U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANNE CORKUM and DEPARTMENT OF THE AIR FORCE,
HANSCOM AIR FORCE BASE, MA

Docket No. 98-1982; Submitted on the Record;
Issued May 8, 2000

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained a recurrence of disability commencing January 1, 1997, causally related to her accepted aggravation of allergic sinusitis (claim no. A1-322094) and accepted temporary aggravation of asthma (claim no. A1-327361).

The Board has duly reviewed the case record in the present appeal and finds that appellant failed to establish that she sustained a recurrence of disability commencing January 1, 1997, causally related to her accepted January 4, 1994 aggravation of allergic sinusitis (claim no. A1-322094) and temporary aggravation of asthma (claim no. A1-327361).

On June 22, 1994 appellant, then a 41-year-old program manager, filed an occupational disease claim for sinusitis and acute asthma, which the Office of Workers' Compensation Programs accepted on October 12, 1994 for temporary aggravation of allergic sinusitis. On February 8, 1995 she filed an occupational disease claim for asthma and sinusitis which the Office accepted on February 27, 1995 for temporary aggravation of asthma. On July 23, 1997 appellant filed a claim for recurrence of disability. In this case, she alleged that she sustained a recurrence of disability commencing January 1, 1997 causally related to her accepted aggravation of allergic sinusitis and asthma. The Office denied appellant's claim on December 15, 1997, finding that the evidence of record failed to establish a causal relationship between the accepted conditions and the claimed recurrence of January 1, 1997. By letter dated January 9, 1997, appellant requested reconsideration of the December 15, 1997 decision. By decision dated April 10, 1998, the Office, after a merit review, denied appellant's claim finding that the evidence of record was insufficient to warrant modification of the prior decision.

An employee seeking benefits under the Federal Employees' Compensation Act[1] has the burden of establishing the essential elements of his or her claim, including the fact that the

[1] 5 U.S.C. §§ 8101-8193.

individual is an "employee of the United States" within the meaning of the Act, and that the claim was filed within the applicable time limitations of the Act.[2] An individual seeking disability compensation must also establish that an injury was sustained at the time, place and in the manner alleged,[3] that the injury was sustained while in the performance of duty,[4] and that the disabling condition for which compensation is claimed was caused or aggravated by the individual's employment.[5] These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or occupational disease.[6]

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 disability for which compensation is claimed is causally related to the accepted injury. This burden includes the necessity of furnishing medical evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the accepted employment injury and supports that conclusion with sound medical reasoning.[7]

In support of her recurrence of disability claim, appellant submitted a federal employees notice of recurrence of disability, Form CA-2a. Inadequate probative medical evidence was submitted in support of appellant's claim for recurrence of disability commencing January 1, 1997. Specifically, the report of Dr. Churchill was not rationalized. By letter dated September 9, 1997, the Office advised appellant of the specific type of evidence needed to establish her recurrence of disability claim, specifically, a detailed narrative medical report which included dates of examination and treatment, history given to physician by appellant, detailed description of findings, including any test results, a diagnosis and clinical course of condition and most importantly a physician's opinion, with supporting explanation, as to the causal relationship between appellant's current disability/condition and the accepted conditions. However, such evidence was not submitted. The Board finds that appellant failed to meet her burden of proof.

In summary, no medical evidence was submitted providing a rationalized medical opinion explaining how a claimed recurrence of disability commencing January 1, 1997 was causally related to appellant's accepted conditions.

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[2] *Elaine Pendleton*, 40 ECAB 1143 (1989).

[3] *Robert A. Gregory*, 40 ECAB 478 (1989).

[4] *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

[5] *Steven R. Piper*, 39 ECAB 312 (1987).

[6] *David J. Overfield*, 42 ECAB 718 (1991); *Victor J. Woodhams*, 41 ECAB 345 (1989).

[7] *Lourdes Davila*, 45 ECAB 139 (1993); *Louise G. Malloy*, 45 ECAB 613 (1994).

The decisions of the Office of Workers' Compensation Programs dated April 10, 1998 and December 15, 1997 are affirmed.[8]

Dated, Washington, D.C.
May 8, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

[8] On appeal, appellant submitted medical evidence which was not previously before the Office. The evidence is new evidence which cannot be considered by the Board. The Board's jurisdiction is limited to reviewing the evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant may resubmit this evidence to the Office, together with a formal request for reconsideration pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. § 10.606(b).