



On April 4, 2006 appellant filed notice of a recurrence of disability due to the July 11, 1998 employment injury commencing that date. He noted that, after the injury, he returned to the employing establishment working light duty answering telephones.

In a report dated April 4, 2006, Dr. Jessica Bittance, a family practitioner, placed appellant on total disability due to a chronic lumbar sacral strain. She prescribed medication. Dr. Bittance indicated that appellant told her that he had experienced back pain since a workers' compensation injury in 1998, that the pain has been on and off and that he has been hospitalized on occasion for pain. Appellant was next seen by Dr. Bittance on April 7, 2006, at which time she recommended physical therapy and transitional alternative work. Dr. Bittance completed a duty status report indicating that appellant could return to work but was limited to lifting 5 pounds continuously and 10 pounds intermittently. She noted that appellant could only case mail with no carrying. Appellant was prohibited from kneeling, bending and twisting.

Dr. Bittance saw appellant again on April 14 and 28 and May 18, 2006. On April 14, 2006 her office contacted appellant's caseworker in an attempt to reactivate or reopen his claim. On April 14, 2006 appellant's restrictions remained the same except that Dr. Bittance added a restriction indicating that appellant could do no climbing. The duty status reports of April 28 and May 18, 2006 removed the restrictions with regard to climbing, kneeling, bending and twisting, but the restriction with regard to lifting only 5 pounds continuously and 10 pounds intermittently remained. Dr. Bittance reiterated that appellant could only case mail but not carry mail.

By letter dated August 7, 2006, the Office requested that appellant submit further information. No further information was received.

By decision dated September 11, 2006, the Office denied appellant's claim finding that the factual and medical evidence was not sufficient to establish that his current medical condition was causally related to the accepted work injury of July 11, 1998.

On September 12, 2006 appellant, through his attorney, requested an oral hearing. At the hearing held on March 28, 2007, appellant testified that, following the July 11, 1998 injury, he was off work for a while, but then returned. He noted that he subsequently went to a chiropractor which he paid for himself. Appellant discussed other workers' compensation claims he filed subsequent to the 1998 claim. He stated that he saw Dr. Bittance because he had hip and back problems on and off for years and wanted some pills to deal with the pain.

By decision dated June 25, 2007, the hearing representative affirmed the denial of appellant's claim for recurrence.<sup>1</sup>

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<sup>1</sup> The hearing representative modified the September 11, 2006 decision to reflect that the original accepted condition in this case did not include a contusion of the left foot and ankle, as the Office erroneously noted in its decision.

## 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 had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.<sup>2</sup>

A person who claims a recurrence of disability has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which he claims compensation is causally related to the accepted employment injury.<sup>3</sup> Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence a causal relationship between his recurrence of disability and his employment injury.<sup>4</sup> Moreover, the physician's conclusion must be supported by sound medical reasoning.<sup>5</sup>

## ANALYSIS

Appellant has not submitted evidence sufficient to establish that he sustained a recurrence of disability on April 4, 2006 causally related to his accepted work injury of July 11, 1998. Appellant's July 11, 1998 claim was initially accepted for paralumbar strain, contusion of the left leg and contusion of the right shoulder. He returned to work. Almost eight years later, appellant filed a claim alleging a recurrence of disability on April 4, 2006. However, there is no rationalized medical opinion evidence of record to support his claim. Dr. Bittance placed appellant on total disability on April 4, 2006 and released him to return to limited-duty work on April 7, 2006. Although she mentioned the July 11, 1998 employment injury and referred generally to his workers' compensation claim, Dr. Bittance provided no statement clearly relating appellant's current back condition and disability in 2006 to the accepted injury. Dr. Bittance did not provide a rationalized medical opinion explaining how appellant's April 4, 2006 lumbosacral strain was related to an employment injury in 1998. The Board finds that appellant has failed to provide sufficient medical evidence in support of his claim for a recurrence of disability and has not met his burden of proof.

## CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing a recurrence of disability causally related to his July 11, 1998 employment injury on or about April 4, 2006.

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<sup>2</sup> 20 C.F.R. § 10.5(x).

<sup>3</sup> *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

<sup>4</sup> *Ricky S. Storms*, 52 ECAB 349 (2001); *see also* 20 C.F.R. § 10.104(a)-(b).

<sup>5</sup> *Alfredo Rodriquez*, 47 ECAB 437 (1996); *Louise G. Malloy*, 45 ECAB 613 (1994).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated June 25, 2007 and September 11, 2006 are affirmed.

Issued: December 27, 2007  
Washington, DC

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

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

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