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

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| **S.S., Appellant** | ) | |
| **and** | ) | **Docket No. 18-0081** |
| | ) | **Issued: August 22, 2018** |
| **DEPARTMENT OF VETERANS AFFAIRS, VETERANS ADMINISTRATION MEDICAL CENTER, Iron Mountain, MI, Employer** | ) | |

*Appearances:*
*Alan J. Shapiro, Esq.,* for the appellant[1]
*Office of Solicitor*, for the Director

*Case Submitted on the Record*

## DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

### ***JURISDICTION***

On October 14, 2017 appellant, through counsel, filed a timely appeal from an August 3, 2017 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.

[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.*

## ***ISSUE***

The issue is whether appellant has met his burden of proof to establish the expansion of the acceptance of his claim to include additional diagnosed conditions causally related to the October 19, 2015 accepted employment injury.

## ***FACTUAL HISTORY***

On October 21, 2015 appellant, then a 52-year-old motor vehicle operator, filed a traumatic injury claim (Form CA-1) alleging that, on October 19, 2015, he was assaulted by a coworker at work and sustained neck, back, head, left knee, and chest injuries. He stopped work on the date of injury. Appellant did not submit any additional evidence.

OWCP, by development letter dated November 4, 2015, notified appellant of the deficiencies of his claim and afforded him 30 days to submit a response to a form questionnaire in order to substantiate the factual elements of his claim. It also advised him that he should submit a medical report from his attending physician including a diagnosis, history of the injury, examination findings, and a rationalized opinion explaining how the reported work incident caused or aggravated his medical conditions. By separate letter of that same date, OWCP requested additional information from the employing establishment regarding the alleged October 19, 2015 employment incident.

OWCP received a series of diagnostic and laboratory blood test results, an emergency medical service radio log, discharge instructions, and medical reports from the Dickinson County Healthcare System dated October 19 and November 30, 2015. According to the reports, appellant was received by ambulance on October 19, 2015. He had been physically assaulted by a coworker who punched him on the right side of the head, threw him into a wall and onto the ground, and kicked him multiple times while he was on the ground. Appellant presented with chief complaints of neck, back, knee, and elbow pain. An examining physician diagnosed acute neck pain associated with cervical strain with no neurological deficit, stable T4 wedge compression fracture with no neurological deficit, multiple superficial abrasions to the scalp, forehead, left elbow, and left knee, and minor closed head injury with no loss of consciousness. Computerized tomography (CT) scans of the head, cervical spine, and thoracic spine and x-rays of the left knee and left elbow revealed normal findings with the exception of a decreased cross-sectional area of the nasopharyngeal airway that could predispose obstructive sleep apnea and mild acute superior endplate compression fracture at T4.

In a November 11, 2015 report, Dr. Louis A. Ostola, an attending physiatrist, related a history that on October 19, 2015 appellant was assaulted by a coworker while working at the employing establishment. He provided a review of systems and discussed findings on physical examination. Dr. Ostola assessed traumatic brain injury secondary to a personal assault and headaches, poor memory, neck pain, and dizziness secondary to the diagnosed brain injury.

On November 28, 2015 appellant responded to OWCP's factual development questionnaire. He related that he was physically assaulted by coworker, M.R., on October 19, 2015. Appellant indicated that, while he was taking a patient home, the patient complained that M.R. would not let him take his new wheelchair with him to the employing establishment. After arriving at the patient's house appellant looked at the patient's wheelchair

and determined that it was new. He reported this information to his coordinator, as instructed. After returning to work and before reporting the patient's problem with M.R. to his supervisor, appellant telephoned M.R. and asked him why he did not transport the patient in his new wheelchair. M.R. explained that he told the patient that he could walk onto the bus, that a wheelchair would be provided to him upon his arrival at the employing establishment, and that a volunteer would push him in the wheelchair. Appellant responded that the patient was upset about the incident. M.R. reportedly thanked and said "goodbye" to him. Appellant then walked into the boiler plant and, as he was reporting M.R.'s actions to his supervisor, B.C. and M.R. walked in and told him to "shut up." M.R. tried to justify why he did not pick up the patient in his wheelchair. B.C. left the room. After B.C. left the room, M.R. got in appellant's face and yelled at him using profane language and called him a derogatory name. Appellant left the room and walked down a hall towards the garage where his bus was located. M.R. followed him and continued to yell at him using profane language and calling him a derogatory name. While appellant was walking toward his bus, M.R. cut in front of him and punched him on the left side of the head. Appellant fell to the ground and M.R. kicked and punched him and continued to call him a derogatory name. As he tried to get up and call for help, M.R. pulled him from behind so hard that his glasses fell off and he struck a concrete wall and something metal. Appellant twisted his neck and experienced pain in his head, back, and neck. M.R. stopped and stated that appellant "should not have pushed him." Appellant got up and stumbled back into the office where he asked B.C. to call the police and get medical help for him.

Appellant submitted a November 18, 2015 report from Carolyn Mentel, a certified speech-language pathologist, who noted examination findings, provided a diagnostic impression of moderate cognitive linguistic disorder secondary to traumatic brain injury.

Appellant also submitted a November 23, 2015 attending physician's return to work recommendations record by Dr. Ostola. Dr. Ostola provided a diagnosis of traumatic brain injury and indicated that appellant was totally incapacitated at that time.

In a November 2, 2015 progress note, Dr. Craig T. Coccia, a Board-certified neurosurgeon, reported that on October 19, 2015 appellant was assaulted by a coworker at work at the employing establishment. Appellant suffered blows to the head and back and landed on his knee. He complained about soreness, swelling, and stiffness in his left knee, discomfort in his neck, interscapular region and cognitive postconcussive changes, inability to concentrate, fogginess, difficulty with sleeping, and *etc*. Dr. Coccia also noted appellant's medical, social, and family background. He discussed his findings on physical examination and diagnostic test results. Dr. Coccia advised that appellant had postconcussive symptoms related to an assault. He also had muscular mechanical injuries and discomfort. Appellant did not have any local lesions that required intervention. Dr. Coccia believed that appellant required evaluation by a physiatrist and a traumatic brain injury program. He concluded that appellant was certainly unable to return to work until his cognition and function were assessed.

Dr. Ostola, in a November 24, 2015 narrative report and December 1, 2015 duty status report (Form CA-17), reiterated appellant's history of injury. He examined appellant and restated his prior diagnoses of traumatic brain injury secondary to a personal assault and headaches and poor memory secondary to the diagnosed brain injury. Dr. Ostola also diagnosed myofascial neck pain and a balance issue related to the traumatic brain injury. He advised appellant to resume his regular work.

Additional reports from Dickinson County Healthcare System included an October 19, 2015 report from Hilda Vivio, a registered nurse. Nurse Vivio noted appellant's history, which included migraine headache, hypertension, gastroesophageal reflux disease, and depression. She also noted various assessments, including findings on physical examination. Nurse Vivio related that appellant's condition had improved upon discharge. In a report also dated October 19, 2015, Dr. Douglas McDowell, a physician Board-certified in emergency medicine, related a history of the physical assault that occurred on that date at work. He noted that appellant sustained a blow and was reportedly pushed and kicked. Dr. McDowell also noted appellant's complaint of severe pain. Appellant reported that he did not lose consciousness, experience a seizure, or become dazed after sustaining a blow to the head. Dr. McDowell discussed physical examination findings and diagnostic test results. He provided a clinical impression of physical assault in a fight, acute neck pain associated with cervical strain with no neurological deficit, stable T4 wedge compression fracture with no neurological deficit, multiple superficial abrasions to the scalp, forehead, left elbow, and left knee, minor closed head injury, and no loss of consciousness.

On January 11, 2016 the employing establishment's administrative investigative board provided a report which contained the December 2, 2015 testimony of its police officer regarding the October 19, 2015 assault incident. The police officer related appellant's account of the incident. In addition, he testified that when appellant had telephoned M.R. about being written up for refusing to allow a veteran access onto his bus with an electric wheelchair, M.R. was off-duty at that time. The police officer reported that M.R. acknowledged that he followed appellant to the garage, but claimed that appellant pushed him. Appellant denied this assertion and claimed that M.R. hit him without provocation. M.R. also acknowledged that he initially punched appellant in the face and that he punched him a second time to get him off him. The police officer issued disorderly conduct citations to both appellant and M.R. because their actions disrupted normal activities at work.

By decision dated January 13, 2016, OWCP denied appellant's traumatic injury claim, finding that the October 19, 2017 assault did not occur within the performance of duty. It found that he was not in the performance of duty when he initiated the telephone call to threaten/advise M.R. about being written up. OWCP noted that M.R. was in an off-duty status at the time of the telephone call.

OWCP received reports and treatment notes from physical therapists at Dickinson County Healthcare System which noted a diagnosis of neck, back, and knee pain and addressed appellant's treatment from November 2, 2015 to January 25, 2016.

A January 6, 2016 report signed by Bonita Moisio, a nurse practitioner, for Dr. Ostola, provided an assessment of traumatic brain injury secondary to personal assault with ongoing headaches, short-term memory problems, myofascial neck pain with headaches, and balance problems with vestibulopathy with some leg pain complaints.

In an appeal request form received by OWCP on February 2, 2016 and a letter received on February 3, 2016 appellant, through counsel, requested a telephone hearing before an OWCP hearing representative.

Dr. Ray H. Cameron, a Board-certified otolaryngologist, reported, in a December 29, 2016 progress note, that on October 19, 2015 appellant was assaulted at the employing establishment by

a fellow employee. Appellant was struck about the head and neck area with both fists and by kicking. He also experienced head trauma when his head struck a concrete wall. Appellant was knocked unconscious. Dr. Cameron noted that since this incident appellant experienced headaches, memory loss, unsteadiness and being off-balance, and difficulty with general day-to-day activities. He also noted his medical background and discussed findings on physical examination. Dr. Cameron provided an impression of dizziness. He ruled out inner ear dysfunction. Dr. Cameron explained that a sense of being off balance or unsteady was something that could happen after having a closed head or brain injury and would certainly be consistent with these symptoms.

In a progress note also dated December 29, 2015, Jeff R. Hutchinson, an audiologist, reported appellant's bilateral ear symptoms. He provided results from an otoscopy and a tympanogram of both ears. Mr. Hutchinson explained sensorineural hearing loss to appellant and briefly discussed temporomandibular joint dysfunction with him. He advised that the auditory system was likely not involved in his dizziness or ear pain and recommended a consultation with a dentist to address appellant's ear pain.

On August 15, 2016 Julianne Kirkham, Ph.D., a clinical psychologist, reported appellant's emotional symptoms and employed psychotherapy intervention strategies. She diagnosed adjustment disorder with mixed anxiety and depressed mood that was in partial remission and postconcussional syndrome that was incompletely resolved.

Following the October 3, 2016 telephonic hearing, the employing establishment responded to appellant's hearing testimony transcript. It submitted a December 4, 2015 investigative report which described the October 19, 2015 incident as previously related by its police officer. The employing establishment also submitted a witness statement dated October 19, 2015 from M.R. regarding the October 19, 2015 incident.

By decision dated December 7, 2016, an OWCP hearing representative modified the January 13, 2016 decision in part and affirmed it in part. She determined that the evidence of record was sufficient to establish that the October 19, 2015 assault occurred while appellant was in the performance of duty. The hearing representative noted that while appellant may have instigated the altercation by calling M.R. while he was off-duty, appellant was on duty at his place of employment when he was struck by M.R. as they argued about employing establishment policies and procedures. She also found that appellant's diagnosed abrasions to the scalp, forehead, left elbow, and left knee were causally related to the accepted employment-related incident and remanded the case for OWCP to accept the claim for those medical conditions. The hearing representative also found that the medical evidence of record was insufficiently rationalized to establish that appellant's other conditions, cervical strain, T4 wedge compression fracture, and traumatic brain injury with postconcussive were causally related to the accepted work incident.

On January 19, 2017 OWCP issued a decision accepting appellant's claim for abrasions to the scalp, forehead, left elbow, and left knee.

In a November 14, 2016 progress note, Dr. Kirkham diagnosed chronic post-traumatic stress disorder.

On March 27, 2017 counsel requested reconsideration of the December 7, 2016 decision. By letter dated May 19, 2017, he submitted additional medical evidence from Dr. Ostola. In an April 24, 2017 letter, Dr. Ostola noted that he had been treating appellant since November 10, 2015 when he presented with a chief complaint of not being able to properly function. Appellant related that he was suffering from poor concentration, dizziness, nausea, headaches, poor appetite, significant short-term memory loss, and neck and back pain. He also had increased irritability and difficulty sleeping. Dr. Ostola indicated that, with the exception of poor sleep and headaches, all of these symptoms began following the accepted employment-related incident. Appellant's preexisting poor sleep and headaches were significantly intensified since the accepted work incident and went from being an occasional occurrence to a constant daily struggle to tolerate. Dr. Ostola noted appellant's medical treatment. He maintained that appellant's symptoms were indicative of sequela from a traumatic brain injury. Dr. Ostola related that an October 19, 2015 thoracic spine CT scan revealed an acute T4 compression fracture. He further related that appellant's life had been changed significantly as a result of the October 19, 2015 events. Appellant continued to develop other medical issues and was recently diagnosed with congestive heart failure that was likely due in part to decreased activity since this event. He also had been suffering from significant depression which could be a direct result from trauma or the stress of having to deal with the event and the fallout of losing his job and overall health and well-being from something that was out of his control. Dr. Ostola concluded that appellant's current multitude of medical issues resulted from his October 19, 2015 employment injury.

In a progress note dated July 10, 2017, Dr. Kirkham noted that assessment data from a June 26, 2017 evaluation were discussed and interpreted for appellant. He reported that the test results were similar to those in a previous assessment performed in early 2016. Appellant's overall reading levels were borderline as were his object naming skills and word fluency, except average for naming animals. Attention and concentration tasks revealed impairments when multiple stimuli were present. Span of auditory immediate attention was impaired, consistent with self and spouse reports. Attention in paper and pencil tasks was variable with low average to borderline search accuracy and speed in one task, and low average scores in a symbolic decoding task with no errors. Verbal learning and memory scores were generally below average to borderline for word lists. Appellant correctly recognized 10 out of 12 words in the recognition format. Visual learning and incidental recall was average. Appellant deduced six out of six sorting categories with two losses of cognitive set. Dr. Kirkham advised that, overall these test results did not look much different than his last test results and continued to suggest difficulties in a variety of cognitive areas, as well as, difficulty with behavioral control, initiation, and memory. Appellant complained that his headaches reduced his interest in doing things and contributed to his irritability, depression, and anxiety.

By decision dated August 3, 2017, OWCP denied modification of the December 7, 2016 decision. It found that Dr. Ostola's April 24, 2017 letter did not contain medical rationale explaining the causal relationship between appellant's diagnosed medical conditions and the accepted October 19, 2015 employment injury.

## ***LEGAL PRECEDENT***

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.[3] To establish 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 causal relationship.[4] Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.[5] 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.[6] Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.[7]

## ***ANALYSIS***

OWCP accepted that on October 19, 2015 appellant sustained employment-related abrasions to the scalp, forehead, left elbow, and left knee. The Board finds that he has not met his burden of proof to establish that he sustained additional conditions causally related to the accepted employment injury.

Dr. Ostola's April 24, 2017 report found that appellant had a traumatic brain injury and T4 compression fracture as a consequence of the October 19, 2015 employment injury. He noted that appellant suffered from poor concentration, dizziness, nausea, headaches, poor appetite, significant short-term memory loss, neck and back pain, increased irritability, and difficulty sleeping, which were indicative of sequela from a traumatic brain injury. Dr. Ostola related that, with the exception of poor sleep and headaches, all of these symptoms began following the accepted employment-related injuries. He indicated that appellant's preexisting poor sleep and headaches had significantly intensified since the accepted work injuries and went from being an occasional occurrence to a constant daily struggle to tolerate. Dr. Ostola further indicated that appellant continued to develop other medical issues and was recently diagnosed with congestive heart failure that was likely due in part to decreased activity since the accepted injuries. He maintained that appellant's significant depression could have directly resulted from trauma or the stress of having to deal with the event and the fallout of losing his job and overall health and well-being from something that was out of his control. While in general terms, Dr. Ostola supported a finding that appellant's traumatic brain injury and thoracic and emotional conditions were causally related to the accepted October 19, 2015 employment injury, his opinion was not sufficiently rationalized. He did not explain the mechanism of injury that is how the accepted employment injury could have caused appellant's traumatic brain injury or T4 compression fracture. Without explaining how, physiologically, the movements involved in the employment injury caused or contributed to the diagnosed condition, Dr. Ostola's opinion on causal relationship is equivocal in nature and of

[3] *Jaja K. Asaramo*, 55 ECAB 200 (2004).

[4] *M.W.*, 57 ECAB 710 (2006); *John D. Jackson*, 55 ECAB 465 (2004).

[5] *D.E.*, 58 ECAB 448 (2007); *Mary J. Summers*, 55 ECAB 730 (2004).

[6] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (2005).

[7] *V.W.*, 58 ECAB 428 (2007); *Ernest St. Pierre*, 51 ECAB 623 (2000).

limited probative value.[8] Likewise, when he saw appellant on November 11 and December 1, 2015, he failed to explain how appellant's diagnosed brain, thoracic, and cervical conditions were causally related to the accepted work injuries. The Board has found that medical evidence is of limited probative value if it contains a conclusion regarding causal relationship, but does not offer any rationalized medical explanation on the issue of causal relationship.[9]

With regard to Dr. Ostola's diagnosis of depression, the opinion of a physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment injury.[10] He did not provide the medical rationale necessary to establish that appellant's depression was a natural result of appellant's accepted employment injury.[11]

Dr. Coccia's November 2, 2015 progress note is also of limited probative on causal relationship. He found that appellant had postconcussive symptoms and muscular mechanical injuries causally related to the accepted October 19, 2015 employment injury, but provided no rationale to support his opinion.[12] Moreover, the Board notes that Dr. Coccia did not provide a firm medical diagnosis for appellant's postconcussive symptoms and muscular mechanical injury.[13]

Dr. McDowell's October 19, 2015 report noted history of the accepted employment injuries sustained by appellant on that date. He examined appellant and provided diagnostic test results. Dr. McDowell found that appellant was involved in a physical altercation which resulted in acute neck pain associated with cervical strain with no neurological deficit, stable T4 wedge compression fracture with no neurological deficit, multiple superficial abrasions to the scalp, forehead, left elbow, and left knee, minor closed head injury, and no loss of consciousness. While

[8] *See L.B.*, Docket No. 17-1600 (issued March 9, 2018).

[9] *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006).

[10] *See K.S.*, Docket No. 16-0404 (issued April 11, 2016). The Board noted that In discussing the range of compensable consequences, once the primary injury is causally connected with the employment, Larson notes that, when the question is whether compensability should be extended to a subsequent injury or aggravation related in some way to the primary injury, the rules that come into play are essentially based upon the concepts of direct and natural results and of the claimant's own conduct as an independent intervening cause. 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.

[11] *Id.*

[12] *Supra* note 9.

[13] *See Deborah L. Beatty*, 54 ECAB 340 (2003) (in the absence of a medical report providing a diagnosed condition and a reasoned opinion on causal relationship with the employment incident, appellant did not meet her burden of proof).

he accurately noted the history of injury provided by appellant, he did not offer an opinion regarding the specific causes of appellant's conditions.[14]

Similarly, in a December 29, 2016 progress note, Dr. Cameron provided a history of the October 19, 2015 employment injury, findings on physical examination, and a diagnosis of dizziness. However, he did not provide a firm medical diagnosis for appellant's dizziness or provide rationale as to how the condition was related to his accepted October 19, 2015 employment injury.[15]

The diagnostic test results and other reports from Dickinson County Healthcare System addressed appellant's thoracic condition, but failed to note a history of injury,[16] or offer a specific opinion as to whether the accepted employment injury caused or aggravated appellant's condition.[17]

In progress notes dated August 15 and November 14, 2016 and July 10, 2017, Dr. Kirkham addressed her examination findings and diagnosed adjustment disorder with mixed anxiety and depressed mood that was in partial remission and postconcussional syndrome that was incompletely resolved, and chronic post-traumatic stress disorder. However, she offered no opinion as to the causation of these conditions.[18]

The reports from Ms. Mentel, a speech-language pathologist, Nurse Vivio, a registered nurse, appellant's physical therapists, Nurse Moisio, a nurse practitioner, and Mr. Hutchinson, an audiologist, have no probative medical value. A speech pathologist, registered nurse, physical therapist, and nurse practitioner are not considered physicians as defined under FECA and, therefore these opinions are of no probative medical value.[19]

In a November 23, 2015 report, Dr. Ostola diagnosed traumatic brain injury and indicated that appellant was totally incapacitated at that time. In this form report, he neither provided a firm

[14] *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *A.D.*, 58 ECAB 149 (2006) (medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

[15] *See supra* note 13.

[16] *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history have little probative value).

[17] *See* cases cited *supra* note 14.

[18] *Id.*

[19] 5 U.S.C. § 8101(2) provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. *See P.Y.*, Docket No. 16-1324 (issued July 24, 2017) (speech pathologist); *A.M.*, Docket No. 16-1552 (issued July 5, 2017); *J.K.*, Docket No. 17-0321 (issued April 24, 2017) (registered nurse); *Jennifer L. Sharp*, 48 ECAB 209 (1996) (physical therapist); *G.A.*, Docket No. 09-2153 (issued June 10, 2010) (nurse practitioner); (audiologist); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).

medical diagnosis, nor a reason for his recommendation that appellant was totally incapacitated from work. As such, his opinion is of limited probative value.[20]

Appellant has the burden of proof to establish that his claimed conditions were causally related to the accepted employment injury through the submission of rationalized medical opinion evidence. He has not submitted evidence from a physician who, based on an accurate factual history, and supported by medical rationale, found that he had additional conditions causally related to his October 19, 2015 employment injury. Consequently, appellant has not met his burden of proof.

On appeal counsel contends that appellant did not need to rule out other causes of his condition once he presented *prima facie* evidence of causation. As found above, appellant has not submitted sufficiently rationalized medical evidence to establish that he sustained additional conditions that were caused, aggravated, or a consequence of the accepted injury.

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

## ***CONCLUSION***

The Board finds that appellant has not met his burden of proof to establish the expansion of the acceptance of his claim to include additional conditions causally related to his October 19, 2015 accepted employment injury.

[20] *See supra* note 14.

## ***ORDER***

**IT IS HEREBY ORDERED THAT** the August 3, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 22, 2018
Washington, DC

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

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

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