

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of AUDREY L. WATKINS and DEPARTMENT OF THE TREASURY,  
INTERNAL REVENUE SERVICE, Fresno, CA

*Docket No. 00-401; Submitted on the Record;  
Issued February 14, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

The issue is whether appellant met her burden of proof to establish that she sustained a recurrence of disability on May 8, 1998 causally related to her June 13, 1989 employment injury.

On June 13, 1989 appellant, then a 39-year-old seasonal file clerk, sustained a cervical strain when she stretched up and "pulled" her neck and back muscles while working with 35- to 40-pound boxes. She stopped work on June 16 and returned on July 3, 1989. Appellant again stopped work on December 1, 1989 and returned to light duty on February 26, 1990.

In a memorandum dated October 28, 1998, the Office of Workers' Compensation Programs noted that appellant inquired about continued compensation and medical benefits for her June 13, 1989 employment injury. The Office also noted that it would provide her with a recurrence of disability claim (Form CA-2a).

By letter dated October 28, 1998, the Office advised appellant of the type of information necessary to establish a recurrence of disability claim and enclosed a notice of recurrence claim form.

On November 16, 1998 appellant filed a recurrence of disability claim alleging that on May 8, 1998 she sustained neck and back soreness and developed sleep problems causally related to her June 13, 1989 employment injury. On the claim form, she stated: "I did not have any neck or back problems until I fell at work." Appellant did not stop work.

To support her recurrence claim, appellant submitted a March 9, 1999 report in which Dr. Donn R. Cobb, an occupational health specialist, noted his examination findings and appellant's subjective complaints. Dr. Cobb stated that, during his May 8, 1998 examination, appellant reported that she developed severe neck and back pain in March 1998 after sitting in front of her computer all day, using a telephone headset, lifting and reading manuals.

Dr. Cobb noted moderate bilateral thoracic tenderness over the rhomboid area, a 10 percent reduced range of motion of the cervical spine due to pain and stiffness, and slightly reduced thoracic range of motion with bilateral paraspinal stiffness and tenderness. He further noted that x-rays revealed degenerative changes from C4 downward and that a magnetic resonance imaging (MRI) scan revealed C4-5 central disc protrusion producing moderate central canal stenosis and mild right neural foraminal stenosis.

Dr. Cobb stated that when he examined appellant on December 17, 1998 she reported she “was having much less pain.” He stated: “[Appellant] did not return for [her] follow-up examination so I must presume that she is at least at preinjury status. I have not seen her since that time and have no idea of her continuing condition.”

On November 16, 1998 appellant submitted answers to written questions posed by the Office, describing her job duties, medical treatment and symptoms. She stated that her neck pain had worsened but she did not know the cause.

By decision dated July 29, 1999, the Office denied appellant’s recurrence claim on the grounds that the medical evidence of record was insufficient to establish that she sustained a recurrence of disability causally related to her June 13, 1989 employment injury. The Office noted that Dr. Cobb’s March 9, 1999 report indicated that appellant attributed her condition to sitting all day using a telephone headset and advised her to submit a notice of occupational disease.

The Board finds that appellant has not met her burden of proof to establish that she sustained a recurrence of disability on May 8, 1998 causally related to her June 13, 1989 employment injury.

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that she 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 she 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 job requirements.<sup>1</sup>

As part of this burden, the claimant must present rationalized medical opinion evidence, based upon a complete and accurate factual and medical background, establishing causal relationship.<sup>2</sup> Thus, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.<sup>3</sup> In this regard, medical

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<sup>1</sup> *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Terry Hedman*, 38 ECAB 222, 227 (1986).

<sup>2</sup> *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

<sup>3</sup> *Lourdes Davila*, 45 ECAB 139, 142 (1993).

evidence of bridging symptoms between the alleged recurrence and the accepted injury must support the physician's conclusion of a causal relationship.<sup>4</sup>

In this case, appellant has not shown a change in the nature and extent of her modified-duty job requirements; nor has she submitted sufficient medical evidence to show a change in the nature and extent of her employment-related cervical condition. Dr. Cobb's March 9, 1999 report merely contained his examination notes and appellant's complaints and did not include a rationalized medical opinion relating her condition to her June 13, 1989 employment injury. Although he found that appellant's x-rays revealed degenerative changes from C4 downward and an MRI scan showed C4-5 central disc protrusion with moderate central canal stenosis and mild right neural foraminal stenosis, he did not render an opinion relating his findings to appellant's June 13, 1989 employment injury. Moreover, Dr. Cobb stated that he presumed that appellant's condition was at "preinjury" status and that he had "no idea of her continuing condition." The record contains no other relevant medical evidence that would connect appellant's June 13, 1989 employment injury with the alleged recurrence of disability in 1998.

The July 29, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
February 14, 2001

Michael J. Walsh  
Chairman

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>4</sup> *Leslie S. Pope*, 37 ECAB 798, 802 (1986).