

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**RAY D. FIELDS, Appellant**

**and**

**DEPARTMENT OF VETERAN AFFAIRS,  
VETERANS ADMINISTRATION MEDICAL  
CENTER, Lexington, KY, Employer**

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**Docket No. 04-1112  
Issued: September 15, 2004**

*Appearances:*  
*Ray D. Fields, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Member  
DAVID S. GERSON, Alternate Member  
WILLIE T.C. THOMAS, Alternate Member

**JURISDICTION**

On March 22, 2004 appellant filed a timely appealed from a February 17, 2004 decision by the Office of Workers' Compensation Programs finding that appellant had not submitted sufficient evidence to warrant modification of the Office's December 5, 2003 decision. In the December 5, 2003 decision, the Office found that appellant had not established that he had a recurrence of disability due to his May 18, 2000 employment injury. The Board has jurisdiction over the merits of this case pursuant to 20 C.F.R. §§ 501.2(c) and 501.3.

**ISSUE**

The issue is whether appellant has met his burden of proof to establish that he sustained a recurrence of disability, for which he filed a claim on October 16, 2003, causally related to his May 18, 2000 employment injury.

## **FACTUAL HISTORY**

On May 18, 2000 appellant, then a 60-year-old maintenance supervisor, was inspecting a leak at the employing establishment when he slipped on water and fell, landing on his left shoulder. On October 16, 2003 appellant filed a claim for a recurrence arising from a May 18, 2000 injury, seeking medical treatment for his left shoulder. In his claim for recurrence, appellant stated that his left shoulder condition had never fully healed after the May 18, 2000 incident.

Appellant submitted a September 22, 2003 report from Dr. Douglas Crutcher, a Board-certified radiologist, who stated that a magnetic resonance imaging (MRI) scan of the left shoulder showed a large, extensive, full thickness rotator cuff tear. He indicated that appellant also had associated tendon retraction at the supraspinatus. Dr. Crutcher also reported that appellant had an abnormal signal at the subscapularis tendon which was enlarged with generous tendinopathy.

In an October 28, 2003 letter, the Office informed appellant that it had accepted his claim for left shoulder strain. The Office stated that it was only accepting his May 18, 2000 injury and not the alleged recurrence of October 16, 2003 as the latter was still being developed. In a second letter of the same date, the Office advised appellant that the current medical evidence was insufficient to establish his claim for recurrence. The Office informed appellant that he should submit any medical and treatment reports for his left shoulder since the employment injury. The Office asked appellant to designate what duties he had performed since the employment injury, whether they affected his left shoulder and to submit a report from his physician on the history of the original injury, current medical findings; diagnosis, and the relationship between the need for further medical treatment and the employment injury.

In an undated report, received by the Office on December 3, 2003, Dr. Philip F. Corbett, a Board-certified orthopedic surgeon, reported that, two to three years prior to his examination, appellant slipped on a wet floor at work and fell. Appellant tried to catch himself with his left arm, but noticed a stretching pain in his shoulder. Dr. Corbett stated that appellant had received conservative treatment for a sprain or strain but had no improvement. He indicated that an MRI scan showed a full thickness supraspinatus tear with retraction and some reactive glenohumeral joint destruction. Dr. Corbett reported that appellant was restricted to 25 percent motion in his left shoulder due to fixed soft tissue deformities and absence of function of the supraspinatus. He indicated that x-rays showed some degenerative joint disease in the glenohumeral joint and a spur on the acromion as well as mild to moderate degenerative acromioclavicular joint disease. He diagnosed a ruptured rotator cuff of the left shoulder and recommended arthroscopic surgery on the left shoulder.

In a December 5, 2003 decision, the Office denied appellant's claim for a recurrence on the grounds that he had not submitted sufficient medical evidence to show that his shoulder condition was causally related to his May 18, 2000 employment injury.

In a January 12, 2004 letter, appellant requested reconsideration of the Office's December 5, 2003 decision and submitted copies of Dr. Crutcher's and Dr. Corbett's reports. He also submitted a facsimile cover letter from Dr. Corbett's office, stating that precertification was

needed so that surgery could be performed on appellant's left shoulder, consisting of an arthroscopy with a possible mini open repair of the left rotator cuff. In a February 17, 2004 merit decision, the Office denied appellant's request for modification of the December 5, 2003 decision. Therefore, there is a lack of medical evidence that would establish that appellant's recurrence of disability was causally related to the employment injury.

### **LEGAL PRECEDENT**

An individual who claims a recurrence of a medical condition due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the medical condition for which medical benefits are claimed is causally related to the accepted employment injury. As part of this burden, the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition and supports that conclusion with sound medical reasoning.<sup>1</sup>

### **ANALYSIS**

The Office accepted that appellant injured his left shoulder on May 18, 2000. However, appellant did not submit the necessary medical evidence to show that he had a recurrence of that medical condition. Appellant claimed that his left shoulder never healed from the May 18, 2000 employment injury. Dr. Crutcher's report indicated that an MRI scan showed a large, extensive, full thickness tear of the left rotator cuff. Dr. Corbett also diagnosed a large tear of the left rotator cuff and indicated that appellant needed arthroscopic surgery. Neither physician, however, gave a medical opinion on whether the rotator cuff tear for which appellant sought treatment in October 2003 was causally related to the May 18, 2000 employment injury. Both physicians failed to explain how an employment injury would cause a recurrence of a medical condition over three years later.

### **CONCLUSION**

Appellant has not met his burden of proof in establishing that his May 18, 2000 employment injury caused his torn rotator cuff, diagnosed three years later. Therefore, he has not established a recurrence of disability causally related to the accepted May 18, 2000 employment injury.

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<sup>1</sup> *Bernard Snowden*, 49 ECAB 144, 148 (1997); see 20 C.F.R. § 10.104.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs, dated February 17, 2004 and December 5, 2003, be affirmed.

Issued: September 15, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member