

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of ROBERT H. BRYANT and DEPARTMENT OF VETERANS AFFAIRS,  
JOHN L. McCLELLAN VA HOSPITAL, Little Rock, Ark.

*Docket No. 96-1081; Submitted on the Record;  
Issued March 4, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant met his burden of proof in establishing that he sustained a recurrence of disability on July 9, 1995.

The Board has duly reviewed the case record and concludes that appellant did not establish that he sustained a recurrence of disability.

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he or she can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he or she cannot perform such light duty. 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>

An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there is a causal relationship between his or her claimed condition and employment.<sup>2</sup> Causal relationship is a medical issue,<sup>3</sup> and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty,

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<sup>1</sup> *Gus N. Rodes*, 46 ECAB 518 (1995); *Cynthia M. Judd*, 42 ECAB 246 (1990); *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>2</sup> *Donald W. Long*, 41 ECAB 142 (1989).

<sup>3</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>4</sup> Moreover, neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>5</sup> The medical evidence submitted by appellant fails to establish the requisite causal relationship between her current condition and disability and her prior employment injuries.

The facts in this case indicate that on April 18, 1994 appellant, then a 42-year-old housekeeping aid, filed a claim, alleging that he injured his lower back at work. After developing the factual evidence, the Office of Workers' Compensation Programs accepted the claim for lumbar strain. Appellant received appropriate continuation of pay and compensation and returned to limited duty on September 12, 1994. On August 7, 1995 he filed a recurrence claim, alleging that he had to stop work on July 9, 1995 due to his back injury.

The relevant medical evidence in this case includes a report dated August 2, 1995 from a chiropractor<sup>6</sup> who advised that appellant had been injured in a motor vehicle accident on July 27, 1995, sustaining injuries to his ribs and mid and lower back. In an August 30, 1995 report, Dr. Derek Lewis, a Board-certified family practitioner, noted findings on examination, provided restrictions to appellant's physical activity and advised that he could not work due to lumbosacral strain.

By letter dated October 20, 1995, the Office informed appellant of the type information needed to support his recurrence claim, which was to include a medical report supporting causal relationship between his current condition and the original injury. In response, appellant submitted a treatment note with an illegible date and signature.<sup>7</sup> Findings on examination were noted, and low back pain was diagnosed. Restrictions to appellant's physical activity were given with recommendations for heat and a back brace.

By decision dated December 26, 1995, the Office denied the recurrence claim, finding that the medical evidence failed to establish a causal relationship between the claimed recurrence and the original injury.

Although appellant submitted medical evidence in support of his recurrence claim, none of the medical reports contain a physician's rationalized medical opinion supporting a causal relationship between the claimed July 7, 1995 recurrence and the April 14, 1994 employment injury. Rather, the only report concerning the cause of his condition at that time is the August 2, 1995 report from a chiropractor who indicated that appellant was in a motor vehicle accident on

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<sup>4</sup> *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (182).

<sup>6</sup> The signature is illegible.

<sup>7</sup> The bulk of the treatment note, which is apparently from Dr. Lewis' office, was provided by a nurse practitioner with an addendum indicating that appellant had not worked since July.

July 27, 1995. The medical record, therefore, does not support that appellant's condition on and after July 7, 1995 was a consequence of the April 14, 1994 injury.<sup>8</sup>

The decision of the Office of Workers' Compensation Programs dated December 26, 1995 is hereby affirmed.

Dated, Washington, D.C.  
March 4, 1998

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member

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<sup>8</sup> *See, supra* note 2.