

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CATHY L. BECK and U.S. POSTAL SERVICE,
POST OFFICE, St. Louis, MO

*Docket No. 00-1699; Submitted on the Record;
Issued June 7, 2001*

DECISION and ORDER

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

The issues are: (1) whether appellant has established entitlement to compensation for intermittent periods of disability between December 14, 1998 and April 22, 1999 causally related to her August 27, 1998 employment injury; and (2) whether the Office of Workers' Compensation Programs, in its July 23, 1999 decision, properly found that appellant had no further disability causally related to her August 27, 1998 employment injury.

The Office accepted that on August 27, 1998 appellant, then a 38-year-old clerk, sustained lumbar strain in the performance of duty. Appellant returned to work with restrictions on October 28, 1998. She filed claims for compensation on account of disability (Form CA-8), requesting compensation for temporary total disability from December 24 through 27, 1998, January 1 through 31, March 17 through 26, April 10 through 11 and 17 through 22, 1999.

By letter dated April 2, 1999, the Office informed appellant that compensation was only payable for the period March 17 through 24 and 26, 1999 when she was in a work hardening program. The Office notified appellant that she needed to submit rationalized medical evidence establishing that she was unable to work for the remaining periods in question.

In a subsequent letter dated May 13, 1999, the Office again informed appellant of the need for rationalized medical evidence in support of her claimed periods of disability. In another letter of the same date, the Office referred appellant, together with the case record and a statement of accepted facts, to Dr. Russell Cantrell, a Board-certified psychiatrist, for a second opinion evaluation.

By decision dated July 23, 1999, the Office denied appellant's claim for intermittent episodes of temporary total disability between December 24, 1998 and April 22, 1999. The Office also found that the report of Dr. Cantrell established that she had no further disability causally related to her accepted employment injury.

The Board finds that appellant has not established entitlement to compensation for intermittent periods of disability between December 14, 1998 and April 22, 1999 causally related to her August 27, 1998 employment injury.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.²

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between her current condition and the employment injury. The medical opinion must be based on complete factual and medical backgrounds with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.³

In a report dated January 5, 1999, Dr. Heidi Prather, an osteopath and attending physician, discussed appellant's history of an employment injury in August 1998, reviewed the results of objective studies and diagnosed degenerative disc disease of the lumbar spine with a mild central disc protrusion at L5-S1 and a history of facet fusion and arthropathy. She recommended a bone scan and found that appellant should remain on light duty with restrictions.⁴ As Dr. Prather did not find appellant disabled from employment, her report is insufficient to establish appellant's claim for compensation.

In a form report dated January 28, 1999, Dr. Carl Laurysen, a Board-certified neurosurgeon and attending physician, diagnosed degenerative disc disease and found that appellant was totally disabled from December 23, 1998 to January 3, 1999. He checked "yes" that the condition was caused or aggravated by employment and indicated "possibly" in the space provided on the form for explanations of causation findings. A medical report which checks a box on a form report "yes" with regard to whether a condition is employment related, is of diminished probative value without further detail and explanation.⁵ In this case, Dr. Laurysen's finding that appellant's diagnosed condition of degenerative disc disease is "possibly" related to her employment is speculative in nature and thus insufficient to meet appellant's burden of proof.⁶

¹ 5 U.S.C. §§ 8101-8193.

² *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

⁴ A bone scan dated January 11, 1999 revealed "increased uptake in the L5 pars consistent with stress injury, as described."

⁵ *Lester Covington*, 47 ECAB 539 (1996).

⁶ *Jennifer L. Sharp*, 48 ECAB 209 (1996).

In an office visit note dated February 2, 1999, Dr. Prather diagnosed lumbar degenerative disc disease with an L5 pars defect. She recommended work hardening and a functional capacity evaluation. In a form report of the same date, Dr. Prather diagnosed an L5 pars defect by bone scan and lumbar degenerative disc disease by magnetic resonance imaging study. She found that appellant was totally disabled from January 13 through February 2, 1999 and checked “yes” that the condition was caused or aggravated by employment. The Board has held, however, that the checking of the box “yes” that the condition was caused or aggravated by employment is insufficient, without further explanation or rationale, to establish causal relationship.⁷

In a work restriction evaluation dated April 8, 1999, Dr. Prather found that appellant could work for eight hours per day with restrictions. As she did not find appellant disabled from her limited-duty employment, Dr. Prather’s opinion is not sufficient to establish appellant’s claim for wage-loss compensation.

The Board further finds that the Office properly found that appellant had no further disability causally related to her August 27, 1998 employment injury.

Once the Office has accepted a claim, it has the burden of justifying termination or modification of compensation benefits.⁸ The Office may not terminate compensation without establishing that the disability ceased or that it was no longer related to the employment.⁹ The Office’s burden of proof includes the necessity of furnishing rationalized medical opinion evidence based on a proper factual and medical background.¹⁰

In this case, the Office referred appellant to Dr. Cantrell, a Board-certified physiatrist, for a second opinion evaluation. In a report dated June 1, 1999, he discussed appellant’s history of injury and complaints of pain. Dr. Cantrell listed findings on examination, reviewed the medical evidence of record and stated:

“At this time [appellant] presents with complaints of localized lumbosacral back pain with evidence of increased uptake on her previous SPECT bone scan to suggest a bony reparative process at the L5 pars interarticularis, right greater than left. This is consistent with her localized pain complaints and her exacerbation of symptoms with lumbar extension.

“I would not expect that the injury she described could have resulted in an acute pars interarticularis fracture, although the repetitive nature of her bending and lifting may have resulted in a stress fracture to this region. I would not expect increased uptake on the bone scan in the pars interarticularis region with a congenital spondylolysis defect and would, therefore, anticipate that the correlation of her subjective pain complaints alone with this bone scan would

⁷ *Barbara J. Williams*, 40 ECAB 649 (1989).

⁸ *Charles E. Minniss*, 40 ECAB 708, 716 (1989); *Vivien L. Minor*, 37 ECAB 541, 546 (1986).

⁹ *Id.*

¹⁰ *See Del K. Rykert*, 40 ECAB 284, 295-96 (1988).

suggest either a preexisting pars interarticularis defect that has been exacerbated by the injury or by a pars stress fracture associated with repetitive bending and lifting.”

Dr. Cantrell recommended a computerized tomography (CT) scan be obtained and found that appellant could perform limited-duty activities pending the results.

A CT scan of the lumbar spine, obtained on June 10, 1999, revealed “[s]evere osteoarthritis of the facet joints bilaterally, right greater than left” and “[s]clerosis of the pars interarticularis of L5, without evidence for a pars defect/lysis.”

In a supplemental report dated June 14, 1999, Dr. Cantrell reviewed the results of the CT scan and opined that appellant could resume her regular employment duties without restrictions. He opined that appellant’s complaints of continued pain may be due to her degenerative facet joint disease and that the sclerotic changes on the CT scan “may represent a healed stress fracture in the pars interarticularis, but in the absence of any defect, I do not see any reason to continue restricting her overall activity secondary to her work[-]related injury.”

In an additional report dated June 22, 1999, Dr. Cantrell noted that he had reviewed appellant’s June 10, 1999 CT scan. Dr. Cantrell stated:

“Based on review of these additional medical records and the results of this study, it is my opinion within a reasonable degree of medical certainty that the most likely etiology for her abnormal uptake on the bone scan is localized facet joint osteoarthritis at the L4-5 and L5-S1 levels. She may have developed a stress fracture at the pars interarticularis, but according to the CT scan, this appears to be healed. It is my opinion within a reasonable degree of medical certainty that [appellant] could resume her regular job duties without restrictions, although according to her, her subjective pain complaints when sitting can be minimized with the use of a straight back chair. I would suggest that this be provided for her if at all possible. It is my opinion within a reasonable degree of medical certainty that she has reached maximum medical improvement. No further follow-up has been scheduled. It is my opinion within a reasonable degree of medical certainty that she has a 10 percent partial disability of the person as a whole, 5 percent of which is secondary to her reported work injury that, based upon the description of the injury, is consistent with an acute lumbar strain injury. The other 5 percent would, in my opinion, be secondary to preexisting degenerative changes of the facet joints at L4-5 and L5-S1 and underlying degenerative disc disease.”

The Board has carefully reviewed the opinion of Dr. Cantrell and finds that it constitutes the weight of the evidence on the issue of whether appellant has any further disability from employment effective July 23, 1999 causally related to her August 27, 1998 injury. He based his opinion on his findings on examination of appellant, a thorough review of the medical reports of record and the results of objective tests. Dr. Cantrell provided a proper analysis of the results of objective testing and reached conclusions regarding appellant’s condition which comported with

this analysis.¹¹ He opined that appellant could resume her regular employment without restrictions.¹² In letters dated June 29, 1999, the Office requested that Drs. Prather and Laurysen review and comment on Dr. Cantrell's reports and the CT scan and provide an opinion regarding whether appellant's lumbar strain had resolved and whether she could resume her regular employment. Dr. Prather did not respond within the allotted time. In a letter dated July 15, 1999, a nurse with Dr. Laurysen's office indicated that he did not perform disability assessments. Accordingly, the Office properly found that Dr. Cantrell's report represented the weight of the medical evidence and established that appellant was no longer disabled from her regular employment due to her August 27, 1998 employment injury.

The July 23, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
June 7, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

¹¹ See *Melvina Jackson*, 38 ECAB 443 (1987).

¹² The Boards notes that Dr. Cantrell did not find that appellant had no further residuals due to her accepted injury of lumbar strain and that her claim remains open for medical treatment.