U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of PADMA SRINIVASAN and DEPARTMENT OF VETERANS AFFAIRS, MEDICAL CENTER, Livermore, Calif.

*Docket No. 97-2494; Submitted on the Record;*
*Issued June 22, 1999*

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DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

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

The Board has carefully reviewed the case record and finds that appellant has failed to meet her burden of proof in establishing a causal relationship between her shoulder condition and the 1997 recurrence of disability.

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]

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

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[1] 5 U.S.C. §§ 8101-8193 (1974).

[2] *Dennis J. Lasanen*, 43 ECAB 549-50 (1992).

[3] *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

[4] *Lourdes Davila*, 45 ECAB 139, 142 (1993).

opinion with medical reasons regarding the causal relationship between the employee's 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 regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.[7] Neither the fact that appellant's condition became apparent during a period of employment nor appellant's belief that her condition was caused by her employment is sufficient to establish a causal relationship.[8]

Further, when an employee, who is disabled from the job she held when injured, returns to a light-duty position, or the medical evidence of record establishes that she can perform the light-duty position, the employee has the burden of establishing by the weight of the reliable, probative and substantial evidence that she cannot perform such light duty.[9] As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.[10]

In this case, appellant's notices of occupational disease, filed on March 31, 1992 and February 1, 1994, were accepted for bilateral adhesive capsulitis of the shoulders,[11] based on the medical reports of Dr. James M. Colville, a Board-certified orthopedic surgeon. Subsequently, appellant underwent brisement surgery on her left shoulder and was released to return to limited office duty in May 1995.

On March 7, 1997 appellant, a physician, filed a notice of recurrence of disability, claiming that her full-time work treating 17 to 22 patients each day resulted in pain and stiffness in her neck and shoulder. She claimed wage-loss reimbursement for leave taken because of her shoulder condition and stated that she wanted to work on a three-day-week schedule to control her pain and disability.

Following submission of additional evidence in response to the Office of Workers' Compensation Programs' inquiries, the Office denied the claim on May 2, 1997 on the grounds that the medical evidence failed to establish either causal relationship or a change in the nature and extent of the light-duty job requirements or of appellant's accepted condition.

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

[8] *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

[9] *Richard E. Konnen*, 47 ECAB 388-89 (1996).

[10] *Gus N. Rodes*, 46 ECAB 518, 526 (1995); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

[11] Adhesive capsulitis is defined as an inflammation between the joint capsule and peripheral articular cartilage of the shoulder with obliteration of the sub-deltoid bursa, characterized by increasing pain, stiffness, and limitation of motion in the shoulder. *Dorland's Illustrated Medical Dictionary* (27th ed. 1988).

The Board finds that Dr. Colville's reports are insufficient to meet appellant's burden of proof in establishing a recurrence of disability.

Dr. Colville stated in his March 19, 1997 report that he had treated appellant for capsulitis in her right shoulder, from which she "pretty much recovered" by the end of April 1992. He did not see appellant again until January 1994, when she began experiencing symptoms of capsulitis in the left shoulder, which was aggravated by her work duties. Because of the pain with use of her left shoulder, she compensated by using her right shoulder more and by November 1994 had problems with both shoulders.

Following a brisement procedure on February 15, 1995, appellant "did very well" and regained "virtually normal" range of motion. When Dr. Colville examined appellant in October 1996, she had "excellent range of motion of both shoulders and her neck." However, he found mild, pain-related weakness of the rotator cuff muscles and early fatigability in testing of the shoulder muscles.

Dr. Colville diagnosed bilateral adhesive capsulitis of both shoulders, resolved and residual weakness of the rotator cuff musculature of the left shoulder. He noted bilateral carpal tunnel syndrome and "historical evidence of repetitive stress injury to both shoulders and neck."

Stating that appellant presented "essentially with early fatigability and pain with performing the usual and customary duties of her job," Dr. Colville concluded that appellant no longer had capsulitis in her shoulders since the range of motion was normal, but she tended to overuse her shoulder and cervical musculature to compensate for residual weakness. Dr. Colville opined that appellant had residual weakness of the rotator cuff musculature bilaterally, not uncommon following adhesive capsulitis. He added:

> "[S]he is able to do her usual and customary type of work for a while during the course of the work week but ... she fatigues early and this causes the recurrence of discomfort. After a period of rest, the subjective symptoms vanish and she is once more able to perform her duties. There are no objective aspects of her job that she cannot perform to the extent that these are required for disability. I do n[o]t believe that they can be supported."

Dr. Colville added that if appellant's employer could provide a three-day-a-week work schedule, appellant could perform the normal and customary duties of her job.

While Dr. Colville felt that working three days a week would be "an ideal situation" for appellant to relieve her fatigue, he did not find that her capsulitis condition had worsened over the years since her 1995 operation to the point where she could not perform the duties of her job. Rather, he concluded that the accepted work injury had reached maximum medical improvement, so that appellant could no longer even be diagnosed with the condition.

Further, he indicated that appellant was capable of doing her job she simply overcompensated for some residual weakness and thus tired more easily. While appellant may have to pace herself, there is no medical evidence that she is not capable of working a normal

40 hours a week.[12] Experiencing pain, discomfort and fatigue while working does not constitute disability for work under the Act.[13]

Finally, appellant herself admitted that her job duties had not changed. Appellant stated that she has endured numerous injections, repeated physical therapy, time-consuming home exercise programs, a brisement procedure and years of anti-inflammatory medication, but still has "a constant low level annoying pain in both shoulders" which becomes aggravated as the work week wears on. However, appellant's assigned duties of caring for patients and being on call are the same as when she returned to work in mid-1995.

Appellant's personal preference for a part-time work schedule is a matter between her and the employing establishment. The days she decides not to work are compensable under the Act only if the medical evidence establishes that she has a work-related disability. In this case, the medical evidence establishes that appellant's work-related condition has resolved.

The May 2, 1997 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.
June 22, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

[12] *See James D. Champlain*, 44 ECAB 438, 441 (1993).

[13] *See Rosie M. Price*, 34 ECAB 292, 294 (1982) *Max Haber*, 19 ECAB 243, 247 (1967).