

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of BELINDA J. JEFFCOAT and DEPARTMENT OF VETERANS AFFAIRS,
OLIN E. TEAGUE VETERANS CENTER, Temple, TX

*Docket No. 99-783; Submitted on the Record;
Issued May 26, 2000*

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant met her burden of proof in establishing that she sustained a recurrence of disability, due to her August 16, 1996 employment injury, commencing September 12, 1997.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the September 8, 1998 decision of the Office of Workers' Compensation Programs' hearing representative, finalized on September 8, 1998, is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.¹

By letter dated November 2, 1998, appellant requested reconsideration of the Office's decision and submitted additional evidence consisting of a medical report from her treating physicians, Dr. Salinas, a Board-certified family practitioner, dated November 2, 1998 and from Dr. Gardon dated September 30, 1998. In his November 2, 1998, Dr. Salinas considered appellant's history of injury, the chronology of her medical treatment, the results of the March 16, 1998 magnetic resonance imaging (MRI) scan showing a T7-8 disc herniation with cord impingement, and her subsequent surgery. He stated that it "would be a severe injustice" if appellant was not compensated for missing work and her surgery.

In his September 30, 1998 report, Dr. Gardon stated:

¹ The medical reports appellant presented from her treating physicians, Dr. Gerald Salinas, a Board-certified family practitioner, dated November 10, 1997 and June 15, 1998 and Dr. Mark A. Gardon, a neurologist, dated June 5 and July 2, 1998 do not contain the requisite medical rationale establishing a causal relationship between appellant's recurrence of disability commencing September 12, 1997 and the August 6, 1996 employment injury. See *Jacquelyn L. Oliver*, 48 ECAB 232, 236 (1996). Dr. Gardon's reports were also speculative, and therefore are not probative; see *William S. Wright*, 45 ECAB 498, 504 (1994). Appellant submitted no other medical evidence addressing causation with the requisite medical rationale.

“[Appellant’s] condition causing disability on or after September 12, 1997 was unequivocally causally related to the work injury of August 1996. At that time [appellant] suffered a work-related injury while performing her duties with patient care. She developed substantial neurological changes along with severe back pain. Thoracic herniated nucleus pulposus was related to the injury sustained.”

Neither Dr. Salinas’ nor Dr. Gardon’s opinions, however, contain a rationalized medical opinion explaining how appellant’s alleged recurrence of disability commencing September 12, 1997 resulted from her August 16, 1996 employment injury.² They are therefore not probative and appellant has failed to establish her claim.

The decisions of the Office of Workers’ Compensation Programs dated November 23 and September 8, 1998 are hereby affirmed.

Dated, Washington, D.C.
May 26, 2000

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member

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