



July 19, 2004. He filed a claim for a recurrence of total disability on July 23, 2004. Appellant indicated that he bent down to pick up a piece of paper, became dizzy and thought he might faint. By decisions dated January 12 and June 14, 2005, the Office denied his claim for a recurrence of total disability.<sup>1</sup>

On July 23, 2004 an emergency room physician made a tentative diagnosis of dehydration or possible vertigo. Appellant reported a sudden onset of dizziness. In answer to the question as to whether his condition was caused or aggravated by factors of his employment, the physician wrote a question mark.

On November 20, 2004 Dr. Elizabeth R. Hatton, an attending family practitioner, diagnosed a herniated cervical disc and indicated by checking “yes” that the condition was causally related to appellant’s April 10, 2004 employment injury. On February 17, 2005 she stated that appellant sustained strains of the low back, neck, right shoulder and left knee caused by his April 10, 2004 employment injury. Dr. Hatton indicated that appellant was disabled.

On September 7, 2004 Dr. Laszlo Mechtler, an attending Board-certified neurologist, provided findings on examination and the results of a magnetic resonance imaging (MRI) scan of the cervical spine. He diagnosed a disc herniation at C5-6 and C6-7. Dr. Mechtler noted a moderate degree of cervical spondylosis (degenerative changes due to osteoarthritis) and cervical myofascial syndrome which the April 10, 2004 employment injury could have aggravated. On November 24, 2004 Dr. Mechtler stated that an electromyogram (EMG) revealed a C6-7 disc herniation impinging on the nerve root and causing radiculopathy on the left. He diagnosed cervical radiculopathy and carpal tunnel syndrome and found that these conditions were aggravated by the April 10, 2004 employment injury. Dr. Mechtler indicated that appellant was totally disabled. On June 1, 2005 appellant indicated that he had been off work since his April 10, 2004 employment injury. He had returned to work on April 7, 2005 with no lifting over 10 pounds. On July 6, 2005 Dr. Mechtler stated:

“Based on the history that [appellant] has offered and due to the fact that his pain syndrome occurred immediately after injuring his neck on April 10, 2004, I do feel that the present injuries are related to the [April 10, 2004] accident. Based on the history, I cannot rule out preexisting cervical spondylosis[,] but independent of this, the fact that he was relatively asymptomatic prior to this and became symptomatic on April 10, 2004 leads [me] to believe that [his] injuries are work related. I should also add that his EMG shows acute radiculopathy and not just chronic radiculopathy which again points to a recent injury.”

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<sup>1</sup> On May 5, 2005 appellant requested an oral hearing. By decision dated August 4, 2005, the Office denied the hearing request.

On May 5, 2006 Dr. Mechtler stated that appellant was released to limited-duty work in July 2004. Appellant was hospitalized on July 23, 2004 for an episode of severe dizziness when he bent down to pick up a piece of paper. The dizziness lasted several weeks. Dr. Mechtler stated:

“The question ... is whether ... [appellant’s] past injury at work, which caused cervical disc herniation is related to the episode of dizziness that he suffered on July 23, 2004. In my opinion, the episode of dizziness was caused by [appellant’s] previous work-related neck injury....

“[Appellant’s] diagnostic studies confirm an EMG on November 9, 2004 that showed subacute changes consistent with an injury that occurred within the previous several months. The MRI [scan] did show disc herniation at C5-6 and C6-7. These bilateral disc herniation were on the left, consistent with [appellant’s] symptoms.

“[Appellant’s] symptoms on July 23, 2004, I feel are directly related to his disc herniation [and] radiculopathy, confirmed by his history and electrophysiological testing such as the EMG and nerve conduction study. The dizziness or so-called disequilibrium syndrome is commonly associated with cervical spasm. The term ‘cervical vertigo’ is directly related to spasm in the neck that causes a sensation of dizziness.

“There is no indication that [appellant] suffers from any other disease that could account for this sudden onset of dizziness when he bent down on July 23, 2004. In fact, [he] had bent over many times in his work as a fireman prior to [April 10, 2004] and never suffered similar dizzy spells. In my experience ..., patients with cervical disc herniation commonly suffer from neck stiffness and pain and radicular numbness, especially in patients with abnormal EMGs and MRI [scans]. Frequently, dizziness is a symptom as well in patients with herniated cervical discs.... I believe [appellant’s] episode of dizziness on July 23, 2004 was caused by documented herniated cervical discs.”

By decision dated July 5, 2006, the Office denied modification of its January 12 and June 14, 2005 decisions.<sup>2</sup>

### **LEGAL PRECEDENT**

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he 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 that he cannot perform the light-duty position. As part of this burden of proof, the employee

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<sup>2</sup> Subsequent to the July 5, 2006 Office decision, appellant submitted additional evidence. The Board’s jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

must show either 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.<sup>3</sup>

To establish a causal relationship between a claimant's medical conditions and his employment, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.<sup>4</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's 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.<sup>5</sup> Neither the 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.<sup>6</sup>

### ANALYSIS

Appellant has the burden to provide medical evidence establishing that he was totally disabled on July 23, 2004 due to a worsening of his accepted work-related conditions, strains of the neck and right arm and shoulder or a change in his job duties such that he was unable to perform his light-duty work. He alleged a worsening of his accepted conditions.

On July 23, 2004 an emergency room physician made a tentative diagnosis of dehydration or vertigo for appellant's sudden onset of dizziness. In answer to the question as to whether appellant's condition was caused or aggravated by factors of his employment, the physician wrote a question mark. As he did not provide a specific diagnosis or indicate that appellant's condition was causally related to his April 10, 2004 employment injury, this evidence does not establish a work-related recurrence of total disability on July 23, 2004.

Dr. Hatton diagnosed a herniated cervical disc and left knee strain, in addition to the accepted conditions of a neck and right arm strain and indicated by checking "yes" that the condition was causally related to appellant's April 10, 2004 employment injury. A herniated disc is not an accepted condition in this case. The Board has held that a physician's opinion on causal relationship which consists only of checking "yes" to a form report is of diminished probative value.<sup>7</sup> Medical reports not containing adequate rationale on causal relationship are of diminished probative value and are generally insufficient to meet an employee's burden of

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<sup>3</sup> *Bryant F. Blackmon*, 57 ECAB \_\_\_\_ (Docket No. 04-564, issued September 23, 2005); *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>4</sup> *Michael S. Mina*, 57 ECAB \_\_\_\_ (Docket No. 05-1763, issued February 7, 2006).

<sup>5</sup> *Steven S. Saleh*, 55 ECAB 169 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>6</sup> *Michael S. Mina*, *supra* note 4.

<sup>7</sup> *See Gary J. Watling*, *supra* note 5.

proof.<sup>8</sup> Lacking medical rationale explaining how appellant's herniated disc is causally related to his April 10, 2004 employment injury, Dr. Hatton's opinion on causal relationship is insufficient to establish that appellant sustained a work-related recurrence of total disability on July 23, 2004.

Dr. Mechtler diagnosed a disc herniation at C5-6 and C6-7, cervical myofascial syndrome with radiculopathy, cervical spondylosis and carpal tunnel syndrome. He found that these conditions were either caused or aggravated by appellant's April 10, 2004 employment injury or the July 23, 2004 dizziness episode. Dr. Mechtler stated that appellant was relatively asymptomatic prior to his April 10, 2004 employment injury which led to his opinion that appellant's injuries were work related. However, the Board has held that the opinion of a physician that a condition is causally related to an employment injury because the employee was asymptomatic before the injury is insufficient, without supporting medical rationale to establish causal relationship.<sup>9</sup> Additionally, as noted, medical reports not containing adequate rationale on causal relationship are of diminished probative value and are generally insufficient to meet an employee's burden of proof. Dr. Mechtler stated that appellant was released to limited-duty work in July 2004. Appellant was hospitalized on July 23, 2004 for an episode of severe dizziness when he bent down to pick up a piece of paper. Dr. Mechtler stated that the July 23, 2004 episode of dizziness was caused by appellant's April 10, 2004 neck strain, cervical disc herniation. However, the accepted conditions in this case are strains of the neck, right arm and shoulder. A herniated disc is not an accepted condition in this case. Therefore, Dr. Mechtler's reports are not based on a complete and accurate factual and medical background. As noted, a physician's opinion must be based on a complete and accurate factual and medical background of the employee. Dr. Mechtler did not address whether there was a change in the nature and extent of appellant's accepted conditions, strains of the neck, right arm and shoulder such that he was unable to perform his light-duty work. Due to these deficiencies, Dr. Mechtler's reports are not sufficient to establish that appellant sustained a recurrence of total disability on July 23, 2004 causally related to his April 10, 2004 employment injury.

The Board finds that appellant failed to establish that he was totally disabled on July 23, 2004 due to a change in the nature and extent of his employment-related neck strain, right arm and shoulder strain or a change in the nature and extent of his light-duty job requirements. Therefore, the Office properly denied his claim for a recurrence of total disability.

### **CONCLUSION**

The Board finds that appellant failed to establish that he sustained a recurrence of total disability on July 23, 2004 causally related to his April 10, 2004 employment injury.

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<sup>8</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001).

<sup>9</sup> *Jaja K. Asaramo*, 55 ECAB 200 (2004).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated July 5, 2006 is affirmed.

Issued: March 16, 2007  
Washington, DC

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

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board