

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of NADINE H. MILLIGAN and DEPARTMENT OF VETERANS AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL CENTER, Coatesville, PA

*Docket No. 02-1869; Submitted on the Record;  
Issued November 6, 2002*

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DECISION and ORDER

Before ALEC J. KOROMILAS, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant sustained a recurrence of disability on February 27, 2002 causally related to her November 2, 1999 employment injury.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to establish that she sustained a recurrence of disability on February 27, 2002 causally related to her November 2, 1999 employment injury.

On November 3, 1999 appellant, then a 27-year-old nursing assistant, filed a traumatic injury claim, alleging that on November 2, 1999 she sustained a muscle pull/strain while working with patients. She stopped work on November 5, 1999.

Appellant returned to part-time limited-duty work on December 9, 1999. She returned to full-time limited-duty work on January 15, 2000.

By letter dated February 8, 2000, the Office of Workers' Compensation Programs accepted appellant's claim for cervical strain and sprain and right shoulder strain.

On November 15, 2000 appellant was released to full-duty work with no restrictions.<sup>1</sup> In December 2000, appellant applied for a new job at the employing establishment as a file clerk. Since October 2001 appellant worked as a data validation technician.

On March 27, 2002 appellant filed a claim alleging that she sustained a recurrence of disability on February 27, 2002 accompanied by medical evidence.

By letter dated April 29, 2002, the Office advised appellant that the evidence submitted was insufficient to establish her claim. The Office further advised appellant of the type of

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<sup>1</sup> The Board notes that appellant still had some restrictions that were related to conditions other than her employment-related conditions.

factual and medical evidence needed to establish her claim and requested that she submit such evidence.

In a June 25, 2002 decision, the Office found the evidence of record insufficient to establish that appellant sustained a recurrence of disability on February 27, 2002 causally related to her November 2, 1999 employment injury.<sup>2</sup>

An individual who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.<sup>3</sup> 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.<sup>4</sup> Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes 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. The opinion of the physician 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.<sup>5</sup>

In support of her recurrence claim, appellant submitted a June 5, 2001 note of Dr. Andrew S. Frankel, an orthopedic surgeon, prescribing home cervical traction. Appellant also submitted Dr. Frankel's March 27, 2002 treatment notes indicating that she was seen in his office on that date. Dr. Frankel did not provide a diagnosis and he failed to address whether appellant's condition and resulting disability were caused by her November 2, 1999 employment injury. Therefore, Dr. Frankel's June 5, 2001 and March 27, 2002 treatment notes are insufficient to establish appellant's burden.

In two treatment notes dated March 27, 2002, Dr. Frankel prescribed physical therapy for appellant's chronic cervical trapezius strain and radial tunnel syndrome. He indicated appellant's symptoms regarding her cervical spine and medical treatment. Dr. Frankel further indicated his findings on physical examination and diagnosed lateral epicondylitis, radial tunnel syndrome and a chronic cervical sprain. He stated that appellant had some bulging discs based on a magnetic resonance imaging scan and that she probably had some mild discal pathology, but

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<sup>2</sup> The Board notes that subsequent to the Office's June 25, 2002 decision, the Office received additional evidence. The Board, however, cannot consider evidence that was not before the Office at the time of the final decision. *See Dennis E. Maddy*, 47 ECAB 259 (1995); *James C. Campbell*, 5 ECAB 35 (1952); 20 C.F.R. § 501.2(c)(1). Appellant may resubmit this evidence and legal contentions to the Office accompanied by a request for reconsideration pursuant to 5 U.S.C. § 8128(a). 20 C.F.R. § 501.2(c).

<sup>3</sup> *Ronald C. Hand*, 49 ECAB 113 (1997).

<sup>4</sup> *Helen K. Holt*, 50 ECAB 279 (1999).

<sup>5</sup> *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

not enough to warrant surgical intervention. Dr. Frankel recommended physical therapy and medication. He did not address whether appellant's conditions and any resulting disability were caused by her accepted employment injury.

In a March 27, 2002 attending physician's report, Dr. Frankel reiterated the above diagnoses. He indicated that appellant's diagnoses were caused or aggravated by an employment activity by placing a checkmark in the box marked "yes." Dr. Frankel failed to provide a history of the employment activity that caused appellant's conditions. Further, he failed to provide any medical rationale explaining how appellant's conditions and resulting disability were caused by the November 2, 1999 employment injury. The Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report question on whether the claimant's disability was related to the history is of diminished probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.<sup>6</sup> Thus, Dr. Frankel's report is insufficient to establish appellant's burden.

None of the medical evidence submitted by appellant provided an opinion with supporting rationale causally relating a diagnosed condition and resulting disability to the November 2, 1999 employment-related injury. Therefore, the evidence of record is insufficient to establish appellant's recurrence claim. The Office advised appellant of the type of medical opinion evidence she needed to submit to establish her claim, but such evidence was not sufficient to establish causal relationship. Accordingly, the Board finds that appellant has failed to satisfy her burden of proof in this case.

The June 25, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
November 6, 2002

Alec J. Koromilas  
Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>6</sup> *Lucrecia M. Nielson*, 42 ECAB 583, 594 (1991).