United States Department of Labor
Employees' Compensation Appeals Board

J.N., Appellant	)	
and	)	**Docket No. 17-0237**
	)	**Issued: July 13, 2017**
U.S. POSTAL SERVICE, LANCASTER PROCESSING & DISTRIBUTION CENTER, Lancaster, PA, Employer	)	

Appearances:
Thomas R. Uliase, Esq., for the appellant[1]
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 November 11, 2016 appellant, through counsel, filed a timely appeal from a July 28, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[2] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant has met her burden of proof to establish a recurrence of total disability commencing September 11, 2007 causally related to her

[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] 5 U.S.C. § 8101 *et seq.*

October 10, 2006 employment injuries; and (2) whether appellant has met her burden of proof to establish a cervical condition that warranted surgery as a consequence of her accepted employment-related injuries.

On appeal, counsel contends that the medical opinion of Dr. Craig W. Fultz, a Board-certified orthopedic surgeon and an impartial medical specialist, is sufficient to establish that appellant sustained a recurrence of disability and a cervical condition due to her accepted employment injuries as Dr. Fultz restricted her from repetitive use of her left upper extremity which rendered her unable to perform the duties of her modified job. Alternatively, he asserts that Dr. Fultz' opinion does not sufficiently address the medical issues to carry the weight of the evidence, warranting a new impartial medical examination. Counsel indicates that OWCP did not specifically request that Dr. Fultz determine whether appellant could perform the physical requirements of her modified job at the time of the alleged recurrence of disability.

FACTUAL HISTORY

This case has previously been before the Board. The facts and circumstances set forth in the Board's prior decisions are incorporated herein by reference. The relevant facts are set forth below.

OWCP accepted that on October 10, 2006 appellant, then a 38-year-old part-time flexible clerk, sustained left ulnar neuropathy and tenosynovitis of the left wrist as a result of lifting and pulling trays at work. Appellant worked approximately six hours daily when she was injured. OWCP authorized left elbow surgery to treat her accepted left ulnar neuropathy. The surgery was performed on January 25, 2007 by Dr. David Kuntz, Jr., a Board-certified orthopedic surgeon. Following these injuries and medical treatment, appellant returned to part-time flexible, limited-duty work on August 13, 2007.

On October 22, 2007 appellant filed a claim (Form CA-2a) alleging a recurrence of disability beginning September 11, 2007 due to her accepted October 10, 2006 employment injuries. She reported that after the original injury she returned to light-duty work.

In a December 21, 2007 decision, OWCP found that appellant had not established a recurrence of disability. It found that the medical evidence of record did not establish that the claimed recurrence resulted from her accepted October 10, 2006 work injuries.

On March 12, 2008 appellant underwent C5-6 and C6-7 anterior cervical discectomy and decompression, C5-6 and C6-7 anterior interbody fusion, and C5-7 anterior cervical plating performed by Dr. James P. Argires, an attending Board-certified neurosurgeon. The surgery was performed to treat her diagnosis of cervical spondylosis at C5-7.

In an August 22, 2008 decision, an OWCP hearing representative set aside the December 21, 2007 decision. She found that, although the medical evidence of record was not sufficiently rationalized to establish a neck condition causally related to appellant's accepted October 10, 2006 work injury, it was uncontroverted and raised an inference of causal relationship sufficient to require further development by OWCP. On remand, the hearing representative instructed OWCP to refer appellant, along with a statement of accepted facts (SOAF) and the medical record to an appropriate medical specialist for a second opinion

examination to determine whether her herniated discs at C5-6 and C6-7 and neck pain were caused by her accepted conditions or physical therapy recommended after her authorized January 25, 2007 left ulnar nerve surgery. She noted that the medical specialist should also determine whether the March 12, 2008 neck surgery was warranted and necessary as a result of appellant's accepted work injuries and the January 25, 2007 surgery and determine the extent and duration of any disability.

On remand, OWCP referred appellant to Dr. Robert F. Draper, Jr., a Board-certified orthopedic surgeon and OWCP referral physician, who opined in a September 30, 2008 report that her neck pain and resultant surgery were due to preexisting degenerative disc disease at multiple levels and not to her accepted October 10, 2006 work injuries or the authorized January 25, 2007 left elbow surgery and resultant physical therapy.

In a November 24, 2008 decision, OWCP denied appellant's claim that she sustained a recurrence of disability commencing September 11, 2007 finding that the weight of the medical evidence rested with the opinion of Dr. Draper.

Appellant, through counsel, timely requested an oral hearing before an OWCP hearing representative and submitted a February 27, 2009 report by Dr. Argires, who found that appellant had preexisting degenerative changes of the cervical spine that were aggravated by her October 10, 2006 employment injuries.

Following the April 14, 2009 oral hearing, by decision dated June 29, 2009, an OWCP hearing representative set aside the November 24, 2008 decision and remanded the case to OWCP for further development of the medical evidence. He found that there was a conflict of medical opinion evidence between Drs. Draper and Argires, requiring referral to an impartial medical examiner.

On remand, OWCP referred appellant, together with a SOAF, the medical record, and a list of questions, to Dr. Thomas J. Green, a Board-certified orthopedic surgeon, who opined that her left shoulder and cervical spine conditions were not causally related to her October 10, 2006 work injuries. Dr. Green further opined that she continued to suffer from residuals of her employment-related ulnar nerve lesion and failed January 25, 2007 surgery, but was capable of working eight hours a day with physical restrictions.

In a November 19, 2009 decision, OWCP found that the special weight of the medical evidence rested with Dr. Green's opinion and established that appellant's diagnosed cervical spondylosis which necessitated surgery did not result from her work duties, accepted October 10, 2006 work injuries, or authorized January 2007 elbow surgery. This decision was affirmed by an OWCP hearing representative in a June 1, 2010 decision. Appellant subsequently requested reconsideration and, by decision dated July 15, 2010, OWCP denied modification of the June 1, 2010 decision. OWCP found that the medical evidence submitted by her was insufficient to outweigh the special weight accorded to Dr. Green's impartial medical opinion.

Appellant appealed to the Board. In a September 28, 2011 decision,[3] the Board set aside the June 1 and July 15, 2010 decisions and remanded the case to OWCP to obtain clarification

[3] Docket No. 10-2308 (issued September 28, 2011).

from Dr. Green regarding whether she had a recurrence of disability or developed cervical spondylosis as a consequence of her October 10, 2006 employment-related injuries.

On remand, OWCP requested a supplemental report from Dr. Green. In a November 15, 2011 report, Dr. Green noted that appellant had healed with a good result from her October 10, 2006 employment injuries. He advised that there was no causal relationship between her cervical spondylosis with radicular pain in the left upper extremity, resultant surgery, and accepted conditions.

By letter dated December 22, 2011, OWCP referred appellant, together with a SOAF, the medical record, and a list of questions, to Dr. David C. Baker, a Board-certified orthopedic surgeon, for a second impartial medical examination. In a January 25, 2012 report, Dr. Baker found that her cervical degenerative changes and resultant surgery were not causally related to the accepted October 10, 2006 employment injuries. He also found that appellant did not sustain a recurrence of disability due to her accepted injuries.

In a February 3, 2012 decision, OWCP found that appellant did not sustain a cervical condition that warranted surgery or a recurrence of disability commencing September 11, 2007 causally related to her October 10, 2006 employment injuries based on Dr. Baker's impartial medical opinion. This decision was affirmed by an OWCP hearing representative in an August 7, 2012 decision.

Appellant again appealed to the Board. By decision dated November 15, 2013,[4] the Board set aside the February 3 and August 7, 2012 decisions and remanded the case to OWCP for further development of the medical evidence. The Board found that Dr. Baker had not been properly selected as an impartial medical examiner. On remand, the Board directed OWCP to select another referee physician to resolve the conflict under the appropriate selection procedures.

On remand, OWCP referred appellant, together with a SOAF, the medical record, and a list of questions, to Dr. Fultz for an impartial medical examination.[5]

In a May 8, 2014 report, Dr. Fultz noted the history of the October 10, 2006 work injury and reviewed the medical record. On examination, he noted that appellant sat in one position for 45 minutes during the interview. Appellant's cervical spine was straight with good range of motion. She could touch her chin to her chest. Appellant had negative Lhermitte and Spurling results. She had mild tenderness about the paracervical and periscapular muscles, but no palpable trigger points. Appellant had full range of shoulder motion and good strength in abduction and external rotation of her shoulder. She could reach the top of her head, behind her head, and above her belt line behind her back. Impingement and Hawkin's tests were negative. There was subjective decreased sensory acuity on the volar aspect of the ring and little fingers as

[4] Docket No. 13-0289 (issued November 15, 2013).

[5] In a February 19, 2014 decision, OWCP suspended appellant's compensation effective that date as she failed to attend the appointment with Dr. Fultz scheduled for 8:30 a.m. on January 30, 2014 and that she had failed to explain her failure to appear or to cooperate. On March 27, 2014 it rescheduled the examination with Dr. Fultz for 8:30 a.m. on May 8, 2014. Appellant attended the May 8, 2014 examination. In an August 24, 2019 decision, an OWCP hearing representative affirmed the February 19, 2014 decision.

well as weakness in finger abduction and adduction with slight finger flexion weakness. Appellant had observable muscle atrophy in the proximal medial aspect of the forearm in the flexor carpi ulnaris muscle mass region. She had good elbow range of motion with no pain on passive motion. There was localized tenderness over the medial or lateral epicondylar area. Appellant had a negative Tinel's sign at the elbow, both in the cubital canal and over the anterior aspect of the medial epicondylar area where the nerve had been transposed. She had no focal motor deficits at the elbow and shoulder. Reflexes were symmetrical for the biceps, triceps, and brachial radialis. Appellant had a negative Hoffmann's reflex and no clonus in the upper extremities. Diagnoses included a history of cervical spine degenerative disc and joint disease, greatest at C5-6 and C6-7 with a reported history of 2001 neck pain. Appellant had neck pain referred to the left shoulder and arm after the October 10, 2006 work injury that was consistent with myofascial pain. She was also status post March 12, 2008 anterior cervical discectomy at C5-6 and C6-7 and status post the January 25, 2007 left elbow surgery with ongoing symptoms.

Dr. Fultz opined that appellant developed left cubital tunnel syndrome causally related to her accepted injury based on diagnostic test results. He advised that she had reached maximum medical improvement for her accepted left elbow ulnar nerve neuropathy. Dr. Fultz noted that appellant developed neck pain after her October 10, 2006 work injury with referred symptoms into the shoulder and arm. He maintained that a 2001 magnetic resonance imaging scan confirmed that she had a history of preexisting cervical degenerative disc and joint disease. A recent electromyogram (EMG) and nerve conduction velocity tests revealed significant degenerative changes at C5-6 and C6-7. Neurological deficits in the left arm were most consistent with C8 and possibly T1. Dr. Fultz indicated that the pathology at C5-6 and C6-7 could not explain the pattern of appellant's sensory deficit or motor loss. A June 23, 2007[6] EMG was minimally suggestive of left-side C8 radiculopathy. Dr. Fultz related that a C8 radiculopathy would not be caused by C5-6 or C6-7 radiculopathy. There were no diagnostic studies to confirm that appellant's degenerative disc or joint disease was the symptomatic etiology of her neck pain that developed after the accepted injury. Thus, Dr. Fultz found that her March 12, 2008 cervical surgery treating the cervical spine degenerative process was not attributable to the October 10, 2006 work injury. He opined that appellant's response to that surgery supported that the degenerative spine changes, at least the levels operated on, were not major pain generators for her discomfort. Dr. Fultz related that Drs. Baker and Green also supported that degenerative changes in appellant's cervical spine were not attributable to her work injury. He found that her history and his examination were most consistent with myofascial neck pain as diagnostic studies did not show any acute structural cervical spine injury. Dr. Fultz concluded that there was insufficient evidence to find degenerative disc disease, symptomatic or significantly aggravated by appellant's October 10, 2006 work injury. He advised that her neck surgery was not necessary or warranted due to the accepted injury. Dr. Fultz opined that appellant had residuals of the accepted injury which included ongoing neurological deficits in the left arm from ulnar nerve dysfunction related to the accepted injury and treatment. Appellant also had permanent decreased sensory acuity and weakness in the ulnar nerve distribution and ongoing myofascial discomfort about the left paracervical and periscapular region. An attached work capacity evaluation (Form OWCP-5c), indicated her limitations based on her accepted left ulnar nerve condition and myofascial pain which he opined were causally related to the accepted injury. Dr. Fultz concluded that appellant would benefit

[6] The Board notes that the EMG report was dated June 23, 2007 and not June 27, 2007 as indicated by Dr. Fultz.

from ongoing treatment. In the Form OWCP-5c, he indicated that she could work six hours a day with permanent physical restrictions.

On May 28, 2015 OWCP requested a supplemental report from Dr. Fultz and requested that he provide responses to the questions posed. In a June 12, 2015 report, Dr. Fultz restated his diagnoses and opined that appellant did not sustain a recurrence of disability. Rather, appellant had ongoing symptoms since her accepted October 10, 2006 work injury. She also had documented left-sided neck pain radiating into her left shoulder periscapular region with achiness into her upper arm. Dr. Fultz noted that appellant's neck pain was referenced in 2006 physical therapy notes and Dr. Kuntz' December 13, 2006 medical records. Additionally, he noted that she had a history of ongoing symptoms in these areas since her work injury. Therefore, Dr. Fultz did not believe that appellant "had a recurrence of disability but ongoing disability from these symptoms from her work-related injury on October 10, 2006." He restated his prior opinion on the causal relationship between her cervical myofascial pain, left cubital tunnel syndrome which warranted surgery on January 25, 2007, and October 10, 2006 employment injury. Dr. Fultz also reiterated his previous opinion and rationale regarding the lack of a causal relationship between appellant's preexisting cervical degenerative disc disease and degenerative joint disease, March 12, 2008 cervical surgery, and accepted employment injury.

OWCP in a January 15, 2016 decision, found that appellant did not sustain a recurrence of disability commencing September 11, 2007 causally related to her accepted October 10, 2006 work injuries. It noted that Dr. Fultz clearly found that his diagnosis of left cubital tunnel syndrome was causally related to the accepted work injuries. OWCP stated, however, that a separate decision would be issued noting the acceptance of this diagnosed condition.[7]

In a January 28, 2016 letter, counsel requested an oral hearing before an OWCP hearing representative.

In a July 28, 2016 decision, an OWCP hearing representative affirmed the January 15, 2016 decision. He found that the opinion of Dr. Fultz as the impartial medical specialist was entitled to special weight and established that appellant did not sustain a recurrence of disability or a cervical condition that warranted surgery causally related to her accepted October 10, 2006 employment injuries.

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, which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.[8] The term disability means incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury.[9] The term also means the

[7] The Board notes that the record does contain a separate decision issued by OWCP which accepted appellant's claim for left cubital tunnel syndrome.

[8] 20 C.F.R. § 10.5(x).

[9] *Id.* at § 10.5(f).

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, except for when such withdrawal occurs for reasons of misconduct, nonperformance of the job duties, or a reduction-in-force.[10]

When an employee, who is disabled from the job he or she held when injured due to employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative, and substantial evidence a recurrence of total disability. As part of this burden, 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 light-duty job requirements.[11]

In situations where there exist opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.[12]

ANALYSIS -- ISSUE 1

In the last appeal the Board found an unresolved conflict in medical opinion and remanded the case to OWCP for proper selection of a referee physician.

On remand, OWCP selected Dr. Fultz to resolve the conflict. Dr. Fultz submitted a May 8, 2014 report in which he provided an extensive review of the medical record. He found that appellant did not have a recurrence of disability beginning September 11, 2007 or a cervical condition that warranted surgery due to the accepted October 10, 2006 employment injuries. Dr. Fultz also found that she could work six hours a day with permanent restrictions related to her accepted work injuries. He documented essentially normal findings on physical examination with the exception of mild tenderness about the paracervical and periscapular muscles, subjective decreased sensory acuity on the volar aspect of the ring and little fingers, weakness in finger abduction and adduction, slight degree of weakness with finger flexion, muscle atrophy in the proximal medial aspect of the forearm in the flexor carpi ulnaris muscle region, and localized tenderness over the medial or lateral epicondylar area. Dr. Fultz diagnosed, among other things, a history of cervical degenerative disc disease and degenerative joint disease and cervical myofascial pain. He noted that appellant was status post a March 12, 2008 anterior cervical discectomy with interbody fusion and internal fixation at C5-6 and C6-7. Dr. Fultz found that there were diagnostic studies to confirm that her current neck pain was caused by the diagnosed preexisting cervical degenerative conditions. He further found that appellant's response to the March 12, 2008 cervical surgery established that degenerative changes in her spine were not major pain generators for her discomfort. Thus, Dr. Fultz concluded that the March 12, 2008

[10] *Id.* at § 10.5(x).

[11] *Shelly A. Paolinetti*, 52 ECAB 391 (2001); *Robert Kirby*, 51 ECAB 474 (2000); *Terry R. Hedman*, 38 ECAB 222 (1986).

[12] *L.S.*, Docket No. 12-0139 (issued June 6, 2012); *Gloria J. Godfrey*, 52 ECAB 486 (2001); *Jacqueline Brasch (Ronald Brasch)*, 52 ECAB 252 (2001).

cervical surgery was not warranted as a result of the accepted employment injuries, but rather necessary to treat her preexisting cervical conditions.

In a supplemental report dated June 12, 2015, Dr. Fultz responded to the questions posed by OWCP and clarified his report as to whether appellant sustained a recurrence of disability or a cervical degenerative condition that warranted surgery due to the accepted October 10, 2006 employment injuries. He opined that she did not sustain a spontaneous change in the nature and extent of the injury-related conditions resulting in her disability from work. Dr. Fultz instead opined that appellant had continuing residuals of the work-related conditions. He noted that her history of preexisting degenerative changes in the cervical spine were not symptomatic or significantly aggravated by the employment injuries. Dr. Fultz reasoned that there were no diagnostic studies to confirm that degenerative disc disease or degenerative joint disease resulted from these injuries. He further noted that since appellant did not see significant improvement following her March 12, 2008 cervical surgery, surgery on the degenerative levels of the cervical spine did not represent a major pain generator that contributed to the symptoms in her neck that went into to her upper extremity. Thus, Dr. Fultz found that the surgery was not reasonable and necessary as a consequence of the accepted employment injuries.[13]

As noted, a well-reasoned opinion from a referee examiner is entitled to special weight.[14] The Board finds that Dr. Fultz provided a comprehensive, well-rationalized opinion based on a complete factual and medical background and his review of the SOAF and the medical record and findings on examination. Dr. Fultz' opinion that appellant was not totally disabled commencing September 11, 2007 due to her accepted October 10, 2006 employment injuries is entitled to special weight and represents the weight of the evidence.[15]

LEGAL PRECEDENT -- ISSUE 2

With respect to consequential injuries, it is an accepted principle of workers' compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause which is attributable to the employee's own intentional conduct.[16] The basic rule is that a subsequent injury, whether an aggravation of the original injury or a new and distinct injury, is compensable if it is the direct and natural result of a compensable primary injury.[17]

A claimant bears the burden of proof to establish a claim for a consequential injury. As part of this burden, he or she must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship. Rationalized medical

[13] The Board finds that, while Dr. Fultz found that appellant had cervical myofascial pain causally related to the accepted injuries, OWCP has indicated that it will accept this condition by separate decision.

[14] *See* cases cited, *supra* note 12.

[15] *Id.*

[16] *See* A. Larson, *The Law of Workers' Compensation* § 10.01 (November 2000).

[17] *Charles W. Downey*, 54 ECAB 421 (2003).

evidence is an opinion of reasonable medical certainty supported by sound medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.[18]

ANALYSIS -- ISSUE 2

As found above, the medical evidence is represented by the thorough, well-rationalized impartial medical opinion of Dr. Fultz, who found that appellant was not totally disabled commencing September 11, 2007 due to her accepted October 10, 2006 employment-related injuries. He also found that she did not sustain a cervical condition that warranted surgery on March 12, 2008 as a consequence of the accepted work injuries. Dr. Fultz based his opinion on an examination of appellant and a review of the record, including a review of diagnostic test results. He noted that there were no diagnostic studies to confirm that degenerative disc disease or degenerative joint disease resulted from the accepted employment injuries. Dr. Fultz further noted that appellant's prior surgery, which included anterior cervical discectomy with interbody fusion and internal fixation at C5-6 and C6-7, did not provide significant improvement. He concluded that the surgery was not reasonable and necessary as a consequence of the accepted employment injuries.

The Board finds that Dr. Fultz' medical opinion is sufficiently rationalized and based upon a complete factual and medical background such that it is entitled to special weight to establish that appellant did not sustain a cervical condition that warranted surgery due to her October 10, 2006 employment injuries.[19]

On appeal, counsel contends that Dr. Fultz' medical opinion is sufficient to establish that appellant sustained a recurrence of disability and a cervical condition due to her accepted employment injuries as he restricted her from repetitive use of her left upper extremity which rendered her unable to perform the duties of her modified job. Alternatively, he asserts that Dr. Fultz' opinion does not sufficiently address the medical issues to carry the weight of the evidence, warranting a new impartial medical examination. Counsel indicates that OWCP did not specifically request that Dr. Fultz determine whether appellant could perform the physical requirements of her modified job at the time of the alleged recurrence of disability. However, as found above, Dr. Fultz, who was selected as the impartial medical specialist, reviewed her full medical history, performed a thorough, documented physical evaluation, and provided work restrictions in accordance with his findings. His report was well rationalized and his opinion, that appellant could perform light-duty work, constitutes the weight of the medical evidence.[20] Appellant did not submit any additional, rationalized medical evidence supporting a recurrence of disability commencing September 11, 2007 or a cervical condition that warranted surgery on March 12, 2008 due to the accepted October 10, 2006 work injuries. The Board finds, therefore, that counsel's contentions are not established by the record.

[18] *J.B.*, Docket No. 14-1474 (issued March 13, 2015).

[19] *See* cases cited, *supra* note 12.

[20] *Id.*

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 has failed to meet her burden of proof to establish a recurrence of total disability commencing September 11, 2007 causally related to her October 10, 2006 employment injuries. The Board further finds that she has failed to meet her burden of proof to establish a cervical condition that warranted surgery due to her accepted employment-related injuries.

ORDER

IT IS HEREBY ORDERED THAT the July 28, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 13, 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