

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of GEORGETTE M. BISHOP and U.S. POSTAL SERVICE,
MAIN POST OFFICE, Louisville, Ky.

*Docket No. 96-2162; Submitted on the Record;
Issued July 14, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant established that she sustained a recurrence of disability causally related to the accepted work injury.

On February 16, 1995 appellant, then a 43-year-old mail processor, filed a notice of traumatic injury, claiming that she hurt her left elbow when a paddle on a label machine broke loose and hit her on the ulna nerve. The Office of Workers' Compensation Programs accepted appellant's claim for a left elbow contusion and lunar neuritis. She accepted a limited-duty job offer and returned to work on July 5, 1995 following decompression surgery performed by Dr. Scott D. Kuiper, a general practitioner.

Subsequently, appellant filed a notice of recurrence of disability on November 16, 1995, claiming that her left arm and elbow were still in a lot of pain and she could not resume her regular duties. Appellant stopped work on November 10, 1995. The employing establishment controverted the recurrence claim, noting that appellant had returned to regular duty on September 1, 1995 and filed the CA-2a form only after she had brought in a medical note stating that she was unable to work for three days but offering no explanation.

On February 13, 1996 the Office informed appellant that she needed to submit a narrative medical report from her treating physician explaining the causal relationship of her current disability to the initial injury. In response, appellant submitted a February 23, 1996 report from Dr. David Seligson, a Board-certified orthopedic surgeon who stated that appellant was able to work at the present time but had considerable pain in her left arm and hand. He recommended an electromyogram (EMG) and a lifting restriction of 15 pounds. Dr. Seligson added that the February 1995 work injury probably resulted in some permanence "from local sensitivity in the area of the ulna nerve, limiting repetitive work using the left upper extremity."

Also in the record is a March 4, 1996 fitness-for-duty report, received by the Office on March 18, 1996, from Dr. Robert A. Jacob, a Board-certified orthopedic surgeon who provided a

detailed history of appellant's elbow injury and reviewed the medical evidence. Based on the history, physical examination, review of records, and x-rays, Dr. Jacob diagnosed "a persistent right lunar nerve neuritis," agreed with the need for an EMG and nerve conduction study, confirmed the "legitimacy" of appellant's symptoms, and recommended a submuscular transposition and revision of the ulna nerve. He noted the possibility of some entrapment or injury to the medial antebrachial coetaneous nerve and opined that appellant's present condition was a continuation of the February 1995 injury.

On March 28, 1996 the Office denied the claim on the grounds that the evidence failed to establish a causal relationship between the claimed disability and the initial work injury.

The Board finds that appellant has failed to meet her burden of proof in establishing that her claimed recurrence of disability was causally related to the initial work injury.

Under the Federal Employees Compensation Act,¹ an employee 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 recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.² As part of this burden the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition,³ and supports that conclusion with sound medical reasoning.⁴

Section 10.121(b) 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 medical report covering 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.⁵

Thus, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.⁶ 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.⁷ Further, neither the fact that appellant's

¹ 5 U.S.C. §§ 8101-8193 (1974).

² *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992).

³ *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

⁴ *Lourdes Davila*, 45 ECAB 139, 142 (1993).

⁵ 20 C.F.R. § 10.121(b).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁷ *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

condition became apparent during a period of employment nor appellant's belief that his condition was caused by his employment is sufficient to establish a causal relationship.⁸

In this case, Dr. Seligson, appellant's treating physician, stated that appellant, who returned to regular duty in September 1995, was capable of working but experienced considerable pain in her left arm and hand. Thus, Dr. Seligson found that appellant was not disabled from work. Further, Dr. Seligson stated that it was "probable" that appellant sustained some permanent injury from the February 1995 incident, but provided no medical explanation for this conclusion. The Board finds that his report is therefore insufficient to meet appellant's burden of proof.⁹

Dr. Jacob also failed to provide any medical rationale for his opinion that appellant's current elbow condition was a continuation of the accepted injury. While he agreed with Dr. Seligson's recommendations for further testing and treatment of appellant's ulna neuritis, Dr. Jacob did not explain how appellant's current condition was causally related to the February 1995 incident. Therefore, his report is of diminished probative value.¹⁰

On appeal, appellant contends that the Office granted her an extension of time until April 15, 1996 to submit medical evidence in support of her claim. She refers to many telephone calls to the local Office and alleges that a claims examiner told her the extension had been entered in the computer.

Inasmuch as appellant was informed of the deficiencies in her claim and failed to submit a rationalized medical opinion explaining the causal relationship between her current elbow condition and the accepted injury, the Board finds that the Office properly denied her claim.

⁸ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

⁹ See *Connie Johns*, 44 ECAB 560, 569 (1993), citing *Philip J. Deroo*, 39 ECAB 1294, 1298 (1988) (finding that a physician's opinion on causal relationship must be one of reasonable medical certainty, supported by affirmative evidence, explained by medical rationale, and based on a complete and accurate medical and factual background).

¹⁰ See *Judith J. Montage*, 48 ECAB ____ (Docket No. 95-51, issued February 27, 1995) (finding that medical reports not containing rationale on causal relationship are generally insufficient to meet appellant's burden of proof).

The March 28, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
July 14, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

Bradley T. Knott
Alternate Member