



In an undated letter received by the Office on November 24, 2000, appellant requested that his claim be reopened and attached medical reports. On that same day, the Office received a hospital summary report dated January 21, 2000. That report stated that on December 22, 1999 appellant was admitted with a three-month history of progressive weakness and a lack of gait coordination. Appellant's diagnosis was severe spondylitic myelopathy at C3-4, C4-5 and C5-6 and an anterior cervical discectomy and allograft fusion was performed on January 7, 2000. On March 17, 2000 appellant was discharged from an inpatient spinal cord unit with a diagnosis of incomplete tetraplegia. Appellant was assigned to outpatient therapy twice a week for six weeks.

On November 29, 2000 the Office notified appellant that the evidence was not sufficient to further develop his claim since none of his diagnosed conditions were accepted conditions and there was no medical evidence in the file to establish a causal relationship between his 1990 injury and his current conditions.

On January 21, 2003 the Office received appellant's claim for a recurrence of disability, in which he stated that he sustained a recurrence in 1991. Appellant noted that at that time he had muscle spasms in his neck, which prevented him from lifting or turning and that he started having stroke-like symptoms in 1999. On February 10, 2003 the Office again advised appellant regarding the kind of evidence he needed to support his claim for a recurrence of disability. By decision dated March 14, 2003, the Office denied his claim on the grounds that the evidence failed to establish a causal relationship between his accepted injury and his current condition.

On June 23, 2003 appellant requested reconsideration. In a report dated April 21, 2003, Dr. Matthew Wilson, a specialist in neurological surgery, stated that appellant related his history of injury noting that, prior to his fork lift accident in 1990, he had had neck pain. After the 1990 injury, appellant's condition became worse, which lead to fusion surgery in 2000. The physician stated that spine imagery at the time of the 2000 surgery was consistent with appellant's history. He opined that appellant's work-related injury was causally related to his current neck condition. By letter dated July 2, 2003, the Office requested Dr. Wilson to support his opinion that appellant's current condition was causally related to his 1990 employment injury. The medical center sent copies of appellant's medical records from December 20, 1999 to March 18, 2003, which included reports of cervical x-rays and a cervical magnetic resonance imaging (MRI) scan.

On September 8, 2003 the Office denied modification of its prior decision.

### **LEGAL PRECEDENT**

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition, which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.<sup>1</sup>

Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of reliable, probative and substantial

---

<sup>1</sup> 20 C.F.R. § 10.5(x).

evidence that the recurrence of disability is causally related to the original injury.<sup>2</sup> This burden includes the necessity of furnishing evidence from a qualified physician who concludes, on the basis of a complete and accurate factual and medical history, that the condition is causally related to the employment injury.<sup>3</sup> The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.<sup>4</sup>

Where appellant claims that a condition not accepted or approved by the Office was due to his employment injury, he bears the burden of proof to establish that the condition is causally related to the employment injury.<sup>5</sup>

### ANALYSIS

The Office accepted that appellant sustained work-related face and left hip contusions and cervical and left shoulder strains on November 15, 1990. Appellant then submitted a claim for recurrence of disability. However, none of the medical reports submitted in support of his claim for recurrence established the requisite causal relationship between the accepted injuries and his current condition. The January 2000 hospital reports note a diagnosis of severe spondylitic myelopathy and the March 2000 report noted an incomplete tetraplegia. Further, neither report included a rationalized medical opinion establishing a causal relationship between the original injuries and his condition. Medical reports not containing a rationalized medical opinion on causal relationship are entitled to little probative value.<sup>6</sup> In addition, Dr. Wilson's report is speculative in that it does not include a diagnosis other than to note a neck condition, nor does it include a rationalized medical opinion describing how the strains in 1990, could have caused his current neck condition. An award of compensation may not be made on the basis of surmise, conjecture or speculation or on appellant's unsupported belief of causal relation.<sup>7</sup> The additional medical reports of x-rays and an MRI scan do not include a medical opinion finding a causal relationship between appellant's accepted injury and his current condition.

### CONCLUSION

Appellant has not established his claim for a recurrence of disability based on his November 1990 injuries.

---

<sup>2</sup> 20 C.F.R. § 10.104(b) (1999); *Helen K. Holt*, 50 ECAB 279, 382 (1999); *Carmen Gould*, 50 ECAB 504 (1999); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

<sup>3</sup> See *Helen K. Holt*, *supra* note 2.

<sup>4</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

<sup>5</sup> *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

<sup>6</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001).

<sup>7</sup> *Calvin E. King*, 51 ECAB 394 (2000).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 8, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 12, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member