

bag. On November 20, 2003 appellant returned to limited-duty work. By letter dated December 24, 2003, the Office accepted appellant's claim for sprain/strain of the back.

On July 2, 2004 appellant filed a claim for compensation commencing on June 29, 2004. He submitted a June 29, 2004 letter by Dr. Daniel J. Boyle, an osteopath, indicating that appellant was currently a patient in the chronic pain program and that this program required his attendance daily from 9:00 to 1:00 for approximately three weeks. He also noted, "His work-related injury prohibits him from sitting for extended periods without frequent breaks and changes in body positions. His injury causes impairment of function. He is on a light-duty status at this time." In an attending physician's report of the same date, Dr. Boyle indicated that appellant had an acute exacerbation of back pain and was unable to work from June 29, 2004 until July 16, 2004. He noted that the initial injury was caused by lifting heavy trash bags. Subsequent duty status reports extended the period of time that appellant was unable to work.

By letter dated July 13, 2004, the Office requested that appellant submit further information. Appellant responded by letter dated July 16, 2004 that beginning in June 2004 he attended the chronic pain management program four hours a day and also worked from 3:30 p.m. until 12:00 a.m. and that this did not leave him enough time to get eight hours of sleep. He contended that the restrictions as set forth by his physicians were not followed and his doctor took him off work for that reason.

On July 16, 2004 appellant filed a claim alleging a recurrence of his August 15, 2003 injury on June 27, 2004. He noted that he never completely recovered from his injury.

In a report dated July 19, 2004, Dr. Vance Zachary, a Board-certified family practitioner, indicated that appellant first came to his office on December 2, 2003 complaining of low back pain from a work-related injury of August 15, 2003 that occurred while lifting a trash bag. He diagnosed sprain/strain injury of the lumbar spine with moderate to severe myospasm and restricted range of motion. Dr. Zachary began conservative care but then referred appellant to Dr. Boyle for a chronic pain management program. He noted that on June 29, 2004 appellant had an acute exacerbation of muscle spasm which left him unable to perform even light-duty work. He noted that, if he did not see significant improvement soon, further diagnostic studies may be required.

By decision dated September 1, 2004, the Office denied appellant's claim for wage-loss disability for the period commencing June 29, 2004 as the medical evidence did not support that the conditions and disability were due to the August 15, 2003 work-related injury.

Appellant requested reconsideration and submitted additional evidence.

On July 20, 2004 John G. Dimler, a social worker, indicated that appellant had been recommended for additional pain management treatment. Appellant also submitted a physical therapy report dated August 30, 2004 wherein it was recommended that appellant return to her treating doctor for additional chronic pain management sessions and noted that appellant was unable to return to work at this time.

In a duty status report dated September 10, 2004, Dr. Zachary indicated that appellant hurt herself lifting trash and was unable to return to any duty pending surgical consult.

On September 14, 2004 Dr. Zachary made a recommendation for medical retirement. He noted that appellant had failed to show significant improvement and continued to suffer acute exacerbations despite current therapies and treatment. Dr. Zachary opined that appellant had reached a plateau as far as his physical condition and his mental readiness, and that there was little expectation that he would ever return to work.

By decision dated September 29, 2004, the Office denied modification of the September 1, 2004 decision.

LEGAL PRECEDENT

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.¹

ANALYSIS

The Office accepted that on August 15, 2003 appellant sustained a sprain/strain of his low back. He returned to light-duty work. Appellant alleged a recurrence of disability commencing June 29, 2004, noting that he was totally disabled at that time. Although Dr. Boyle indicated that appellant was unable to work commencing June 28, 2004 and that the initial injury was caused by lifting heavy trash bags, he did not provide a rationalized medical opinion addressing the basis for his conclusion that appellant's condition on June 28, 2004 was causally related to his injury almost two years earlier. Dr. Zachary failed to provide specific medical evidence linking appellant's medical condition on June 28, 2004 to the August 15, 2003 injury. Neither physician explained why appellant was unable to perform his light-duty position. Medical evidence which does not contain rationale on the issue of causal relationship is of diminished probative value.² It is also noted that the Office never accepted appellant's admission into the pain management program. Appellant has not shown a change in the nature and extent of the light-duty job requirements sufficient to show that he could not perform the light-duty work.

CONCLUSION

Appellant has failed to prove that he was totally disabled commencing June 29, 2004 causally related to his accepted injury of August 15, 2003.

¹ *Mary G. Allen*, 50 ECAB 103 (1998); *Mary A. Howard*, 45 ECAB 646 (1994).

² *See Thaddeus J. Spevack*, 53 ECAB 474 (2002).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated September 29 and 1, 2004 are affirmed.

Issued: June 14, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member