

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of SHARON G. GARLINGTON and DEPARTMENT OF VETERANS AFFAIRS,  
MEDICAL CENTER, Alexandria, La.

*Docket No. 97-2389; Submitted on the Record;  
Issued April 8, 1999*

---

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a recurrence of disability on or after May 10, 1996 due to her August 18, 1995 employment injury.

The Board finds that appellant did not meet her burden of proof to establish that she sustained a recurrence of disability on or after May 10, 1996 due to her August 18, 1995 employment injury.

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that 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 she cannot perform such light duty. As part of this burden the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.<sup>1</sup>

In the present case, the Office of Workers' Compensation Programs accepted that appellant sustained a lumbosacral strain when she was assisting a patient on August 18, 1995. Appellant stopped work on August 18, 1995 and later returned to work in a light-duty position. She stopped work on May 10, 1996 and claimed that she sustained a recurrence of total disability due to her August 18, 1995 employment injury.<sup>2</sup> By decision dated July 16, 1996, the Office denied appellant's claim on the grounds that she did not submit sufficient medical evidence to show that she sustained a recurrence of disability on or after May 10, 1996 due to her August 18, 1995 employment injury and, by decision dated January 8, 1997, the Office denied modification of its July 16, 1996 decision.

---

<sup>1</sup> *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

<sup>2</sup> Appellant indicated that her back, right shoulder and right arm pain prevented her from working.

The Board finds that appellant did not submit sufficient medical evidence to show that she sustained a recurrence of disability on or after May 10, 1996 due to her August 18, 1995 employment injury.

Appellant submitted numerous medical reports regarding the treatment of her back, neck, shoulder and arm conditions. In a report dated August 26, 1996, Dr. Vanda L. Davidson, an attending Board-certified orthopedic surgeon, indicated that she had reviewed appellant's file in order to address the relation of appellant's shoulder and neck pain to her August 18, 1995 employment injury. Dr. Davidson noted that on August 26, 1996 appellant had a "distraction injury" to her right shoulder resulting in a strain or tear of the rotator cuff. This report, however, is of limited probative value on the relevant issue of the present case in that it does not contain adequate medical rationale in support of its conclusion on causal relationship.<sup>3</sup> The Office accepted that appellant sustained a lumbosacral strain on August 18, 1995; it did not accept that appellant sustained a neck or shoulder injury at that time and the medical record does not otherwise support such a finding. It does not appear that Dr. Davidson treated appellant at the time of her August 18, 1995 injury and she did not describe the August 18, 1995 injury in any detail or present specific findings on examination and diagnostic testing to support her opinion. It is especially necessary that Dr. Davidson provide medical rationale in support of her opinion in that appellant did not seek medical treatment for her right shoulder problem or relate it to her August 18, 1995 injury until many months after August 18, 1995. The record also contains an August 20, 1996 document on the letterhead of Dr. John M. Patton, an attending Board-certified neurosurgeon, which indicates that appellant's right shoulder pain is related to her August 18, 1995 employment injury. However, this document is not signed and does not constitute probative medical evidence. Moreover, the document does not contain medical rationale in support of its opinion on causal relationship; nor does it contain a clear opinion on the extent and period of appellant's disability.

---

<sup>3</sup> See *Leon Harris Ford*, 31 ECAB 514, 518 (1980) (finding that a medical report is of limited probative value on the issue of causal relationship if it contains a conclusion regarding causal relationship which is unsupported by medical rationale).

The decisions of the Office of Workers' Compensation Programs dated January 8, 1997 and July 16, 1996 are affirmed.<sup>4</sup>

Dated, Washington, D.C.  
April 8, 1999

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

---

<sup>4</sup> Appellant submitted additional evidence after the Office's January 8, 1997 decision, but the Board cannot consider such evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c).