

FACTUAL HISTORY

This case has previously been on appeal before the Board.² The facts and the circumstances outlined in the Board's prior decision are incorporated herein by reference. The facts relevant to this appeal are set forth below. On March 20, 2008 appellant, then a 44-year-old distribution clerk, filed a timely occupational disease claim (Form CA-2), alleging that she developed neck and shoulder conditions due to repetitive work tasks, commencing June 1, 2006. OWCP accepted the claim for neck sprain, brachial plexus injury, and brachial neuritis. Appellant has several other claims concerning prior work-related injuries which have been combined with the present claim, with the present claim serving as the master file.³ On March 20, 2000 and January 26, 2001 appellant underwent right and left wrist release surgeries, both authorized by OWCP.

Appellant returned to light-duty work following her surgeries in 2001. In June 2006, she began work in the position of a modified clerk. Appellant stopped work again on January 25, 2010.

On January 31, 2010 appellant filed a claim for a recurrence of disability (Form CA-2a) alleging that on January 25, 2010 she sustained a recurrence of disability due to her June 1, 2006 employment injury. She noted that she had returned to work with restrictions, but experienced pain in her neck and shoulder. Appellant's hands became swollen and she was unable to move her neck.⁴

In a report dated January 25, 2010, appellant's treating physician, Dr. Bruce Grossinger, an osteopath Board-certified in neurology and pain management, provided results on examination and diagnosed chronic pain due to cervical radiculopathy and brachial plexopathy, with a component of tendinitis of the wrists. He attributed the diagnosed conditions to appellant's employment and found that she was totally disabled. Dr. Grossinger opined that she had an aggravation of her clinical status in January 2010, following an increased volume of mail during the December 2009 holiday season. He noted, "It remains my opinion that [appellant] has objective evidence of aggravation of the accepted injuries involving her neck and upper extremities." Appellant underwent a nerve conduction velocity (NCV) study and an electromyogram (EMG) on March 10, 2010. These tests were normal for bilateral median and ulnar nerves, but suggestive of right C5-8 and left C6-8 radiculopathy.

In a report dated March 10, 2010, Dr. Najmi I. Sheikh, a Board-certified physiatrist, noted a history of the 2006 work injury as well as diabetes mellitus and right rotator cuff surgery.

² Docket No. 12-736 (issued February 4, 2013).

³ Appellant's prior claims include: OWCP File No. xxxxxx897 (August 2, 1980 date of injury) accepted for right wrist strain; OWCP File No. xxxxxx091 (November 2, 1999 date of injury) accepted for bilateral wrist tenosynovitis; OWCP File No. xxxxxx995 (October 1, 2001 date of injury) accepted for right shoulder strain and adhesive capsulitis; OWCP File No. xxxxxx815 (October 25, 2001 date of injury) accepted for right shoulder contusion; OWCP File No. xxxxxx235 (March 8, 1994 date of injury) accepted for right shoulder strain, impingement, partial rotator cuff tear and acromioclavicular (AC) joint arthritis.

⁴ Appellant retired from the employing establishment on April 2, 2011.

He diagnosed chronic cervical sprain with myofascitis and bilateral shoulder sprain with myofascitis referable to the 2006 injury. Dr. Sheikh also noted restricted cervical and right shoulder range of motion, pain/tenderness to palpation of the cervical paravertebral, upper dorsal paravertebral, and bilateral trapezius muscles, and diminished right grip strength.

On May 5, 2010 OWCP referred appellant for a second opinion examination Dr. Noubar A. Didizian, a Board-certified orthopedic surgeon, for further evaluation of the nature of her condition, the extent of disability, and appropriate treatment. In his May 10, 2010 report, Dr. Didizian reported examination findings and reviewed the medical history and statement of accepted facts. He found that appellant's current symptoms were not due to her accepted 2006 employment injury, but were rather due to degenerative disease of the cervical spine which was part of appellant's genetic makeup and the aging process. Dr. Didizian further found that appellant no longer required treatment due to the 2006 employment injury, as she had no evidence of ongoing neck sprain or any brachial plexus involvement. He noted that appellant had returned to baseline with no residuals due to the 2006 work injury. Dr. Didizian concluded, "The claimant in my opinion has been over diagnosed and over treated for the date of injury of June 1, 2006 as being related to the nature of the job. At the present time, there is no objective finding to support that there is any evidence of ongoing symptomatology related to the June 1, 2006 date of injury and accepted injury related to that date."

In a note dated May 19, 2010, Dr. Grossinger found chronic evidence of cervical radiculopathy and brachial plexopathy and opined that these conditions were caused by work activities at the employing establishment. He completed a report on July 26, 2010 noting that appellant experienced a worsening of her clinical condition on January 25, 2010. Dr. Grossinger reported swelling in her right wrist and tenderness of the cervical facet joint, limited range of motion of the cervical spine, and muscle spasm in the mid-scapular region. He determined that appellant had objective findings consistent with cervical radiculopathy including restriction in mobility and palpable changes in muscles in the cervical and trapezius areas, as well as electrodiagnostic abnormalities.

In a letter dated June 25, 2010, OWCP notified appellant of the factual and medical evidence needed to support her recurrence claim.

By separate letter dated June 25, 2010, OWCP proposed to terminate appellant's wage-loss compensation and medical benefits. It accorded the weight of the medical evidence to Dr. Didizian, finding that appellant was no longer disabled due to her 2006 accepted work injury. OWCP advised appellant that she could submit additional medical evidence within 30 days.

On August 12, 2010 OWCP denied appellant's claim for recurrence of disability commencing January 25, 2010. On August 20, 2010 counsel requested a hearing.⁵

⁵ A video hearing on the recurrence claim was held on August 10, 2011.

In a separate decision dated August 12, 2010, OWCP finalized the termination of appellant's wage-loss compensation and medical benefits, effective that same date. On August 17, 2010 counsel requested an oral hearing.⁶

By decision dated February 15, 2011, the hearing representative found that an unresolved conflict of medical opinion existed between appellant's treating physicians and the second opinion physician, Dr. Didizian, as to whether appellant had continuing, injury-related disability. He set aside the August 12, 2010 termination decision and remanded the case for an impartial medical examination and a *de novo* decision.

On remand, OWCP prepared an updated statement of accepted facts and a list of specific questions, and referred appellant to Dr. Karl Rosenfeld, a Board-certified orthopedic surgeon, for an impartial medical examination.⁷ In a report dated April 19, 2011, Dr. Rosenfeld reviewed the statement of accepted facts and medical history. He noted that appellant reported neck pain and pain radiating down her neck to both hands, which became swollen on occasion. Dr. Rosenfeld found full range of motion of her neck with pain and normal muscle strength in the arms. He noted slight thenar atrophy of the right hand and found that percussing her median nerves caused pain up to the shoulder rather than distally. Dr. Rosenfeld reviewed appellant's magnetic resonance imaging (MRI) scan dated November 23, 2010 which reflected a central left-sided disc protrusion at C6-7 and minor bulging from C3-6. He diagnosed chronic cervical problems and noted that appellant had sustained an employment injury. Dr. Rosenfeld noted, "It appears to me that, if any work-related condition was accepted, then obviously [appellant's] symptoms at the present time date back to 2006 when she [noted] the pain began." He also noted that he found no evidence for brachial plexopathy and that only a degenerative state was causing her current symptoms.

Dr. Rosenfeld concluded that appellant's current symptoms stemmed only from her neck, due to her chronic degenerative cervical state, but that she had no acute injury, no brachial plexopathy, and no carpal tunnel syndrome as she had no objective findings. He diagnosed cervical degenerative disc disease and noted that, if a cervical condition was accepted as work related, then her current condition was due to ongoing problems from 2006. Dr. Rosenfeld opined that appellant had no evidence of radiculitis or brachial plexus injury. He noted that appellant's symptoms were ongoing from 2006 and were not a new problem. Dr. Rosenfeld stated that the accepted 2006 injury did not aggravate, accelerate, exacerbate, or precipitate any active conditions or disability on or after January 25, 2010. He opined that appellant could perform her date-of-injury position of modified distribution clerk. In response to the question of whether any additional conditions should be added, Dr. Rosenfeld noted, "The diagnosis in my opinion is cervical disc disease." He concluded that appellant did not require further medical treatment.

⁶ An oral hearing on the termination issue was held on December 17, 2010.

⁷ The record contains a Memorandum of Referral to Specialist, an ME023 -- Appointment Schedule Notification referring appellant to Dr. Rosenfeld, a report of telephone call dated March 2, 2011 indicating that the appointment with Dr. Rosenfeld was scheduled by OWCP, and a screen capture indicating that Dr. John Benner, a Board-certified orthopedic surgeon, was bypassed to perform the impartial medical examination as he was not interested in performing the examination.

OWCP requested a supplemental report from Dr. Rosenfeld on June 2, 2011 addressing whether appellant's degenerative cervical disease was caused or aggravated by factors of her federal employment. In a June 9, 2011 response, Dr. Rosenfeld noted, "it is my opinion, with reasonable medical certainty, that if there were an aggravation of her cervical disc disease, a high probability, that at least by the time I saw her, April 19, 2011, the problem from the aggravation was resolved and that her continued pain was from her underlying cervical state." He based his conclusions on the fact that appellant had no objective findings at the time of his examination and that she had not worked for 14 months. Dr. Rosenfeld noted that since appellant was no longer working, any pain due to her employment should have abated. He noted that appellant had a temporary aggravation of neck pain due to her employment which would have ceased a month after she stopped work.

On July 8, 2011 OWCP issued a *de novo* decision terminating appellant's wage-loss compensation and medical benefits, effective July 1, 2011, based on the reports of Dr. Rosenfeld. Counsel requested an oral hearing on July 14, 2011.

On September 14, 2011 appellant filed a new occupational disease claim (Form CA-2) alleging that, as of January 25, 2010, she developed neck pain, shoulder pain radiating to both hands, numbness, and tingling.⁸ OWCP requested additional factual and medical evidence in support of appellant's new occupational disease claim on November 10, 2011. Appellant submitted a narrative statement dated September 14, 2011, noting that she lifted trays of mail weighing approximately 10 pounds to sort letters in a case which required reaching above her head. She stopped work on January 25, 2010.

Following the August 20, 2011 hearing, by decision dated November 22, 2011, an OWCP hearing representative affirmed the August 12, 2010 decision denying the January 25, 2010 recurrence claim. She found that the worsening of appellant's condition on January 25, 2010 was not spontaneous, but was instead due to aggravation of her injuries caused by increased volume of mail during the December 2010 holiday season.

By decision dated January 25, 2012, an OWCP hearing representative affirmed the July 8, 2011 *de novo* termination decision, finding that appellant had no residuals of her accepted work-related conditions. She determined that Dr. Rosenfeld was selected through the appropriate process and that Dr. Grossinger's reports were not sufficient to create an additional conflict with Dr. Rosenfeld. The hearing representative found that Dr. Rosenfeld's reports were entitled to the weight of the medical opinion evidence.

Appellant, through counsel, appealed to the Board both the November 22, 2011 decision denying her recurrence claim and the January 25, 2012 decision terminating her benefits.

On February 2, 2012 OWCP denied appellant's September 14, 2011 occupational disease claim. Counsel subsequently requested an oral hearing before an OWCP hearing representative. By decision dated August 7, 2012, the OWCP hearing representative vacated the February 2, 2012 decision denying appellant's September 14, 2011 occupational disease claim, finding that

⁸ The new occupational disease claim, OWCP File No. xxxxxx223, was administratively combined with the present claim.

there was a new conflict of medical opinion evidence between Dr. Grossinger and Dr. Rosenfeld as to whether employment factors between June 2006 and January 25, 2010 caused a brachial plexus injury or a temporary aggravation of underlying cervical radiculopathy. The hearing representative remanded the case for a referee medical examination and a *de novo* decision.

By decision dated February 4, 2013, the Board affirmed the November 22, 2011 decision denying appellant's recurrence claim, but reversed the January 25, 2012 decision terminating appellant's benefits. The Board found that the medical evidence of record was insufficient to establish that appellant sustained a recurrence of disability on or after January 25, 2010. The Board further found that OWCP failed to meet its burden of proof to terminate appellant's wage-loss and medical compensation benefits as Dr. Rosenfeld's reports were insufficiently rationalized and there remained an unresolved conflict of medical opinion concerning appellant's entitlement to wage-loss compensation and medical benefits.

By letter dated February 21, 2013, OWCP notified appellant that, in response to the Board's February 4, 2013 decision, it reopened her case for all necessary and related medical treatment for the accepted conditions.

On April 10, 2013 OWCP referred appellant to Dr. Heidar Jahromi, a Board-certified neurologist, to resolve the conflict in medical opinion evidence which was noted to exist between Dr. Grossinger and Dr. Rosenfeld in the August 7, 2012 decision concerning appellant's new occupational disease claim. OWCP asked Dr. Jahromi to determine whether modified-duty work tasks performed by appellant between June 1, 2006 and January 25, 2010 caused a brachial plexus injury or a temporary aggravation of her cervical radiculopathy.

In a report dated May 20, 2013,⁹ Dr. Jahromi listed appellant's job duties and accepted injuries through her retirement. He found that she had a normal neurological examination except for hypoactive-to-absent reflexes. Dr. Jahromi noted that appellant was a diabetic and that she had used anti-diabetic medications for a number of years. He attributed her hyporeflexia to a mild form of diabetic neuropathy. Dr. Jahromi requested additional diagnostic studies. Appellant underwent electrodiagnostic studies on May 23, 2013 which noted her history of diabetes since 2000. These nerve conduction studies were intact with no significant delay of the median nerve or ulnar nerve. Appellant's EMG was normal except for mild polyphasicities at the right deltoid muscle. The report concluded that there was no electrical evidence of a significant cervical radiculopathy, brachial plexopathy, peripheral neuropathy, peripheral nerve entrapment lesion, or myopathy. Appellant demonstrated mild chronic C5-6 nerve root changes which were worse on the right. Dr. Jahromi reviewed the May 23, 2013 EMG and NCV study and found no electrodiagnostic evidence to show a significant cervical radiculopathy, brachial plexopathy, peripheral neuropathy, peripheral nerve entrapment, or myopathy. He noted, "There was only some possibly abnormal polyphasicities in the deltoid muscle on the right side which may suggest a possibility of C5-6 nerve impairment as a result of mild chronic C5-6 radiculopathy." Dr. Jahromi found minimal evidence of a possible C5 root lesion which was chronic, but no objective basis for the impairment appellant claimed. He concluded, "The minimal abnormality this is described above is a finding that can be seen on anybody with any degree of degenerative

⁹ The date of this report appears to be a typographical error as the report was written subsequent to review of May 23, 2013 EMG and NCV studies.

changes of the spine that anybody at that age can have regardless of injury or without injury; specifically I reviewed [appellant's] job description and the type of work that she has been doing especially since 2001 is not the type that can cause any significant amount of radicular injury.”

By *de novo* decision dated June 10, 2013, OWCP denied appellant's occupational disease claim based on Dr. Jahromi's report. Counsel requested an oral hearing before OWCP's Branch of Hearings and Review on June 14, 2014.

Dr. Grossinger continued to opine that appellant had work-related chronic pain in the neck and arms. He noted that she had features of cervical radiculopathy and brachial plexopathy as well as cervical facet pain, which were related to her employment activities. Appellant underwent a cervical MRI scan on May 17, 2013 which was normal.

In a report dated September 23, 2013, Dr. Jason Brajer, an associate of Dr. Grossinger, reported treating appellant with cervical epidural steroid injections and cervical facet blocks. He noted that her radicular symptoms were returning. Dr. Brajer reviewed an October 2009 EMG and found radiculopathy and brachial plexopathy. He noted that appellant's most recent MRI scan was normal and “doubted the veracity of the most recent MRI [scan].”

Counsel appeared at the oral hearing held on October 23, 2013 and argued that Dr. Jahromi's report was not based on an accurate knowledge of appellant's employment duties, was speculative, and failed to constitute the weight of the medical opinion evidence.

By decision dated December 16, 2013, the hearing representative set aside OWCP's June 10, 2013 denial and remanded the case for further development and a new *de novo* decision. She instructed OWCP to prepare an updated statement of accepted facts that described appellant's modified-duty work tasks performed between June 1, 2006 and January 25, 2010. The hearing representative further instructed OWCP to request a supplemental report from Dr. Jahromi, containing his opinion as to causal relationship between such factors and a brachial plexus condition or aggravation of underlying cervical radiculopathy, as well as a description of motor and sensory testing conducted on May 20, 2013.

OWCP prepared an updated statement of accepted facts on January 27, 2014 which included a detailed description of appellant's work duties performed from May 27, 2006 through her work stoppage on January 25, 2010. Appellant's restrictions included: no lifting over five pounds, limited pushing and pulling, no strenuous use of the right hand and wrist, and no working over 40 hours a week. OWCP also included the dates of injury and the accepted conditions from her other claims. On January 29, 2014 it requested a supplemental report from Dr. Jahromi. OWCP asked that he provide medical rationale in support of his conclusions and that he specifically address appellant's motor and sensory test results and whether her job duties from 2006 until January 25, 2010 caused or contributed to an aggravation of an underlying cervical radiculopathy or brachial plexus condition.

Appellant underwent additional EMG and NCV studies. In a February 24, 2014 report, Dr. Brajer opined that the new EMG and NCV studies showed right brachial plexopathy and no evidence of cervical radiculopathy.

On February 24, 2014 Dr. Grossinger found that the electrodiagnostic testing demonstrated moderate right upper trunk brachial plexopathy. He found clinical evidence of cervical facet syndrome and opined that appellant's conditions were related to her June 1, 2016 employment injury.

In a report dated March 27, 2014, Dr. Steven Grossinger, an osteopath and associate of Dr. Bruce Grossinger, diagnosed right brachial plexopathy referable to work tasks conducted as of June 1, 2006.

Dr. Jahromi completed a supplemental report on April 17, 2014 and noted that appellant's initial sensory and motor examination was normal with sensation to pinprick, touch, heat, vibration, and position sense. Muscle strength of deltoids, trapezii, triceps, biceps, brachial radialis, wrist extensor and flexor, finger flexors, extensors, abductors, and adductors bilaterally were also normal with no evidence of atrophy or weakness. Dr. Jahromi reported:

“[M]y opinion is that on my examination and review of the record ... no evidence for plexopathy, neuropathy, or radiculopathy except for a very minimal evidence of possibly C5 root impairment, as I have indicated above the function of the deltoid being normal rules out the possibility of C5-6 nerve root lesion of significant degree and, therefore, it is a moot point as to whether or not return to work in 2006 has aggravated anything whatsoever since there is no indication that this is the case.”

By decision dated June 2, 2014, OWCP denied appellant's occupational disease claim for cervical radiculopathy or a brachial plexus condition causally related to federal employment factors between June 2006 and January 25, 2010. It found that Dr. Jahromi's report was entitled to the weight of the medical evidence. On June 4, 2014 counsel requested an oral hearing before an OWCP hearing representative.

OWCP received additional medical evidence including reports dated June 17 and July 15, 2014 from Dr. Steven Grossinger, who found restricted cervical range of motion with reduced sensation along the lateral aspect of appellant's arms and noted that appellant had chronic features of cervical radiculopathy and brachial plexopathy.

By decision dated September 5, 2014, OWCP accepted that appellant sustained nerve root and plexus disorder, other, as a result of her employment.¹⁰

Counsel appeared at the oral hearing held on October 27, 2014 and argued that Dr. Jahromi's supplemental report was insufficient to resolve the existing conflict of medical opinion evidence and to constitute the weight of the medical opinion evidence. He further argued that Dr. Jahromi's opinion that cervical radiculopathy did not exist was at odds with the results of appellant's May 2013 EMG and NCV studies. The record was held open for 30 days to allow for the submission of additional evidence.

¹⁰ This acceptance of additional employment-related conditions due to the 2006 occupational disease does not address the issue currently before the Board, which is whether appellant sustained a new occupational disease as a result of her employment duties as of January 25, 2010.

In a report dated October 31, 2014, Dr. Bruce Grossinger opined that appellant sustained an aggravation of cervical degenerative joint disease as well as rotator cuff injuries and right brachial plexopathy as a result of her 2006 employment injury.

Dr. Brajer completed a report on November 4, 2014 and attributed her cervical radiculopathy secondary to brachial plexopathy as well as cervical facet dysfunction to her 2006 employment injury.

By decision dated December 9, 2014, the hearing representative found that the supplemental report from Dr. Jahromi dated April 17, 2014 was sufficiently detailed and well-reasoned to constitute the weight of the medical evidence. He further found that Dr. Jahromi established the existence of an employment-related C5-6 nerve root lesion, but did not establish the existence of plexopathy, neuropathy, or radiculopathy and that, therefore, appellant's employment duties had not resulted in a diagnosed condition.

LEGAL PRECEDENT

OWCP regulations define an occupational disease as “a condition produced by the work environment over a period longer than a single workday or shift.”¹¹ To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, noted differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.¹²

When there are opposing reports of virtually equal weight and rationale, the case will be referred to an impartial medical specialist pursuant to section 8123(a) of FECA which provides that, if there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination and resolve the conflict of medical evidence.¹³ This is called a referee examination and OWCP will select a physician who is qualified in the appropriate specialty and who has no prior connection with the case.¹⁴

¹¹ 20 C.F.R. § 10.5(q).

¹² *Lourdes Harris*, 45 ECAB 545, 547 (1994).

¹³ 5 U.S.C. § 8123; *M.S.*, 58 ECAB 328 (2007); *B.C.*, 58 ECAB 111 (2006).

¹⁴ *R.C.*, 58 ECAB 238 (2006).

In situations where there are opposing medical reports of virtually equal weight and rationale, and the case is referred to an impartial medical specialist for the purpose of resolving the conflict, the opinion of such specialist, if sufficiently well rationalized and based on a proper factual background, must be given special weight.¹⁵

ANALYSIS

The Board finds that the reports of Dr. Jahromi are sufficiently detailed and well-reasoned to constitute the weight of the medical opinion evidence.

Appellant filed a claim on September 14, 2011 and alleged that her disability and medical conditions on and after January 25, 2010 should be considered as the result of an occupational disease arising as the result of employment duties beginning on May 15, 2006 when she returned to work as a modified distribution clerk, casing letter or flat mail, lifting no more than five pounds, standing intermittently, and walking or bending intermittently.¹⁶ She submitted reports from her attending physicians in support of her new occupational disease claim diagnosing brachial plexopathy with a component of tendinitis of the wrists and cervical radiculopathy as a result of her employment duties beginning in May 2006. Dr. Bruce Grossinger found that appellant was totally disabled beginning January 25, 2010.

Dr. Rosenfeld examined appellant on behalf of OWCP and found no evidence for brachial plexopathy and that only a degenerative state was causing her current symptoms. He also found that she had no disability due to her work-related conditions. The Board finds that OWCP properly determined that there was a conflict of medical opinion evidence between Drs. Bruce Grossinger and Rosenfeld¹⁷ regarding appellant's diagnosed conditions and period of disability. To resolve this conflict of medical opinion evidence, OWCP referred appellant to Dr. Jahromi for an IME.

In a report dated May 20, 2013, Dr. Jahromi listed appellant's job duties and accepted injuries through her retirement in 2010. He found that she had a normal neurological examination except for hypoactive-to-absent reflexes. Dr. Jahromi noted that appellant was a diabetic and that she had used anti-diabetic medications for a number of years. He attributed her hyporeflexia to a mild form of diabetic neuropathy. Dr. Jahromi reviewed appellant's May 23, 2013 electrodiagnostic studies which found no significant delay of the median nerve or ulnar nerve. He found that there was no electrodiagnostic evidence of significant cervical radiculopathy, brachial plexopathy, peripheral neuropathy, peripheral nerve entrapment, or myopathy. Dr. Jahromi concluded, "The minimal abnormality that is described above is a

¹⁵ *Nathan L. Harrell*, 41 ECAB 401, 407 (1990).

¹⁶ In the Board's prior decision on February 4, 2013, the Board found that the evidence of record was not sufficient to establish that appellant sustained a recurrence of disability due to her 2006 occupational disease claim which was accepted for "injury to brachial plexus, sprain of neck and brachial radiculitis."

¹⁷ Although OWCP initially selected Dr. Rosenfeld as an IME, as the Board previously found that his reports were not sufficient to constitute the weight of the medical opinion evidence, OWCP properly considered him to be a second opinion physician for the purposes of appellant's ongoing claims. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Developing and Evaluating Medical Evidence*, Chapter 2.810.12 (June 2015).

finding that can be seen on anybody with any degree of degenerative changes of the spine that anybody at that age can have regardless of injury or without injury; specifically I reviewed [appellant's] job description and the type of work that she has been doing especially since 2001 is not the type that can cause any significant amount of radicular injury.”

Dr. Jahromi completed a supplemental report on April 17, 2014 and explained that appellant's initial sensory and motor examination demonstrated normal sensation and muscle strength. He concluded that appellant had “very minimal evidence of possibly C5 root impairment.” Dr. Jahromi noted, “as I have indicated above the function of the deltoid being normal rules out the possibility of C5-6 nerve root lesion of significant degree and, therefore, it is a moot point as to whether or not return to work in 2006 has aggravated anything whatsoever since there is no indication that this is the case.”

The Board finds that Dr. Jahromi's reports are sufficiently detailed and well-reasoned to constitute the weight of the medical opinion evidence. Dr. Jahromi's reports establish that appellant has no employment-related C5 nerve root impairment. He noted that appellant's normal deltoid function eliminated the possibility of C5 nerve root lesion. Dr. Jahromi reviewed the May 23, 2013 EMG and NCV studies and found no electrodiagnostic evidence to show cervical radiculopathy, brachial plexopathy, peripheral neuropathy, peripheral nerve entrapment, or myopathy. Furthermore, he based his report on an accurate history and explained that appellant's employment duties would not cause radicular injury.

Following Dr. Jahromi's reports, appellant submitted additional medical evidence from Drs. Bruce Grossinger, Steven Grossinger, and Brajer. These reports do not contain the necessary medical rationale and detail to overcome the special weight accorded Dr. Jahromi as the independent medical examiner. Furthermore, as Dr. Bruce Grossinger was on one side of the conflict that Dr. Jahromi resolved, his additional reports are insufficient to overcome the special weight accorded Dr. Jahromi's reports or to create a new conflict with them.¹⁸ The additional opinions of the associates of Drs. Bruce Grossinger, Steven Grossinger and Brajer are merely repetitive of the reports and opinions previously provided by Dr. Bruce Grossinger and they therefore fail to set forth any basis for overcoming the weight afforded to the opinions of Dr. Jahromi.

For the reasons listed above, the Board disagrees with counsel's contentions on appeal that Dr. Jahromi failed to provide sufficient medical reasoning to resolve the existing conflict of medical opinion evidence.

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof to establish either cervical radiculopathy or a brachial plexus injury causally related to her job duties from May 2006 through June 2010.

¹⁸ *Dorothy Sidwell*, 41 ECAB 857, 874 (1990).

ORDER

IT IS HEREBY ORDERED THAT the December 9, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 6, 2016
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board