



condition worsened until November 25, 2002 when she sought medical attention. On November 26, 2002 appellant was treated by Tammy Wheeler, a physician's assistant, to Dr. Richard Farrell, a treating physician Board-certified in family medicine. On November 27, 2002 Dr. Farrell noted work restrictions of walking and standing up to 8 hours a day, a 15-pound lifting restriction, bending and stooping for 2 hours, twisting no more than 1 hour, pulling and pushing no more than 1 hour, and reaching over the shoulder no more than 2 hours.<sup>1</sup> On appellant's claim form, the employing establishment stated that she was assigned to a limited-duty position which included mail sorting, simple grasping, pulling and pushing for no more than 1 hour a day, and working at the retail counter 2 to 4 hours a day with a lifting restriction of no more than 15 pounds.

On January 6, 2003 the Office accepted appellant's claim for right lateral epicondylitis of the right elbow with a date of injury of September 16, 1999.

In a report dated January 8, 2003, Dr. Farrell stated that on December 16, 2002 appellant related strong pain and burning in right elbow when sorting mail. He prescribed physical therapy, medication and a follow-up visit in two to three weeks. On January 14, 2003 Dr. Farrell stated that appellant's right elbow movements were painful with lateral tenderness. He determined that her condition was not improving even with a reduction in her work schedule by half and placed her on total disability.

On January 15, 2003 appellant filed a claim for a recurrence of disability stating that her elbow pain was the same as before. She stopped work on January 14, 2003. In a report dated January 28, 2003, Dr. Farrell stated that appellant's strength test in her elbows revealed increased strength. In a report dated February 7, 2003, Dr. Farrell stated that appellant's bilateral elbow pain was improving. On February 21, 2003 Dr. Farrell stated that appellant had continued elbow improvement and that she could return to light-duty work for 20 hours a week.

On February 25, 2003 appellant accepted a limited-duty job offer to work an 8-hour day which the employing establishment noted was within medical restrictions. The position included sorting mail for an hour a day and working the retail window for up to 7 hours a day with assistance for lifting parcels over 15 pounds.

On March 10, 2003 appellant filed a claim for a recurrence of disability stating that she returned to work on February 25, 2003 and sustained a recurrence of disability on February 28, 2003. Appellant stopped work on March 3, 2003. In a report dated March 5, 2003, Dr. Farrell stated that appellant's right elbow became worse after returning to work on February 25, 2003.<sup>2</sup>

By letter dated March 19, 2003, the Office informed appellant of the evidence needed to support her recurrence claim of disability. On March 10, 2003 appellant submitted a Form CA-7

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<sup>1</sup> Dr. Farrell stated in a report dated November 28, 2002 that he had reviewed "the history and the physical findings" with the physician's assistant.

<sup>2</sup> In his reports, Dr. Farrell frequently endorsed the findings of Tammy Wheeler, his physician's assistant.

claim for compensation for March 1 to 7, 2003.<sup>3</sup> On March 21, 2003 Dr. Farrell placed appellant off work pending an orthopedic evaluation.

In a March 23, 2003 report, Dr. Farrell provided a history of injury stating that appellant was released to return to work on February 21, 2003 but that, within a few days her pain returned, and was much worse when seen on February 28, 2003. He placed her on total disability as of March 4, 2003 and referred her to an orthopedic specialist.

In a report dated May 14, 2003, Dr. George E. Silver, an orthopedic surgeon, stated that the etiology of appellant's pain was not clear, noting that a recent electromyogram evaluation was normal. Dr. Silver recommended a referral to a neurologist. On May 14, 2003 Dr. Farrell maintained appellant's total disability and referred her to a neurologist.

On May 20, 2003 Dr. Silver released appellant to return to full duty.

In a report dated May 29, 2003, Dr. Valmore A. Pelletier, a Board-certified neurosurgeon, stated that he could not identify any objective symptoms to support appellant's complaints of elbow pain and recommended a referral to a physical therapist or physiatrist. X-rays taken on behalf of Dr. Pelletier on May 29, 2003 revealed loss of cervical lordosis, mild disc space narrowing with osteophyte formation and degenerative disc disease at C4-5.

On July 10, 2003 Dr. Robert J. Hedderman, a Board-certified orthopedic surgeon, noted that appellant complained of pain in her right elbow and sometimes through her entire arm. However, he was unable to identify objective symptoms to support her complaints and recommended a reevaluation by a neurologist.

Dr. Farrell subsequently referred appellant to Dr. Vinodrai M. Parmar, a Board-certified neurological surgeon, for further consultation. In a report dated August 20, 2003, Dr. Parma stated that he examined appellant on August 8, 2003. He noted the history of pain and numbness in the right arm which she related to lifting mail in September 1999. Based on physical examination, he determined that she had symptoms of lateral humeral epicondylitis or tennis elbow but she did not have signs of radial or ulnar neuropathy. He recommended no additional treatment and opined that if her job caused pain she should change jobs.

In a report dated September 15, 2003, Dr. Shawn P. Jorgensen, a physiatrist, treated appellant for chronic right arm numbness and likely lateral epicondylitis. He opined based on tests that day that she no longer had symptoms of active epicondylitis. Dr. Jorgensen recommended bilateral carpal tunnel splints for office work and determined that she was only mildly disabled. He restricted her repetitive motion and mail sorting to no more than one hour at a time and no more than four hours a day and recommended telephone answering duties.

By decision dated October 6, 2003, the Office denied appellant's claim for recurrence of disability, finding that she failed to establish that her accepted condition worsened as a result

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<sup>3</sup> Appellant subsequently submitted claims for compensation from March 8 to August 29, 2003.

of the limited-duty position she occupied since November 27, 2002, or after January 14 or March 4, 2003.

On January 15, 2004 appellant requested reconsideration, noting that she returned to work on February 25, 2003 but became increasingly symptomatic over the next several workdays with numbness in her right hand and arm. On February 28, 2003 her symptoms worsened with pain and numbness in her right arm and elbow. She then relied more on her left arm, which in turn became symptomatic with strain and soreness. Appellant added that she previously reinjured her elbows at work on November 25, 2002.

In an October 23, 2003 report, Dr. Farrell stated that appellant had been treated by his practice since December 2000 but that the initial treatment for an elbow condition was on November 27, 2002. He diagnosed bilateral epicondylitis and prescribed a conservative regimen including physical therapy. Appellant was released to return to light duty on February 21, 2003 with a light-duty restriction and a 20-hour work week. However, her symptoms returned almost immediately and, upon examination on February 28, 2003, she was more symptomatic than prior to her return to work. She continued to have symptoms resulting in a determination of total disability and an orthopedic consultation. Dr. Farrell diagnosed appellant with a work-related right lateral epicondylitis which he stated was a recurrence of a 1999 injury.

On January 15, 2004 Dr. Jorgensen stated that appellant's normal electromyogram evaluation (EMG) that day ruled out a significant neuropathy. He repeated his opinion that she was only mildly disabled and restricted her repetitive right elbow movement or sorting mail to no more than four hours a day in one block and recommended telephone answering duties. A right elbow magnetic resonance imaging scan taken on January 29, 2004 revealed edema in the ulnar nerve at the cubital tunnel.

On February 17, 2004 Dr. James Cole, a physiatrist, stated that appellant had medial epicondylitis of the right arm, stating that she can no longer do her job, even with abundant breaks. He noted a negative Finkelstein test, decreased sensation, weak hand grip in comparison to the other side, and a loss of prehension at distal and proximal joints. Dr. Cole noted normal EMG data of 13 muscle groups, and normal ulnar and median nerves.

In a functional capacity evaluation on March 31, 2004, a physical therapist listed appellant's limitations.

The Office subsequently approved and appellant underwent massage therapy, nerve and sensory conduction tests, and muscle testing.

In an April 12, 2004 report, Dr. Cole diagnosed right medial epicondylitis with pain in the elbow and hand. In a report dated May 17, 2004, Dr. Cole noted appellant's work history and stated that she had tenderness along the right medial epicondyle and decreased sensation in the left palm. He recommended nerve conduction studies and an EMG and requested authorization for hand therapy. On May 20, 2004 Dr. Cole stated that diagnostic tests performed that day revealed right ulnar neuropathy at the cubital tunnel.

By decision dated August 20, 2004, the Office denied modification of its October 6, 2003 decision denying benefits.

### **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>4</sup> This term also means an inability to work when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force) or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.<sup>5</sup>

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 light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.<sup>6</sup>

### **ANALYSIS**

With respect to appellant's claim for a recurrence of disability on or after January 14 and March 4, 2003, it is her burden of proof to establish either a change in her condition or a change in the light-duty requirements. There is no factual evidence establishing a change in her light-duty requirements. The medical evidence also does not establish a change in the nature and extent of her injury-related condition.

The medical evidence covering this time period includes a January 8, 2003 report in which Dr. Farrell reports that appellant had strong pain in her right elbow on December 16, 2002, and a January 14, 2003 report which he again noted appellant's pain with right lateral tenderness. He determined that she was not improving even with a substantial reduction in her work requirements and placed her on total disability. In reports dated January 28, February 7 and 21, 2003, Dr. Farrell noted appellant's increased strength. Dr. Farrell's medical reports do not contain adequate medical reasoning that establishes a causal relationship between appellant's accepted right lateral epicondylitis and her claimed disability beginning January 14, 2003, when

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<sup>4</sup> 20 C.F.R. § 10.5(x).

<sup>5</sup> *Id.*

<sup>6</sup> *Shelly A. Paolinetti*, 52 ECAB 391 (2001); *Robert Kirby*, 51 ECAB 474 (2000); *Terry R. Hedman*, 38 ECAB 222 (1986).

she was released to return to light duty. Medical reports not containing rationale on causal relationship are of diminished probative value.<sup>7</sup> While the doctor noted appellant's symptoms and restrictions, he offered no reasoned opinion explaining how and why the accepted condition caused or contributed to disability beginning January 14, 2003.

In reports dated March 5 and 23, and May 14 and October 23, 2003, Dr. Farrell noted appellant's symptoms but did not attribute her condition or disability to her accepted employment injury. On May 14 and 20, 2003, Dr. Silver reported normal examination results and released appellant to return to full duty. In a report dated May 29, 2003, Dr. Pelletier was unable to identify objective symptoms to support her condition. On August 20, 2003 Dr. Parma did not relate her lateral humeral epicondylitis to her employment. These reports do not address the causal relationship between her diagnosed condition and the March 3, 2003 period claimed. In reports dated September 15, 2003 and January 14, 2004, Dr. Jorgensen did not associate her condition with her federal employment. In reports dated February 17, 2004, April 12, May 17 and 20, 2004, Dr. Cole noted appellant's work history but he provided no reasoned medical opinion explaining how or why appellant's disability for either of the claimed recurrent periods would be caused or aggravated by the accepted right elbow injury.

The Board therefore finds the evidence is insufficient to meet appellant's burden of proof to establish that she sustained a recurrence of disability on or about January 14 or March 4, 2003 due to her right lateral epicondylitis.

### **CONCLUSION**

The Board finds that appellant met her burden of proof that she sustained a recurrence of disability on January 14, 2003 or on March 3, 2003 and thus the Office's August 30, 2004 decision denying her claim for a recurrence of disability is affirmed.

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<sup>7</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001).

**ORDER**

**IT IS HEREBY ORDERED THAT** the August 30, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 20, 2005  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge  
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge  
Employees' Compensation Appeals Board