

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RONDA D. FOSTER and DEPARTMENT OF THE AIR FORCE,
WRIGHT-PATTERSON AIR FORCE BASE, Dayton, Ohio

*Docket No. 96-2075; Submitted on the Record;
Issued June 26, 1998*

DECISION and ORDER

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

The issue is whether appellant established that her recurrence of disability was causally related to the accepted work injury.

The Board has reviewed the case record and finds that appellant has failed to meet her burden of proof in establishing that her current back pain was causally related to the work-related back strain she sustained on June 21, 1993.

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. (1974).

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, the Office of Workers' Compensation Programs accepted appellant's claim, filed on June 22, 1993, for a back strain and paid appropriate compensation. Appellant returned to work on a part-time basis and then resumed full duties as a procurement clerk on September 22, 1994.

On November 16, 1995 she filed a notice of recurrence of disability, claiming that the pain had "never stopped" since her initial injury, that she required physical therapy as her condition worsened, and that she was severely depressed because of the pain.

In support of her claim, appellant submitted a magnetic resonance imaging (MRI) scan dated November 14, 1995, showing degenerative disc disease with desiccation at L5-S1, and a form report from her attending physician, Dr. Rajendra K. Aggarwal, a family practitioner who diagnosed acute lumbo-sacral strain with lumbar radiculopathy and acute depression. Dr. Aggarwal added that the strain resulted from a fall at work on June 21, 1993. He stated that appellant was "obviously in severe pain" but that her latest MRI scan was not significantly changed from one on January 7, 1994.

On February 9, 1996 the Office asked appellant to submit a detailed factual statement describing her physical condition and work activities as well as non-work activities. The Office added that appellant also needed to obtain a narrative medical report from her attending physician on the question of whether her current condition was causally related to the accepted work injury.

Appellant submitted medical records from Dr. Lita R. Budiamal, a Board-certified anesthesiologist to whom Dr. Aggarwal had referred her, detailing the three epidural blocks appellant had undergone. Also in the record is a March 11, 1996 letter from Dr. Aggarwal who

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).

stated that the blocks improved appellant's condition and opined that her disability probably resulted from exacerbation of the June 21, 1993 lumbo-sacral strain.

On April 2, 1996 the Office denied the claim on the grounds that the evidence failed to establish that the claimed recurrence of disability starting on November 11, 1995 was causally related to the initial work injury. The Office found that Dr. Aggarwal's opinion was speculative and that appellant failed to respond to the Office's February 9, 1996 inquiry.

Appellant timely requested reconsideration and submitted a personal statement and a copy of the November 14, 1995 MRI scan. On May 21, 1996 the Office denied appellant's request on the grounds that the evidence submitted in support of reconsideration was repetitious and therefore insufficient to warrant review of its prior decision.

The Board finds that the medical evidence is insufficient to establish any causal relationship between appellant's current back pain and the accepted work injury. Dr. Budiamal offered no opinion on the cause of appellant's back pain. Thus, her report is irrelevant to the causation issue.

Dr. Aggarwal initially treated appellant after her June 21, 1993 injury, noting her return to work. He stated that appellant was next seen on October 14, 1995 with complaints of pain. He opined that her current disability "probably" resulted from an exacerbation of her initial injury but failed to explain how severe back pain in late 1995 was causally related to the 1993 back strain.¹⁰ Nor did he elaborate on what work factors would have exacerbated appellant's back condition. Thus, his opinion is of diminished probative value.¹¹

Further, an August 30, 1994 report from Dr. Richard T. Beers, Board-certified in internal and preventive medicine and rehabilitation, indicated that appellant's back sprain had resolved, based on the normal MRI scan dated January 7, 1994, although she still had chronic diffuse pain, most likely myofascial.

The Office specifically advised appellant of the deficiencies in her claim and asked her to submit a rationalized medical report. Her May 9, 1996 statement described her pain symptoms and subsequent medical treatment but provided no discussion of work factors that could have caused a recurrence of disability. Thus, the Board finds that appellant failed to meet her burden of proof.¹²

¹⁰ See *William S. Wright*, 45 ECAB 498, 504 (1994)(finding that physicians' statements regarding causal relationship constitute surmise and conjecture and are thus of diminished probative value).

¹¹ The record also contains a May 10, 1996 report from Dr. Gerald S. Steiman, a Board-certified neurologist, who concluded that appellant's physical examination was characterized by subjective discomfort and complaints and that she exhibited no objective findings such as muscle spasm, guarding, radiculopathy or myelopathy in her back (R 4244)

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).

The May 21 and April 2, 1996 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
June 26, 1998

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member