

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JILL E. VAUGHN and U.S. POSTAL SERVICE,
POST OFFICE, Wilmington, OH

*Docket No. 01-1475; Submitted on the Record;
Issued August 6, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
MICHAEL E. GROOM

The issue is whether appellant sustained a recurrence of disability on December 22, 2000 causally related to her November 5, 1999 accepted thoracic subluxation and strain.

The Board has duly reviewed the case record and finds that appellant failed to establish that she sustained a recurrence of disability commencing December 22, 2000.

On November 9, 1999 appellant filed a traumatic injury claim alleging that on November 5, 1999 she sustained a low back injury while performing her duties, *i.e.*, lifting bundles of mail from a tray and repeatedly twisting back to put the mail in mail boxes. By decision dated November 16, 2000, the Office of Workers' Compensation Programs accepted the claim for a thoracic subluxation and thoracic strain.¹ Appellant was placed on light duty.

On December 26 and 29, 2000 and January 12, 2001 appellant filed claims for recurrence of disability commencing December 22, 2000. By decision dated February 12, 2001, the Office denied appellant's claims because the evidence failed to establish, that the claimed recurrence was causally related to the approved work injury. On November 30, 2000 appellant file a claim for compensation, Form CA-7, for the period March 17 to December 2, 2000 for a period of work stoppage. By decision dated April 6, 2001, the Office denied appellant's claim as the evidence failed to show that the work stoppage was causally related to the injury of November 5, 1999.²

¹ By decision dated April 25, 2000, the Office denied appellant's claim for a low back injury and denied claims for recurrences of disability commencing January 9 and 14 and March 6, 2000. By decision dated July 12, 2000, after merit review, the Office denied modification of the April 25, 2000 decision. The April 25 and July 12, 2000 decisions were vacated by the November 16, 2000 decision. The Board notes that the record does not include any subsequent Office decision regarding appellant's claims for recurrences of disability commencing January 9 and 14 and March 6, 2000.

² There is no appeal pending before the Board on this matter and therefore no decision is being rendered thereon.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent disability for which he claims compensation is causally related to the accepted injury.³ 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 and supports that conclusion with sound medical reasoning.⁴

The medical evidence submitted in support of appellant's claim for recurrence of disability commencing December 22, 2000 consists of a November 28, 2000 report by Dr. Carl Zaycosky, a chiropractor, who determined that appellant could work but with restrictions until January 31, 2001, due to a spinal joint problem and referred appellant to a physiatrist; and a January 3, 2001 disability certificate by Dr. Zaycosky who found appellant able to return to work that day with restrictions.

Appellant failed to provide a detailed description of her duties at the time of the claimed recurrence. Also, none of the medical evidence provided a physician's rationalized medical opinion explaining a causal relationship between appellant's November 5, 1999 accepted thoracic subluxation and thoracic strain and the claimed recurrence commencing December 22, 2000. In addition, none of the evidence established that appellant could not perform the limited duty she was performing at the time of the claimed recurrence. Therefore, none of the medical evidence is sufficient to establish appellant's claim.

By letter dated January 8, 2001, the Office advised appellant of the specific type of evidence needed to establish her recurrence of disability claim, but such evidence was not submitted. The Board finds that appellant failed to meet her burden of proof.

³ *John E. Blount*, 30 ECAB 1374 (1979).

⁴ *Frances B. Evans*, 32 ECAB 60 (1980).

The February 12, 2001 decision of the Office of Workers' Compensation Programs is affirmed

Dated, Washington, DC
August 6, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member