

**United States Department of Labor
Employees' Compensation Appeals Board**

F.C., Appellant)	
)	
and)	Docket No. 18-0334
)	Issued: December 4, 2018
U.S. POSTAL SERVICE, POST OFFICE- BERGEN SOUTH, Jersey City, NJ, Employer)	
)	

Appearances:
James D. Muirhead, Esq., for the appellant¹
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 December 5, 2017 appellant, through counsel, filed a timely appeal from August 21, and September 11, 2017² merit decisions of the Office of Workers' Compensation Programs

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 The Board notes that OWCP considered the September 11, 2017 to be a nonmerit decision. As discussed in the analysis below, the Board finds that this decision was based upon a review of the merits of the case.

(OWCP). Pursuant to the Federal Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.⁴

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish a recurrence of disability beginning on September 3, 2016, causally related to her accepted April 30, 2014 employment injury; and (2) whether appellant has met her burden of proof to expand the acceptance of her claim to include the additional conditions of lumbar radiculopathy, left lumbar foraminal stenosis, and lumbar sacroiliitis causally related to her accepted April 30, 2014 employment injury.

FACTUAL HISTORY

On May 1, 2014 appellant then a 43-year-old customer service supervisor, filed a traumatic injury claim, (Form CA-2) alleging that on April 30, 2014 she fell backwards in a chair while in the performance of duty. The employing establishment challenged the claim and explained that appellant had been out since October 2013 for an operation on her back. Appellant returned to regular-duty work on May 1, 2014.

In a development letter dated May 13, 2014, OWCP noted that the evidence submitted was insufficient to establish appellant's claim. It requested that she respond to its questionnaire regarding the facts and circumstances surrounding the alleged employment injury of April 30, 2014, and to submit any additional supporting factual and medical evidence. OWCP afforded appellant 30 days to respond. Appellant submitted additional evidence.

By decision dated June 19, 2014, OWCP denied appellant's claim, finding that the evidence of record was insufficient to establish that the injury occurred as alleged.

Appellant requested reconsideration and submitted additional evidence. By decisions dated September 22, 2014, and May 12 and August 15, 2015, OWCP denied modification of its prior decisions. Appellant continued to submit additional evidence.

OWCP, by decision dated August 24, 2016, vacated the August 15, 2015 decision in part and accepted the claim for aggravation of disc degeneration lumbar region at L5-S1. In a separate decision also dated August 24, 2016, it denied modification of the claim for the additional conditions of lumbar radiculopathy, left lumbar foraminal stenosis, and lumbar sacroiliitis.

On October 6, 2016 appellant filed a notice of recurrence (Form CA-2a) alleging that she sustained a recurrence of the April 30, 2014 employment injury on September 3, 2016. She

³ 5 U.S.C. § 8101 *et seq.*

⁴ The Board notes that appellant submitted additional evidence on appeal. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

indicated that the recurrence occurred while sitting at her desk at work when she felt a stabbing sharp pain in her lower back.

By development letter dated October 17, 2016, OWCP requested that appellant provide additional factual and medical evidence in support of her recurrence claim. It noted that following the original injury/illness, appellant returned to work on May 1, 2014 in a full-duty capacity. Furthermore, appellant continued working until September 3, 2016, when she stopped work completely. OWCP requested that appellant provide additional details in an attached questionnaire and afforded appellant 30 days to submit the requested evidence.

Appellant submitted a December 8, 2016 response to the questionnaire. She indicated that since her fall, she had chronic pain in her lower back and right leg with numbness and tingling down her right leg into her foot and toes. Appellant indicated that since the date of her employment injury until the date of the surgery on September 14, 2016, she had received injections the entire time (every two months). She indicated that she continued to work in pain and that her symptoms were always present and she had developed a limp.

In a September 15, 2016 attending physician's report (Form CA-20), Dr. Marc A. Cohen, a Board-certified orthopedic surgeon, noted that appellant "fell off chair [at] work on April 30, 2014 (hurting)." He diagnosed displacement of intervertebral disc. Dr. Cohen checked a box marked "yes" in response to whether he believed the condition was caused or aggravated by an employment activity. He indicated that appellant had bilateral laminectomy on September 14, 2016, "nonwork related." Dr. Cohen further indicated that appellant was totally disabled from work from September 14 to November 14, 2016.

In a Form CA-20 dated September 16, 2016, Dr. Joseph Ibrahim, Board-certified in pain medicine and physical medicine and rehabilitation, diagnosed postlaminectomy syndrome and chronic pain syndrome. He checked a box marked "yes" in response to whether he believed that this condition was caused or aggravated by appellant's employment activity. Dr. Ibrahim opined that appellant was totally disabled from work beginning September 3, 2016 and she was able to resume work on October 3, 2016.

In a letter dated November 29, 2016, counsel submitted new evidence. In a report dated November 25, 2016, Dr. Cohen indicated that appellant had a history of low back pain and left leg radiculopathy dating back to January 3, 2011 and she underwent lumbar disc surgery at L5-S1 on January 17, 2014 to address left-sided radiculopathy. He explained that she had done well from the surgery until she fell down to the floor from her chair on April 30, 2014. Dr. Cohen noted that after the fall appellant developed recurrent symptoms in her back and now pain in her leg. He also noted that the prior surgery was successful and that, after the fall, she developed recurrent symptoms in the back and now pain in the right leg. Dr. Cohen reviewed the magnetic resonance imaging (MRI) scan that showed a recurrent disc at the prior area of surgery, L5-S1, but the disc herniation was now to the opposite side of her surgery on the right side. He opined that the work injury caused a recurrence of the disc herniation at L5-S1 to the right side and that necessitated surgical intervention at the L5-S1 level which was performed on September 14, 2016. Dr. Cohen opined that appellant sustained an injury from her job from the April 30, 2014 employment injury when she fell to the floor from her chair. He opined that this caused a recurrence of the disc herniation at L5-S1, where the disc had prior surgery, where she did have some preexisting

degenerative disc disease. Dr. Cohen reiterated that appellant's prior surgery was to address a left-sided, left leg radiculopathy. He opined that she had done well from the surgery until the work-related injury where she now had developed after the injury, a right-sided disc herniation that necessitated operative intervention.

On December 13, 2016 OWCP received a December 8, 2016 statement from appellant. Appellant indicated that since her fall, she had chronic pain in her lower back and right leg with numbness and tingling down her right leg into her feet and toes. By decision dated December 14, 2016, OWCP denied her claim for a recurrence of disability commencing September 3, 2016. It explained that the decision did not affect appellant's continuing entitlement to medical benefits.

On December 20, 2016 counsel requested a telephonic hearing from the December 14, 2016 decision, which was held before an OWCP hearing representative on June 12, 2017.

An April 26, 2016 MRI scan, read by Dr. Alan G. Dembner, a diagnostic radiologist, found pain, history of microdiscectomy in 2014, and "history of trauma four months ago."

OWCP also received copies of operative reports dated January 17, 2014, copies of Dr. Ibrahim's treatment notes dated May 6, 15, and 20, 2014; a procedure report dated May 23, 2014; and MRI scan reports dated October 30, 2013 and May 14, 2014 which revealed a history of low back pain and indicated that appellant was postlaminectomy.

In a letter dated June 13, 2017, counsel requested reconsideration of the August 24, 2016 decision. He noted that OWCP did not accept the additional conditions of lumbar radiculopathy, left lumbar foraminal stenosis, or lumbar sacroiliitis. An operative report from Drs. Cohen and Ibrahim dated September 14, 2016 revealed that appellant returned with a history of recurrent bilateral radiculopathy and increasing back pain. Appellant underwent revision bilateral lumbar laminectomy at L5-S1 and bilateral discectomy at L5-S1.

In a letter dated July 8, 2017, counsel indicated that he was providing additional evidence. In a June 15, 2017 report, Dr. Cohen clarified that the Form CA-20 "was filled out by the office staff clearly in error that it is work related." He indicated that a repeat MRI scan performed after the April 30, 2014 fall showed that appellant's surgical procedure on her initial pain and disc on the left side was stable, but now she had developed a disc herniation at the same level on the right side at L4-S1. Dr. Cohen noted that appellant necessitated surgical intervention at the same level on the right side because she was not able to stabilize. He explained that appellant developed a worsening of her back and leg pain when she fell at work on April 30, 2014. Dr. Cohen concluded that there was "clear evidence that this condition has gotten worse from the injury of April 30, 2014, and therefore it should be accepted as part of her federal workers' compensation case."

By decision dated August 21, 2017, OWCP's hearing representative found that appellant had not established that she sustained a recurrence of disability on September 3, 2016 causally related to the accepted aggravation of lumbar disc degeneration at L5-S1. She explained that OWCP accepted that appellant sustained an aggravation of her lumbar disc degeneration at L5-S1 when she fell on April 30, 2014. The hearing representative found that appellant had not met her burden of proof to establish a recurrence of disability on September 3, 2016, causally related to an April 30, 2014 work injury and therefore affirmed OWCP's decision dated December 14, 2016.

On August 31, 2017 OWCP received August 24, 2017 treatment notes from Dr. Ibrahim. Dr. Ibrahim provided examination findings and diagnosed: postlaminectomy syndrome, not elsewhere; radiculopathy, lumbosacral region; sacroiliitis, not elsewhere classified; radiculopathy, sacral and sacrococcygeal region; sciatica on the right side and left side; low back pain; chronic pain syndrome; and long-term use of opiate analgesic.

By decision dated September 11, 2017, OWCP advised appellant that it had declined her request for reconsideration and had not reviewed the merits of her case regarding the August 24, 2016 decision. It further found that the evidence of record did not include a reasoned medical opinion from her physician explaining a causal connection between her diagnosed conditions and the employment injury.

LEGAL PRECEDENT -- ISSUE 1

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 resulting from a previous injury or illness without an intervening cause or a new exposure to the work environment that caused the illness. It can also mean 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.⁵

When an employee who is disabled from the job he or she held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of record establishes that he or she can perform the limited-duty position, the employee has the burden of proof to establish, by the weight of the reliable, probative, and substantial evidence, a recurrence of total disability and an inability to perform such limited-duty work. As part of this burden of proof the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the limited-duty job requirements.⁶ To establish a change in the nature and extent of the injury-related condition, there must be a probative medical opinion, based on a complete and accurate factual and medical history as well as supported by sound medical reasoning, that the disabling condition is causally related to employment factors.⁷ In the absence of rationale, the medical evidence is of diminished probative value.⁸ While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, it must

⁵ *J.F.*, 58 ECAB 124 (2006). 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. 20 C.F.R. § 10.5(x). *See also Richard A. Neidert*, 57 ECAB 474 (2006).

⁶ *A.M.*, Docket No. 09-1895 (issued April 23, 2010); *Terry R. Hedman*, 38 ECAB 222 (1986).

⁷ *Mary A. Ceglia*, 55 ECAB 626 (2004).

⁸ *Id.*; *Robert H. St. Onge*, 43 ECAB 1169 (1992).

not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.⁹

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability beginning on September 3, 2016, causally related to her accepted April 30, 2014 employment injury.

The evidence of record establishes that on September 14, 2016 appellant underwent a bilateral laminectomy at L5-S1. She stopped work on September 3, 2016 and returned to work in April 2017. However, this condition was not accepted as causally related to appellant's April 30, 2014 employment injury. Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.¹⁰ For each period of disability claimed, an employee must establish disability from work as a result of the accepted employment injury. The Board will not require OWCP to pay compensation for disability without sufficient medical evidence to support the claim. To do so would essentially allow an employee to self-certify his or her disability and entitlement to compensation.¹¹

Dr. Cohen provided several reports in support of the claim for a recurrence. In a September 15, 2016 Form CA-20, he diagnosed displacement of intervertebral disc and checked a box marked "yes" in response to whether he believed the condition was caused or aggravated by an employment activity. However, the checking of a box marked "yes" in a form report, without additional explanation or rationale, is insufficient to establish causal relationship.¹² Furthermore, Dr. Cohen subsequently indicated that appellant had bilateral laminectomy on September 14, 2016, "nonwork related" and listed appellant's period of total disability from September 14 to November 14, 2016. The Board notes that, while he checked the box marked "yes" in response to whether he believed the condition was caused or aggravated by an employment activity, he also indicated that the condition was not employment related. Dr. Cohen did not specifically explain with medical reasoning why any current condition or disability beginning September 3, 2016 was due to the accepted April 30, 2014 employment injury.¹³

In a November 25, 2016 report, Dr. Cohen noted that appellant had low back pain and left leg radiculopathy dating back to January 3, 2011 and that she had lumbar disc surgery at L5-S1 on January 17, 2014 to address left-sided radiculopathy. He noted that the surgery was successful

⁹ *Ricky S. Storms*, 52 ECAB 349 (2001).

¹⁰ *See O.S.*, Docket No. 16-1771 (issued January 23, 2018).

¹¹ *See C.Y.*, Docket No. 17-0605 (issued January 11, 2018); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

¹² *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

¹³ *Mary A. Ceglia*, 55 ECAB 626 (2004).

until her April 30, 2014 employment injury, and now her disc herniation was on the right side. Dr. Cohen opined that the April 30, 2014 injury at work caused a recurrence of the disc herniation at L5-S1. However, he did not offer an opinion regarding a recurrence of disability beginning September 3, 2016 due to the accepted employment injury or explain how it caused her preexisting condition to move from the right side to the left side, more than two years after the employment injury. This is especially important as the only accepted condition is an aggravation of lumbar disc degeneration at L5-S1. As such the Board has held that medical reports not containing rationale on causal relation are insufficient to meet an employee's burden of proof.¹⁴

Dr. Cohen provided a June 15, 2017 report in which he clarified that the prior Form CA-20 "was filled out by the office staff clearly in error that it is work related." He explained that a repeat MRI scan performed after the fall of April 30, 2014 showed that appellant's surgical procedure on her initial pain and disc on the left side was stable but now she had developed a disc herniation at the same level on the right side at L4-S1. Dr. Cohen explained that appellant required surgical intervention at the same level on the right side because she was not able to stabilize. He concluded that there was "clear evidence that this condition has gotten worse from the injury of April 30, 2014, and therefore it should be accepted as part of her federal workers' compensation case." However, Dr. Cohen did not provide rationale to explain this conclusion nor did he explain why appellant was disabled from work due to the accepted employment injury on or after September 3, 2016, thus this report is also insufficient to meet appellant's burden of proof.¹⁵

In a Form CA-20 dated September 16, 2016, Dr. Ibrahim diagnosed postlaminectomy syndrome and chronic pain syndrome. He checked a box marked "yes" in response to whether he believed that this condition was caused or aggravated by appellant's employment activity and opined that appellant was totally disabled from September 3 to October 3, 2016. However, the postlaminectomy syndrome and chronic pain syndrome were not accepted conditions. Other than checking a box marked "yes," he did not offer any rationale to explain why these conditions would be related to the work injury of April 30, 2014, such that they caused her to be totally disabled for work on or after September 3, 2016.¹⁶ This report is also of limited probative value.

OWCP also received treatment notes from Dr. Ibrahim dated May 6, 15 and 20, 2014, and August 24, 2017. Dr. Ibrahim provided examination findings and diagnoses. However, these reports do not address how appellant had a spontaneous change in her accepted conditions beginning September 3, 2016 causing appellant's period of disability.¹⁷

OWCP also received MRI scan reports, diagnostic reports, operative reports and treatment notes pertaining to the lumbar spine dating from October 30, 2013 to September 14, 2016. These

¹⁴ *Albert C. Brown*, 52 ECAB 152 (2000).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Supra* note 5.

reports do not offer any opinion on the period of disability. Thus, this evidence is insufficient to establish appellant's claim.¹⁸

As none of the medical evidence of record provided a discussion of how appellant's accepted conditions caused total disability during the period in question, or supported a finding that her newly diagnosed conditions were causally related to the accepted injury, appellant has not met her burden of proof.

LEGAL PRECEDENT -- ISSUE 2

An employee has the burden of proof to establish that any specific condition for which compensation is claimed is causally related to the employment injury.¹⁹ Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.²⁰ The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.²¹ Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.²²

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.²³

ANALYSIS -- ISSUE 2

The Board initially finds that, although OWCP advised appellant in its September 11, 2017 decision that it did not review the merits of her case, OWCP in fact had reviewed the merits and made findings. It weighed the evidence and found that the evidence submitted failed to provide a reasoned medical opinion from her physician explaining the causal connection between the

¹⁸ See *C.H.*, Docket No. 17-0266 (issued May 17, 2018) (where the Board found that as the diagnostic studies, consisting of x-rays and a magnetic resonance imaging scan, did not specifically address the cause of the diagnostic conditions, they lack probative value in establishing causal relationship).

¹⁹ *Kenneth R. Love*, 50 ECAB 276 (1999).

²⁰ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

²¹ *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

²² *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

²³ *A.H.*, Docket No. 18-1017 (issued November 8, 2018).

additional diagnosed conditions and the employment injury. For this reason, the Board finds that OWCP's September 11, 2017 decision is a decision on the merits of appellant's case.²⁴

The Board finds that appellant has not met her burden of proof to establish that the additional diagnosed conditions of lumbar radiculopathy, left lumbar foraminal stenosis, and lumbar sacroiliitis were caused or aggravated by the traumatic work injury.

Dr. Cohen provided several reports. In his September 15, 2016 Form CA-20, he diagnosed displacement of intervertebral disc and checked the box marked "yes" in response to whether he believed the condition was caused or aggravated by an employment activity. Dr. Cohen indicated that appellant had bilateral laminectomy on September 14, 2016, "nonwork related." While he corrected the "nonwork[-]related" opinion in his June 15, 2017 report and explained that he meant to say work related, he did not provide any rationale, other than checking the box marked "yes" to support his diagnoses. The checking of a box "yes" in a form report, without additional explanation or rationale, is insufficient to establish causal relationship.²⁵

In a report dated November 25, 2016, Dr. Cohen opined that the work injury caused a recurrence of appellant's disc herniation at L5-S1 to the right side which required surgical intervention at the L5-S1 level on September 14, 2016. He explained that appellant's prior surgery was to address a left-sided, left leg radiculopathy and after the work-related injury, she now had a right-sided disc herniation that necessitated operative intervention. Dr. Cohen repeated his opinion in a June 15, 2017 report and opined that appellant developed a worsening of her back and leg pain when she fell at work on April 30, 2014. He explained that a subsequent MRI scan revealed that appellant developed a disc herniation at the same level on the right side at L4-S1. Dr. Cohen opined that "there is clear evidence that this has gotten worse from the injury of April 30, 2014, and therefore this should be accepted as part of her federal workers' compensation case." However, he did not explain how he arrived at this conclusion. For example, Dr. Cohen did not explain how the herniation arrived at the right from the left side. This is especially important as appellant returned to regular duty on May 1, 2014 and the only accepted condition was an aggravation of disc degeneration of the lumbar region at L5-S1. Rationalized medical opinion evidence is medical evidence, which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factor(s). The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.²⁶

Dr. Ibrahim provided a Form CA-20 dated September 16, 2016. He diagnosed postlaminectomy syndrome and chronic pain syndrome and checked a box marked "yes" in response to whether he believed that this condition was caused or aggravated by appellant's

²⁴ *R.M.*, Docket No. 13-1924 (issued February 3, 2014).

²⁵ *Linda Thompson*, 51 ECAB 694 (2000); *Calvin E. King*, 51 ECAB 394 (2000).

²⁶ *Gloria J. McPherson*, 51 ECAB 441 (2000).

employment activity. However, as Dr. Ibrahim did not provide any rationale to support the opinion this report is of limited probative value.²⁷

OWCP also received treatment notes from Dr. Ibrahim dated May 6 and 20, 2014, August 24 and 31, 2017. Dr. Ibrahim's diagnoses included: postlaminectomy syndrome, radiculopathy of the lumbar region, sacroiliitis, radiculopathy of the sacral and sacrococcygeal region, sciatica of the right and left side, low back pain, chronic pain. However, he did not provide any rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. As such, they are of no probative value.²⁸

OWCP also received MRI scan reports and diagnostic reports and treatment notes pertaining to the lumbar spine dated October 30, 2013, January 17, May 14 and 23, 2014, April 26 and 28 and September 14, 2016. However, these reports merely reported findings and did not contain an opinion regarding the cause of the reported condition or disability. Accordingly, they are insufficient to establish appellant's claim.²⁹

As appellant has failed to submit any medical report containing a rationalized medical opinion explaining causal relationship between her accepted employment injury and the additional conditions of lumbar radiculopathy, left lumbar foraminal stenosis, and lumbar sacroiliitis, she has failed to meet her burden of proof to establish her claim for these conditions. An award of compensation may not be based on surmise, conjecture, speculation, or on the employee's own belief of causal relation.³⁰

On appeal, counsel for appellant generally disagrees with the disposition of the claim and asserts Dr. Cohen's June 15, 2017 report clearly supports that her conditions included a new herniated disc on the right side at L5-S1 and the additional conditions of lumbar radiculopathy, left foraminal stenosis and sacroiliitis. He also argued that the denied recurrence for the surgery of September 14, 2016 was work related. However, as found above, appellant did not meet her burden of proof to establish her recurrence claim. Furthermore, she did not meet her burden to establish that the additional conditions of lumbar radiculopathy, left lumbar foraminal stenosis, and lumbar sacroiliitis were causally related to her accepted April 30, 2014 employment injury.

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 appellant did not meet her burden of proof to establish a recurrence of disability beginning September 3, 2016, causally related to her April 30, 2014 employment

²⁷ *Supra* note 6.

²⁸ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

²⁹ *See supra* note 20.

³⁰ *D.D.*, 57 ECAB 734 (2006).

injury. The Board also finds that appellant did not meet her burden of proof to expand the acceptance of her claim to include the additional conditions of lumbar radiculopathy, left lumbar foraminal stenosis, and lumbar sacroiliitis causally related to her accepted April 30, 2014 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the September 11 and August 21, 2017 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: December 4, 2018
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