

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of PATRICIA A. DAVIS and U.S. POSTAL SERVICE,
EASTSIDE POST OFFICE, Minneapolis, MN

*Docket No. 03-49; Submitted on the Record;
Issued August 6, 2003*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
A. PETER KANJORSKI,

The issue is whether appellant established that she sustained a recurrence of disability on March 12, 2002, causally related to a March 1, 2002 employment injury.

On March 1, 2002 appellant, then a 42-year-old letter carrier, filed a Form CA-1, claim for compensation, alleging that on that day she injured her left side when she grabbed a falling tray of mail. She did not stop work and submitted medical evidence in support of her claim. On June 5, 2002 appellant filed a Form CA-2a, claim for recurrence of disability, alleging that she sustained a recurrence on March 12, 2002, because she “[had] to have neck surgery.”

In letters dated July 11, 2002, the Office of Workers' Compensation Programs informed appellant of the type of evidence needed to support both the traumatic injury and recurrence claims, and on August 14, 2002 accepted that appellant sustained an employment-related left arm strain on March 1, 2002. The Office, however, stated that the recurrence claim had not been accepted and also denied authorization for surgery. By decision dated September 10, 2002, the Office denied that appellant sustained a recurrence of disability on March 12, 2002 on the grounds that the medical evidence failed to support that her cervical condition was caused by the March 1, 2002 work injury. The instant appeal follows.

The Board finds that appellant failed to establish that she sustained a recurrence of disability.

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.¹ This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and

¹ *Ronald C. Hand*, 49 ECAB 113 (1997).

accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.² 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.³

The medical evidence⁴ in the instant case consists of a form report dated March 1, 2002 in which Dr. Leslie G. Norton, a Board-certified family practitioner, recommended treatment with ice and medication and advised that appellant could work without restrictions on March 5, 2002. In treatment notes dated March 4 and 18, 2002, Dr. Norton noted that appellant underwent neck surgery in 1993 and reported the history of injury on March 1, 2002. Examination revealed findings of pain and tenderness, and she diagnosed left arm strain, left shoulder bursitis and neck stiffness. In the March 4, 2002 report, Dr. Norton advised that appellant could work without restrictions. However, on March 18, 2002, she advised that appellant should work a maximum of 40 hours per week, with no overtime.

A magnetic resonance imaging (MRI) scan of the cervical spine dated March 29, 2002 revealed a small left ventral disc herniation extending into the left neuroforamina with probable nerve root impingement at C6-7, small ventral osteophytic bars at C3-4 and C5-6, and previous C4-5 anterior fusion with good decompression of the central spinal canal.

Dr. Walt E. Galicich, a neurosurgeon, provided an April 18, 2002 report in which he noted appellant's history of neck pain radiating down her left arm following the March 1, 2002 work incident. He noted the MRI scan findings and recommended that appellant undergo a computerized tomography (CT) scan to further delineate her condition. Cervical myelogram with postmyelogram CT scan on May 10, 2002 demonstrated a left ventral disc herniation extending into the left neural foramina impinging on the nerve root at C6-7, small to moderate-sized osteophytic bars with neural foramina stenosis at C3-4 and C5-6, and a previous anterior discectomy with fusion at C4-5. In a May 31, 2002 office note, Dr. Galicich discussed the CT scan findings and related that he discussed treatment options, including surgery, with appellant and her husband. A June 19, 2002 operative report indicated that appellant underwent anterior cervical discectomy and fusion with spinal cord decompression of C5-6 and C6-7 on that date.

As stated above, causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁵ An award of compensation

² *Helen K. Holt*, 50 ECAB 279 (1999).

³ *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ Appellant further submitted copies of forms indicating dates of medical treatment and insurance coverage. These, however, do not constitute probative medical evidence under the Act. *Id.*

⁵ *Supra* note 3.

may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between his or her claimed condition and employment.⁶ In the instant case, none of the medical reports provide a rationalized medical opinion regarding the cause of appellant's condition or disability on or after March 12, 2002. The Board therefore finds that, as appellant failed to submit any medical evidence to indicate that her current cervical condition is causally related to the accepted March 1, 2002 employment injury, she failed to establish that she sustained a recurrence of disability, and the Office properly denied her claim.⁷

The decision of the Office of Workers' Compensation Programs dated September 10, 2002 is hereby affirmed.

Dated, Washington, DC
August 6, 2003

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

⁶ *Donald W. Long*, 41 ECAB 142 (1989).

⁷ The Board notes that subsequent to the September 10, 2002 decision of the Office appellant submitted additional medical evidence. The Board, however, cannot consider this evidence as its review of the case is limited to the evidence of record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant retains the right to request reconsideration with the Office.