

right shoulder on previous occasions, the evidence indicates she experienced a severe flare-up of these symptoms in late September and early October of 1994. The medical evidence submitted indicates claimant's job duties were consistent with her history of injuring her neck while lifting a patient. In this instance, the Appeals Board also gives some deference to the opinion of the Administrative Law Judge who had the opportunity to personally observe the demeanor of claimant when she testified and, thus, assess her credibility.

In its brief the respondent argues claimant failed to provide timely notice of accident. However, because respondent's argument is premised upon an accident occurring in June or July 1994, the issue is rendered moot.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Preliminary Hearing Order of Administrative Law Judge Floyd V. Palmer entered in this proceeding on February 16, 1995, should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of June, 1995.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

- c: Ross A. Hollander, Wichita, KS
- Jack L. Heath, Topeka, KS
- Floyd V. Palmer, Administrative Law Judge
- George Gomez, Director