

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of SHIRLEY A. BENNETT and U.S. POSTAL SERVICE,  
POST OFFICE, Lanse, Mich.

*Docket No. 96-2139; Submitted on the Record;  
Issued October 20, 1998*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability commencing September 19, 1995 causally related to her accepted February 22, 1994 low back strain/sprain.

The Board has duly reviewed the case record in the present appeal and finds that the Office Of Workers' Compensation Programs properly determined that appellant failed to establish that she sustained a recurrence of disability commencing September 19, 1995, causally related to her accepted February 22, 1994 low back strain/sprain.

On February 24, 1994 appellant filed a traumatic injury claim for a sore back which the Office accepted on January 19, 1995 for low back strain/sprain. On September 19, 1995 appellant filed a claim for recurrence of disability.<sup>1</sup> In this case, appellant alleged that she sustained a recurrence of disability commencing September 19, 1995 causally related to her accepted February 22, 1994 employment-related injury. The Office denied appellant's claim on December 19, 1995, finding that the evidence of record failed to establish a causal relationship between the injury of February 22, 1994 and the claimed recurrence of September 19, 1995. By letter dated January 15, 1996, appellant requested reconsideration of the Office's December 19, 1995 decision. By decision dated April 15, 1996, the Office denied appellant's request for reconsideration finding the evidence insufficient to warrant modification of the prior decision.<sup>2</sup>

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<sup>1</sup> Appellant filed a claim for compensation on account of disability (Form CA-7) dated September 19, 1995 and a claim for continuing compensation on account of disability (Form CA-8) indicating that the period for which compensation was claimed began on September 19, 1995.

<sup>2</sup> Appellant subsequently requested an oral hearing before an Office hearing representative. By decision dated September 13, 1996, the Office denied appellant's request. Appellant's appeal dated July 16, 1996 predates this oral hearing request and the denied is not before the Board.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, and that the claim was filed within the applicable time limitations of the Act.<sup>4</sup> An individual seeking disability compensation must also establish that an injury was sustained at the time, place and in the manner alleged,<sup>5</sup> that the injury was sustained while in the performance of duty,<sup>6</sup> and that the disabling condition for which compensation is claimed was caused or aggravated by the individual's employment.<sup>7</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.<sup>8</sup>

An individual 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 compensation is claimed is causally related to the accepted injury. This burden includes the necessity of furnishing medical evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the accepted employment injury and supports that conclusion with sound medical reasoning.<sup>9</sup>

The medical evidence submitted in support of appellant's claim for recurrence of disability commencing September 19, 1995 consists of among other things, progress notes from Dr. Bela T. Lanczy, a Board-certified family practitioner, covering the period September 19, 1995 through January 15, 1996; an October 6, 1995 magnetic resonance imaging (MRI) report by Dr. Steven J. Fagan; an October 30, 1995 attending physician's report (CA-20) by Dr. Lanczy; an undated supplemental attending physician's report (CA-20a) by Dr. Lanczy; a December 5, 1995 report by Dr. Lanczy; a December 1, 1995 report by Dr. Lanczy; a January 4, 1996 report by Dr. J. Michael Coyne, Board-certified in physical medicine and rehabilitation; and a January 16, 1996 report by Dr. Lanczy.

In his progress notes covering the period September 19, 1995 through January 15, 1996, Dr. Lanczy noted on September 19, 1995 that appellant suffered from acute back strain from repetitive motion injury. Dr. Lanczy noted on September 25, 1995 that appellant still has "some lumbosacral strain" and is experiencing difficulty with her supervisor. On October 2, 1995 Dr. Lanczy noted that appellant's physical therapist stated that appellant had definite disc

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *Robert A. Gregory*, 40 ECAB 478 (1989).

<sup>6</sup> *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>7</sup> *Steven R. Piper*, 39 ECAB 312 (1987).

<sup>8</sup> *David J. Overfield*, 42 ECAB 718 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>9</sup> *Lourdes Davila*, 45 ECAB 139 (1993); *Louis G. Malloy*, 45 ECAB 613 (1994).

presentation today and on October 13, 1995 Dr. Lanczy noted that appellant's tenderness in her lower L5-S1 area is consistent with her arthrosis. On November 13 and November 29, 1995 Dr. Lanczy noted appellant's occasional back pain, but mostly noted appellant's problems with her supervisor. On January 15, 1996 the doctor noted an assessment of acute exacerbation of chronic back problem and underlying anxiety due to financial distress. Dr. Lanczy's progress notes provided several diagnoses and he hints that there is some relationship between the diagnoses and appellant's work, but none of the notes provided an opinion with supporting rationale to explain a causal relationship between appellant's diagnosed conditions in 1995 and her accepted February 22, 1994 low back strain/sprain. Therefore, the progress notes are insufficient to establish appellant's recurrence of disability claim.

In an October 6, 1995 report and MRI scan, Dr. Fagan noted a minimal facet arthrosis at the L5-S1 level and essentially normal MRI scan. Dr. Fagan failed to provide a history of injury, or to causally relate appellant's diagnosed condition to appellant's accepted February 22, 1994 low back strain/sprain. Dr. Fagan's report is insufficient to establish appellant's claim.

On an attending physician's report dated October 30, 1995, Dr. Lanczy diagnosed acute back pain with work related sacroiliitis and minimal L5-S1 facet arthrosis and checked "yes" that appellant's disability is related to the history of the February 22, 1994 injury. The attending physician's report failed to provide rationale to support his opinion and is insufficient to establish appellant's claim for recurrence of disability. On an undated attending physician's supplemental report (CA-20a) Dr. Lanczy diagnosed acute back strain to be treated with medications, physical therapy and a work-hardening program. The attending physician's supplemental report failed to address the issue of causal relationship. Neither the attending physician's report nor the attending physician's supplemental report is sufficient to establish appellant's recurrence of disability claim.

In a December 5, 1995 report, Dr. Lanczy stated that appellant's initial injury occurred on February 22, 1994 and that she suffered a recurrence on September 19, 1995. He stated that appellant had "reexacerbation of her pain while at work lifting."<sup>10</sup> Dr. Lanczy further stated that an x-ray and electromyogram (EMG) were normal and an MRI revealed an L5-S1 facet arthrosis. Dr. Lanczy also stated that "There's no doubt in my mind that this case is a work-related injury." Dr. Lanczy failed to provide any rationale to support his opinion, *i.e.*, Dr. Lanczy did not explain how appellant's diagnosed condition in 1995 was causally related to a low back strain/sprain in February 1994. Nor did Dr. Lanczy explain why on a return to work certificate, his colleague, Dr. Todd Ingram, a Board-certified family practitioner, had found that appellant recovered from the February 22, 1994 strain/sprain and was able to return to regular duty in March 1994. Dr. Lanczy's December 5, 1995 report is insufficient to establish appellant's recurrence of disability claim.

In a December 1, 1995 report, Dr. Lanczy stated that appellant was able to return to work on light duty with lifting restrictions, that she was in a work-hardening program and that "this is definitely workman's compensation case." He failed to provide a diagnosis, or to causally relate

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<sup>10</sup> The Board notes that on November 17, 1995 the Office defined a recurrence for appellant and advised that if she had a new injury she should file a new notice of injury.

a diagnosed condition to appellant's accepted low back strain/sprain. Nor does Dr. Lanczy mention a September 19, 1995 recurrence of disability. His December 1, 1995 report is insufficient to establish appellant's recurrence of disability claim.

In a January 16, 1996 report, Dr. Lanczy stated that appellant had extensive work-hardening program and may return to work. He stated that:

“[Appellant] initially presented with the injury of September 19, 1995, exacerbation of low back pain. Her initial injury where she had a very similar event occurred on February 22, 1994, which I think, since the symptoms are correlated, that the injury of September 19, 1995 was an exacerbation of the original injury of February 22, 1994. I do feel that both [appellant's] injuries are work related.”

Dr. Lanczy stated that appellant's recurrence of disability on September 19, 1995 was causally related to her accepted February 22, 1994 low back strain/sprain. However, he failed to provide supportive rationale, *i.e.*, Dr. Lanczy failed to explain how appellant's diagnosed condition in 1995 was causally related to a February 22, 1994 low back strain/sprain, especially since Dr. Ingram had found that appellant had recovered from the injury and could return to work with no restrictions in March 1994. In addition, he failed to provide any bridging evidence to support a causal relationship between the February 22, 1994 injury and the claimed recurrence on September 19, 1995. Dr. Lanczy's January 16, 1996 report is insufficient to establish appellant's recurrence of disability claim.

By letter dated November 17, 1995, the Office advised appellant of the specific type of evidence needed to establish her recurrence of disability claim, (as well as what to do if she had sustained a new injury), but such evidence was not submitted. The Board finds that appellant failed to meet her burden of proof.

In summary, none of the medical evidence submitted provided a rationalized medical opinion explaining how a claimed recurrence of disability commencing September 19, 1995 was causally related to appellant's accepted February 22, 1994 low back strain/sprain, or to provide bridging information between the two, especially since appellant's doctor at the time of the original injury found that appellant had fully recovered and was able to return to regular full-time work in March 1994.

The decisions of the Office of Workers' Compensation Programs dated April 15, 1996 and December 19, 1995 are affirmed.

Dated, Washington, D.C.  
October 20, 1998

George E. Rivers  
Member

David S. Gerson  
Member

A. Peter Kanjorski  
Alternate Member