

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LORETTA ANN MORACK and U.S. POSTAL SERVICE,
AIR MAIL FACILITY, Pittsburgh, Pa.

*Docket No. 96-825; Submitted on the Record;
Issued January 6, 1998*

DECISION and ORDER

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

The issue is whether appellant has established that she sustained a recurrence of disability causally related to the accepted 1982 employment injuries.

The Board has reviewed the case record and finds that appellant has failed to meet her burden of proof in establishing that her recurrence of disability in January 1995 was causally related to the work-related injury in 1992.

Under the Federal Employees' Compensation Act,¹ 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 recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.² As part of this burden the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition,³ and supports that conclusion with sound medical reasoning.⁴

Section 10.121(b) provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a medical report covering the dates of examination and treatment, the history given by the employee, the findings, the results of x-ray and laboratory tests, the diagnosis, the course of treatment, the physician's

¹ 5 U.S.C. §§ 8101-8193.

² *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992).

³ *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

⁴ *Lourdes Davila*, 45 ECAB 139, 142 (1993).

opinion with medical reasons regarding the causal relationship between the employee's condition and the original injury, any work limitations or restrictions, and the prognosis.⁵

Thus, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated, or aggravated by the accepted injury.⁶ In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.⁷ Further, neither the fact that appellant's condition became apparent during a period of employment nor appellant's belief that his condition was caused by his employment is sufficient to establish a causal relationship.⁸ Finally, a physician's opinion on causal relationship is not dispositive simply because it is rendered by a physician.⁹

In this case, appellant, then a 46-year-old casual clerk, filed a notice of traumatic injury on July 16, 1992, claiming that she hurt her neck and back while lifting a mail sack from a truck to a hamper. The Office of Workers' Compensation Programs accepted cervical and lumbar strains and paid appropriate compensation. On January 12, 1995 appellant filed a notice of recurrence of disability, claiming that standing for short periods of time caused severe pain and noting the date of recurrence as January 30, 1994.

The Office informed appellant on February 13, 1995 that she needed to submit medical evidence to support her claim. Appellant responded with a detailed statement of her employment history in 1993 to 1994 with descriptions of her back pain as well as medical reports from Dr. John W. Lehman, a Board-certified orthopedic surgeon, stating that appellant "feels" that her back pain is related to the work injury she sustained in 1992. A magnetic resonance imaging (MRI) scan revealed degenerative disc disease at L5-S1.

On March 23, 1995 the Office denied the claim on the grounds that the medical evidence was insufficient to establish a causal relationship between the claimed recurrence and the initial work injury.

On November 21, 1995 appellant requested reconsideration and submitted extensive hospital records and treatment notes detailing the laminectomy done on July 20, 1995.

In a decision dated December 15, 1995, the Office denied appellant's request on the grounds that the medical evidence submitted in support of reconsideration was insufficient to warrant modification of the prior decision. The Office noted that appellant believed that her back condition was related to the original back strain but her opinion was not supported by any of the physicians involved in her care.

⁵ 20 C.F.R. § 10.121(b).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁷ *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

⁸ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

⁹ *Jean Culliton*, 47 ECAB ____ (Docket No. 94-1326, issued August 26, 1996).

The Board finds that the medical evidence is insufficient to establish any causal connection between the accepted cervical/lumbar strains and appellant's current back condition. Dr. Lehman, who first treated appellant in 1992 for the cervical/lumbar strains, provided no opinion on the cause of appellant's back pain in his reports dated January 16, March 13, April 3 and December 11, 1995. While he indicated on a form report that appellant's herniated disc was caused by work factors, he offered no rationale for this conclusion.¹⁰ Further, appellant's herniated disc was diagnosed in December 1994, two years after she had left the employing establishment.

Appellant's physical therapist indicated that appellant had experienced continued back pain of varying degrees since the July 1992 injury, but he is not a physician and thus his opinion has no probative value under the Act.¹¹ Dr. Trenton M. Gause, a Board-certified orthopedic surgeon, recounted a detailed history of appellant's back condition, starting in July 1992 but offered no opinion on a causal relationship between her disc degeneration and the 1992 cervical/lumbar strains.¹² Finally, the hospital records contained no evidence of causation.

Inasmuch as Dr. Lehman's opinion is insufficient to meet appellant's burden of proof in establishing that her recurrence of disability due to degenerative disc disease is causally related to the accepted cervical/lumbar strains sustained on July 11, 1992 and the other medical evidence in the record fails to address the issue of causal relationship, the Board finds that appellant has failed to meet her burden of proof and, therefore, the Office properly denied her claim.¹³

¹⁰ See *Ruth S. Johnson*, 46 ECAB ____ (Docket No. 93-1657, issued November 18, 1994) (finding that a causation opinion that consists only of checking "yes" to a form question has little probative value and is thus insufficient to establish causal relationship).

¹¹ Section 8101(2) of the Act provides that the term "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by the applicable state law. Only medical evidence from a physician as defined by the Act will be accorded probative value. Health care providers such as nurses, acupuncturists, physician's assistants, and physical therapists are not physicians under the Act. Thus, their opinions on causal relationship do not constitute rationalized medical opinions and have no weight or probative value. *Jane A. White*, 34 ECAB 515, 518 (1983).

¹² See *Jose Hernandez*, 47 ECAB ____ (Docket No. 94-1089, issued January 23, 1996) (finding that despite a request from the Office, appellant failed to submit a rationalized medical opinion showing that the claimed recurrence was related to his employment injury); see also *Connie Johns*, 44 ECAB 560, 570 (1993) (finding the medical evidence insufficient to establish that appellant had any disability causally related to the residuals of her accepted back condition).

¹³ See *Robert J. Krstyen*, 44 ECAB 227, 230 (1992) (finding that appellant failed to submit sufficient medical evidence to establish that specific work factors caused or aggravated his back condition).

The March 23 and December 15, 1995 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
January 6, 1998

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member