

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONNA L. CLAY and DEPARTMENT OF VETERANS AFFAIRS,
PUGET SOUND HEALTH CARE SYSTEM, Seattle, WA

*Docket No. 99-1066; Submitted on the Record;
Issued July 13, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability as of July 13, 1998 causally related to her accepted December 11, 1997 lower back injury.

On December 11, 1997 appellant, a 48-year-old nurse, injured her right forearm, both knees, and her lower back when she slipped and fell to the floor. She filed a claim for benefits on the date of injury, which the Office accepted for bilateral knee contusion, right forearm contusion and lumbar contusion.

On July 22, 1998 appellant filed a notice of recurrence of disability, alleging that she sustained a recurrence of disability on July 13, 1998 which was causally related to her December 11, 1997 employment injury. In support of her claim, she submitted an April 7, 1998 report from Dr. Rebecca B. Rush, a Board-certified family practitioner, who stated that appellant complained of joint pain, primarily in her right hip, which had good range of motion but was stiff and sore, particularly after any prolonged sitting or sleeping overnight.

Appellant submitted an August 7, 1998 report from Dr. William M. Fallon, a specialist in orthopedic surgery, who stated appellant's history of injury, related appellant's complaints of pain, stated findings on examination and diagnosed a probable right greater trochanteric bursitis. He advised, however, that the bursitis condition was unrelated to the December 1997 work injury given the time interval involved. Dr. Fallon did not indicate whether appellant's current condition was causally related to the December 11, 1997 employment injury.

Appellant also submitted a September 2, 1998 report from Dr. Robert M. Tyson, Board certified in internal medicine, psychiatry and neurology, who stated that appellant primarily complained of pain in her right hip which she attributed to the December 11, 1997 work injury. He noted, however, that appellant did not develop symptoms in her hip until two or three months subsequent to the employment injury. Dr. Tyson did not provide an opinion as to whether

appellant's current condition was causally related to the employment injury. He diagnosed mechanical hip pain and possible meralgia paresthetica.

By letter dated September 17, 1998, the Office advised appellant that it required additional factual and medical evidence, including a medical report, to support her claim that her current condition/or disability as of July 13, 1998 was caused or aggravated by her accepted December 11, 1997 employment injury.

By decision dated December 29, 1998, the Office denied appellant compensation for a recurrence of disability. The Office found that appellant failed to submit medical evidence sufficient to establish that the claimed condition or disability as of July 13, 1998 was causally related to the December 11, 1997 employment injury.

The Board finds that appellant has not submitted medical evidence which establishes that she sustained a recurrence of disability as of July 13, 1998 causally related to the December 11, 1997 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing 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 who supports that conclusion with sound medical reasoning.¹

The record contains no such medical opinion. Indeed, appellant has failed to submit any medical report containing a rationalized opinion report which relates her disability for work as of July 13, 1998 to her December 11, 1997 employment injury. For this reason, she has not discharged her burden of proof to establish her claim that she sustained a recurrence of disability causally related to her accepted employment injury.

The only medical evidence appellant submitted consisted of reports from Drs. Rush, Fallon and Tyson, none of which contained a probative, rationalized medical opinion causally relating her current condition to the accepted December 11, 1997 employment injury.² As there is no medical evidence addressing and explaining why the claimed condition and disability as of July 13, 1998 was causally related to December 11, 1997 employment injury, appellant has not met her burden of proof in establishing that she sustained a recurrence of disability.

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

² *William C. Thomas*, 45 ECAB 591 (1994).

The December 29, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
July 13, 2000

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member