

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT N. CANTU and DEPARTMENT OF THE ARMY,
BROOKE MEDICAL CENTER, Fort Sam Houston, TX

*Docket No. 99-1232; Submitted on the Record;
Issued February 12, 2001*

DECISION and ORDER

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

The issue is whether appellant sustained a recurrence of disability on July 23, 1998 due to his July 18, 1978 employment injury, a neck sprain.

On July 19, 1978 appellant, then 32-year-old pulmonary function technician, filed a notice of traumatic injury, alleging that he strained his neck while instructing a patient on the proper procedure for performing a pulmonary function test. The Office of Workers' Compensation Programs accepted that appellant sustained a neck strain and paid appropriate compensation. Appellant underwent an anterior fusion at level C6-7 with an iliac crest bone graft on November 10, 1980, which was accepted as a consequential injury.

Appellant stopped work on July 18, 1978 and returned on July 21, 1978. Appellant worked intermittently until October 21, 1982 when he stopped work due to a permanent disability resulting from his accepted work injury. Appellant was reemployed as a personnel clerk on regular duty effective July 16, 1991 and worked until July 23, 1998 when he stopped work and did not return.

On September 25, 1998 appellant filed a notice of recurrence of disability, stating that his neck and arm pain had continued since the employment-related injury of July 18, 1978.

By letter dated October 19, 1998, the Office advised appellant of the type of medical evidence needed to establish his claim.

In support of his claim for recurrence, appellant submitted medical reports prepared by Dr. Salvador P. Baylan, Board-certified in physical medicine and rehabilitation, who, in a report dated April 29, 1997, indicated that appellant was diagnosed with chronic cervical pain and radiculopathy, status post discectomy with fusion, which appellant attributed to a work-related injury. Appellant suffered from cervico-dorsal pain and spasms. Dr. Baylan noted an

electromyogram (EMG) in 1993 revealed a C5-6 nerve root irritation with chronic C6-7 radiculopathy. He indicated that appellant was totally disabled.

Dr. Baylan's report, dated October 2, 1998, provided a diagnosis of chronic benign intractable pain in the neck and upper extremities. Dr. Baylan indicated that appellant was totally disabled. Dr. Baylan's report dated October 26, 1998 again indicated that appellant was totally disabled and noted that appellant continued to work after his incident but that his condition had not resolved.

In his report dated November 2, 1998, Dr. Baylan stated that appellant was experiencing numbness in both arms and recommended an EMG and a nerve conduction and velocity test. Dr. Baylan diagnosed chronic cervical pain with radiculopathy, status post diskectomy and fusion twice. He indicated with a checkmark "yes" that appellant's condition was caused or aggravated by his employment activity and noted appellant's frequent movements of his neck at work, including lifting, bending and stooping. Dr. Baylan also remarked that appellant was experiencing worsening of symptoms of pain, numbness and tingling.

In his statement dated October 26, 1998, appellant indicated that he was not working in a light-duty capacity at the time of the recurrence. He also noted that he was required to wear a 50-pound apron for two or more hours a day, which contributed to his recurrence of disability.

In a decision dated November 30, 1998, the Office denied appellant's claim on the grounds that he did not submit sufficient medical evidence to establish that he sustained a recurrence of disability on July 23, 1998 which was causally related to the accepted employment injury on July 18, 1978.

The Board finds that appellant failed to establish that he sustained a recurrence of disability on July 23, 1998 as a result of his July 18, 1978 employment injury.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.¹ This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury.² Moreover, the physician's conclusion must be supported by sound medical reasoning.³

¹ *Robert H. St. Onge*, 43 ECAB 1169 (1992).

² Section 10.121(b) of the Code of Federal Regulations provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a detailed medical report. The physician's report should include the dates of examination and treatment, the history given by the employee, the findings, the results of x-ray and laboratory tests, the diagnosis, the course of treatment, the physician's opinion with medical reasons regarding the causal relationship between the employee's condition and the original injury, any work limitations or restrictions and the prognosis. 20 C.F.R. § 10.121(b).

³ See *Robert H. St. Onge*, *supra* note 1.

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.⁴ In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.⁵ While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.⁶

The medical record in this case lacks a well-reasoned opinion from appellant's physician relating appellant's claimed disability beginning July 23, 1998 to the July 18, 1978 employment injury. In his October 2, 1998 report, Dr. Baylan diagnosed chronic, benign, intractable pain in the neck and upper extremities. He provided no rationale for a causal relationship between appellant's July 18, 1978 employment injury and his chronic pain other than the statement that appellant's condition was a recurrence of his previous complaints. Further, Dr. Baylan does not support his conclusions with objective findings. There are no current diagnostic tests in the record.⁷

The only report supporting a causal relationship between appellant's employment and his diagnosed condition is the attending physician's report dated September 28, 1998, in which Dr. Baylan diagnosed chronic cervical pain with radiculopathy, status post diskectomy and fusion twice and indicated with a checkmark "yes" that appellant's condition was caused or aggravated by an employment activity. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's condition was related to the history given is of little probative value.

Although he noted appellant's "frequent movements of neck at work including lifting, bending and stooping," Dr. Baylan did not explain how lifting, bending or stooping would cause a recurrence of disability attributable to the 1978 work injury. Without any explanation or rationale for the conclusion reached, such a report is insufficient to establish causal relationship⁸ and, therefore, is insufficient to meet appellant's burden of proof.

The remainder of the medical evidence, including Dr. Baylan's October 2 and 26 and November 2, 1998 reports, fails to support that appellant sustained a recurrence of disability beginning July 23, 1998 attributable to the July 18, 1978 injury. For these reasons, appellant has

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁵ For the importance of bridging information in establishing a claim for a recurrence of disability, see *Robert H. St. Onge*, *supra* note 1; *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 748 (1986).

⁶ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ In a telephone conversation dated November 24, 1998, the Office authorized Dr. Baylan to refer appellant for physical therapy and requested that Dr. Baylan submit any additional diagnostic tests appellant had undergone. No additional evidence was submitted.

⁸ *Lucrecia M. Nielson*, 42 ECAB 583, 594 (1991).

not met his burden of proof in establishing that he sustained a recurrence of disability or a medical condition beginning July 23, 1998 causally related to his accepted July 18, 1978 employment injury.⁹

The November 30, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
February 12, 2001

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member

⁹ With his request for an appeal, appellant submitted additional evidence. However, the Board may not consider new evidence on appeal; *see* 20 C.F.R. § 501.2(c).