

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FRANK HOLLIS and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Memphis, TN

*Docket No. 00-1794; Submitted on the Record;
Issued April 3, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he sustained a recurrence of disability beginning on or after February 26, 1998 causally related to his May 26, 1997 employment injury.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet his burden of proof to establish that he sustained a recurrence of disability beginning on or after February 26, 1998 causally related to his May 26, 1997 employment injury.

On May 26, 1997 appellant, then a 33-year-old housekeeping aide, filed a traumatic injury claim (Form CA-1) assigned number 06-0682831 alleging that on that date he injured his back, buttocks and head when he slipped and fell while stripping floors.

By letter dated September 4, 1997, the Office of Workers' Compensation Programs accepted appellant's claim for a lumbosacral strain/sprain.¹

On September 10, 1997 appellant filed a claim for an occupational disease (Form CA-2) assigned number 06-0693540 alleging that he sustained a right knee injury causally related to factors of his employment. By letter dated March 27, 1998, the Office accepted appellant's claim for a right knee strain.²

On March 30, 1998 appellant filed a claim (Form CA-2a) alleging that on February 26, 1998 he sustained a recurrence of disability of his May 26, 1997 employment injury.

¹ The Board notes that appellant did not work from May 27 through June 10, 1997 when he returned to light-duty work until June 23, 1997. Subsequently, appellant was released and returned to full-time regular-duty work.

² The Office consolidated appellant's claims assigned number 06-862831 and 06-693540 into a master file assigned number A6-693540.

By decision dated April 29, 1999, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability on or after February 26, 1998 causally related to the accepted May 26, 1997 employment injury. In a May 21, 1999 letter, appellant requested an oral hearing before an Office representative.

In a February 4, 2000 decision, the hearing representative affirmed the Office's decision.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires 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 the employment injury and who supports that conclusion with sound medical reasoning.³

In this case, appellant has not submitted rationalized medical evidence establishing that his current back condition was caused by the accepted May 26, 1997 employment injury. The only medical evidence of record, which addressed a causal relationship between appellant's current back condition and his accepted employment injury is a June 2, 1998 medical report of Dr. R. Jeffrey Cole, an orthopedic surgeon. In this report, Dr. Cole indicated that appellant provided a history of his May 26, 1997 employment-related back injury, a milder injury that occurred prior to May 26, 1997 and his September 1997 employment-related knee injury. He further noted a worsening of appellant's back condition after his knee injury. Dr. Cole opined that "I do not feel that his knee injury 'caused' his low back injury in that this predated the knee injury as stated, however, secondary to altered gait mechanics, he certainly may have had an exacerbation of his low back pain directly related to his knee injury." The Board has held that, while the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty,⁴ neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.⁵ Inasmuch as Dr. Cole's opinion is speculative as to the relationship between appellant's current back condition and his May 26, 1997 employment injury and he failed to provide any medical rationale supportive of his opinion, it is of limited probative value.⁶

³ *Louise G. Malloy*, 45 ECAB 613 (1994); *Lourdes Davila*, 45 ECAB 139 (1993); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

⁴ *See Kenneth J. Deerman*, 34 ECAB 641 (1983).

⁵ *Phillip J. Deroo*, 39 ECAB 1294 (1988); *Margaret A. Donnelly*, 15 ECAB 40 (1963); *Morris Scanlon*, 11 ECAB 384 (1960).

⁶ *See Jennifer Beville*, 33 ECAB 1970 (1982); *Leonard J. O'Keefe*, 14 ECAB 42 (1962).

Because appellant has failed to submit rationalized medical evidence establishing that his current back condition was causally related to his accepted May 26, 1997 employment injury, the Board finds that appellant has not satisfied his burden of proof.

The February 4, 2000 decision of the Office of Workers' Compensation Programs' hearing representative is hereby affirmed.

Dated, Washington, DC
April 3, 2001

Michael J. Walsh
Chairman

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member