

Appellant came under the care of Dr. Dorota M. Gribbin, Board-certified in physical medicine and rehabilitation, who treated appellant since May 21, 1998. In reports dated May 21, 1998 to September 28, 1999, Dr. Gribbin noted a history of appellant's work injury and diagnosed T12-L1 facet syndrome, bilateral groin sprain and lumbar sprain. She advised that appellant could work subject to various restrictions. Dr. Gribbin noted that appellant was treated with lateral facet block under fluoroscopy and trigger point injections with excellent improvement in her symptoms.

Appellant filed notices of recurrence of disability occurring on June 16 and December 28, 1998, and July 1, 2002. The Office accepted the recurrences as work related.

Appellant submitted a magnetic resonance imaging (MRI) scan of the lumbar spine dated May 30, 2002 which revealed an L5-S1 disc bulge. She also submitted reports from Dr. Magdy Elamir, a Board-certified internist, dated July 8 and September 16, 2002. Dr. Elamir treated appellant for neck and back pain which occurred after manipulating a jammed door at work on July 1, 2002. She diagnosed cervical and lumbar myofascitis, aggravation of preexisting back injury, C5-6 disc herniation, right-sided cervical radiculopathy and L5-S1 disc bulge. Appellant came under the treatment of Dr. Mark A.P. Filippone, Board-certified in physical medicine and rehabilitation. Dr. Filippone's reports noted a history of injury on May 4, 1998 and diagnosed multiple trauma including post-traumatic cephalgia, cervicgia with radiculitis, rule out carpal tunnel syndrome, rule out cervical radiculopathy, rule out ulnar neuropathy and post-traumatic lumbosacral radiculitis. He opined that appellant was totally disabled. On December 2, 2003 Dr. Filippone indicated that an electromyogram (EMG) revealed evidence of right C5-6 cervical radiculopathy, bilateral carpal tunnel syndrome, bilateral L5-S1 lumbosacral radiculopathy. He opined that the findings were directly and solely the result of the May 4, 1998 injury.

On February 9, 2004 the Office referred appellant to Dr. David R. Cooper, a Board-certified orthopedic surgeon, for a second opinion evaluation. In a report dated February 12, 2004, Dr. Cooper, discussed appellant's work history. He noted restricted range of motion of the neck and lower back. Dr. Cooper advised that appellant did not have residuals of her accepted work-related condition of lumbar strain and bilateral groin strain. He opined that appellant's accepted work injuries resolved within a few months of her injury and she could return to work without restrictions. Dr. Cooper opined that the diagnostic tests revealed a lumbar disc bulge and cervical disc herniation; however, these injuries were not related to her accepted work injury.

The Office found that a conflict of medical opinion existed between Dr. Filippone, a treating physician, and Dr. Cooper, the Office referral physician.

To resolve the conflict the Office referred appellant to Dr. Peter A. Feinstein, a Board-certified orthopedic surgeon, selected as the impartial specialist, who indicated in a report dated May 3, 2004 that he reviewed the records and performed a physical examination of the appellant. Dr. Feinstein noted a normal knee and hip examination with the absence of groin pain, her gait revealed a marked limp to the right lower extremity, straight leg raises were equivocally positive bilaterally, forward flexion range of motion of the thoracolumbar spine was subjectively limited and there was minimal right paravertebral muscular discomfort with no sensory deficits in either lower extremity. He opined that appellant's physical examination referable to the groin, hip and lumbar spine was entirely benign other than subjective complaints that did not correlate with the

residual symptomology from the work incident in 1998. Dr. Feinstein advised that appellant's lumbar spine complaints were consistent with the development of osteoarthritis in her knees which was not work related but rather a function of her age and degenerative changes which was causing symptomology in her back. He opined that appellant's work related sprain of the lower back and groin had resolved and she could return to work without restrictions. Dr. Feinstein provided work restrictions. However, he indicated that they were not work related but attributed to appellant's degenerative arthritis of the knee causing secondary back discomfort.

Appellant submitted additional reports from Dr. Filippone dated February 17 to August 10, 2004. Dr. Filippone diagnosed cervical and lumbar sprain, carpal tunnel syndrome and cervical and lumbar radiculopathy. He noted with a check mark "yes" that appellant's condition was caused or aggravated by her employment and that appellant remained permanently disabled. In reports dated April 4 to May 19, 2004, Dr. Filippone noted appellant's continued complaints of low back pain and spasm of the cervical and lumbar spine and advised that appellant continued to be totally disabled. Appellant also submitted an MRI scan of the hips dated July 14, 2004 which revealed no abnormalities.

On September 13, 2004 the Office issued a notice of proposed termination of compensation benefits on the grounds that Dr. Feinstein's report dated May 3, 2004 established no residuals of the work-related employment injury.

Appellant continued treatment for lumbar and cervical pain. Dr. Filippone diagnosed lumbalgia with radiculitis, rule out lumbosacral radiculopathy and rule out tendinitis and arthritis of the hips. On October 28, 2004 he diagnosed cervical and lumbar sprain, carpal tunnel syndrome and cervical and lumbar radiculopathy. He noted with a check mark "yes" that appellant's condition was caused or aggravated by her employment and that appellant remained permanently disabled. A computerized tomography (CT) scan of the lumbar spine dated September 21, 2004 revealed mild disc bulging at L4-5 and L5-S1 with facet joint arthropathy seen at L3-4 and L4-5.

By decision dated October 21, 2004, the Office terminated appellant's compensation and medical benefits effective October 31, 2004. It found that the weight of the medical evidence established that she had no continuing disability resulting from her accepted employment injury.

On September 7, 2005 appellant requested a review of the written record. Appellant submitted a report from Dr. Elamir dated September 30, 2003. She noted a history of injury and diagnosed post-traumatic headaches, cervical and lumbar myofascitis, L5-S1 disc bulging, C5-6 disc herniation and right-sided cervical radiculopathy. Dr. Elamir opined that appellant incurred permanent disability of the neck and back causally related to the work accident. Additional reports from Dr. Filippone dated July 6, 2004 to August 10, 2005 noted appellant's continued complaints of back and neck pain. On October 28, 2004 he disagreed with the Office decision to terminate appellant's compensation benefits noting that an EMG revealed bilateral L5-S1 lumbosacral radiculopathy. On September 7, 2005 Dr. Filippone diagnosed carpal tunnel syndrome, cervical and lumbar radiculopathy and noted with a check mark "yes" that appellant's condition was caused or aggravated by her employment. His subsequent reports diagnosed right C5-6 cervical radiculopathy by EMG, bilateral carpal tunnel syndrome and bilateral L5-S1 lumbosacral radiculopathy. Dr. Filippone opined that the EMG abnormalities were directly and

solely the result of appellant's work-related injury of May 4, 1998. An EMG dated September 28, 2005 revealed right C5-6 cervical radiculopathy, bilateral carpal tunnel syndrome and bilateral L5-S1 lumbosacral radiculopathy.

In a decision dated November 7, 2005, the hearing representative affirmed the June 22, 2004 decision.

LEGAL PRECEDENT -- ISSUE 1

Once the Office accepts a claim, it has the burden of justifying termination or modification of compensation benefits.¹ After it has determined that an employee has disability causally related to his or her federal employment, the Office may not terminate compensation without establishing that the disability has ceased or that it is no longer related to the employment.²

ANALYSIS -- ISSUE 1

The Office accepted appellant's claim for bilateral groin sprain and lumbar strain. The Office determined that a conflict in medical opinion existed between appellant's attending physician, Dr. Filippone, a Board-certified orthopedic surgeon, who disagreed with the Office referral physician, Dr. Cooper, also a Board-certified orthopedic surgeon, concerning whether appellant had any continuing work-related condition. The Office properly referred appellant to Dr. Feinstein to resolve the conflict.

Where there exists a conflict of medical opinion and the case is referred to an impartial specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, is entitled to special weight.³

The Board finds that the opinion of Dr. Feinstein is sufficiently well rationalized and based upon a proper factual background. It is entitled to special weight and establishes that appellant's work-related condition has ceased.

In his report of May 3, 2004, Dr. Feinstein reviewed appellant's history, reported findings and noted that appellant exhibited no objective complaints or definite work-related abnormality in her condition. He opined that appellant's physical examination referable to the groin, hip and lumbar spine was entirely benign other than subjective complaints that did not correlate with the residual symptomology from the work incident in 1998. Dr. Feinstein indicated that appellant's lumbar spine complaints were consistent with the development of osteoarthritis in her knees which was not work related but a function of her age and degenerative changes which was causing symptomology in her back. He opined that appellant's work-related sprain of the lower back and groin had resolved and she could return to work without restrictions. Dr. Feinstein provided work restrictions but noted that the restrictions were not related to appellant's work

¹ *Gewin C. Hawkins*, 52 ECAB 242 (2001); *Alice J. Tysinger*, 51 ECAB 638 (2000).

² *Mary A. Lowe*, 52 ECAB 223 (2001).

³ *Solomon Polen*, 51 ECAB 341 (2000).

injury rather they were attributed to appellant's primary problem of degenerative arthritis in her knee causing secondary back discomfort.

After issuance of the pretermination notice, appellant submitted reports from Dr. Filippone who diagnosed lumbalgia with radiculitis, rule out lumbosacral radiculopathy and rule out tendinitis and arthritis of the hips. However, Dr. Filippone did not specifically address how any continuing condition or medical restrictions were causally related to the accepted May 4, 1998 employment injury. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.⁴ Additionally, Dr. Filippone's report is similar to his prior reports and are insufficient to overcome that of Dr. Feinstein or to create a new medical conflict.⁵ Also submitted was an attending physician's report dated October 28, 2004, in which Dr. Filippone diagnosed cervical and lumbar sprain, carpal tunnel syndrome and cervical and lumbar radiculopathy. He noted with a check mark "yes" that appellant's condition was caused or aggravated by her employment and that appellant remained permanently disabled. However, 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 condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.⁶ Appellant also submitted a CT scan of the lumbar spine dated September 21, 2004, which revealed mild disc bulging at L4-5 and L5-S1 with facet joint arthropathy seen at L3-4 and L4-5. However, this report neither provided a history of injury or a rationalized opinion addressing how any continuing condition was causally related to the May 4, 1998 injury.⁷

The Board finds Dr. Feinstein had full and accurate background of the relevant facts and evaluated the course of appellant's condition. He is a specialist in the appropriate field. At the time benefits were terminated he opined that appellant had no work-related reason for disability. Dr. Feinstein's opinion as set forth in his report of May 3, 2004 is found to be probative evidence and reliable. The Board finds that Dr. Feinstein's opinion constitutes the special weight of the medical evidence and is sufficient to justify the Office's termination of benefits.⁸

LEGAL PRECEDENT -- ISSUE 2

If the Office meets its burden of proof to terminate appellant's compensation benefits, the burden shifts to appellant to establish that she had continuing disability causally related to her

⁴ *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

⁵ See *Michael Hughes*, 52 ECAB 387 (2001); *Howard Y. Miyashiro*, 43 ECAB 1101, 1115 (1992); *Dorothy Sidwell*, 41 ECAB 857 (1990). The Board notes that Dr. Filippone's report does not contain new findings or rationale upon which a new conflict might be based.

⁶ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

⁷ See *Jimmie H. Duckett*, *supra* note 4.

⁸ In cases where the Office has referred appellant to an impartial medical examiner to resolve a conflict in the medical evidence, the opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight. *Gary R. Sieber*, 46 ECAB 215, 225 (1994).

accepted employment injury.⁹ To establish a causal relationship between the condition, as well as any disability claimed and the employment injury, the employee must submit rationalized medical opinion evidence, based on a complete factual background, supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence, which includes a physician's rationalized 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. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.¹⁰

ANALYSIS -- ISSUE 2

The Board finds that appellant has not established that she has any continuing residuals of her bilateral groin sprain and lumbar strain causally related to her accepted employment injuries on or after October 31, 2004. Appellant submitted a report from Dr. Elamir dated September 30, 2003, who noted a history or injury and diagnosed post-traumatic headaches, cervical and lumbar myofascitis, L5-S1 disc bulging, C5-6 disc herniation and right sided cervical radiculopathy. He opined that appellant incurred permanent disability of the neck and back causally related to the work accident. The Board finds that Dr. Elamir did not provide a rationalized opinion specifically addressing how any continuing condition or medical restrictions were causally related to the accepted May 1998 employment injury. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.¹¹ Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship. Additionally, the Board notes that the Office never accepted that appellant developed post-traumatic headaches, cervical and lumbar myofascitis, L5-S1 disc bulging, C5-6 disc herniation and right sided cervical radiculopathy as a result of her May 4, 1998 work injury and there is no medical evidence to support such a conclusion.¹² Therefore, the report from Dr. Elamir is insufficient to overcome that of Dr. Feinstein or to create a new medical conflict.¹³

Other reports from Dr. Filippone dated October 28, 2004 to September 28, 2005, advised that Dr. Filippone disagreed with the Office decision to terminate appellant's compensation benefits noting that an EMG revealed bilateral L5-S1 lumbosacral radiculopathy. He diagnosed right C5-6 cervical radiculopathy by EMG, bilateral carpal tunnel syndrome, and bilateral L5-S1 lumbosacral radiculopathy. He opined that the EMG abnormalities were solely the result of

⁹ *Manuel Gill*, 52 ECAB 282 (2001); *George Servetas*, 43 ECAB 424, 430 (1992).

¹⁰ *See Connie Johns*, 44 ECAB 560 (1993); *James Mack*, 43 ECAB 321 (1991).

¹¹ *See Jimmie H. Duckett*, *supra* note 4.

¹² *Id.*

¹³ *See Howard Y. Miyashiro*, *supra* note 5. The Board notes that Dr. Elamir's report does not contain new findings or rationale upon which a new conflict might be based.

appellant's work-related injury of May 4, 1998. Although Dr. Filippone provided some support for causal relationship in this conclusory statement, he failed to provide a rationalized opinion specifically addressing how any continuing condition or medical restrictions were causally related to the accepted May 1998 employment injury.¹⁴ Additionally, the Office never accepted that appellant developed right C5-6 cervical radiculopathy, bilateral carpal tunnel syndrome, bilateral L5-S1 lumbosacral radiculopathy as a result of her May 4, 1998 work injury and there is no medical evidence to support such a conclusion.¹⁵ Appellant also submitted an EMG dated September 28, 2005 performed by Dr. Filippone which revealed right C5-6 cervical radiculopathy, bilateral carpal tunnel syndrome, bilateral L5-S1 lumbosacral radiculopathy. However, this report neither provided a history of injury or a rationalized opinion addressing how any continuing condition was causally related to the May 4, 1998 injury.¹⁶

None of the reports submitted by appellant after the termination of benefits included a rationalized opinion regarding the causal relationship between her current condition and her accepted work-related injury of May 1998.¹⁷ The Board has found that vague and unrationalized medical opinion on causal relationship have little probative value. Therefore, the reports from Dr. Filippone are insufficient to overcome that of Dr. Feinstein or to create a new medical conflict.¹⁸

On appeal, appellant through her attorney, asserts that she submitted sufficient evidence from Drs. Filippone and Elamir to establish that she has residuals of her work-related injury. She contends that Dr. Feinstein's report is insufficient to carry the weight of the medical evidence to terminate compensation as he found positive physical findings upon examination and failed to provide an impartial assessment of appellant's residual disability but rather agreed with the second opinion physician. The Board finds these arguments to be without merit. Dr. Feinstein provided an impartial assessment of appellant's condition and provided a thorough and rationalized opinion that there were no objective findings of residual disability due to appellant's work-related injury and that appellant's accepted groin and lumbar injuries had resolved. He opined that appellant's residual symptomology was consistent with the development of osteoarthritis in her knees which caused symptomology in her back and which was not work related but rather degenerative in nature and a function of appellant's age. As noted above, the reports of Drs. Filippone and Elamir were similar to there prior reports and insufficient to overcome that of Dr. Feinstein or to create a new conflict.¹⁹

¹⁴ See *Jimmie H. Duckett*, *supra* note 4.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See *Howard Y. Miyashiro*, *supra* note 5; *Dorothy Sidwell*, *supra* note 5.

¹⁹ *Id.*

CONCLUSION

The Board finds that the Office has met its burden of proof to terminate benefits effective October 31, 2004. The Board further finds that appellant failed to establish that she had any continuing disability after October 31, 2004.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated November 7, 2005 and October 21, 2004 are affirmed.

Issued: September 15, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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