

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of KENNETH C. HOLSTON and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION HOSPITAL, San Antonio, TX

*Docket No. 99-1159; Submitted on the Record;  
Issued June 28, 2000*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant has established his claim for total disability due to his December 2, 1995 work-related injury.

In this case, the Office of Workers' Compensation Programs, on January 11, 1996, accepted that appellant sustained a left shoulder contusion, left knee contusion and lumbar contusion based on his December 2, 1995 work-related injury. On January 25, 1996 appellant filed a claim for continuing compensation.

On March 5, 1996 the Office denied appellant's claim on the grounds that the medical evidence failed to establish that appellant was either partially or totally disabled as a result of his December 2, 1995 work-related injury. Appellant thereupon appealed that decision to the Board.

By decision dated July 1, 1998, the Board remanded appellant's claim to the Office for further development to determine the period of disability causally related to appellant's work-related injury. In the Board's decision, it noted that Dr. Salvador P. Baylan, appellant's treating physician and Board-certified physiatrist, stated on January 16, 1996 that appellant could return to work because his physical therapy would not interfere with his week-end work, but that on January 19, 1996 he noted that "appellant's continued symptoms precluded a return to work."<sup>1</sup>

By decision dated January 27, 1999, the Office denied appellant's claim on the grounds that the medical evidence of record failed to establish that appellant had disability as a result of his December 2, 1995 work-related injury. In its decision, the Office noted that it requested additional information from appellant and his treating physician on August 21, October 9 and November 20, 1998 but that as of the date of the decision no additional information had been received.

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<sup>1</sup> Docket Number 96-1764.

The Board finds that appellant has not met his burden of proof in establishing that his medical condition is causally related to an accepted December 2, 1995 left shoulder contusion, left knee contusion and lumbar contusion.

When an employee claims a continuing disability causally related to an accepted employment injury, he or she has the burden of establishing by the weight of the reliable, probative and substantial medical evidence that the claimed recurrence of disability is causally related to the accepted injury. As part of this burden, appellant must submit rationalized medical evidence based on a complete and accurate factual and medical background showing causal relationship.<sup>2</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>3</sup> must be one of reasonable medical certainty,<sup>4</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>5</sup> An award of compensation may not be made on the basis of surmise, conjecture, or speculation or on appellant's unsupported belief of causal relation.<sup>6</sup>

As applied to this case in order to establish causal relationship, appellant must submit sufficient rationalized medical evidence explaining how and why the December 2, 1995 work-related injury, the accepted left shoulder contusion, left knee contusion and lumbar contusion, caused disability from work.

A review of the record reveals that appellant submitted multiple medical reports from Dr. Baylan, his treating physician, after issuance of the Office's March 5, 1996 decision. Upon review of these reports, the Board finds that none of the reports establishes that appellant had any disability as a result of his December 2, 1995 work-related injury.

In his April 22, 1996 report, Dr. Baylan noted that appellant was symptomatic with back pain in his lower back. Although he placed appellant on disability, he also stated that: "Neurologically, I found no deficit." It is also noted that appellant's accepted injury did not include pain. Further, Dr. Baylan's May 23, 1996 report stated that appellant was "not in a position to work at this time." However, Dr. Baylan did not support his finding of total disability with a rationalized medical opinion establishing a causal relationship between appellant's injury and his current condition. Indeed, he noted that appellant was being treated for depression as well and did not state precisely what medical condition supported appellant's disability. Dr. Baylan did not explain how and why the December 2, 1995 work-related left shoulder contusion, left knee contusion and lumbar contusion would cause disability from work. Without

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<sup>2</sup> See *Armando Colon*, 41 ECAB 563 (1990).

<sup>3</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>4</sup> See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>5</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>6</sup> *Ausberto Guzman*, 25 ECAB 362 (1974).

such rationale, Dr. Baylan's opinion is of reduced probative value in establishing the critical issue of causal relationship in this case.<sup>7</sup>

Further, in various medical form reports from January 27 to April 12, 1996, Dr. Baylan checked a box noting that appellant was totally disabled based on his work-related injury. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability was related to the history is of diminished probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.<sup>8</sup>

Consequently, appellant has not established that he has any continuing disability as a result of his December 2, 1995 accepted left shoulder contusion, left knee contusion and lumbar contusion, as he submitted insufficient rationalized medical evidence to support the alleged causal relationship.

The January 22, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.  
June 28, 2000

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

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<sup>7</sup> *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

<sup>8</sup> *Id.* at 594 (1991).