

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MAJOR V. HILLIARD and U.S. POSTAL SERVICE,
HUNTING PARK POST OFFICE, Philadelphia, PA

*Docket No. 02-1560; Submitted on the Record;
Issued November 1, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability causally related to his accepted work injury.

Appellant's claim filed on June 17, 1996 was accepted for a lumbar strain after he, then a 38-year-old mail carrier, complained of lower back pain.

Appellant returned to limited duty but filed a recurrence of disability claim on October 15, 1999 noting that he had continued to experience back pain from time to time but that his back began hurting after he bent over to deliver mail on that day and his right toe went numb. On December 13, 1999 the Office of Workers' Compensation Programs sought additional information and medical evidence from appellant to establish a causal relationship between his current disability and the initial injury in 1996.

Appellant submitted an October 15, 1999 note from Dr. Michael D. Helzner, an osteopathic practitioner, who diagnosed a herniated disc and radiculopathy, stated that appellant was unable to continue delivering mail and recommended a job less taxing to his lumbar spine. Appellant also submitted a magnetic resonance imaging (MRI) scan showing herniations at L2-3 and L3-4 and mild disc protrusions at L4-5 and L5-S1.

On August 16, 2000 the Office accepted the recurrence of disability and referred appellant to Dr. Norman Stempler, a Board-certified osteopathic orthopedic surgeon, for a second opinion evaluation.

In a report dated September 22, 2000, Dr. Stempler reviewed appellant's medical records and history of injury, as well as diagnostic testing and concluded that he had degenerative joint disease of the cervical and lumbar spines with multiple disc herniations. Physical examination revealed no objective findings to substantiate appellant's complaints of pain or correlate the

results of the MRIs. He opined that appellant could “probably return” to his full functional capacity except for his preexisting nonwork-related degenerative disc disease.

On December 19, 2001 appellant filed an occupational disease claim, alleging that his herniated discs and protrusions were related to his duties delivering mail. He claimed disability for work beginning on January 7, 2002. On April 1, 2002 the Office informed appellant that his claim was considered to be a notice of recurrence and that more information and medical evidence were needed to support entitlement to compensation. The Office pointed out that the initial recurrence of disability claim in 1999 had not been accepted for degenerative disc disease and herniated discs.

On April 10, 2002 appellant filed a recurrence of disability claim, stating that he had stopped work on November 9, 2001 and alleged that the surgical repairs to his right and left shoulders for rotator cuff tears on November 30, 2000 and May 24, 2001 prevented him from carrying the mail.¹ He also noted that his herniated discs limited him to casing mail and modified delivery duties.

On May 1, 2002 the Office denied appellant’s recurrence of disability claim on the grounds that the medical evidence was insufficient to link his degenerative disc disease and herniated discs to the initial 1996 lumbar strain or the accepted recurrence of October 15, 1999. The Office noted that appellant’s claims for compensation from November 9, 2001 to April 25, 2002 were, therefore, denied.

The Board finds that appellant has failed to meet his burden of proof to establish a recurrence of disability causally related to his accepted work injury.

A recurrence of disability is defined as a spontaneous material change in the employment-related condition without an intervening injury.² A person who claims a recurrence of disability has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which he claims compensation is causally related to the accepted employment injury.³ To meet this burden of proof, a claimant must furnish 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 supports that conclusion with sound medical reasoning.⁴

¹ The initial claim filed on October 6, 2000 was denied in September 2001 after an oral hearing. Appellant returned to the same full-time, limited-duty position he held prior to the shoulder surgery. There is no decision in the record on the April 10, 2002 recurrence of disability claim.

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3.b.(a)(1) (May 1997).

³ *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

⁴ *Helen K. Holt*, 50 ECAB 279, 282 (1999).

Causal relationship is a medical issue⁵ and the medical evidence required to establish a causal relationship, generally, is rationalized medical evidence. This consists of a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors.⁶ The physician's opinion must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷

In this case, the medical evidence fails to establish a causal relationship between the accepted lumbar strain sustained in June 1996 and the degenerative disc disease and herniated discs diagnosed in 1999. None of the physicians who treated appellant provided a rationalized medical opinion linking the accepted lumbar strains and recurrence of disability to the underlying degenerative disc disease and herniated discs.

Dr. Helzner stated in an April 29, 2002 report that appellant's back pain was secondary to events at work on June 4, 1996, but he did not attribute appellant's degenerative disc disease and herniated discs to the initial injury. He added that the disease and herniations made it impossible for appellant to perform the duties of his "normal job," but did not conclude that work factors had caused these conditions. While Dr. Helzner indicated on several medical forms that these conditions were caused or aggravated by employment activity, he provided no explanation of any causal relationship between them and the accepted work injury.⁸ Therefore, his reports are insufficient to establish the requisite causal relationship.

The Office informed appellant of the medical evidence necessary to establish that his degenerative disc disease and herniated discs were caused by work factors or the accepted work injury. However, appellant failed to submit evidence establishing such a relationship. Therefore, the Office properly denied his claim for a recurrence of disability.⁹

⁵ *Elizabeth Stanislav*, 49 ECAB 540, 541 (1998).

⁶ *Duane B. Harris*, 49 ECAB 170, 173 (1997).

⁷ *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

⁸ *See Beverly J. Duffey*, 48 ECAB 569, 571 (1997) (finding that a mere assertion by checking a box on a form that a diagnosed condition is work related is insufficient to establish a causal relationship without any explanation or rationale).

⁹ *See Michael E. Smith*, 50 ECAB 313, 316 (1999) (finding that appellant failed to submit a rationalized medical opinion on causal relationship and therefore had not established his entitlement to compensation).

The May 1, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
November 1, 2002

Michael J. Walsh
Chairman

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member