United States Department of Labor
Employees' Compensation Appeals Board

J.D., Appellant	)	
and	)	**Docket No. 09-486**
	)	**Issued: February 5, 2010**
U.S. POSTAL SERVICE, PROCESSING & DELIVERY CENTER, San Francisco, CA, Employer	)	

Appearances:
Hank Royal, for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On December 9, 2008, appellant, through her representative, filed an appeal from the July 25 and 29, 2008 decisions of the Office of Workers' Compensation Programs, which denied her claim of aggravation of preexisting degenerative disc disease or that she had residuals of her bilateral carpal tunnel condition. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUES

The issues are: (1) whether appellant has established that her lumbar degenerative disc disease was caused or aggravated by her federal employment; and (2) whether she has established residuals of her bilateral carpal tunnel condition.

On appeal, appellant, through her representative, contends that the second opinion physician created a medical conflict with her attending physician in the lumbar claim. He also contends that the medical file contains documentation that supports continuing disability due to carpal tunnel syndrome and lateral epicondylitis.

FACTUAL HISTORY

On March 4, 1998 appellant, then a 46-year-old machine operator, filed an occupational disease claim alleging that, as a result of processing heavy mail every day, she suffered from sharp pains in her left arm, File No. xxxxxx692. Her claim was accepted for left shoulder strain and left shoulder impingement syndrome. Appellant underwent left shoulder arthroscopy on July 23, 1999. On May 13, 1998 she filed an occupational disease claim alleging that she sustained carpal tunnel syndrome due to repeated heavy lifting in her federal employment, File No. xxxxxx462. Appellant's claim was accepted for bilateral carpal tunnel syndrome. She underwent a right carpal tunnel release on January 8, 1999 and a left carpal tunnel release on May 13, 1999. On December 1, 1998 appellant sustained a low back strain when she lifted a tray of mail, File No. xxxxxx632. The three claims were consolidated into File No. xxxxxx462.[1]

On September 24, 2001 Dr. Vatche Cabayan, an attending Board-certified orthopedic surgeon, noted that there were no medical conditions which restricted appellant's ability to perform the duties of her job. Appellant returned to limited-duty work as a video coding systems technician, full time, on November 6, 2001.[2] On December 5, 2001 Dr. Cabayan opined that she had a lumbosacral sprain with subjective radiculopathy and evidence of magnetic resonance imaging (MRI) scan changes at L4-5. He found that appellant was permanent and stationary with regard to this injury but would need medication, a back brace and lumbar support. On January 21, 2002 Dr. Cabayan listed his impressions as carpal tunnel syndrome, status post decompression bilaterally, impingement syndrome of the left shoulder, status post decompression, and element of overuse of the upper extremities along with aches and pains through her arms as well. He opined that appellant had reached maximum medical improvement with 20 percent impairment to each upper extremity. In an August 22, 2002 report, Dr. Cabayan noted that she was still having pain along the left shoulder, elbows (right more than left), wrists and hands with numbness along the median distribution with grip loss. The pain in appellant's low back was constant and down her right leg.

On October 14, 2002 the Office referred appellant to Dr. Jerrold Sherman, a Board-certified orthopedic surgeon, for a second opinion. On October 23, 2002 Dr. Sherman diagnosed left shoulder status post arthroscopic surgery with complaints of persistent pain, complaint of low back pain with nonphysiologic radicular symptoms in the right leg, and bilateral carpal tunnel surgical releases with complaint of pain and numbness but without neurologic or mechanical deficit. He advised that appellant was magnifying her subjective complaints.[3]

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[1] On June 19, 2001 a table fell on appellant's left leg. The Office accepted a left thigh contusion in file number xxxxxx959. This claim is not presently before the Board.

[2] The physical requirements of this job were ability to see a computer screen and read displayed text and ability to speak. The work duties did not require any use of the hands; no manual mail handling was required. By decision dated May 16, 2002, the Office found that appellant's wages as a video coding specialist with wages of $783.03 per week represented her wage-earning capacity. It further found that, as these wages met or exceeded the wages of the job appellant held when injured, no loss of wages occurred.

[3] Dr. Sherman noted that appellant's complaints of increased back pain when her knees were flexed while lying face-down was evidence of symptom magnification. He further noted that she volitionally limited the use of her hand in grasping a Jamar Dynamometer. Dr. Sherman commented that appellant's left shoulder complaints were not believable in that there was no muscle wasting and variable ranges of motion during the examination.

Dr. Sherman noted that, although her left shoulder impingement syndrome, bilateral carpal tunnel syndrome and low back strain could have been due to her work activity, there was no evidence of any residuals and she required no further medical treatment or physical limitations for any of her accepted conditions. He found that appellant reached maximum medical improvement in July 2002 with no functional loss regarding her upper or lower extremities.

On April 18, 2003 Dr. Cabayan reiterated that appellant was post decompression surgery for carpal tunnel syndrome bilaterally with a good outcome documented by nerve studies, impingement syndrome of the shoulder on the left status post decompression, aches and pains in the upper extremities suggestive of overuse and a lumbosacral sprain with mild right radiculopathy on the right. On September 24, 2003 appellant was seen by Dr. Matthew M. Richardson, a Board-certified physiatrist, at the request of Dr. Cabayan. Dr. Richardson diagnosed degenerative disc disease of lumbosacral spine, possible discogenic low back pain with a component of radiculopathy. He recommended physical therapy and weaning appellant from her back brace. Dr. Richardson also recommended a repeat MRI scan, noting that her study in 2000 was of poor quality.

Appellant had an MRI scan on November 24, 2003 by Dr. Jonathan P. Posin, a Board-certified radiologist, who found multilevel degenerative changes in the lumbar spine with some disc bulging and protrusion, which resulted in ventral extradural defects with asymmetrical foraminal compromise seen on the left at the L2-3, L3-4 and more so on the L5-S1 levels. Dr. Posin noted that overall there were no profound interval changes since the 2000 study.

The Office found a conflict in medical opinion between Dr. Sherman and Dr. Cabayan as to whether appellant had residuals of her accepted bilateral carpal tunnel, left shoulder or low back strain. On January 14, 2004 it referred her, together with a statement of accepted facts, to Dr. John R. Lang, a Board-certified orthopedic surgeon, for an impartial medical examination.

In a January 29, 2004 report, Dr. Lang reviewed a history of appellant's accepted conditions and medical treatment. He reviewed a description of her employment duties using a keyboard and letter sorting which, on November 6, 2001, was modified to that of a video coding technician making voice activated input into a computer. On physical examination, Dr. Lang noted that appellant was intermittently tearful and grimacing. He noted findings on range of motion of the spine, no observed tilt or scoliosis and a rather exaggerated withdrawal to palpation. Deep tendon reflexes were full and equal and straight leg raising negative to 90 degrees bilaterally in the seated position. There was full range of motion of the hips and knees with complaint of discomfort without specific localization. Examination of the shoulder was negative for impingement and the wrists were negative to Tinel's and Phalen's tests. Dr. Lang diagnosed left shoulder sprain syndrome, status post arthroscopic decompression/acromioplasty, bilateral wrist, hand, forearm, upper extremity pain syndrome, status post bilateral carpal tunnel release, lumbar syndrome without radiculopathy, probable medication dependency and pain behavior associated with probable medication dependency.

Dr. Lang found that there were no residuals of the accepted carpal tunnel syndrome, noting the negative test results and appellant's nonspecific complaints. He reported normal neurological and motor examination. As to the left shoulder condition, Dr. Lang again noted appellant's complaint of nonspecific discomfort; however, she was able to lift her arms, which

indicated that her impingement was taken care of by surgery. He noted full range of shoulder motion and negative impingement signs with full rotator cuff function. Dr. Lang concluded that appellant had no further residuals of her accepted left shoulder condition. As to her low back strain, he advised that there were no neurological or musculoskeletal findings to corroborate her subjective complaints. Dr. Lang noted a rather exaggerated tenderness to minimal palpation throughout the thoracic and lumbar spines with voluntary restriction of motion and a nonphysiologic gait pattern. He advised that appellant had no physical limitations based on objective evaluation.[4]

In a March 29, 2005 decision, the Office terminated appellant's compensation benefits effective March 9, 2005. However, an Office hearing representative reversed the termination on July 6, 2006 and remanded the case for further development. He found that the September 13, 2004 electrodiagnostic studies should be referred to Dr. Lang for comment. The Office hearing representative also noted that appellant had two MRI scans which showed degenerative disc disease of the lumbar spine. Although this was not an accepted condition, he remanded the case for development on whether this had been aggravated by appellant's federal employment. The hearing representative directed the Office to amend the statement of accepted facts to show that appellant's video coding position was abolished and she was reassigned to sorting and checking mail.

On July 24, 2006 the Office sent the appropriate information to Dr. Lang with a request for clarification of his medical opinion. On August 10, 2006 Dr. Lang advised that the recent electrodiagnostic studies were interpreted as showing a mild bilateral median nerve compression for the sensory components only. He stated that the study did not conform to appellant's subjective manifestations or supported by his clinical findings on examination. Dr. Lang advised that the testing was inconclusive and not supported when appellant was evaluated. Therefore, the study did not change his opinion. Dr. Lang noted that the 2000 MRI scan showed mild degenerative changes in the lumbar spine, particularly at L4-5, without evidence of central stenosis or nerve root compromise. The 2003 study, however, showed multilevel degenerative changes with some disc bulging and protrusion, resulting in ventral defects and foraminal compromise at L2-3, L4-5 and L5-S1. Dr. Lang noted that degenerative disease was variable within the human population. He advised that appellant's disease was a developing condition present to some degree at the time she sustained her back strain on December 1, 1998; however, he found that her disease process was not materially aggravated by the accepted injury. Dr. Lang noted the 2001 report of Dr. Simpson lent support to his conclusion that the degenerative disease was not symptomatic before the injury. He noted that the findings reported by Dr. Cabayan regarding appellant's wrists were not supported by his examination.

In a November 2, 2006 decision, the Office terminated appellant's compensation benefits finding that she did not have any residuals of her accepted conditions. It found that the weight of medical opinion was represented by Dr. Lang.

[4] On September 13, 2004 appellant underwent electromyography and nerve conduction study by Dr. Michael Butler, a Board-certified neurologist. The nerve conduction study found median sensory distal latency delayed at the wrists bilaterally. Other segments of the test were reported as normal as was the electromyogram.

On December 1, 2006 appellant requested an oral hearing that was held on March 22, 2007. She noted that she was presently employed in the medical unit, where she could work at her own pace.

In a November 10, 2006 report, Dr. Cabayan disagreed with the opinion of Dr. Lang. He noted that MRI scan studies showed multilevel degenerative changes with protrusion and extradural defect and questioned Dr. Lang's opinion that any aggravation of appellant's degenerative disc disease had resolved within 90 days, stating that this conclusion was "not based on orthopedic literature whatsoever." Dr. Cabayan indicated that the fact that she had a significant back pain with protrusion and radiation of pain down the lower extremities cannot be discounted when the MRI scan confirms the findings of disc protrusion. He advised that appellant had five percent impairment based on carpal tunnel syndrome which suggested that she had residuals.

In a decision dated June 14, 2007, the hearing representative found that the Office met its burden to terminate compensation and there were no remaining residuals from the accepted carpal tunnel syndrome. Appellant found that Dr. Lang's opinion constituted the weight of medical evidence. As to whether she had degenerative disc disease aggravated by her federal employment, the hearing representative found Dr. Lang's opinion to be insufficiently rationalized. Appellant remanded the case to the Office for development on this issue, noting that it was not an accepted condition.[5] On July 5, 2007 the Office referred appellant to Dr. Robert S. Ferretti, a Board-certified orthopedic surgeon, for a second opinion on the issue of whether her degenerative disc disease was aggravated by her federal employment.

In a July 23, 2007 report, Dr. Ferretti reviewed the history of appellant's December 1, 1998 injury accepted for back strain and medical treatment. He noted that she was currently working full time at modified duty where she worked on files in the medical unit. Following review of the medical treatment records, Dr. Ferretti reviewed the lumbar spine MRI scans of August 2000 and November 2003. He set forth findings on examination of appellant's low back, noting negative straight leg raising to 90 degrees in the seated position and that she resisted further elevation at 80 degrees in the supine position. Dr. Ferretti diagnosed a lumbar strain, by history, related to the accepted injury associated with a diagnosis of lumbar degenerative disc disease seen on MRI scan, which did not cause any neurological structure compromise. He advised that appellant's degenerative disease preexisted the December 1, 1999 injury and was longstanding, most pronounced at L4-5. While there was probably aggravation of the underlying lumbar disc disease related to the 1999 injury, Dr. Ferretti advised that this "should be considered temporary because there has been no structural/material change" when visualized on the diagnostic studies which revealed only chronic changes of the underlying disease. He noted that appellant had subjective complaints of low back symptomatology on the right which was inconsistent with the MRI scan changes which were more pronounced on the left. Dr. Ferretti stated that appellant had only subjective residuals of the December 1, 1998 injury, which did not render her totally disabled. He noted that modified work was made possible and her periods of temporary disability were related to her bilateral hand and shoulder conditions and surgery.

[5] The Board notes that appellant did not seek review of that portion of the June 14, 2007 decision affirming the termination of compensation. Pending development of the issue of aggravation, the hearing representative noted that there was no basis for reinstating wage-loss benefits.

Dr. Ferretti did note that appellant had physical limitations resulting from the work-related December 1, 1998 employment injury in combination with multilevel lumbar degenerative disc disease.

By letter dated August 20, 2007, the Office asked Dr. Ferretti to clarify his medical opinion. In an August 28, 2007 report, Dr. Ferretti reiterated that there was probable aggravation of the underlying degenerative disc disease related to the December 1, 1998 employment injury, but that objectively this should be considered temporary because there was no structural or material change visualized on the MRI scans. He stated that the temporary aggravation should have ceased within six months from the date of the injury. Dr. Ferretti found that appellant's persistent symptoms were correlated with the natural progression of the underlying lumbar degenerative disease, which would be unrelated to the effects of the December 1, 1998 injury. He concluded that appellant did not have objective residuals of the December 1, 1998 lumbar strain but only subjective complaints related to the lumbar spine and to the underlying lumbar degenerative disease.

In a decision dated September 18, 2007, the Office found that appellant was not entitled to compensation related to her December 1, 1998 injury due to an aggravation of her preexisting degenerative disease.[6]

On October 16, 2007 appellant requested an oral hearing which was held on February 4, 2008. She addressed her employment and ongoing symptoms. Appellant's attorney argued that there was no record of a preexisting back condition prior to the December 1998 employment injury and that her treating physicians found that she had residuals from the low back injury.

In electrodiagnostic studies obtained on September 10, 2007 by Dr. Butler, right median distal sensory latency was reported as borderline of the normal range, but the median distal sensory latency compared to radial latency at digit one and ulnar latency at digit four were relatively delayed. The left median distal sensory latency was near the upper limits of the normal range, but the latency to distal one was slightly delayed in comparison to the radial value to digit one. However, left median sensory values were not otherwise abnormal.

In a February 18, 2008 report, Dr. Cabayan commented on the opinion of Dr. Ferretti regarding appellant's back condition. He noted that there was no description of any nonindustrial injury as a cause of her disc condition. Dr. Cabayan reiterated that appellant had no preexisting symptoms and that, if Dr. Ferretti believed that the preexisting condition was not symptomatic, he had to explain why, as he indicated that he agreed with the MRI scan findings. He advised that Dr. Ferretti's opinion was confuted and contradictory. Dr. Cabayan concluded, "[Appellant] has had consistent problems with regard to her lumbar spine going on for years subsequent to the incident in the late 1990s with no preexistent condition to the spine that would be relevant."

[6] The decision noted that appellant's compensation benefits had been previously terminated on November 12, 2006 on the basis that she did not have residuals of her accepted injuries.

In a March 27, 2008 decision, an Office hearing representative found that appellant did not have any continuing residuals of her 1998 employment injury, entitling her to wage-loss or medical benefits. While he found that Dr. Ferretti had provided a well-rationalized medical opinion, the subsequent diagnostic test results and July 6, 2007 report of Dr. Cabayan required further development. The hearing representative directed the Office to obtain an opinion from Dr. Ferretti addressing whether the additional evidence altered his previous opinion. Thereafter, the Office was to issue a merit decision on appellant's claim for a degenerative lumbar condition.[7]

By letter dated April 22, 2008 appellant, through her representative, requested reconsideration of the June 14, 2007 decision, which affirmed the Office's decision that the claimant had no remaining residuals from her carpal tunnel syndrome. Her representative referred to the September 10, 2007 diagnostic studies from Dr. Butler.

In a May 5, 2008 report, Dr. Ferretti reviewed his prior medical reports and the additional medical evidence submitted by the Office. The December 16, 2004 discogram noted that the L5-S1 disc was normal, the L3-4 disc produced pain and there was degenerative pattern to the disc, although normal height was maintained. At L4-5, there was production of pain and a left posterolateral tear was demonstrated with epidural leakage. Dr. Ferretti stated that the study was typical for lumbar degenerative disease, more pronounced at L4-5 and consistent with the MRI scan studies. The report of September 10, 2007 addressed components of mild bilateral median neuropathy affecting the sensory components only. Dr. Ferretti noted that the report of Dr. Cabayan advised that appellant did not have any preexisting back condition prior to the 1998 injury. He reiterated his opinion that aggravation must be established by objective evidence of a material change occurring in the underlying disease process to alter the course of the disease. Because there was no evidence of a structural/material change on the MRI scan studies, the effects of the December 1, 1998 injury should be considered a temporary aggravation. Dr. Ferretti attributed appellant's ongoing persistent symptoms to the natural progression of her underlying multilevel lumbar disease and not the specific effects of the 1998 injury. He again contrasted the findings of the 2000 and 2003 MRI scan studies, noting that all changes seen were associated with chronic lumbar degenerative arthritis and disc disease. Dr. Ferretti noted that appellant had worked at limited duty at a very sedentary position, which did not support disability for work. He noted that her description of symptoms on the right side was inconsistent with the MRI scan findings. Although appellant had ongoing low back complaints, based on reasonable medical probability, the effects of the 1998 injury causing temporary aggravation of the underlying disease should have resolved. Therefore, the additional medical opinion did not alter his prior opinion.

In a decision dated July 25, 2008, the Office found that appellant did not establish that the December 1, 1998 injury aggravated her preexisting degenerative disease.

In a July 29, 2008 decision, the Office found that the September 10, 2007 diagnostic study was not accompanied by any medical narrative report addressing how the findings were

[7] He noted that as the termination of benefits for carpal tunnel syndrome was previously affirmed on appeal and was not subject to reexamination.

related to appellant's May 13, 1996 carpal tunnel claim. The evidence was found insufficient to warrant modification of the June 14, 2007 decision.

LEGAL PRECEDENT -- ISSUE 1

Under the Federal Employees' Compensation Act, when employment factors cause an aggravation of an underlying condition, an employee is entitled to compensation for periods of disability related to such aggravation. When the aggravation is temporary and leaves no permanent residuals, compensation is not payable for periods after the aggravation has ceased, even if the employee is medically disqualified from continuing employment because of the effect work factors may have on the underlying condition.[8]

A physician's opinion on whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. To be considered rationalized; a 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 the accepted employment factors.[9]

ANALYSIS -- ISSUE 1

In a decision dated November 2, 2006, the Office found that the weight of evidence established that appellant no longer had any residuals of the May 7, 1997, March 3, 1998 and December 1, 1998 employment injuries. It terminated her compensation benefits. This decision was affirmed by an Office hearing representative on June 14, 2007. The case was remanded, however, on the issue of whether appellant sustained an aggravation of degenerative disc disease causally related to the December 1, 1998 injury, accepted for a lumbar strain.[10]

On remand, the Office referred appellant to Dr. Ferretti for a second opinion. On July 23, 2007 Dr. Ferretti reviewed the MRI scan studies of record and set forth findings on examination of appellant's low back. He noted that the accepted lumbar strain had resolved, by history and that the diagnosis of multilevel lumbar degenerative disc disease shown on the MRI scans did not cause any neurologic structural compromise. Dr. Ferretti found that appellant's degenerative disease preexisted the 1998 employment injury and was longstanding, most pronounced at L4-5. While the 1998 injury aggravated the lumbar disease, he advised that the aggravation was temporary as there was no material structural change visualized in the spine between the 2000 MRI scan and that obtained in 2003. Moreover, Dr. Ferretti noted that appellant's subjective complaints to her right side on physical examination were not consistent with the studies, which showed more pronounced changes on the left side. He noted that she was continuing to work at

[8] *See Raymond W. Behrens*, 50 ECAB 221 (1999).

[9] *Gary M. DeLeo*, 56 ECAB 656 (2005).

[10] In a November 10, 2006 report, Dr. Cabayan noted his disagreement with Dr. Lang's opinion that any aggravation of appellant's degenerative disc disease had resolved within 90 days. He advised that her complaints of significant back pain with radiculopathy could not be discounted as the MRI scan studies confirmed the disc protrusions he attributed to the 1998 injury.

light duty and that she was not disabled as a result of the underlying disease process. On August 28, 2007 Dr. Ferretti reiterated that any aggravation of the degenerative disease attributable to appellant's 1998 injury was considered temporary due to the absence of structural or material changes on the MRI scans. He noted that the aggravation ceased within six months of the date of injury. Dr. Ferretti attributed appellant's persistent symptoms to the natural progression of the underlying disease process, unrelated to the December 1, 1998 low back strain.

In a report dated February 18, 2008, Dr. Cabayan reviewed the report of Dr. Ferretti and noted his disagreement, commenting that he eliminated other nonindustrial factors such as obesity or activities she did at home. He noted that there was no prior history of degenerative disc disease prior to the 1998 injury at work. Dr. Cabayan stated that appellant's MRI scan studies established degenerative pathology and explained her symptoms. He attributed her degenerative disease to her job injury and no evidence to support that aggravation of the disease process would cease within six months. Dr. Cabayan opined that appellant's low back complaints had been consistent with problems regarding her lumbar spine since the injury of 1998.

Dr. Ferretti was provided a copy of Dr. Cabayan's medial opinion. On May 5, 2008 he reviewed additional evidence forwarded by the Office and addressed a December 16, 2004 discogram. Dr. Ferretti reiterated his opinion that the MRI scan studies did not establish evidence of a material change in the underlying disease such that the 1998 incident at work should be considered a temporary aggravation.

The Board finds that there is a conflict in medical opinion between Dr. Cabayan, for appellant, and Dr. Ferretti, the second opinion specialist, as to the nature and extent of any aggravation of her degenerative disc disease caused by the 1998 employment injury.[11] Dr. Cabayan disagreed with Dr. Ferretti's conclusion that the 1998 injury caused only a temporary aggravation of the underlying disease which resolved within six months. He indicated that any aggravation was continuing and attributed appellant's ongoing low back condition to the 1998 injury. For this reason, the case will be remanded to the Office for referral to an impartial medical specialist.

LEGAL PRECEDENT -- ISSUE 2

Following the proper termination of benefits, the claimant has the burden to establish continuing employment-related residuals and/or disability with probative medical evidence.[12] 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 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 he relationship

[11] *Richard R. LeMay*, 56 ECAB 341 (2005).

[12] *See Talamage Miller*, 47 ECAB 673 (1996).

between the diagnosed condition and the specific employment factors identified by the claimant.[13]

ANALYSIS -- ISSUE 2

As noted, the Office previously terminated appellant's compensation benefits regarding her accepted bilateral carpal tunnel condition on November 2, 2006. On April 22, 2008 appellant requested reconsideration and submitted a September 10, 2007 diagnostic study obtained by Dr. Butler. No medical narrative accompanied the request. The study found mild but definitive evidence of bilateral focal median neuropathy at the carpal tunnels affecting the sensory components only, without evidence of axon loss or of distal neuropathic change. The findings were more prominent on the right and confirmed a clinical impression of progression of median neuropathy since the previous study. Dr. Butler, while reporting the findings, did not provide any opinion addressing how they related to appellant's previously accepted bilateral carpal tunnel condition.[14] He did not state how the test results pertained to her current medical condition or how it with her ability to perform her work assignments. Accordingly, appellant has not established continuing disability or residuals due to bilateral carpal tunnel syndrome.

[13] *Joe L. Wilkerson*, 47 ECAB 604 (1996); *Alberta S. Williamson*, 47 ECAB 569 (1996).

[14] Medical reports not containing an opinion on causal relationship are of diminished probative value in establishing a claim. *See Mary E. Marshall*, 56 ECAB 420 (2005).

CONCLUSION

The Board finds that there is a conflict in medical opinion as to whether appellant's degenerative disc disease was aggravated by her 1998 injury. Appellant has not established that she has residuals of her carpal tunnel condition.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated July 29, 2008 is affirmed. The decision of July 25, 2008 is hereby set aside and the case remanded for further action in conformance with this decision.

Issued: February 5, 2010
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