

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RONALD SUMPTER and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, Beckley, WV

*Docket No. 00-1120; Submitted on the Record;  
Issued April 26, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issues are: (1) whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability on July 12, 1999 causally related to his accepted employment injury and; (2) whether the Office of Workers' Compensation Programs properly terminated appellant's entitlement to medical benefits effective October 7, 1999.

On November 20, 1992 appellant, then a 46-year-old motor vehicle operator, sustained a traumatic injury while performing his work duties. The Office accepted appellant's claim for chest pains and a myocardial infarction. Appellant was released to light duty on February 16, 1993, although he had residuals and continued to receive medical benefits.

On July 14, 1999 appellant filed a notice of recurrence of disability (Form CA-2a) alleging that he sustained a recurrence of disability on July 12, 1999, causally related to his November 20, 1992 injury. Appellant explained that he was lying in bed on July 12, 1999, when his chest began to hurt. He stated that the chest pain subsided after taking medication; however, he still felt tightness in his chest and leg pain. Appellant did not return to work after the July 12, 1999 incident until July 20, 1999.

In support of his claim, appellant submitted an admission and discharge report dated July 12 and 16, 1999 from the Veterans Administration (VA) Medical Center, which indicated that he was admitted for chest pain from July 12 through 14, 1999. In the admission report dated July 12, 1999, a physician's assistant indicated that appellant's chest pain began around four o'clock in the morning on July 12, 1999. During evaluation, appellant reported his medical history, including coronary artery disease and remote myocardial infarction, and noted that he had previously sustained an injury to his lower back from a fall. In the discharge report dated July 16, 1999, Dr. Aye-Aye Cheah, appellant's attending physician, reported that appellant had no further chest pain and could return to work on July 20, 1999.

On August 26, 1999 the Office requested additional information from appellant, including a comprehensive medical report explaining his current condition and diagnosis and how it related to the November 20, 1992 injury. Appellant submitted no further information to the Office.

By decision dated October 7, 1999, the Office denied appellant's recurrence of disability claim, finding that the record failed to contain any rationalized medical evidence indicating that appellant's current condition resulted from the original work injury of November 20, 1992. The Office noted that it provided appellant an opportunity to submit additional evidence supportive of his claim; however, no further evidence was received. The Office therefore terminated appellant's compensation benefits effective October 7, 1999.

The Board initially finds that appellant did not submit sufficient evidence to sustain his burden of proving a recurrence of disability on July 12, 1999, causally related to his accepted employment injury.

When an employee, who is disabled from the job he held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.<sup>1</sup> Furthermore, 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 July 12, 1999 and his November 20, 1992 employment injury.<sup>2</sup> 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.<sup>3</sup>

In the present case, appellant sustained chest pain and myocardial infarction on November 20, 1992, following which he resumed light-duty employment on February 16, 1993 until July 12, 1999. Appellant thereafter filed a claim for a recurrence of disability on July 14, 1999, which he attributed to his November 20, 1992 employment injury. Appellant did not return to the light-duty position until July 20, 1999. There is no evidence in the record that appellant's light-duty job requirements changed after he resumed work on February 16, 1993. Further, appellant indicated on his recurrence of disability claim form that his light-duty position did not require heavy lifting or anything that might make his chest hurt.

Appellant has submitted medical evidence in an effort to establish a change in the nature and extent of his condition. The Office received an admission and discharge report, which

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<sup>1</sup> *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>2</sup> *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

<sup>3</sup> See *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

indicated that appellant was admitted to the VA Medical Center from July 12 through 14, 1999 with mid-sternal chest pain and that he could not return to work until July 20, 1999. These reports do not mention the accepted employment injury of chest pain and myocardial infarction, which occurred on November 20, 1992 or include a reasoned explanation regarding the relationship between appellant's chest pain on July 12, 1999 and his accepted employment injury. On August 26, 1999 the Office advised appellant that the medical evidence was deficient and requested additional evidence which supported his claim; however, no further evidence was received. Inasmuch as the evidence of record failed to establish that appellant sustained a recurrence of disability on July 12, 1999, causally related to the accepted work injury, appellant failed to meet his burden of proof.

The Board further finds that the Office failed to meet its burden of proof in terminating appellant's entitlement to medical benefits effective October 7, 1999.

Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.<sup>4</sup> The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.<sup>5</sup> The Office's burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.<sup>6</sup>

At the time appellant filed for a recurrence of disability on July 14, 1999, he was receiving medical benefits based on his accepted myocardial infarction and residuals. As a result, the Office had the burden to terminate medical benefits. In this case, the Office produced no evidence showing that residuals from the accepted myocardial infarction had ceased. Therefore, the Office failed to meet its burden of proof in terminating appellant's medical benefits effective October 7, 1999.

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<sup>4</sup> *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

<sup>5</sup> *Id.*

<sup>6</sup> See *Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

The decision of the Office of Workers' Compensation Programs dated October 7, 1999 is affirmed in part on the denial of a recurrence of disability and reversed in part on the termination of medical benefits effective October 7, 1999.

Dated, Washington, DC  
April 26, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

Bradley T. Knott  
Alternate Member