

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**L.B., Appellant**

**and**

**DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL  
CENTER, Philadelphia, PA, Employer**

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**Docket No. 18-0560  
Issued: August 20, 2018**

*Aparcements:*

*Aaron B. Aumiller, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge

ALEC J. KOROMILAS, Alternate Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On January 16, 2018 appellant, through counsel, filed a timely appeal from a July 20, 2017 merit decision of the Office of Workers' Compensation Programs (OWCP).<sup>2</sup> Pursuant to the

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; see also 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> Under the Board's *Rules of Procedure*, an appeal must be filed within 180 days from the date of issuance of an OWCP decision. An appeal is considered filed upon receipt by the Clerk of the Appellate Boards. See 20 C.F.R. § 501.3(e)-(f). One hundred and eighty days from July 20, 2017, the date of OWCP's last decision was Tuesday, January 16, 2018. Since using January 23, 2017, the date the appeal was received by the Clerk of the Appellate Boards would result in the loss of appeal rights, the date of the postmark is considered the date of filing. The date of the U.S. Postal Service postmark is January 16, 2018, rendering the appeal timely filed. See 20 C.F.R. § 501.3(f)(1).

Federal Employees' Compensation Act<sup>3</sup> (FECA) and 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 OWCP properly terminated appellant's wage-loss compensation and authorization for medical benefits effective April 6, 2014 as she had no further disability or need for medical treatment causally related to her June 28, 2011 employment injury; (2) whether she has established continuing employment-related disability after April 6, 2014; and (3) whether appellant has established that the acceptance of her claim should be expanded to include additional conditions as a result of her June 28, 2011 employment injury.

### **FACTUAL HISTORY**

On July 1, 2011 appellant, then a 46-year-old medical technician, filed a traumatic injury claim (Form CA-1) alleging that on June 28, 2011 she injured her right shoulder and arm when she was struck by a patient while in the performance of duty. She stopped work on June 28, 2011. OWCP accepted the claim for a right shoulder sprain and paid appellant wage-loss compensation for total disability beginning August 18, 2011.

An August 3, 2011 magnetic resonance imaging (MRI) scan study of the right shoulder revealed a partial bursal surface tear and/or intrasubstance degeneration of the supraspinatus tendon and findings suggesting a prior repair of the glenoid labrum. A January 10, 2012 right shoulder MRI scan study showed mild tendinopathy at the supraspinatus tendon, a prior right anterior/superior labral repair, mild osteoarthritis of the acromioclavicular (AC) joint with mild associated capsular hypertrophy, and a stable small ossific fragment in the anterior superior labrum possibly representing a loose body, fragment of a fracture, heterotopic ossification, or thickened glenohumeral middle ligament.

In a June 13, 2012 progress report, Dr. Damon D. Cary, an attending osteopath, discussed appellant's continued complaints of pain in the shoulders bilaterally.<sup>4</sup> On examination he found right trapezial and deltoid muscle spasms and tenderness and a loss of sensation at the right C4 dermatome. Dr. Cary diagnosed severe right shoulder sprain and left shoulder sprain and opined that appellant was totally disabled.

OWCP, on July 20, 2012, referred appellant to Dr. Robert Allen Smith, a Board-certified orthopedic surgeon, for a second opinion examination. It requested that he address whether she continued to have residuals or disability due to her accepted work injury and to provide all diagnoses which resulted from the June 28, 2011 employment injury.

In a report dated August 6, 2012, Dr. Smith reviewed appellant's history of a June 28, 2011 injury to her right shoulder at work and noted that in 2004 she underwent a right shoulder acromioplasty and labral repair. He discussed her current complaints of pain and radiating

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> Dr. Cary continued to provide progress reports describing his treatment of appellant.

numbness and tingling of the right shoulder, spasm and swelling, and sensations of hot and cold. On examination Dr. Smith found unspecific signs of impingement, a normal neurological examination, and full strength and range of motion except for internal rotation. He diagnosed a right shoulder soft tissue strain due to employment. Dr. Smith advised that he was uncertain of the cause of appellant's pain, noting that the findings on MRI scan study were "consistent with prior surgical artifact with nothing of a posttraumatic nature that could be attributed to the June 28, 2011 incident." He opined that her soft tissue sprain had resolved based on the objective findings. Dr. Smith related, "It appears that [appellant's] symptoms represent residual from her prior surgery, and any additional treatment or surgery would be related to those preexisting factors and not the incident of June 28, 2011." He found that, considering only the accepted right shoulder sprain, she could resume work without restrictions.

On August 8, 2012 Dr. Cary diagnosed severe right shoulder sprain and a left shoulder sprain and found that appellant was totally disabled. In a February 27, 2013 report, he discussed her history of a right shoulder injury on June 28, 2011 and subsequent treatment. Dr. Cary related that appellant sustained a left shoulder sprain and sprains/strains of the cervical and thoracic spine due to the "nature of her type of injury." He advised, "In particular the cervical and thoracic strain and sprain is due to the muscles that make up the area of her right shoulder. They originate in the cervical area and they help create the function of the right shoulder." Dr. Cary recommended right shoulder surgery and opined that appellant was totally disabled.<sup>5</sup>

On June 19, 2013 OWCP found that a conflict in medical opinion existed between Dr. Smith and Dr. Cary regarding the extent of appellant's employment-related disability and need for medical treatment as a result of the accepted work injury. It referred her to Dr. Andrew Gelman, a Board-certified orthopedic surgeon, for an impartial medical examination. OWCP requested that he provided the diagnoses due to the June 28, 2011 work injury, whether appellant had any further disability due to the injury, whether she had any preexisting or nonemployment-related disability, and whether she needed further medical treatment.

In a report dated August 13, 2013, Dr. Gelman reviewed the history of injury and the medical reports of record, including the results of diagnostic studies. On examination he measured range of motion of the right shoulder and found a "provocative Tinel's [sign] through the cubital tunnel." Dr. Gelman found a negative Finkelstein's test, no pain radiating down the arm, but some neck pain with Spurling's maneuver, and a strong radial pulse. He noted that appellant complained of upper right trapezius discomfort and a tingling sensation of the right arm with glenohumeral rotation and gravity dependent positioning. Dr. Gelman found no edema, redness, or warmth. He related, "With regards to the incident of June 28, 2011, the mechanism described appears to be consistent with the early impression of right shoulder contusion with an apparent accepted diagnosis of right shoulder sprain. Like others have noted, the mechanism described would not appear to explain the assorted complaints for which [she] has represented." Dr. Gelman noted that a physician had recommended surgery for subacromial pathology, which was not accepted as related to the June 28, 2011 work injury and would not "explain the assorted symptomatology for which [appellant] has and continues to represent affecting the entirety of her right upper

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<sup>5</sup> In a May 14, 2013 work capacity evaluation (Form OWCP-5c), Dr. Cary found that appellant was totally disabled from employment and indicated that he was awaiting approval for right shoulder surgery.

extremity.” Dr. Gelman found that, considering only the shoulder strain, she could return to her usual employment. He related, “Other pathophysiology may preclude rigorous use of the right upper extremity, although again, as stated in this narrative, such pathophysiology is not attributable to the accepted diagnosis dating back to June 28, 2011.” Dr. Gelman recommended further evaluation of appellant’s positive Tinel’s sign at the right elbow, noting that any such treatment would be unrelated to the June 28, 2011 work injury. He related, “With regards to that which occurred on June 28, 2011, it is my opinion that [she] has made a full and complete recovery.”

In a January 15, 2014 progress report, Dr. Cary diagnosed severe right shoulder sprain with internal derangement and left shoulder sprain. He opined that appellant was totally disabled.

On February 27, 2014 OWCP advised appellant of its proposed termination of her wage-loss compensation and medical benefits. It found that Dr. Smith’s opinion represented the weight of the evidence and established that she had no further injury-related condition or disability.

Dr. Cary, on March 17, 2014, related that he had treated appellant beginning August 17, 2011 for injuries resulting from her June 28, 2011 work injury. He diagnosed right shoulder sprain with internal derangement, left shoulder strain, and noted that she also experienced thoracic and cervical pain. Dr. Cary disagreed with Dr. Smith’s finding, noting that appellant continued to require treatment for both shoulders. He related, “[She] has a permanent and chronic injury with regard to her right shoulder and has an ongoing current injury to her left shoulder.” Dr. Cary attributed the left shoulder condition to her need to compensate for the injured right shoulder and recommended right shoulder surgery. He attributed the bilateral shoulder sprain and right shoulder internal derangement to the June 28, 2011 work injury and opined that appellant was totally disabled.

By decision dated March 31, 2014, OWCP terminated appellant’s wage-loss compensation and authorization for medical treatment effective April 6, 2014 finding that she had no further disability or condition causally related to her accepted June 28, 2011 employment injury. It found that the opinions of Dr. Smith and Dr. Gelman constituted the weight of the evidence and established that she had no further residuals of her right shoulder sprain.

Counsel, on April 25, 2014, requested a telephonic hearing before an OWCP hearing representative.<sup>6</sup> At the telephone hearing, held on November 13, 2014, he asserted that Dr. Gelman’s report was insufficiently rationalized and failed to address her cervical condition. Appellant related that she had undergone shoulder surgery on May 28, 2014. She noted that she slipped and fell in February 2014, injuring her left lower back.

By decision dated January 29, 2015, OWCP’s hearing representative affirmed the March 31, 2014 decision. She found that the opinion of Dr. Gelman, as the impartial medical examiner (IME), constituted the special weight of the evidence and established that appellant had no further residuals of her employment injury.

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<sup>6</sup> Dr. Cary continued to provide progress reports regarding his treatment of appellant’s right and left shoulder condition.

Subsequent to the hearing representative's decision, appellant submitted a May 8, 2014 report from Dr. G. Russell Huffman, a Board-certified orthopedic surgeon. Dr. Huffman discussed her history of neck and shoulder pain after a patient "struck her in the shoulder and neck region." He noted that appellant previously underwent a glenoid labrum repair "but had been completely asymptomatic and had resumed full work duties." Dr. Huffman reviewed the MRI scan study findings of subacromial space fluid, tearing of the biceps labral complex, and tendinopathy of the supraspinatus tendon. He recommended shoulder surgery and rehabilitation for her cervical spine problems, noting that he does think that these are related even indirectly to her injury.

On January 29, 2016 counsel requested reconsideration. He asserted that Dr. Gelman failed to address her surgical condition and did not provide medical reasoning for his conclusions.

OWCP, in an April 25, 2016 decision, denied modification of its January 29, 2015 decision. It found that appellant had not submitted sufficient evidence to overcome the special weight afforded Dr. Gelman as the IME.

Appellant, through counsel, on April 25, 2017 again requested reconsideration. He asserted that Dr. Smith's report was insufficient to create a conflict as he failed to address her cervical condition or provide rationale for his opinion. Counsel submitted the June 3, 2014 operative report, noting that it established that appellant had shoulder pathology.

On June 3, 2014 Dr. Huffman performed a capsular release, extensive debridement, and subacromial decompression of appellant's right shoulder.

By decision dated July 20, 2017, OWCP denied modification of its April 25, 2016 decision.<sup>7</sup> It found that Dr. Smith properly considered the statement of accepted facts in reaching his conclusions and found that appellant only sustained a right shoulder strain due to her work injury. OWCP further determined that Dr. Gelman found that the June 28, 2011 work injury did not cause her current complaints.

On appeal counsel contends that Dr. Smith's opinion was insufficient to create a conflict in medical opinion as he failed to address her cervical condition or provide any rationale for his findings. He asserts that OWCP failed to sufficiently develop whether she experiences neck problems due to her work injury. Counsel notes that appellant's shoulder surgery revealed clear findings of pathology. He further alleges that Dr. Gelman failed to provide any rationale for his opinion regarding whether the work injury aggravated or accelerated a preexisting condition.

### **LEGAL PRECEDENT -- ISSUE 1**

Once OWCP accepts a claim and pays compensation, it has the burden of justifying modification or termination of an employee's benefits.<sup>8</sup> After it has determined that an employee has disability causally related to his or her federal employment, OWCP may not terminate

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<sup>7</sup> OWCP referred to the IME at one point as Dr. Altman rather than Dr. Gelman, but this appears to be a typographical error.

<sup>8</sup> See S.F., 59 ECAB 642 (2008); Kelly Y. Simpson, 57 ECAB 197 (2005).

compensation without establishing that the disability has ceased or that it is no longer related to the employment.<sup>9</sup> Its burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>10</sup>

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability.<sup>11</sup> To terminate authorization for medical treatment, OWCP must establish that appellant no longer has residuals of an employment-related condition, which would require further medical treatment.<sup>12</sup>

Section 8123(a) 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.<sup>13</sup> The implementing regulation provides that, if a conflict exists between the medical opinion of the employee's physician and the medical opinion of either a second opinion physician or an OWCP medical adviser, OWCP shall appoint a third physician to make an examination. 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.<sup>14</sup>

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

### **ANALYSIS -- ISSUE 1**

OWCP accepted that appellant sustained right shoulder strain due to a June 28, 2011 employment injury. It paid her wage-loss compensation for total disability beginning August 18, 2011. OWCP properly determined that a conflict in medical opinion arose between Dr. Cary, appellant's attending physician, and Dr. Smith, an OWCP referral physician, regarding the extent of her disability due to her employment injury and need for medical treatment. It referred her to Dr. Gelman, a Board-certified orthopedic surgeon, for an impartial medical examination.

Where there exist 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

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<sup>9</sup> See *I.J.*, 59 ECAB 408 (2008); *Elsie L. Price*, 54 ECAB 734 (2003).

<sup>10</sup> See *J.M.*, 58 ECAB 478 (2007); *Del K. Rykert*, 40 ECAB 284 (1988).

<sup>11</sup> See *T.P.*, 58 ECAB 524 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (2005).

<sup>12</sup> See *Kathryn E. Demarsh*, *id.*; *James F. Weikel*, 54 ECAB 660 (2003).

<sup>13</sup> 5 U.S.C. § 8123(a).

<sup>14</sup> 20 C.F.R. § 10.321.

<sup>15</sup> *R.C.*, 58 ECAB 238 (2006); *David W. Pickett*, 54 ECAB 272 (2002); *Barry Neutuch*, 54 ECAB 313 (2003).

opinion of such specialist, if sufficiently well rationalized and based upon a proper factual background, must be given special weight.<sup>16</sup>

The Board finds that the opinion of Dr. Gelman is well rationalized and based on a proper factual and medical history. Dr. Gelman accurately summarized the relevant medical evidence, provided detailed findings on his examination, and reached conclusions about appellant's condition which comported with his findings.<sup>17</sup> In a report dated August 13, 2013, he reviewed the medical evidence of record, including the results of diagnostic studies. On examination Dr. Gelman found a negative Finkelstein's test, neck pain with Spurling's maneuver, but no arm pain, and a strong radial pulse. He further found a positive Tinel's sign. Dr. Gelman advised that the accepted condition of a right shoulder strain did not explain appellant's symptoms. He found that she had recovered from her shoulder strain and, considering only the shoulder strain, could resume her usual employment. Dr. Gelman determined that any other pathology was not related to the June 28, 2011 work injury and recommended evaluation of the positive Tinel's sign at the right elbow, noting that any required treatment was not related to employment. He provided rationale for his opinion by explaining that the diagnosed condition of right shoulder sprain and the mechanism of the June 28, 2011 work injury were not consistent with her current symptoms. As Dr. Gelman's report is detailed, well rationalized, and based on a proper factual background, his opinion is entitled to the special weight accorded an IME.<sup>18</sup>

The remaining evidence submitted prior to OWCP's termination of appellant's compensation is insufficient to overcome the special weight afforded Dr. Gelman as the IME. On January 15, 2014 Dr. Cary diagnosed right shoulder sprain and internal derangement and left shoulder sprain and found that she was disabled from employment. In a March 17, 2014 report, he related that appellant required additional treatment of both shoulders, and attributed the left shoulder condition to overuse of the left arm due to the right shoulder injury. Dr. Cary diagnosed bilateral shoulder sprains and right shoulder internal derangement due to the June 28, 2011 employment injury and opined that she was totally disabled. Dr. Cary, however, was on one side of the conflict resolved by Dr. Gelman. A medical report from a physician on one side of a conflict resolved by an IME is generally insufficient to overcome the special weight accorded the report of an IME or to create a new conflict.<sup>19</sup>

The Board, therefore, finds that OWCP properly terminated appellant's wage-loss compensation and medical benefits for the accepted condition of right shoulder strain effective April 6, 2014.<sup>20</sup>

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<sup>16</sup> *J.M.*, 58 ECAB 478 (2007); *Darlene R. Kennedy*, 57 ECAB 414 (2006).

<sup>17</sup> *Manuel Gill*, 52 ECAB 282 (2001).

<sup>18</sup> See *J.M.*, *supra* note 16; *Kathryn E. Demarsh*, *supra* note 11.

<sup>19</sup> See *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael Hughes*, 52 ECAB 387 (2001).

<sup>20</sup> See *D.G.*, Docket No. 17-0608 (issued March 19, 2018).

On appeal counsel asserts that Dr. Smith failed to address her cervical condition. The relevant issue, however, is whether appellant experienced any further disability or need for medical treatment due to her right shoulder strain.

Counsel also contends that neither Dr. Smith nor Dr. Gelman provided rationale for their opinions. He thus maintains that Dr. Smith's opinion was insufficient to create a conflict in medical evidence and that Dr. Gelman's opinion does not constitute the special weight of the evidence. As discussed, however, OWCP properly found that Dr. Smith's report was sufficient to create a conflict in medical opinion. Dr. Smith based his opinion on an accurate medical history and provided rationale for his opinion that appellant's right shoulder strain had resolved based on the objective findings. As noted, Dr. Gelman also provided rationale for his opinion, and thus his opinion represents the special weight of the evidence.

### **LEGAL PRECEDENT -- ISSUE 2**

Once OWCP properly terminates a claimant's compensation benefits, he or she has the burden of proof to establish continuing disability after that date causally related to the accepted injury.<sup>21</sup> To establish a causal relationship between the condition as well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background, supporting such a causal relationship.<sup>22</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>23</sup> A claimant must establish by the weight of the reliable, probative, and substantial evidence that he or she had an employment-related disability which continued after termination of compensation benefits.<sup>24</sup>

### **ANALYSIS -- ISSUE 2**

The Board finds that the medical evidence is insufficient to establish continuing employment-related disability after the March 31, 2014 termination of wage-loss compensation and medical benefits.

Following the termination, appellant submitted a May 8, 2014 report from Dr. Huffman. Dr. Huffman reviewed her history of a prior glenoid labrum repair that was subsequently asymptomatic such that she resumed her usual work duties. He noted that appellant experienced neck and right shoulder pain after a patient struck that area. Dr. Huffman recommended shoulder surgery and rehabilitation for her cervical spine issues. On June 3, 2014 he performed a capsular release, extensive debridement, and subacromial decompression of appellant's right shoulder. Dr. Huffman did not, however, address the relevant issue of whether appellant was disabled from

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<sup>21</sup> See *T.M.*, Docket No. 17-0915 (issued August 29, 2017); *supra* note 17.

<sup>22</sup> *Id.*

<sup>23</sup> *Paul Foster*, 56 ECAB 208 (2004); *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>24</sup> See *J.A.*, Docket No. 15-0908 (issued August 6, 2015).

employment due to her accepted condition of right shoulder strain, and thus his report is of diminished probative value on this issue.<sup>25</sup>

As there is no medical evidence establishing that appellant continued to be disabled due to her accepted right shoulder strain, she did not meet her burden of proof to establish continuing employment-related disability after April 6, 2014.<sup>26</sup>

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

### **LEGAL PRECEDENT -- ISSUE 3**

An employee has the burden of proof to establish that any specific condition for which compensation is claimed is causally related to the employment injury.<sup>27</sup> Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical evidence.<sup>28</sup> 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 employee.<sup>29</sup> Neither the mere 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>30</sup>

### **ANALYSIS -- ISSUE 3**

The Board finds that appellant has not met her burden of proof to expand the acceptance of her claim to include cervical, thoracic, left shoulder, and additional right shoulder conditions.

In a February 27, 2013 report, Dr. Cary diagnosed right and left shoulder strains and thoracic and cervical sprains/strains which he attributed to the nature of appellant's injury. He advised that she sustained cervical and thoracic sprain and strain from her right shoulder muscles. Dr. Cary did not explain how, with reference to the specific mechanism of injury, being struck by

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<sup>25</sup> See *D.S.*, Docket No. 17-0084 (issued January 23, 2018) (the Board will not require OWCP to pay compensation for disability in the absence of medical evidence directly addressing the specific dates of disability for which compensation is claimed).

<sup>26</sup> See *G.H.*, Docket No. 16-0432 (issued October 12, 2016).

<sup>27</sup> *Kenneth R. Love*, 50 ECAB 276 (1999).

<sup>28</sup> See *Jacqueline M. Nixon-Steward*, *supra* note 23.

<sup>29</sup> See *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>30</sup> See *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

a patient on June 28, 2011 resulted in cervical, thoracic, or left shoulder strain other than to note involvement of her right shoulder muscles. Consequently, his report is of little probative value.<sup>31</sup>

On March 17, 2014 Dr. Cary diagnosed a right shoulder sprain with internal derangement, left shoulder strain, and thoracic and cervical pain. He found that the left shoulder strain resulted from appellant overcompensating due to the right shoulder injury. Dr. Cary did not, however, provide any rationale in support of his conclusions. Medical evidence that states a conclusion, but does not offer any rationalized medical explanation regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>32</sup> Regarding Dr. Cary's finding that appellant sustained internal derangement of the right shoulder as a result of the June 28, 2011 employment injury, the Board notes that he did not support his causation finding with medical rationale explaining how the work injury caused or aggravated the diagnosed conditions of right shoulder derangement.<sup>33</sup> Such rationale is particularly important given appellant's history of preexisting right shoulder conditions.<sup>34</sup>

Dr. Huffman, in a May 8, 2014 report, discussed the findings on MRI scan study of the right shoulder and recommended surgery. He did not, however, specifically relate any of the findings to the accepted work injury. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>35</sup>

Moreover, Dr. Smith and Dr. Gelman found that appellant had no diagnosed condition due to her June 28, 2011 work injury other than a right shoulder sprain. Dr. Smith, in an August 6, 2012 report, found that she sustained a soft tissue strain of the right shoulder due to her employment injury, and that the MRI scan study findings did not reveal anything post-traumatic in nature. He attributed appellant's symptoms to her prior shoulder injury and resulting surgery.

OWCP did not specifically request that Dr. Gelman, the physician selected as the IME, to address claim expansion and thus his opinion is that of a second opinion physician on the issue.<sup>36</sup> It did, however, ask that he provide all diagnosed conditions. Dr. Gelman diagnosed only right shoulder strain due to the June 28, 2011 work injury.

The Board, therefore, finds that appellant failed to meet her burden of proof to expand acceptance of her claim to include conditions other than right shoulder sprain.<sup>37</sup>

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<sup>31</sup> See *E.D.*, Docket No. 16-1854 (issued March 3, 2017).

<sup>32</sup> See *K.A.*, Docket No. 16-1330 (issued December 28, 2016).

<sup>33</sup> See *K.W.*, Docket No. 10-0098 (issued September 10, 2010).

<sup>34</sup> See *P.H.*, Docket No. 16-0654 (issued July 21, 2016); *S.R.*, Docket No. 16-0657 (issued July 13, 2016).

<sup>35</sup> *R.E.*, Docket No. 10-0679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007).

<sup>36</sup> See *S.F.*, Docket No. 17-1427 (issued May 16, 2018).

<sup>37</sup> See *C.W.*, Docket No. 16-0858 (issued April 3, 2017).

On appeal counsel asserts that OWCP failed to properly develop the issue of whether she sustained a cervical condition due to her work injury and notes that surgery on her right shoulder showed pathology. As noted, however, appellant did not submit reasoned medical evidence on causal relationship sufficient to establish additional employment-related conditions.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that OWCP properly terminated appellant's wage-loss compensation and authorization for medical benefits effective April 6, 2014 as she had no further disability or need for medical treatment causally related to her June 28, 2011 employment injury. The Board further finds that she has neither established continuing employment-related disability after April 6, 2014, nor has she established the expansion of the acceptance of her claim to include additional conditions as a result of her June 28, 2011 employment injury.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the July 20, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 20, 2018  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board