

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of KENNETH W. MUSSETT and U.S. POSTAL SERVICE,  
POST OFFICE, Kansas City, MO

*Docket No. 99-1389; Submitted on the Record;  
Issued September 7, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
MICHAEL E. GROOM:

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability on June 20, 1995, causally related to his January 18, 1994 employment injury.

This case has previously been before the Board on appeal. In a decision dated February 8, 1999,<sup>1</sup> the Board set aside the Office of Workers' Compensation Programs' January 22, 1997 denial of reconsideration and remanded the case for further consideration. The Board directed the Office to review the February 14, 1996 report of Dr. Gregory W. Hornig, a Board-certified neurosurgeon, and to issue a *de novo* decision on the merits of the case. The history of the case, as set forth the Board's prior decision is incorporated herein by reference.

On remand, the Office reviewed the case on the merits and in a decision dated February 19, 1999, denied modification of its November 13, 1995 decision denying compensation for appellant's claimed recurrence of disability. The Office found that the record did not include a reasoned medical opinion establishing a causal relationship between appellant's January 18, 1994 employment injury, which was accepted for back strain, and his claimed recurrence of disability on June 20, 1995.

The Board finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability on June 20, 1995, causally related to his January 18, 1994 employment injury.

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.<sup>2</sup> This burden

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<sup>1</sup> Docket No. 97-1536.

<sup>2</sup> *Robert H. St. Onge*, 43 ECAB 1169 (1992).

includes the necessity of furnishing evidence from a qualified physician who concludes, on the basis of a complete and accurate factual and medical history, that the condition is causally related to the employment injury. The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.<sup>3</sup> 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.<sup>4</sup> Moreover, the physician's conclusion must be supported by sound medical reasoning.<sup>5</sup> 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.<sup>6</sup>

Dr. Hornig's February 14, 1996 report is the only medical evidence of record that addresses the issue of causal relationship. He noted that in December 1995 he diagnosed central disc herniation at L3-4 and lumbar stenosis. Dr. Hornig further noted that appellant underwent a discectomy at L3-4 on January 9, 1996. Regarding the cause of appellant's current back condition, he expressed the opinion that "[appellant's] injury in 1994 certainly did predispose him to this later injury." Dr. Hornig did not offer any further explanation for his opinion. The Board has held that a medical opinion not fortified by medical rationale is of little probative value.<sup>7</sup> It is not at all clear how a lumbar strain sustained in January 1994 predisposed appellant to a subsequent disc herniation and lumbar stenosis that was diagnosed almost 18 months later.<sup>8</sup> Additionally, Dr. Hornig's report demonstrates little knowledge of the circumstances of appellant's previously accepted injury of January 18, 1994.<sup>9</sup> He also neglected to address evidence of a prior back surgery at L5-S1, and what effect, if any, this prior surgery might have had on appellant's present condition. Based on these deficiencies, Dr. Hornig's opinion regarding causal relationship was not based on a complete and accurate factual and medical history. Finally, noticeably absent from the record and his opinion in particular, is any evidence of bridging symptoms between appellant's initial injury and his claimed recurrence in June 1995.

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<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

<sup>4</sup> For the importance of bridging information in establishing a claim for a recurrence of disability, see *Robert H. St. Onge*, *supra* note 2; *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 748 (1986).

<sup>5</sup> See *Robert H. St. Onge*, *supra* note 2.

<sup>6</sup> *Norman E. Underwood*, 43 ECAB 719 (1992).

<sup>7</sup> *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (the Board found that a medical opinion not fortified by medical rationale is of little probative value).

<sup>8</sup> A June 15, 1995, magnetic resonance imaging scan of the lumbosacral spine, and a July 5, 1995 myelogram and computerized tomography scan revealed the presence of a herniated disc at L3-4 and spinal stenosis. This evidence also revealed operative changes indicative of a prior left hemilaminotomy and discectomy at L5-S1.

<sup>9</sup> The history of appellant's prior injury as reported by Dr. Hornig is as follows: "[Appellant] notes that his original injury at work occurred in 1994. At the time he had significant low back pain and was off of work for approximately two weeks. The diagnosis at that time was a lumbar strain."

As appellant failed to provide rationalized medical opinion evidence establishing a causal relationship between his accepted injury of January 18, 1994 and his claimed recurrence of June 20, 1995, the Office properly denied appellant's claim for compensation.

On appeal, appellant argued that notwithstanding the initial characterization of his claim as a recurrence of his accepted January 18, 1994 injury, the claim should have been treated as a new work-related injury occurring on June 20, 1995. Appellant bases his argument on a supplemental statement provided to the Office in November 1996, wherein appellant indicated that on the morning of June 20, 1995 he felt a sharp pain in his lower back and left side while he was loading trays filled with mail from his case table to his hamper. Appellant further indicated that the pain he felt that morning was the same type of pain he experienced in January 1994. As the Office has not adjudicated whether appellant sustained a new traumatic injury, it is not an issue before the Board on the present appeal.<sup>10</sup>

The February 19, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.  
September 7, 2000

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Michael E. Groom  
Alternate Member

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<sup>10</sup> See 20 C.F.R. § 501.2(c).