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<b>BANADAKOPP T. SREEDHARA, Appellant</b>	)	
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<b>and</b>	)	<b>Docket No. 05-812</b>
	)	<b>Issued: August 19, 2005</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>Natick, MA, Employer</b>	)	
	)	

*Case Submitted on the Record*

Before:  
ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge

On February 23, 2005 appellant filed a timely appeal from an August 25, 2004 Office of Workers' Compensation Programs' hearing representative decision that affirmed an October 21, 2003 decision denying benefits for a recurrence of disability. Under 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue is whether appellant sustained a recurrence of disability from June 18 to September 19, 2003 causally related to his accepted cervical condition.

Appellant, a 52-year-old letter carrier, injured his head, neck, back and left knee on July 20, 2002 when his postal vehicle was struck from behind by another motor vehicle. He filed a claim for benefits on July 24, 2002 which the Office accepted for cervical strain and left knee contusion. Appellant received compensation for total disability through January 29, 2003, when he returned to a light-duty letter carrier position. Dr. Krishna N. Nirmel, an attending Board-certified

neurosurgeon, outlined restrictions of no lifting or carrying more than 15 pounds and mandated that appellant periodically get up and stretch as needed during the day.

On June 24, 2003 appellant filed a Form CA-2a claim for benefits, alleging that he sustained a recurrence of disability on June 14, 2003 which was causally related to his accepted cervical condition. He indicated that Dr. Nirmel placed him on limited duty for four hours per day on June 17, 2003.

Appellant submitted a June 17, 2003 report from Dr. Nirmel, who stated: "This is to certify that [appellant] has now recovered sufficiently to be able to return to work on Wednesday, June 18, 2003." Dr. Nirmel outlined restrictions of working no more than 4 hours per day, no lifting of more than 25 pounds and no mailbag carrying over the shoulder.

By letter dated August 11, 2003, the Office advised appellant that it required additional factual and medical evidence, including a medical report, to support his claim that his current condition and disability as of June 18, 2003 was causally related to his accepted cervical condition.

Appellant submitted a June 17, 2003 report from Dr. Nirmel, who stated that appellant had pain in his neck which was present at all times, constant, including right occipital headaches, right neck and occipital to vertex. He diagnosed right C3-4 radiculopathy secondary to foraminal stenosis. Dr. Nirmel stated:

"[Appellant] wants to decrease his work hours to half days. His restrictions will be as follows: no lifting greater than 25 pounds; no holding mailbag over right shoulder."

By decision dated October 21, 2003, the Office denied the recurrence of disability claim. The Office found that appellant failed to submit medical evidence sufficient to establish that the claimed condition or disability from June 18 to September 19, 2003 was caused or aggravated by the accepted cervical condition.

By letter dated November 5, 2003, appellant's attorney requested a hearing, which was held on May 27, 2004. Appellant submitted the January 30 and April 7, 2004 reports from Dr. Nirmel. These reports essentially reiterated the summary reports and work restrictions he outlined on June 17, 2003. Dr. Nirmel stated findings on examination and discussed the history of injury, as follows:

"In my medical opinion, to a degree of medical certainty, [appellant's] neck symptoms and the occipital area pain-headache, are related to the original injury that he suffered as a result of the accident of July 2002. His symptoms improved some with the physical therapy and rehabilitation, though did not completely resolve and with worsening of the same symptoms, cervical facet block with steroid injection was performed. This was based on [appellant's] clinical diagnosis as well as the radiographic diagnosis as mentioned. While the right uncovertebral joint hypertrophy at C3-4 probably did not occur as a result of the motor vehicle accident, the mild disc protrusion could be related to the accident, with worsening of his contusion such that he developed the right-sided neck pain

subsequent to the accident. This accident caused the exacerbation of his condition.”

By decision dated August 25, 2004, an Office hearing representative affirmed the October 21, 2003 decision.

### **LEGAL PRECEDENT**

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of disability. As part of this burden, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.<sup>1</sup>

### **ANALYSIS**

In the instant case, the record does not contain sufficient medical opinion showing a change in the nature and extent of appellant’s injury-related condition. Appellant has failed to submit medical opinion containing a rationalized, explanation of how his condition and disability from June 18 to September 19, 2003 is related to his accepted cervical condition. For this reason, he has not discharged his burden of proof to establish that he sustained a recurrence of disability.

The medical evidence submitted consists of Dr. Nirmel’s reports. These reports stated in summary fashion that appellant had recovered sufficiently to be able to return to work on Wednesday, June 18, 2003 and outlined restrictions of working no more than 4 hours per day, no lifting of more than 25 pounds and no mailbag carrying over the shoulder. Dr. Nirmel advised that he experienced constant neck pain and right occipital headaches. He diagnosed right C3-4 radiculopathy secondary to foraminal stenosis and noted that appellant wanted to decrease his work hours to half days. Dr. Nirmel’s reports provided a diagnosis of appellant’s current condition and indicate generally that he complained of pain as of June 17, 2003. However, he failed to explain how appellant sustained a worsening of his employment-related cervical strain condition sufficient to cause disability as of June 18, 2003. Because Dr. Nirmel’s reports do not establish a worsening of appellant’s accepted condition, they did not constitute probative, rationalized evidence demonstrating that a change occurred in the nature and extent of the accepted injury-related condition.<sup>2</sup>

After the Office denied the claim on October 21, 2003, appellant submitted additional reports from Dr. Nirmel. These reports, however, essentially reiterated the earlier summary opinions and work restrictions he outlined on June 17, 2003. Dr. Nirmel opined that appellant’s neck symptoms and occipital area pain-headaches were related to the July 2002 work injury and advised that, while the right C3-4 uncovertebral joint hypertrophy probably did not occur as a

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<sup>1</sup> *Terry Hedman*, 38 ECAB 222 (1986).

<sup>2</sup> *William C. Thomas*, 45 ECAB 591 (1994).

result of the motor vehicle accident, the mild disc protrusion could be related to the accident. He advised that appellant might have experienced a worsening of his contusion such that he developed the right-sided neck pain subsequent to the accident and stated that the accident caused the exacerbation of his condition. The Board notes that causal relationship must be established by rationalized medical opinion evidence. Dr. Nirmel provided a speculative opinion that “appellant might have experienced a worsening of his contusion such that he developed the right-sided neck pain.” This speculative opinion provides insufficient rationale explaining the basis for the physician’s opinion as causal relationship. The reports fail to provide an explanation in support of his claim that he was partially disabled as of June 18, 2003. Thus, Dr. Nirmel’s reports do not constitute rationalized evidence demonstrating that a change occurred in the nature and extent of the injury-related condition sufficient to establish a recurrence of disability.<sup>3</sup>

Moreover, the Board finds that appellant failed to submit evidence to establish that there was a change in the nature and extent of his limited-duty assignment. The record demonstrates that he returned to work in January 2003 on light duty. Although appellant apparently began working only four hour days as of June 17, 2003, this reduction in work hours was at his request. The record does not substantiate that the employing establishment no longer made work available for appellant, such that he incurred wage loss due to his employer’s actions. Appellant has submitted no evidence to support a change occurred in the nature and extent of his limited-duty assignment during the period claimed. Accordingly, the Board finds that appellant has not submitted sufficient evidence that he became partially disabled from performing his light-duty assignment from June 18 to September 19, 2003, as a result of his accepted condition. He has failed to meet his burden of proof. The Board will affirm the August 25, 2004 Office decision.

### **CONCLUSION**

The Board finds that appellant has not met his burden to establish that he sustained a recurrence of disability from June 18 to September 19, 2003 causally related to his accepted cervical strain condition.

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<sup>3</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 25, 2004 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: August 19, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board