U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARL A. JOHNSON and DEPARTMENT OF THE NAVY, PUGET SOUND NAVAL SHIPYARD, Bremerton, WA

Docket No. 99-579; Submitted on the Record;
Issued May 23, 2000

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained a recurrence of disability on and after February 10, 1997 due to his January 8, 1993 employment injury, a right ankle sprain.

On January 11, 1993 appellant, then a 57-year-old police supervisor, filed a claim for compensation benefits alleging that he sustained an injury to his right calf on January 8, 1993, when, attempting to relocate vehicles due to a fire, his right leg became caught between a vehicle and a fire hose. The Office of Workers' Compensation Programs accepted that appellant sustained an employment-related right ankle sprain and paid him appropriate compensation benefits.

Accompanying appellant's claim was an attending physician's report (Form CA-20), progress notes from April 1993 through February 1997, as well as an electromyography (EMG) examination report. In a January 11, 1993 employing establishment treatment note, Dr. Rolando Dulay noted the history of the January 8, 1993 work injury and opined that appellant sustained a right leg contusion on that date. He stated that appellant denied any numbness or tingling to the extremities. Other treatment notes from the employing establishment issued beginning in April 1993 also note treating appellant for hip and low back. These reports generally related the hip and low back pain to the January 8, 1993 injury. The attending physician's report[1] from Dr. Christopher Schmitt, Board-certified in family practice, indicated that appellant was treated for an old injury to the right buttocks which had caused intermittent pain for four years. He noted that it was "unknown" whether the condition was caused or aggravated by an employment activity. The progress notes concluded that appellant sustained a contusion to the calf of the right leg with resulting right hip pain. Appellant was referred for physical therapy in December

[1] The attending physician's report is dated February 12, 1992, however, the date of first examination was February 12, 1997. From the context of the report, it appears that this was an inadvertent error by the physician, and that the report was issued in February 1997.

1993, which ultimately provided no significant results. Also submitted was an EMG report performed February 23, 1994 which was essentially normal.

On March 10, 1997 appellant filed a Form CA-2a, notice of recurrence of disability. Appellant indicated a recurrence of pain in his back, right shoulder, right hip and right leg, due to employment-related injuries sustained in March 1988[2] and January 1993. Appellant did not stop work. He indicated that his recurrence of symptoms began on February 10, 1997.

In support of his claim, appellant submitted a medical report dated March 26, 1997 from Dr. Schmitt which diagnosed appellant with chronic recurrent lumbosacral strain with right-sided sciatica and pyriformis syndrome of an acute nature. Dr. Schmitt noted appellant had an injury on March 16, 1988, a sprain of the lumbosacral spine, which was aggravated by the injury of 1993. He opined that it was more reasonable than not that appellant's sciatic nerve irritation and pyriformis syndrome arose from the January 8, 1993 injury due to a dysfunction in the mechanics of his back related to that injury, Dr. Schmitt noted that it would "not be unexpected" that a previously injured back would be susceptible to further injury.

The Office referred Dr. Schmitt's report and case record to an Office medical adviser for his review. In a report dated May 6, 1997, the Office medical adviser noted that he reviewed the file and disagreed with Dr. Schmitt's findings of sciatica nerve irritation, pyriformis syndrome and dysfunction in the mechanics of appellant's back due to the injury of January 1993. The medical adviser noted several normal examinations of the back and extremities and a normal EMG examination dated February 23, 1994, all of which were inconsistent with Dr. Schmitt's diagnosis. The medical adviser concluded that the record was insufficient to establish any diagnosis, and no relationship has been shown between the claimant's present complaints and any injury that might have occurred in January 1993.

By letter dated July 23, 1997, the Office requested detailed medical evidence from appellant for the period 1988 through 1997, stating that the information submitted was insufficient to establish a recurrence on the above date. No additional medical evidence was submitted in response to this request.

By decision dated October 21, 1997, the Office denied appellant's claim for recurrence of disability on the grounds that he did not submit sufficient medical evidence to establish that he sustained a recurrence of disability on or after March 10, 1997 which was causally related to the accepted employment injury sustained January 8, 1993.

Appellant requested an oral hearing before an Office hearing representative which was held August 12, 1998. At the hearing, appellant noted that he did not lose time from work due to the claimed recurrence but that he sought Office payment of medical expenses.

Appellant submitted additional doctors progress notes from March 1988 through February 1997, as well as disability and slips.

[2] On March 15, 1988 appellant apparently sustained cervical and lower back strain when a locker room bench collapsed under him. This claim is not before the Board on the present appeal.

By decision dated October 7, 1998, the Office hearing representative affirmed the Office's October 21, 1997 decision on the grounds that appellant did not submit sufficient medical evidence to establish a causal relationship between his claimed recurrence of disability and his January 8, 1993 employment injury.

The Board finds that the evidence fails to establish that appellant sustained a recurrence of disability on or after February 10, 1997 as a result of his January 8, 1993 employment injury.

It is an accepted principle of workers' compensation law that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause.[3] Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.[4] 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.[5] Moreover, the physician's conclusion must be supported by sound medical reasoning.[6]

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.[7] In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.[8] While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.[9]

The Office accepts that appellant sustained an injury in the performance of duty on January 8, 1993. It therefore remains for appellant to establish that his claimed recurrent condition is causally related to that injury.

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[3] 20 C.F.R. § 10.121(a); *Clement Jay After Buffalo,* 45 ECAB 707, 715 (1994).

[4] *Robert H. St. Onge,* 43 ECAB 1169 (1992).

[5] Section 10.121(b) of the Code of Federal Regulations provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a detailed medical report. The physicians report should include the dates of examination and treatment, the history given by the employee, the findings, the results of x-ray and laboratory tests, the diagnosis, the course of treatment, the physician's opinion with medical reasons regarding the causal relationship between the employee's condition and the original injury, any work limitations or restrictions, and the prognosis. 20 C.F.R. § 10.121(b).

[6] *See Robert H. St. Onge, supra* note 4.

[7] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship,* Chapter 2.805.2 (June 1995).

[8] For the importance of bridging information in establishing a claim for a recurrence of disability, *see Robert H. St. Onge, supra* note 4; *Shirloyn J. Holmes,* 39 ECAB 938 (1988); *Richard McBride,* 37 ECAB 748 (1986).

[9] *See Morris Scanlon,* 11 ECAB 384, 385 (1960).

The medical record in this case lacks a well-reasoned narrative from appellant's physician relating appellant's claimed recurrent condition to the January 8, 1993 employment injury. In his March 26, 1997 report, Dr. Schmitt diagnosed a chronic recurrent lumbosacral strain with right-sided sciatica and pyriformis syndrome. While he provided some support for causal relationship between appellant's January 8, 1993 employment injury and his lumbosacral strain, sciatica nerve irritation and pyriformis syndrome, Dr. Schmitt did not indicate that appellant's accepted condition, a right ankle sprain, was symptomatic.

Other treatment records from the employing establishment and other sources do not indicate that appellant's accepted ankle sprain remained symptomatic. Instead, these treatment records noted appellant's low back and hip symptoms. Consequently, appellant did not meet his burden of proof in establishing that he sustained a recurrence of symptoms or disability involving his accepted right ankle sprain.

Furthermore, neither Dr. Schmitt nor any other physician has provided any medical rationale explaining why any low back and hip conditions were a consequence of the January 8, 1993 employment injury to appellant's ankle.[10] As noted by the Office medical adviser in his May 6, 1997 report, Dr. Schmitt's attribution of the recurrent lumbosacral strain, right-sided sciatica and pyriformis syndrome conditions to the January 8, 1993 employment injury were not wholly supported by the record. The medical adviser found no basis on which to attribute any of the subsequently claimed conditions to the January 8, 1993 work injury and noted that the February 23, 1994 EMG was essentially normal. Dr. Schmitt did not distinguish the EMG report nor did he otherwise explain why appellant's claimed conditions in 1997 would have been caused or aggravated by the January 8, 1993 injury, accepted as an ankle sprain for which there was no indication of a back or hip condition until several months afterward. This is especially important in view of Dr. Schmitt's February 12, 1997 attending physicians report in which the doctor opined that it was unknown whether the nonaccepted condition of right hip strain was caused or aggravated by an employment activity.

For these reasons, appellant has not met his burden of proof in establishing that he sustained a recurrence of disability or a medical condition beginning March 12, 1997 causally related to his accepted January 8, 1993 employment injury.

The October 7, 1998 decision of the Office of Worker' Compensation Programs is affirmed.

Dated, Washington, D.C.
May 23, 2000

David S. Gerson
Member

[10] *See George Randolph Taylor*, 6 ECAB 986 (1954).

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member