

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOYCE G. MCINTYRE and DEPARTMENT OF THE ARMY,  
INTELLIGENCE & SECURITY COMMAND, Fort Belvoir, VA

*Docket No. 02-2215 Submitted on the Record;  
Issued February 14, 2003*

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DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,  
WILLIE T.C. THOMAS

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

Appellant's claim filed on April 27, 2001 was accepted for a left hip fracture, left ankle sprain and left elbow contusion strain after she, then a 54-year-old secretary, tripped over an open file cabinet drawer and fell. She returned to light duty part time until August 1, 2001 when she resumed full duty.

Appellant filed a recurrence of disability claim on September 27, 2001, having stopped work on September 19, 2001 due to constant pain in her left hip area, lower thigh and leg. The Office of Workers' Compensation Programs accepted this claim for lumbosacral and left hip strains and aggravation of the trochanter fracture. Appellant returned to full duty on September 22, 2001.

On February 7, 2002 appellant filed a second recurrence of disability notice claiming that severe pain prevented her from working, starting on December 12, 2001. She returned to full duty on March 9, 2002 but filed a third recurrence of disability claim on May 10, 2002 stating that she had stopped work on April 12, 2002.

On June 12, 2002 the Office asked appellant for further information and medical evidence to support her claim. The Office explained that reports from Dr. Hugo A. Davalos, a Board-certified orthopedic surgeon, diagnosed lumbar spondylosis with sciatica but these conditions had not been accepted as work related.

The Office denied appellant's claim on August 14, 2002 on the grounds that the medical evidence failed to establish that her recurrence of disability was causally related to the April 27, 2001 injury.

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

A recurrence of disability is defined as a spontaneous material change, demonstrated by objective findings, in the previous employment-related injury or condition without an intervening injury or new exposure to factors causing the original injury or condition.<sup>1</sup> 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 she claims compensation is causally related to the accepted employment injury.<sup>2</sup> 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.<sup>3</sup>

Causal relationship is a medical issue<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

In this case, Dr. Anuj Gupta, an orthopedic surgeon, treated appellant for her initial injuries and released her to regular duty as of August 1, 2001. On October 2, 2001 Dr. Gupta diagnosed sciatica and recommended a magnetic resonance imaging (MRI) scan. Following appellant's September 2001 recurrence and return to work, Dr. Davalos, Dr. Gupta's partner, saw appellant on December 26, 2001 for her sciatica, noting her previous work injuries. On January 24, 2002 Dr. Davalos stated that appellant's MRI scan showed degenerative changes, spondylosis with left sciatica and spondylolisthesis at L4-5 in her lumbosacral spine. In follow-up reports dated March 7 and February 14, 2002, Dr. Davalos noted appellant's continuing complaints and referred her to Dr. Ian D. Gordon, a Board-certified orthopedic surgeon, for further treatment. Dr. Davalos provided no opinion on the cause of appellant's lumbar diagnoses.

Dr. Gordon stated, in a March 26, 2002 report, that appellant had injured her back in April 2001 and her back pain had never resolved. She walked with a limp and had difficulty

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

<sup>2</sup> *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

<sup>3</sup> *Helen K. Holt*, 50 ECAB 279, 282 (1999).

<sup>4</sup> *Elizabeth Stanislav*, 49 ECAB 540, 541 (1998).

<sup>5</sup> *Duane B. Harris*, 49 ECAB 170, 173 (1997).

<sup>6</sup> *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

with sitting. Her MRI scan revealed significant spinal stenosis, particularly at L3-4 and L4-5 levels, with a bulging disc at L4-5. Dr. Gordon recommended lumbar epidural injections. On April 12 and 26, 2002 he opined that her stenosis had been aggravated by the work injury and had showed no improvement over the past year but had worsened. He stated that conservative treatment had not worked and that appellant would require lumbar decompression and fusion.

In response to an Office inquiry regarding causal relationship, Dr. Gordon stated that, in falling over the filing cabinet in April 2001, appellant had injured her back as well as her left side and hip. The hip fracture had healed but her back pain had worsened and was now disabling. On June 28, 2002 Dr. Gordon stated that appellant clearly had disc bulging and spinal stenosis. He added that it was a "medical probability" that her disc bulges had become larger as a direct result of her injury and changed her stenosis from asymptomatic to symptomatic. This was a direct result of her work injury because she did not have this problem before and was now completely unable to work.

On July 12, 2002 Dr. Gordon opined that appellant's present back condition was directly related to her work injury. Appellant complained of back pain at the time she fractured her hip but that was the more serious injury and the back pain was not really addressed. Her back pain became progressively worse to the point where she is now disabled for work and can walk only short distances using a cane.

While Dr. Gordon believes that appellant's spinal stenosis is causally related to her April 2001 injury, he has provided no medical rationale for this conclusion except that appellant was asymptomatic prior to the work injury and symptomatic afterwards. This reasoning has long been rejected as rationally probative.<sup>7</sup>

Further, the Office initially accepted only injuries to appellant's left side as work related and her degenerative back condition was not diagnosed until more than six months after the April 2001 injury. The Office accepted a lumbosacral strain following the September 2001 recurrence of disability, which kept appellant off work for three days, but Dr. Gordon did not discuss a lumbar strain as the cause of her back pain, nor did he explain how sciatica and stenosis resulted from the tripping incident at work in April 2001. Therefore, his reports are insufficient to meet appellant's burden of proof.<sup>8</sup>

Inasmuch as appellant failed to submit a rationalized medical report linking her current back condition to the April 2001 work injury, the Board finds that she has failed to meet her burden of proof to establish a causal relationship.

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<sup>7</sup> See *Thomas R. Horsfall*, 48 ECAB 180, 183 (1996) (finding that a physician's opinion on causal relationship which is based on the fact that appellant was asymptomatic prior to the work incident and symptomatic afterwards, is of little probative value without supporting rationale).

<sup>8</sup> See *Carmen Gould*, 50 ECAB 504, 508 (1999) (finding that a physician's opinion that failed to explain the relationship between appellant's current back condition and the accepted lumbar sprain was insufficient to establish causation and thus failed to meet appellant's burden of proof).

The August 14, 2002 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
February 14, 2003

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member