

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KEVIN L. HOLLEY and U.S. POSTAL SERVICE,
POST OFFICE, Houston, TX

*Docket No. 99-1188; Submitted on the Record;
Issued June 7, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability on November 12, 1998 causally related to his May 6, 1998 employment injury.

The Board has duly reviewed the case on appeal and finds that appellant has failed to meet his burden of proof in establishing that he sustained a recurrence of disability on November 12, 1998 causally related to his May 6, 1998 employment injury.

Appellant, a mail carrier, filed a claim on May 6, 1998 alleging that on that date he twisted his ankle in the performance of duty. The Office of Workers' Compensation Programs accepted his claim for foot sprain on November 4, 1998. Appellant's physician released him to return to full duty on August 4, 1998. On November 12, 1998 appellant filed a notice of recurrence of disability alleging that on October 28, 1998 he began experiencing pain and discomfort due to the shoe insert prescribed for his accepted employment injury. The Office requested additional factual and medical information from appellant on December 1, 1998. By decision dated December 31, 1998, the Office denied appellant's claim for recurrence of disability finding that he failed to submit supportive medical evidence.

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between his recurrence of disability commencing October 28, 1998 and his May 6, 1998 employment injury.¹ This burden includes the necessity of 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 employment factors and supports that conclusion with sound medical reasoning.²

¹ *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

² *See Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

In this case, appellant has not submitted any medical evidence addressing his recurrence of disability. Although appellant has resubmitted several copies of treatment notes, these notes all predate appellant's alleged recurrence of disability and are therefore not relevant to his claim. As appellant has failed to submit the necessary medical evidence to establish a recurrence of disability, he has failed to meet his burden of proof and the Office properly denied his claim.³

The December 31, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
June 7, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

A. Peter Kanjorski
Alternate Member

³ The Board notes that, following the Office's December 31, 1998 decision, appellant submitted new evidence to the Office. As the Office did not consider this evidence in reaching a final decision, the Board may not consider it for the first time on appeal. 20 C.F.R. § 501.2(c).