United States Department of Labor
Employees' Compensation Appeals Board

D.M., Appellant	)	
	)	**Docket No. 17-1411**
and	)	**Issued: June 7, 2018**
	)	
U.S. POSTAL SERVICE, POST OFFICE, Fayetteville, AR, 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:
CHRISTOPHER J. GODFREY, Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 14, 2017 appellant, through counsel, filed a timely appeal from a March 20, 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 the claim.

ISSUES

The issues are: (1) whether appellant has met his burden of proof to establish that the acceptance of his claim should be expanded to include bilateral sacroiliitis as a result of an accepted

[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.*

May 7, 2014 lumbar injury and authorized lumbar surgery; (2) whether OWCP abused its discretion in denying appellant's request for authorization of bilateral sacroiliac surgery; and (3) whether appellant met his burden of proof to establish a recurrence of disability commencing September 29, 2015 causally related to an accepted May 7, 2014 lumbar injury.

FACTUAL HISTORY

OWCP, under File No. xxxxxx600, accepted that on May 7, 2014 appellant, then a 35-year-old mail handler, stepped down from a piece of equipment and turned quickly to the left, which caused a right lumbar strain. Under File No. xxxxxx182, OWCP earlier accepted that on March 22, 2013 appellant aggravated a right-sided L4-5 disc herniation while pulling mail containers.[3] Appellant stopped work on May 7, 2014. OWCP paid wage-loss compensation for temporary total disability beginning June 23 through September 4, 2014.

Dr. Roy D. Clemens, an attending Board-certified family practitioner, diagnosed S1 tenderness with radiculopathy in a May 24, 2014 report. On May 28, 2014 he noted appellant's history of prior lumbar surgery. Dr. Clemens held appellant off work.

A July 23, 2014 magnetic resonance imaging (MRI) scan demonstrated L4-5 and L5-S1 degeneration, a grade 1 L4-5 anterolisthesis, compensatory retrolisthesis at L5-S1, a mild concavity to the right, lateral recess and neural foraminal stenosis at L5 secondary to a broad-based disc protrusion, with retrolisthesis and facet arthropathy.

In a July 24, 2014 report, Dr. James B. Blankenship, an attending Board-certified neurosurgeon, diagnosed lumbar stenosis caused by the May 7, 2014 employment injury, superimposed on a history of the March 22, 2013 employment-related lumbar injury. Dr. Robert D. Cannon, a pain management physician, noted in an August 19, 2014 report that a series of lumbar facet injections in October 2013 relieved appellant's symptoms at that time. He administered bilateral L4-5 and L5-S1 facet injections on September 24, 2014.

Appellant returned to full-time light duty in September 2014. In November 2014, appellant's physicians reduced his schedule and physical demand level to part-time sedentary work in November 2014. As of December 4, 2014, appellant worked a part-time, intermittent schedule. OWCP paid appellant wage-loss compensation for the remaining hours on the supplemental rolls.

On January 20, 2015 OWCP expanded the acceptance of appellant's claim to include displacement of a lumbar intervertebral disc without myelopathy.

Appellant underwent two authorized lumbosacral surgeries on February 17, 2015. Dr. Blankenship performed a bilateral L4-5 discectomy, combined posterolateral interbody arthrodesis at L4-5 and L5-S1, open reduction of L4-5 anterolisthesis, L4-5 pedicular fixation with interbody polyetheretherketone (PEEK) implantation, and allograft bone harvest. He then partnered with Dr. Ronald Mullis, a Board-certified general surgeon, to perform an L5-S1 osteotomy to correct a sagittal and coronal plan imbalance.

[3] OWCP combined the two files with File No. xxxxxx182 serving as the master file.

OWCP commenced compensation for total disability on the supplemental rolls commencing February 21, 2015, and on the periodic rolls commencing May 31, 2015.

In a June 1, 2015 report, Dr. Blankenship noted bilaterally positive findings on provocative sacroiliac tests. On June 11, 2015 he diagnosed postlaminectomy syndrome. Dr. Blankenship held appellant off work.[4] Dr. Blankenship opined in an August 31, 2015 report that appellant had attained maximum medical improvement. In a September 2, 2015 report, he noted marked bilateral S1 joint pain, with positive 5/5 results on all five provocative sacroiliac tests. Dr. Blankenship noted that appellant experienced significant symptom reduction after the June 30, 2015 bilateral sacroiliac injections, which confirmed the presence of sacroiliitis. He requested authorization for bilateral sacroiliac fusions.

On September 22, 2015 appellant returned to full-time modified work.[5] He claimed that on September 29, 2015, while on light duty, he reinjured his lumbar spine while reaching for a bundle of mail. Appellant stopped work on September 29, 2015. OWCP developed this claim under OWCP File No. xxxxxx517.

In an October 1, 2015 report, Dr. Blankenship opined that x-ray findings were not as reliable in diagnosing sacroiliac joint dysfunction as clinical responses to Gaenslen, thrust, distraction, compression, and flexion, abduction, and external rotation (Faber) tests. He noted that appellant had a strongly positive response to all five provocative tests, in addition to symptomatic relief with sacroiliac joint injections, which established a diagnosis of sacroiliac joint dysfunction.

In reports from October 10 to 30, 2015, Dr. Clemens related appellant's account of a new September 29, 2015 lumbar injury when he reached or twisted at work. He diagnosed bilateral low back pain and offered work restrictions. Dr. Clemens provided periodic progress reports.[6]

On November 8, 2015 OWCP obtained a second opinion report from Dr. Alice M. Martinson, a Board-certified orthopedic surgeon, to determine whether appellant sustained consequential bilateral sacroiliitis necessitating bilateral sacroiliac fusion. Dr. Martinson reviewed the medical record and a statement of accepted facts (SOAF). On examination, she observed right quadriceps weakness and atrophy. She obtained lumbar x-rays showing postsurgical changes. Dr. Martinson diagnosed status post L4-5 and L5-S1 fusion, and L4 radiculopathy. She opined that appellant did not exhibit objective signs of sacroiliitis as his Faber test was negative. Dr. Martinson found that appellant did not require bilateral sacroiliac joint fusion.

[4] Dr. Cannon administered bilateral sacroiliac injections on June 30, 2015. A July 14, 2015 functional capacity evaluation (FCE) demonstrated that appellant could perform work at a light-duty demand level.

[5] The employing establishment indicated that OWCP denied the claim under File No. xxxxxx517 on November 9, 2015. This claim is not before the Board on the present appeal.

[6] November 18, 2015 x-rays showed normal sacroiliac joints without evidence of joint ankylosis or erosion. A February 11, 2016 lumbar MRI scan demonstrated status post L4-5 and L5-S1 arthrodesis with PEEK implantation and Brigade lumbosacral fixation.

In February 26, 2016 reports, Dr. Clemens noted March 2013 and May 2014 employment-related lumbar injuries, with a reinjury on September 29, 2015. He opined that appellant's "recurrent back problems" originated with the March 2013 employment injury.

On February 29, 2016 appellant filed a notice of recurrence (Form CA-2a) claiming disability commencing September 29, 2015. He attributed the claimed recurrence to reaching forward into a wire cage to retrieve a bundle of mail. Appellant had an immediate onset of sharp lumbar pain radiating into both hips and his right leg. The employing establishment noted that appellant filled out an accident report for a September 29, 2015 traumatic incident, and that he had previously filed a traumatic injury claim (Form CA-1) which OWCP had denied.

On March 3, 2016 appellant filed claims for compensation (Form CA-7) for the period October 3, 2015 through February 19, 2016.

In a March 10, 2016 letter, OWCP requested that appellant provide additional evidence in support of his claim, including a detailed explanation of the claimed September 29, 2015 employment incident for which he had filed a new traumatic injury claim. It afforded him 30 days to submit such evidence.

Appellant responded by March 22, 2016 statement, in which he explained that on September 29, 2015 while reaching for a bundle of mail in a wire cage, he "overextended forward in a slight bent and twisted position," and experienced immediate "sharp piercing pain" into his hips and right lower extremity.

Dr. Clemens provided March 18 and 22, 2016 letters, in which he opined that the claimed September 29, 2015 employment incident was a reinjury superimposed on preexisting lumbar injuries.

OWCP found a conflict of medical opinion between Dr. Martinson, for OWCP, and Dr. Blankenship, for appellant, as to whether appellant sustained bilateral sacroiliitis related to the accepted lumbar injuries, and whether he required bilateral sacroiliac fusions. To resolve the conflict, OWCP selected Dr. Michael S. Clarke, a Board-certified orthopedic surgeon, as impartial medical examiner.

Dr. Clarke submitted a December 29, 2015 report in which he reviewed the medical record and a SOAF. On examination, Dr. Clarke observed an altered gait, right thigh atrophy, positive straight leg and cross leg tests, an equivocal Faber test, and no significant pain to palpation of the sacroiliac joints. He opined that the "exact origin of [appellant's] low back pain [was] not determined but probably is discogenic." Dr. Clarke found no "significant diagnostic findings supporting the diagnosis of sacroiliitis." He explained that there was no indication for performance of sacroiliac fusions.

By decision dated April 20, 2016, and reissued April 25, 2016, OWCP denied appellant's claim for bilateral sacroiliitis, authorization for bilateral sacroiliac fusions, and for a recurrence of disability commencing September 29, 2015. It accorded Dr. Clarke the special weight of the medical evidence regarding the lack of causal relationship between the claimed sacroiliitis and the accepted lumbar injury. OWCP further found that appellant had not sustained a recurrence of disability as he clearly described a new September 29, 2015 injury. This new employment incident

constituted an intervening cause, breaking the chain of causation from the accepted May 7, 2014 lumbar injuries.

In a May 13, 2016 letter, appellant, through counsel, requested a telephonic hearing conducted by a representative of OWCP's Branch of Hearings and Review. At the hearing, held January 25, 2017, appellant reiterated that, on September 29, 2015, he experienced the immediate onset of lumbar pain when he reached forward to retrieve mail from a wire cage. Counsel contended that this should not be considered a new injury.

Following the hearing, appellant submitted additional medical evidence. In an April 1, 2013 report, Dr. Clemens noted that appellant had lumbar pain following the March 22, 2013 employment injury. Dr. Blankenship related appellant's ongoing lumbar symptoms in reports from August 22, 2013 through September 8, 2016, exacerbated by May 7, 2014, and September 29, 2015 injuries.[7] He diagnosed lumbar stenosis, worsening low back pain with radiation into both hips, and fibromyalgia.[8]

Appellant also provided his June 30, 2016 letter in which he requested reasonable accommodations from the employing establishment. On September 14, 2016 he claimed compensation (Form CA-7) for the period October 3, 2015 to September 2, 2016.[9]

By decision dated March 20, 2017, an OWCP hearing representative affirmed OWCP's April 25, 2016 decision. The hearing representative found that Dr. Clarke provided sufficient medical rationale to establish that appellant had not sustained bilateral sacroiliitis and that the sacroiliac fusion surgeries requested by Dr. Blankenship were not necessary to cure or give relief to the accepted lumbar injuries. The hearing representative further found that appellant failed to establish that he sustained a recurrence of disability commencing September 29, 2015 as he instead alleged and described a new traumatic 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.[10]

To establish causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical

[7] A November 28, 2016 FCE demonstrated that appellant could perform work at the light physical demand level.

[8] An August 16, 2016 lumbar MRI scan showed postsurgical changes, with adjacent segment facet arthropathy, spondylosis, and multilevel facet arthropathy. A December 27, 2016 lumbar MRI scan demonstrated mild foraminal narrowing at L5-S1 and lumbosacral epidural lipomatosis.

[9] In a notice dated December 29, 2015 and finalized February 22, 2017, OWCP found a $2,677.24 overpayment of compensation as appellant received compensation for total disability on the periodic rolls from September 22 to October 17, 2015 after he returned to full-time work with no loss of wages.

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

opinion evidence supporting such a causal relationship.[11] The opinion of the 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 factors identified by the claimant.[12]

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.[13]

Section 8123(a) of FECA provides that when there is a disagreement between the physician making the examination for the United States and the physician of the employee, a third physician shall be appointed to make an examination to resolve the conflict.[14] When there are opposing medical reports of virtually equal weight and rationale, the case must be referred to an impartial medical specialist, pursuant to section 8123(a), to resolve the conflict in the medical evidence.[15] In situations where there are opposing medical reports of virtually equal weight and rationale and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.[16]

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish that the claimed sacroiliac condition was causally related to the May 7, 2014 employment injury.[17]

In support of his claim, appellant submitted September 2 and October 1 2015 medical reports from Dr. Blankenship who described the accepted March 22, 2013 and May 7, 2014 lumbar injuries and opined that appellant's responses to provocative clinical tests and sacroiliac injections confirmed bilateral sacroiliac joint dysfunction. OWCP obtained the November 8, 2015 second opinion report from Dr. Martinson who opined that appellant did not exhibit objective signs of sacroiliitis and did not require fusion surgery.

OWCP properly found that this created a conflict in the medical opinion evidence as to whether appellant sustained bilateral sacroiliitis causally related to the accepted lumbar injuries, and whether he required bilateral sacroiliac fusions. To resolve the conflict, it referred appellant

[11] *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

[12] *James Mack*, 43 ECAB 321 (1991).

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

[14] 5 U.S.C. § 8123(a); *Robert W. Blaine*, 42 ECAB 474 (1991).

[15] *Delphia Y. Jackson*, 55 ECAB 373 (2004).

[16] *Anna M. Delaney*, 53 ECAB 384 (2002).

[17] *T.K.*, Docket No. 16-1543 (issued March 13, 2017).

to Dr. Clarke who, in a December 29, 2015 report, reviewed appellant's history and noted findings that included no "significant diagnostic findings supporting the diagnosis of sacroiliitis." The Board finds that Dr. Clarke's opinion, that there was no clinical evidence that appellant had sacroiliitis, is well reasoned and based on a proper factual background such that his opinion is entitled to special weight.[18]

Thereafter, appellant did not submit any rationalized medical evidence sufficient to overcome the opinion of Dr. Clarke or to create a new medical conflict.

On appeal appellant asserts that OWCP's March 20, 2017 decision is contrary to fact and law. As noted, the impartial medical examiner, Dr. Clarke, opined that appellant did not have objective signs of sacroiliitis. As such, the Board finds that appellant has not met his burden of proof to establish additional work-related conditions causally related to the accepted May 7, 2014 employment injury.[19]

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

Section 8103(a) of FECA provides for the furnishing of services, appliances, and supplies prescribed or recommended by a qualified physician who OWCP, under authority delegated by the Secretary, considers likely to cure, give relief, reduce the degree, or the period of disability or aid in lessening the amount of monthly compensation.[20] In interpreting section 8103(a), the Board has recognized that OWCP has broad discretion in approving services provided under FECA to ensure that an employee recovers from his or her injury to the fullest extent possible in the shortest amount of time.[21]

In interpreting section 8103, the Board has recognized that OWCP has broad discretion in approving services provided under FECA. OWCP has the general objective of ensuring that an employee recovers from his or her injury to the fullest extent possible, in the shortest amount of time. It therefore has broad administrative discretion in choosing means to achieve this goal. The only limitation on OWCP's authority is that of reasonableness.[22] In order to be entitled to reimbursement for medical expenses, a claimant must establish that the expenditures were incurred for treatment of the effects of an employment-related injury by submitting rationalized medical evidence that supports such a connection and demonstrates that the treatment is necessary and

[18] *Supra* note 16.

[19] *M.S.*, Docket No. 17-0105 (issued December 7, 2017); *Patricia J. Bolleter*, 40 ECAB 373 (1988).

[20] 5 U.S.C. § 8103(a).

[21] *See Dale E. Jones*, 48 ECAB 648, 649 (1997).

[22] Dr. *Mira R. Adams*, 48 ECAB 504 (1997).

reasonable.[23] While OWCP is obligated to pay for treatment of employment-related conditions, the employee has the burden of establishing that the expenditure is incurred for treatment of the effects of an employment-related injury or condition.[24]

ANALYSIS -- ISSUE 2

The Board finds that OWCP did not abuse its discretion in denying appellant's request for bilateral sacroiliac fusions.[25]

OWCP accepted appellant's traumatic injury claim for a right lumbar strain and displacement of a lumbar intervertebral disc without myelopathy. It authorized February 17, 2015 lumbar surgeries, including a bilateral L4-5 discectomy and L4-5 and L5-S1 fusions.

Appellant requested that OWCP authorize the September 2, 2015 request from Dr. Blankenship to perform bilateral sacroiliac fusions. Dr. Blankenship indicated that the proposed surgery would relieve appellant's symptoms. OWCP, as noted, obtained the November 8, 2015, second opinion report from Dr. Martinson who opined that appellant did not require fusion surgery. OWCP properly found that this created a conflict in the medical evidence[26] and referred appellant to Dr. Clarke to resolve the conflict. In his December 29, 2015 report, Dr. Clarke reviewed appellant's history and reported findings. He opined that there was no clinical indication that the proposed sacroiliac fusions were medically necessary as there was no objective evidence of any sacroiliac dysfunction.[27] As Dr. Clarke's opinion was based on his review of the medical record and his clinical findings, including no objective evidence of any sacroiliac dysfunction, the Board finds that his opinion is well reasoned and based upon a proper factual background such that it is entitled to special weight.[28]

Thereafter, appellant did not submit any rationalized medical evidence sufficient to overcome the opinion of the Dr. Clarke or to create a new medical conflict.

Consequently, the Board finds that OWCP properly denied appellant's request for surgery.

On appeal counsel contends that OWCP's March 20, 2017 decision is contrary to fact and law. As noted above, the impartial opinion of Dr. Clarke advised that the proposed sacroiliac fusions were not medically necessary.

[23] *See Debra S. King,* 44 ECAB 203 (1992).

[24] *Kennett O. Collins, Jr.*, 55 ECAB 648, 654 (2004).

[25] *A.W.*, Docket No. 16-1812 (issued March 15, 2017).

[26] *See supra* note 14.

[27] *R.T.*, Docket No. 15-1760 (issued January 4, 2016).

[28] *See supra* note 16.

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 3

OWCP's implementing regulations define a "recurrence of disability" as an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.[29] This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury is withdrawn or when the physical requirements of such an assignment are altered such that they exceed the employee's physical limitations.[30] Appellant has the burden of establishing that there was no medically appropriate light duty available for the claimed period.[31]

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative, and substantial evidence, a recurrence of total disability and to show that he or she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.[32] This includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.[33] An award of compensation may not be made on the basis of surmise, conjecture, speculation, or on appellant's unsupported belief of causal relation.[34]

The Board will not require OWCP to pay compensation for disability without any medical evidence directly 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.[35]

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[29] 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2.a (June 2013). *See also Philip L. Barnes*, 55 ECAB 426 (2004).

[30] *J.F.*, 58 ECAB 124 (2006).

[31] *Id*.

[32] *Albert C. Brown*, 52 ECAB 152 (2000); *see also Terry R. Hedman*, 38 ECAB 222 (1986).

[33] *Ronald A. Eldridge*, 53 ECAB 218 (2001); *see Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

[34] *Patricia J. Glenn*, 53 ECAB 159 (2001); *Ausberto Guzman*, 25 ECAB 362 (1974).

[35] *G.T.*, 59 ECAB 447 (2008); *see Huie Lee Goal*, 1 ECAB 180, 182 (1948).

ANALYSIS -- ISSUE 3

Under OWCP File No. xxxxxx182, OWCP had previously accepted a March 22, 2013 aggravation of an L4-5 right-sided disc herniation. In the present claim, File No. xxxxxx600, OWCP accepted a May 7, 2014 right lumbar sprain and displacement of a lumbar intervertebral disc without myelopathy. To meet his burden of proof to establish a recurrence of disability commencing September 29, 2015, while in light-duty status, appellant must establish either that the accepted injuries had worsened such that he was medically unable to perform light duty or that his modified position had been withdrawn.[36] Instead, appellant alleged that he sustained a new traumatic injury on September 29, 2015.

Appellant filed a new traumatic injury claim (Form CA-1) under OWCP File No. xxxxxx517 for a lumbar injury sustained on September 29, 2015 when he reached into a container to retrieve a bundle of mail. The employing establishment confirmed that the incident occurred as alleged.

After OWCP denied the traumatic injury claim (Form CA-1) under OWCP File No. xxxxxx517, appellant filed a claim for recurrence of disability (Form CA-2a) under the present claim on February 29, 2016. He argued that the September 29, 2015 employment incident should not be considered a new injury. This assertion, however, is contrary to the account appellant provided to his attending physicians. Dr. Clemens, an attending Board-certified family practitioner, described the September 29, 2015 reaching incident in his reports from October 10 to 30, 2015. Dr. Blankenship also noted the new September 29, 2015 event in his reports, and opined that the immediate onset of sharp, radiating lumbar pain demonstrated a new injury.

The Board finds that the September 29, 2015 employment incident was an intervening cause, breaking the chain of causation from the accepted lumbar injuries.[37] Therefore, appellant has not met his burden of proof to establish that the claimed disability for work on and after September 29, 2015 was causally related to the accepted lumbar 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 has not met his burden of proof to establish that the acceptance of his claim should be expanded to include bilateral sacroiliitis as a result of an accepted lumbar injury and authorized lumbar surgery. The Board further finds that OWCP did not abuse its discretion by denying appellant's request to authorize bilateral sacroiliac surgery. The Board

[36] *Albert C. Brown*, *supra* note 32.

[37] *A.W.*, Docket No. 17-0638 (issued August 29, 2017) (appellant claimed a recurrence of total disability commencing caused by lifting and pushing at work; the Board found that she implicated a new injury, an intervening cause breaking the chain of causation from the prior employment injury; the new injury effectively negated appellant's recurrence claim).

further finds that appellant failed to meet his burden of proof to establish a recurrence of disability commencing September 29, 2015 causally related to an accepted May 7, 2014 lumbar injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 20, 2017 is affirmed.

Issued: June 7, 2018
Washington, DC

Christopher J. Godfrey, 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