

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of LOUANN DIERFIELD and U.S. POSTAL SERVICE,  
POST OFFICE, Warrendale, PA

*Docket No. 00-2123; Submitted on the Record;  
Issued June 11, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether appellant met her burden of proof in establishing a recurrence of disability from April 17 to September 11, 1998 causally related to her accepted injury of August 30, 1996.

On August 31, 1996 appellant, then a 29-year-old mailhandler, filed a traumatic injury claim alleging that on August 30, 1996 she injured her back while dumping sacks of mail in the bundle sorter. The Office of Workers' Compensation Programs accepted the claim for strain of the lumbar region. Appellant stopped work on August 31, 1996, returned to temporary light duty on or about September 2, 1996 and returned to full duty approximately October 24, 1996.

On June 17, 1997 appellant filed a notice of recurrence of disability alleging that she became disabled on or about February 13, 1997 due to the injury of August 30, 1996. She stopped work in February 1997 and returned to temporary light duty on or about April 16, 1997.<sup>1</sup>

By decision dated September 9, 1997, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that her current condition was caused by the injury of August 30, 1996.

On April 17, 1998 appellant again stopped work. She filed a notice of recurrence of disability on September 25, 1998 alleging that her disability from April 17 to September 11, 1998 was related to the injury of August 30, 1996. Appellant alleged that, although she had been restricted to light duty, she performed regular duties on April 17, 1998 including lifting up to 60 pounds and reinjured or aggravated the original injury.

In support of her claim, appellant submitted medical evidence from Dr. Robert Vandrak, an osteopath. In a September 9, 1998 report, he discussed appellant's complaints of increased

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<sup>1</sup> Appellant then stopped work again sometime in May 1997 and returned to part-time light duty in July 1997.

low back pain, light-duty status; and a previous magnetic resonance imaging (MRI) scan performed February 21, 1997, which showed an asymmetrical protrusion at L5-S1 disc into the floor of the left neural foramen. He diagnosed the etiology of disc protrusion at L5-S1 status post work injury on August 30, 1996, with progression of symptomatology, based on increased activity level. In his December 7, 1998 report, Dr. Vandrak stated:

“Stable left L5-S1 radiculopathy, secondary to work injury in 1997, reoccurrence (sic), as well as noted reoccurrence (sic) by [appellant] on April 17, 1998 with details presented today whereby she had increased complaints of pain in the low back similar to the complaints in February of 1997. Her initial work injury was August 30, 1996 at which time she did have a bulging disc at L4-5 and L5-S1, lumbar sprain/strain.”

By decision dated January 4 1999, the Office denied appellant’s recurrence of disability claim on the grounds that the evidence of record was insufficient to establish that the claimed recurrence of disability on April 17, 1998 was related to the August 30, 1996 work injury.

In a letter dated January 15, 1999, appellant requested an oral hearing, which was held on September 29, 1999. She testified that she had experienced pain since the original injury but that in November or December 1997, her condition had improved such that she was able to tolerate a higher level of job activity. Appellant testified that on April 17, 1998 she experienced a change in her work duties and after performing heavy lifting, she felt severe pain.

Appellant submitted a note from Dr. Steven Gabriel, an attending physician, dated December 18, 1998, in which he stated that appellant presented on April 21, 1998 with a flare-up of her previous back injury she suffered at work and that appellant had been treated by him on several occasions. Dr. Gabriel did not address appellant’s disability for work.

In a note dated September 23, 1999, Dr. Gabriel stated that appellant sustained a job-related injury on April 17, 1998 with low back pain and sciatica and opined that the injury was clearly related to the original injury in August 30, 1996.

Appellant submitted another report from Dr. Vandrak dated October 15, 1999, in which he reiterated the facts surrounding the original work injury and that appellant had a noted recurrence on April 17, 1998 related to the original work injury. He also stated that appellant had since been treated on a regular basis for intermittent complaints of low back pain and radicular symptoms down into the left leg consistent with a disc injury at L5-S1, with associated left L5-S1 radiculopathy. Dr. Vandrak further reported that appellant had returned to work with improved low back pain and radicular symptoms, however upon returning, her symptoms had increased. He further stated:

“In conclusion, I feel that the initial injury occurred on August 30, 1996. Since that time, [appellant] had reoccurrences (sic) ... all of which present with complaints of low back pain with radicular symptoms into the left leg with spasm due to the patient’s inability to perform the activities that are required of her at work, especially the repetitive activities with increasing complaints due to prolonged standing.”

By decision dated March 2, 2000, the Office hearing representative found that insufficient medical evidence was submitted to support appellant's claim that her disability commencing April 17, 1998 was causally related to the August 30, 1996 injury.

On May 2, 2000 appellant through counsel requested reconsideration and submitted new evidence.

Appellant submitted a letter from Dr. Vandrak dated March 21, 2000, in which he stated that there was clear evidence in the medical record to support the fact that appellant injured her back August 30, 1996 with subsequent recurrences in February 1997 and April 1998. Dr. Vandrak restated that, since his initial evaluation on September 9, 1998, appellant had persistent back pain and her radicular symptoms were intermittent in nature as related to her work activities. He noted that appellant continued to work at some level; however, trying to return to her previous position caused increased complaints of low back pain and radicular pain of the left leg with weakness. Dr. Vandrak stated:

“[T]here is a very obvious causal relationship between the injury occurring August 30, 1996 and [her] present complaints. As reflected in the record, only until [she] complained that she was n[o]t able to return to full duty was a[n] MRI of the lumbar spine performed, which was done in February 1997 which did show an abnormality. Dr. Gabriel's notes clearly reflect persistent complaints of low back pain with radiculopathy. In conclusion, I feel that there is objective clinical evidence coupled with objective diagnostic studies to state that [appellant's] continuing to work exacerbated her underlying condition to the point where she became incapable of performing her regular job duties.”

By decision dated May 25, 2000, the Office denied modification of its prior decisions.

The Board finds that appellant did not establish that she sustained a recurrence of disability on April 17, 1998 causally related to her accepted 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 shows 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>2</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>3</sup>

In this case, appellant sustained an injury on August 30, 1996, accepted for a lumbar strain. She returned to a part-time position with restrictions on heavy lifting. Appellant alleged

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<sup>2</sup> *Cynthia M. Judd*, 42 ECAB 246, 250 (1990); *Terry Hedman*, 38 ECAB 222, 227 (1986).

<sup>3</sup> *Brian E. Flescher*, 40 ECAB 532, 536 (1989); *Ronald K. White*, 37 ECAB 176, 178 (1985).

that on April 17, 1998 she began lifting up to 60 pounds and that her lower back pain returned and then worsened. However, there is insufficient evidence of record to establish that appellant's light-duty job requirements had changed or that she was performing work that did not comply with her physical limitation. Appellant has not established a change in the nature of her light-duty requirements.

The medical evidence of record is devoid of rationalized medical opinion evidence explaining how appellant's recurrence of disability in 1998 relates to her lumbar strain sustained August 30, 1996.

Appellant submitted reports from Dr. Gabriel who noted only that she sustained a job-related injury on April 17, 1998 with low back pain and sciatica, which was clearly related to the original injury in August 30, 1996. His reports, however, do not provide a rationalized opinion, based upon a complete and accurate factual and medical background, establishing causal relationship. Dr. Gabriel's opinion is not clear as to whether appellant sustained a new injury on April 17, 1998. His report fails to provide a reasoned explanation of how appellant's 1996 injury caused or contributed to her disability commencing April 17, 1998.

Appellant also submitted medical reports from Dr. Vandrak, an osteopath, who did not provide a rationalized medical opinion establishing a causal relationship between appellant's disability on or after April 17, 1998 and her accepted 1996 lumbar strain injury. In his reports dated December 7, 1998 and January 4, 1999, Dr. Vandrak merely noted that appellant had a recurrence on April 17, 1998 of increased complaints of low back pain similar to her complaints in February 1997 and the initial work injury of August 30, 1996. He did not address her claimed period of disability. In his report dated October 15, 1999, Dr. Vandrak reviewed the history of the August 30, 1996 injury and stated his conclusion that appellant had a noted recurrence on April 17, 1998 related to the original work injury of low back pain due to increased repetitive work activity. He did not explain the nature of the relationship between the diagnosed condition and the August 30, 1996 accepted injury or offer a rationalized medical opinion on causal relationship.<sup>4</sup> Dr. Vandrak's report similarly implicates a new injury due to work activities on April 17, 1998 and does not fully explain how appellant's lumbar strain caused or contributed to her disability commencing in 1998. He also addressed a history of injury in 1997, not accepted by the Office in this case. While the MRI scan of February 1997, noted a disc protrusion, Dr. Vandrak provided insufficient rationale to relate this finding to the accepted lumbar strain.

Dr. Vandrak stated in a letter dated March 21, 2000 that he thought that there was a "very obvious" causal relationship between the injury occurring August 30, 1996 and appellant's persistent complaints of low back pain with radiculopathy. He stated that appellant's underlying condition was exacerbated by work factors to the point where she became incapable of performing her regular job duties. This explanation on causal relationship is not fully rationalized, as he does not address appellant's accepted lumbar strain condition or explain how it contributed to radiculopathy commencing April 17, 1998 or her disability for work commencing that date. The record does not establish that appellant was performing her regular

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<sup>4</sup> See *Charles E. Burke*, 47 ECAB 185 (1995).

duty as of April 17, 1998. The Board has long held that medical opinions not containing rationale on causal relation are of diminished probative value.<sup>5</sup>

Appellant, therefore, has failed to establish that she sustained a recurrence of disability causally related to her accepted lumbar strain condition.

The decisions of the Office of Workers' Compensation Programs dated May 25 and March 2, 2000 are affirmed.

Dated, Washington, DC  
June 11, 2001

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member

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<sup>5</sup> *Carolyn F. Allen*, 47 ECAB 240 (1995).