U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANE M. SADINSKI and DEPARTMENT OF THE INTERIOR, BUREAU OF RECLAMATION, COLLBRAN JOB CORPS CENTER, Collbran, Colo.

Docket No. 97-1407; Submitted on the Record;
Issued March 3, 1999

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT, A. PETER KANJORSKI:

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability on March 5, 1995, causally related to her December 29, 1992 employment injury.

The Board has duly reviewed the case record on appeal and finds that appellant has not met her burden of proof in establishing that she sustained a recurrence of disability on March 5, 1995, causally related to her December 29, 1992 employment injury.

On December 29, 1992 appellant, then a 31-year-old teacher, filed a notice of traumatic injury and claim for compensation (Form CA-1) alleging that on that same date, she slipped on ice and fell to the ground, and as a result, sustained injuries to her neck, shoulders and lower back. Appellant did not cease working at the time. She initially received treatment for her injuries on December 31, 1992, and was diagnosed as suffering from lumbosacral strain and chest wall strain.[1] Appellant was advised that although she could immediately resume her regular work, she should minimize any bending, stooping and lifting for a period of four days. On March 21, 1995, approximately twenty-seven months after her initial employment injury, appellant filed a notice of recurrence of disability (Form CA-2a) alleging that she sustained a recurrence of disability on March 5, 1995, causally related to her December 29, 1992 injury. Appellant ceased working on March 6, 1995. She described her condition as severe back pain, which rendered her unable to move her back, as well as her right hip and leg. On March 16, 1995 appellant was examined by Dr. John A. Odom, Jr., a Board-certified orthopedic surgeon, who diagnosed spinal stenosis, degenerative disc disease and herniated vertebral disc. The following day, he performed a discectomy and spinal fusion. By decision dated August 30, 1995, the Office of Workers' Compensation Programs denied appellant's claim on the basis that

[1] Appellant received authorization for examination and treatment (Form CA-16) at the Plateau Valley Clinic in Collbran, Colo., where she was treated by James R. Harkreader, a family nurse practitioner.

the evidence failed to demonstrate that the claimed recurrence of disability on or after March 5, 1995, was causally related to the accepted employment injury of December 29, 1992.

On September 27, 1995 appellant filed a request for reconsideration which the Office subsequently denied on December 29, 1995. In its decision denying reconsideration, the Office noted that it had conducted a merit review of the claim pursuant to 5 U.S.C. § 8128, and that the record was still insufficient to establish a causal connection between the accepted employment injury of December 29, 1992, and the alleged recurrence of disability on March 5, 1995. The Office specifically noted the absence of any bridging medical evidence after appellant's initial injury of December 29, 1992, and the lack of a medical opinion specifically addressing the cause of appellant's March 5, 1995 claimed recurrence of disability.

With the assistance of counsel, appellant filed a second request for reconsideration on November 11, 1996. Although appellant submitted additional medical and factual evidence, the Office again concluded that upon merit review of the claim, appellant failed to demonstrate a basis for modification of either the initial denial of August 30, 1995, or the December 29, 1995 denial on reconsideration. In its accompanying memorandum, the Office specifically noted that the record does not include a reasoned, unequivocal medical opinion that supports a recurrent condition related to the December 29, 1992 accepted employment injury. Appellant subsequently filed an appeal with the Board on March 3, 1997.

It is an accepted principle of workers' compensation law that when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause.[2] Where appellant claims a recurrence of disability due to an accepted employment-related injury, she has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.[3] This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury.[4] Moreover, the physician's conclusion must be supported by sound medical reasoning.[5]

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

[2] 20 C.F.R. § 10.121(a); *Clement Jay After Buffalo*, 45 ECAB 707, 715 (1994).

[3] *Robert H. St. Onge*, 43 ECAB 1169 (1992).

[4] Section 10.121(b) of the Code of Federal Regulations 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 detailed medical report. The physicians report should include 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 condition and the original injury, any work limitations or restrictions, and the prognosis. 20 C.F.R. § 10.121(b).

[5] *See Robert H. St. Onge, supra* note 3.

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

of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.[7] While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.[8]

In the instant case, the Office accepted that appellant sustained lumbosacral strain and chest wall strain on December 29, 1992, when she slipped on ice and fell to the ground. Dr. Odom is the only physician of record to specifically attribute appellant's current back condition to her December 29, 1992 employment injury.[9] As previously noted, he first examined appellant on March 16, 1995; more than two years after her original injury. While the record includes Dr. Odom's copious treatment notes covering the period March 16, 1995 through June 4, 1996, this evidence does not assist appellant in satisfying her burden inasmuch as the treatment notes neither address the cause of appellant's condition nor specifically refer to appellant's employment injury of December 29, 1992. The record also includes a letter dated May 10, 1995, in which Dr. Odom indicates that appellant informed him that she originally fell at work and hurt her back on December 29, 1992, and that she relates her current back problem to her original injury. Although Dr. Odom goes on to indicate that from appellant's standpoint she "thinks that she should be considered a work[ers'] comp[ensation] injury," the doctor does not offer his own independent assessment regarding the cause of appellant's current back condition. Consequently, this evidence is also insufficient to satisfy appellant's burden.

The only remaining medical evidence of record to specifically address the cause of appellant's alleged March 1995 recurrence of disability is Dr. Odom's August 7, 1996 report. In this report, Dr. Odom offers a brief summary of his treatment of appellant, and relates the history appellant provided him regarding her initial employment injury, her subsequent symptoms, and the treatment she received prior to her March 1995 referral to Dr. Odom. He also noted that appellant informed him that she had not sustained any additional injuries between the time of her initial injury in December 1992 and her hospitalization in March 1995. Dr. Odom concludes his report by stating that in his professional opinion "it is most likely, in all reasonable probability, that [appellant's] severe condition … in 1995 was directly related to and caused by her work-related injury of December 29, 1992."

While Dr. Odom's August 7, 1996 report concludes that appellant's current condition is "most likely" related to her December 29, 1992 employment injury, the doctor failed to provide any explanation as to how appellant's initial employment injury caused or aggravated her current

[7] For the importance of bridging information in establishing a claim for a recurrence of disability, *see Robert H. St. Onge*, *supra* note 3; *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 748 (1986).

[8] *Norman E. Underwood*, 43 ECAB 719 (1992).

[9] The record includes treatment notes from the Plateau Valley Medical Clinic dated November 1, 1994, which note a history of back pain dating back about six months, however, the notes make no mention of appellant's December 29, 1992 employment injury. Similarly, the January 4, 1995, treatment notes from the Salisbury Chiropractic Clinic, while noting that appellant fell on ice two years ago and has experienced back problems off and on since that time, do not specifically attribute appellant's diagnosed subluxation to her December 29, 1992 employment injury.

condition of severe spinal stenosis, degenerative disc disease and herniated vertebral disc. In particular, Dr. Odom did not explain why a lumbosacral strain, which did not cause appellant to cease work in December 1992, would subsequently cause or aggravate the conditions he diagnosed in 1995. A physician's mere conclusion without explanation or medical reasoning does not rise to the level of rationalized medical opinion evidence.[10] Accordingly, Dr. Odom's most recent report is also insufficient to satisfy appellant's burden. Inasmuch as the remainder of the record is similarly insufficient to establish that appellant sustained a recurrence of disability on March 5, 1995, causally related to her December 29, 1992 employment injury, the Office properly denied compensation.

The January 17, 1997 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
March 3, 1999

David S. Gerson
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

[10] *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (the Board found that a medical opinion not fortified by medical rationale is of little probative value).