

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RAMONA MURRELL and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, Brooklyn, NY

*Docket No. 01-1822; Submitted on the Record;  
Issued March 22, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,  
WILLIE T.C. THOMAS

The issue is whether appellant has established that she sustained a recurrence of disability on October 19, 2000 causally related to her accepted June 9, 1999 employment injury.

The Board has duly reviewed the case record and finds that appellant has failed to establish that she sustained a recurrence of disability on October 19, 2000.

On June 9, 1999 appellant, then a 35-year-old nursing assistant, filed a traumatic injury claim alleging that on that date she possibly sprained her back while pulling a patient from a gurney. Appellant stopped work on June 9, 1999.

The Office of Workers' Compensation Programs accepted appellant's claim for low back strain. Appellant accepted a light-duty position at the employing establishment and returned to work on July 26, 1999.

On October 23, 2000 appellant filed a claim alleging that she sustained a recurrence of disability on October 19, 2000.

By decision dated April 5, 2001, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability on October 19, 2000 causally related to her June 9, 1999 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, to be entitled to further compensation the employee has the burden to establish by the weight of the substantial, reliable and probative evidence that she cannot continue to perform such light-duty work. 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>1</sup>

In this case, appellant has shown no change in the nature and extent of her injury-related condition or of the light-duty requirements. The record shows that, following the June 9, 1999 employment-related low back strain, appellant accepted a light-duty position at the employing establishment and returned to work on July 26, 1999. The record does not establish, nor does appellant allege, that the claimed recurrence of total disability on October 19, 2000 was caused by a change in the nature or extent of her light-duty job requirements. Further, appellant has not submitted sufficient medical evidence establishing that the accepted condition has materially changed or worsened since her return to work in July 1999.

In support of her recurrence claim, appellant submitted a November 2, 1999 work restriction evaluation of Dr. R.C. Krishna, a Board-certified neurologist and her treating physician, indicating her physical restrictions and ability to work light duty. Dr. Krishna's work restriction evaluations dated October 21 and November 30, 2000 and February 13, 2001 revealed appellant's physical restrictions and her ability to work only four hours per day. Dr. Krishna's work restriction evaluations failed to provide any medical rationale explaining how the worsening of appellant's back condition which limited her ability to work only four hours per day was causally related to her June 9, 1999 employment injury.

A June 8, 2000 report from Dr. Krishna's medical facility provided the results of a nerve conduction test. Dr. Krishna's August 23, 2000 report noted a history of appellant's June 9, 1999 employment injury, her complaints of an exacerbation of her asthma, neck and low back pain and her medical treatment. The report contained Dr. Krishna's findings on physical and mental examination. Dr. Krishna diagnosed multilevel cervical radiculopathy and lumbosacral radiculopathy and possible superimposed cervical and lumbosacral neuropathic pain syndrome. Dr. Krishna opined that appellant's conditions resulted in temporary partial disability. The nerve conduction report and Dr. Krishna's report have diminished value because they relate to appellant's condition prior to the alleged recurrence of disability on October 19, 2000.

An undated report from Dr. Harold S. Parnes, a Board-certified radiologist, revealed the results of magnetic resonance imaging of appellant's lumbosacral spine on January 3, 2001. Dr. Parnes indicated that appellant had straightening of the normal curvature of the lumbosacral spine as noted on sagittal images, no evidence of fractures, intact conus medullaris, disc heights and signal intensity within the disc spaces were intact, right-sided posterolateral disc herniation at the L4-5 level which demonstrated encroachment on the right intervertebral foramina and posterior bulging disc at the L5-S1 level. Dr. Parnes failed to address how or why appellant's conditions were causally related to her June 9, 1999 employment injury resulting in disability for work on October 19, 2000.

Inasmuch as appellant has failed to submit rationalized medical evidence establishing that she sustained a recurrence of disability on October 19, 2000 causally related to her June 9, 1999 employment injury, she has failed to meet her burden of proof.

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<sup>1</sup> See *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

The April 5, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
March 22, 2002

Michael J. Walsh  
Chairman

Colleen Duffy Kiko  
Member

Willie T.C. Thomas  
Alternate Member