



On June 24, 2004 appellant filed a Form CA-2a claim for benefits, alleging that she sustained a recurrence of disability on March 22, 2004 which was causally related to her accepted condition.

Appellant submitted a July 23, 2004 attending physician's form report from Dr. Swotinsky, Board-certified in preventive medicine, which indicated that appellant experienced back strain and symptoms of cervical radiculopathy. On the form, a box was checked "yes" in response to the question "Do you believe the condition found was caused or aggravated by an employment activity?"

By letter dated August 5, 2004, the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits based on a recurrence of disability. The Office asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition, and an opinion as to whether her claimed condition as of March 22, 2004 was causally related to her April 5, 2003 employment injury.

Appellant submitted a June 10, 2004 report by Dr. David R. Janfaza, Board-certified in internal medicine, who stated:

"Briefly, this [is] a postal worker who injured herself at work about a year ago. [Appellant] fell on her back and has developed a chronic low back pain syndrome. Evaluation has revealed mild spinal stenosis as well as severe facette arthropathy at the lumbar spine and imaging studies show multilevel disc disease with spondylitic changes. The patient has been evaluated surgically and is not considered a surgical candidate. [Appellant] has had multiple conservative treatments with very limited benefit. The patient continues to complain of excruciating low back pain radiating to her buttock area, worse with changes in position, worse with standing. With standing it radiates to her anterior thigh bilaterally. She denies any weakness of the lower extremities. The pain is associated spasm of her low back muscles."

Dr. Janfaza diagnosed multilevel disc disease, lumbar facette arthropathy and mild spinal stenosis. Dr. Janfaza submitted follow-up reports dated August 12 and September 30, 2004 in which he essentially reiterated his previous findings and conclusions.

Appellant also submitted an April 22, 2004 Form CA-20 from Dr. Swotinsky which diagnosed degenerative disc disease and spinal stenosis. Dr. Swotinsky checked a box indicating that the condition found was caused or aggravated by an employment activity.<sup>1</sup> In addition, appellant submitted a September 9, 2004 form report by Dr. J. Celona, Board-certified in internal medicine, which outlined her work restrictions.

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<sup>1</sup> In a July 23, 2004 report, Dr. Swotinsky stated that he was reluctant to complete a form appellant sent him because he had serious concerns about signing parts of it which purported that she had total disability, when she had no objective evidence of disability.

By decision dated December 6, 2004, the Office denied appellant compensation for a recurrence of her accepted lumbar strain injury. The Office found that appellant failed to submit medical evidence sufficient to establish that the claimed condition or disability as of March 22, 2004 which was caused or aggravated by the accepted injury.

### **LEGAL PRECEDENT**

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury, and who supports that conclusion with sound medical reasoning.<sup>2</sup>

### **ANALYSIS**

In the instant case, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates her disability for work as of March 22, 2004 to her accepted lumbar sprain injury. For this reason, she has not discharged her burden of proof to establish her claim that she sustained a recurrence of disability as a result of her accepted employment condition.

In support of her recurrence claim, appellant submitted Dr. Janfaza's June 10, 2004 report, which related the history of injury, stated findings on examination and advised that she had developed chronic low back pain syndrome. Dr. Janfaza diagnosed mild spinal stenosis and severe facette arthropathy at the lumbar spine and noted that imaging studies showed multilevel disc disease with spondylitic changes. He stated that appellant continued to complain of excruciating low back pain radiating to her buttock area, worse with changes in position, worse with standing and experienced pain and spasm of her low back muscles. Dr. Janfaza's report, however, does not constitute sufficient medical evidence demonstrating a causal connection between appellant's employment-related injury and her alleged recurrence of disability on March 22, 2004. Causal relationship must be established by rationalized medical opinion evidence. Dr. Janfaza's report failed to provide a rationalized, probative medical opinion explaining how her condition as of March 22, 2004 was caused or aggravated by her accepted lumbar sprain injury.<sup>3</sup> Appellant also submitted form reports from Drs. Celona and Swotinsky, who checked a box indicating appellant's condition was causally related to her employment. However, form reports which support causal relationship with a checkmark are insufficient to establish the claim, as the Board has held that, without further explanation or rationale, a checked box is not sufficient to establish causation.<sup>4</sup>

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<sup>2</sup> *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

<sup>3</sup> *William C. Thomas*, 45 ECAB 591 (1994).

<sup>4</sup> *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

As there is no probative, rationalized medical evidence addressing and explaining why the claimed condition and disability as of March 22, 2004 was caused or aggravated by her accepted employment injury, appellant has not met her burden of proof in establishing that she sustained a recurrence of disability.

**CONCLUSION**

The Board finds that appellant has not met her burden to establish that she was entitled to compensation for a recurrence of disability as of March 22, 2004 causally related to her accepted lumbar sprain injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 6, 2004 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: June 15, 2005  
Washington, DC

Alec J. Koromilas  
Chairman

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member