

paint fumes at the employing establishment. On June 28, 2001 appellant filed an occupational disease claim alleging that she developed respiratory problems due to poor ventilation at the employing establishment. The Office consolidated these claims and accepted that appellant sustained employment-related paint fume inhalation.¹ Appellant did not stop work.²

Appellant submitted various reports from Dr. Billy J. Lance, a Board-certified family practitioner, dated June 14 to August 7, 2001, who diagnosed work-related toxic fume exposure from paint which occurred prior to May 22, 2001 and caused bronchospasms.

On December 31, 2001 appellant filed a Form CA-2a, notice of recurrence of disability. Appellant indicated a recurrence of bronchospastic disease on September 13, 2001 due to strong vapors and fumes. She stopped work on September 14, 2001 and returned on September 17, 2001.³

The employing establishment submitted a survey conducted by the Industrial Hygiene Section of Preventative Medicine Service of mammography rooms 1 through 33 and noted that the findings were negative for hydrocarbons in the alkyd paint. In a report dated October 4, 2001, the employing establishment noted that a survey was conducted on September 13, 2001 of the mammography room B which concluded that the room was free from health hazards as recognized by the Occupational Safety and Health Administration (OSHA). On January 10, 2002 a representative of OSHA advised that an inspection of the employing establishment's mammography department was conducted on November 13 and 14, 2001 which revealed that the potential air contaminants of glutaraldehyde, hydroquinone and acetic acid were below detectable limits. In a statement dated January 31, 2002, the employing establishment controverted appellant's claim for recurrence noting that she was also employed on a part-time basis at a private urgent care facility as a radiology technician and was exposed to the same type of chemicals, fumes and odors she claimed caused her illness at the employing establishment. The employing establishment indicated that appellant was offered a position as temporary light-duty medical records clerk on January 6, 2002 after her physician Dr. Lance advised that she could not be exposed to chemicals, fumes or odors in the mammography department. However, the employing establishment noted that Dr. Lance did not appear to be aware of appellant's second part-time position as a radiology technician.

Appellant submitted a report from Dr. Lance dated December 17, 2001, who noted treating appellant since 1989 and surmised that she developed bronchospastic disease secondary to chemical exposure in the workplace. Also submitted was a report from Dr. Edward Shmunis, a Board-certified dermatologist, dated March 28, 2002, which advised that appellant's history

¹ The Office considered this an occupational disease.

² The record also reflects that appellant filed the following claims: claim No. 062037605 for respiratory distress, date of injury June 13, 2001; claim No. 062057006, date of injury March 20, 2002; claim No. 062057574 for respiratory inflammation, date of injury April 2, 2002; claim No. 062060953 for allergic rhinitis, date of injury April 22, 2002; claim No. 062059785 for temporary aggravation of chronic chemical irritant, date of injury May 14, 2002; and claim No. 062051063 for chemical reaction and headaches, date of injury December 13, 2002.

³ Appellant retired in September 2002.

supported his medical impression that appellant was exposed to irritating compounds in the work setting which resulted in dermatitis.

By decision dated April 9, 2002, the Office denied appellant's claim for recurrence of disability on the grounds that she did not submit sufficient medical evidence to establish that she sustained a recurrence of disability on or after September 13, 2001 which was causally related to the accepted employment injury sustained in June 2001.

Appellant requested a review of the written record and indicated that she was exposed to indoor pollution in the form of darkroom chemicals and gases from other floors which caused upper respiratory, skin, mouth and joint conditions. She submitted a report from Dr. Lance dated March 14, 2002 which noted that she had a history of allergic rhinitis and asthma since August 6, 2001. He opined that it was likely that appellant's development of asthma was secondary to some hypersensitivity reaction developed from exposure to x-ray chemicals on her job, although all laboratory tests were normal. The doctor diagnosed allergic toxic reaction to chemicals at work and advised that appellant was no longer able to perform her duties as a radiology technologist as of January 15, 2002. In his report of June 20, 2002, Dr. Lance indicated that on August 7, 2001 he diagnosed bronchospasms secondary to workplace exposure with probable underlying bronchospastic disease; however, he noted that he could not dispute the pulmonologists findings which revealed no bronchospastic or asthmatic disease. Dr. Shmunis in his report of April 7, 2002, diagnosed contact dermatitis and opined that it was a good possibility that appellant's skin complaint was work related. A pathology report of a biopsy of the tongue dated March 25, 2002 revealed hyperkeratosis, lichenoid, mucositis and hyperpigmentation.

In reports dated April 8 to July 11, 2002, Dr. Mark J. Mayson, a Board-certified internist, opined that appellant did not have asthma or bronchospastic lung disease. Statements from coworkers supported that there were different odors emanating from the mammography department from 1999 until 2002.

The employing establishment submitted a letter of controversion dated April 15, 2002 which again noted that appellant was offered a position as a medical records clerk after receipt of a report from her treating physician who restricted her exposure to chemicals, fumes or odors present in the mammography department. The employing establishment noted that appellant was exposed to additional fumes, chemicals and odors while performing radiology duties at her part-time nonfederal job and noted that the medical records submitted by appellant did not indicate that her treating physicians were aware of her part-time position or the hazardous fumes she was exposed to in that environment. The employing establishment further noted that all air quality surveys were negative for health hazards and were in compliance with OSHA standards.

By decision dated October 23, 2002, the Office hearing representative affirmed the April 9, 2002 decision on the grounds that appellant did not submit sufficient medical evidence to establish a causal relationship between her claimed recurrence of disability and her employment injury.

Appellant requested an oral hearing and by decision dated August 27, 2003, the Office denied appellant's request for an oral hearing on the grounds that appellant had already received

a hearing on the issue and was not entitled to another review on the same issue.⁴ Appellant was informed that her case had been considered in relation to the issues involved and that the request was further denied for the reason that the issues in this case could be addressed by requesting reconsideration from the district office and submitting evidence not previously considered.

In a letter dated September 16, 2003, appellant requested reconsideration and submitted additional medical evidence. In a report dated April 2, 2002, Dr. Lance noted treating appellant for an asthma attack due to exposure to odors at work. Also submitted were reports from Dr. Allan D. Lieberman, a Board-certified pediatrician, who indicated that on October 21, 2002 he performed a medical record review without a physical examination and concluded that appellant's symptoms were caused by exposures to darkroom chemicals, paint vapors, tar vapors and enzyme drain cleaner and poor ventilation in the workplace. He indicated that appellant could not work at the employing establishment. In his report of June 25, 2003, the physician further opined that appellant's condition and resulting impairments began 10 years previously and continued to the present. He recommended a program of biodetoxification. In an attending physician's report dated October 17, 2003, Dr. Lieberman diagnosed reactive airway dysfunction syndrome and noted with a check mark "yes" that appellant's condition was caused or aggravated by her employment duties noting specifically exposure to toxic chemicals. Also submitted were witness statements advising that there were odors in the mammography department in May and June 2001 and March through April 2002.

In a decision dated November 12, 2003, the Office denied modification of the prior decision on the grounds that the medical evidence of record did not establish that the recurrence of disability was causally related to work exposure.

LEGAL PRECEDENT

Where appellant claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of establishing by the weight of reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.⁵ 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.⁶ Moreover, the physician's conclusion must be supported by sound medical reasoning.⁷

⁴ This decision was not appealed to the Board.

⁵ *Robert H. St. Onge*, 43 ECAB 1169 (1992).

⁶ Section 10.104(a)(b) of the Code of Federal Regulations provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a detailed medical report. The physician's report should include the physician's opinion with medical reasons regarding the causal relationship between the employee's condition and the original injury, any work limitations or restrictions and the prognosis. 20 C.F.R. § 10.104.

⁷ See *Robert H. St. Onge*, *supra* note 5.

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.⁸ In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.⁹ While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.¹⁰

ANALYSIS

The Office accepted that appellant experienced paint fume inhalation in June 2001. However, the medical record lacks a well-reasoned narrative from appellant's physicians relating appellant's claimed recurrent condition, beginning September 13, 2001, to her accepted employment injury.

Reports from Dr. Lance provide some support for causal relationship but are insufficient to establish the claimed recurrence of disability. His notes of August 7 and December 17, 2001 advised that appellant developed bronchospastic disease secondary to chemical exposure in the workplace. The physician's report of March 14, 2002 noted appellant's history of allergic rhinitis and asthma since August 6, 2001 and opined that it was likely that her development of asthma and bronchospasms were secondary to some hypersensitivity reaction developed from exposure to x-ray chemicals on her job. However, none of the medical records submitted most contemporaneously with the date of the alleged recurrence specifically mention that appellant sustained a recurrence of disability on September 13, 2001 causally related to the accepted employment injury of June 4, 2001.¹¹ The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.¹² In his reports, Dr. Lance neither mentioned that appellant's condition was a recurrence of the earlier injury of June 4, 2001 exposure or otherwise provide medical reasoning explaining why any current condition or disability was due to the June 4, 2001 employment injury.¹³ He did not make an attempt to explain how a paint fume inhalation incident would cause or aggravate any of the other diagnosed conditions. Furthermore, there is no "bridging evidence" which would relate appellant's diagnosed allergic rhinitis, bronchospastic disease and asthma to the accepted paint fume inhalation. That is, the doctor did not explain how appellant's condition was exacerbated by employment factors to result in these conditions. The Office has not accepted that appellant

⁸ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁹ For the importance of bridging information in establishing a claim for a recurrence of disability, see *Robert H. St. Onge*, *supra* note 5; *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 748 (1986).

¹⁰ See *Ricky S. Storms*, 52 ECAB 349 (2001); *Morris Scanlon*, 11 ECAB 384, 385 (1960).

¹¹ The Board has consistently held that contemporaneous evidence is entitled to greater probative value than later evidence; see *Katherine A. Williamson*, 33 ECAB 1696 (1982); *Arthur N. Meyers*, 23 ECAB 111 (1971).

¹² *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

¹³ *Id.*

developed allergic rhinitis, bronchospastic disease and asthma as a result of her June 4, 2001 work injury and there is no medical rationalized evidence to support such a conclusion.¹⁴ Additionally, the doctor appears to equivocate with regard to his diagnosis of bronchospastic disease and asthma as he noted that he could not dispute the pulmonologist's findings which revealed no bronchospastic or asthmatic disease.¹⁵ Likewise, Dr. Lance failed to address how nonemployment factors, such as appellant's second part-time job as a radiologist with a private urgent care facility, might have affected her condition. The Board notes that a medical opinion based on an incomplete history is insufficient to establish causal relationship.¹⁶ Therefore, these reports are insufficient to meet appellant's burden of proof.

Also submitted was a report from Dr. Shmunes dated March 28 and April 7, 2002 which concluded that appellant's dermatitis was work related. However, as noted above, the Office did not accept that appellant developed dermatitis as a result of her June 4, 2001 work injury and there is no medical rationalized evidence to support such a conclusion.¹⁷ Additionally, the Board notes that Dr. Shmunes opinion is speculative with regard to causal relationship noting that he stated it was a "good possibility" that her dermatitis was work related.¹⁸

Appellant also submitted reports from Dr. Lieberman who diagnosed bronchospasms and dermatitis and opined that they were the result of work exposures to darkroom chemicals, paint vapors, tar vapors and enzyme drain cleaner and poor ventilation in the workplace. He opined in his report of June 25, 2003, that appellant's condition and resulting impairments began 10 years previously and continue to the present. Although the doctor supported causal relationship in this conclusory statement he did not provide a rationalized opinion regarding the causal relationship between appellant's bronchospasms and dermatitis and the accepted paint inhalation of June 2001,¹⁹ that is he neither mentioned that appellant's condition was a recurrence of the earlier injury of June 2001 exposure or otherwise provide medical reasoning explaining why any current condition or disability was due to the June 2001 employment injury or to any other employment factors.²⁰ Additionally, the doctor failed to address or distinguish Dr. Mayson's findings in his reports dated April 8 to July 11, 2002 which concluded that appellant did not have asthma or bronchospastic disease. In an attending physician's report dated October 17, 2003, Dr. Lieberman diagnosed reactive airway dysfunction syndrome and noted with a check mark "yes" that appellant's condition was caused or aggravated by her employment duties noting

¹⁴ For conditions not accepted by the Office as being employment related, it is the employee's burden to provide rationalized medical evidence sufficient to establish causal relation, not the Office's burden to disprove such relationship. *Alice J. Tysinger*, 51 ECAB 638 (2000).

¹⁵ *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

¹⁶ *Id.*

¹⁷ See *Alice J. Tysinger*, *supra* note 14.

¹⁸ See *Frank Luis Rembisz*, *supra* note 15.

¹⁹ *Id.*

²⁰ *Id.*

specifically exposure to toxic chemicals. The Board has held that an opinion on causal relationship which consists only of a physician checking “yes” to a medical form report question on whether the claimant’s condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.²¹ Therefore, these reports are insufficient to meet appellant’s burden of proof.

Other medical reports submitted by appellant, including those reports from Dr. Mayson dated April 8 to July 11, 2002, did not specifically address causal relationship between her accepted condition and her claimed recurrence of disability or conditions. Rather, the doctor concluded in his report of May 29, 2002, after thorough examination and testing, that appellant did not have asthma or bronchospastic lung disease.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained a recurrence of disability or a medical condition beginning September 13, 2001 causally related to her accepted employment-related paint inhalation that occurred in June 2001.

ORDER

IT IS HEREBY ORDERED THAT the November 12, 2003 decision of the Office of Worker’ Compensation Programs is affirmed.

Issued: July 22, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

²¹ *Lucrecia M. Nielson*, 41 ECAB 583, 594 (1991).