



On June 14, 2006 the Office approved surgical excision of the ganglion cyst. The surgery was performed on July 2, 2004 by Dr. Marc A. Baraban, a Board-certified plastic surgeon. In a duty status report, Form CA-17 dated July 12, 2004, Dr. Baraban indicated that appellant was examined that day and had been released for duty after the surgery on July 2, 2004. He restricted the use of her right hand for three weeks.

Appellant was examined by Dr. Baraban on November 10, 2004 for pain and sensitivity in her right hand as well as weakness in her right thumb. He noted that the weakness in her thumb began approximately two months after her surgery. An examination demonstrated sensitivity over the volar aspect of the distal third of her right wrist. He also noted flexion of the distal phalanx of the thumb, but minimal flexion at the interphalangeal joint (IP) joint.

In a Form CA-2a dated December 30, 2004, appellant claimed a recurrence of her July 25, 2003 employment injury on October 15, 2004. She stated that she received medical treatment for the recurrence from Dr. Baraban on November 10, 2004. Appellant explained that she could not perform continuous repetitive work with her hand, that she had difficulty grasping and had a loss of hand strength. She had two weeks of physical therapy and that her doctor recommended further surgery.

On January 25, 2005 appellant accepted an offer of modified work, which required minimal or no use of her right hand.

By letter dated February 2, 2005, the Office requested that appellant submit additional information, including a report from her physician detailing a history of her condition, a description of the findings, results of any x-ray and lab tests, a diagnosis and a rationalized opinion as to the causal relationship between the current condition and the original injury. In response, appellant submitted unsigned notes from Dr. Baraban describing her office visits on December 1, 2004 and March 16, 2005, as well as responses to the questions posed by the Office.

On December 1, 2004 Dr. Baraban examined appellant and noted that she had seen the therapist since her last visit. She was experiencing less sensitivity in her scar. He also noted that she had no change in the lack of motion in the IP joint of the thumb. Dr. Baraban stated that he did not have a good explanation for her joint problem. He discussed possible surgery and recommended that appellant continue home therapy and return in a month to determine her future course of treatment.

On March 16, 2005 Dr. Baraban indicated that appellant was doing better and had no sensitivity in her scar. The range of motion of her thumb remained essentially the same. He noted that appellant was back at work and was doing quite well in her new job. She no longer had any work restrictions and that he would not see her again unless the situation changed.

By decision dated April 7, 2005, the Office rejected appellant's recurrence of disability claim on the basis that she failed to establish that her medical condition was due to the accepted employment injury. By letter postmarked May 5, 2005, appellant requested an oral hearing.

In a statement dated March 18, 2005, appellant noted that she returned to work with no restrictions following surgery for her original injury. Following the surgery for removal of the ganglion cyst from her right wrist, she experienced considerable loss of strength in her right hand, lost the use of the joint in her right thumb and was sensitive at the incision site. Appellant stated that a new cyst was present at the same location as the prior cyst and that the symptoms she was experiencing were the same as she previously experienced.

A duty status report signed May 27, 2005, was submitted with an illegible physician's signature. It indicated that appellant was able to resume work with restrictions on simple grasping, fine manipulation, reaching above the shoulder, lifting, kneeling and bending/stooping.

An oral hearing was held on January 24, 2006. At the hearing, appellant testified that Dr. Baraban sent her for physical therapy for six weeks and that she had no other treatment. The therapy helped with the sensitivity at the incision site but did not make the cyst disappear. She also testified that Dr. Baraban suggested surgery to remove the cyst. The record was kept open for 30 days following the hearing for the submission of additional medical evidence.

In a February 15, 2006 report, Dr. Peter V. Bieri indicated that he examined appellant that day.<sup>1</sup> He noted that appellant had sustained an injury and had been previously diagnosed with a ganglion cyst and ankylosis of the IP joint of the right thumb. Upon physical examination, Dr. Bieri described a loss of active range of motion of the IP joint of the right thumb along with increased sensitivity at the site of the previous ganglion cyst excision and a recurrence of the cyst itself. He stated that "the current symptomatology, along with diagnostic and treatment interventions, are considered a recurrence of the July 25, 2003 injury."

By decision dated March 21, 2006, an Office hearing representative affirmed the April 7, 2005 decision.

### **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 resulted from a previous injury or illness without an intervening injury or a new exposure to the work environment.<sup>2</sup> 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.<sup>3</sup> This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete

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<sup>1</sup> Dr. Bieri did not state a specialty, but listed himself on his letterhead as a "Fellow, American Academy of Disability Evaluating Physicians."

<sup>2</sup> 20 C.F.R. § 10.5(x).

<sup>3</sup> *Robert H. St. Onge*, 43 ECAB 1169 (1992).

and accurate factual and medical history, concludes that the condition is causally related to the employment injury.<sup>4</sup> Moreover, the physician's conclusion must be supported by sound medical reasoning.<sup>5</sup>

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.<sup>6</sup> In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.<sup>7</sup> While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has failed to submit sufficient rationalized medical opinion, which relates her condition or disability as of October 15, 2004, to her accepted ganglion cyst condition on her right hand. For this reason, she has not discharged her burden of proof to establish that she sustained a recurrence of disability as a result of her accepted employment condition.

The Office accepted that appellant sustained a ganglion cyst on her right wrist and authorized a surgical excision performed on July 2, 2004. Appellant was released to return to work after the surgery on July 2, 2004, with restrictions on the use of the right hand for three weeks after surgery.

Appellant presented several unsigned reports attributed to Dr. Baraban, the Board-certified plastic surgeon, who excised the ganglion cyst on July 2, 2004. These reports are of no probative value because they are not signed by the physician.<sup>9</sup> As these documents lack proper identification, the Board finds that they do not constitute probative medical evidence sufficient to establish appellant's burden of proof.<sup>10</sup>

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<sup>4</sup> 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, he or she should arrange for the attending physician to submit a detailed medical report. The physician's 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.

<sup>5</sup> See *Robert H. St. Onge*, *supra* note 3.

<sup>6</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

<sup>7</sup> For the importance of bridging information in establishing a claim for a recurrence of disability, see *Robert H. St. Onge*, *supra* note 3; *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 748 (1986).

<sup>8</sup> See *Ricky S. Storms*, 52 ECAB 349 (2001); *Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>9</sup> *Ricky S. Storms*, *supra* note 8.

<sup>10</sup> *Vickey C. Randall*, 51 ECAB 357 (2000); *Merton J. Sills*, 39 ECAB 572 (1988). (Reports not signed by a physician lack probative value).

Appellant also presented a May 27, 2005 duty status report with an illegible physician's signature. This report has no probative value as the author cannot be identified as a physician.<sup>11</sup> As the report lacks proper identification, it does constitute probative medical evidence.<sup>12</sup> Thus, this report does not substantiate appellant's claim.

Dr. Bieri noted a history of appellant's accepted condition of ganglion cyst. He found increased sensitivity at the site of the previous cyst, loss of motion in her thumb and had a recurrence of the cyst. However, Dr. Bieri did not provide an explanation as to how the July 25, 2003 injury or the July 2, 2004 surgery caused or contributed to the medical condition for which appellant sought treatment beginning November 10, 2004. He did not adequately explain the basis for his opinion on causal relationship.

The Board notes that an award of compensation may not be based on surmise, conjecture or speculation.<sup>13</sup> The mere fact that later symptoms mirrored those following the employment injury, without more, is insufficient to establish a causal relationship, as the work activities may produce symptoms which are revelatory of an underlying condition.<sup>14</sup> To be of probative value, a physician's opinion must be based on a complete factual and medical background and be supported by medical rationale explaining the nature of the relationship between the claimed condition and the employment injury or factors of her federal employment.<sup>15</sup> Therefore, Dr. Bieri's opinion is insufficient to satisfy the appellant's burden of proof, because he bases his opinion on the new symptoms mirroring the employment injury and does not present medical rationale explaining the occurrence of the new symptoms to the employment injury.

### 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 October 15, 2004 causally related to her accepted condition, ganglion cyst on her right wrist.

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<sup>11</sup> *Ricky S. Storms, supra* note 8.

<sup>12</sup> *See Merton J. Sills, supra* note 10.

<sup>13</sup> *Shirloyn J. Holmes*, 39 ECAB 938 (1988).

<sup>14</sup> *See Gary R. Fullbright*, 40 ECAB 737 (1989); *Dominic M. DeSala*, 37 ECAB 369 (1986).

<sup>15</sup> *Lucretia M. Nielson*, 42 ECAB 583 (1991).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated March 21, 2006 is affirmed.

Issued: November 24, 2006  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board