

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ELIAS MORA and DEPARTMENT OF THE TREASURY,
BUREAU OF ALCOHOL, TOBACCO & FIREARMS, McAllen, TX

*Docket No. 98-1301; Submitted on the Record;
Issued November 29, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has established a recurrence of disability commencing September 24, 1996, causally related to his September 17, 1991 employment injury.

In the present case, the Office of Workers' Compensation Programs accepted that appellant, a criminal investigator, sustained a lumbar strain in the performance of duty on September 17, 1991 while lifting weights. On October 10, 1996 appellant filed a notice of recurrence of disability (Form CA-2a), commencing on September 24, 1996. The claim form indicated that appellant was off work from September 24 to 27, 1996.

By decision dated January 9, 1997, the Office denied the recurrence of disability claim on the grounds that appellant had failed to submit sufficient evidence on causal relationship with the employment injury. In a decision dated October 29, 1997, the Office denied modification of the prior decision.

The Board has reviewed the record and finds that appellant has not established a recurrence of disability commencing September 24, 1996.

A person 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 he claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish 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 the employment injury and supports that conclusion with sound medical reasoning.¹

¹ *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

In the present case, the medical evidence does not contain a reasoned medical opinion with respect to a disabling medical condition on or after September 24, 1996 and the employment injury. A treatment note from an unidentified physician dated November 5, 1996, notes a history of injury in September 1991 and reports an acute onset of back pain approximately one month prior to examination. The physician stated that appellant “has increase sciatica in ‘91, shows a bulging disc. The symptoms have increased to a point that he is unable to workout and return to his regular activities.” The treatment note does not explain the cause of an increase in symptoms or otherwise provide a reasoned medical opinion that as of September 24, 1996 appellant had a lumbar condition causally related to the employment injury.

In a report dated February 11, 1997, Dr. Roger R. Heredia, a family practitioner, indicated that he had not treated appellant for his back problem since August 1992. Dr. Heredia did not provide an opinion on the issue presented.

The Board accordingly finds that the medical evidence does not contain probative evidence establishing a recurrence of disability commencing September 24, 1996. It is, as noted above, appellant’s burden to provide sufficient evidence to establish his claim. Appellant has not done so in this case, and the Office properly denied the claim.

The decision of the Office of Workers’ Compensation Programs dated October 29, 1997 is affirmed.

Dated, Washington, D.C.
November 29, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member