

related to the February 5, 2000 injury. Additionally, appellant was involved in another MVA on or about May 6, 2002.

Effective June 9, 2006, the Office terminated appellant's compensation benefits. The decision was based on the October 28, 2005 report of Dr. Alan H. Wilde, a Board-certified orthopedic surgeon and Office referral physician, who found that her cervical strain had resolved and that her cervical disc degeneration (C5-6) was not related to the February 5, 2000 employment injury. By decision dated January 16, 2007, the Branch of Hearings and Review affirmed the Office's June 9, 2006 decision. The Office subsequently denied modification in a decision dated October 1, 2007. On appeal, the Board affirmed the Office's October 1, 2007 decision.¹

On September 28, 2008 appellant requested reconsideration before the Office. In an August 27, 2008 report, Dr. Mark A. Hnilica, a Board-certified neurosurgeon, advised that he had since performed the recommended C5-6 discectomy and fusion surgery, but she continued to experience neck and shoulder pain as well as some chronic arm and hand discomfort. He stated that appellant's chronic arm discomfort and reactive cervical muscular guarding would limit her activity and her return to employment as a letter carrier. As to the cause of her current complaints, Dr. Hnilica explained that plain x-rays at the time of the February 2000 MVA showed no significant bone spurs or degeneration within the cervical spine, but by December 2001, appellant's x-rays showed degeneration at C5-6 with spondylosis or bone spurs. He explained that this progression was evident prior to her May 2002 MVA. Dr. Hnilica stated that the rapid progression of degeneration over a one and one-half-year period was entirely consistent with the injury to the disc causing precocious wear and tear leading to the degeneration with bone spurs. He concluded that appellant sustained a C5-6 injury at the time of her February 2000 employment-related MVA. He also advised that, because the December 2001 cervical x-ray already showed degeneration, he did not find that the subsequent May 2002 accident "was likely contributory to this process."²

By decision dated November 3, 2008, the Office reviewed the claim on the merits, but denied modification of the prior decisions terminating benefits.

LEGAL PRECEDENT

Once the Office accepts a claim and pays compensation, it bears the burden to justify modification or termination of benefits.³ Having determined that an employee has a disability causally related to his or her federal employment, the Office may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the

¹ Docket No. 08-660 (issued July 9, 2008). The Board's July 9, 2008 decision is incorporated herein by reference.

² A cervical magnetic resonance imaging (MRI) scan also obtained on December 5, 2001 showed mild disc degeneration at C5-6, a disc bulge at C5-6 with a small amount of central protrusion and minimal cervical canal stenosis at C5-6. Appellant underwent another cervical MRI scan on June 8, 2006, which revealed a slight progression of her C5-6 degenerative disc disease since December 5, 2001.

³ *Curtis Hall*, 45 ECAB 316 (1994).

employment.⁴ The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.⁵ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁶ Once the Office has properly modified or terminated benefits, the burden of reinstating benefits shifts to the employee.⁷

ANALYSIS

As noted, the Board previously affirmed the Office's decision to terminate appellant's compensation benefits effective June 9, 2006. The issue is whether appellant has demonstrated that she has employment-related residuals after June 9, 2006.

Appellant does not claim that she continues to experience residuals of her accepted cervical strain. However, she maintains that her February 5, 2000 employment-related MVA was responsible for the development of her cervical degenerative disc disease. The Office denied appellant's C5-6 degenerative disc disease as employment related. Where an employee claims that a condition not accepted or approved by the Office was due to an employment injury, she bears the burden of proof to establish that the condition is causally related to the employment injury.⁸

The only relevant medical evidence submitted since the Board's prior review was Dr. Hnilica's August 27, 2008 report, who attributed appellant's C5-6 disc degeneration to the February 5, 2000 MVA. He also excluded her May 2002 MVA as a possible contributing factor to her cervical degenerative disc disease. However, Dr. Hnilica's August 27, 2008 report lacks adequate rationale to support his opinion on causation. His opinion described the "rapid progression of degeneration" reportedly exhibited between appellant's February 5, 2000 and December 5, 2001 cervical x-rays. The former x-ray was interpreted as exhibiting a normal cervical spine and the latter film revealed "[m]ild cervical spondylosis" at C5.

Dr. Hnilica's characterization of the noted progression as rapid degeneration appears inconsistent with what one Board-certified radiologist characterized as "mild" or "minimal" degeneration. The August 27, 2008 report is also of reduced probative value because other than noting a temporal relationship between the February 5, 2000 MVA and the development of

⁴ *Jason C. Armstrong*, 40 ECAB 907 (1989).

⁵ *Furman G. Peake*, 41 ECAB 361, 364 (1990); *Thomas Olivarez, Jr.*, 32 ECAB 1019 (1981).

⁶ *Calvin S. Mays*, 39 ECAB 993 (1988).

⁷ *Joseph A. Brown, Jr.*, 55 ECAB 542, 544 n. 5 (2004).

⁸ *Jaja K. Asaramo*, 55 ECAB 200, 204 (2004). Causal relationship is a medical question, which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). The physician's opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

cervical degenerative disc disease, Dr. Hnilica did not offer a reasoned explanation on how the MVA contributed to appellant's C5-6 degenerative disc disease. He also failed to offer any clarification about the previously reported history of appellant having lost consciousness during the February 5, 2000 MVA. For the above-noted reasons, the Board finds that Dr. Hnilica's August 27, 2008 report is insufficient to establish that appellant's cervical degenerative disc disease was caused or contributed to by the February 5, 2000 employment-related MVA.

CONCLUSION

The Board finds that appellant failed to establish that she has any injury-related residuals after June 9, 2006.

ORDER

IT IS HEREBY ORDERED THAT the November 3, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 15, 2009
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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