

U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001



BRB No. 24-0428

OWEN DURHAM

Claimant-Petitioner

v.

CERES MARINE TERMINALS,
INCORPORATED

Self-Insured

Employer-Respondent

NOT-PUBLISHED

DATE ISSUED: 08/24/2026

DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Monica Markley,
Administrative Law Judge, United States Department of Labor.

Charlene A. Moring (Moring Law, PLLC), Norfolk, Virginia, for Claimant.

Lawrence P. Postol (Postol Law Firm, P.C.), McLean, Virginia, for
Employer.

Before: ROLFE, Acting Chief Administrative Appeals Judge, GRESH and
ULMER, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals Administrative Law Judge (ALJ) Monica Markley's Decision and Order Denying Benefits (2020-LHC-00757) rendered on a claim filed pursuant to the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §§901-950 (Act). We must affirm the ALJ's findings of fact and conclusions of law if they are rational,

supported by substantial evidence, and in accordance with applicable law.¹ 33 U.S.C. §921(b)(3); *O’Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359, 361-362 (1965).

Claimant allegedly sustained head, neck, and back injuries while working for Employer as a shuttle truck driver on July 26, 2019. Claimant’s Exhibit (CX) 7; Hearing Tr. at 20, 22. He testified he experienced a “tremendous” jolt after hitting a pothole while driving a loaded shuttle truck, but he did not strike his head or body against the cab of the truck. Hearing Tr. at 22-24, 26; Employer’s Exhibits (EX) 10 at 3, 18 at 39, 29 at 10-12. Approximately ten minutes after the accident, Claimant began feeling pain from his neck to his hip, and he reported the incident to the foreman. Hearing Tr. at 24-26, 55-56. After the accident, he continued working for about two weeks, when he began experiencing headaches, and he sought medical care on August 12, 2019, at NowCare. *Id.* at 28, 55-56; CXs 1, 2. He testified that by December 11, 2019, his back and neck issues had resolved and only his headaches were keeping him out of work. Hearing Tr. at 60-63; EX 18 at 49-50.

Employer paid Claimant temporary total disability (TTD) benefits from August 12 to October 1, 2019. EX 2. But then Employer stopped paying benefits based on the medical opinion of its expert, Dr. Daniel Cavazos, who concluded Claimant’s back and neck conditions had resolved by September 27, 2019, and his ongoing headaches were not work-related. CX 6; EXs 2, 10 at 5-6, 29 at 18-19. On October 8, 2019, Claimant filed a claim for benefits alleging he had a continuing disability due to his work-related head, back, and neck injuries. CX 7. Dr. Eric Goldberg released Claimant to full duty work in June 2022. Hearing Tr. at 51, 59.

The case was transferred to the Office of Administrative Law Judges, and the ALJ held a telephonic hearing on July 15, 2022. The ALJ determined the “disputes in this matter center” on whether Claimant was entitled to benefits from October 2, 2019, to June 2022, because Employer already paid TTD benefits from August 12, 2019, to October 1, 2019. D&O at 2, 22, 37; EX 2; Hearing Tr. at 5-6; Cl. Post-Hearing Br. at 34. The ALJ found Claimant invoked the Section 20(a) presumption of compensability for all injuries, 33 U.S.C. §920(a), and Employer rebutted it. D&O at 23-24. Weighing the evidence, the

¹ This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit because Claimant sustained the alleged injuries at issue in this case in Virginia. 33 U.S.C. §921(c); *see Roberts v. Custom Ship Interiors*, 35 BRBS 65, 67 n.2 (2001), *aff’d*, 300 F.3d 510 (4th Cir. 2002), *cert. denied*, 537 U.S. 1188 (2003); 20 C.F.R. §702.201(a).

ALJ found Claimant failed to establish his ongoing headaches and current back and neck conditions were caused or aggravated by his work accident. *Id.* at 25-37.

On appeal, Claimant contends the ALJ failed to make the necessary findings of causal relationship and disability regarding the August 12 to October 1, 2019, period, leaving a “gap” in her decision regarding whether Employer properly terminated benefits and regarding Employer’s entitlement to a credit. Claimant further contends the ALJ erred in finding Employer rebutted the Section 20(a) presumption and improperly weighed the evidence as a whole. Employer responds, urging affirmance of the ALJ’s decision.

Initially, we reject Claimant’s argument that the ALJ failed to make necessary causation and disability findings regarding his injuries and entitlement to benefits between August 12 to October 1, 2019. Cl. Brief at 12-15. Employer voluntarily paid Claimant TTD benefits from August 12 to October 1, 2019, and it stopped paying benefits based on Dr. Cavazos’s opinion that Claimant’s work-related injuries had resolved. CX 6; EXs 2, 10 at 5-6. Claimant did not seek additional medical or disability benefits for this period, and Employer did not seek a credit for the benefits it already paid. Cl. Brief at 14; Emp. Brief at 61. Consequently, we agree with the ALJ that the relevant issue in this case is solely whether Claimant is entitled to benefits from October 2, 2019, to June 2022. D&O at 37. This requires assessing whether any work-related injuries persisted past October 1, 2019. While the ALJ need not render any particular findings for the initial period, she properly reviewed, contrary to Claimant’s contention, all the evidence of record in making her determinations, as we discuss below. *Id.* at 4-22; Cl. Brief at 15.

Section 20(a) Rebuttal

Once a claimant invokes the Section 20(a) presumption, 33 U.S.C. §920(a), linking his injuries to his work, the burden shifts to the employer to produce substantial evidence that the claimant’s condition is not work-related. *See Metro Mach. Corp. v. Dir., OWCP [Stephenson]*, 846 F.3d 680, 684 (4th Cir. 2017); *Ceres Marine Terminals, Inc. v. Dir., OWCP [Jackson]*, 848 F.3d 115, 120-121 (4th Cir. 2016); *Universal Mar. Corp. v. Moore*, 126 F.3d 256, 262 (4th Cir. 1997). An employer’s burden on rebuttal is one of production, not persuasion. *Stephenson*, 846 F.3d at 684; *Rose v. Vectrus Sys. Corp.*, 56 BRBS 27, 32 (2022) (Decision on Recon. en banc), *appeal dismissed* (M.D. Fla. Aug. 24, 2023). The inquiry at rebuttal concerns whether the employer submitted evidence that could satisfy a reasonable factfinder that the claimant’s injuries are not work-related. *See Newport News Shipbuilding & Dry Dock Co. v. Holiday*, 591 F.3d 219, 225-226 (4th Cir. 2009). A physician’s unequivocal opinion that there is no injury or that no relationship exists between the alleged injury and a claimant’s employment is sufficient to rebut the presumption. *Suarez v. Serv. Emps. Int’l, Inc.*, 50 BRBS 33, 36 (2016); *Cline v. Huntington Ingalls, Inc.*, 48 BRBS 5, 6-7 (2013); *O’Kelley v. Dep’t of the Army/NAF*, 34 BRBS 39,

41-42 (2000). When aggravation is raised, as in this case, the evidence offered by the employer on rebuttal must address aggravation. *See Holiday*, 591 F.3d at 225.

The ALJ found Drs. Cavazos's and William Head's opinions sufficient to rebut the Section 20(a) presumption that Claimant had continuing work-related neck and back injuries. D&O at 24. Dr. Cavazos evaluated Claimant on September 27, 2019, and noted Claimant reported "near complete resolution" of his back and neck symptoms. EX 10 at 5. Dr. Cavazos diagnosed Claimant with a "myofascial strain of the lumbar and [cervical] spines, without evidence of neurological compromise," and stated "these two conditions had essentially resolved without sequela" by the time of his examination. *Id.* at 5-6; EX 29 at 18-19. He further opined the work-related strains did not aggravate Claimant's underlying degenerative disc disease of the cervical and lumbar spines. EXs 10 at 5, 29 at 29. Similarly, Dr. Head opined in March 2021 that Claimant's lumbar and cervical strains had already resolved. EX 21 at 14.

The ALJ then found Dr. Robert Spear's opinion sufficient to rebut the presumption with respect to Claimant's ongoing headaches. D&O at 24. Dr. Spear evaluated Claimant on June 29, 2021, and opined "[t]here was no objective evidence of neurological injury" and no "abnormal findings" on diagnostic testing. EXs 25 at 6, 30 at 42-44. Further, he explained Claimant did not strike his head during the accident, his pain was not characteristic of a post-traumatic headache, and he was not diagnosed with a concussion. EX 30 at 37-38, 43. He concluded Claimant's "headache complaint [was not] causally related even on [an] aggravation basis to [the] July 26, 2019 workplace incident." EX 25 at 6.

Claimant contends the ALJ erred in finding Dr. Spear's opinion sufficient to rebut the Section 20(a) presumption for his ongoing headaches and neck injury. Cl. Brief at 15-19. He contends the ALJ failed to consider that Dr. Spear's evaluation occurred two years after the accident, that he did not review all relevant evidence, and that his opinion "lack[ed] any analysis or logic."² *Id.* at 17-19. We disagree.

² While Claimant is correct that the ALJ did not directly address aggravation in considering Employer's evidence on rebuttal, we consider any error to be harmless. Cl. Brief at 18-19. Employer submitted sufficient evidence to rebut the presumption through Drs. Cavazos's, Head's, and Spear's opinions, who all opined Claimant's work accident did not aggravate his alleged injuries, and the ALJ specifically addressed aggravation for each injury when weighing the evidence as a whole. *See Holiday*, 591 F.3d at 225; *Haw. Stevedores, Inc. v. Ogawa*, 608 F.3d 642, 648-649 (9th Cir. 2010); *Suarez*, 50 BRBS at 36-

As Claimant does not challenge the ALJ's determination that Employer rebutted the presumption regarding his continuing neck and back injuries with Drs. Cavazos's and Head's opinions, we affirm the ALJ's findings as unchallenged. *See Scilio v. Ceres Marine Terminals, Inc.*, 41 BRBS 57, 58 (2007); D&O at 24. As Employer submitted other sufficient evidence to rebut the presumption with respect to Claimant's ongoing neck and back conditions, we need not address Claimant's contention that Dr. Spear's opinion is insufficient to rebut the presumption for his continuing neck condition. *See* Cl. Brief at 15-19; D&O at 24. Consequently, we also affirm the ALJ's finding Employer rebutted the Section 20(a) presumption for the neck injury and consider only whether the ALJ properly determined Dr. Spear's opinion rebuts the presumption for Claimant's ongoing headaches.

As explained above, Dr. Spear's opinion directly contradicts the presumption that Claimant has work-related headaches. Therefore, if taken as true as we must at this stage, it is the kind of evidence "a reasonable factfinder" might accept as adequate to support a conclusion in Employer's favor, and the ALJ rationally found it constitutes substantial evidence legally sufficient to rebut the presumption with respect to Claimant's headaches. *See Stephenson*, 846 F.3d at 684; *Suarez*, 50 BRBS at 36; *Cline*, 48 BRBS at 6-7; *O'Kelley*, 34 BRBS at 41-42; D&O at 24. Claimant's assertions about Dr. Spear's opinion go to its weight, which is not an appropriate consideration at the rebuttal stage of the Section 20(a) analysis because Employer's burden at this stage is one of production, not persuasion. *See Stephenson*, 846 F.3d at 684; *Rose*, 56 BRBS at 32; Cl. Brief at 15-19. Therefore, we affirm the ALJ's finding that Employer rebutted the Section 20(a) presumption regarding Claimant's ongoing headaches. D&O at 24.

Weighing the Evidence

Because we have affirmed the ALJ's findings on invocation and rebuttal, the issue of causation must be resolved based on the evidence of the whole record with the claimant bearing the burden of persuasion by a preponderance of the evidence. *Dir., OWCP v. Greenwich Collieries [Ondecko]*, 512 U.S. 267, 271 (1994); *Moore*, 126 F.3d at 262; *Santoro v. Maher Terminals, Inc.*, 30 BRBS 171, 174 (1996). As a factfinder, the ALJ has "the discretion to evaluate the credibility of a claimant and to arrive at an independent judgment, in light of medical findings and other evidence." *Pietrunti v. Dir., OWCP*, 119 F.3d 1035, 1042 (2d Cir. 1997). The ALJ is also tasked with assessing the weight and credibility of medical opinions and whether those opinions are rationally based on their underlying documentation. *Brown v. Nat'l Steel & Shipbuilding Co.*, 34 BRBS 195, 201 (2001); *see also Newport News Shipbuilding & Dry Dock Co. v. Cherry*, 326 F.3d 449, 452

37; *Cairns v. Matson Terminals, Inc.*, 21 BRBS 252, 256 (1988); D&O at 30, 33, 36; EXs 10 at 5, 21 at 14, 25 at 6.

(4th Cir. 2003). She may accept parts of a witness's testimony and reject others, *Banks v. Chi. Grain Trimmers Ass'n*, 390 U.S. 459, 467 (1968); *Pimpinella v. Universal Mar. Serv. Inc.*, 27 BRBS 154, 157 (1993), and she may draw her own inferences and conclusions from the evidence. *Compton v. Avondale Indus., Inc.*, 33 BRBS 174, 176-177 (1999).

The ALJ must explain her rationale in reaching a decision on the evidence, *Kkunsu v. Constellis Grp./Triple Canopy, Inc.*, 59 BRBS 1, 4-5 (2025), and if the ALJ's conclusion upon weighing the evidence is rational and supported by substantial evidence, it must be affirmed. *Newport News Shipbuilding & Dry Dock Co. v. Tann*, 841 F.2d 540, 543 (4th Cir. 1988). The Board may not reweigh the evidence or substitute its opinion for that of the ALJ even if the evidence could support other inferences or conclusions. *Newport News Shipbuilding & Dry Dock Co. v. Winn*, 326 F.3d 427, 430 (4th Cir. 2003); *Newport News Shipbuilding & Dry Dock Co. v. Dir., OWCP [Brickhouse]*, 315 F.3d 286, 294 (4th Cir. 2002).

Under the aggravation rule, if a work-related injury contributes to, combines with, or aggravates a pre-existing condition, the entire resultant condition is compensable. *Stephenson*, 846 F.3d at 684; *Newport News Shipbuilding & Dry Dock Co. v. Fishel*, 694 F.2d 327, 329 (4th Cir. 1982); *Myshka v. Elec. Boat Corp.*, 48 BRBS 79, 81 (2015). This rule applies not only when the underlying condition worsens, but also when the work incident causes the claimant's underlying condition to become symptomatic. *Gardner v. Dir., OWCP*, 640 F.2d 1385, 1389 (1st Cir. 1981); *Pittman v. Jeffboat, Inc.*, 18 BRBS 212, 214 (1986).

In determining whether Claimant established ongoing work-related neck and back injuries and headaches from October 2, 2019, to June 7, 2022, the ALJ considered Claimant's testimony, his treatment records, and the conflicting medical opinions of Drs. Arthur Wardell and Goldberg, as well as Drs. Spear, Head, and Cavazos.³ D&O at 25-37. Weighing the evidence, the ALJ concluded Claimant failed to establish his ongoing headaches were caused or aggravated by his work injury. *Id.* at 30. The ALJ also found Claimant's work-related neck and back injuries had resolved by September 27, 2019, and

³ The ALJ found Claimant had "diminished" credibility based on his failure to initially disclose his December 5, 2019 car accident, which was not work-related, his inconsistent accounting of his symptoms after this accident, and his unreliable reporting regarding the onset of back pain after attending a funeral in either 2020 or 2021, where he stood for an extended period of time. D&O at 25-26. We affirm this finding as unchallenged on appeal. *See Scalio*, 41 BRBS at 58.

he failed to establish his ongoing neck or back conditions were caused or aggravated by his work accident. Consequently, the ALJ denied any further benefits. *Id.* at 33, 36-37.

Claimant asserts the ALJ largely “ignored” Dr. Wardell’s medical records, that Drs. Wardell’s and Goldberg’s opinions are consistent with the objective medical evidence and his subjective complaints, and Dr. Goldberg’s opinion is entitled to “great evidentiary weight.” Cl. Brief at 19-22. In addition, Claimant asserts the ALJ erred by assigning greater weight to Dr. Spear’s opinion over those of his treating physicians, Drs. Wardell and Goldberg. *Id.* at 21. For the reasons we discuss below, we reject Claimant’s contentions.

First, we reject Claimant’s contention that treating providers are “normally entitled to greater weight” than a physician who conducts an examination “many months later.” Cl. Brief at 21-22. When there is conflicting medical evidence, the ALJ is not required to give special weight to a treating physician’s opinion. *Kkunsu*, 59 BRBS at 4. Instead, the ALJ must consider all relevant evidence, assess the weight and credibility of each opinion, and explain her rationale for reaching a decision based on the evidence in the record. *Id.* at 4-5. Because the record contains conflicting reports addressing whether Claimant’s alleged injuries are work-related, the ALJ was obligated to review and weigh the evidence. *See id.* at 5; D&O at 26-36. We will address each alleged injury in turn.

Headaches

In weighing the conflicting opinions with respect to Claimant’s ongoing headaches, the ALJ first determined Dr. Wardell’s opinion was entitled to little weight. D&O at 27. Although he had previously noted Claimant’s reported headaches, Dr. Wardell first diagnosed Claimant with cervicogenic headaches on December 11, 2019, and he referred him to a neurologist. CX 11 at 1, 10. The ALJ determined Dr. Wardell failed to discuss whether his diagnosis was related to Claimant’s work accident and, when he discussed Claimant’s symptoms, it was “not clear” whether Dr. Wardell was describing separate symptoms, continued headaches and pain with Claimant’s turning his head, or whether Claimant got headaches from turning his head. D&O at 27; *see* CX 11 at 1, 10; EX 7 at 2. Further, the ALJ noted Dr. Spear disagreed with Dr. Wardell’s diagnosis of cervicogenic headaches based on his evaluation of Claimant’s cervical spine and because there was no indication Dr. Wardell obtained a cervical spine MRI or performed “medial branch blocks,” which he explained are typically required for this diagnosis. D&O at 29; *see* EXs 25 at 4, 6, 30 at 25-28. Because Dr. Wardell failed to explain his diagnosis or offer an opinion on the cause of Claimant’s headaches, we affirm the ALJ’s determination that Dr. Wardell’s opinion is entitled to little weight. *See Winn*, 326 F.3d at 430; *Tann*, 841 F.2d at 543; D&O at 27.

Next, the ALJ compared the opinions of Drs. Goldberg and Spear.⁴ D&O at 27-30. The ALJ noted Dr. Goldberg opined Claimant's headaches were due to either metabolic factors, such as age, or due to post-concussive syndrome, post-traumatic migraines, and cervical radiculopathy, and he later testified he believed Claimant's headaches are work-related. CXs 13 at 1-2, 4, 15 at 7-8, 29-30. Because Claimant testified that he did not strike his head during the accident, the ALJ determined Dr. Goldberg's opinion regarding potential post-traumatic and post-concussive causes of Claimant's ongoing headaches are not supported by the record or well-explained.⁵ D&O at 28-30; *see* CXs 13 at 1-2, 4, 15 at 7-8; EX 18 at 39. In contrast, the ALJ determined Dr. Spear persuasively explained why he believed Claimant's headaches were not post-concussive or post-traumatic, which was supported by Claimant's testimony and his symptoms, and therefore that his headaches were not attributable to his work accident.⁶ D&O at 29-30; *see* EXs 25 at 6, 30 at 37-38, 44, 46. For these reasons, the ALJ rationally determined Dr. Spear's supported opinion outweighed Dr. Goldberg's opinion. *See Winn*, 326 F.3d at 430; *Tann*, 841 F.2d at 543; D&O at 27-30.

Although Claimant generally challenges the ALJ's assigning more weight to Dr. Spear's opinion over Drs. Goldberg's and Wardell's opinions, it is not for the Board to reweigh the evidence or substitute its opinion for that of the ALJ even if it might find the evidence supports other inferences or conclusions. *See Winn*, 326 F.3d at 430; *Brickhouse*, 315 F.3d at 294. Thus, as it is rational and supported by substantial evidence, we affirm the ALJ's finding that Claimant has not established his ongoing headaches were caused or

⁴ The ALJ found Drs. Cavazos's and Head's opinions that Claimant's headaches were not related to his work accident entitled to "less weight" because they failed to adequately explain their conclusions. D&O at 27. Nevertheless, she credited Dr. Head's opinion that Claimant's MRI did not show any brain injuries and that he did not have any neurological injuries. *Id.*; *see* EXs 21 at 12, 14, 22 at 3; CX 9.

⁵ Dr. Goldberg also opined Claimant's July 1, 2020 brain MRI "showed [two] old right micro hemorrhages consistent with hypertension[,] age, or possible head trauma but could not state if the hemorrhages were related to the work accident. CXs 9 at 1-2, 13 at 27, 15 at 7-9.

⁶ Dr. Spear opined Claimant did not have post-traumatic or post-concussive headaches because Claimant did not hit his head during the work accident, he was not diagnosed with a concussion, and his headaches lasted more than six months, which is not characteristic of a post-concussive headache. EX 30 at 37. He also opined the location of Claimant's pain at only the back of his head was not typical of a post-traumatic headache, which usually causes pain at the front and back of the head. *Id.* at 37-38.

aggravated by his work injury. *See Moore*, 126 F.3d at 262; *Tann*, 841 F.2d at 543; *Santoro*, 30 BRBS at 174-175; D&O at 30.

Neck Injury

On August 21, 2019, Dr. Wardell diagnosed Claimant with a cervical neck sprain, recommended physical therapy, and kept Claimant out of work for three weeks. CX 11 at 3. Claimant regularly attended physical therapy with Dr. Wardell until December 11, 2019, and Dr. Wardell noted Claimant's ongoing neck pain and physical progress throughout his therapy and continued to keep him out of work.⁷ *Id.* at 5-11; CX 10 at 1-5. Claimant testified he ended physical therapy with Dr. Wardell on December 11, 2019, because his back and neck "felt better" and that "once [he] left [Dr.] Wardell, the back and the neck [pain] . . . weren't an issue." EX 18 at 48-50, 56; CX 11 at 10-11.

During his September 27, 2019 evaluation with Dr. Cavazos, Claimant reported his neck had improved and denied head trauma or "motion of the cervical spine [which could be] considered a whiplash phenomenon." EXs 10 at 3, 29 at 9-11. Dr. Cavazos concluded Claimant sustained a myofascial neck strain due to his work accident, which resolved by the time of his evaluation without "sequela" and appeared to be "following the natural course of resolution," which included intermittent stiffness. EXs 10 at 3-6, 13 at 3, 29 at 12, 28-29. He further opined Claimant's degenerative cervical spine condition had not been exacerbated or aggravated by the work accident. EXs 10 at 4-5, 29 at 27-29. The ALJ gave Dr. Cavazos's opinion that Claimant's work-related myofascial neck strain had resolved by September 27, 2019, significant weight, which we affirm as unchallenged on appeal.⁸ *See Scalio*, 41 BRBS at 58; D&O at 33.

In contrast, the ALJ found Dr. Goldberg's opinion entitled to little weight. D&O at 32. Dr. Goldberg diagnosed Claimant with cervical radiculopathy and maintained this diagnosis throughout the course of his treatment based on Claimant's continuing symptoms and complaints, and later opined Claimant's cervical radiculopathy was post-traumatic and related to his work injury. CX 13; CX 15 at 7-8, 28-29, 31. The ALJ determined Claimant's testimony that his neck injury had resolved by the end of his physical therapy

⁷ Dr. Wardell's records include progress notes written by Michael T. Ratanatya, PA-C, which Dr. Wardell reviewed and signed. *See* CX 11 at 4-9.

⁸ Drs. Head and Spear opined Claimant had a cervical sprain that resolved, but Dr. Spear noted Claimant had ongoing cervicalgia (neck pain). EXs 21 at 12, 14, 22 at 3, 25 at 6-8. The ALJ found Dr. Spear's opinion conclusory and entitled to limited weight and Dr. Head's opinion entitled to no weight because he did not discuss whether Claimant's cervical sprain was related to the work accident. D&O at 32.

with Dr. Wardell undermined Dr. Goldberg's opinion because Dr. Goldberg's records "appear[ed]" to document a "severe and pervasive" condition. D&O at 32. Additionally, the ALJ was persuaded by Dr. Spear's concerns regarding the six-month gap between Claimant's appointments with Dr. Goldberg in February and August 2020, which Dr. Spear opined seemed "incongru[ent]" with Dr. Goldberg's diagnosis of possible cervical radiculopathy, as cervical radiculopathy could cause permanent nerve damage over a six-month gap in treatment. *Id.*; see EX 30 at 39. Claimant generally asserts Dr. Goldberg's opinion is "well-reasoned and documented" and should be entitled to "great evidentiary weight," but he fails to identify any errors with the ALJ's specific findings regarding his opinion. Cl. Brief at 21. Because the ALJ explained how she weighed Dr. Goldberg's opinion and substantial evidence supports her conclusion, we affirm it. See *Winn*, 326 F.3d at 430; *Tann*, 841 F.2d at 543; D&O at 30-32.

Additionally, we are not persuaded by Claimant's contention that the ALJ largely "ignored" Dr. Wardell's opinion with respect to his ongoing neck condition. Cl. Brief at 19-22. The ALJ discussed Dr. Wardell's treatment and conclusions in detail. See D&O at 8-9, 27, 30. Although Dr. Wardell noted his August 21, 2019 diagnosis of a cervical spine sprain in his progress notes, he did not provide any updated diagnoses as Claimant's neck condition improved during therapy. See CX 11 at 1-11; EX 18 at 48-50, 56. Further, while he documented his observations and Claimant's complaints and progress, he did not address causation after September 27, 2019, the date the ALJ determined Claimant's work-related neck injury resolved, and he did not evaluate any of Claimant's ongoing complaints. D&O at 30, 33; see CX 11 at 1-11.

As the ALJ found Dr. Cavazos's opinion entitled to significant weight, and those of the remaining physicians entitled to little or no weight, she determined Claimant did not establish he had an ongoing neck condition after September 27, 2019, that was caused or aggravated by his work accident. D&O at 33. Because this determination is rational and supported by substantial evidence, we affirm it. See *Moore*, 126 F.3d at 262; *Tann*, 841 F.2d at 543; *Santoro*, 30 BRBS at 174-175; D&O at 33.

Back Injury

On August 21, 2019, Dr. Wardell provisionally diagnosed Claimant with dorsal spine and lumbar spine sprains, noted his thoracic back sprain, prescribed physical therapy, and kept Claimant out of work. CX 11 at 1-3. Beginning on September 11, 2019, Dr. Wardell updated Claimant's diagnosis to a lumbar sprain and thoracic back sprain and continued physical therapy with Claimant until December 11, 2019, when Claimant

testified his back issues had resolved.⁹ *Id.* at 4-11; EX 18 at 48-50, 56. As Dr. Wardell did not update his diagnosis after September 11, 2019, and did not otherwise discuss the cause of any back complaints after September 27, 2019, or whether Claimant had a continuing back injury, we reject Claimant’s contention that the ALJ “ignored” Dr. Wardell’s opinion with respect to his ongoing back complaints. Cl. Brief at 19-22.

At his September 27, 2019 evaluation with Dr. Cavazos, Claimant reported his back pain had “essentially resolved.” EX 10 at 3. Based on his examination and review of Claimant’s medical records, Dr. Cavazos concluded Claimant experienced a myofascial lumbar strain that had resolved, and that his work accident had not aggravated or exacerbated his underlying degenerative conditions. *Id.* at 5.

At some point in 2020 or 2021, Claimant began experiencing back pain after standing for an extended period while attending a funeral. *See* D&O at 26; Hearing Tr. at 36, 39, 68-69; EXs 13 at 2, 41 at 1. On October 26, 2020, Dr. Cavazos evaluated Claimant for a second time and reported Claimant “noted the onset of low back pain . . . after standing for a prolonged time at a funeral.” EXs 13 at 1-2, 29 at 23-24. Based on his examination and review of Claimant’s x-rays, Dr. Cavazos opined “[a]ll the changes . . . at [Claimant’s] lumbar spine are degenerative” and were not caused or aggravated by Claimant’s work accident, and any pain from prolonged standing was related to his pre-existing degenerative disease. EXs 13 at 3, 29 at 16-18, 28-29. The ALJ gave Dr. Cavazos’s opinion that Claimant’s work-related myofascial lumbar strain had resolved by September 27, 2019, significant weight, which we affirm as unchallenged on appeal.¹⁰ *See Scalio*, 41 BRBS at 58; D&O at 35.

In contrast, the ALJ found Dr. Goldberg’s opinion to be entitled to little weight because it was “confusing and poorly reasoned.” D&O at 36. On February 16, 2021, Dr. Goldberg diagnosed Claimant with lumbosacral radiculopathy after Claimant reported experiencing increased back pain after standing for an extended period at a funeral. CX 13 at 29, 34-35. Further, Dr. Goldberg testified Claimant’s 2019 x-ray results “could be related” to the jolt he experienced during his work accident. CX 29 at 32. The ALJ

⁹ On December 5, 2019, Claimant was in a car accident and went to Chesapeake Regional Medical Center, where he was diagnosed with a lumbar strain. EX 31 at 11, 13-15. Dr. Wardell did not discuss this accident in his progress note from Claimant’s final physical therapy session on December 11, 2019. *See* CX 11 at 10-11.

¹⁰ The ALJ found Drs. Spear’s and Head’s opinions that Claimant’s lumbar strain had already resolved entitled to little weight because they did not discuss his back pain in relation to his work accident. D&O at 36.

accurately noted Dr. Goldberg’s early records do not include any diagnoses related to back pain and then determined Dr. Goldberg did not provide any “meaningful analysis” of the relationship between Claimant’s ongoing back complaints, resulting from his standing at the funeral, and his work accident. D&O at 36. Furthermore, she determined Dr. Goldberg’s assertion that Claimant’s 2019 x-ray results “could be related” to his work injury was “equivocal and insufficient” to meet Claimant’s burden of proof. *Id.* As the ALJ explained how she weighed Dr. Goldberg’s opinion and substantial evidence supports her conclusion, we affirm it. *See Winn*, 326 F.3d at 430; *Tann*, 841 F.2d at 543; D&O at 36.

As the ALJ found Dr. Cavazos’s opinion entitled to significant weight, and the remaining physicians’ opinions entitled to little or no weight, she determined Claimant did not establish he had an ongoing back condition after September 27, 2019, that was caused or aggravated by his work accident. D&O at 36. Because this determination is rational and supported by substantial evidence, we affirm it. *See Moore*, 126 F.3d at 262; *Tann*, 841 F.2d at 543; *Santoro*, 30 BRBS at 174-175; D&O at 36. As Claimant has failed to establish he had a compensable work-related injury after October 1, 2019, we affirm the ALJ’s denial of disability and medical benefits after that date. 33 U.S.C. §921(b)(3); *Sistrunk v. Ingalls Shipbuilding, Inc.*, 35 BRBS 171, 174 (2001); *Coffey v. Marine Terminals Corp.*, 34 BRBS 85, 87 (2000); D&O at 36-37.

Accordingly, we affirm the ALJ's Decision and Order Denying Benefits.

SO ORDERED.

JONATHAN ROLFE, Acting Chief
Administrative Appeals Judge

DANIEL T. GRESH
Administrative Appeals Judge

GLENN E. ULMER
Administrative Appeals Judge