

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LINDA J. MITCHELL and U.S. POSTAL SERVICE,
BICENTENNIAL STATION, Los Angeles, Calif.

*Docket No. 97-1354; Submitted on the Record;
Issued February 2, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

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

The Board has carefully reviewed the case record and finds that the medical evidence is insufficient to establish that appellant's current neck and back conditions are causally related to the June 1992 work incident.

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 condition³ 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 opinion with medical reasons regarding the causal relationship between the employee'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).

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 case, appellant's notice of traumatic injury, filed on June 1, 1992, was accepted by the Office of Workers' Compensation Programs for cervical and lumbar strain as well as a right knee contusion after appellant was involved in a minor collision while driving her postal vehicle. Appellant returned to light-duty work on October 12, 1992. Her treating physician, Dr. Val P. Shulman, a family practitioner, released her for regular work on May 10, 1993, but she continued on light duty.

On April 1, 1994 appellant filed a notice of recurrence of disability claiming that she had never stopped hurting since the accident, with headaches and pain in her neck, across her shoulders, down her back, arms and legs and in her left knee. On October 3, 1994 the Office denied appellant's claim on the grounds that appellant had failed to establish that her recurrence of disability was causally related to the June 1992 injury.

Appellant's request for reconsideration was denied on November 22, 1994. The Office found that the September 12, 1994 report from Dr. Ronald M. Rothman, who is Board-certified in physical medicine and rehabilitation, provided no medical rationale for his conclusion that the 1992 accident could have precipitated the bulging disc shown on a March 3, 1994 magnetic resonance imaging (MRI) scan.

A second request for reconsideration was denied on July 19, 1995.⁷ On July 5, 1996 appellant again requested reconsideration and submitted a medical report from Dr. Jon G. Greenfield, a Board-certified orthopedic surgeon. On September 11, 1996 the Office denied modification of its prior decision on the grounds that the medical evidence was insufficient to establish the requisite causal relationship.

Following appellant's third request for reconsideration, the Office again denied modification of its prior decision on the grounds that Dr. Rothman's conclusion in his October 29, 1996 report, was speculative and suggested that he too was uncertain regarding the causal relationship of appellant's current condition to the 1992 work injury.

The Board finds that appellant has failed to meet her burden of proof in establishing that her recurrence of disability was causally related to the June 1, 1992 work injury.

By letter dated August 4, 1994, the Office informed appellant of the necessity of providing a rationalized medical opinion in support of her claim for a recurrence of disability and provided a list of factors and issues to be addressed. Dr. Rothman indicated in his

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 On June 6, 1995 appellant filed a notice of occupational disease, claiming that the June 1992 accident had resulted in a chronic pain condition, bulging lumbar discs, and cervical spondylosis. Inasmuch as this notice was based on the June 1992 accident, the Office did not consider it as a separate claim.

September 12, 1994 report, that appellant was referred to him for neck and back pain “which she related to a motor vehicle accident two years ago.” He stated that appellant had not fully recovered from the original disability, based on her continuing symptoms, that her condition was not recurring but chronic and was therefore the same as the diagnosed bulging lumbar disc at L4-5 and that the type of motor vehicle accident in which appellant was involved “could precipitate a disc injury to the back.”

In his November 18, 1994 letter, Dr. Rothman stated that appellant’s chronic back pain was secondary to a bulging disc precipitated by the 1992 accident. Dr. Rothman reiterated this opinion in a January 17, 1995 report, and also mentioned that appellant had recently been involved in another motor vehicle accident, which had exacerbated her back pain.

In his March 6, 1995 report, Dr. Rothman explained that he based his conclusion on his examinations of appellant and on the MRI scans of her spine. He added that appellant’s conditions were aggravated by prolonged walking and sitting, lifting weights greater than 10 pounds, and bending and twisting at the waist. Dr. Rothman’s February 22, 1996 letter to the federal retirement system repeated his earlier assessment of appellant’s condition and emphasized that she needed permanent light-duty status.

Finally, on October 29, 1996 Dr. Rothman provided a complete history of appellant’s treatment and tests, noting that a computerized tomography (CT) scan of her lumbar spine on September 16, 1992 showed no significant bony, soft tissue, or disc-related abnormalities and that an electromyogram in June 1993 showed no evidence of lumbar radiculopathy. Dr. Rothman explained that the disc bulging shown in the 1994 MRI scan could have occurred during the 1992 accident but was not revealed on the 1992 CT scan because this technology was not at that time reliable in showing discogenic disorders.

In none of his reports did Dr. Rothman explain, with medical rationale, how the accepted conditions of cervical and lumbar strain resulted in a bulging disc two years later. He indicated that appellant’s pain continued from the date of the accident, but could only speculate why appellant’s bulging disc at L4-5 was not revealed until two years after the accident. Further, Dr. Shulman, appellant’s attending physician, stated on August 25, 1993 that appellant was permanent and stationary, based on his evaluation and her MRI results, and could “resume her full-time duties.”

The March 13 and May 31, 1996 reports of Dr. Greenfield provided a thorough examination of appellant and review of her medical treatment, but Dr. Greenfield’s bare conclusion -- I believe that [appellant’s] current orthopedic problems are the result of the industrial injury of June 1, 1992, is devoid of any medical rationale.⁸ Further, neither physician discussed the intervening motor vehicle accident appellant reported in 1994. Finally, appellant and Dr. Rothman were explicitly informed of the medical evidence required to establish that appellant’s back condition in 1994 stemmed from the 1992 injury. Inasmuch as appellant failed

⁸ See *Judith J. Montage*, 48 ECAB ____ (Docket No. 95-51, issued February 27, 1995) (finding that medical reports not containing rationale on causal relationship are generally insufficient to meet appellant’s burden of proof).

to provide a rationalized medical opinion explaining the requisite causal relationship, the Board finds that she had failed to meet her burden of proof and that the Office properly denied her claim.⁹

The January 13, 1997 and September 11, 1996 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
February 2, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

⁹ See *Jose Hernandez*, 47 ECAB 288 (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).