

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SUSAN PONCE and DEPARTMENT OF JUSTICE,
IMMIGRATION & NATURALIZATION SERVICE, Nogales, AZ

*Docket No. 99-237; Submitted on the Record;
Issued April 18, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has met her burden of proof to establish that her alleged recurrence of disability commencing on April 8, 1998 was causally related to her employment injury of February 16, 1996.

On February 20, 1996 appellant, then a 48-year-old area port director, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1), alleging that she suffered injuries to her left knee, top of left foot, waist (back), right hip, right buttock and right wrist on February 16, 1996 when a defective chair collapsed, causing her to fall on her buttock. In support of her claim, appellant submitted statements from witnesses who saw the incident.

In further support of her claim, appellant submitted a February 23, 1996 radiology report in which Dr. Lawrence W. Keefe, a Board-certified radiologist, noted that an x-ray of appellant's left knee showed degenerative changes and that appellant had a negative left hip x-ray. With regard to the x-ray of the lumbar spine, Dr. Keefe found "considerable discogenic change with osteophyte formation."

Appellant further submitted an attending physician's report dated March 2, 1996 in which Dr. Karl L. Meyer, a Board-certified family practitioner, found that appellant suffered from a painful lower back, left hip and left knee, which was caused or aggravated by her employment and concluded that appellant had osteoarthritis of her left knee and lumbar spine. Dr. Meyer referred appellant to Dr. F.P. Wedel, an osteopath, who noted in a form to the Industrial Commission of Arizona that appellant was suffering from low back pain and neck pain after falling out of a chair. Appellant also submitted unsigned progress notes from Dr. Wedel's office dated March 14 through August 29, 1996, wherein he noted that he was treating appellant for a February 16, 1996 "fall injury."

Appellant also submitted an April 17, 1996 medical report by Dr. Roger T. Grimes, an osteopath. After reviewing appellant's history of the work incident, conducting an examination

and reviewing prior x-rays, Dr. Grimes opined that appellant had a sprain and strain of her knee superimposed upon preexisting degenerative change in the knee.

On March 29, 1997 the Office of Workers' Compensation Programs accepted appellant's claim for a left knee strain.

On April 8, 1998 appellant submitted a notice of employee's recurrence of disability and claim for pay/compensation (Form CA-2a), wherein her supervisor noted that the condition of appellant's injury has never improved and had consistently worsened since the initial injury.

In response to an April 10, 1998 request, by the Office for further information, appellant submitted medication notes evidencing that appellant had been prescribed Premarin and ibuprofen throughout 1997, a May 5, 1998 report by Dr. Meyer indicating that appellant was injured on the job a few days prior to her first visit with him on February 23, 1996 and that she sustained injuries to her right buttock and left knee, a March 26, 1996 note from Dr. Meyer stating that appellant was disabled on February 21 and February 22, 1998 due to a fall in the line of duty, unsigned progress notes from Dr. Meyer's office dated February 23, 1996 to November 7, 1997 and records regarding continuation of pay. Appellant also submitted a letter in which she contended that her initial injury was never properly treated and that this was not a recurrence.

By decision dated September 17, 1998, the Office denied appellant's claim for benefits because the evidence was insufficient to establish a causal relationship between the condition reported on April 8, 1998 and the employment injury of February 16, 1996.

The Board finds that appellant has failed to meet her burden of proof in establishing that there was a causal relationship between the condition she reported on April 8, 1998 and the employment injury of February 16, 1996.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, she has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent disability for which she claims compensation is causally related to the accepted injury.¹ This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.² An award of compensation may not be made on the basis of surmise, conjecture, or speculation, or on appellant's unsupported belief of causal relation.³

In the instant case, no rationalized medical opinion was submitted to support the April 8, 1998 claim alleging a causal relationship between appellant's alleged recurrence of disability commencing April 8, 1998 and her February 16, 1996 employment injury. The unsigned

¹ *Carolyn F. Allen*, 47 ECAB 240, 244-45 (1995).

² *Id.*

³ *Alfredo Rodriguez*, 47 ECAB 437, 441 (1996).

medical notes from Dr. Meyer's office did not constitute a complete, rationalized medical opinion, as unsigned notes of treatment cannot be considered probative evidence.⁴ Dr. Meyer's note of May 5, 1998 does not constitute rationalized medical evidence as it fails to set forth the complete medical background of appellant, nor does it explain the nature of the relationship between the diagnosed condition and the February 16, 1996 employment injury.

The decision of the Office of Workers' Compensation Programs dated September 17, 1998 is affirmed.

Dated, Washington, D.C.
April 18, 2000

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

⁴ *Merton J. Sills*, 39 ECAB 572, 575 (1988).