

September 14, 2002. The Office accepted appellant's claim for a low back strain on November 18, 2002.¹

Appellant filed claims for recurrences of disability for the dates October 5, 2002, January 11 and January 17 to 25, 2003.² In the section of the form inquiring as to whether the employer made any accommodations, the employing establishment indicated that appellant was provided with light duty. On a December 1, 2002 notice, appellant indicated that the recurrence of disability occurred on September 29, 2002 but that she stopped work on October 4 or 5, 2002 and returned on October 7, 2002. In the January 26, 2003 notice, appellant claimed that she sustained a recurrence of disability on January 11 and 17, 2003 and that she returned to work on January 26, 2003.

In support of her claim, appellant submitted several reports from her physician, Dr. Michael Ryder, an osteopath. In a November 1, 2002 disability certificate, Dr. Ryder indicated that appellant was seen in his office on October 24, 2002 and diagnosed a low back strain. He advised that appellant should be placed on limited duty for two weeks and to avoid lifting heavy objects. In a December 6, 2002 attending physician's report, Dr. Ryder diagnosed a low back strain and muscle spasm and checked the box "yes" in response to whether he believed appellant's condition was caused or aggravated by the employment activity of lifting heavy objects. He indicated that appellant was disabled from November 16 to 17, 2002. In a January 20, 2003 disability certificate, Dr. Ryder indicated that appellant was totally incapacitated as of January 17, 2003 and advised that she could return to limited duty on January 24, 2003. In an attending physician's report dated January 23, 2003, Dr. Ryder repeated his previous findings and indicated that appellant was totally disabled from January 17 to 25, 2003. In a February 25, 2003 report, Dr. Ryder indicated that appellant continued to have low back pain without radiculopathy with a moderate amount of paraspinal muscle spasm with rotation of her L5 vertebrae with range of motion decreased in all directions, especially flexion. In a March 11, 2003 disability certificate, Dr. Ryder advised that appellant was disabled, and in a March 21, 2003 disability certificate, he indicated that appellant should not return to work. In a March 31, 2003 report, Dr. Ryder indicated that appellant was totally disabled from March 11 to 18, 2003.

In a March 24, 2003 report, Dr. Salvatore J. Palumbo, a Board-certified neurosurgeon, indicated that appellant had left buttock and left lower extremity pain and paresthesias following a work-related incident and noted radiculopathy. He noted a weakness in an L5 distribution on the left and requested lumbar spine imaging in order to assess appellant for neural compression.

On April 8, 2003 the Office advised appellant of the additional factual and medical information needed to establish her claim and authorized a magnetic resonance imaging (MRI) scan of the lumbar spine.

¹ The Office authorized physical therapy from December 30, 2002 to February 7, 2003 and from March 10 to April 4, 2003.

² A CA-7 form was also filed on January 28, 2002 [*sic*] for January 11 and January 17 to 25, 2003.

An April 9, 2003 MRI scan read by Dr. Steven L. Mendelsohn, a Board-certified diagnostic radiologist, demonstrated mild curvature of the spine convex to the left, disc bulging at L4-5 and L5-S1 which did not cause narrowing of the inferior half of the neural foramen at L4-5 and L5-S1 with hypertrophy of the posterior ligaments at both of these levels.

In an April 10, 2003 report, Dr. Palumbo indicated that he had obtained an MRI scan of the lumbar spine which did not demonstrate any significant neural compression and was unremarkable. He expressed concern that appellant might have an occult neural compression and indicated that further electromyogram (EMG) and nerve conduction studies were warranted to assess for any electrical evidence of neural irritation.

On April 22, 2003 the Office authorized an electromyography/nerve conduction velocity study (EMG/NCV) of the right leg.

In an attending physician's report dated April 16, 2003, Dr. Ryder repeated his previous findings, including that appellant had lower back pain, muscle spasm, radiculopathy and a herniated disc. He indicated that appellant was disabled from March 1 to April 28, 2003. In an April 22, 2003 disability certificate, Dr. Ryder indicated that appellant was initially examined on October 24, 2002 with follow-ups on November 15 and 26, 2002 and January 26, 2003 and was cleared to return to work on January 27, 2003. He indicated that appellant was disabled from November 16 to 17, 2002 and January 17 to 25, 2003.

On April 25, 2003 the Office received responses from appellant regarding her claims. Appellant indicated that, on October 5, 2002, only 23 days after her original injury, she was working in her area and stated that, after a day of practically standing with no back support, picking up trays of mail and walking back to her case, she experienced excruciating pain in her lower back. She also indicated that she was not aware that her condition was so fragile and she finally sought medical assistance. Regarding the January 11, 2003 date, appellant indicated that she was working in the manual cases doing a "sweep" as it was "light duty" and after she completed working on a "town" she went back to do her casing job and experienced pulling and pinching in her lower back.

The Office authorized a pain management evaluation on April 29, 2003.

In a May 2, 2003 EMG/NCV study, Dr. Hugh Xian, a Board-certified neurologist,³ found an abnormal electrophysiologic study with evidence of very mild active left lower lumbar radiculopathy and opined that the level could not be determined because there were no denervation features in the muscles of the left lower extremity.

By decision dated June 3, 2003, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that she sustained recurrences of disability on October 5, 2002 and January 11, 2003 causally related to the accepted employment injury.

³ The Board-certification directory lists the doctor as Hu Xian and this appears to be the same physician.

LEGAL PRECEDENT

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that the employee can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence, a recurrence of total disability and to show that he or she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty job requirements.⁴

Causal relationship is a medical issue,⁵ 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.⁶ 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.⁷

ANALYSIS

Appellant has not provided any medical reports, based on objective findings, which establish that there has been a change in the nature and extent of her condition such that she can no longer perform her light-duty job and also has provided no evidence to establish that there has been a change in the nature and extent of her light-duty job requirements. On April 8, 2003 the Office advised appellant of the type of medical and factual evidence needed to establish her claim for a recurrence of disability; however, appellant has not submitted any rationalized evidence.

Appellant submitted numerous reports and disability certificates from Dr. Ryder dating from November 1, 2002 to April 16, 2003. In these reports, he indicated that appellant was disabled or restricted from duty. However, he did not explain why she could not perform her light-duty requirements or that appellant's condition had worsened. He provided no rationalized medical opinion explaining how these conditions resulted from appellant's employment.⁸ The Board therefore finds that Dr. Ryder's reports are of no probative value.

Appellant also submitted additional medical records that are not relevant to appellant's claim as they refer to periods after the periods of time in question and there is no indication that

⁴ *Richard E. Konnen*, 47 ECAB 388 (1996); *Terry R. Hedman*, 38 ECAB 222, 227 (1986).

⁵ *Elizabeth Stanislav*, 49 ECAB 540, 541 (1998).

⁶ *Duane B. Harris*, 49 ECAB 170, 173 (1997).

⁷ *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

⁸ *See Michael E. Smith*, 50 ECAB 313, 316 n.8 (1999); *Carolyn F. Allen*, 47 ECAB 240, 244-45 (1995).

appellant could not perform her light-duty position on the dates of October 5, 2002 and January 11 or January 17 to 25, 2003 or that there was a change in her condition during these time periods.

In the instant case, none of the reports submitted by appellant contained a rationalized opinion to explain why appellant could no longer perform the duties of her light-duty position.⁹ As appellant has not submitted any medical evidence showing that she sustained a recurrence of disability beginning October 5, 2002 and January 11, 2003 due to her accepted employment injury, she has not met her burden of proof.¹⁰

CONCLUSION

The Board finds that appellant has not established that she sustained a recurrence of disability causally related to her accepted employment injury.

ORDER

The decision of the Office of Workers' Compensation Programs dated June 3, 2003 is hereby affirmed.

Issued: February 2, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member

⁹ 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; *see Charles E. Burke*, 47 ECAB 185 (1995).

¹⁰ In its decision dated June 3, 2002, the Office did not specifically make findings regarding the January 17, 2003 claimed recurrence. The Office, however, addressed all relevant medical evidence and denied that appellant sustained a recurrence of disability on January 11, 2003.