United States Department of Labor
Employees' Compensation Appeals Board

E.M., Appellant	)	
and	)	**Docket No. 14-1520**
	)	**Issued: June 18, 2015**
DEPARTMENT OF LABOR, WAGE & HOUR DIVISION, Dallas, TX, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
CHRISTOPHER J. GODFREY, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge

JURISDICTION

On June 9, 2014 appellant filed a timely appeal from a June 3, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP).[1] 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.

ISSUE

The issue is whether appellant met her burden of proof to establish wage-loss compensation for the period November 5, 2010 to May 20, 2013.

On appeal appellant contends that her accepted medical conditions should be upgraded based on medical evidence dating back to her first examination with an attending physician.

[1] Appellant filed a timely request for oral argument. After exercising its discretion the Board, by order dated May 1, 2015, denied her request because her arguments could be adequately addressed in a decision based on a review of the case record. *Order Denying Request for Oral Argument*, Docket No. 14-1520 (issued May 1, 2015).

[2] 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On November 26, 2010 appellant, then a 44-year-old human resources compensation specialist, filed a traumatic injury claim alleging that on November 5, 2010 she bruised her shoulders and upper back, and experienced pain in her neck, head, arms, and wrist at work.[3] She claimed that she was upset by all the events that had happened since her return to work on October 6, 2010 and she was crying uncontrollably when she turned to put away her files and hit her shoulder and upper back on the corner of a file cabinet behind her desk.

In a January 13, 2011 decision, OWCP accepted that the November 5, 2010 incident occurred as alleged. It denied appellant's claim, however, finding that the medical evidence failed to establish that her cervical, bilateral shoulder and wrist, and lumbar conditions were causally related to the accepted employment incident. After a request for a hearing, by decision dated June 7, 2011, an OWCP hearing representative affirmed the January 13, 2011 decision.

Appellant filed numerous requests for reconsideration. In decisions dated July 29 and September 21, 2011 and April 11, 2012, OWCP denied modification of its prior decisions based on a merit review of her claim. It denied appellant's requests for a merit review in decisions dated September 30, 2011 and February 2, 2012.

On November 5, 2012 OWCP determined that a second opinion evaluation was necessary to determine whether appellant had a diagnosed or preexisting condition that was caused or aggravated by the accepted November 5, 2010 employment incident. By letter dated November 26, 2012, it referred her, together with a statement of accepted facts and the medical record, to Dr. Ivan J. Antosh, a Board-certified orthopedic surgeon.

In a December 28, 2012 medical report, Dr. Antosh reviewed a history of the November 5, 2010 employment injuries and appellant's medical records, noted her complaints, and presented findings on examination. He found that she had significant neck pain and spasms and bilateral shoulder tenderness and stiffness. Appellant also had significantly limited bilateral shoulder range of motion, but did not find any upper extremity radicular findings. Dr. Antosh stated that she had numerous underlying psychiatric diagnoses that obviously interfered with her ability to participate effectively in his examination. Appellant gave minimal effort throughout the examination resulting in a suboptimal physical examination. Despite a suboptimal physical examination, Dr. Antosh stated that her subjective physical complaints, which included headaches and pain in her neck, upper back, and entire bilateral upper extremities accompanied by numbness, a pins and needles sensation, tingling, and weakness in her shoulders, arms, wrists, and fingers seemed to correlate with what objective findings he could produce on examination. He opined that it was reasonable that her neck and bilateral shoulder strain were caused by the

[3] Appellant filed claims under OWCP File Nos. xxxxxx954, xxxxxx901, xxxxxx008, and xxxxxx205 for injuries sustained on August 19, 2009, October 6, 2010, October 31, 2011, and September 21, 2012, respectively. OWCP combined these claims into a master file assigned File No. xxxxxx954. It denied appellant's claims for compensation. The denial of these claims was affirmed by the Board in decisions dated January 12, 2012, April 1 and June 6, 2013, and September 11, 2014. *See* Docket Nos. 11-796 (issued January 12, 2012), 12-1899 (issued June 6, 2013), and 14-655 (issued September 11, 2014), respectively. The file for the instant claim has not been combined with the files from appellant's previous claims.

November 5, 2010 employment incident. It did not appear that appellant's arm and wrist pain were related to this specific injury. Dr. Antosh did not believe that she had a preexisting condition and appellant's neck and shoulder pain appeared to have been caused by the work injury which was not an aggravation of underlying pathology. He related that, since appellant did not have adequate physical therapy to allow improvement, her condition was not at baseline. Dr. Antosh stated that she had decreased range of motion of the neck and bilateral shoulders with a positive Neer's impingement test bilaterally. Appellant could benefit from pain control modalities and range of motion. She needed ongoing psychiatric and pain specialist care for her temporary condition that should resolve with an adequate course of conservative modalities. Dr. Antosh stated that appellant had limited shoulder and cervical range of motion which would support limitation in her work capacity during the period between her injury and his examination. While appellant worked in a low demand position, he did not see any objective reason why she could not tolerate sedentary desk work eight hours a day with the restrictions outlined in an accompanying work capacity evaluation.

On March 8, 2013 OWCP asked Dr. Antosh to explain how the mechanism of injury caused appellant's diagnosed neck and bilateral shoulder strain and why he believed that she had no preexisting conditions. Dr. Antosh was also asked to address whether a material change had occurred in her underlying conditions on November 5, 2010.

In a March 27, 2013 addendum report, Dr. Antosh stated that, based on appellant's subjective description of her injury, it was reasonable to conclude that her neck and right shoulder were aggravated by that specific work injury due to its sudden jarring nature while she was in an awkward position. He suspected that a previously underlying shoulder condition was aggravated by this minor injury which produced subacromial bursitis and pain. However, based on this information and appellant's current examination, Dr. Antosh could not conclude that any issues regarding her left shoulder, arms, and wrists were related to that injury episode. He believed that appellant developed subacromial bursitis as a result of the minor injury episode. This led Dr. Antosh to believe that she had some mild underlying rotator cuff disease (tendinopathy/tendinitis) which would have predisposed her to develop bursitis as a result of the seemingly minor injury episode. Similarly, given appellant's age her neck strain was likely an aggravation of mild underlying degenerative cervical disease which was common. Dr. Antosh related that based on his review of the medical records and the objective findings which were limited by her cooperation with the examination he would not conclude that there was a material change in her underlying conditions. Again, this likely represented an aggravation of chronic and mild underlying conditions involving both the right shoulder and neck.

In a May 3, 2013 decision, OWCP accepted appellant's claim for right shoulder subacromial bursitis and neck sprain based on Dr. Antosh's opinion. It stated that her claim remained denied for left shoulder, bilateral wrist, and lumbar conditions. In a separate decision dated May 3, 2013, OWCP notified appellant about the acceptance of her claim.

On May 29, 2013 OWCP requested that Dr. Antosh provide whether appellant's accepted right shoulder and neck conditions had returned to baseline or preinjury status and whether these conditions had resolved. It also requested that he clarify appellant's work capacity by providing whether she had any period of disability that precluded her from performing the requirements of her position.

In a June 10, 2013 addendum report, Dr. Antosh stated that appellant's accepted right shoulder and neck conditions had not returned to baseline or resolved completely based on his review of the records and his December 28, 2012 physical examination. Appellant had chronic pain residuals as outlined in his previous report. Dr. Antosh stated that a six-month course of conservative modalities should be sufficient to allow resolution of her symptoms. Based on his last physical examination there was evidence of ongoing subacromial bursitis (positive Neer's impingement test, reduced range of motion) and nonradicular cervical pain (cervical tenderness to palpation, and reduced range of motion). Dr. Antosh related that these symptoms could be considered chronic pain residuals as a result of appellant's initial employment injury. He recommended further treatment and provided her work restrictions. Dr. Antosh opined that based on appellant's job description, she could safely perform her sedentary/low demand duties. He stated that there was no period of disability precluding her from performing the requirements of her position.

On July 7, 2013 appellant filed a claim for compensation for leave without pay (LWOP) from November 5, 2010 to May 20, 2013.

On August 27, 2013 appellant requested reconsideration of the denied condition in the May 3, 2013 decision.

An August 28, 2013 report cosigned by Dr. Julia Franklin, a chiropractor, and Dr. Ronnie D. Shade, an attending Board-certified orthopedic surgeon, noted appellant's complaints about being constantly harassed by her supervisor regarding her job performance and medical appointments. Appellant also complained about pain in her neck, bilateral arms, shoulders, wrists, legs, feet, and upper back. Drs. Franklin and Shade reviewed appellant's medical treatment and provided examination findings. The physicians assessed her as having cervical radiculopathy, bilateral shoulder myofasciitis, bilateral carpal tunnel syndrome, stress, chronic pain syndrome, and lumbar spinal stenosis foraminal at L4-5 and L5-S1. Appellant also had major depressive disorder secondary to her November 5, 2010 employment injury and stressor disorders sustained on the same date. It was noted that she had been off work since September 2012.

Drs. Franklin and Shade suspected that appellant's secondary emotional conditions were directly related to her November 5, 2010 employment injury and impeded her ability to recover. The physicians stated that she required mental and physical medical care to increase her mobility, flexibility, self-esteem, and confidence, and to reduce her anxiety, depression, and stress resulting from her November 5, 2010 work-related injury which had left her temporarily totally disabled. Appellant was expected to recover from this injury and illness and return to gainful employment.

Appellant submitted laboratory test results dated August 31, 2013.

In a September 18, 2013 bilateral upper extremity electromyogram and nerve conduction velocity (EMG/NCV) studies report, Dr. Stephen J. Becker, a Board-certified physiatrist, found EMG evidence of active C6-7 cervical radiculopathy and no NCV evidence of peripheral neuropathy, plexopathy, or entrapments.

In an August 29, 2013 memorandum, the employing establishment challenged appellant's claimed period of disability, contending that it was incorrect. It referenced its July 29, 2013 e-mail which provided her leave record from 2010 until her termination on February 15, 2013. Appellant had intermittent periods of work, LWOP, administrative leave, donated and annual leave, credit hours, absent without leave, and sick leave from October 24, 2010 to February 15, 2013.

By letter dated October 21, 2013, OWCP advised appellant about the type of medical evidence needed to establish her claim.

In an October 28, 2013 decision, OWCP denied modification of the May 3, 2013 decision. It found that the evidence submitted was insufficient to establish that appellant sustained a left shoulder, bilateral wrist, and lumbar conditions causally related to her accepted November 5, 2010 employment injuries.

Treatment notes dated September 18 to October 17, 2013 from Dr. Shade addressed the treatment of appellant's spine and extremities with physical therapy. In a November 14, 2013 report, Dr. Shade reiterated his assessments of cervical radiculopathy, bilateral shoulder myofasciitis, bilateral carpal tunnel syndrome, stress, chronic pain syndrome, lumbar spinal stenosis foraminal at L4-5 and L5-S, major depressive disorder secondary to her November 5, 2010 employment injury, and stressor disorders sustained on the same date. Dr. Shade also reiterated that he suspected that appellant's secondary emotional conditions were directly related to her November 5, 2010 employment injury and impeded her ability to recover and opined that this injury resulted in her temporary total disability. On November 21, 2013 he reported that when he initially evaluated appellant on November 24, 2010 she had sustained neck, bilateral shoulder and wrist, and upper back injuries as a result of her work-related November 5, 2010 injury. Dr. Shade again noted her complaints of stress from her supervisor, headaches, and pain in her neck, bilateral arms, shoulders, wrists, legs, and feet, and upper back. He found comprehensive neurological and musculoskeletal issues supported by objective medical evidence due to appellant's conditions which had rendered her incapable of returning to work. Dr. Shade noted her repetitive work duties and stated that she may experience periodic episodes of increased pain, joint stiffness, aches, numbness, tingling, tenderness, and spasms of her shoulders and wrists which may incapacitate her from performing any of her work duties. He opined that appellant's work activities and injuries to her shoulders, wrists, feet, neck, and back required permanent limitations. Dr. Shade stated that, as a result of the multitudes of conditions documented above, it was clear that she would have periodic episodes that would incapacitate her from time to time. He placed appellant off work due to the severity of the symptoms listed above.

In a January 8, 2014 decision, OWCP denied appellant's claim for compensation from November 5, 2010 through May 20, 2013. It found that the weight of the medical opinion evidence rested with Dr. Antosh's opinion that there was no period of disability precluding appellant from performing her work duties.

On January 13, 2014 appellant requested an oral hearing before an OWCP hearing representative. In a January 10, 2014 letter, she requested that her claim be upgraded to include her emotional condition and additional physical conditions.

In reports dated November 24, 2010 to March 31, 2014, Dr. Shade reiterated his physical and emotional diagnoses and opinion on causal relationship. He also assessed appellant as having acute cervical strain with bilateral upper extremity radiculopathy, acute lumbar strain with left lower extremity radiculitis, chronic pain, and post-traumatic stress disorder. Dr. Shade advised that she was unable to work from December 8, 2010 to February 3, 2012. He stated that appellant was reluctant to return to her prior stressful job environment and that she was waiting for relocation to another city or state and a civil rights investigation. Dr. Shade strongly recommended that she be transferred out of her work section due to her present medical and mental condition. In his reports dated March 28 to June 6, 2012, he noted that appellant had returned to her regular work duties on March 15, 2012. In an August 29, 2013 note, Dr. Shade advised that her injuries were caused by the physical requirements of her human resources compensation specialist job. He strongly opined that future treatment was reasonable and necessary.

In a September 7, 2012 report, Dr. R. Anthony Moore, a Board-certified psychiatrist, opined that appellant had a major depressive episode and paranoia resulting from her hostile work environment. He stated that psychological testing corroborated findings of her continued diminished work performance due to depression. Dr. Moore supported appellant's motion for disability retirement. In a November 19, 2012 note, he indicated that she had been off work since September 21, 2012 and that she would be off work until January 12, 2013.[4] In a November 20, 2012 report, Dr. Moore provided a history of the November 5, 2010 employment injury. He noted appellant's complaint of chronic pain syndrome and depression. Appellant filed an Equal Employment Opportunity complaint due to her work injuries and a supervisor who had been particularly hard on her. Dr. Moore diagnosed major depressive episode secondary to the November 5, 2010 employment injury and chronic pain syndrome with psychosocial factors on Axis I. He stated that a diagnosis on Axis II was not applicable. On Axis III Dr. Moore diagnosed injuries sustained on the job on November 5, 2010. On Axis IV he diagnosed stressors related to injuries sustained on the job on the same date. Dr. Moore provided a score of 40 to 45 on Axis V. He opined that it was indisputably clear that the November 5, 2010 work-related injury caused appellant's chronic pain syndrome and loss of capacity based on his training, extensive examination, and objectivity. Appellant's symptoms met the criteria for this condition and major depressive episode. In notes dated December 17, 2012 and February 12, 2013, Dr. Moore advised that she would continue to be off work through April 1, 2013 due to her continued stress and depression symptoms.

Hospital records dated September 10, 2013 addressed appellant's hospitalization for recurrent loss of consciousness and medical treatment on that date. A history was provided which included, among other things, post-traumatic stress disorder, and obsessive compulsive disorder.

In an August 7, 2012 report, Dr. Les Benson[5] provided a history of the November 5, 2010 employment injuries and appellant's medical and employment background, noted her

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[4] The Board notes that Dr. Moore inadvertently stated that appellant was off work until January 12, 2012 instead of January 12, 2013 as his report is dated November 19, 2012.

[5] The Board notes that the professional qualifications of Dr. Benson are not contained in the case record.

complaints, and presented findings on examination. He diagnosed right shoulder rotator cuff tear, cervical intervertebral disc disorders, bilateral shoulder radiculopathy, and brachial neuritis of the right wrist and hand due to her cervical intervertebral disc disorders. Dr. Benson opined that appellant's injuries were due to her human resources compensation specialist duties. The basis for appellant's injuries was striking her right shoulder on a sharp corner of a partially opened file cabinet. Dr. Benson stated that when she rotated to her right and struck her shoulder, her head, and neck continued to turn. The inertia forces caused this accident and in his opinion caused a sprain or strain of the neck. It exceeded the positional forces in the neck and caused displacement of a disc which now pushed on a nerve going down the neck causing brachial symptoms which went down into the wrist. Because pressure was placed on the nerve, appellant had symptoms on both sides and neck. In reports dated October 19 and November 20, 2012, Dr. Benson addressed appellant's left shoulder, wrist, and hand conditions and resulting disability due to a September 21, 2012 incident at work. He advised that she was totally disabled from September 22, 2012 to January 18, 2013.

In a January 15, 2014 report, Dr. Becker noted appellant's continuing cervical symptoms and provided findings on physical and neurological examination. He reviewed a September 18, 2013 electrodiagnostic study which demonstrated reproducible active denervation mostly in the Form C6-7 distribution. Based on his review of EMG/NCV studies of appellant's bilateral upper extremities performed on the same day as his examination, Dr. Becker advised that a needle on EMG testing was refused and no NCV evidence of generalized peripheral neuropathy, plexopathy, or entrapments. He diagnosed appellant as having a possible bladder dysfunction. Dr. Becker stated that her electrodiagnostic studies continued to demonstrate normal NCV's of the upper extremities and no evidence of generalized peripheral neuropathy or peripheral nerve entrapments. He noted that one muscle was obtained which appeared to have some increased insertional activity, although the study was not completed.

In a June 3, 2014 decision, an OWCP hearing representative affirmed the January 8, 2014 decision. He found that the medical evidence submitted was insufficient to outweigh the weight accorded to Dr. Antosh's opinion that appellant was not totally disabled for any period due to her November 5, 2010 work injury.

LEGAL PRECEDENT

With respect to a claimed period of disability, an employee has the burden of establishing that any disability or specific condition for which compensation is claimed is causally related to the employment injury.[6] The term disability is defined as the incapacity because of an employment injury to earn the wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity.[7]

Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the

[6] *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

[7] 20 C.F.R. § 10.5(f); *see e.g., Cheryl L. Decavitch*, 50 ECAB 397 (1999) (where appellant had an injury but no loss of wage-earning capacity).

reliable, probative, and substantial medical evidence.[8] The medical evidence required to establish a period of employment-related disability is rationalized medical evidence.[9] Rationalized medical evidence is medical evidence based on a complete factual and medical background of the claimant, of reasonable medical certainty, with an opinion supported by medical rationale.[10] The Board, however, will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed.[11] To do so, would essentially allow an employee to self-certify their disability and entitlement to compensation.[12]

ANALYSIS

OWCP accepted that appellant sustained right shoulder subacromial bursitis and neck sprain while in the performance of duty on November 5, 2010. Appellant claimed compensation for disability from November 5, 2010 to May 20, 2013. She has the burden of establishing by the weight of the substantial, reliable, and probative evidence, a causal relationship between her claimed disability for that period and the accepted conditions.[13] The Board finds that appellant did not submit sufficient medical evidence to establish employment-related disability for the period claimed due to her accepted injuries.[14]

The Board finds that the opinion of Dr. Antosh, an OWCP referral physician, represents the weight of the medical evidence on whether appellant was disabled commencing November 5, 2010 through May 20, 2013 due to the accepted work injuries. Dr. Antosh submitted reports dated December 28, March 27, and June 10, 2013. He initially opined that appellant's neck and bilateral shoulder strain appeared to have been caused by the November 5, 2010 employment injury and that she had no preexisting condition. Dr. Antosh noted that she had a low demand position and opined that there was no objective reason why she could not perform sedentary desk work eight hours a day with restrictions. Upon being asked to further explain his opinion, he described, on March 27, 2013, how the November 5, 2010 employment injury aggravated appellant's current and underlying neck and right shoulder conditions. Dr. Antosh stated that review of medical records and objective findings did not identify a material change in her underlying conditions. He was again asked to further explain his opinion and advised, on June 10, 2013, that appellant had chronic pain residuals of her underlying and accepted right shoulder and neck conditions based on his review of medical records and his December 28, 2012 examination findings. Dr. Antosh, however, stated that her conditions would resolve following six months of conservative treatment. He reviewed appellant's job description and opined that

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[8] *See Fereidoon Kharabi*, 52 ECAB 291 (2001).

[9] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[10] *Leslie C. Moore*, 52 ECAB 132 (2000).

[11] *Sandra D. Pruitt*, 57 ECAB 126 (2005).

[12] *See William A. Archer*, 55 ECAB 674 (2004); *supra* note 9.

[13] *See Amelia S. Jefferson*, 57 ECAB 183 (2005).

[14] *Alfredo Rodriguez*, 47 ECAB 437 (1996).

she could perform her sedentary/low demand work duties and that there was no period of disability precluding her from performing these duties. Dr. Antosh's opinion, which is based on a complete and accurate medical background and supported by rationale, constitutes the weight of the evidence and establishes that her disability from November 5, 2010 to May 20, 2013 was not due to the accepted employment injuries.

All remaining evidence is insufficient to establish that appellant was totally disabled from work during the claimed period due to the accepted right shoulder and neck injuries. In several reports, Dr. Shade found that appellant had cervical, bilateral shoulder and wrist, lumbar, and emotional conditions, chronic pain, and was temporarily totally disabled due to the November 5, 2010 employment injuries.[15] He stated that she required permanent work restrictions. Appellant's cervical, bilateral shoulder and wrist, lumbar, and emotional conditions, and chronic pain conditions were not accepted as work related by OWCP. For conditions not accepted by OWCP as being employment related, it is the employee's burden to provide rationalized medical evidence sufficient to establish causal relation.[16]

Appellant relies upon the medical opinions of Dr. Shade in support of her claim. The Board finds three primary deficiencies in Dr. Shade's reports. Dr. Shade did not explain how hitting appellant's shoulder and back on the corner of a file cabinet caused her conditions and resultant disability. Further, the Board has long held that pain is a symptom, not a compensable medical diagnosis.[17] Dr. Shade's remaining reports and notes did not provide any opinion addressing whether appellant was totally disabled for work from November 5, 2010 to May 20, 2013 due to the accepted employment injuries. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.[18] For the stated reasons, the Board finds that Dr. Shade's reports are insufficient to establish appellant's claim.

Appellant also relies upon the medical opinion of Dr. Moore, whose reports and notes found that she had major depressive episode and chronic pain syndrome, and that she was disabled for work from September 21, 2012 to April 1, 2013 due to the accepted employment injuries. As stated, OWCP has not accepted her claim for an emotional or pain condition as a result of the November 5, 2010 work injury and there is no reasoned medical evidence to support such a conclusion.[19] Moreover, Dr. Moore did not provide any rationale explaining how the accepted right shoulder and cervical injuries caused appellant's disability. The Board has held

[15] The Board notes that Dr. Franklin, a chiropractor, who cosigned the August 28, 2013 report with Dr. Shade, is not a physician as defined under FECA as she did not diagnose subluxation by x-ray. 5 U.S.C. § 8102(2), 20 C.F.R. § 10.311.

[16] *G.A.*, Docket No. 09-2153 (issued June 10, 2010); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Alice J. Tysinger*, 51 ECAB 638 (2000).

[17] *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

[18] *K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, *supra* note 16; *Michael E. Smith*, 50 ECAB 313 (1999).

[19] *See* cases cited, *supra* note 17.

that a medical opinion not supported by medical rationale is of little probative value.[20] The Board finds that Dr. Moore's reports are insufficient to establish appellant's claim.

Appellant also contends the opinions of Dr. Benson are supportive. Dr. Benson's August 7, 2012 report found that appellant sustained right shoulder rotator cuff tear, cervical intervertebral disc disorders, bilateral shoulder radiculopathy, and brachial neuritis of the right wrist and hand due to her cervical intervertebral disc disorders as a result of the November 5, 2010 work injuries. He described how hitting her right shoulder on a sharp corner of a partially opened file cabinet caused her conditions. Dr. Benson indicated that, when appellant rotated to her right and struck her shoulder, her head and neck continued to turn, which he advised resulted in a cervical sprain or strain. He stated that the inertia forces caused this accident and her neck sprain or strain which exceeded the positional forces in the neck and resulted in displacement of a disc. Dr. Benson related that the disc currently pushed on a nerve going down the neck and caused appellant's brachial symptoms which went down into her wrist. Since pressure was placed on the nerve, appellant developed symptoms on both sides and neck. Although Dr. Benson opined that appellant's conditions were causally related to the accepted employment incident, his opinion is not sufficiently rationalized as it does not clearly explain the mechanism of injury of how the November 5, 2010 employment incident caused appellant's diagnosed conditions and resulting disability for the period claimed. OWCP has not accepted any other conditions and, thus, appellant bears the burden of proof to establish that these conditions are employment related.[21] Moreover, Dr. Benson did not explain why either of appellant's accepted injuries, right shoulder subacromial bursitis and neck sprain, would result in total disability from November 5, 2010 to May 20, 2013. His remaining reports are also insufficient to establish appellant's claim. Dr. Benson attributed her left shoulder, wrist, and hand conditions and total disability from September 22, 2012 to January 18, 2013 to a September 21, 2012 work injury. This evidence is not relevant to the issue in this case, namely, whether appellant was totally disabled for work from November 5, 2010 to May 20, 2013 due to the accepted November 5, 2010 employment injuries. Further, the Board notes that appellant's claim for the September 21, 2012 injury was denied by OWCP and the denial was affirmed by the Board on September 11, 2014.[22]

Dr. Becker's September 18, 2013 and January 15, 2014 diagnostic test results and report did not provide an opinion stating that appellant's diagnosed cervical radiculopathy and any resultant total disability during the claimed period were causally related to the November 5, 2010 work injuries.[23]

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[20] *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

[21] *See* cases cited, *supra* note 17.

[22] Docket No. 14-655 (issued September 11, 2014).

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

Similarly, the September 10, 2013 hospital records failed to provide a rationalized medical opinion to establish that appellant's emotional conditions and any resultant total disability during the claimed period were causally related to the accepted employment injuries.[24]

The Board finds that Dr. Antosh's opinion that appellant was not totally disabled for work during any period represents the weight of the medical evidence and the additional medical evidence submitted is insufficient to create a conflict in opinion regarding whether she had any total disability from November 5, 2010 to May 20, 2013 related to the accepted November 5, 2010 injuries. Therefore, appellant has not met her burden of proof.

On appeal appellant contended that her accepted medical conditions should be upgraded, based on medical evidence dating back to her first examination with an attending physician. As discussed above, she did not submit sufficiently rationalized medical evidence to establish that she sustained additional medical conditions that were caused, aggravated, or a consequence of the accepted November 5, 2010 injuries.

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 wage-loss compensation for the period November 5, 2010 to May 20, 2013.

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[24] *Id.*

ORDER

IT IS HEREBY ORDERED THAT the June 3, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 18, 2015
Washington, DC

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

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board