

trapezius strain/sprain and muscle spasm and paid appropriate benefits. The record reflects that appellant underwent physical therapy, trigger point injections and nerve blocks, acupuncture and osteopathic manipulative treatment and that she worked light duty. On March 31, 2006 the employing establishment placed her in a leave without pay status as her light-duty assignment was cancelled. The Office paid wage-loss compensation beginning March 31, 2006.

On August 17, 2006 Dr. David L. Reinhard, a Board-certified physiatrist, noted that appellant had hypertonia and trigger points present in the bilateral trapezius, splenius capitis, rhomboids, levator scapula and cervical paraspinal muscles. There was no scapular winging and no focal motor deficits. Appellant had a functional cervical range of motion. Dr. Reinhard advised that she was nearing the end of her maintenance care. He stated that he would perform a set of trigger point injections and follow up in one month, at which time he would likely discharge appellant from care. In a September 14, 2006 report, Dr. Reinhard advised that she was at the end of her management care and that she could continue with self management.

In a December 10, 2007 report, Dr. Reinhard advised that appellant was seen at the Office's request for a comprehensive evaluation with regard to her March 28, 2004 work-related cervical and thoracic strain and sprain injuries with resultant myofascial pain and dysfunction. He last saw her on September 14, 2006. Dr. Reinhard advised that appellant had been placed at maximum medical improvement on November 28, 2005 and received maintenance care. He noted that her condition had slowly worsened since he discontinued her treatment in September 2006. Dr. Reinhard stated that appellant was having increased neck pain, upper back pain, headaches and parascapular pain and muscle stiffness with loss in range of motion. He advised that she needed additional maintenance care beyond what she previously received to maintain her maximum medical improvement status. In subsequent reports, Dr. Reinhard noted that appellant was on maintenance care with trigger point injections and reported on her progress.

To determine whether appellant continued to have residuals of her March 28, 2004 accepted conditions, the Office referred her to Dr. Anil Agarwal, a Board-certified orthopedic surgeon, for a second opinion. In a March 14, 2008 report, Dr. Agarwal noted the history of injury, his review of the medical records and statement of accepted facts and presented findings on examination. Appellant exhibited no loss of sensation in the upper extremities and no abnormal sensation. She had an active range of motion against gravity with almost full resistance and muscle tone in the upper extremities was normal. Dr. Agarwal diagnosed temporary aggravation of mild chronic cervical strain, healed and temporary aggravation of mild right shoulder tendinitis, healed. He stated that appellant did not have many positive objective findings, which he listed as: some tenderness over the lower cervical region and right shoulder, normal cervical range, mild limitation of bilateral shoulder range of movement (flexion and abduction). Dr. Agarwal opined that she had no continued residuals from her work-related injury and that the temporary aggravation of the right shoulder and cervical strain was almost healed based on the limited positive objective findings. He advised that appellant reached maximum medical improvement on November 18, 2005 and she had no disc problem, no rotator cuff tear and good range of motion with no neurological deficits. Appellant was found able to perform her usual work without any restrictions, but due to chronic pain behavior, she should return to work gradually. Dr. Agarwal further noted that, because she was very thin, she should not lift

greater than 30 to 40 pounds. A work capacity evaluation of March 14, 2008 indicated that appellant could work full time with restrictions, which were on a temporary basis.

On March 31, 2008 the Office requested Dr. Agarwal to clarify his opinion as to whether any of the aggravations had ceased and whether the accepted conditions had resolved. It noted that Dr. Agarwal advised that the work restrictions were temporary and requested that he provide a timeline when appellant could be released to full duty for the work-related conditions.

In an April 9, 2008 report, Dr. Agarwal clarified his earlier opinion. He stated that all work-related aggravations had ceased and her condition resolved as of January 13, 2005. Dr. Agarwal further stated that the only treatment needed was over-the-counter medication and a good home exercise program. He reiterated that appellant could return to full-duty work over the next two to three months.

By notice dated April 30, 2008, the Office proposed to terminate appellant's wage-loss and medical benefits as the weight of the medical evidence demonstrated that the accepted conditions ceased. It accorded determinative weight to the opinion of Dr. Agarwal, the second opinion specialist.

Dr. Reinhard continued to report that appellant had chronic myofascial pain in the parascapular region and was undergoing trigger point injections. In April 30 and May 15, 2008 reports, he reported on appellant's condition, noting that she has protracted shoulders bilaterally with a positive hyperabduction maneuver on the right. Appellant also has hypertonia and trigger points in the right greater than the left pectoral muscles, trapezius, levator scapula and rhomboids with no focal motor deficits and no scapular winging. On May 15, 2008 Dr. Reinhard advised that she was only getting temporary relief with the trigger point injections and he was going to refer her for osteopathic treatment. He noted that appellant said she was being asked to return to work. Dr. Reinhard emphasized that she needed to get back into therapy to reach an optimal condition as she stated that she could not lift a bottle of bleach without pain.

By decision dated June 6, 2008, the Office terminated appellant's wage-loss and medical benefits effective June 8, 2008, finding that the accepted injury had ceased without residuals.

LEGAL PRECEDENT

Once the Office has accepted a claim and pays compensation, it bears the burden to justify modification or termination of benefits.¹ Having determined that an employee has a disability causally related to his or her federal employment, the Office may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the employment.² The Office's burden of proof in terminating compensation includes

¹ *Bernadine P. Taylor*, 54 ECAB 342 (2003).

² *Id.*

the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.³

The right to medical benefits for an accepted condition is not limited to the period of entitlement for disability compensation.⁴ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which requires further medical treatment.⁵

ANALYSIS

The Office accepted that appellant sustained neck sprain/strain, right trapezius strain/sprain and muscle spasm as a result of an injury on March 28, 2004. It terminated her compensation benefits effective June 8, 2008 on the grounds that the accepted conditions had resolved without residuals. The Office accorded determinative weight to the opinion of Dr. Agarwal, the second opinion specialist.

The Board finds that the Office met its burden of proof in terminating appellant's compensation benefits effective June 8, 2008. The Board finds that the weight of the medical evidence is represented by the second opinion physician, Dr. Agarwal.

In an March 14, 2008 report, Dr. Agarwal provided diagnoses of temporary aggravation mild chronic cervical strain, healed; and temporary aggravation, mild right shoulder tendinitis, healed. In an April 9, 2008 report, he clarified that all the aggravations have ceased and resolved. Dr. Agarwal found that appellant had no continued residuals from her work-related injury and that, based on limited positive objective findings, the temporary aggravation of the right shoulder and cervical strain had ceased. He advised that she reached maximum medical improvement as of November 18, 2005 and that she had no disc problem, no rotator cuff tear and good range of motion without neurological deficit. Dr. Agarwal opined that appellant was able to perform her usual work without any restrictions. While he stated that she should build up gradually at work over several months and should not lift greater than 30 to 40 pounds, the Board notes such restrictions were preventative in nature as he clearly indicated that they were based on appellant's chronic pain behavior and her thin stature.

In his April 30 and May 15, 2008 progress reports, Dr. Reinhard noted that appellant continued to have chronic myofascial pain in the parascapular region; however, he failed to address the causal connection between the diagnosed conditions and factors of her employment. The Board has consistently held that medical reports lacking a rationale on causal relationship have little probative value.⁶ Dr. Reinhard also did not specifically address appellant's current disability or whether she could return to her date-of-injury position. He advised that she needed physical therapy if she was going to return to work, but his comment was based on appellant's

³ *Gewin C. Hawkins*, 52 ECAB 242 (2001).

⁴ *Roger G. Payne*, 55 ECAB 535 (2004).

⁵ *Pamela K. Guesford*, 53 ECAB 726 (2002).

⁶ *Mary E. Marshall*, 56 ECAB 420 (2005).

statements concerning her condition and not on any objective findings.⁷ Dr. Reinhard did not explain whether the need for any ongoing therapy was employment related.

Dr. Agarwal's reports are based on an accurate factual background and he provides sufficient medical rationale for his conclusions.⁸ There is no medical evidence showing any continuing residuals or disability due to appellant's accepted conditions. The Office met its burden of proof to terminate her benefits as the weight of the medical evidence indicates that residuals of the employment-related conditions had ceased effective June 8, 2008.

CONCLUSION

The Board finds that the Office met its burden of proof to terminate appellant's compensation benefits effective June 8, 2008.

⁷ See *G.T.*, 59 ECAB ____ (Docket No. 07-1345, issued April 11, 2008) (*i.e.*, when a physician's statements regarding an employee's ability to work consist only of repetition of the employee's complaints that she hurt too much to work, without objective findings of disability being shown, the physician has not presented a medical opinion on the issue of disability or a basis for payment of compensation).

⁸ *Michael S. Mina*, 57 ECAB 379 (2006) (in assessing medical evidence, the weight of such evidence is determined by its reliability, its probative value and its convincing quality; the opportunity for and thoroughness of examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion are facts, which determine the weight to be given to each individual report).

ORDER

IT IS HEREBY ORDERED THAT the June 6, 2008 decision of the Office of Workers' Compensation Programs is affirmed.⁹

Issued: July 15, 2009
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

⁹ With her request for an appeal, appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c).