not appear to contain the x-ray testing referred to by Dr. Love.

[7] Appellant also submitted a December 27, 2014 letter in which she challenged OWCP's proposed termination action and argued that the medical evidence of record showed that she continued to have disabling residuals of her February 28, 2014 work injury.

[8] The record contains a copy of the MRI scan of appellant's cervical spine obtained on January 6, 2015.

condition was actually secondary to the cervical pathology which could cause pain in her right shoulder and arm. He further noted that she continued to suffer residuals due to her work injury. Dr. Love advised that appellant had acute exacerbation of possibly a preexisting condition resulting in acute radiculopathy and that her symptoms anatomically matched the areas of abnormality found on the MRI scan.[9]

In a January 15, 2015 report, Dr. Rosie K. Singh, an attending Board-certified family practitioner, noted that appellant reported that on February 28, 2014 binders fell off a shelf at work and hit her right shoulder when her arm was outstretched. She advised that appellant reported having pain and burning sensation in her right arm since that time. Dr. Singh detailed the findings of diagnostic testing and discussed the medical treatment appellant received from Dr. Taragin and Dr. Love.

In a January 27, 2015 report, Dr. Steven I. Sloan, an attending Board-certified anesthesiologist, indicated that appellant reported that on February 28, 2014 some books fell on her right arm at work and that she had persistent pain since that time. He noted that her right shoulder flexion was limited to 90 degrees with guarding of the joint. Dr. Sloan advised that appellant had working diagnoses of brachial plexopathy, complex regional pain syndrome, and radicular pain stemming from cervical degenerative disc disease. He posited that her limited right shoulder motion appeared to mostly be due to myofascial pain and that his examination showed no obvious signs of complex regional pain syndrome such as edema, change in skin color, or change in skin temperature. Dr. Sloan recommended cervical epidural steroid injections and use of lidocaine patches.

On January 29, 2015 Dr. Taragin noted that appellant reported during a neurologic follow-up on that date that she still had persistent pain in her right arm which limited her activities, including her ability to work. He noted in the impression portion of the report that she continued to have right arm symptoms due to pain related to probable reflex sympathetic dystrophy and brachial plexopathy, as well as muscle spasm. Dr. Taragin advised that neurologic examination revealed intact cranial nerves, motor examination, and deep tendon reflexes. In a Form OWCP-5c dated January 29, 2015, he again noted that appellant would not be able to perform her usual job because the sprain of her right shoulder/upper arm had evolved to possible brachial plexopathy and regional pain syndrome. Dr. Taragin found that she would not be able to work eight hours per day with restrictions and noted that, as a direct result of the accepted sprain of her right shoulder/upper arm, she suffered from persistent mononeuritis of upper limb (unspecified), spasm of muscle, muscle weakness (generalized), myalgia and myositis (unspecified), and symptoms involving skin and other integumentary tissue. He indicated that appellant was totally disabled for an undetermined period. On January 29, 2015 Dr. Taragin noted that she needed time off due to ongoing medical issues until pain management treatments were successfully completed.

[9] Dr. Love found total disability in a disability certificate completed on January 14, 2015.

In a February 5, 2015 decision, OWCP terminated appellant's entitlement to wage-loss compensation and medical benefits effective February 2, 2015[10] finding that the action was justified by the November 19, 2014 opinion of Dr. Smith, OWCP's referral physician.[11]

Appellant submitted a February 11, 2015 report in which Dr. Love diagnosed acute cervical radiculopathy "secondary to injuries sustained at work" and determined that she was restricted from all work duties. In disability certificates dated February 11 and April 8, 2015, Dr. Love diagnosed cervical radiculopathy, checked a box marked "Work Related," and noted that she was totally disabled.

In a Form OWCP-5c dated April 2, 2015, Dr. Taragin again noted that appellant would not be able to perform her usual job because the sprain of her right shoulder/upper arm had evolved to possible brachial plexopathy and regional pain syndrome. He found that she would not be able to work eight hours per day with restrictions and noted that, as a direct result of the accepted sprain of her right shoulder/upper arm, she suffered from persistent mononeuritis of upper limb (unspecified), spasm of muscle, muscle weakness (generalized), myalgia and myositis (unspecified), and symptoms involving skin and other integumentary tissue. Dr. Taragin indicated that appellant was totally disabled for an undetermined period.

In a report dated May 6, 2015, Dr. Love noted that appellant reported that on February 28, 2014 she sustained a blow to her right shoulder when a set of binders fell off a shelf onto her right arm/shoulder region. He noted that MRI scan testing demonstrated a tear of the right anterior labrum with a 1.5 centimeter paralabral cyst[12] and diagnosed right shoulder labral tear "which is chronically symptomatic following injury sustained at work." Dr. Love opined that the labral tear and paralabral cyst were causally related to "the injury sustained at work" and that a labral tear and paralabral cyst could easily account for significant shoulder pain. He recommended right shoulder surgery and found that appellant could not work as a management specialist.

On May 25, 2015 Dr. Singh indicated that appellant was seen in March 2014 and reported that a binder fell on her right shoulder. She noted that appellant already had cervical spine issues at the time and that this incident at work triggered her symptoms to return. Appellant complained of suffering from pain since this incident and an MRI scan from April 25, 2015 indicated a tear in the anterior labrum of the right shoulder with a cyst and mild degenerative changes. Dr. Singh noted, "In my opinion, [appellant] has a diagnosed medical

[10] Prior to the termination of appellant's entitlement to wage-loss compensation and medical benefits effective February 2, 2015, she had only received payments on the daily rolls for intermittent periods of disability. Most of these payments compensated her for the time she spent away from work to attend medical and physical therapy sessions related to her work injury. Some of the intermittent periods for which appellant received disability compensation were for days or portions of days that she submitted medical evidence showing that her work-related condition prevented her from performing her job.

[11] The Board notes that the question of whether OWCP properly terminated appellant's wage-loss compensation and medical benefits effective February 2, 2015 is not currently before the Board.

[12] The record contains a report of an April 25, 2015 MRI scan showing such right shoulder conditions in the impression portion of the report.

problem, causing her right shoulder pain. I feel that, due to this labrum tear, the advice of the specialists who treated her condition (orthopedics and neurology) should be followed." She recommended that appellant remain off work until her medical condition could be managed completely by Dr. Love and Dr. Taragin.

In a decision dated June 12, 2015, OWCP's hearing representative affirmed OWCP's December 11, 2014 decision denying appellant's claim for a recurrence of total disability on or after September 11, 2014 due to her February 28, 2014 work injury. OWCP's hearing representative found that OWCP had properly determined that the medical evidence submitted by appellant, including the reports of Dr. Taragin, Dr. Love, Dr. Singh, and Dr. Sloan, failed to establish work-related recurrence of total disability on or after September 11, 2014.

In a June 24, 2015 letter, received, by OWCP on July 7, 2015, appellant requested reconsideration of its June 12, 2015 decision denying her claim for recurrence of total disability due to her February 28, 2014 work injury beginning September 11, 2014. She argued that the record contained medical evidence supporting the acceptance of her claim. Appellant submitted copies of several medical reports which had previously been submitted and considered by OWCP.

In a September 24, 2015 decision, OWCP denied modification of its June 12, 2015 decision denying appellant's claim for a work-related recurrence of disability on or after September 11, 2014. It found that the medical evidence submitted by her did not establish a recurrence of disability due to her February 28, 2014 work injury.

On October 1, 2015 appellant requested reconsideration of OWCP's September 24, 2015 decision denying her claim for a recurrence of total disability. She submitted copies of several medical reports which had previously been submitted and considered by OWCP.

By decision dated December 24, 2015, OWCP denied modification of its September 24, 2015 decision denying appellant's claim for a work-related recurrence of disability commencing September 11, 2014. It again found that the new medical evidence submitted by her did not establish a recurrence of disability due to her February 28, 2014 work injury.

LEGAL PRECEDENT

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.[13] Recurrence of disability also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.[14] Generally, a withdrawal of a light-duty assignment would constitute a recurrence

[13] 20 C.F.R. § 10.5(x).

[14] *Id.*

of disability where the evidence established continuing injury-related disability for regular duty.[15] A recurrence of disability does not apply when a light-duty assignment is withdrawn for reasons of misconduct, nonperformance of job duties or other downsizing or where a loss of wage-earning capacity determination is in place.[16]

Absent a change or withdrawal of a light-duty assignment, a recurrence of disability following a return to light duty may be established by showing a change in the nature and extent of the injury-related condition such that the employee could no longer perform the light-duty assignment.[17]

Where an employee claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of proof to establish that the recurrence is causally related to the original injury.[18] This burden includes the necessity of furnishing evidence from a qualified physician who concludes that the condition is causally related to the employment injury.[19] The physician's opinion must be based on a complete and accurate factual and medical history and supported by sound medical reasoning.[20]

It is well established that proceedings under FECA are not adversarial in nature, and while the claimant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.[21]

ANALYSIS

On March 6, 2014 appellant filed a traumatic injury claim alleging that, on February 28, 2014, she sustained injury to her right upper extremity while lifting binders at work.[22] She stopped work on February 28, 2014. OWCP accepted that appellant sustained a sprain of her right shoulder and upper arm and she returned to limited-duty work on a full-time basis on March 16, 2014.[23] Appellant stopped work on September 11, 2014 and she filed a Form CA-2a claiming that she sustained a recurrence of total disability on September 11, 2014 due to her February 28, 2014 work injury. In decisions dated December 11, 2014 and June 12, September 14, and December 24, 2015, OWCP denied her recurrence of total disability claim

[15] *Id.*; Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.6a(4) (June 2013).

[16] 20 C.F.R. §§ 10.5(x), 10.104(c) and 10.509; *see id*. at Chapter 2.1500.2b.

[17] *Theresa L. Andrews*, 55 ECAB 719, 722 (2004).

[18] 20 C.F.R. § 10.104(b); *see supra* note 15 at Chapter 2.1500.5 and Chapter Chapter 2.1500.6.

[19] *See S.S.*, 59 ECAB 315, 318-19 (2008).

[20] *Id.* at 319.

[21] *Dorothy L. Sidwell*, 36 ECAB 699, 707 (1985); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

[22] As detailed in medical reports beginning in March 2014, appellant reported to her attending physicians that on February 28, 2014 a group of binders fell on her right arm when she attempted to catch them.

[23] Appellant received compensation for intermittent periods of disability on the daily rolls beginning April 6, 2014.

finding that she did not submit sufficient medical evidence establishing a recurrence of total disability on or after September 11, 2014 due to her February 28, 2014 work injury.

The Board finds that, while none of the reports of appellant's attending physicians are sufficiently rationalized, they are consistent in indicating that she sustained a recurrence of total disability on or after September 11, 2014 due to a work-related condition, and are not contradicted by any substantial medical or factual evidence of record.[24] Therefore, while the reports are insufficient to meet appellant's burden of proof to establish her claim, they raise an uncontroverted inference between employment conditions and her claimed recurrence of total disability, and are sufficient to require OWCP to further develop the medical evidence and the case record.[25]

In a report dated September 4, 2014, Dr. Taragin, an attending physician, indicated that appellant had been followed for complex regional pain syndrome and possible brachial plexopathy as well as a strain of the right arm and shoulder after a work-related injury. He advised that neurologic examination revealed intact cranial nerves, motor function, deep tendon reflexes, and gait. Dr. Taragin recommended that, because appellant had persistent pain, she go on disability until further evaluation so that she can recover fully from her work-related injury. In a September 18, 2014 report, he noted that she would not be able to perform her usual job due to her right arm sprain, right brachial plexopathy injury, and right complex regional pain syndrome. Dr. Taragin found that appellant would not be able to work eight hours per day with restrictions and noted that she had persistent pain and was currently unable to work. On an October 31, 2014 report he noted that she would not be able to perform her usual job because the sprain of her right shoulder/upper arm had evolved to possible brachial plexopathy and regional pain syndrome. Dr. Taragin also advised that, as a direct result of the accepted sprain of her right shoulder/upper arm, appellant suffered from persistent mononeuritis of upper limb (unspecified), spasm of muscle, muscle weakness (generalized), myalgia and myositis (unspecified), and symptoms involving skin and other integumentary tissue. Between January and April 2015, he produced additional reports which contained similar opinions on disability and causal relationship to the February 28, 2014 work injury.

Moreover, in reports dated December 17, 2014, and January 14 and February 11, 2015, Dr. Love, an attending physician, found total disability due to a work-related cervical radiculopathy (emanating from C5-6 and C6-7). On May 6, 2015 he noted that MRI scan testing from April 2015 showed a labral tear and paralabral cyst of the right shoulder which were causally related to the February 28, 2014 work injury.

The record contains a November 19, 2014 report from Dr. Smith, an OWCP referral physician, who found that appellant ceased to have residuals of her September 11, 2014 work injury. However, the Board notes that this report is of limited probative value regarding whether she sustained a recurrence of total disability on or after September 11, 2014 due to her

[24] *See E.J.*, Docket No. 09-1481 (issued February 19, 2010). Reference should be made below for the Board's discussion of why the reports of appellant's attending physicians are not contradicted by any substantial medical or factual evidence of record.

[25] *Id., see also J.J.*, Docket No. 16-1580 (issued April 4, 2017); *John J. Carlone*, 41 ECAB 354 (1989).

February 28, 2014 work injury because it does not constitute a well-rationalized medical report with respect to this matter. The Board has held that an opinion on a given medical question is of limited probative value if it is not supported by medical rationale.[26]

Dr. Smith indicated that the accepted February 28, 2014 work injury, sprain of the right shoulder and upper arm, had fully resolved based on physical examination and diagnostic testing findings, but he did not provide sufficient medical rationale in support of this opinion.[27] Moreover, he did not adequately explain his opinion that appellant did not sustain other medical conditions on February 28, 2014, or as a consequence of the February 28, 2014 injury, which were competent to cause continuing total disability. Dr. Smith opined that Dr. Taragin's diagnoses of brachial plexopathy and chronic regional pain syndrome were not supported because clinical or diagnostic test results did not show that these conditions actually existed. However, he did not provide an adequate explanation of why he felt that brachial plexopathy and chronic regional pain syndrome were not supported by the clinical or diagnostic test results of record. For these reasons, Dr. Smith's opinion would not constitute substantial medical evidence contradicting the reports of appellant's attending physicians.

Therefore, the case must be remanded to OWCP for further development of the issue of whether appellant sustained a recurrence of total disability on or after September 11, 2014 due to her February 28, 2014 work injury.[28] As part of this development, OWCP should consider whether she sustained a condition or conditions on February 28, 2014 (other than a sprain of the right shoulder/upper arm), or as a consequence of the February 28, 2014 work injury, which caused total disability on or after September 11, 2014.[29]

CONCLUSION

The Board finds that the case is not in posture for decision.

[26] *See Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

[27] The Board notes that Dr. Smith did not indicate the date when he felt that the February 28, 2014 sprain of appellant's right shoulder and upper arm had resolved.

[28] *See C.T.*, Docket No. 16-1222 (issued March 9, 2017).

[29] As noted above, appellant's attending physicians opined that appellant sustained several disabling conditions related to her February 28, 2014 work injury, including brachial plexopathy, chronic regional pain syndrome, mononeuritis, myositis, right shoulder labral tear, and right shoulder paralabral cyst.

ORDER

IT IS HEREBY ORDERED THAT the December 24, 2015 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further action consistent with this decision.

Issued: November 7, 2017
Washington, DC

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

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

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