



45 minutes.<sup>2</sup> On April 9, 2015 she filed a recurrence of disability claim (Form CA-2a) for disability beginning May 18, 2009. In an April 17, 2015 decision, OWCP accepted the recurrence of disability claim based on a May 18, 2009 medical report of an attending physician.

On May 1, 2015 appellant filed a Form CA-7 claim for compensation for leave without pay from May 18, 2009 to May 1, 2015. She submitted medical reports dated July 30, 2013 to July 15, 2015 regarding her medical condition. In a July 20, 2015 decision, OWCP denied appellant's claim for disability from May 18, 2009 to May 1, 2015, finding that the medical evidence was insufficient. Counsel requested an oral hearing before an OWCP hearing representative which was held on November 6, 2015. In support of her request, appellant submitted additional medical evidence. In a January 19, 2016 decision, an OWCP hearing representative affirmed the July 20, 2015 decision. He found that the medical evidence was insufficient to establish a recurrence of disability beginning May 18, 2009. The hearing representative noted that "Although [OWCP] notified the claimant, by letter dated April 17, 2015, that the claim for recurrence for the period in question was accepted, there is no evidence to reflect the payment of any disability compensation pursuant thereto and [OWCP] upon further review may alter its position regarding the acceptance of a claim."

The Board has duly considered the matter and finds that OWCP failed to address the relevant issue in this case. On January 19, 2016 OWCP's hearing representative affirmed the denial of appellant's claim for a recurrence of disability beginning May 18, 2009. Regarding OWCP's April 17, 2015 acceptance of her recurrence of disability claim for the same period, he advised that, upon further review, OWCP may alter its acceptance of a claim. The Board finds that this constitutes rescission of acceptance of a claim.<sup>3</sup> As OWCP was attempting to rescind acceptance of appellant's claim for a recurrence of disability, it must follow its established procedures for rescission. OWCP's procedures require a proposed and final decision rescinding the original finding.<sup>4</sup> These procedures further provide that a rescission decision should contain a brief background of the claim, discuss the evidence on which the original decision was based, and explain why OWCP finds that the decision should be rescinded. The evidence used to rescind the claim should be thoroughly discussed so that it is clear to the reader how the case was incorrectly adjudicated, and why the original decision is now being invalidated.<sup>5</sup> OWCP did not follow the specific procedures for a rescission decision and did not inform appellant correctly

---

<sup>2</sup> In a June 15, 2009 decision, OWCP denied appellant's claim for a recurrence of disability commencing April 1, 2009. Its payment records indicate that appellant received a combination of wage-loss and schedule award compensation from January 19, 2004 to May 28, 2010. Appellant was separated from the employing establishment effective April 6, 2012 due to her inability to perform her work duties.

<sup>3</sup> See *D.V.*, Docket No. 11-1629 (issued February 3, 2012).

<sup>4</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Disallowances*, Chapter 2.1400.19(b) (February 2013).

<sup>5</sup> *Id.* at Chapter 2.1400.19(d).

and accurately of the basis of its rescission decision.<sup>6</sup> Consequently, it has not met its burden of proof to rescind acceptance of appellant's claim for a recurrence of disability.<sup>7</sup>

The case must be remanded to OWCP for a proper decision under its procedures with regard to any rescission proposed by OWCP regarding the acceptance of appellant's claim for a recurrence of disability. Following this and such other development as deemed necessary, OWCP shall issue an appropriate final decision on appellant's recurrence of disability claim.

**IT IS HEREBY ORDERED THAT** the January 19, 2016 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further action consistent with this order of the Board.

Issued: November 1, 2017  
Washington, DC

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

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

---

<sup>6</sup> *S.R.*, Docket No. 12-1404 (issued December 11, 2012).

<sup>7</sup> *See S.R.*, Docket No. 09-2332 (issued August 16, 2010) (once OWCP accepts a claim, it has the burden of justifying the termination or modification of compensation benefits; this holds true where OWCP later decides that it erroneously accepted a claim).