

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EDGAR W. CARDONA and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS HOSPITAL, San Juan, P.R.

*Docket No. 96-1324; Submitted on the Record;
Issued June 16, 1998*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability on January 14, 1994 causally related to his August 3, 1993 employment injury.

The Board has duly reviewed the case on appeal and finds that appellant failed to meet his burden of proof in establishing that he sustained a recurrence of disability on January 14, 1994 causally related to his August 8, 1993 employment injury.

The Office of Workers' Compensation Programs accepted that appellant sustained a lumbosacral strain and right rib strain on August 3, 1993 in the performance of duty. Appellant returned to regular duty on August 24, 1993. Appellant filed a claim on February 1, 1994 alleging that on January 14, 1994 he sustained a recurrence of disability causally related to his accepted employment injury. The Office denied appellant's claim on July 7, 1995. Appellant requested reconsideration on August 28, 1995 and the Office denied this request on September 20, 1995. Appellant requested reconsideration on November 13, 1995 and the Office denied modification of its July 7, 1995 decision on December 19, 1995.

Appellant has the burden of establishing by the weight of the substantial, reliable, and probative evidence, a causal relationship between his recurrence of disability commencing January 14, 1994 and his August 3, 1993 employment injury.¹ This burden 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.²

¹ *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-9 (1982).

² *See Nicolea Brusio*, 33 ECAB 1138, 1140 (1982).

In a form report dated March 17, 1994, Dr. Jose E. Asencio diagnosed acute lumbosacral strain from August 3, 1993. Dr. Tomas U. Poventud Lopez³ submitted a series of form reports beginning on October 4, 1994 and diagnosed cervical strain, herniated disc, lumbosacral strain, as well as radiculopathy, indicating that appellant's condition was causally related to his employment injury and that appellant was at least partially disabled. These reports are not sufficient to meet appellant's burden of proof as the physicians did not provide medical rationale explaining how appellant's accepted condition of lumbosacral and right rib strain resulted in the diagnosed conditions.

In a report dated July 14, 1994, Dr. Lopez noted appellant's history of injury and provided physical findings. He diagnosed chronic cervical and lumbar strains, radiculopathy, anxiety, peripheral neuropathy, herniated nucleus pulposus and chronic granulocytic leukemia. Dr. Lopez stated that appellant had radiculopathy and an herniated disc with degenerative changes. He explained that these conditions caused an unstable vertebral column with inflammatory process. Dr. Lopez then provided a detailed explanation of how the inflammatory process coupled with anxiety caused pain and permanent impairment.

This report is not sufficient to meet appellant's burden of proof as Dr. Lopez did not explain how appellant's accepted conditions of lumbosacral strain and right rib strain resulted in the current conditions of herniated disc and radiculopathy.

In a report dated August 29, 1995, Dr. Lopez noted appellant's history of injury and that following his August 2, 1993 employment injury appellant's lumbar spine x-rays were negative. Dr. Lopez stated that appellant's condition of peripheral neuropathies and radiculopathies had not improved. However, as he did not provide an opinion on the causal relationship between these conditions and appellant's accepted employment injuries, his report is not sufficient to meet appellant's burden of proof.

On October 29, 1995, Dr. Lopez repeated his diagnoses and stated that appellant's permanent impairment due to his back condition was precipitated by the conditions of his employment. He again described appellant's unstable vertebral column with inflammatory process. Although he described in detail the inflammatory process appellant was experiencing, Dr. Lopez did not provide medical rationale explaining how appellant's accepted employment injuries resulted in the diagnosed unstable vertebral column and inflammatory process.

As the remainder of the medical evidence fails to provide an opinion on the causal relationship between appellant current back condition and his accepted employment injury and as Dr. Lopez failed to provide the necessary medical rationale explaining how he attributed appellant's current diagnoses to his accepted condition, appellant has failed to meet his burden of proof.

³ These physicians are not listed in the reference guides.

The decisions of the Office of Workers' Compensation Programs dated December 19 and July 7, 1995 are hereby affirmed.

Dated, Washington, D.C.
June 16, 1998

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member