



left ankle derangement, deltoid ligament partial tear, anterior talofibular (ATF) ligament partial tear, calcaneofibular (CFL) partial tear, and nondisplaced left ankle fracture; and (2) whether appellant met her burden of proof to establish that she was disabled from work for the period April 10 to August 7, 2015 as a result of the accepted February 23, 2015 employment injury.

### **FACTUAL HISTORY**

On February 26, 2015 appellant, then a 41-year-old city carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 23, 2015 she twisted her ankle while descending stairs at work. She stopped work on February 24, 2015 and returned on February 26, 2015.

Appellant was initially treated in the emergency room on February 24, 2015 by Dr. Attia Hussain, an osteopathic physician specializing in emergency medicine. Dr. Hussain described that appellant complained of foot pain after rolling her ankle when she fell down some steps the previous day at work. She reviewed appellant's history and provided findings on physical examination. Dr. Hussain diagnosed left ankle sprain and excused appellant from work for one day.

In a February 24, 2015 diagnostic imaging report, Dr. Michael Tartell, a Board-certified diagnostic radiologist, noted hypertrophic changes involving the medial malleolus and calcaneal spur. He reported no acute fracture or dislocation.

Appellant began to receive treatment from Dr. Joseph Gregorace, Board-certified in physical medicine and rehabilitation. In a March 2, 2015 report, Dr. Gregorace related her complaints of medial left ankle pain following a February 23, 2015 work-related accident. He noted that appellant twisted her ankle while walking down the stairs. Dr. Gregorace reviewed her history and conducted an examination. He observed tenderness along the medial aspect of appellant's left ankle. Tinel's test and anterior drawer test were negative. Dr. Gregorace provided range of motion findings. He diagnosed left ankle sprain and advised that appellant not return to work. Dr. Gregorace opined that "if history is correct then there is a causal relationship between the left ankle injury and the work-related accident from February 23, 2015."

By letter dated March 6, 2015, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It requested additional factual evidence to demonstrate that the February 23, 2015 incident occurred as alleged and medical evidence to establish that she sustained a diagnosed medical condition as a result of the alleged employment incident. Appellant was afforded 30 days to submit the requested evidence.

Dr. Gregorace continued to treat appellant. In reports dated March 16 to April 14, 2015, he related that she continued to complain of persistent medial left ankle pain. Upon examination, Dr. Gregorace found continued tenderness along the medial aspect of appellant's left ankle. In a March 31, 2015 electromyography (EMG) and nerve conduction velocity (NCV) examination report, he reported findings consistent with left ankle medial plantar neuropathy and left lower peripheral nerve injury. In his April 14, 2015 report Dr. Gregorace diagnosed left ankle derangement with deltoid ligament partial tear, ATF ligament partial tear, and CFL partial tear, left posterior tibial neuropathy, and nondisplaced left ankle fracture. He advised that appellant was totally disabled.

Appellant underwent a magnetic resonance imaging (MRI) scan of the left ankle by Dr. Lisa A. Corrente, a Board-certified diagnostic radiologist. In a March 23, 2015 scan report, she observed a high-grade partial-thickness superficial deltoid ligament tear, several acute avulsion fractures fragments at medial malleolus, nondisplaced acute medial malleolar fracture extending into the distal tibia, partial-thickness ATF and CFL ligament tears, moderate tibiotalar joint effusion, plantar calcaneal spur, pes planus deformity, and enthesopathy.

OWCP initially denied appellant's claim in a decision dated April 15, 2015 because the factual evidence failed to establish that the February 23, 2015 incident occurred as alleged. It also determined that the medical evidence had not demonstrated a diagnosed condition as a result of the employment incident.

On June 16, 2015 OWCP received appellant's request for reconsideration.

OWCP accepted appellant's claim for left ankle sprain in a decision dated July 16, 2015. In a separate decision, it denied her claim for the medical conditions of left tarsal tunnel syndrome, posterior tibial neuropathy, left ankle derangement, deltoid ligament partial tear, ATF ligament partial tear, CFL partial tear, and nondisplaced left ankle fracture. OWCP found that the medical evidence of record failed to establish how the accepted February 23, 2015 employment injury directly caused or contributed to these medical conditions. It determined that the medical reports of Dr. Gregorace only provided a generalized opinion on causal relationship and did not provide sound medical rationale explaining how the employment incident caused or aggravated these additional medical conditions.

Appellant continued to receive medical treatment from Dr. Gregorace. In a July 9, 2015 report, Dr. Gregorace related her continued complaints of left ankle pain. Upon examination, he observed tenderness along the medial and lateral aspect of the left ankle and painful active range of motion. Tinel's test was positive. Dr. Gregorace diagnosed left tarsal tunnel syndrome, posterior tibial neuropathy, left ankle derangement, deltoid ligament partial tear, ATF ligament partial tear, CFL partial tear, and nondisplaced left ankle fracture. He advised that appellant was totally disabled. Dr. Gregorace recommended that she continue to wear the ankle air cast and boot and continue with her home exercise program.

On August 17, 2015 appellant filed a claim for wage-loss compensation (Form CA-7) alleging that she was unable to work for the period April 10 to August 7, 2015 as a result of her accepted injury. On the back of the claim form, the employing establishment indicated that she stopped work on February 24, 2015 and received continuation of pay (COP) until April 9, 2015.

In an August 18, 2015 report, Dr. Steven M. Yager, a podiatrist, related appellant's complaints of pain into her left foot and ankle after being involved in a work injury on February 23, 2015. He noted that Dr. Gregorace was currently treating her, but she continued to experience pain in her left ankle and felt it "lock" when she walked. Dr. Yager reviewed appellant's history and conducted an examination of her left foot and ankle. He observed significant positive Tinel's sign with percussion to the tibial and posterior tibial nerve and explained that this was usually indicative of a lower lumbar radicular pain. Dr. Yager reported that range of motion of the left ankle was severely guarded and limited. He also noted that appellant experienced tremendous pain with attempted anterior drawer sign. Dr. Yager related

that an MRI scan showed a high-grade tear of the deltoid ligament, partial tear of the ATF ligament and CFL ligament, and nondisplaced fractures of the medial malleolus. He diagnosed left internal ankle derangement and recommended lower lumbar evaluation of appellant.

Dr. Gregorace provided a duty status report (Form CA-17) and attending physician's report (Form CA-20) dated August 25, 2015. He indicated that appellant worked as a city carrier assistant and had sustained a left ankle injury. The provider diagnosed ligament tears, left post tibial neuropathy, and left tarsal tunnel syndrome. He authorized appellant to return to work with restrictions. Appellant also resubmitted Dr. Gregorace's July 9, 2015 report.

By letter dated August 28, 2015, OWCP advised appellant that the evidence was insufficient to establish her wage-loss compensation claim. It requested that she submit medical evidence to support continuing disability due to the accepted left ankle sprain condition. Appellant was afforded 30 days to submit the requested information.

In a decision dated October 6, 2015, OWCP denied appellant's claim for wage-loss compensation finding that the medical evidence failed to establish that she was unable to work during the period April 10 to August 7, 2015 as a result of her accepted left ankle sprain. It noted that the medical reports by Dr. Yager and Dr. Gregorace provided diagnoses of left ankle internal derangement, ATF ligament partial tear, CFL ligament partial tear, left tarsal tunnel syndrome, left ankle fracture, and left ankle derangement, which were not accepted conditions under appellant's claim. OWCP found that the medical evidence did not demonstrate that appellant's inability to work from April 10 through August 7, 2015 was a result of her work-related medical condition.

In a report dated October 8, 2015, Dr. Gregorace explained that the etiology of appellant's left ankle derangement including ligament tears, as well as traction nerve injury to the left posterior tibial nerve (tarsal tunnel syndrome), was the twisting mechanism of her injury. He related that she twisted her left ankle when going down the stairs. Dr. Gregorace opined: "this mechanism of injury is the etiology of this patient's left ankle derangement inclusive of ligament tears, peripheral neuropathy (posterior tibial neuropathy) and fracture of the ankle." He reported that appellant was totally disabled "due to the ambulation dysfunction secondary to the left ankle derangement sustained as a result of the accident from February 23, 2015" beginning February 23, 2015 until the present.

Dr. Gregorace continued to treat appellant. In reports dated October 13, 2015 to January 14, 2016, he related her complaints of left ankle pain along the medial and lateral aspects with tingling. Upon examination of appellant's left ankle, Dr. Gregorace observed tenderness along the left ankle along the medial and lateral aspects. He noted that Tinel's test was positive at the left tarsal tunnel. Dr. Gregorace reported range of motion findings. He diagnosed left ankle derangement with a partial tear of the ATF ligament and partial tear of the deltoid CFL ligament with left tarsal tunnel syndrome. In a work capacity evaluation form, Dr. Gregorace related that appellant was totally disabled and was not able to work. He explained that appellant sustained three torn ligaments and a nerve injury to her left ankle.

In a November 3, 2015 follow-up report, Dr. Yager related appellant's complaints of continued pain in the left foot and ankle. He noted a date of injury of February 23, 2015 and

diagnosis of left ankle sprain and internal derangement. Dr. Yager checked a box marked “yes” that the employment incident was the competent medical cause of her injury.

On February 12, 2016 OWCP received appellant’s request, through counsel, for reconsideration. Counsel noted that he was submitting an October 6, 2015 medical note from Dr. Gregorace, which had not previously been submitted. No report of that date appears in the record.

On April 19, 2016 appellant, through counsel, requested that appellant’s claim be expanded to include left ankle derangement with partial tear of ATF ligament, partial tear of the deltoid ligament, and partial tear of the CF ligament with left tarsal tunnel syndrome.

In a decision dated May 12, 2016, OWCP denied modification of the July 16 and October 5, 2015 decisions. It found that the new medical evidence failed to contain a complete explanation of how the accepted February 23, 2015 employment injury caused or contributed to the diagnosed conditions of left tarsal tunnel syndrome, posterior tibial neuropathy, left ankle derangement, deltoid ligament partial tear, ATF ligament partial tear, CFL partial tear, or left ankle fracture. OWCP further determined that, because the medical evidence attributed appellant’s inability to work to these additional conditions, and not her accepted left ankle sprain, she had failed to establish her claim for wage-loss compensation for the period April 10 to August 7, 2015. It explained that she had not provided well-rationalized medical evidence to establish that these additional conditions or disability were causally related to the February 23, 2015 employment injury.

### **LEGAL PRECEDENT -- ISSUE 1**

Where an employee claims that, a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>3</sup> To establish a causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background supporting such a causal relationship.<sup>4</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>5</sup> The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.<sup>6</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or

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<sup>3</sup> *Jaja K. Asaramo*, 55 ECAB 200 (2004).

<sup>4</sup> *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

<sup>5</sup> *D.E.*, 58 ECAB 448 (2007); *Mary J. Summers*, 55 ECAB 730 (2004).

<sup>6</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 465 (2005).

condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>7</sup>

### **ANALYSIS -- ISSUE 1**

On February 26, 2015 appellant filed a traumatic injury claim alleging that on February 23, 2015 she sustained a left ankle injury in the performance of duty. By decision dated July 16, 2015, OWCP accepted her claim for left ankle sprain. In a separate decision, it also denied appellant's claim for the conditions of left tarsal tunnel syndrome, posterior tibial neuropathy, left ankle derangement, deltoid ligament partial tear, ATF ligament partial tear, CFL partial tear, and nondisplaced left ankle fracture because the medical evidence of record failed to establish that the February 23, 2015 employment incident caused or contributed to these additional medical conditions. The Board finds that she has not met her burden of proof to establish that these claimed conditions were causally related to the February 23, 2015 employment injury.

Appellant was initially treated in the emergency room by Dr. Hussain. In hospital records dated February 24, 2015, she noted that appellant rolled her ankle when she fell down some steps at work yesterday. Dr. Hussain provided examination findings and diagnosed left ankle sprain. The Board notes that the only medical diagnosis provided was of left ankle sprain. Accordingly, the hospital records fail to establish that appellant sustained additional medical conditions as a result of the accepted February 23, 2015 employment injury. Similarly, the February 24, 2015 diagnostic report by Dr. Tartell also fails to establish any additional medical conditions as he did not provide any additional medical diagnosis other than left ankle sprain.

Dr. Gregorace also treated appellant and provided various reports dated March 2, 2015 to January 14, 2016. He described that on February 23, 2015 she was involved in a work-related accident when she twisted her left ankle while walking down the stairs. Upon examination, Dr. Gregorace observed continued tenderness along the medial aspect of appellant's left ankle and positive Tinel's test. In the initial March 2, 2015 evaluation, he diagnosed left ankle sprain. On March 31, 2015 Dr. Gregorace conducted an EMG/NCV evaluation and reported findings consistent with left ankle medial plantar neuropathy and left lower peripheral nerve injury. In an April 14, 2015 report, he diagnosed left ankle derangement with deltoid ligament partial tear, ATF ligament partial tear, and CFL partial tear; left posterior tibial neuropathy; and nondisplaced left ankle fracture. Dr. Gregorace later opined in an October 8, 2015 report that the etiology of appellant's left ankle derangement, including ligament tears and tarsal tunnel syndrome, was the twisting mechanism of her injury when she twisted her left ankle when going down the stairs. He described that "this mechanism of injury is the etiology of this patient's ankle derangement inclusive of ligament tears, peripheral neuropathy (posterior tibial neuropathy) and fracture of the ankle."

Although Dr. Gregorace reports contain an accurate description of the February 23, 2015 employment injury and an affirmative opinion on the causal relationship, they do not contain sufficient explanation, based on medical rationale, of how the twisting injury caused or

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<sup>7</sup> V.W., 58 ECAB 428 (2007); *Ernest St. Pierre*, 51 ECAB 623 (2000).

contributed to her additional medical conditions. He did not explain how twisting an ankle while going down the stairs on February 23, 2015 caused or contributed to additional medical conditions, other than the accepted left ankle sprain condition.<sup>8</sup> Dr. Gregorace did not describe the process by which twisting an ankle would have caused or aggravated these additional left ankle conditions.<sup>9</sup> The Board notes that the need for rationalized medical explanation is important in this case since he did not diagnose the additional left ankle conditions until April 14, 2015, almost two months after the February 23, 2015 injury.<sup>10</sup> Moreover, in appellant's initial examinations by Dr. Hussain and Dr. Gregorace she was diagnosed with only a left ankle sprain. The contemporaneous medical evidence did not provide findings of additional diagnoses.<sup>11</sup> For these reasons, the Board finds that Dr. Gregorace's reports are of diminished probative value to establish that appellant sustained additional diagnoses of her left ankle as a result of the accepted February 23, 2015 employment injury.

Appellant was also treated by Dr. Yager. In reports dated August 18 and November 3, 2015, Dr. Yager noted that she was involved in a work injury on February 23, 2015. He reviewed appellant's history and related that an MRI scan showed various ligament tears and nondisplaced fractures. Dr. Yager conducted an examination and diagnosed left internal ankle derangement. He, however, did not provide any rationalized opinion regarding causal relationship nor did he opine that appellant's left ankle derangement was causally related to the described February 23, 2015 employment injury. In his November 3, 2015 report, Dr. Yager indicated by checking a box marked "yes" that her employment injury was the competent cause of her medical conditions. However, the Board has held that a report containing an affirmative checkmark, without supporting rationale, is of limited probative value, and insufficient to establish the claim.<sup>12</sup>

Likewise, Dr. Corrente's March 23, 2015 MRI scan report is insufficient to establish any additional medical conditions as she did not provide an opinion on the cause of appellant's left ankle conditions. The Board has found 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.<sup>13</sup>

On appeal, counsel asserts that the decision was contrary to fact and law. Appellant, however, has not submitted a rationalized medical report showing that she sustained work-related conditions on February 23, 2015 other than the already accepted left ankle sprain condition. The mere fact that a condition manifests itself or is worsened during an employment period does not raise an inference of causal relationship between the two. Such a relationship must be shown by rationalized medical evidence of a causal relation based upon a specific and

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<sup>8</sup> See *B.T.*, Docket No. 13-0138 (issued March 20, 2013).

<sup>9</sup> See *Y.M.*, Docket No. 15-1196 (issued August 25, 2015).

<sup>10</sup> See *M.E.*, Docket No. 14-1064 (issued September 29, 2014).

<sup>11</sup> See *E.C.*, Docket No. 08-0259 (issued May 7, 2008).

<sup>12</sup> See *T.C.*, Docket No. 16-0586 (issued August 9, 2016).

<sup>13</sup> *R.E.*, Docket No. 10-0679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

accurate history of employment conditions which are alleged to have caused or exacerbated a disabling condition.<sup>14</sup> The Board finds that appellant has submitted insufficient medical evidence to establish additional work-related left ankle conditions causally related to the accepted February 23, 2015 employment injury.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **LEGAL PRECEDENT -- ISSUE 2**

An employee seeking benefits under FECA has the burden of proof to establish that any disability for which compensation is claimed is causally related to the employment injury.<sup>15</sup> 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 reliable, probative, and substantial medical evidence.<sup>16</sup> Findings on examination are generally needed to support a physician's opinion that an employee is disabled for work.<sup>17</sup> The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.<sup>18</sup>

To establish a causal relationship between the disability claimed and the employment injury, an employee must submit rationalized medical evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>19</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>20</sup> The opinion of the physician must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship.<sup>21</sup>

### **ANALYSIS -- ISSUE 2**

OWCP accepted that appellant sustained a left ankle sprain as a result of a February 23, 2015 employment incident. Appellant stopped work and received COP until April 9, 2015. On August 17, 2015 she filed a claim for wage-loss compensation for the period April 10 to August 7, 2015. OWCP denied appellant's claim because of insufficient medical evidence to

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<sup>14</sup> *Patricia J. Bolleter*, 40 ECAB 373 (1988).

<sup>15</sup> *Kathryn Haggerty*, 45 ECAB 383 (1994); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>16</sup> *Amelia S. Jefferson*, 57 ECAB 183 (2005); *William A. Archer*, 55 ECAB 674 (2004).

<sup>17</sup> *Dean E. Pierce*, 40 ECAB 1249 (1989).

<sup>18</sup> *Amelia S. Jefferson*, *supra* note 16.

<sup>19</sup> *Kathryn E. DeMarsh*, 56 ECAB 677 (2005).

<sup>20</sup> *Elizabeth Stanislaw*, 49 ECAB 540 (1998).

<sup>21</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

establish that she was unable to work during the claimed period as a result of the February 23, 2015 employment injury. The Board finds that she has not met her burden of proof.

The medical evidence of record which addressed the claimed period of disability included various medical reports by Dr. Gregorace. In reports dated April 14 to August 25, 2015, he noted appellant's continued complaints of persistent medial left ankle pain due to a February 23, 2015 work-related accident. Dr. Gregorace reviewed her history and provided findings on examination. He diagnosed left ankle derangement with deltoid ligament partial tear, ATF ligament partial tear, and CFL partial tear, left posterior tibial neuropathy, and nondisplaced left ankle fracture. In various reports, Dr. Gregorace noted that appellant was totally disabled. The Board notes that he provided a general opinion that she was unable to work. Dr. Gregorace did not, however, discuss any objective findings to support appellant's inability to work, nor did he explain why she was unable to work as a result of her accepted left ankle sprain injury.<sup>22</sup> Because he did not provide any medical rationale for his conclusion that she was unable to work due to her February 23, 2015 employment injury, his reports are of diminished probative value and are insufficient to establish her disability claim.<sup>23</sup>

In an October 8, 2015 narrative report, Dr. Gregorace further opined that appellant was totally disabled beginning February 23, 2015 until the present due to the "ambulation dysfunction secondary to the left ankle derangement sustained as a result of the accident from February 23, 2015." He, however, attributed her inability to work to left ankle derangement, which is not an accepted condition by OWCP. As appellant has not established that she sustained this additional condition as a result of the accepted February 23, 2015 employment injury she has not met her burden of proof to establish her claim for wage-loss compensation.<sup>24</sup>

Appellant was also treated by Dr. Yager. In reports dated August 18 and November 3, 2015, he noted her complaints of left foot and ankle pain and reviewed her treatment with Dr. Gregorace. Dr. Yager conducted an examination and diagnosed left ankle sprain and internal ankle derangement. He did not, however, offer an opinion on appellant's inability to work. The Board has found that medical evidence which does not offer any opinion regarding the cause of disability is of limited probative value on that issue.<sup>25</sup> Because Dr. Yager failed to address the issue of disability for the period April 10 to August 7, 2015, his reports are insufficient to establish appellant's disability claim.

Other medical reports submitted by appellant, including diagnostic reports, are of limited probative value as they do not address whether her left ankle sprain injury caused disability for the period April 10 to August 7, 2015.

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<sup>22</sup> See *M.M.*, Docket No. 16-0541 (issued April 27, 2016).

<sup>23</sup> *S.B.*, Docket No. 13-1162 (issued December 12, 2013).

<sup>24</sup> See *Jaja K. Asaramo*, 55 ECAB 200 (2004) (the Board found that where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury).

<sup>25</sup> *J.H.*, Docket No. 15-1877 (issued May 3, 2016); *Michael E. Smith*, 50 ECAB 313 (1999).

On appeal, counsel alleges that OWCP's decision was contrary to fact and law and that the medical evidence was not properly considered. The Board has reviewed the medical evidence and has found, as previously discussed above, that appellant has submitted insufficient medical evidence to establish disability for the period April 10 to August 7, 2015 as a result of her accepted February 23, 2015 employment injury.

Appellant may submit new evidence or argument as part of 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. § 10.606 through §10.607.

### **CONCLUSION**

The Board finds that appellant has not established that her claim should be expanded to include left tarsal tunnel syndrome, posterior tibial neuropathy, left ankle derangement, deltoid ligament partial tear, ATF ligament partial tear, CFL partial tear, and nondisplaced left ankle fracture. The Board further finds that she has not met her burden of proof to establish that she was disabled from work for the period April 10 to August 7, 2015 as a result of the February 23, 2015 employment injury.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the May 12, 2016 merit decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 13, 2017  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board