

shoulder and June 1, 2001 cervical strain had ceased.¹ The Board also affirmed a July 20, 2004 decision of the Office denying appellant's July 8, 2004 request for reconsideration. The law and the facts of the case as set forth in the Board's prior decision are hereby incorporated by reference.

On June 9, 2005 appellant claimed a recurrence of disability commencing March 9, 2005 while she was on light duty. She described chronic pain and paresthesias in her neck and upper extremities. Appellant did not stop work. The Office responded, in a June 16, 2005 letter, advising appellant that it could not process the claim for recurrence of disability as her benefits had been terminated.²

In an October 4, 2005 letter, appellant requested reconsideration before the Office. She asserted that newly submitted medical evidence established her entitlement to continuing medical benefits.

A February 17, 2004 cervical magnetic resonance imaging (MRI) scan showed mild degenerative changes from C5 to C7 with a minimal left-sided disc herniation at C5-6.

In a June 18, 2004 chart note, Dr. John N. Riester, an attending Board-certified orthopedic surgeon, diagnosed a multidirectional instability of the right shoulder and renewed appellant's work restrictions. In a September 21, 2004 chart note, Dr. Riester found full ranges of neck and shoulder motion without instability.

Dr. Paul Wong, a Board-certified radiologist, opined that an April 22, 2005 MRI scan showed worsening of the C5-6 herniation with cord deformity and rotation.

In a May 10, 2005 report, Dr. Charulata Shirali, an attending Board-certified physiatrist, provided a history of a right shoulder injury while lifting 70-pound mailbags prior to April 2002. She related appellant's symptoms of severe right shoulder pain with weakness and paresthesias. On examination, Dr. Shirali found restricted cervical and right shoulder motion. She diagnosed a right shoulder strain with probable "mild rotator cuff tendinitis as a result of industrial injury consisting of strain caused by heavy lifting," possible acromioclavicular joint inflammation and possible cervical spondylosis. Dr. Shirali administered trigger point injections.

In a September 19, 2005 report, Dr. Scot D. Miller, an attending Board-certified osteopath specializing in orthopedic surgery, noted reviewing medical records, including Dr. Dennis Glazer, the impartial medical examiner's report, mentioning the January 21, 2001 injury. Dr. Miller noted that appellant first related that her neck condition had a gradual onset and was not work related, then stated that "she had a work-related injury that resulted in the onset of her symptoms dated January 21, 2001." He opined that appellant's primary condition was a disc protrusion with degenerative disc disease, treated by a C5-6 discectomy and fusion in June 2005. Dr. Miller explained that "this condition could be the result of normal wear and tear

¹ Docket No. 04-1989 (issued April 22, 2005).

² In a June 10, 2005 letter, appellant requested a change of physicians to Dr. Miller. In a June 16, 2005 letter, the Office responded that no change of physicians was appropriate as her compensation and medical benefits were previously terminated.

and aging change” or the January 21, 2001 injury although he did not “know of any firm scientific method that would be used to conclude that this was a work-related injury versus normal wear and tear. Certainly, symptoms can be exacerbated from a work-related injury but that would be hearsay based on the opinion of the patient.” He opined that, by history, appellant’s degenerative disc disease “was more than likely aggravated, within a reasonable degree of medical probability, by her work injury of 2001” but that there was no other information to corroborate this opinion.

By decision dated December 27, 2005, the Office found that the medical record did not establish entitlement to continuing medical benefits after September 3, 2003. The Office found that the medical evidence submitted contained insufficient rationale to outweigh the July 2003 opinion of Dr. Glazer who provided a complete factual and medical history, noted no objective findings on examination and opined that the accepted injuries had resolved without objective residuals.

LEGAL PRECEDENT

Following the termination of his compensation benefits, the burden of proof shifted back to appellant to support his claim of employment-related continuing disability with probative medical evidence.³ The medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician’s 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.⁴

ANALYSIS

The Office accepted that appellant sustained a right shoulder strain on January 1, 2001 and a cervical strain on June 1, 2001. Based on the July 2003 reports of Dr. Glazer, a Board-certified orthopedic surgeon and impartial medical examiner, the Office terminated appellant’s entitlement to medical benefits effective September 3, 2003 on the grounds that the accepted injuries resolved without residuals. The Board affirmed this finding in its April 22, 2005 decision. On October 4, 2005 appellant requested reconsideration, asserting that new medical evidence established her entitlement to continuing medical benefits. The burden of proof shifted back to appellant to establish that she had a medical condition causally related to the accepted injuries after September 3, 2003.⁵

³ See *Talmadge Miller*, 47 ECAB 673 (1996).

⁴ See *John F. Glynn*, 53 ECAB 562 (2002).

⁵ *Id.*

In support of her October 4, 2005 request for reconsideration, appellant submitted additional medical reports. Three of appellant's physicians did not provide a history of the accepted January 21, 2001 right shoulder strain or June 1, 2001 cervical strain. Dr. Wong, a Board-certified radiologist, opined that February 17, 2004 and April 22, 2005 MRI scans showed a worsening C5-6 disc herniation. However, he did not attribute these findings to any cause. Dr. Riester, an attending Board-certified orthopedic surgeon, submitted June 18 and September 21, 2004 reports diagnosing intermittent right shoulder instability with no identified cause. Dr. Shirali, an attending Board-certified physiatrist, opined that a right shoulder strain with probable rotator cuff tendinitis resulted from an unspecified industrial lifting injury prior to April 2002. As these physicians did not provide a complete, accurate factual history, their opinions are insufficient to establish a causal relationship between the accepted injuries and appellant's condition after September 3, 2003.⁶

Appellant also submitted a September 19, 2005 report from Dr. Miller, an attending Board-certified osteopath specializing in orthopedic surgery, diagnosing a C5-6 disc protrusion with degenerative disc disease. Dr. Miller did mention the accepted January 21, 2001 right shoulder strain. However, he opined that there was no scientific method by which to distinguish any effects of this injury from normal wear and tear. Thus, Dr. Miller's opinion is insufficiently rationalized to support the causal relationship asserted in this case.⁷

None of appellant's physicians provided sufficient medical rationale explaining how and why the accepted January 21, 2001 right shoulder strain or June 1, 2001 cervical strain would cause or aggravate any medical condition after September 3, 2003. Thus, appellant has failed to meet her burden of proof. The Board therefore finds that the opinion of Dr. Glazer, the impartial medical examiner, continues to represent the weight of the medical evidence in this case.

CONCLUSION

The Board finds that appellant has not established her entitlement to medical benefits on and after September 3, 2003, on the grounds that her accepted right shoulder and cervical strains had ceased with no residuals.

⁶ *Sandra D. Pruitt*, 57 ECAB ____ (Docket No. 05-739, issued October 12, 2005).

⁷ *Roy L. Humphrey*, 57 ECAB ____ (Docket No. 05-1928, issued November 23, 2005).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 27, 2005 is affirmed.

Issued: July 5, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board