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C.V., Appellant)	
)	
and)	Docket No. 12-1095
)	Issued: November 9, 2012
DEPARTMENT OF THE TREASURY,)	
INTERNAL REVENUE SERVICE,)	
Fresno, CA, Employer)	
)	

Case Submitted on the Record

Before:
RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
JAMES A. HAYNES, Alternate Judge

On April 23, 2012 appellant filed a timely appeal from the April 10, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied her recurrence claim. Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 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 medical condition in October 2011 causally related to her June 23, 2006 employment injury.

On June 23, 2006 appellant, a 41-year-old payment processing technician, sustained a traumatic injury in the performance of duty when her right hand swelled up with pain radiating to

¹ 5 U.S.C. § 8101 *et seq.*

her shoulder. OWCP accepted her claim for tenosynovitis of the hand and wrist, right; sprain of the elbow and forearm, other specific sites, right; and sprain of the shoulder and upper arm, other specific sites, right.

Appellant's attending physician, Dr. Tony C. Fernandez, an internist specializing in occupational medicine,² imposed work restrictions. In 2007 appellant accepted limited duty within those restrictions. The record contains no medical evidence from August 9, 2007 to October 17, 2011, when she received x-ray results for her right shoulder.

On November 17, 2011 Dr. Joel Anthony Moradkhani, a Board-certified internist specializing in physical medicine and rehabilitation, diagnosed supraspinatus syndrome and shoulder region pain. He noted the date of onset as October 1, 2011. On January 11, 2012 Dr. Moradkhani diagnosed lateral epicondylitis, tendinitis of the wrist and tendinitis of the supraspinatus.

Appellant filed a claim for compensation alleging a recurrence beginning October 7, 2011 causally related to her June 23, 2006 employment injury. She described how the recurrence happened: "Carrying and lifting case files daily and lifting them into large filing cabinets, assembling case files using hole punchers. All this caused recurrence of injury to resurface in right arm from shoulder to hand due to the strain and nature of the work."

The record indicates that appellant transferred from Fresno to Los Angeles in July 2011. She alleged that the employing establishment did not abide by her medical restrictions. Appellant gave no indication that she stopped work at the time of the claimed recurrence.³

The employing establishment indicated that appellant was working modified duty. Appellant was to request assistance from her coworkers to lift heavier cases and was instructed to fill out a reasonable accommodation request for her own cart and an electronic hole puncher.

Dr. Kaochoy S. Saechao, Board-certified in occupational medicine, filled out a form indicating that appellant's right shoulder impingement syndrome, left tennis elbow and trigger finger of the right middle finger arose out of and in the course of her employment: "In my opinion, the condition is work related and within worker's compensation guidelines for compensability." Dr. Saechao noted that appellant was typing at work and noted shoulder pain. He also diagnosed right rotator cuff syndrome and bilateral carpal tunnel syndrome.

In a decision dated April 10, 2012, OWCP denied appellant's recurrence claim. It found that the factual and medical evidence did not establish that the claimed recurrence resulted from the accepted work injury. In particular, the medical evidence did not specifically tie appellant's current diagnoses to the June 23, 2006 work injury. Further, OWCP did not accept her June 23, 2006 work injury for right shoulder impingement syndrome, left tennis elbow or trigger finger. It also found no medical evidence to fill the gap in medical treatment from 2007 to 2011.

² The Board is unable to determine whether Dr. Fernandez is Board certified.

³ Appellant would later claim compensation for wage loss for medical appointments in February and March 2012.

Appellant explains on appeal that her position in 2007 did not interfere with her injuries, when she relocated to a new position in 2011 the duties of that position caused her injuries to resurface. She states that her current workers' compensation doctor indicated that her injuries are the same injuries from 2006. "You should be contacting them to get the answers you need to make your decision. I have already complied with everything on my end since day one." Appellant asks to be treated fairly.

LEGAL PRECEDENT

Section 8103(a) of FECA provides that the United States shall furnish to an employee who is injured while in the performance of duty the services, appliances and supplies prescribed or recommended by a qualified physician that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability or aid in lessening the amount of any monthly compensation.⁴ OWCP must therefore exercise discretion in determining whether the particular service, appliance or supply is likely to effect the purposes specified in FECA.⁵ The only limitation on OWCP's authority is that of reasonableness.⁶

A "recurrence of medical condition" means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a "need for further medical treatment after release from treatment," nor is an examination without treatment.⁷

To establish a recurrence of medical condition, a claimant must furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the claimed condition is causally related to the employment injury, and who supports that conclusion with sound medical rationale. Where no such rationale is present, the medical evidence is of diminished probative value.⁸

OWCP procedures state that, after 90 days of release from medical care (as stated by the physician or computed from the date of the last examination or the physician's instruction to return as needed), a claimant is responsible for submitting an attending physician's report that contains a description of the objective findings and supports a causal relationship between the claimant's current condition and the accepted condition. The medical evidence on causal relationship should be as conclusive as the evidence required to establish the original claim.⁹

⁴ 5 U.S.C. § 8103(a).

⁵ See *Marjorie S. Geer*, 39 ECAB 1099 (1988) (OWCP has broad discretionary authority in the administration of FECA and must exercise that discretion to achieve the objectives of section 8103).

⁶ *Daniel J. Perea*, 42 ECAB 214 (1990).

⁷ 20 C.F.R. § 10.5(y).

⁸ *T.Y.*, Docket No. 12-393 (issued August 3, 2012).

⁹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.5.b (May 2003).

ANALYSIS

Following her June 23, 2006 employment injury, appellant returned to limited duty under the restrictions imposed by Dr. Fernandez, her internist. It appears that she was able to perform limited duty without medical treatment from 2007 to 2011.

Appellant alleged, however, that she suffered a recurrence in October 2011. As she did not stop work or claim compensation for wage loss, her claim is in the nature of a recurrence of medical condition.

Four years after her previous medical treatment, appellant had an x-ray of her right shoulder in October 2011. She received medical treatment from Dr. Moradkhani, a physiatrist, and Dr. Saechao, a specialist in occupational medicine. They diagnosed right supraspinatus syndrome, right shoulder impingement syndrome, right rotator cuff tear, lateral epicondylitis, tendinitis of the wrist, bilateral carpal tunnel syndrome and trigger finger of the right middle finger.

Appellant thus has the burden of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the conditions for which she seeks compensation beginning October 2011 are causally related to the June 23, 2006 employment injury and who supports that conclusion with sound medical rationale.

Appellant has submitted no such medical opinion evidence. Dr. Saechao filled out a form indicating that appellant's right shoulder impingement syndrome, left tennis elbow and trigger finger arose out of and in the course of her employment. He did not attribute these conditions to what happened at work on June 23, 2006. Dr. Saechao simply stated that the conditions were work related. Medical conclusions unsupported by rationale are of little probative value.¹⁰ Medical conclusions based on inaccurate or incomplete histories are also of little probative value.¹¹ Dr. Saechao did not discuss appellant's June 23, 2006 work injury. He did not acknowledge what medical conditions OWCP accepted as work related. Dr. Saechao provided no medical reasoning soundly explaining how appellant's current conditions were causally related to the June 23, 2006 work injury. The Board therefore finds that his opinion on causal relationship carries little probative value and is insufficient to establish appellant's recurrence claim.

The record contains no other medical evidence that attempts to explain the connection, if any, between appellant's diagnoses in 2011 and what happened at work in 2006. Indeed, appellant's description of the recurrence implicated exposure to work activities following her transfer from Fresno to Los Angeles in July 2011, which could form the basis of a new injury claim. To this end, Dr. Saechao noted that appellant was typing at work when she noticed shoulder pain.

¹⁰ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

¹¹ *James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

As the medical opinion evidence fails to establish that appellant sustained a recurrence of medical condition in October 2011 causally related to her June 23, 2006 employment injury, the Board finds that she has not met her burden of proof. As OWCP properly denied her recurrence claim, the Board will affirm its April 10, 2012 decision.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not met her burden to establish that she sustained a recurrence of medical condition in October 2011 causally related to her June 23, 2006 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the April 10, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 9, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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