

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WANDA E. BROWN and U.S. POSTAL SERVICE,
POST OFFICE, Richmond, Va.

*Docket No. 97-1933; Submitted on the Record;
Issued June 2, 1999*

DECISION and ORDER

Before MICHAEL J. WALSH, 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 causally related to her June 25, 1977 employment injury.

The Board has duly reviewed the case record and finds that appellant has failed to establish that she sustained a recurrence of disability causally related to her June 25, 1977 employment injury.

On June 25, 1977 appellant, then a 24-year-old clerk, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) stating that on that date she injured her lower back while lifting catalogs from a tray cart. The Office of Workers' Compensation Programs accepted appellant's claim for lower back strain. Appellant subsequently developed a condition of paranoid schizophrenia, which was never accepted by the Office. Appellant returned to full-duty work on January 24, 1985.

Appellant filed for recurrence of disability subsequent to January 24, 1985. By decision dated December 11, 1986 and finalized December 31, 1986, the Office rejected appellant's recurrence claim on or after January 24, 1985 on the basis that the medical evidence of record failed to support continuing disability due to the June 25, 1977 work-related injury. The Office found that the weight of the medical evidence rested with Dr. Richard L. Worland, a Board-certified orthopedist and appellant's treating physician, who did not relate appellant's continuing back problems to the June 25, 1977 injury. The Office noted that although the psychiatric report from Dr. R.S. Shenoy, a Board-certified psychiatrist, indicated that appellant does suffer from schizophrenia, paranoid type, the report failed to relate appellant's condition to the work injury of June 25, 1977.

By letter dated June 25, 1996, appellant requested reconsideration. Submitted with the request was a June 26, 1996 report from J.D. Cousins, Mental Health Clinician I and Delores

Barbee, L.C.S.W., Mental Health Clinician III of the City of Richmond Community Mental Health Center and a June 18, 1996 report from Dr. Steven M. Fiore, an orthopedic surgeon.

By decision dated July 8, 1996, the Office, after performing a merit review, denied modification of the December 31, 1986 decision finding that the evidence of record was not sufficient to meet appellant's burden of proof in establishing that she sustained a recurrence of disability causally related to her accepted employment injury.

By letters dated March 6 and April 1, 1997, appellant, through her attorney, again requested reconsideration. The basis for the reconsideration request stated that appellant has chronic back pain from the initial injury in 1977 and that none of the treating physicians have stated that appellant is free of pain or symptoms. No additional evidence was submitted.

By decision dated April 30, 1997, the Office denied appellant's reconsideration request on the grounds that appellant failed to submit relevant evidence or legal contentions not previously considered.

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

Thus, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated, or aggravated by the accepted injury.⁵ 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.⁶

In his June 28, 1996 report, Dr. Fiore stated that "when appellant was seen by Dr. Worland back in 1977 she was diagnosed as having a chronic lumbar strain. It appeared that appellant had a large psychologic overlay and, between the two, she has been unable to carry out any type of gainful employment when she was treated here. At the time we saw her, we recommended that she be disabled due to a chronic lumbar back strain and psychiatric disorder."

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).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁶ *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

After examining appellant and reading the x-rays, Dr. Fiore stated “at this point, I agree with Dr. Worland in that she has a chronic sprain/strain. She has a negative SLR, subtle findings for radicular component. But overall, she should be managed conservatively. She [is] probably disabled because she [has] been out work this long with multiple attempts and failures at return to work. I just do [not] believe she [will] ever carry any type of gainful employment.”

Dr. Fiore’s report, however, is not sufficient to meet appellant’s burden of proof in establishing that she sustained a recurrence of disability causally related to her accepted employment injury. The Board notes that the only accepted condition in this case is that of a low back strain. Although Dr. Fiore states that appellant has a chronic sprain/strain, he offers no medical rationale to explain how a minor condition has lasted for 19 years. He states that “it appears that she had a large psychologic overlay and between the two [conditions of chronic lumbar strain and psychiatric disorder], has been unable to carry out any type of gainful employment while she was treated here.” Dr. Fiore never specifically attributed any continuing condition or disability to appellant’s June 25, 1977 work injury. The Board has found that a medical opinion not fortified by medical rationale is of little probative value.⁷

Accordingly, as appellant has not submitted rationalized medical evidence explaining how and why her condition was related to her June 25, 1977 work injury, appellant has not met her burden of proof in establishing her claim.

The Board also notes that while the Office accepted the condition of low back strain, the evidence of record consistently indicates that appellant has a psychiatric condition. As the Office never accepted a psychiatric condition in this case, appellant retains the burden of establishing that such condition was caused or aggravated by her employment.⁸ Although the Office paid for psychiatric evaluations of appellant, this does not establish that the Office accepted any psychiatric condition.⁹

The June 26, 1996 report from J.D. Cousins, Mental Health Clinician I and Delores Barbee, L.C.S.W., Mental Health Clinician III of the City of Richmond Community Mental Health Center which discusses appellant’s psychiatric symptoms is of no value in establishing appellant’s claim. Section 8101(2) of the Act provides that the term “physician” includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by the applicable state law. As mental health clinicians are not physicians as defined by the Act, their opinions on causal relationship

⁷ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954).

⁸ See *Gary L. Whitmore*, 43 ECAB 441, 446-48 (1992).

⁹ The Board notes that any investigation into appellant’s psychiatric condition does not constitute acceptance of appellant’s claim for a psychiatric condition related to her employment; see *Connie Johns*, 44 ECAB 560 (1993); *Gary L. Whitmore*, *supra* note 8 (the Office may gratuitously pay compensation to claimants without creating an entitlement to such compensation in those instances where it has not been established that the condition for which compensation has been paid is employment related).

do not constitute rationalized medical opinion and have no weight or probative value.¹⁰ Thus, the June 26, 1996 report is of no probative value regarding appellant's psychiatric condition.

Inasmuch as no other new and relevant evidence or legal contentions not previously considered were submitted, appellant has failed to establish that she sustained a recurrence of disability causally related to her June 25, 1977 employment injury.

The decisions of the Office of Workers' Compensation Programs dated April 30, 1997 and July 8, 1996 are affirmed.

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

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

¹⁰ See *Barbara J. Williams*, 40 ECAB 649 (1988); *Jane A. White*, 34 ECAB 515 (1983).