

sharp pain in her right shoulder and neck down to her hand as well as a headache due to stress. Appellant stopped work and has not returned. Evidence submitted with the claim included a March 15, 2001 magnetic resonance imaging (MRI) scan of the lumbar and cervical spine which noted: "straightening suggesting muscle spasm" and a May 9, 2001 report from Dr. Madhavi Muppirm, a physical medicine and rehabilitation physician, who provided an impression of right-sided numbness, especially of the neck, the shoulder and the arm and advised that the electrodiagnostic test of the upper extremities revealed moderate carpal tunnel syndrome with no evidence of cervical radiculopathy.

Following a May 1, 2001 telephone conference, the Office accepted the claim for the conditions of acute cervical and lumbar strains. Appellant received benefits and was placed on the periodic rolls.

On June 29, 2001 appellant filed a claim for an occupational injury alleging that her bilateral carpal tunnel syndrome was caused and aggravated by the assault she suffered from her supervisor on March 10, 2001. Appellant further indicated that since the March 10, 2001 incident, she had suffered heart failure due to stress. In attending physician form reports, Form CA-20 and disability slips dated March 2001 to June 2002, Dr. Ganga R. Sharma, a Board-certified internist, diagnosed congestive cardiomyopathy, back strain and carpal tunnel syndrome. The physician indicated that appellant's conditions were caused by or aggravated by an employment activity by placing a check mark in the box marked "yes."

The Office in letters dated July 17, August 2 and September 28, 2001, requested Dr. Sharma to provide further information regarding whether her accepted conditions of lumbar and cervical strains have resolved. The Office further noted that the physician had diagnosed carpal tunnel syndrome and requested that Dr. Sharma provide an opinion, supported by a medical explanation, as to how a repetitive work condition developed from an acute incident. Dr. Sharma, however, continued to submit the disability slips and advised, in a June 18, 2002 work capacity evaluation, that appellant was unable to return to work as she was suffering from back and neck pain, right wrist pain, cervical and lumbosacral sprain, tendinitis right arm and carpal tunnel syndrome.

On July 31, 2002 the Office referred appellant, together with a statement of accepted facts and the medical record, for a second opinion evaluation. In an August 20, 2002 report Dr. David I. Rubinfeld, a Board-certified orthopedic surgeon, advised that he provided a second opinion evaluation on August 15, 2002. Appellant's work history, past medical history, which included congestive heart failure and her current complaints were noted. He found that appellant presented a normal range of motion of her shoulders; a normal range of motion of her elbows, with no tenderness on palpation or swelling; a normal range of motion of the wrists, with no pain on palpation and negative Phalen's and Tinel's signs; no atrophy of the hands, with good grip strength and full range of motion; and normal examinations of the hips, knees, ankle/foot, cervical and thoracolumbar spine, with normal motor strength present in the deltoid, triceps, biceps, forearm muscles, hand musculature, quadriceps, hamstrings, calf muscles and extensor hallucis longus muscles bilaterally. He also stated that he had reviewed the medical record along with x-rays, test results and medical records, the statement of accepted facts and questions from the Office. Based on the framework from the Statement of Accepted Facts, Dr. Rubinfeld stated that his examination revealed no evidence of a current orthopedic problem and that

appellant had fully recovered from the effects of the March 10, 2001 injury. He further opined that appellant was capable of returning to her date-of-injury job with no restrictions.

On September 17, 2002 the Office issued a notice of proposed termination of compensation for wage loss and medical benefits based on the second opinion report of Dr. Rubinfeld, who found no residuals of the March 10, 2001 work-related injury.

In a September 26, 2002 letter, appellant's attorney objected to the proposed termination. He noted that appellant's claim for bilateral carpal tunnel syndrome was combined with the current file, but Dr. Rubinfeld made no reference to the fact that appellant was still suffering from bilateral carpal tunnel syndrome. He further argued that Dr. Rubinfeld's report contained no medical reasons for his conclusions.

In an October 4, 2002 report, Dr. Clifford A. Botwin, an orthopedic surgeon, noted the history of the work injury, that appellant had a cardiac history and she had suffered a heart attack on April 11, 2001 and that she also had a history of allergies and hay fever. He noted that appellant had suffered pain and discomfort in her neck and back for many years and had been on light duty for many years prior to the March 10, 2001 work incident. Examination findings of the cervical spine revealed rotation bilaterally to approximately 80 degrees, extension 15 to 20 degrees. Flexion lumbar spine was present to better than 90 degrees, extension was average. Neurologic examination of the upper and lower extremities was intact. There was no thenar atrophy of either hand. Straight leg raise was negative for sciatic radiation at approximately 70 degrees bilaterally. The following diagnostic impressions were provided: chronic cervical and lumbar strain and sprain with myofascitis; possible carpal tunnel syndrome; status post myocardial infarction; and anxiety. Dr. Botwin opined that he saw no orthopedic reason why appellant could not work in a light-duty capacity, which she apparently worked prior to her March 10, 2001 work injury. He further advised that he could not make a determination as to whether appellant could return to work as a result of her heart attack or allergy problems.

By decision dated January 29, 2003, the Office terminated appellant's compensation and medical benefits for the accepted conditions of cervical and lumbar strains. The Office noted that Dr. Rubinfeld, the second opinion physician, had examined appellant's wrists and found no evidence of swelling, pain on palpation, negative Phalen's and Tinel's signs, no atrophy, good grip strength and full range of motion among other findings. The Office advised that the carpal tunnel syndrome preexisted the work injury as evidenced in Dr. Botwin's report. The Office further noted that Dr. Rubinfeld performed a thorough physical examination and found no objective evidence of any residuals from the work-related injury.

In a February 3, 2003 letter, appellant, through her attorney, requested a hearing, which was held August 27, 2003. By decision dated December 5, 2003, the Office's hearing representative affirmed the Office's January 29, 2003 decision.

On appeal, appellant's attorney argues that Dr. Rubinfeld has failed to provide any reasons for his opinion that appellant has fully recovered from her March 10, 2001 work injury and argues that a conflict in medical opinion should be declared between Drs. Botwin and Sharma and Dr. Rubinfeld.

LEGAL PRECEDENT -- ISSUE 1

Once the Office accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits.¹ The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.²

In assessing medical evidence, the number of physicians supporting one position or another is not controlling; the weight of such evidence is determined by its reliability, its probative value and its convincing quality. The factors that comprise the evaluation of medical evidence include the opportunity for and the thoroughness of physical examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.³

ANALYSIS -- ISSUE 1

The Office accepted appellant's March 10, 2001 injury for acute cervical and lumbar strains and paid appropriate benefits. However, on August 20, 2002 Dr. Rubinfeld, a Board-certified orthopedic surgeon and a second opinion physician, provided a thorough, well-reasoned and exhaustive medical review of appellant's record and a complete and detailed physical examination, which revealed normal examinations of cervical and thoracolumbar spines, shoulder, elbow and wrist area with no pain on palpation and negative Phalen's and Tinel's signs. The physician opined that appellant had no evidence of a current orthopedic problem and that she had fully recovered from the effects of the March 10, 2001 work injury and could return to work without restrictions.

With respect to appellant's assertion that Dr. Rubinfeld's report contained no medical reasons for his conclusions and was not supported by objective evidence, the Board notes that Dr. Rubinfeld reviewed the entire medical record, which included examination of the objective clinical tests and included his physical examination findings in his report. The MRI scan of appellant's cervical and lumbosacral spine revealed only muscle spasms and, while the electromyogram showed moderate carpal tunnel syndrome, there was no evidence of any cervical radiculopathy. Dr. Rubinfeld's conclusion that there was no indication of any current orthopedic condition stemming from the effects of the March 10, 2001 injury is supported by these findings.

Although Dr. Sharma opined that appellant was totally disabled from many conditions, including cervical and lumbosacral strain, his reports fail to contain the requisite discussion of causal relationship or explain how or why appellant's continued symptoms are related to the work injury of March 10, 2001. Despite the Office's requests that Dr. Sharma provide medical

¹ *Jorge E. Sotomayor*, 52 ECAB 105 (2000).

² *Mary A. Lowe*, 52 ECAB 223 (2001).

³ *Joan F. Burke*, 54 ECAB ____ (Docket No. 01-39, issued February 14, 2003); *Nicolette R. Kelstrom*, 54 ECAB ____ (Docket No. 03-275, issued May 14, 2003).

rationale for his opinions, he continued to indicate that appellant's condition was caused by or aggravated by an employment activity by placing a checkmark in the box marked "yes." The Board has held that an opinion on causal relationship, which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability was related to the history, is of diminished probative value. Without any explanation or rationale for the conclusion reached, such a report is insufficient to establish causal relationship.⁴ As Dr. Sharma failed to be fully responsive to the Office's requests for more information, his reports failed to provide any medical rationale explaining how or why appellant's diagnosed conditions were caused by an accepted employment factor such as, the March 10, 2001 employment injury or why appellant continued to be disabled from those conditions.⁵ Thus, Dr. Sharma's reports are insufficient to cause conflict with Dr. Rubinfeld's report.

Additionally, Dr. Botwin's report fails to support appellant's contention that she is still disabled from the work injury. Dr. Botwin found no evidence of an ongoing orthopedic condition and had concluded, from an orthopedic standpoint, that appellant could return to light-duty work in the same job she was performing on the day of her injury. He further noted that appellant was suffering from conditions unrelated to the work injury (allergies and a heart condition) and advised that he was unable to say whether those conditions would prevent appellant's return to work. Although Dr. Botwin indicated that carpal tunnel syndrome was a possible diagnosis, that condition had not been accepted by the Office as related to the work incident of March 10, 2001 and no discussion was provided on how this condition would impact appellant's return to work. Accordingly, Dr. Botwin's report lends support to Dr. Rubinfeld's opinion that appellant has recovered from her accepted conditions and, thus, is insufficient to cause a conflict with his opinion.

The Board finds that the weight of the medical evidence is represented by the second opinion physician, Dr. Rubinfeld, who provided a complete comprehensive report based on a review of the medical records, a statement of accepted facts and a complete examination. Appellant did not submit any reports containing any rationale that would establish a causal relationship between her continued symptoms and her employment injury. Although appellant took exception to Dr. Rubinfeld's report, the Board finds that his opinion is well rationalized and based upon an accurate medical history. Accordingly, Dr. Rubinfeld's opinion constitutes the weight of the medical evidence regarding the termination effective January 29, 2003.

LEGAL PRECEDENT -- ISSUE 2

To establish a causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such a causal relationship.⁶ Causal relationship is a medical issue and the medical evidence required to

⁴ *Lucrecia M. Nielson*, 42 ECAB 583, 594 (1991).

⁵ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁶ *Manuel Gill*, 52 ECAB 282 (2001).

establish a causal relationship is rationalized medical evidence.⁷ Rationalized medical evidence is evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.⁸ 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.⁹

ANALYSIS -- ISSUE 2

In filing her June 29, 2001 occupational claim, appellant alleged that her carpal tunnel condition was caused or aggravated by the March 10, 2001 injury. The Office, however, did not accept this condition as being work related.¹⁰ Accordingly, appellant bears the burden of proof to establish causal relationship between her carpal tunnel condition and the employment injury.¹¹

Dr. Botwin had indicated that carpal tunnel syndrome was a possible diagnosis. In addition to not providing a firm diagnosis, Dr. Botwin fails to discuss any connection between the work injury of March 10, 2001 or factors of appellant's employment. Although Dr. Sharma had diagnosed carpal tunnel syndrome in his attending physician reports, his opinion is of diminished probative value as he had opined that appellant's condition was caused by or aggravated by an employment activity by merely checking "yes" to a medical form report question on whether the claimant's disability was related to the history. As previously noted, without any explanation or rationale for the conclusion reached, this report is insufficient to establish causal relationship.¹² Moreover, in his disability slips, Dr. Sharma failed to address causal relationship or present any objective findings to support his diagnosis. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's

⁷ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁸ *Leslie C. Moore*, *supra* note 5.

⁹ *Ernest St. Pierre*, 51 ECAB 623 (2000).

¹⁰ The Board notes that the Office hearing representative advised appellant to submit a Form CA-2, notice of occupational disease, to the Office if she was claiming that her carpal tunnel condition arose over a period of time. A review of the record indicates that the Office had advised appellant, in an August 22, 2001 letter, of the definition of an occupational disease claim and, in a September 28, 2001 letter, had noted that appellant's attorney had advised that the carpal tunnel condition had occurred over several work shifts, which would constitute a new injury for which a new occupational disease claim should be filed.

¹¹ *Manuel Gill*, *supra* note 6.

¹² *Lucrecia M. Nielson*, *supra* note 4.

condition is of diminished probative value on the issue of causal relationship.¹³ Accordingly, these reports are insufficient to establish appellant's burden of proof.

CONCLUSION

The Board finds that Dr. Rubinfeld's opinion is sufficient to meet the Office's burden of proof in terminating appellant's compensation. Further, the Board finds that appellant failed to establish that her carpal tunnel condition is causally related to the March 10, 2001 employment injury or other employment factor.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 5, 2003 is affirmed.

Issued: September 16, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

¹³ *Jaja K. Asaramo*, 55 ECAB ____ (Docket No. 03-1327, issued January 5, 2004); *Albert C. Brown*, 52 ECAB 152 (2000).