

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOAN C. GOSNELL and U.S. POSTAL SERVICE,  
POST OFFICE, Akron, OH

*Docket No. 02-848; Submitted on the Record;  
Issued September 11, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,  
WILLIE T.C. THOMAS

The issue is whether appellant has met her burden of proof to establish that she sustained a recurrence of disability on or around September 11, 2001 causally related to her accepted employment-related shoulder conditions.

The Board has duly reviewed the case record on appeal and finds that appellant has not established that she sustained a recurrence of disability on September 11, 2001 causally related to her accepted employment-related shoulder conditions.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, she has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent disability for which she claims compensation is causally related to the accepted injury.<sup>1</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>2</sup>

In the instant case, on April 2, 2000 appellant, then a 57-year-old postal clerk, filed a claim for occupational disease alleging that she developed bilateral shoulder injuries as a result of sorting mail in the performance of duty. Appellant did not stop work. On May 23, 2000 the Office of Workers' Compensation Programs accepted appellant's claim for bilateral tendinitis of the shoulders and authorized left shoulder arthroscopic subacromial decompression surgery, which was performed on October 20, 2000. She stopped work on October 20, 2000 and returned to her regular light-duty job on December 11, 2000. On September 23, 2001 appellant filed a claim for a recurrence of disability, Form CA-2a, alleging that her right shoulder now hurt her more than it had before. She stated that her shoulder pain had been tolerable until August 2001

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<sup>1</sup> *Alfredo Rodriguez*, 47 ECAB 437 (1996).

<sup>2</sup> *Id.*

when her job partner went on leave. There is no indication in the record that appellant stopped work. In a narrative statement, submitted in support of her claim, appellant explained that the difficulty of her job depended on whether one or two persons performed it and when her partner went on leave, the amount of lifting she had to perform was increased.

By decision dated December 17, 2001, the Office denied appellant's claim for a recurrence of disability on the grounds that the evidence did not establish a causal relationship between her accepted injuries and the claimed condition or disability.

In support of her claim for a recurrence of disability, appellant submitted medical evidence from her treating physician, Dr. Robert H. Bell, a Board-certified orthopedic surgeon. In a treatment note dated September 11, 2001, he stated that appellant had done nicely with her left shoulder since her arthroscopic decompression, but that she continued to have symptoms on her right side and wished to proceed with definitive measures. Dr. Bell noted that appellant's claim for a right shoulder condition had been accepted and that he recommended that she undergo an arthroscopic decompression on this shoulder as well. He did not discuss appellant's ability to work. In an accompanying form report dated September 14, 2001, Dr. Bell indicated that appellant suffered from shoulder impingement, causally related to her employment and reiterated his recommendation that she undergo arthroscopic subacromial decompression on her right shoulder, followed by physical therapy. With respect to appellant's ability to work, Dr. Bell answered "no" to the question of whether she could return to her regular employment and stated that she had "no restrictions" for employment, but did not offer any explanation for his seemingly contradictory responses, or otherwise clarify his position as to whether appellant was disabled for work. Medical reports not containing rationale on causal relationship are entitled to little probative value and are insufficient to meet appellant's burden of proof.<sup>3</sup> Consequently, Dr. Bell's reports are of little probative value on the issue in this claim, which is whether on or around September 11, 2001, appellant suffered a recurrence of her accepted shoulder condition such that she was unable to perform her duties as a postal clerk.

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between the claimed condition and the employment.<sup>4</sup> To establish causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing her condition and, taking these factors into consideration together with the findings upon physical examination and appellant's medical history, states whether the employment injury caused or aggravated appellant's diagnosed conditions and presents medical rationale in support of his or her opinion. By letter dated October 15, 2001, the Office advised appellant of the type of evidence necessary to establish her claim. She failed to submit such evidence in this case prior to the issuance of the Office's decision and, therefore, has failed to discharge her burden of proof

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<sup>3</sup> *Arlonia B. Taylor*, 44 ECAB 591 (1993).

<sup>4</sup> *Donald W. Long*, 41 ECAB 142 (1989).

to establish that she sustained a recurrence of disability on or around September 11, 2001, causally related to her accepted employment injuries.<sup>5</sup>

The Board further notes, however, that to the extent that appellant's intent through filing a claim for a recurrence of disability was to request authorization for surgery and associated wage-loss compensation to correct her previously accepted right shoulder condition, the Office has yet to issue a decision on that matter.<sup>6</sup> In considering appellant's request for medical treatment, the Office should consider Dr. Bell's January 7, 2002 medical report addressing this issue. If the Office authorizes the requested right shoulder procedure, appellant would be entitled to compensation for any associated periods of disability.

The decision of the Office of Workers' Compensation Programs dated December 17, 2001 is affirmed.

Dated, Washington, DC  
September 11, 2002

Michael J. Walsh  
Chairman

Alec J. Koromilas  
Member

Willie T.C. Thomas  
Alternate Member

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<sup>5</sup> The record does contain an additional report from Dr. Bell dated January 7, 2002, in which the physician more fully explains appellant's current condition and its relationship to her accepted employment injuries. As this report was not received by the Office prior to the issuance of its December 17, 2001 decision, the Board cannot consider this evidence for the first time on appeal. *Charles P. Mulholland, Jr.*, 48 ECAB 604 (1997).

<sup>6</sup> It is well established that a claim for compensation need not be filed on any particular form. A claim may be made by filing any paper containing words, which reasonably may be construed or accepted as a claim. *Barbara A. Weber*, 47 ECAB 163 (1995); *William F. Dotson*, 47 ECAB 253 (1995). Letters and statements in amplification and expansion of a claim are as much a part of a claim as the claim form itself.