

FACTUAL HISTORY

On November 3, 2000 appellant, a 53-year-old nurse researcher, filed a traumatic injury claim alleging that on that date she injured herself when she fell on a concrete walkway.¹ The Office accepted the claim for a left knee contusion and left hand abrasion.

On May 30, 2003 appellant filed a claim for a recurrence of disability indicating she stopped work on November 25, 2002.² On the back of the form the employing establishment noted that appellant had not worked since November 2002 and did not inform it of a recurrence claim until May 30, 2003.

On June 12, 2003 appellant submitted details of medical treatment she received for the period November 3, 2000 to June 10, 2003.

On June 24 and 26, 2003 the Office received medical information regarding treatment and objective tests performed in 1973 and appellant's response to the information requested by the Office.

In a June 24, 2003 report, Dr. James M. Vascik, a treating Board-certified neurological surgeon, stated that appellant had an L4-5 decompressive lumbar laminectomy surgery on February 26, 2003 due to "intractable back pain and numbness and pain in her right leg and foot. He reported that a May 27, 2003 magnetic resonance imaging (MRI) scan revealed "relief of the spinal stenosis and no need for further spinal surgery." Dr. Vascik also opined that appellant was "unemployable at the present time from her present job duties."

In a June 26, 2003 report, Dr. Carolyn Clark, a Board-certified internist, noted that appellant continued to have "multiple problems related to painful musculoskeletal conditions involving her left leg, knee, foot and hip, as well as low back pain." She indicated that appellant would be totally disabled for at least six to eight months. On July 7, 2003 Dr. Clark noted that appellant's back and lower extremity problems began in July 1973 when she fell down and the condition was aggravated by her November 2000 injury. She noted that an October 2002 MRI scan "revealed fairly severe spinal stenosis at L4-5 as well as a central bulge of the disc." Dr. Clark indicated that appellant continued to have low back, left hip, left knee and left leg problems and that she was unable to "resume her current position." In concluding, she requested that appellant be placed on medical leave until approximately January 2004.

In a June 10, 2003 report, Dr. Vascik opined that appellant was "pretty much incapacitated" and did "not believe this lady can ever return to work."

In reports dated December 4 and 19, 2002 and January 9, 2003, Dr. Cyrus E. Bakhit, a treating Board-certified anesthesiologist, diagnosed lumbosacral disc displacement without myelopathy, lumbosacral intervertebral disc degeneration, lumbosacral spinal stenosis,

¹ Appellant has not worked at the employing establishment since November 2002.

² Appellant noted that she used annual and sick leave to cover her pay until June 2003. On June 23, 2003 the Office received a report detailing the leave that she used for the period November 22, 2002 to June 13, 2003 which included 4.00 hours of authorized absence, 281.50 hours of annual leave and 814.50 hours of sick leave.

lumbosacral spondylarthritis, facet arthropathy or spondylosis without myelopathy, osteoarthritis and dorsal arthritis. He stated that appellant attributed her back pain to her work as a nurse in 1973, that the pain has grown worse over the years and has been intolerable since August 2002. A physical examination revealed that appellant walked a straight line with a limp and normal range of motion of the cervical spine. A range of motion examination of the hips, knees, ankles and lumbar spine “revealed reduced flexion, deflexion, extension, right lateral rotation and flexion, left lateral rotation and flexion.” Dr. Bakhit reported that appellant had “mild pain with deflexion and extension, moderate pain with flexion and severe pain with right and left lateral rotation and flexion.” In a December 19, 2002 report, Dr. Bakhit stated that appellant underwent a caudal epidural injection. Under assessment he reported low back pain with left lower extremity radiation secondary to lumbar disc displacement, lumbar degenerative disc disease, lumbar spinal stenosis and lumbar spondylosis. On January 9, 2003 appellant underwent another caudal epidural injection. He repeated the diagnoses.

On July 30, 2003 appellant requested leave buy back for the period November 25, 2002 to August 15, 2003 and leave without pay for the period August 15, 2003 to January 2004.

In a decision dated September 3, 2003, the Office denied appellant’s claim for a recurrence of disability on and after May 30, 2003 due to her accepted November 3, 2000 employment injury.

In a February 4, 2003 report, Dr. Bakhit stated that appellant underwent a caudal epidural injection. He diagnosed low back pain with left lower extremity radiation secondary to lumbar disc displacement, lumbar degenerative disc disease, lumbar spinal stenosis and lumbar spondylosis.

On July 21, 2003 Dr. Bakhit reported that appellant complained of “low back pain with radiation to the left lower extremity,” and repeated his diagnoses. A physical examination revealed no sciatic tension sign for straight leg raising from a sitting position and “decreased sensory function in a nondermatomal (sic) fashion in the left lower extremity.”

On August 4, 2003 Dr. Bakhit performed a facet joint nerve block procedure and diagnosed disc displacement, facet joint arthropathy and degenerative disc disease.

In an August 20, 2003 report, Dr. David J. Novak, a treating Board-certified orthopedic surgeon, diagnosed a possible left knee meniscal tear.

In a November 21, 2002 report, Dr. James Bailey, III, a treating Board-certified internist, noted that he was placing appellant on sick leave due to the deterioration in her mental and physical condition. On November 25, 2002 he diagnosed “severe low back pain as well as lots of problems with anxiety and depression” and concluded that appellant was currently unable to perform the duties of her position.

In a February 18, 2003 report, Dr. Vascik noted that appellant has had complaints of right foot and back pain since 1973 and was aggravated in August 2002. An MRI scan revealed severe L4-5 stenosis.

In a March 12, 2003 report, Dr. Vascik indicated that appellant was disabled from jury duty due to her spinal surgery. On July 29, 2003 he stated that appellant requested he provide an addendum to his June 24, 2003 report. Dr. Vascik noted that appellant's patient information form stated "her pain problem for which she was seeing me began in 1973, with an on-the-job incident, but the problem worsened in August 2002, although it had bothered her for almost 30 years." On May 6, 2003 he noted that appellant was seen for complaints of left ankle pain and noted that she had pain in her legs since the 1970s.

In an October 15, 2002 report, Dr. Clement A. Elechi, a treating Board-certified neurologist, diagnosed chronic pain syndrome, lumbar stenosis and thoracic pain, of undetermined cause.

On October 21 and December 11, 2003 the Office received a September 22, 2003 MRI scan of the left knee.

On December 11, 2003 the Office received appellant's request for reconsideration, a July 7, 2003 report by Dr. Clark, a September 22, 2003 left knee MRI scan, details of her medical care for the period November 3, 2000 to October 31, 2003, an October 31, 2003 partial medical meniscectomy surgical report and treatment notes dated September 15, October 7 and November 11, 2003.

In a letter dated February 18, 2004, appellant's counsel requested reconsideration of the denial of appellant's recurrence claim.

By decision dated March 24, 2004, the Office denied modification of the September 3, 2003 denial of her recurrence claim.

On December 23, 2004 counsel filed a request for reconsideration and submitted additional medical evidence.

In a report dated June 29, 2004, Dr. Vascik reported his treatment of appellant and noted that appellant "reports a fall on November 3, 2000 on her job" when "she slipped, she flexed forward, and then backwards in extension, trying to regain her balance." Appellant informed Dr. Vascik "that secondary to this accident she experienced low back pain, left lower extremity pain and numbness into her foot." He stated:

"If indeed, as I am led to believe that this is the first time she complained of significant low back and leg pain, it is likely that this accident brought a preexisting condition of spinal stenosis into disability reality. This necessitated the subsequent surgery and the postoperative visits since that time."

In a July 7, 2004 office note, Dr. George D. Henning, an orthopedist, stated that appellant related falling at work which "does support the injury to her knee." He further stated that appellant "had a chronic tear of her medial meniscus at time of surgery" including "an acute injury superimposed on the degenerative meniscus, as indicated by the history of her fall."

By decision dated March 9, 2005, the Office denied modification of the March 24, 2004 decision.

On June 2, 2005 the Office received appellant's request for reconsideration and a September 22, 2003 left knee MRI scan. In a May 18, 2005 report, Dr. Henning noted that appellant "had an acute injury to her left knee suffered in her fall" on November 3, 2000 which was superimposed on the degeneration of her meniscus. He noted that, while the MRI scan was performed three years after the accident, appellant related that "she had no prior problems with her knee before the fall." Dr. Henning opined "with reasonable medical certainty, that the fall contributed greatly to the problems with her left knee" and appellant's "complaints are consistent with the injury site."

By decision dated August 31, 2005, the Office denied modification of the March 9, 2005 decision denying her recurrence claim.

LEGAL PRECEDENT

Section 10.5(x) of the Office's regulations provides, in pertinent part:

"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."³

Where appellant claims a recurrence of disability due to an accepted employment-related injury, 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.⁴ 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.⁵ Moreover, the physician's conclusion must be supported by sound medical reasoning.⁶

ANALYSIS

The Office accepted appellant's claim for left knee contusion and left hand abrasion sustained in a fall at work on November 3, 2000. Appellant stopped work on November 25, 2002 and filed a claim for a recurrence of disability on May 30, 2003 beginning November 25, 2002.

³ 20 C.F.R. § 10.5(x).

⁴ *Robert H. St. Onge*, 43 ECAB 1169 (1992).

⁵ 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, she should arrange for the attending physician to submit a detailed medical report. The physicians 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.

⁶ *Robert H. St. Onge*, *supra* note 4.

The Board finds that appellant did not submit medical evidence sufficient to establish that she sustained a recurrence of disability on November 25, 2002 causally related to the November 3, 2000 employment injury. In order to establish a claim for a recurrence of disability, a claimant must establish that she sustained a spontaneous material change in the employment-related condition without an intervening injury.⁷

Appellant did not submit rationalized medical evidence establishing that her claimed recurrence of disability beginning November 25, 2002 is causally related to the November 3, 2000 accepted employment injury.⁸ The medical evidence appellant submitted from 1973 predates the 2000 employment injury as well as the November 25, 2002 recurrence claim and is not relevant to the issue of whether appellant sustained a recurrence of disability on and after November 25, 2002 due to her accepted November 3, 2000 employment injury. Similarly, the various reports by Drs. Bailey, Bakhit and Elechi do not offer any opinion on the causal relationship between appellant's medical condition and her employment. Thus, these reports are of diminished probative value.

On July 7, 2003 Dr. Clark indicated that appellant's back and lower extremity conditions began when she fell down in 1973 and were aggravated by her November 2000 injury. She noted that appellant continued to have left leg, lower back, left hip and left knee problems. An October 2002 MRI scan revealed a central disc bulge and "fairly severe spinal stenosis at L4-5. However, Dr. Clark failed to provide any rationale to explain how appellant's current medical condition and need for treatment was causally related, either directly or through aggravation, precipitation or acceleration, to the November 3, 2000 employment injury. A medical opinion unsupported by rationale explaining how appellant's recurrence of disability beginning November 25, 2002 was causally related to her accepted November 3, 2000 employment injury is entitled to little probative value.⁹

In a report dated June 29, 2004, Dr. Vascik noted that appellant reported falling at work on November 3, 2003 and subsequently "experienced low back pain, left lower extremity pain and numbness in her foot." He opined that, based upon these complaints of pain, following the injury, "it is likely that this accident brought a preexisting condition of spinal stenosis into disability reality." When a physician diagnoses new conditions arising from an accepted employment injury, he must explain how appellant's newly diagnosed conditions are related to the employment injury and provide medical evidence of bridging symptoms between the present condition and the accepted injury which support the conclusion of a causal relationship.¹⁰

⁷ 20 C.F.R. § 10.5(x); *Theresa L. Andrews*, 55 ECAB ____ (Docket No. 04-887, issued September 27, 2004).

⁸ *Roy L. Humphrey*, 57 ECAB ____ (Docket No. 05-1928, issued November 23, 2005). (Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factor. The opinion of a physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factor identified by the claimant.)

⁹ *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB ____ (Docket No. 05-715, issued October 6, 2005) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

¹⁰ *Mary A. Ceglia*, 55 ECAB ____ (Docket No. 04-113, issued July 22, 2004).

Dr. Vascik, however, provided only a conclusory statement regarding causal relationship without supporting rationale.¹¹

The reports by Dr. Henning are also insufficient to support appellant's burden. He diagnosed a chronic medial meniscus tear in his July 7, 2004 office note, which he found consistent with appellant's fall at work. In the May 18, 2005 report, Dr. Henning opined that appellant sustained "an acute injury to her left knee" due to her November 3, 2000 employment injury which "superimposed on the degeneration of her meniscus." He supported his opinion that appellant's knee condition was due to appellant's November 3, 2000 employment injury on the basis that appellant "had no prior problems with her knee before the fall" and thus "with reasonable medical certainty, that fall contributed greatly to the problems with her left knee." Contrary to Dr. Henning's history, the record shows a prior medical history of knee complaints. Medical conclusions based on inaccurate or incomplete histories are of little probative value.¹² Moreover, the Office has not accepted that appellant sustained a chronic medical meniscus tear. Where an employee claims that a condition not accepted or approved by the Office was due to an employment injury, she bears the burden of proof to establish that the condition is causally related to the employment injury.¹³

As appellant failed to submit rationalized medical evidence establishing that her claimed disability after November 25, 2002 is causally related to her accepted November 3, 2000 employment injury, the Office properly denied her claim for compensation.

CONCLUSION

The Board finds that appellant has not established that she sustained a recurrence of disability on and after November 25, 2002 causally related to her accepted November 3, 2000 employment injury.

¹¹ *Albert C. Brown*, 52 ECAB 152 (2000); *Marilyn D. Polk*, 44 ECAB 673 (1993).

¹² *Mary J. Summers*, 55 ECAB ____ (Docket No. 04-704, issued September 29, 2004).

¹³ *Jaja K. Asaramo*, 55 ECAB ____ (Docket No. 03-1327, issued January 5, 2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 31, 2005 is affirmed.

Issued: July 24, 2006
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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