

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

J.B., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Maspeth, NY, Employer**

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**Docket Nos. 18-1751 and 19-0792
Issued: May 6, 2019**

Appearances:

Paul Kalker, Esq., for the appellant¹

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge

ALEC J. KOROMILAS, Alternate Judge

VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 17, 2018 appellant, through counsel, filed a timely appeal from an August 17, 2018 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned Docket No. 18-1751. On January 8, 2019 appellant, through counsel, filed a timely appeal from a December 7, 2018 merit decision of OWCP, to which the Clerk of the Appellate Boards assigned Docket No. 19-0792. Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

¹ 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.

² 5 U.S.C. § 8101 *et seq.*

ISSUES

The issue are: (1) whether appellant has met his burden of proof to establish that the acceptance of his claim should be expanded to include cervical, lumbar, thoracic conditions and additional right hand and shoulder conditions as causally related to his accepted employment injuries; and (2) whether appellant has met his burden of proof to establish a recurrence of total disability commencing April 18, 2018 causally related to his accepted employment-related injuries.

FACTUAL HISTORY

On February 28, 2018 appellant, then a 53-year-old letter carrier, filed an occupational disease claim (Form CA-2) for injuries resulting from continued use of his right shoulder, back, neck, elbow, and hands while performing his repetitive work duties.³ He noted that he first became aware of his conditions and their relationship to his federal employment on January 29, 2018. Appellant stopped work on February 8, 2018 and returned to part-time, light-duty work on February 21, 2018. He stopped work again on April 18, 2018 and has not returned to work. On May 24, 2018 OWCP accepted the claim for right hand and shoulder sprains.

OWCP subsequently received a letter dated May 2, 2018 from Dr. Barry M. Katzman, an attending Board-certified orthopedic surgeon, to counsel. Dr. Katzman indicated that he first examined appellant on May 11, 2016. He noted a history of appellant's accepted February 16, 2016 and January 29, 2018 employment injuries and medical treatment. Dr. Katzman noted that he had reviewed appellant's medical records. He discussed findings on physical examination and provided an impression of cervical disc herniations, status post left shoulder surgery, and right shoulder, left elbow and knee, and bilateral wrist sprains. Dr. Katzman opined that appellant's conditions were causally related to the accepted February 16, 2016 and January 29, 2018 work-related injuries. He recommended cervical surgery.

In a report dated April 25, 2018, Dr. Tanzania Khan, a pain medicine specialist, noted a history that appellant sustained a traumatic back injury three months prior related to his performance of repetitive activity at work. She reported physical examination findings and provided an assessment of lumbar radiculopathy and lumbago.

A May 10, 2018 lumbar magnetic resonance imaging (MRI) scan report by Dr. Francisco A. Delara, Jr., a diagnostic radiologist, provided an impression of multilevel degenerative annular bulges identified at L2-3, L3-4, and L4-5 with mild-to-moderate central canal stenosis at L3-4 and L4-5, and narrowing of the lateral recesses at L3-4 and L4-5. Dr. Delara also provided an impression of small superimposed right extra foraminal disc protrusion at L2-3 that nearly contacts the exiting right L2 nerve root. He further provided an impression of foraminal narrowing at L2-3 through L4-5.

³ The record indicates that appellant has a prior claim for a February 16, 2016 traumatic injury, assigned OWCP File No. xxxxxx484. OWCP accepted that claim for cervical and left shoulder sprains and right hand and left knee contusions.

Dr. Khan, in a May 23, 2018 report, indicated that appellant had undergone a lumbar MRI scan and an electromyogram (EMG). She reexamined him and provided an assessment of lumbar disc displacement, spondylosis, and spinal stenosis, and lumbosacral degenerative disc disease. Dr. Khan reiterated her assessment of lumbar radiculopathy. She responded “yes” to the question of whether the diagnosed conditions were caused by appellant’s history of injury. Dr. Khan advised that he was totally disabled.

OWCP, by letter dated June 7, 2018, referred appellant, together with a statement of accepted facts, the case record, and a set of questions, to Dr. Jeffrey Guttman, a Board-certified orthopedic surgeon, for a second opinion to determine the nature and extent of his injury-related medical residuals and disability and to determine whether any additional conditions were causally related to the accepted employment injuries.

Dr. Khan continued to treat appellant. In a duty status report (Form CA-17) dated May 23, 2018 and an attending physician’s report (Form CA-20) dated May 29, 2018, she noted a history of the accepted employment injuries. Dr. Khan diagnosed spinal stenosis at L2-3, L4-5 and restated her diagnoses of lumbar disc displacement, lumbosacral spondylosis derangement, lumbar disc displacement, stenosis, degenerative disc disease, and radiculopathy. In the Form CA-17 report, she advised that the diagnosed conditions were due to the accepted employment factors. In the Form CA-20 report, Dr. Khan checked a box marked “yes” indicating that the diagnosed conditions were caused by the described employment activity. She related that appellant’s conditions were likely related to repetitive lifting, pushing, bending, and twisting while moving parcels. In both reports, Dr. Khan advised that appellant was unable to work and listed his physical restrictions. She indicated that his disability began on January 29, 2018. In a May 29, 2018 work capacity evaluation (Form OWCP-5c), Dr. Khan indicated that appellant was unable to work due to pain and numbness along his lower back and leg that limited his daily functions of standing, sitting, walking, and lifting.

In a thoracic spine x-ray report dated May 7, 2018, Dr. Baik H. Kang, a Board-certified diagnostic radiologist, noted an impression of levoscoliosis of the thoracic and lumbar spines and degenerative disc disease at L2, L3, L4, and osteoarthritis with muscle spasm.

OWCP received additional reports dated May 16 and 31, 2018 from Dr. Katzman who diagnosed right shoulder sprain, cervical and lumbar radiculopathy, right elbow lateral epicondylitis, right hand strain, thoracic back pain, muscle spasm, cervical spondylosis, and right wrist sprain. Dr. Katzman advised that appellant was totally disabled from work and listed his physical restrictions. In a Form CA-17 report date May 31, 2018, he indicated that appellant’s thoracic back pain and muscle spasm were due to the January 29, 2018 employment injury. In a May 31, 2018 Form CA-20 report, Dr. Katzman placed a check in a box marked “yes” indicating that appellant’s diagnosed right shoulder, elbow, and hand conditions were caused by repetitive overhead work. He advised that appellant was totally disabled from September 18, 2018 to the date of his examination. In a Form OWCP-5c dated May 31, 2018, Dr. Katzman explained that appellant was unable to work because he was still recovering from his injuries. In a disability certificate dated May 31, 2018, he advised that appellant was totally incapacitated for work from May 26 through June 27, 2018.

In a report dated May 21, 2018, Dr. Peter Perdik, a Board-certified internist, indicated that nerve conduction velocity (NCV) and EMG study revealed evidence of a mild peroneal motor peripheral neuropathy predominantly affecting the bilateral lower extremity and bilateral L4-5 radiculopathy. In reports dated May 7, 10 and 16, 2018, he examined appellant and diagnosed lumbar radiculopathy on the right at L2-3 and L3-4, strain of the muscle and tendon of unspecified wall of the thorax, multilevel disc bulges on the right lumbar spine, and right L2 nerve impingement.

Dr. Narayan B. Paruchuri, a Board-certified diagnostic radiologist, performed an MRI scan of the right shoulder on June 5, 2018. He provided an impression of intermediate grade partial-thickness bursal surface tear of the posterior fibers of the supraspinatus tendon. Dr. Paruchuri also provided an impression of intermediate grade interstitial tear of the anterior fibers of the subscapularis tendon and cyst in the myotendinous junction.

A report dated June 15, 2018 by Dr. Steven Ross, a Board-certified neurologist, was received. He noted a history that appellant was status post a January 29, 2018 work-related injury and that he sustained work-related injury in February 2016. Dr. Ross reported findings on physical examination and provided an impression that appellant was status post a January 29, 2018 work-related overuse injury resulting in cervical, thoracic, and lumbar myofascial derangement with lumbar disc bulges, lumbar radiculopathy, and right shoulder pain. He advised that appellant was markedly partially disabled.

Reports dated June 28 and 29 and July 17 and 19, 2018 were received from appellant's physical therapist.

Reports dated April 6 and June 15, 2018 by Dr. Jason M. Gallina, a Board-certified orthopedic surgeon, noted appellant's accepted February 16, 2016 employment injury and discussed findings on physical and neurological examination and diagnostic testing. He provided an assessment of neck pain and left greater than right radiating arm pain.

In a June 27, 2018 report, Dr. Katzman reexamined appellant and reiterated his diagnoses of right shoulder sprain, cervical radiculopathy, and right elbow lateral epicondylitis.

Dr. Guttman, in a medical report dated July 26, 2018, described a history of appellant's accepted employment injuries and reviewed medical records. He discussed findings on physical examination and diagnosed status post cervical and lumbar radiculopathy, status post right shoulder, elbow, and wrist sprains. In response to OWCP's questions, Dr. Guttman indicated that the accepted right hand and right shoulder sprains were resolving. He noted that there were no subjective complaints that did not correspond with his objective findings. Dr. Guttman further noted that appellant had a prior accident and injured his neck, back, left shoulder, and right hand and elbow. Appellant also had prior left shoulder surgery. Dr. Guttman advised that appellant's other diagnosed conditions were causally related superimposed upon preexisting conditions. He did not suffer from any concurrent nonwork-related conditions. Dr. Guttman indicated that appellant's preexisting conditions were temporarily aggravated by his employment and were resolving. He further indicated that appellant was temporarily moderately disabled due to his accepted conditions. Appellant was not currently disabled from other nonwork-related preexisting or subsequent conditions. Dr. Guttman advised that appellant had not reached maximum medical

improvement. Appellant could return to sedentary light-duty work with restrictions, eight hours a day. Dr. Guttman noted that appellant's September 29, 2016 left shoulder arthroscopy, debridement of the labrum and rotator cuff, bursectomy, and subacromial decompression sufficiently addressed an accepted work condition. He maintained that the requested cervical spine surgery, C5-6 and C6-7 anterior cervical discectomy, and fusion were not medically necessary. Dr. Guttman explained that this injury was superimposed upon a preexisting injury. He recommended a series of two lumbar spine epidural steroid injections. Dr. Guttman indicated that appellant's prognosis was good and there were no specific problems hindering his recovery.

OWCP, by decision dated August 17, 2018, denied the expansion of the acceptance of appellant's claim to include the additional conditions. It found that the medical evidence of record did not contain a rationalized opinion explaining how appellant's diagnosed conditions were caused or contributed to by the accepted employment conditions.

By a second decision dated August 17, 2018, OWCP expanded the acceptance of appellant's claim to include left shoulder, elbow, and wrist sprains, right wrist sprain, and right and left shoulder derangement.

Appellant filed a notice of recurrence (Form CA-2a) on September 7, 2018 alleging that he continued to experience symptoms of his January 29, 2018 work-related conditions on April 18, 2018, the date he stopped work. In support of his claim, he submitted reports from Dr. Ross. In a Form CA-20 report dated April 17, 2018, Dr. Ross again related a history of the January 29, 2018 employment injury. He diagnosed right shoulder derangement and reiterated his diagnoses of cervical/thoracic/lumbar spine myofascial derangement. Dr. Ross placed a check in a box marked "yes" indicating that the diagnosed conditions were caused or aggravated by the described employment activity. He explained that repetitive use of both shoulders and overhead work caused the diagnosed conditions. Dr. Ross advised that appellant was totally disabled commencing April 18, 2018. In a Form CA-17 report dated April 17, 2018, he again opined that appellant's cervical/thoracic/lumbar spine and right shoulder derangement were due to his accepted January 29, 2018 employment injury. Dr. Ross indicated that appellant was unable to work. In a Form OWCP-5c dated April 17, 2018, he restated his cervical, thoracic, and lumbar spine and right shoulder diagnoses and opinion on appellant's disability status. Dr. Ross also listed appellant's physical restrictions.

Appellant submitted a report dated April 18, 2018 from Dr. Katzman, who again diagnosed right shoulder sprain, cervical radiculopathy, right elbow lateral epicondylitis, and right hand strain. Dr. Katzman also reiterated his opinion on causal relationship. He advised that appellant's complaints were causally related to the January 29, 2018 employment injury superimposed on his previous right shoulder injury.

In subsequently received reports dated August 1 and September 12, 2018, Dr. Katzman continued to diagnose right shoulder sprain, cervical radiculopathy, right elbow lateral epicondylitis, and right hand strain.

By development letter dated October 30, 2018, OWCP advised appellant of the deficiencies of his recurrence claim by explaining the type of factual and medical evidence required and provided a questionnaire for his completion. It afforded him 30 days to respond.

On November 21, 2018 appellant responded to OWCP's questionnaire. He noted that he experienced a spontaneous change for the worse in his symptoms and nature and extent of his work-related condition without an intervening cause. Appellant related that he continued to experience symptoms of his work-related medical condition which resulted in work restrictions. He maintained that his claim was not for a new occupational disease or traumatic injury due to his worsening work-related condition without an intervening cause. Appellant further maintained that he had continuing symptoms of his original injury from the time of this injury through the date of his alleged recurrence. He indicated that he had not sustained any other injuries or illnesses on or off work since his original injury. Appellant also had no hobbies and/or activities that may have affected his work-related condition.

By decision dated December 7, 2018, OWCP denied appellant's claim for a recurrence of disability, finding that the medical evidence of record was insufficient to establish a material change or worsening of his accepted conditions without an intervening cause.

LEGAL PRECEDENT -- ISSUE 1

Where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury.⁴

Causal relationship is a medical issue that must be established by rationalized medical opinion evidence.⁵ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.⁷

ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish that the acceptance of his claim should be expanded to include cervical, lumbar, thoracic conditions and additional right hand and shoulder conditions as causally related to his accepted employment injuries.

⁴ *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁵ *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005).

⁶ *Leslie C. Moore*, 52 ECAB 132 (2000).

⁷ *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

In a May 2, 2018 report, appellant's physician, Dr. Katzman, noted a history of appellant's accepted employment injuries and his prior accepted February 16, 2016 employment injuries. He provided examination findings and an impression of cervical disc herniations, status post left shoulder surgery, and right shoulder, left elbow and knee, and bilateral wrist sprains. Dr. Katzman opined that the diagnosed conditions were causally related to the accepted February 16, 2016 and January 2018 work-related injuries. He recommended cervical surgery. Other reports from Dr. Katzman dated May 16 and 31, 2018 diagnosed cervical and lumbar radiculopathy, right elbow lateral epicondylitis, right hand strain, thoracic back pain, muscle spasm, cervical spondylosis, and right wrist sprain. In a May 31, 2018 narrative report, he opined that the diagnosed conditions were due to the accepted January 29, 2018 employment injury. The Board finds that, although Dr. Katzman supported causal relationship in his May 2 and 31, 2018 reports, he did not provide medical rationale explaining the causal relationship between appellant's diagnosed conditions and recommended surgery to the accepted work injuries.⁸ In a May 31, 2018 Form CA-20 report, Dr. Katzman checked a box marked "yes" indicating that appellant's diagnosed conditions were caused by the accepted employment injuries. He advised that appellant was totally disabled from September 18, 2018 to the date of his examination. The Board has held that a report that addresses causal relationship with an affirmative checkmark, without medical rationale explaining how the employment injuries caused or aggravated the diagnosed condition, is of diminished probative value and insufficient to establish causal relationship.⁹ Dr. Katzman failed to offer medical rationale explaining how appellant's diagnosed cervical, lumbar right elbow, hand, and wrist, thoracic back conditions and disability were caused or aggravated by the accepted employment factors. In his remaining reports, he addressed appellant's right shoulder and elbow and cervical conditions and medical treatment, but failed to offer an opinion stating that the diagnosed conditions and disability were caused or contributed to by the accepted employment injuries.¹⁰ Thus, this evidence is therefore insufficient to meet appellant's burden of proof.¹¹

In her April 25, 2018 report, Dr. Khan diagnosed lumbar radiculopathy and lumbago, but failed to provide an opinion finding that the diagnosed conditions were caused or contributed to by the accepted employment injuries. As there is no opinion on causal relationship, this report is of no probative value.¹² Other reports from Dr. Khan dated May 23 and 29, 2018 diagnosed spinal stenosis at L2-3 and L4-5, lumbar disc displacement, lumbosacral spondylosis derangement, lumbar disc displacement, stenosis, degenerative disc disease and lumbar radiculopathy. In a May 23, 2018 Form CA-17, she opined that those diagnosed conditions were due to the accepted January 2018 employment injury. In both reports, Dr. Khan found that appellant was totally disabled from work. The Board finds that she did not provide medical rationale explaining the causal relationship between his diagnosed conditions and attendant disability and the accepted

⁸ *S.S.*, Docket No. 17-1256 (issued December 13, 2018).

⁹ *See S.C.*, Docket No. 18-1242 (issued March 13, 2019).

¹⁰ *See L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹¹ *See Y.C.*, Docket No. 17-1938 (issued January 7, 2019).

¹² *Supra* note 10.

work injuries.¹³ Dr. Khan's opinion, in a May 29, 2018 Form CA-20 report, that appellant's diagnosed conditions were "likely" related to his repetitive work activity is speculative in nature and thus insufficient to meet appellant's burden of proof.¹⁴ Thus, this evidence is insufficient to meet appellant's burden of proof.¹⁵

Dr. Gallina's April 6 and June 15, 2018 reports found that appellant had neck pain and left greater than the right radiating arm pain. Pain is a description of a symptom rather than a clear diagnosis of a medical condition.¹⁶ Moreover, Dr. Gallina did not provide an opinion on causal relationship.¹⁷ The Board finds that his report is insufficient to establish appellant's burden of proof.

The reports from appellant's physical therapist have no probative medical value in establishing appellant's claim as physical therapists are not considered physicians as defined under FECA.¹⁸ As such, this evidence is also insufficient to meet appellant's burden of proof.

Appellant also submitted diagnostic reports from Drs. Kang, DeLara, Perdik, and Paruchuri. However, the Board has held that diagnostic studies lack probative value as they do not provide an opinion on causal relationship between the accepted employment factors and a diagnosed condition.¹⁹

On appeal, counsel contends that the medical evidence of record was sufficient to expand the acceptance of appellant's claim to include his diagnosed cervical, thoracic, lumbar, conditions and additional right and left shoulder, and left knee conditions. For the foregoing reasons, the Board finds that the medical evidence of record is insufficient to establish that appellant sustained additional conditions causally related to the accepted employment injuries.

¹³ *S.S.*, *supra* note 8.

¹⁴ *B.M.*, Docket No. 17-1079 (issued June 4, 2018).

¹⁵ *See Y.C.*, *supra* note 11.

¹⁶ *B.H.*, Docket No. 18-1219 (issued January 25, 2019); *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *Robert Broome*, 55 ECAB 339 (2004) (the Board has consistently held that pain is a symptom rather than a compensable medical diagnosis).

¹⁷ *Supra* note 12.

¹⁸ 5 U.S.C. § 8101(2) provides that a physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by state law. *See* 5 U.S.C. § 8102(2); *S.A.*, Docket No. 16-1128 (issued November 24, 2017); *M.M.*, Docket No. 16-1617 (issued January 24, 2017); *David P. Sawchuk*, 57 ECAB 316, 320 n.11 (2006) (lay individuals such as nurses, physician assistants and physical therapists are not competent to render a medical opinion under FECA). *See also Gloria J. McPherson*, 51 ECAB 441 (2000); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (a medical issue such as causal relationship can only be resolved through the submission of probative medical evidence from a physician).

¹⁹ *See E.V.*, Docket No. 18-1617 (issued February 26, 2019); *R.G.*, Docket No. 18-1045 (issued February 1, 2019).

LEGAL PRECEDENT -- ISSUE 2

Section 10.5(x) of OWCP's regulations provides that a recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness. The term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force), or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.²⁰

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee can perform the light-duty position, the employee has the burden of proof to establish by the weight of the reliable, probative, and substantive evidence, a recurrence of total disability and to show that he or she cannot perform such light-duty work. As part of this burden, the employee must show a change in the nature and extent of the light-duty job requirements.²¹

Causal relationship is a medical issue that must be established by rationalized medical opinion evidence.²² Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.²³ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.²⁴

ANALYSIS -- ISSUE 2

The Board finds that appellant has not met his burden of proof to establish a recurrence of total disability commencing April 18, 2018 causally related to his accepted employment-related injuries.

²⁰ 20 C.F.R. § 10.5(x); see *Theresa L. Andrews*, 55 ECAB 719 (2004).

²¹ *Richard E. Konnen*, 47 ECAB 388 (1996); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

²² *Supra* note 5.

²³ *Supra* note 6.

²⁴ *Supra* note 7.

Appellant has not alleged a change in the nature and extent of his light-duty job requirements. Therefore, he must thus provide medical evidence establishing that he was disabled due to a worsening of his accepted work-related conditions.²⁵ The Board finds that appellant did not submit medical evidence to support that he was disabled due to a worsening of his accepted work-related conditions commencing April 18, 2018.

In an April 17, 2018 Form CA-20 report, Dr. Ross placed a check in a box marked “yes” indicating that appellant’s diagnosed conditions of right shoulder derangement, cervical/thoracic/lumbar spine myofascial derangement were caused or aggravated by his accepted employment injuries. He explained that repetitive use of both shoulders and overhead work caused the diagnosed conditions. Dr. Ross found that appellant was totally disabled commencing April 18, 2018. OWCP only accepted right shoulder derangement. It has not accepted the other diagnosed conditions. Dr. Ross did not adequately explain how appellant’s disability on or after April 18, 2018 was due to a worsening of his accepted work-related right shoulder condition.²⁶ Moreover, he did not explain how appellant’s other diagnosed conditions were due to a worsening of his accepted work-related conditions. Without such an explanation, this report of Dr. Ross is insufficient to establish a recurrence of disability. In a Form CA-17 report and Form OWCP-5c report dated April 17, 2018, Dr. Ross again reiterated his opinion that appellant’s cervical/thoracic/lumbar spine and right shoulder derangement were due to his accepted employment injuries. He also reiterated his opinion that appellant was totally disabled from work. Dr. Ross did not specifically explain whether appellant sustained a recurrence of disability causally related to the accepted employment conditions or otherwise provide medical reasoning explaining why any current condition or disability beginning April 18, 2018 was due to the accepted employment injuries.²⁷ For the reasons stated, his reports are insufficient to establish appellant’s burden of proof.

Dr. Katzman’s April 18, August 1 and September 12, 2018 reports diagnosed right shoulder sprain, cervical radiculopathy, right elbow lateral epicondylitis, and right hand strain. He opined that the diagnosed conditions were causally related to the January 29, 2018 employment injury superimposed on his previous right shoulder injury. However, Dr. Katzman did not specifically explain whether appellant sustained a recurrence of disability causally related to the accepted employment conditions or otherwise provide medical reasoning explaining why any current condition or disability beginning April 18, 2018 was due to the accepted employment injuries.²⁸ Thus, his reports are insufficient to meet appellant’s burden of proof.

Dr. Khan’s May 29, 2018 Form OWCP-5c report found that appellant was totally disabled from work due to his back and leg pain and numbness. As noted, pain is a description of a symptom rather than a clear diagnosis of a medical condition.²⁹ Moreover, Dr. Khan did not provide an

²⁵ *Jackie D. West*, 54 ECAB 158 (2002); *Terry R. Hedman*, 38 ECAB 222 (1986).

²⁶ *A.P.*, Docket No. 15-1513 (issued March 2, 2016).

²⁷ *D.H.*, Docket No. 18-0129 (issued July 23, 2018).

²⁸ *Id.*

²⁹ *Supra* note 15.

opinion as to whether appellant's disability was due to a worsening of his accepted employment-related conditions.³⁰ Likewise, his May 31, 2018 disability certificate did not offer an opinion as to whether appellant's disability from work from May 26 through June 27, 2018 was causally related to a worsening of his accepted employment-related conditions.³¹ Thus, the Board finds that his reports are insufficient to establish appellant's burden of proof.

As noted, appellant must submit rationalized medical evidence supporting causal relationship between the disabling conditions and the accepted injuries. Furthermore, the medical evidence must directly address the dates of disability for work for which compensation is claimed.³² None of the medical evidence of record provided a discussion of how appellant's accepted conditions caused total disability during the period in question, or supported a finding that his newly diagnosed conditions were causally related to the accepted injury.³³ Appellant therefore did not meet his burden of proof.³⁴

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(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that the acceptance of his claim should be expanded to include cervical, lumbar, thoracic conditions and additional right hand and shoulder conditions as causally related to his accepted employment injuries. The Board further finds that appellant has not met his burden of proof to establish a recurrence of total disability, commencing April 18, 2018, causally related to his accepted employment-related injuries.

³⁰ *L.B.*, *supra* note 10.

³¹ *Id.*

³² *C.S.*, Docket No. 08-2218 (issued August 7, 2009); *Sandra D. Pruitt*, 57 ECAB 126 (2005).

³³ *See C.Y.*, Docket No. 17-0605 (issued January 11, 2018); *William A. Archer*, 55 ECAB 674 (2004); *Fereidoon Kharabi*, 52 ECAB 291 (2001).

³⁴ *Supra* note 27.

ORDER

IT IS HEREBY ORDERED THAT the December 7 and August 17, 2018 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: May 6, 2019
Washington, DC

Patricia H. Fitzgerald, Deputy 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