

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

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L.G., Appellant)	
)	
and)	Docket No. 19-0142
)	Issued: August 8, 2019
DEPARTMENT OF DEFENSE, NATIONAL)	
SECURITY AGENCY, Fort Meade, MD,)	
Employer)	
_____)	

Appearances:
Analese B. Dunn, 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
JANICE B. ASKIN, Judge

JURISDICTION

On October 24, 2018 appellant filed a timely appeal from a May 3, 2018² merit decision of the Office of Workers' Compensation Programs (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.

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 appeal request claims to appeal from a May 22, 2018 decision. However, there is no such decision of record. The only decision within the jurisdiction of the Board is dated May 3, 2018.

³ 5 U.S.C. § 8101 *et seq.*

ISSUES

The issues are: (1) whether OWCP has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits, effective August 31, 2015, as she no longer had residuals or disability causally related to her accepted October 1, 2014 employment injury; and (2) whether appellant has met her burden of proof to establish employment-related continuing residuals or disability on or after August 31, 2015.

FACTUAL HISTORY

On October 6, 2014 appellant, then a 49-year-old country desk officer, filed a traumatic injury claim (Form CA-1) alleging that on October 1, 2014 she sustained injury due to falling and landing on her right hip while in the performance of duty.⁴ She stopped work on October 2, 2014. OWCP accepted appellant's claim for sprains of her neck, right shoulder/upper arm, right hip/thigh, and lumbar region, and contusions of multiple sites.⁵ It paid appellant wage-loss compensation benefits.

On October 15, 2014 Dr. James York, a Board-certified orthopedic surgeon, diagnosed cervical, left hip, and lumbar sprains and opined that appellant could return to her full-duty work on October 20, 2014. Appellant did not return to any form of work.⁶

On February 23, 2015 appellant underwent a functional capacity evaluation (FCE) which assessed her ability to perform various physical activities. Due to consistency of effort discrepancies, self-limiting behaviors, and sub-maximal efforts, the results of the evaluation represented a minimal level of functioning for appellant. The FCE revealed that appellant had fair lifting/carrying mechanics and was at least capable of lifting 20 pounds (from floor to waist) and pushing 30 pounds. It also showed inconsistent results upon some muscle and hand grip/pinch testing.

In early April 2015, OWCP referred appellant for a second opinion examination to Dr. Stuart J. Gordon, a Board-certified orthopedic surgeon. It requested that he provide an opinion regarding whether she continued to have residuals or disability due to her accepted October 1, 2014 employment injury.

In an April 21, 2015 report, Dr. Gordon detailed appellant's factual and medical history and described her current complaints, including neck, back, and right hip pain. He reported the findings of the physical examination he conducted on that date, noting that no paraspinal muscle spasms were observed in her cervical spine. Appellant voluntarily restricted her cervical motion

⁴ The traumatic injury claim was filed on appellant's behalf by her immediate supervisor.

⁵ Appellant visited an emergency room on October 3, 2014 and x-rays taken at that time showed degenerative disc disease at the C6-7 level with loss of disc space. A November 24, 2014 magnetic resonance imaging scan of appellant's lumbar spine showed a disc bulging and facet arthropathy at L5-S1.

⁶ On March 4, 2015 Dr. York indicated that appellant had been capable of returning to her full-duty work since October 20, 2014.

on direct examination in contrast to her easy change of head position when she provided her history. Dr. Gordon advised that, with respect to her lumbar spine, she complained of lumbar pain without appreciable spasms. Appellant only allowed a few degrees of lumbar motion on direct examination when standing, but she tolerated full lumbar flexion when seated. Dr. Gordon noted that straight leg raising was negative bilaterally and that strength and sensation were intact in the lower extremities.⁷ He diagnosed obesity, concern for abnormal illness behavior, symptom magnification, volitional restriction, prior cervical/lumbar trauma (private motor vehicle accident six years prior), and preexisting degenerative disease of both hips and the cervical and lumbar areas of the spine.⁸ Dr. Gordon indicated that the following diagnosed conditions related to the October 1, 2014 fall had resolved: cervical strain, right shoulder contusion/strain, right hip contusion/strain, and lumbar strain.

Dr. Gordon advised that appellant's subjective complaints did not comport with her objective findings, noting that the only objective findings were degenerative in nature. He agreed with the findings of the February 23, 2015 FCE showing multiple inconsistencies and subjective reporting which far outweighed the expected effects of "[appellant's] mechanism of injury and event." Dr. Gordon noted that appellant's nonindustrial/preexisting disability included degenerative disease of her cervical and lumbar spine, cervical stenosis, obesity, and degenerative disease of her hips. He posited that her preexisting conditions were not aggravated on October 1, 2014 and maintained that she presently ceased to have residuals of the accepted October 1, 2014 injury. Dr. Gordon found that appellant's current complaints were related to obesity and degenerative disease. He indicated that she required no additional treatment and he determined that she could return to work in a full-duty capacity. Dr. Gordon attached an April 21, 2015 work capacity evaluation form (OWCP-5c) in which he opined that appellant could perform her usual job on a full-time basis without restrictions.

In a June 3, 2015 letter, OWCP advised appellant of its proposed termination of her wage-loss compensation and medical benefits commencing August 31, 2015, because she ceased to have residuals of her October 1, 2014 employment injury. It informed her that the termination was justified by the opinion of Dr. Gordon. OWCP afforded appellant 30 days to submit evidence and argument challenging the proposed action.

Appellant submitted a July 4, 2015 statement in which she asserted that she continued to have disabling neck, shoulder, hip, and back conditions due to her October 1, 2014 fall.

Appellant submitted several medical reports, including a May 22, 2015 report from Dr. Patricia P. Jett, a Board-certified family practitioner, who diagnosed shoulder pain, lumbago, cervicgia, and pelvic/thigh pain. Dr. Jett found that appellant's physical condition and chronic pain prevented her from returning to work.⁹ On June 18, 2015 Dr. William Tham, a Board-

⁷ Appellant had no irritability with full motion of her right shoulder. She complained of bilateral inguinal discomfort upon range of motion of the hips, but no palpable mass was found in the inguinal region.

⁸ Dr. Gordon indicated that the diagnoses of symptom magnification, concern for abnormal illness behavior, and volitional restriction were corroborated during the February 23, 2015 FCE.

⁹ In several reports from March 2015, Dr. Thomas Hyland-Robertson, a chiropractor, diagnosed degeneration of cervical and lumbar discs.

certified physical medicine and rehabilitation physician, noted that his physical examination showed no weakness in appellant's trunk and extremities. He diagnosed muscle spasm and fibromyalgia and reported that the diagnostic testing did not show any significant pathology which would explain all of her symptoms. Dr. Tham indicated that appellant had widespread myofascial pain from her October 1, 2014 injury and noted, "[Appellant] has fibromyalgia which can be triggered by an injury."

In a June 26, 2015 report, Dr. Vincent Ng, a Board-certified orthopedic surgeon, diagnosed bilateral hip trochanteric bursitis. In July 29 and August 19, 2017 reports, Dr. Claudia Dal-Molin, a Board-certified internist, diagnosed bilateral hip trochanteric bursitis, adductor tendinitis, and "[question] of fibromyalgia."

In July 2017 OWCP requested that Dr. Gordon review the additional medical evidence submitted by appellant and provide a supplemental report indicating whether the additional evidence changed the opinion he provided in his April 21, 2015 report.

In an August 24, 2015 report, Dr. Gordon summarized the newly submitted medical evidence and noted, "I have no change in my previously stated opinions regarding [appellant] with respect to my report of [April 21, 2015]."

By decision dated August 31, 2015, OWCP terminated appellant's wage-loss compensation and medical benefits, effective that same date, because she no longer had disability or residuals causally related to her October 1, 2014 employment injury. It determined that its termination action was justified by the opinion of Dr. Gordon.

On September 25, 2015 appellant, through counsel, requested a hearing with a representative of OWCP's Branch of Hearings and Review. During the hearing, held on May 16, 2016, counsel argued that the medical evidence of record showed that appellant continued to have employment-related disability/residuals.

Appellant subsequently submitted a March 21, 2016 report from Dr. Ralph Salvagno, a Board-certified orthopedic surgeon, who described her factual and medical history, including the circumstances of the October 1, 2014 employment injury.¹⁰ Dr. Salvagno reported the findings of the physical examination he conducted on March 21, 2016 and diagnosed bilateral hip contusions and cervical, lumbar, and right shoulder sprains due to the October 1, 2014 fall. He also indicated that appellant had preexisting degenerative disc disease at C6-7 and L5-S1 and that a right hip/thigh sprain related to the October 1, 2014 fall had resolved. Dr. Salvagno referenced Dr. Gordon's comments regarding the February 23, 2015 FCE and indicated that the inconsistencies observed during the FCE were limited to appellant's hand grip/pinch testing and did not concern the regions affected by her employment injury, *i.e.*, her neck, right shoulder, right hip, and low back. He further indicated that she "did appear to demonstrate reasonable effort" during the FCE. Dr. Salvagno recommended various work restrictions, including lifting no more than 10 pounds.

¹⁰ Dr. Salvagno also noted that appellant reported being involved in a motor vehicle accident six years prior without "any significant residuals."

By decision dated August 1, 2016, OWCP's hearing representative affirmed the August 31, 2015 decision. She determined that the August 31, 2015 termination action was proper and found that, since the time of termination, appellant had not established continuing residuals or disability causally related to her accepted employment injury. The hearing representative determined that Dr. Salvagno's March 21, 2016 report was of limited probative value with respect to continuing employment-related disability/residuals.

On January 25, 2017 appellant, through counsel, requested reconsideration of the August 1, 2016 decision. Appellant submitted a November 11, 2016 report from Dr. Robert W. Macht, a Board-certified surgeon, who discussed her October 1, 2014 injury and reported the findings of the physical examination he carried out on November 7, 2016. Dr. Macht indicated that she exhibited consistent range of motion losses in her neck, left shoulder, and back. He found that appellant still had residuals of her October 1, 2014 employment injury, noting that the current diagnoses of sprains of her neck, shoulders, back, and hips were causally related to the October 1, 2014 injury. Dr. Macht indicated that she had been totally disabled from her regular work since October 1, 2014. He referenced appellant's neck and low back regions and noted, "It is a soft tissue muscle ligament injury to those regions which is causing [appellant's] disability, therefore, citing the preexisting degenerative disc disease as the [October 1, 2014] source of her disability is erroneous." Dr. Macht further found that she had "a 25 percent permanent partial impairment [rating] of [appellant's] neck and right shoulder region and a 25 percent permanent partial impairment [rating] of her back and right hip region" due to the October 1, 2014 injury.¹¹

In a February 5, 2018 report, Dr. Salvagno noted that the inconsistencies in appellant's February 23, 2015 FCE were only noted with respect to hand testing and that the evaluation of the body parts injured on October 1, 2014 showed no inconsistencies. He indicated that the observed difference between seated flexion and standing flexion would not be an indicator of symptom magnification as seated flexion is passive and standing flexion is active.¹² Dr. Salvagno indicated that a positive Waddell's test indicating evidence of symptom magnification or malingering required three out of five signs to be positive, but appellant only exhibited two out of five positive signs. He maintained that attending physician reports from 2015 through 2017 did not document evidence of symptom magnification or an etiology for her continued symptoms other than the work injury. Dr. Salvagno noted that Dr. Tham had found that appellant had fibromyalgia as a consequence of the October 1, 2014 injury. He found that she had demonstrated consistent and persistent symptoms/impairment since October 1, 2014 and noted that all providers had related her symptoms/impairment to the October 1, 2014 employment injury. Dr. Salvagno noted, "It is for these reasons that I believe [appellant] continues to suffer from cervical sprain, lumbar sprain, left

¹¹ Dr. Macht actually referenced a March 20, 2012 accident as the cause of the permanent impairment, but this appears to have been an inadvertent error as he correctly referenced appellant's October 1, 2014 injury throughout the rest of the report.

¹² Dr. Salvagno indicated that a positive Waddell's test indicating evidence of semantic magnification or malingering required three out of five signs to be positive, but appellant only exhibited two out of five positive signs.

shoulder sprain and bilateral hip contusions as documented in my physical examination results on March 21, 2016.”¹³

By decision dated February 9, 2017, OWCP denied modification of its August 1, 2016 decision.

On February 8, 2018 appellant, through counsel, requested reconsideration of the February 9, 2017 decision. In a March 10, 2017 report, Dr. Jett indicated that, after her October 1, 2014 injury, appellant continued to have “chronic pain in [appellant’s] cervicalgia [sic], groin, clavicle, throat, shoulder, back, and lumbar spine.” She opined that appellant’s “traumatic fall has aggravated, exacerbated, or accelerated [appellant’s] medical condition premorbid.” In another March 10, 2017 report, Dr. Jett diagnosed chronic pain syndrome, dysphagia, acute stress reaction, and “other injury of muscle, fascia, and tendon of other parts of biceps, left arm, sequela.”

By decision dated May 3, 2018, OWCP denied modification of its February 9, 2017 decision.

LEGAL PRECEDENT -- ISSUE 1

Under FECA, once OWCP has accepted a claim it has the burden of proof to justify termination or modification of compensation benefits.¹⁴ OWCP may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.¹⁵ OWCP’s burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.¹⁶

ANALYSIS -- ISSUE 1

The Board finds that OWCP has met its burden of proof to terminate appellant’s wage-loss compensation and medical benefits effective August 31, 2015 as she no longer had residuals or disability causally related to her accepted October 1, 2014 employment injury.

¹³ Appellant also submitted a December 2, 2015 report from Dr. David M. Ibrahimi, a Board-certified neurosurgeon, who advised that her radiating symptoms in her arms and legs, last observed in June 2015, had all resolved. Dr. Ibrahimi opined that there was no need for neurological intervention with respect to her neck and back. In a January 13, 2016 report, Dr. Ghislaine Fougy, a Board-certified psychiatrist, diagnosed appellant with depression and anxiety reactive to her October 1, 2014 fall at work. She advised that appellant also developed fibromyalgia and indicated that appellant could not return to work due to the severity of her injuries.

¹⁴ *C.C.*, Docket No. 17-1158 (issued November 20, 2018); *I.J.*, 59 ECAB 408 (2008); *Vivien L. Minor*, 37 ECAB 541 (1986).

¹⁵ *A.D.*, Docket No. 18-0497 (issued July 25, 2018). In general the term disability under FECA means incapacity because of injury in employment to earn the wages which the employee was receiving at the time of such injury. *See* 20 C.F.R. § 10.5(f).

¹⁶ *R.P.*, Docket No. 17-1133 (issued January 18, 2018).

The Board finds that the thorough, well-rationalized April 21 and August 19, 2015 reports of Dr. Gordon, an OWCP referral physician, establish that appellant had no disability/residuals causally related to her October 1, 2014 employment injury after August 31, 2015.

In his April 21, 2015 report, Dr. Gordon noted that appellant voluntarily restricted her cervical motion on direct examination in contrast to her easy change of head position when she provided her history.¹⁷ He diagnosed obesity, concern for normal illness behavior, symptom magnification, volitional restriction, prior cervical/lumbar trauma (private motor vehicle accident six years prior), and preexisting degenerative disease of both hips and the cervical and lumbar areas of the spine. Dr. Gordon opined that the diagnosed conditions related to the October 1, 2014 fall had resolved, including contusions of multiple sites and sprains of appellant's neck, right shoulder, right hip, and lumbar region. He posited that her preexisting conditions were not aggravated on October 1, 2014 and maintained that she presently ceased to have residuals of the October 1, 2014 injury. Dr. Gordon determined that appellant could return to work in a full-duty capacity. In his August 24, 2015 report, he summarized the medical evidence appellant submitted after OWCP sent her a June 3, 2015 notice of proposed termination and he noted that these documents did not change his April 21, 2015 opinion.

The Board has carefully reviewed the opinion of Dr. Gordon and notes that it has reliability, probative value, and convincing quality with respect to its conclusions regarding the relevant issue of the present case. Dr. Gordon's opinion provided a thorough factual and medical history and accurately summarized the relevant medical evidence. Moreover, he provided a proper analysis of the factual and medical history and the findings on examination, including the results of diagnostic testing, and reached conclusions regarding appellant's condition which comported with this analysis.¹⁸ Dr. Gordon provided medical rationale for his opinion by explaining that her subjective complaints did not comport with her objective findings. He noted that appellant ceased to have objective findings of her accepted soft-tissue injuries related to the October 1, 2014 injury.¹⁹ Dr. Gordon further explained that her continuing medical problems were related to nonwork-related conditions, including obesity and degenerative disease in both hips and the cervical and lumbar areas of the spine.

After OWCP sent appellant a June 3, 2015 notice of proposed termination, she submitted additional medical evidence, including a May 22, 2015 report from Dr. Jett who diagnosed shoulder pain, lumbago, cervicgia, and pelvic/thigh pain which caused total disability. In a June 18, 2015 report, Dr. Tham indicated that appellant had widespread myofascial pain from her October 1, 2014 injury and noted, "[Appellant] has fibromyalgia which can be triggered by an injury." In a June 26, 2015 report, Dr. Ng diagnosed appellant with bilateral hip trochanteric

¹⁷ Moreover, appellant only allowed a few degrees of lumbar motion on direct examination when standing, but she tolerated full lumbar flexion when seated.

¹⁸ See *W.C.*, Docket No. 18-1386 (issued January 22, 2019); *Melvina Jackson*, 38 ECAB 443 (1987) (regarding the importance, when assessing medical evidence, of such factors as a physician's knowledge of the facts and medical history, and the care of analysis manifested and the medical rationale expressed in support of the physician's opinion).

¹⁹ Dr. Gordon opined that the findings of the February 23, 2015 FCE showed multiple inconsistencies and subjective reporting which far outweighed the expected effects of the employment injury.

bursitis and, in July 29 and August 19, 2017 reports, Dr. Dal-Molin diagnosed bilateral hip trochanteric bursitis, adductor tendinitis, and “[question] of fibromyalgia.”²⁰

The Board finds that these reports are of limited probative value regarding the termination of appellant’s wage-loss compensation and medical benefits because they do not contain a rationalized medical opinion relating disability or residuals to the accepted October 1, 2014 employment injury. Although Dr. Tham indicated that she had widespread myofascial pain from her October 1, 2014 injury, he did not explain how this pain could have been related to the accepted employment conditions.²¹ With particular respect to Dr. Jett’s diagnosis of pain, it should be noted that the Board has held that pain alone is a symptom, not a medical diagnosis, and Dr. Jett did not relate any condition to the October 1, 2014 employment injury.²² Dr. Ng and Dr. Dal-Molin also failed to relate any condition to the October 1, 2014 employment injury.²³ The Board has held that a report is of limited probative value regarding causal relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.²⁴ For these reasons, the above-noted reports are insufficient to show that OWCP’s termination action was improper.

The Board therefore finds that OWCP has met its burden of proof to terminate appellant’s wage-loss compensation and medical benefits, effective August 31, 2015, as she no longer had residuals or disability causally related to her accepted October 1, 2014 employment injury.

LEGAL PRECEDENT -- ISSUE 2

When OWCP properly terminates compensation benefits, the burden shifts to appellant to establish continuing residuals or disability after that date, causally related to the accepted employment injury.²⁵ To establish causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized

²⁰ Appellant also submitted several reports from March 2015 in which Dr. Hyland-Robertson, a chiropractor, diagnosed degeneration of cervical and lumbar discs.

²¹ Dr. Tham did not provide a clear opinion that appellant’s fibromyalgia was related to her October 1, 2014 employment injury and OWCP has not accepted fibromyalgia as an employment-related condition.

²² See *F.U.*, Docket No. 18-0078 (issued June 6, 2018).

²³ With respect to Dr. Hyland-Robertson’s reports, chiropractors are only considered physicians under FECA, and their reports considered medical evidence, to the extent that they treat spinal subluxations as demonstrated by x-ray to exist. 5 U.S.C. § 8101(2). See *A.M.*, Docket No. 16-1875 (issued August 23, 2017); *Jack B. Wood*, 40 ECAB 95, 109 (1988). These submitted reports are not considered to be probative medical evidence because Dr. Hyland-Robertson did not treat spinal subluxations as demonstrated by x-ray to exist.

²⁴ See *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

²⁵ See *S.M.*, Docket No. 18-0673 (issued January 25, 2019); *C.S.*, Docket No. 18-0952 (issued October 23, 2018); *Manuel Gill*, 52 ECAB 282 (2001).

medical evidence based on a complete medical and factual background, supporting such causal relationship.²⁶

ANALYSIS -- ISSUE 2

The Board further finds that appellant has not met her burden of proof to establish continuing employment-related residuals or disability on or after August 31, 2015.

After OWCP's August 31, 2015 decision terminating appellant's wage-loss compensation and medical benefits effective that day, she submitted additional medical evidence which she felt showed that she was entitled to continued compensation after August 31, 2015. Given that the Board has found that OWCP properly relied on the opinion of Dr. Gordon in terminating her wage-loss compensation and medical benefits effective August 31, 2015, the burden shifts to her to establish that she is entitled to such compensation after that date. The Board has reviewed the additional evidence submitted by appellant and finds that it is of insufficient probative value to establish that she had residuals or disability causally related to her accepted October 1, 2014 employment injury on or after August 31, 2015.

Appellant submitted a March 21, 2016 report from Dr. Salvagno, who diagnosed bilateral hip contusions and cervical, lumbar, and right shoulder sprains due to the October 1, 2014 injury. Dr. Salvagno referenced Dr. Gordon's comments regarding the February 23, 2015 FCE and noted that the inconsistencies observed during the FCE were limited to her hand grip/pinch testing and did not concern the regions affected by her employment injury, *i.e.*, her neck, right shoulder, right hip, and low back. He indicated that appellant had appeared to demonstrate reasonable effort during the FCE and he recommended various work restrictions. Dr. Salvagno produced a similar report on February 2, 2018 in which he again noted that she demonstrated reasonable effort during the February 23, 2015 FCE. He found that appellant had demonstrated consistent and persistent symptoms/impairment since her employment injury on October 1, 2014 and opined that, therefore, she continued to suffer from cervical sprain, lumbar sprain, left shoulder sprain, and bilateral hip contusions as documented in the March 21, 2016 physical examination.²⁷

The Board notes that Dr. Salvagno's March 21, 2016 and February 2, 2018 reports do not contain sufficient medical rationale to establish that appellant had continuing residuals or disability causally related to her accepted October 1, 2014 employment injury on or after August 31, 2015. Dr. Salvagno placed great emphasis on his belief that she demonstrated reasonable effort during the February 23, 2015 FCE. However, this discussion does not obviate the need for a detailed explanation of how appellant could have continued to have residuals of the October 1, 2014 soft-tissue injury on or after August 31, 2015 or related disability. In essence, Dr. Salvagno only provided a conclusory opinion in which he opined that she continued to have such employment-related residuals/disability. He failed to explain how this opinion was supported by objective

²⁶ *Id.*

²⁷ Dr. Salvagno acknowledged that he had not examined appellant since March 21, 2016.

findings of record.²⁸ The Board has held that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale.²⁹

In a November 11, 2016 report, Dr. Macht found that appellant still had residuals of her October 1, 2014 injury, noting that the current diagnoses of sprains of her neck, shoulders, back, and hips were causally related to the October 1, 2014 accident. He indicated that she had been totally disabled from her regular work since October 1, 2014. The Board notes that Dr. Macht's report is of limited probative value because it contains a mere conclusory opinion without explaining how and why the October 1, 2014 soft-tissue injury caused residuals or disability on or after August 31, 2015. Such an opinion is insufficient to meet appellant's burden of proof.³⁰ Moreover, Dr. Macht opined that appellant had employment-related residuals of conditions which have not been accepted as causally related to the October 1, 2014 injury, including left shoulder and left hip sprains. He maintained that her preexisting degenerative conditions played no role in her current symptoms, but he did not provide any reasoning for this opinion.³¹

In a March 10, 2017 report, Dr. Jett indicated that, after her October 1, 2014 injury, appellant continued to have "chronic pain in her cervicgia [sic], groin, clavicle, throat, shoulder, back, and lumbar spine." She noted that appellant's "traumatic fall has aggravated, exacerbated, or accelerated [appellant's] medical condition premorbid." The Board finds that Dr. Jett's report is of limited probative value because she did not provide medical rationale in support of her opinion that an accepted condition related to the October 1, 2014 employment injury caused residuals or disability on or after August 31, 2015.³² In addition, Dr. Jett suggested that appellant had employment-related residuals of conditions which have not been accepted as causally related to the October 1, 2014 injury, including throat and groin conditions.³³

²⁸ In addition, Dr. Salvagno asserted that appellant had employment-related residuals in the form of a left shoulder sprain, but no such condition has been accepted in connection with the October 1, 2014 injury.

²⁹ *C.M.*, Docket No. 14-0088 (issued April 18, 2014). Dr. Salvagno also indicated in his February 2, 2018 report that Dr. Tham had found that appellant had fibromyalgia as a consequence of the October 1, 2014 injury. However, Dr. Tham did not provide a clear opinion that appellant's fibromyalgia was related to her October 1, 2014 employment injury and OWCP has not accepted fibromyalgia as an employment-related condition. The record also contains a January 13, 2016 report from Dr. Fougy who diagnosed appellant with depression and anxiety reactive to her October 1, 2014 fall. However, these conditions also have not been accepted as related to the October 1, 2014 injury and the record does not contain a rationalized medical opinion establishing such causal relationship.

³⁰ *See id.*; *see also J.D.*, Docket No. 14-2061 (issued February 27, 2015).

³¹ Dr. Macht also found that appellant had permanent impairment of her neck, right shoulder, back, and right hip region due to the October 1, 2014 accident, but this opinion is of limited probative value because he provided no supporting rationale. *See D.R.*, Docket No. 16-0528 (issued August 24, 2016).

³² *See supra* note 24.

³³ In another March 10, 2017 report, Dr. Jett diagnosed chronic pain syndrome, dysphagia, acute stress reaction, and "other injury of muscle, fascia, and tendon of other parts of biceps, left arm, sequela." However, she did not provide an opinion regarding the cause of these conditions.

On appeal counsel argues the above-described reports of attending physicians establish that appellant had continuing residuals and disability causally related to her accepted employment injury on and after August 31, 2015. However, as explained above, the Board finds that those reports are of limited probative value regarding this matter.

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 has met its burden of proof to terminate appellant's wage-loss compensation and medical benefits effective August 31, 2015 as she no longer had residuals or disability causally related to her accepted October 1, 2014 employment injury. The Board further finds that she has not met her burden of proof to establish continuing employment-related residuals or disability on or after August 31, 2015.

ORDER

IT IS HEREBY ORDERED THAT the May 3, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 8, 2019
Washington, DC

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

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board