BRB No. 94-0237

LENN GOODEN	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
BRINKS, INCORPORATED	)	DATE ISSUED:
	)	
and	)	
	)	
TRAVELERS INSURANCE COMPANY	)	
	)	
Employer/Carrier-Respondents	)	DECISION AND ORDER

Appeal of the Decision and Order of John C. Holmes, Administrative Law Judge, United States Department of Labor.

Lenn Gooden, Washington, District of Columbia, *pro se*.

Before: BROWN, DOLDER and McGRANERY, Administrative Appeals Judges.

PER CURIAM:

Claimant, representing himself, appeals the Decision and Order (92-DCWC-0033) of Administrative Law Judge John C. Holmes rendered on a claim filed pursuant to the provisions of the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901 *et seq.*, as extended by the District of Columbia Workmen's Compensation Act, 36 D.C. Code §§501, 502 (1973) (the Act). In reviewing an appeal by a claimant without representation, the Board must affirm the findings of fact and conclusions of law of the administrative law judge which are rational, supported by substantial evidence, and in accordance with law. *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965); 33 U.S.C. §921(b)(3); 20 C.F.R. §§802.211(e), 802.220.

Claimant suffered cervical and left shoulder injuries while working for employer on June 14, 1978 and July 6, 1978, respectively. On August 20, 1982, claimant accepted a settlement agreement providing for a lump payment of $34,000 plus future medical expenses. 33 U.S.C. §908(i). Claimant subsequently sought compensation for medical costs related to treatment rendered by Dr. Potter in 1992.

In his Decision and Order, the administrative law judge analyzed the medical evidence of

record and concluded that claimant failed to establish a causal connection between his 1978 industrial cervical and shoulder injuries and his current back condition. Additionally, the administrative law judge found that employer was not responsible for any charges relating to Dr. Potter's examinations and treatment as claimant failed to comply with the Act's requirement that prior approval from employer must be received with respect to changes in claimant's physician of choice. 33 U.S.C. §907. Accordingly, claimant's request for reimbursement of Dr. Potter's medical charges was denied.

On appeal, claimant, without the benefit of counsel, challenges the administrative law judge's denial of his claim for medical benefits under the Act. Employer has not filed a response brief.

In his Decision and Order, the administrative law judge implicitly invoked the Section 20(a), 33 U.S.C. §920(a), presumption when he assumed that claimant may have incurred some lumbar back problems as a result of either one of his two 1978 industrial injuries. *See* Decision and Order at 5; *see generally U.S. Industries/Federal Sheet Metal, Inc. v. Director, OWCP*, 455 U.S. 608, 14 BRBS 631 (1982). Upon invocation of the Section 20(a) presumption, the burden shifts to employer to present specific and comprehensive evidence sufficient to sever the causal connection between the injury and the employment, and therefore, to rebut the presumption with substantial evidence that claimant's condition was not caused or aggravated by his employment. *See Swinton v. J. Frank Kelly, Inc.*, 554 F.2d 1075, 4 BRBS 466 (D.C. Cir.), *cert. denied*, 429 U.S. 820 (1976). If the administrative law judge finds that the Section 20(a) presumption is rebutted, the administrative law judge must weigh all of the evidence and resolve the causation issue based on the record as a whole. *See Del Vecchio v. Bowers*, 296 U.S. 280 (1955); *Devine v. Atlantic Container Lines, G.I.E.*, 23 BRBS 279 (1990).

After setting forth and discussing all of the medical evidence of record, the administrative law judge noted that all of claimant's recent spinal x-rays are normal, that an MRI and x-ray of claimant's neck also were normal, and that the opinions of Drs. Dow and Sloan support those conclusions. *See Swinton*, 554 F.2d at 1075, 4 BRBS at 466 (D.C. Cir.). Next, the administrative law judge found that claimant's shoulder injury had long since healed, that no physician had related any shoulder condition to claimant's injury, and that the only connection in the record linking claimant's neck complaints to his work-injury was the subjective statements of claimant; based upon these findings, the administrative law judge concluded that no relationship exists between claimant's current medical conditions and his 1978 industrial injuries. It is well-established that an administrative law judge is entitled to weigh the medical evidence and draw his own inferences therefrom, and he is not bound to accept the opinion or theory of any particular medical examiner. *Todd Shipyards Corp. v. Donovan*, 300 F.2d 741 (5th Cir. 1962). In the instant case, the administrative law judge's credibility determinations are neither inherently incredible nor patently unreasonable; accordingly, we affirm the administrative law judge's finding that claimant's current medical complaints are not work-related. *See generally Cordero v. Triple A Machine Shop*, 580 F.2d 1331, 8 BRBS 744 (9th Cir. 1978), *cert. denied*, 440 U.S. 911 (1979).

We next address claimant's assertion that the administrative law judge erred in denying his

request for medical benefits for these conditions. Entitlement to medical benefits is contingent upon a finding of a causal relationship between the injury and employment. *See generally Wendler v. American National Red Cross*, 23 BRBS 408 (1990) (McGranery, J., dissenting on other grounds). Thus, in light of our affirmance of the administrative law judge's finding that no causal relationship exists between claimant's industrial injuries and his current medical problems, we affirm his finding that employer is not liable for medical benefits related to the treatment of claimant's back condition.[1]

Accordingly, the administrative law judge's Decision and Order is affirmed.

SO ORDERED.

JAMES F. BROWN
Administrative Appeals Judge

NANCY S. DOLDER
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

[1]Additionally, we note that the administrative law judge's finding that claimant failed to seek authorization for a change of physician is supported by the record. 33 U.S.C. §907(d); *Lustig v. Todd Shipyards Corp.*, 20 BRBS 207 (1988), *aff'd in part and rev'd in part on other grounds sub nom. Lustig v. U.S. Dept. of Labor*, 881 F.2d 593, 22 BRBS 159 (CRT) (9th Cir. 1989).