

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CARLISS WELLS and DEPARTMENT OF VETERANS AFFAIRS,
DENVER MEDICAL CENTER, Denver, CO

*Docket No. 98-745; Submitted on the Record;
Issued October 12, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a recurrence of disability beginning January 26, 1993.

The Board has duly reviewed the case on appeal and finds that appellant did not establish that she sustained a recurrence of disability beginning January 26, 1993.

This case has been before the Board previously. By decision and order dated August 15, 1997, the Board remanded the case to the Office of Workers' Compensation Programs to consider the merits of appellant's recurrence claim.¹ The facts and background of the case contained in the prior decision are incorporated herein by reference.

Following the August 15, 1997 Board decision, the Office considered the merits of appellant's claim and, by decision dated September 30, 1997, denied modification of its prior decisions. The Office reviewed reports from appellant's treating internist, Dr. Don R. Molden, and advised that, while his reports offered some support that work factors of flexing the neck at work caused appellant's condition, he did not indicate that the September 10, 1990 work injury, that occurred when appellant lifted a computer, caused her condition. The Office indicated that appellant could file an occupational disease claim. The instant appeal follows.

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 recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.² This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and

¹ Docket No. 95-1973.

² *Kevin J. McGrath*, 42 ECAB 109 (1990); *John E. Blount*, 30 ECAB 1374 (1974).

accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.³ The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two nor the belief of appellant that the disease was caused or aggravated by employment conditions is sufficient to establish causal relationship.

The relevant medical evidence⁴ includes an undated attending physician's report that was received by the Office on March 12, 1993 in which Dr. Nancy Kemp, a Board-certified internist, advised that it was unknown whether appellant's condition was employment related. In a June 15, 1993 report, she stated that appellant reported that the pain in her neck was the same as after her 1990 injury.⁵ By report dated June 28, 1993, Dr. Kemp described the initial injury that occurred in 1990 and related that appellant had been seen "multiple times" for neck pain beginning on January 31, 1993. She described her findings on examination and treatment but did not state a cause of appellant's condition.

In a November 23, 1993 report, Dr. Don R. Molden, an internist, advised that the constant flexion of appellant's neck as she worked at a computer caused chronic pain. He stated, "I feel this condition should be considered a recurrence of her previous injury" and that her absence from work was employment related. In an August 2, 1994 report, Dr. Molden stated that he first saw appellant on October 11, 1993 and reported a history that she injured herself at work on September 10, 1990 when she turned her neck suddenly and experienced a popping sensation. He advised that a February 16, 1994 magnetic resonance imaging scan of the cervical spine revealed degenerative disc disease at C5-6 and C6-7 with evidence of moderate disc bulging and noted that on May 7, 1994 she had findings on examination. He diagnosed, *inter alia*, recurrent neck and trapezius muscle strain which were exacerbated by stresses at work. In an addendum dated September 26, 1994, Dr. Molden stated that review of appellant's medical record indicated that the September 10, 1990 injury occurred when appellant lifted a computer at work.

While Dr. Molden advised that constant flexion of appellant's neck as she worked at a computer caused her neck condition, neither he nor Dr. Kemp provided sound medical reasoning that appellant's condition was caused by the September 10, 1990 employment injury. The medical evidence is thus insufficient to establish that appellant sustained a recurrence of disability.

³ *Frances B. Evans*, 32 ECAB 60 (1980).

⁴ The record also contains a number of disability slips and office notes that do not discuss the cause of appellant's condition.

⁵ This report was apparently incorrectly dated, as Dr. Kemp refers to her letter dated "June 28, 1993."

The decision of the Office of Workers' Compensation Programs dated September 30, 1997 is hereby affirmed.

Dated, Washington, D.C.
October 12, 1999

George E. Rivers
Member

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member