United States Department of Labor
Employees' Compensation Appeals Board

J.G., Appellant	)	
and	)	**Docket No. 10-1178**
	)	**Issued: December 9, 2010**
U.S. POSTAL SERVICE, QUEEN ANNE STATION, Seattle, WA, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On March 24, 2010 appellant, through her representative, filed a timely appeal from the January 14, 2010 decision of the Office of Workers' Compensation Programs denying her claim for a recurrence. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of this case.

ISSUE

The issue is whether appellant established that she sustained a recurrence of disability on March 10, 2009 causally related to an August 5, 2008 employment injury.

On appeal, appellant contends that the Office's decision is contrary to fact and law.

FACTUAL HISTORY

On August 5, 2008 appellant, then a 31-year-old letter carrier, sustained injury to her low back while trying to move a tub of mail. She stopped work the date of the injury. On August 20, 2008 the Office accepted appellant's claim for lumbosacral sprain.

On January 6, 2009 appellant underwent a bilateral sacroiliac joint arthrogram and bilateral sacroiliac joint injection. By letter dated December 15, 2008, the Office referred her to Dr. Joan Sullivan, a Board-certified orthopedic surgeon, for a second opinion. In a January 19, 2009 report, Dr. Sullivan, indicated that appellant's current diagnosis was lumbar strain secondary to the employment injury of August 5, 2008. She noted that appellant's prognosis was good and that at this time appellant did not have any restriction that would not allow her to return to her job of record. In a January 23, 2009 note, Dr. Srini V. Sundarum, appellant's treating Board-certified physiatrist, assessed appellant with sacroiliac strain in recovery. He indicated that she will return to work on January 26, 2009 full duty and that he would reassess her in two to three weeks time.

In a March 18, 2009 note, Dr. Sundarum indicated that appellant had a S1 joint strain and stated that he recommended a repeat injection of the left S1 joint. He indicated that she could work light duty for the next two weeks with an upper weight lift limit of 20 pounds. Dr. Sundarum indicated that the date of injury was August 5, 2008. In a March 30, 2009 note, he noted that on March 18, 2009 appellant started having increased symptoms. Dr. Sundarum noted that, at the time of the March 19, 2009 visit, he did not place her off work but did indicate that she had a 20-pound weight limit. He also noted that, by the time of the impartial medical examination on January 19, 2009, he had returned appellant to full-duty work, but that, due to objective signs on the March 19, 2009 visit, he placed her on her work for two weeks.

On March 18, 2009 appellant filed a claim for compensation for the period between March 10 and 18, 2009. On April 6, 2009 she filed a claim for compensation for the period March 19 through April 5, 2009.

On April 2, 2009 appellant had a left sacroiliac joint arthrogram and a left sacroiliac joint injection.

In an April 14, 2009 report, Dr. Sundarum assessed appellant with sacroiliac strain and stated that she was to return to work on a four-hour basis, as she could not tolerate a full day yet. He recommended that she condition herself for the rest of the four hours by attending physical therapy sessions. Dr. Sundarum stated that at the completion of two weeks he would see if appellant could return to full-time work. In the caption, he again indicated that the date of injury is August 5, 2008.

By decision dated April 28, 2009, the Office denied appellant's claim for compensation for the period March 10 through April 5, 2009 for the reason that the medical evidence of record failed to establish that she was disabled from work due to the employment injury of April 5, 2008.

Appellant submitted time analysis forms in support of wage-loss compensation for total disability from March 10 through April 16, 2009 and compensation for four hours a day from April 17 through 22, 2009. She indicated that there was no work available for her within her restrictions. A subsequent analysis form listed four hours a day for April 25 and 27, 2009, two hours for April 29, 2009 and eight hours for April 30, 2009.

In a May 1, 2009 note, Dr. Sundarum advised that appellant was to remain off work until she had a magnetic resonance imaging (MRI) scan. He noted that her job required her to walk multiple hills as well as drive long distances and that she was unable to carry on these tasks any further.

In a May 28, 2009 MRI scan, Dr. Steven Pollei, a Board-certified radiologist and neuroradiologist, indicated that the disc spaces appear unremarkable and that there was mild facet degeneration changes at the L5-S1 and L4-5 levels.

In a report dated June 1, 2009, Dr. Sundarum indicated that appellant was released to return to work on a light-duty basis; however, he noted that she would benefit from a work-conditioning program before being released to full duty. He indicated that she returned to work full duty and started having worsening of her symptoms before May 2009, for which she was placed off work. Dr. Sundarum opined that appellant worsening was entirely related to her employment. He noted that current clinical diagnosis is sacroiliac strain. Dr. Sundarum strongly recommended physical therapy and possibly a work-conditioning program and noted that, in the interim, he would release appellant to work only on a light-duty basis, under a 10-pound limit, for eight hours a day.

In a decision dated August 25, 2009, the Office denied appellant's claim for a recurrence of disability commencing March 10, 2009.

By letter dated September 3, 2009, appellant requested a telephonic hearing that was held on December 3, 2009. She testified that she missed some work following the injury of August 2008 but was able to eventually return to work to her regular job as a city carrier on January 27, 2009. Appellant started having symptoms again in February 2009, noting the long commute and walking up and down stairs was difficult. She stopped work on March 9, 2009 because she was in pain and her medication kept her from driving. Appellant's manager told her that she was not allowed to return to work until she saw her physician but her physician could not see her until March 18, 2009. On March 18, 2009 her physician put her on light duty until she could get injections. Appellant stated that when she took the light-duty restrictions back to her employer they refused to give her work. She noted that she returned to work the end of April 2009 performing light duty, four hours a day for two weeks until the symptoms became intolerable. Appellant testified that April 30, 2009 was the last day she worked and that the physician took her off work pending another MRI scan because she did not get the work conditioning she requested.

By decision dated January 14, 2010, the hearing representative affirmed the January 14, 2010 decision.[1]

LEGAL PRECEDENT

A recurrence of disability means "an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which has resulted from a previous

[1] On December 15, 2009 the Office terminated appellant's medical and compensation coverage. Appellant, through her attorney, did not file an appeal from this decision.

injury or illness without an intervening injury or new exposure to the work environment that caused the illness."[2] A person who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which she claims compensation is causally related to the accepted injury. This burden of proof requires that an employee furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.[3] Where no such rationale is present, medical evidence is of diminished probative value.[4]

ANALYSIS

The Office accepted that on August 5, 2008 appellant sustained a work-related lumbosacral sprain. Appellant returned to work full duty on or about January 26, 2009. She alleged that she sustained a recurrence on March 10, 2008. The medical evidence of record does not contain a rationalized medical opinion establishing a spontaneous change in the accepted medical condition resulting in an inability to work. Dr. Sundarum noted that appellant had an increase in symptoms on March 18, 2009 and placed restrictions on her employment. In a May 1, 2009 note, he indicated that appellant could not work until he had an MRI scan, noting that her job required her to walk on multiple hills and drive long distances. However, Dr. Sundarum does not provide a rationalized medical opinion addressing how her increase in symptoms related to the August 5, 2008 employment injury. In order to establish a recurrence, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated or aggravated by the accepted injury.[5] Dr. Sundarum simply listed the date of the initial injury, August 5, 2008, in the caption of many of his reports, without providing a rationalized medical explanation of a relationship between that injury and the claimed recurrence. He did not address bridging symptoms between the date of the injury and the alleged recurrence.[6] Dr. Sullivan, a second opinion physician, found that appellant could work without limitations. Accordingly, appellant did not meet her burden of proof to establish a recurrence of the August 5, 2008 injury on March 10, 2009.

CONCLUSION

The Board finds that appellant has not established that she sustained a recurrence of disability on March 10, 2009, causally related to her August 5, 2008 employment injury.

[2] *T.S.*, 61 ECAB ___ (Docket No. 09-1256, issued April 15, 2010); *R.S.*, 58 ECAB 362 (2007); 20 C.F.R. § 10.5(x).

[3] *I.J.*, 59 ECAB 408 (2008); *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

[4] *See Ronald C. Hand*, 49 ECAB 113 (1957); *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988).

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

[6] *See Ricky S. Storms*, 52 ECAB 349 (2001).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 14, 2010 is affirmed.

Issued: December 9, 2010
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board