

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**JEFFREY S. BUCH, Appellant**

**and**

**U.S. POSTAL SERVICE, MAIN POST OFFICE,  
Huntington Beach, CA, Employer**

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**Docket No. 06-616  
Issued: May 15, 2006**

*Appearances:*  
*Jeffrey S. Buch, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On January 27, 2006 appellant filed a timely appeal from a November 10, 2005 decision of the Office of Workers' Compensation Programs denying his claim for a recurrence of disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501(d)(3), the Board has jurisdiction over the merits of the claim.

**ISSUE**

The issue is whether appellant has established that he sustained a recurrence of disability commencing April 21, 2005 as alleged.

**FACTUAL HISTORY**

The Office accepted that, on June 12, 1993, appellant, then a 41-year-old distribution clerk, sustained a reducible right inguinal hernia while lifting sacks of mail weighing 40 pounds each. The Office accepted recurrences of disability commencing December 29, 1993 and September 21, 1994.

In an April 12, 1995 letter, the Office noted that the accepted condition was expected to result in occasional recurrences until he either chose or was required by his physician to have hernia repair surgery performed. The Office instructed appellant that, if he experienced a future recurrence of this condition, he should file a notice of recurrence of disability. The Office doubled the three claims on April 12, 1995.

The Office accepted a September 13, 1996 incident in which appellant felt right inguinal pain after performing several mail pickups as an aggravation of the preexisting hernia.

On April 26, 2005 appellant filed a claim asserting that he sustained a recurrence of disability commencing April 21, 2005, causally related to the original June 12, 1993 hernia. Appellant was working full duty as a window clerk at the time of the alleged recurrence of disability. He felt pain in the right inguinal region when lifting parcels and other items. Appellant did not stop work.

In an October 12, 2005 letter, the Office advised appellant of the additional medical and factual evidence needed to establish his claim, including a detailed narrative report from his attending physician setting forth a complete history of the hernia condition and whether the original injury resolved. The Office also requested the physician's opinion as to what work factors produced the claimed recurrence of disability.

In response, appellant submitted an October 17, 2005 statement asserting that he sustained an injury on April 21, 2005 due to lifting and carrying tubs of mail and parcels. Appellant characterized the incident as a "reinjur[y]" of the June 12, 1993 hernia.

By decision dated November 10, 2005, the Office denied appellant's claim for recurrence of disability on the grounds that causal relationship was not established. The Office found that appellant failed to submit any medical evidence in support of his claim. The Office further found that it was unclear as to whether appellant sustained a new injury or a recurrence of disability, as he attributed the hernia to lifting and carrying mail on April 21, 2005.

### **LEGAL PRECEDENT**

The Office's implementing regulations define a recurrence of disability as "an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness."<sup>1</sup> When an appellant claims a recurrence of disability due to an accepted employment-related injury, he 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. 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. Moreover, sound medical reasoning must support the physician's conclusion.<sup>2</sup> An award of

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<sup>1</sup> 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3.b(a)(1) (May 1997). See also *Philip L. Barnes*, 55 ECAB \_\_\_\_ (Docket No, 02-1441, issued March 31, 2004).

<sup>2</sup> *Ricky S. Storms*, 52 ECAB 349 (2001).

compensation may not be based on surmise, conjecture or speculation or on appellant's unsupported belief of causal relation.<sup>3</sup>

### **ANALYSIS**

The Office accepted that appellant sustained a right inguinal hernia on June 12, 1993, with recurrences on December 29, 1993 and September 21, 1994 and an aggravation on September 13, 1996. He claimed a recurrence of disability commencing April 21, 2005, which he attributed to lifting parcels and other items at work. Appellant thus has the burden of providing sufficient evidence, including rationalized medical evidence, to establish the causal relationship asserted.<sup>4</sup>

In support of his claim, appellant submitted his October 17, 2005 factual statement indicating that he may have sustained a new injury on April 21, 2005 and not a spontaneous recurrence of disability. This factual uncertainty is compounded by a lack of any medical evidence addressing the April 21, 2005 incident. The Office advised appellant in its October 12, 2005 letter of the necessity of submitting medical evidence explaining how and why the June 12, 1993 injury would cause or contribute to the claimed recurrence of disability. However, appellant did not submit any medical evidence. Thus, he failed to meet his burden of proof.<sup>5</sup>

### **CONCLUSION**

The Board finds that appellant has not established that he sustained a recurrence of disability commencing April 21, 2005.

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<sup>3</sup> *Alfredo Rodriguez*, 47 ECAB 437 (1996).

<sup>4</sup> *Ricky S. Storms*, *supra* note 2.

<sup>5</sup> *Beverly A. Spencer*, 55 ECAB \_\_\_\_ (Docket No. 03-2033, issued May 3, 2004).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated November 10, 2005 is affirmed.

Issued: May 15, 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