

disability from December 2 to 13, 2003. The Board found that the evidence submitted did not establish a change in the nature and extent of the accepted condition or in her light-duty position. The law and the facts of the case as set forth in the prior decision are hereby incorporated by reference. The relevant facts of the case are set forth below.

The Office accepted that on May 1, 1995 appellant, then a 42-year-old letter sorter and keyboard operator, sustained an aggravation of cervical radiculitis in the performance of duty. Following this injury, she worked in light-duty positions through 2002 while receiving ongoing medical treatment.

On February 14, 2003 appellant filed a notice claiming a January 14, 2003 recurrence of disability precipitated by handling mail with her right hand on that date and casing mail on several unspecified dates. In a March 19, 2003 letter, the Office advised her of the type of additional evidence needed to establish her claim for recurrence of disability, including a rationalized report from appellant's attending physician establishing a worsening of her accepted condition or factual evidence documenting a change in her light-duty position such that she could no longer perform it. Appellant was off work from June 14 to October 5, 2003.

On February 5, 2004 appellant filed a notice alleging that she sustained a recurrence of disability commencing January 17, 2004 when she pulled "something in [her] arm" while ascending stairs in a train station while on her way home from work. In response to the Office's February 17, 2004 letter advising her of the type of additional evidence needed to establish her claim, appellant submitted a March 14, 2004 letter attributing the recurrence of disability to "pulling [herself] up the stairs" while commuting home on January 17, 2004.

In support of her claims, appellant submitted several reports from Dr. Raghava R. Polavarapu, an attending Board-certified orthopedic surgeon. He held her off work intermittently from January 14 through July 24, 2003 due to cervical radiculopathy and tenosynovitis of the right wrist and hand, which he attributed to the accepted condition. In a September 27, 2003 report, Dr. Polavarapu opined that appellant could no longer case mail and verify letters. He released her to part-time restricted duty as of December 20, 2003 with no climbing, kneeling, bending, stooping, twisting, pulling, pushing, fine manipulation, reaching above the shoulder, keyboarding, driving or operating machinery. Dr. Polavarapu limited lifting to two pounds. Appellant accepted a limited-duty position on December 20, 2003 with restrictions against pushing, pulling, bending her neck, reaching above shoulder level or lifting more than three pounds.

In January 31 and February 21, 2004 reports, Dr. Polavarapu held appellant off work from January 18, 2004 onward, due to acute cervical radiculopathy and tenosynovitis of the right wrist and hand. He opined that she sustained a recurrence of cervical radiculopathy beginning in November 2003. Appellant remained off work from January 18, to October 20, 2004. Dr. Polavarapu submitted reports through October 23, 2004, finding her totally disabled for work due to sequelae of the May 26, 1995 injury.

In a February 26, 2005 report, Dr. Polavarapu stated that on "January 14, 2003, while handling mail at [work] ... [appellant's] neck locked, developed neck pain, stiffness radiating pain to arm swelling of wrists and hand recurrence of disability. On January 17, 2004 [she]

suffered a recurrence her symptoms. Increasing in nature unable to return to work.” Dr. Polavarapu diagnosed degenerative cervical disc disease, cervical radiculopathy, a herniated cervical disc, tenosynovitis and tendinitis of the right wrist and hand. He opined that the May 1, 1995 injury was a “competent producing cause for the injury and disability sustained on January 14, 2003” and January 17, 2004. Dr. Polavarapu opined that the “effects of [the accepted] injury gradually worsened over time due to the physical wear and tear in [appellant’s] job.”

Appellant also submitted a February 25, 2004 letter from coworker Gregg Wilson, stating that on an unspecified date, appellant’s right hand was swollen and she reported pain from boxing and verifying mail. In a July 3, 2004 decision, the Social Security Administration (SSA) found her disabled for work as of April 1, 2003.

In a September 1, 2005 letter, appellant, through her representative, requested that the Office adjudicate her claims for recurrences of disability commencing January 14, 2003 and January 17, 2004.

By decision dated September 19, 2005, the Office denied appellant’s claims for recurrence of disability commencing January 14, 2003 and January 17, 2004, on the grounds that she failed to submit evidence establishing a change in the nature and extent of the accepted condition or in her light-duty job requirements. The Office found that in her February 5, 2004 claim form and a March 14, 2004 letter that appellant asserted a new, nonoccupational January 17, 2004 injury that broke the chain of causation stemming from the accepted May 1, 1995 neck injury.

LEGAL PRECEDENT

As used in the Federal Employees’ Compensation Act,² the term “disability” means incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury.³ A recurrence of disability is defined by Office regulations as an inability to work, caused by a spontaneous change in a medical condition resulting from a previous injury or illness without an intervening injury or new exposure to the work factors that caused the original injury or illness.⁴ If the disability results from new exposure to work factors, the legal chain of causation from the accepted injury is broken and an appropriate new claim should be filed.⁵

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 establishes that the employee can perform the light-duty position, the employee has the burden to

² 5 U.S.C. §§ 8101-8193.

³ *Prince E. Wallace*, 52 ECAB 357 (2001).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (May 1997); *Donald T. Pippin*, 54 ECAB 631 (2003).

⁵ *Id.*

establish by the weight of the reliable, probative and substantial evidence, a recurrence of total disability and to show that he or 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.⁶ This includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.⁷ An award of compensation may not be made on the basis of surmise, conjecture, speculation or on appellant's unsupported belief of causal relation.⁸

While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such an opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and that such a relationship must be supported with affirmative evidence, explained by medical rationale and be based on a complete and accurate medical and factual background of the claimant.⁹ Medical conclusions unsupported by medical rationale are of diminished probative value and are insufficient to establish causal relation.¹⁰

ANALYSIS

The Office accepted that appellant sustained an aggravation of cervical radiculitis on May 1, 1995. On February 14, 2003 she filed a claim for a recurrence of disability commencing January 14, 2003 which appellant attributed to handling mail on that date and to casing mail on unspecified dates. On February 5, 2004 appellant filed a claim for a recurrence of disability commencing January 17, 2004 which she attributed to pulling herself up subway stairs while commuting home from work. In order to prevail, she must demonstrate either a change in the nature and extent of the accepted aggravation of cervical radiculitis or in her light-duty job requirements.¹¹ In this case, appellant asserts a worsening of the accepted condition on January 14, 2003 and January 17, 2004 which she attributed to new work factors or to a new, nonoccupational injury.

In support of her claim, appellant submitted reports from Dr. Polavarapu, an attending Board-certified orthopedic surgeon. He held her off work intermittently beginning on January 14, 2003 and January 18, 2004 due to cervical radiculopathy and tenosynovitis of the right wrist and hand, which he indicated were related to the accepted condition. Although

⁶ *Albert C. Brown*, 52 ECAB 152 (2000); *see also Terry R. Hedman*, 38 ECAB 222 (1986).

⁷ *Ronald A. Eldridge*, 53 ECAB 218 (2001); *see Nicolea Brusio*, 33 ECAB 1138, 1140 (1982).

⁸ *Patricia J. Glenn*, 53 ECAB 159 (2001); *Ausberto Guzman*, 25 ECAB 362 (1974).

⁹ *Conard Hightower*, 54 ECAB 796 (2003).

¹⁰ *Albert C. Brown*, *supra* note 6.

¹¹ *Albert C. Brown*, *supra* note 6; *Terry R. Hedman*, *supra* note 6.

Dr. Polavarapu stated in a February 26, 2005 report, that the May 1, 1995 injury was a “competent producing cause” for appellant’s symptoms on January 14, 2003 and January 17, 2004, he provided no rationale supporting this conclusion. This lack of rationale diminishes the probative value of his opinion in establishing causal relationship in this case.¹²

Additionally, Dr. Polavarapu’s opinion negates causal relationship in this case as he attributed the claimed recurrences of disability to work factors taking place after May 1, 1995. In a February 26, 2005 report, he stated that on January 14, 2003 appellant’s neck “locked” due to handling mail on that day. This indicates that she sustained a new work injury on January 14, 2003 and not a spontaneous recurrence of disability.¹³ Also, Dr. Polavarapu opined that “physical wear and tear in [appellant’s] job” worsened the effects of the accepted injury,” indicating that the claimed recurrences of disability were due to new work factors after May 1, 1995. Compounding this dilemma is her assertion that the January 17, 2004 recurrence of disability was due to an injury sustained while pulling herself up stairs while commuting home from work.

Appellant submitted a February 25, 2004 letter from coworker Gregg Wilson that is irrelevant to her claims as it did not address the claimed periods of recurrence of disability. Also, as set forth in the Board’s prior decision, the July 3, 2004 decision from the Social Security Administration is not determinative of her disability under the Federal Employees’ Compensation Act, as the two statutes have different standards of medical proof on the question of disability.¹⁴ Thus, this evidence is irrelevant to her claims for recurrence of disability.

Although appellant was advised by the Office’s March 19, 2003 and February 17, 2004 letters of the necessity of providing a rationalized report from her physician explaining how and why the accepted condition would cause the claimed recurrence of disability, she did not submit such evidence. The Board finds that the arguments and evidence submitted by appellant in support of her claims are insufficient to establish that she sustained a recurrence of total disability commencing January 14, 2003 or January 17, 2004 as alleged.

CONCLUSION

The Board finds that appellant has not established that she sustained recurrences of disability commencing January 14, 2003 and January 17, 2004 as alleged.

¹² *Beverly A. Spencer*, 55 ECAB ____ (Docket No. 03-2033, issued May 3, 2004).

¹³ *Donald T. Pippin*, *supra* note 4.

¹⁴ *Daniel Deparini*, 44 ECAB 657, 660 (1993).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Worker's Compensation Programs dated September 19, 2005 is affirmed.

Issued: April 13, 2006
Washington, DC

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

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