

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DIANA M. GAUTIER and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, New York, N.Y.

*Docket No. 97-1389; Submitted on the Record;
Issued February 4, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
WILLIE T.C. THOMAS

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability on September 22, 1994 causally related to her accepted employment injury.

The Board has duly reviewed the case on appeal and finds that appellant has failed to meet her burden of proof in establishing a recurrence of disability on or after September 22, 1994.

Appellant filed a claim for traumatic injury on February 10, 1995 alleging that on August 17, 1994 she injured her left knee and lower back in the performance of duty. The Office of Workers' Compensation Programs accepted appellant's claim for left knee contusion on January 16, 1996. Appellant filed a notice of recurrence of disability on November 9, 1995 alleging that on September 22, 1994 she sustained a recurrence of disability causally related to her accepted employment injury. By decision dated September 16, 1996, the Office denied appellant's claim for a recurrence of disability.

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her recurrence of disability commencing September 22, 1994 and her August 17, 1994 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

In support of her claim for recurrence of disability, appellant submitted a series of reports from Dr. Sana L. Bloch, a Board-certified neurologist. In a report dated January 10, 1995, Dr. Bloch diagnosed left lower back herniated disc and recommended bed rest. She completed a

¹ *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

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

report on August 21, 1995 and noted appellant's history of injury. Dr. Bloch noted appellant's employment injury on August 17, 1994 and stated that since that time appellant experienced pain in her left lumbar and sciatic region. She stated that appellant informed her on June 27, 1995 that her back condition was employment related. Dr. Bloch completed a form report on August 21, 1996 and indicated with a checkmark "yes" that appellant's condition was related to her employment. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability or condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.³

In a note dated January 11, 1996, Dr. Bloch stated that appellant did not have a herniated disc but rather severe degenerative disease. She stated that appellant had progressive pain from the injury. As Dr. Bloch did not offer an opinion on the causal relationship between appellant's back condition and her employment injury supported with medical reasoning, her reports are not sufficient to meet appellant's burden of proof.

Appellant has not submitted the necessary rationalized medical opinion evidence to meet her burden of proof and the Office properly denied her claim.⁴

The September 16, 1996 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
February 4, 1999

Michael J. Walsh
Chairman

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

³ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).

⁴ Following the Office's September 16, 1996 decision, appellant submitted additional new evidence. As the Office did not consider this evidence in reaching a final decision, the Board may not review it for the first time on appeal. 20 C.F.R. § 501.2(c).