

April 7, 2003. Although initially denied, the Office accepted appellant's claim for lumbar strain.¹ Additionally, the Office paid wage-loss compensation for temporary total disability through March 31, 2003.²

Approximately three months after returning to her regular duties appellant was transferred to an inpatient social worker position, which allegedly was more physically demanding than her previous position. According to appellant, her new position required a tremendous amount of walking and standing for extended periods throughout the workday and her pain level increased as a result. She stopped working August 15, 2003. Appellant claimed that her back condition was aggravated from being compelled to walk and stand throughout the day.³

In a January 20, 2004 decision, the Office hearing representative found that there was insufficient medical evidence of record to establish that appellant's claimed disability beginning August 15, 2003 was causally related to the original work injury or a recurrence of the January 22, 2003 injury. The hearing representative further noted that she identified additional occupational factors as the cause of her August 15, 2003 disability. As these employment factors were unrelated to the accepted injury, appellant was advised to consider filing a separate occupational disease claim.

On October 15, 2004 appellant requested reconsideration. She also submitted a September 22, 2004 deposition from Dr. Alfredo L. Jacome, a Board-certified neurologist. He previously examined appellant on September 17, 2003 and diagnosed L5-S1 disc bulge and chronic mild lumbar radiculopathy. In his deposition, Dr. Jacome reiterated his earlier diagnosis and indicated that her January 22, 2003 injury aggravated her preexisting condition. He also noted that appellant's change of job functions from sedentary work was contraindicated. Dr. Jacome indicated that her increased back pain following her return to work was consistent with chronic aggravation of a preexisting problem. He explained that as a result of the January 22, 2003 injury appellant should have been on restrictions when she returned to work. According to him, she should perform sedentary work and should minimize walking long distances, minimize lifting, pulling or pushing over 20 pounds and minimize repetitive bending.

In a decision dated October 4, 2005, the Office denied modification of the January 20, 2004 decision.

¹ The medical evidence revealed a prior history of degenerative disc disease and disc herniation at L5-S1. These conditions were not accepted as employment related either by direct causation or aggravation.

² Although appellant did not return to work until April 7, 2003, the Office only paid wage-loss compensation through March 31, 2003 because her then treating physician, Dr. Ernesto Nieto, released her to return to work effective March 31, 2003.

³ In an August 29, 2003 report, Dr. Maria C. Wilson, a neurologist, advised that because of appellant's herniated lumbar disc she could only perform sedentary work. She further indicated that she was permanently incapacitated from her current position. Dr. Wilson noted that appellant could not stand for longer than 30 minutes and could not walk for more than 5 minutes.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act⁴ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that any specific condition or disability claimed is causally related to the employment injury.⁵ Disability means the incapacity, because of an employment injury, to earn the wages the employee was receiving at the time of injury.⁶ Whether a particular injury causes disability for work is a medical question, which must be resolved by competent medical evidence.⁷

ANALYSIS

The Office accepted appellant's claim for a lumbar strain only.⁸ The Office paid wage-loss compensation through March 31, 2003. Appellant returned to her regular duties as an outpatient social worker on April 7, 2003. She continued to perform those duties without incident until she was transferred to a new position effective July 7, 2003. Appellant alleged that, when she changed from outpatient to inpatient social services, her new assignment required more walking and standing, which caused increased back pain to the point that she could no longer perform her duties beginning August 15, 2003.⁹

Appellant has not established that she was disabled for work from April 1 to 6, 2003. The record indicates that her treating physician, Dr. Ernesto released her to return to work on March 31, 2003. Appellant, however, did not return to her regular duties until April 7, 2003 and she has not presented any medical evidence to support that her absence from work for the period April 1 to 6, 2003 was due to the accepted injury. Accordingly, she is not entitled to wage-loss compensation for the period April 1 to 6, 2003. The record also indicates that appellant worked

⁴ 5 U.S.C. § 8101 *et seq.*

⁵ 20 C.F.R. § 10.115(e), (f) (1999); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996). Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence. *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

⁶ 20 C.F.R. § 10.5(f) (1999).

⁷ *Fereidoon Kharabi*, 52 ECAB 291, 292 (2001).

⁸ Where appellant claims that a condition not accepted or approved by the Office was due to her employment injury, she bears the burden of proof to establish that the condition is causally related to the employment injury. *Jacquelyn L. Oliver*, *supra* note 5.

⁹ Appellant did not file a claim for compensation (Form CA-7) or a recurrence of disability (Form CA-2a), for any period following her April 7, 2003 return to work. The effects of her July 7, 2003 job change and her subsequent work stoppage on August 15, 2003 were raised during appellant's October 20, 2003 hearing and addressed for the first time in the January 20, 2004 decision.

from April 7 to August 14, 2003 and thus, she is not entitled to wage-loss compensation for disability during this time frame.

Appellant stopped working on August 15, 2003 due to her back condition. Under the instant claim, to be entitled to wage-loss compensation beginning August 15, 2003, she must demonstrate that her work stoppage was causally related to the January 22, 2003 employment injury. 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 resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.¹⁰

Appellant's testimony and Dr. Jacome's reports do not establish that she sustained a recurrence of disability on or after August 15, 2003. There is no evidence of a spontaneous change in appellant's medical condition. In fact, both she and Dr. Jacome attributed her increased back symptoms to a change in appellant's work assignment effective July 7, 2003. The increased walking and standing she performed as an inpatient social worker was identified as the cause of her current back condition. Appellant has not submitted any medical evidence indicating that her accepted lumbar strain is the cause of her current condition.¹¹ The alleged "new exposure" to the work environment takes the instant claim outside the realm of a recurrence of disability as that term is defined under implementing regulations.¹² To the extent that appellant's July 7, 2003 reassignment as an inpatient social worker is the cause of her current condition, the Office hearing representative properly advised her to consider filing a separate occupational disease claim.

CONCLUSION

The Board finds that appellant failed to establish that her claimed disability after March 31, 2003 was causally related to her January 22, 2003 employment injury.

¹⁰ 20 C.F.R. § 10.5(x) (1999).

¹¹ The record also does not establish that the January 22, 2003 employment injury permanently aggravated appellant's preexisting lumbar degenerative disc disease and disc herniation at L5-S1.

¹² 20 C.F.R. § 10.5(x) (1999).

ORDER

IT IS HEREBY ORDERED THAT the October 4, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 13, 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