

duty. Appellant submitted medical evidence in support of his claim diagnosing back strain and his physician released him to return to full duty on April 9, 2002.

On December 18, 2002 appellant filed a recurrence of disability claim alleging on August 9, 2002 he sustained a recurrence of disability causally related to his April 1, 2002 employment injury. Appellant indicated on the claim form that he had stopped work on August 9, 2002 and had returned on December 18, 2002. In support of his claim, appellant submitted notes signed by a medical resident diagnosing pneumonia and pancreatitis. The employing establishment controverted appellant's claim and noted that he had sustained a minor back strain and had returned to full duty on April 9, 2002.

Dr. Bhaskar Banerjee, a Board-certified gastroenterologist, completed a note on December 16, 2002 and reported that he examined appellant in the gastrointestinal clinic and that appellant could return to light-duty work on December 18, 2002.

The Office requested additional factual and medical information in a letter dated December 31, 2002. In a separate decision of the same date, the Office accepted appellant's April 1, 2002 claim for lumbar strain.

By decision dated March 13, 2003, the Office denied appellant's claim for a recurrence of disability causally related to his accepted lumbar strain due to deficiencies in the medical evidence.

In a letter received by the Office on April 2, 2003, appellant requested reconsideration and submitted additional medical evidence. On August 12, 2002 Dr. Banerjee noted that appellant reported pain in his low back of a type which he had not previously experienced. On August 20, 2002 appellant was admitted to VA Heartland-East and complained of low back pain radiating down his left lower extremity with no numbness or tingling which began on August 10, 2002. On August 21, 2002 appellant reported to Dr. Priya Velappan, a Board-certified internist, that his back pain felt like pain he had had in the past. Dr. Velappan found relatively marked focal tenderness in certain areas with no neurologic symptoms or signs related to nerve root compression. He stated that x-rays showed some osteophytes and degenerative changes with no sign of fracture, compression or infection. Dr. Velappan stated, "It is possible, however, that this back pain is simply an acute exacerbation of pain that bothered him several months ago related to lifting an object at postal work."

By decision dated May 7, 2003, the Office denied modification of its March 13, 2003 decision on the grounds that the submitted evidence was insufficient to warrant modification. The Office explained that the submitted medical evidence did not establish a causal relationship between the accepted lumbar strain and the current condition.

LEGAL PRECEDENT

Where an employee 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. The 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. Moreover, sound medical reasoning must support the physician's conclusion.¹

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury. In this regard, medical evidence of bridging symptoms between the recurrence of the accepted injury must support the physician's conclusion of a causal relationship. 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.²

ANALYSIS

In this case, the Office accepted that appellant sustained a lumbar strain as a result of his April 1, 2002 pushing injury. Appellant alleged on December 18, 2002 that he sustained a recurrence of disability on August 9, 2002 causally related to his April 1, 2002 employment injury. In support of his claim on August 12, 2002, Dr. Banerjee, a Board-certified gastroenterologist, noted that appellant reported pain in his low back of a type which he had not previously experienced. On August 20, 2002 appellant reported low back pain radiating down his left lower extremity with no numbness or tingling which began on August 10, 2002. These notes are not sufficient to establish a causal relationship between appellant's complaints of low back pain and his April 1, 2002 employment injury. The physicians did not provide a history of injury including the accepted employment injury and did not offer an opinion on the causal relationship between appellant's current condition and his accepted employment injury.

On August 21, 2002 Dr. Velappan, a Board-certified internist, found relatively marked focal tenderness in certain areas with no neurologic symptoms or signs related to nerve root compression. He stated, "It is possible, however, that this back pain is simply an acute exacerbation of pain that bothered him several months ago related to lifting an object at postal work." This is the only medical evidence of record noting appellant's previous employment injury. However, Dr. Velappan incorrectly described appellant's April 1, 2002 employment injury as a lifting rather than a pushing injury. Furthermore, Dr. Velappan failed to offer a medical opinion based on a reasonable degree of medical certainty that appellant's current condition was due to his accepted employment injury. Instead he merely stated that "it was possible" that appellant's current condition is causally related to his April 1, 2002 employment injury. Without an unequivocal opinion regarding the relationship between appellant's current condition and his employment injury supported with sound medical reasoning, appellant has failed to meet his burden of proof.

¹ *Ricky S. Storms*, 52 ECAB 349 351-52 (2001); *see also* 20 C.F.R. § 10.5(x).

² *Id.*

CONCLUSION

The Board finds that appellant has failed to meet his burden of proof in establishing that his back condition on or after August 9, 2002 was causally related to his April 1, 2002 employment injury and has therefore failed to establish a recurrence of disability commencing on that date.

ORDER

IT IS HEREBY ORDERED THAT the May 7 and March 13, 2003 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: September 13, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member