

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of SANDRA K. GADSON and DEPARTMENT OF VETERANS AFFAIRS,
MEDICAL CENTER, Canton, Ohio

*Docket No. 97-2414; Submitted on the Record;
Issued June 11, 1999*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing a recurrence of disability causally related to her accepted January 25, 1990 employment injury.

The Board has duly reviewed the case record and concludes that appellant has not established lower back pain and stiffness causally related to her accepted January 20, 1990 employment injury.

In the present case, the Office of Workers' Compensation Programs accepted that appellant had sustained a lumbosacral sprain when she stood up from her desk chair on January 25, 1990 in the course of her federal employment. On May 15, 1994 appellant filed a notice of recurrence of disability¹ indicating that her lower back pain and stiffness were due to her January 25, 1990 employment injury.²

On February 15, 1996 the Office advised appellant to submit a written statement detailing her physical work duties and describe how these duties may have caused her symptoms to occur as well as rationalized medical evidence addressing the relationship between her alleged recurrence of disability in September 1993 and her accepted January 25, 1990 employment injury.

In a decision dated March 28, 1996, the Office denied the claim for recurrence of disability because the record was devoid of any evidence demonstrating a causal relationship between the accepted employment injury and the claimed condition of disability.

¹ On the form appellant indicated the recurrence date as September 1993, that she stopped work on May 2, 1994 and returned to work on July 5, 1994.

² Appellant also filed a claim for compensation for wage loss (Form CA-7) for the period February 22, 1994 through July 9, 1994.

On March 26, 1997 appellant requested reconsideration and submitted written and medical evidence in support of her claim.

In a decision dated April 18, 1997, the Office reviewed the case on its merits and found that the evidence submitted in support of the application was insufficient to warrant modification of the prior decision. In an accompanying memorandum, the Office again noted that the record was devoid of any evidence demonstrating a causal relationship between the accepted employment injury and the claimed condition or disability.

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 employment injury and supports that conclusion with sound medical reasoning.³

In this case, appellant has not submitted rationalized medical evidence sufficient to establish that she sustained a recurrence of disability on or after September 1993 causally related to the January 25, 1990 employment injury. In support of her recurrence claim, appellant submitted a May 4, 1994 disability certificate of Dr. Margo S. Prade, an attending Board-certified family practitioner, who diagnosed low back pain with sciatica and that appellant tentatively could return on May 16, 1994. Dr. Prade, in a May 13, 1994 disability certificate, diagnosed low back pain and a L5 disc herniation with nerve root compression and that tentatively appellant could return on June 6, 1994. In a disability certificate dated June 3, 1994, Dr. Prade diagnosed L5 disc and low back pain and that tentatively appellant could return to work on June 27, 1994. In a disability certificate dated June 30, 1994, Dr. Prade diagnosed low back pain and L5 disc and that appellant could return to work on July 5, 1994 with a restriction of no lifting more than 10 pounds. Dr. Prade, in a disability certificate dated July 8, 1994, diagnosed a herniated disc and listed physical restrictions for her return to work. In an August 9, 1994 disability certificate, Dr. Prade diagnosed herniated disc and that appellant could return to work on August 9, 1994. Appellant also submitted Dr. Prade's August 10, 1994 disability certificate revealing that appellant had a herniated disc and that appellant could return to work on August 10, 1994. These certificates are insufficient to establish appellant's burden inasmuch as they merely provided diagnoses of appellant's condition and failed to discuss whether or how the diagnosed conditions were caused by the January 25, 1990 employment injury.⁴

Appellant additionally submitted Dr. Prade's Forms CA-20 dated June 5, 1994 and July 18, 1995 providing a diagnosis of L4-5 disc compression with a history of an injury three years previously. Dr. Prade's Forms CA-17 are insufficient to establish appellant's burden because they do not address a causal relationship between appellant's current back condition and the January 25, 1990 employment injury.

³ *Louise G. Malloy*, 45 ECAB 613 (1994); *Lourdes Davila*, 45 ECAB 139 (1993); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

⁴ *Daniel Deparini*, 44 ECAB 657 (1993).

Appellant also submitted physical therapy reports dated from April through July 1994 and x-ray interpretations dated March 2 and May 13, 1994 diagnosing a herniated disc. The physical therapy notes and x-ray interpretations are insufficient to establish appellant's burden, because they do not address causal relationship between appellant's disability and her accepted employment injury.

Appellant also submitted reports from Dr. Michael J. Smith, a Board-certified orthopedic surgeon, dated August 18, September 16, 1995, July 25 and September 3, 1996 in support of her claim. In the reports dated August 18, September 16, 1995 and September 3, 1996, Dr. Smith diagnoses a herniated disc without providing any opinion as to the cause of appellant's disability. In the July 25, 1996 report, Dr. Smith opined that appellant's August 17, 1995 office visit was due to her workers compensation claim. Dr. Smith's reports dated August 18, September 16, 1995 and September 3, 1996 are insufficient to establish appellant's burden because they fail to address causal relation of appellant's disability to her accepted employment injury. Similarly, Dr. Smith's August 17, 1995 report is unrationalized as it fails to provide any explanation or rationale in support of his opinion on causal relationship and, thus, is insufficient to meet appellant's burden of proof.⁵

Although the Office advised appellant of the type of medical evidence needed to establish her claim for a recurrence of disability, appellant failed to submit medical evidence responsive to the request. Accordingly, the Board finds that appellant has not established that she sustained a recurrence of disability on or after September 1993 causally related to her accepted January 25, 1990 employment injury.

The decision of the Office of Workers' Compensation Programs dated April 18, 1997 is affirmed.

Dated, Washington, D.C.
June 11, 1999

Willie T.C. Thomas
Alternate Member

Bradley T. Knott
Alternate Member

⁵ *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

A. Peter Kanjorski
Alternate Member