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**APPEALS BOARD  
UTAH LABOR COMMISSION**

**FLORENCIA VALENCIA,**

**Petitioner,**

**vs.**

**ALTIVITY PACKAGING LLC and  
AMERICAN ZURICH INSURANCE CO.,**

**Respondents.**

**ORDER AFFIRMING  
ALJ'S DECISION**

**Case No. 08-0700**

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Florencia Valencia asks the Appeals Board of the Utah Labor Commission to review Administrative Law Judge Trayner's denial of Ms. Valencia's claim for benefits under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Appeals Board exercises jurisdiction over this motion for review pursuant to § 63G-4-301 of the Utah Administrative Procedures Act and § 34A-2-801(3) of the Utah Workers' Compensation Act.

**BACKGROUND AND ISSUE PRESENTED**

Ms. Valencia claims workers compensation benefits for shoulder problems allegedly caused by a work accident at Altivity Packaging LLC on January 8, 2007. Judge Trayner held an evidentiary hearing on Ms. Valencia's claim and then referred the medical aspects of the claim to an impartial medical panel. Finding the panel's report persuasive, Judge Trayner concluded that Ms. Valencia's work at Altivity was not the medical cause of her shoulder problems. Judge Trayner therefore denied Ms. Valencia's claim for benefits.

In requesting review of Judge Trayner's decision, Ms. Valencia argues that Judge Trayner should have accepted certain medical records of Dr. Walker which were attached to Ms. Valencia's objection to the medical panel report.

**FINDINGS OF FACT**

The Appeals Board adopts Judge Trayner's findings of facts. In summary, Ms. Valencia suffered from various left-shoulder problems that were unrelated to her work at Altivity. On January 8, 2007, Ms. Valencia felt a pull and burning sensation as she was engaged in putting a lid on a pallet of stacked paper bags. The preponderance of medical evidence, particularly the medical panel's report, establishes that Ms. Valencia's work at Altivity caused only a temporary strain of her pre-existing shoulder problems and that no medical care was necessitated by the work at Altivity.

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**DISCUSSION AND CONCLUSIONS OF LAW**

As noted above, the medical panel concluded that Ms. Valencia's left-shoulder problems were not caused by her work at Altivity. Ms. Valencia argues that, if the panel had seen Dr. Walker's records of his treatment of Ms. Valencia, the panel would have reached a different conclusion and found a medical causal connection between Ms. Valencia's work and her left-shoulder problems.

The Appeals Board notes that, by Ms. Valencia's own admission, she had Dr. Walker's medical records in her possession at the evidentiary hearing but on advice of counsel did not present them to Judge Trayner. As a general rule, a party must present his or her evidence at the evidentiary hearing, rather than at some later time. The Appeals Board sees no reason to excuse Ms. Valencia from this requirement. The Appeals Board therefore concludes that Judge Trayner properly rejected the records when they were proffered at a later date. Furthermore, the records in question do not address the nature and causes of Ms. Valencia's left-shoulder problems in any meaningful way. Had the records been admitted, it is unlikely that they would have changed the medical panel's opinion.

In summary, the Appeals Board agrees with Judge Trayner that the medical panel's opinion is persuasive. On that basis, the Appeals Board concurs with Judge Trayner's determination that Ms. Valencia is not entitled to workers' compensation benefits for her current medical problems.

**ORDER**

The Appeals Board affirms Judge Trayner's decision. It is so ordered.

Dated this 28<sup>th</sup> day of May, 2009.

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Colleen S. Colton, Chair

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Patricia S. Drawe

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Joseph E. Hatch

**IMPORTANT! NOTICE OF APPEAL RIGHTS FOLLOWS ON NEXT PAGE.**

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**NOTICE OF APPEAL RIGHTS**

Any party may ask the Appeals Board of the Utah Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Appeals Board within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.