

FACTUAL HISTORY

On August 18, 2007 appellant, then a 47-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on August 3, 2007 she was lifting trays and felt a sharp pain in her right shoulder. By decision dated October 10, 2007, OWCP accepted the claim for sprain of the right shoulder and upper arm.³

On December 12, 2007 appellant accepted a limited-duty position as a modified carrier effective December 22, 2007. The position provided restrictions pertaining to both of appellant's right shoulder claims, File No. xxxxxx957 and File No. xxxxxx602. Limitations included no lifting/carrying more than 10 pounds, no continuous reaching above the shoulder for one hour a day, lifting/carrying less than 10 pounds for up to four hours a day, pulling/pushing for two hours a day and driving for three and one half hours a day. Appellant's restrictions were provided by Dr. Robert M. Maywood, a Board-certified orthopedic surgeon, in a November 7, 2007 duty status report (Form CA-17).

In a May 28, 2013 duty status report, Dr. Maywood reported that appellant sustained a right shoulder and rotator cuff tear from reaching/casing mail as a result of injuries sustained on January 6, 2005 and August 3, 2007. He provided appellant with right arm and shoulder restrictions due to right shoulder pain and limited range of motion as a result of a right rotator cuff tear. Restrictions included no lifting/carrying over five pounds for up to 4 hours a day, no continuous reaching above the shoulder for 30 minutes a day, pushing/pulling for 1 hour a day, driving for 1 hour a day and no use of a bag on the right shoulder.

In a May 30, 2013 e-mail, the employing establishment reported that there was no work available for appellant as long as she had her restrictions. The e-mail contained a handwritten note indicating June 29 through July 12, 2013.

On May 30, 2013 appellant filed a claim for compensation (Form CA-7) for leave without pay for the period May 18, 2013 onward. On her time analysis (Form CA-7a), appellant noted the reason for leave as no work available.

By letter dated June 4, 2013, OWCP noted receipt of appellant's claim for wage-loss compensation and informed her that it would be treated as a claim for a recurrence of disability. Appellant was advised of the medical and factual evidence required to support her recurrence claim and provided a questionnaire for completion.

On June 11, 2013 appellant responded to OWCP's questionnaire. She stated that management had forced her to work beyond her restrictions which caused her a recurrence of disability. Appellant was often asked to deliver mail, lift, reach and drive continuously which were beyond her specified restrictions. She further stated that she had a small re-tear of her rotator cuff in 2007 and never fully recovered. Since then, appellant's incapacity, with regards to

³ The Board notes that appellant had a prior January 6, 2005 traumatic injury claim which was accepted for calcifying tendinitis of right shoulder, right shoulder strain and subsequent right shoulder arthroscopy on June 2, 2005, OWCP File No. xxxxxx957. File No. xxxxxx957 was combined with this claim, File No. xxxxxx602 into master File No. xxxxxx602.

the original injury, increased causing a greater amount of disability. In support of her claim, she submitted various treatment reports from Dr. Maywood dated April 11, 2005 to June 7, 2012 and the December 12, 2007 limited-duty job assignment for a modified carrier.

By decision dated July 8, 2013, OWCP denied appellant's recurrence claim on the grounds that the medical evidence failed to establish that her alleged disability and consequential conditions were due to a material change/worsening of her accepted work-related conditions. It further found that appellant's claims for wage-loss compensation from May 18, 2013 onward was denied.

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 resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.⁴ This term also means an inability to work because a light-duty assignment made specifically to accommodate an employee's physical limitations and which is necessary because of a work-related injury or illness is withdrawn or altered so that the assignment exceeds the employee's physical limitations. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force.⁵

OWCP procedures state that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a condition that results from a new injury, even if it involves the same part of the body previously injured.⁶

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to the employment injury and supports that conclusion with medical reasoning.⁷ Where no such rationale is present, the medical evidence is of diminished probative value.⁸

⁴ 20 C.F.R. § 10.5(x); *see S.F.*, 59 ECAB 525 (2008). *See* 20 C.F.R. § 10.5(y) (defines recurrence of a medical condition as a documented need for medical treatment after release from treatment for the accepted condition).

⁵ *Id.*

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(b) (May 1997). *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

⁷ *Ronald A. Eldridge*, 53 ECAB 218 (2001).

⁸ *Mary A. Ceglia*, Docket No. 04-113 (issued July 22, 2004).

ANALYSIS

OWCP accepted appellant's claim for right shoulder and upper arm sprain. On May 30, 2013 appellant filed a claim for wage-loss compensation beginning May 18, 2013 and onward. She has the burden to provide medical evidence establishing that she was disabled on May 18, 2013 due to a worsening of her right shoulder and upper arm sprain or a change in her job duties such that she was unable to perform her light-duty work.

The Board finds that appellant has not submitted medical evidence in support of a change in her injury-related condition beginning May 18, 2013. While appellant submitted a narrative statement asserting that her condition had been aggravated by her work duties which were beyond her restrictions, she has not submitted a medical report consistent with her assertions. She submitted medical reports dated April 11, 2005 to June 7, 2012 from Dr. Maywood. These reports are of no probative value as they document appellant's condition and restrictions prior to her May 18, 2013 date of disability. The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.⁹ As the medical reports predate appellant's May 18, 2013 disability, they fail to establish a change in the nature and extent of her injury-related condition on or after that date.

The most recent duty status report submitted was a May 28, 2013 Form CA-17 from Dr. Maywood which provided restrictions of no lifting/carrying over five pounds for up to 4 hours a day, no continuous reaching above the shoulder for 30 minutes a day, pushing/pulling for 1 hour a day, driving for 1 hour a day and no use of a bag on the right shoulder. He noted that appellant's right arm and shoulder restrictions were due to right shoulder pain and limited range of motion as a result of a right rotator cuff tear.¹⁰ Dr. Maywood's Form CA-17 fails to address a worsening of appellant's condition rendering her disabled beginning May 18, 2013. While he slightly altered her work restrictions, he provided no opinion that she sustained a spontaneous change in her medical condition resulting from her previous injury without an intervening injury or new exposure.¹¹ Dr. Maywood simply noted reaching/casing mail as the cause of injury with no medical rationale. Moreover, he provided no opinion that appellant's condition had worsened due to working outside her restrictions or identified how she was required to work outside of her restrictions. Dr. Maywood failed to provide a medical history, findings on physical examination or state any opinion regarding the cause of appellant's condition.¹² As his report contains no opinion regarding the cause of appellant's disability beginning May 18, 2013, his report is insufficient to support that appellant sustained a worsening of her condition.¹³

⁹ *William A. Archer* 55 ECAB 674, 679 (2004).

¹⁰ A rotator cuff tear has not been accepted by OWCP.

¹¹ *A.N.*, Docket No. 10-1830 (issued June 14, 2011).

¹² *S.S.*, Docket No. 07-579 (issued January 14, 2008).

¹³ See *Sedi L. Graham*, 57 ECAB 494 (2006) (medical form reports and narrative statements merely asserting causal relationship generally do not discharge a claimant's burden of proof).

Appellant has alleged that she sustained a recurrence of disability because she was required to exceed her work restrictions. There is no evidence in the record to support her assertion. Dr. Maywood provided a May 28, 2013 Form CA-17 with new restrictions but did not explain the reason for the change or tie them to the accepted conditions. A May 30, 2013 e-mail from the employing establishment stated that, due to appellant's restrictions, there was no work available.

Appellant failed to submit any medical reports from a physician who, on the basis of a complete and accurate factual and medical history, concluded that she sustained a recurrence of disability as of May 18, 2013 due to residuals of her accepted injury. Accordingly, she has not met her burden of proof in establishing that she sustained a recurrence of her employment-related disability as of May 18, 2013.¹⁴

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 did not meet her burden of proof to establish a recurrence of total disability on or after May 18, 2013, causally related to her accepted employment injuries.

¹⁴ See *supra* note 4 and accompanying text.

ORDER

IT IS HEREBY ORDERED THAT the July 8, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 18, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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