

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ANGELA F. FLORES-ACOSTA and DEPARTMENT OF HEALTH &
HUMAN SERVICES, Boston, MA

*Docket No. 00-244; Submitted on the Record;
Issued March 20, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability in 1995 as a result of her April 5, 1979 employment injury.

On April 5, 1979 appellant, then a 48-year-old nurse, sustained an injury while in the performance of her duties. The Office of Workers' Compensation Programs accepted her claim for acute cervical strain and cervical degenerative arthritis by aggravation. Appellant sustained recurrences of disability on April 30, 1984 and June 11, 1986.

On April 13, 1998 appellant filed a claim asserting that she sustained another recurrence of disability as a result of her April 5, 1979 employment injury. She reported the date of the recurrence as "1995?" and described how the recurrence happened by stating, "No special reason."

On May 12, 1998 the Office requested that appellant submit additional information within 30 days, including a physician's opinion, with supporting explanation, as to the causal relationship between her current disability/condition and the original injury.

On August 28, 1998 the Office, with no response from appellant, issued a decision denying the claimed recurrence. The Office noted that there was no evidence on file to support that appellant's current medical condition was causally related to the 1979 injury.

Appellant requested a hearing, which was held on May 5, 1999. Appellant appeared and testified but submitted no competent medical opinion evidence to support her claim.

In a decision dated June 16, 1999, the hearing representative affirmed the denial of appellant's claim of recurrence. The hearing representative noted that appellant's claim was not supported by any explanation or reasoned medical opinion based on a complete and accurate factual and medical background showing how appellant's disability in 1995 was causally related to the April 5, 1979 injury. The hearing representative stated that it appeared that appellant filed

her claim of recurrence for the purpose of seeking medical treatment as a result of her move to Florida. The Office had authorized continued treatment for the accepted work-related conditions and the hearing representative found that appellant remained entitled to such treatment.

The Board finds that appellant has not met her burden of proof to establish that she sustained a recurrence of disability in 1995 as a result of her April 5, 1979 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires 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 who supports that conclusion with sound medical reasoning.¹

Because appellant failed to submit any medical opinion relating her claimed disability for work in 1995 to her April 5, 1979 employment injury, much less a well-reasoned medical opinion based on a complete and accurate factual and medical history, she has not met her burden of proof.²

The June 16, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
March 20, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

² The reports of physical therapists have no probative value on medical questions because a physical therapist is not a physician as defined by 5 U.S.C. § 8101(2) and, therefore, is not competent to render a medical opinion. *Barbara J. Williams*, 40 ECAB 649, 657 (1988).