

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANNA K. BITZELBERGER and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Gulfport, MS

*Docket No. 00-1363; Submitted on the Record;
Issued July 18, 2001*

DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,
PRISCILLA ANNE SCHWAB

The issue is whether appellant sustained a recurrence of disability on July 14, 1999 causally related to her August 18, 1996 accepted injury.

The Board has duly reviewed the case record on appeal and finds that appellant has not met her burden of proof in establishing that she sustained a recurrence of disability.

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which compensation is claimed is causally related to the accepted injury.¹ 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 the employment injury and supports that conclusion with sound medical rationale.² Where no such rationale is present, medical evidence is of diminished probative value.³

In this case, the Office of Workers' Compensation Programs accepted appellant's claim for injuries to her right jaw, right ear, left scapula, and left knee, and paid appropriate benefits.

On August 9, 1999 appellant filed a claim for recurrence of disability alleging that she had an increase in her head and knee pain, and had received treatment for a sleeping disorder as a result of her work-related injury. Appellant noted that her work-related injuries had not properly resolved. By decision dated November 11, 1999, the Office denied appellant's claim finding that

¹ *Carolyn F. Allen*, 47 ECAB 240 (1995); *Jose Hernandez*, 47 ECAB 288 (1966); *Alfredo Rodriguez*, 47 ECAB 437 (1996).

² *Id.*

³ *Lucrecia M. Nielsen*, 42 ECAB 583 (1991).

she had failed to establish a causal relationship between her accepted injuries and her current condition.

In support of her claim for recurrence of disability, appellant submitted an attending physician's report dated September 7, 1999 from Dr. Mary Rosenguist, appellant's treating osteopath. In that report, she noted that she had examined appellant on July 15, 1999 and found that she had left knee pain and was disabled from July 14 to 25, 1999 as a result of her condition. Dr. Rosenguist stated that she was unable to evaluate whether appellant's condition was caused by her employment.

This report is not sufficient to meet appellant's burden of proof because Dr. Rosenguist did not support her opinion with a rationalized medical opinion establishing a causal relationship between appellant's current condition and her employment-related injuries. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.

An award of compensation may not be based on surmise, conjecture or speculation or upon appellant's belief that there is a causal relationship between her condition and her employment. To establish causal relationship, appellant must submit a physician's report in which the physician reviews the factors of employment identified by appellant as causing her condition and, taking these factors into consideration as well as findings upon examination of appellant and appellant's medical history, states whether these employment factors caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his or her opinion. Appellant failed to submit such evidence and therefore failed to meet her burden of proof.

The November 11, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 18, 2001

David S. Gerson
Member

Bradley T. Knott
Alternate Member

Priscilla Anne Schwab
Alternate Member