



decision dated July 11, 1996, the Office terminated appellant's compensation benefits. In a December 2, 1998 decision,<sup>1</sup> the Board affirmed the Office's decision terminating compensation. The facts of this case, are set forth in the Board's December 2, 1998 decision, and by reference herein incorporated.

On September 24, 2003 appellant filed a Form CA-2a claim for benefits, alleging that he sustained a recurrence of disability on September 24, 2003 which was causally related to his accepted lumbar strain condition.

By decision dated July 22, 2004, the Office denied the recurrence of disability claim. The Office found that appellant failed to submit medical evidence sufficient to establish that the claimed condition or disability as of September 24, 2003 was caused or aggravated by the accepted condition.

On August 18, 2004 appellant requested an oral hearing, which was held on May 27, 2005. Appellant submitted reports dated December 8 and 16, 2003 from Dr. Phillip D. Hajek, a Board-certified orthopedic surgeon, who noted appellant's complaints of low back pain and stated that he had tenderness in the lower lumbar region along the posterior margin of iliac crest into the SI joint region, with limited motion of his lumbar spine in all planes. He advised that a magnetic resonance imaging (MRI) scan showed some limited degenerative abnormality superimposed on a narrow bony canal.

By decision dated September 19, 2005, an Office hearing representative affirmed the July 22, 2004 Office decision.

### **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> A recurrence of disability is defined as the inability to work caused by a spontaneous change in a medical condition which results from a previous injury or illness without an intervening injury or new exposure in the work environment that caused the illness.<sup>3</sup>

### **ANALYSIS**

Appellant has failed to submit any medical opinion containing a rationalized, probative report which relates his condition or disability as of September 24, 2003 to his accepted lumbar

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<sup>1</sup> Docket No. 97-164 (issued December 2, 1998).

<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> *See* 20 C.F.R. § 10.5(x); *Donald T. Pippin*, 54 ECAB 631 (2003).

strain condition. For this reason, he has not discharged his burden of proof to establish his claim that he sustained a recurrence of disability as a result of his accepted employment condition.

Appellant has failed to submit evidence to show that he sustained a worsening of his low back condition or was totally disabled from all work after September 24, 2003. As appellant did not submit medical evidence sufficient to establish that he sustained a recurrence of his work-related lower back condition, the Office properly denied compensation in its July 22, 2004 decision.

Appellant submitted Dr. Hajek's December 8 and 16, 2003 reports. Dr. Hajek related complaints of low back pain and noted tenderness in the lower lumbar and SI joint regions, in addition to limited motion of the lumbar spine in all planes. He stated that results of an MRI scan showed some limited degenerative abnormality. These reports, however, did not address the causal connection, if any, between appellant's employment-related lumbar strain and his alleged recurrence of disability. Causal relationship must be established by rationalized medical opinion evidence. Dr. Hajek's reports failed to provide an explanation of how appellant's lumbar strain would cause or contribute to his disability as of September 24, 2003. While his reports provided a diagnosis of appellant's current condition and noted that he complained of disabling lower back pain as of September 24, 2003, they did not provide a discussion of how appellant's accepted strain would cause or contribute to the noted degenerative changes of the lumbar spine or establish that appellant's disability as of September 24, 2003 was causally related to his accepted lumbar strain condition. The Board finds that appellant failed to submit rationalized medical evidence sufficient to establish that his current condition was causally related to his May 20, 1992 employment injury.

Appellant has not submitted sufficient medical evidence supporting his claim that he sustained a recurrence of his employment-related disability as of September 24, 2003. The Office hearing representative properly found that appellant was not entitled to compensation based on a recurrence of disability. The Board will affirm the September 19, 2005 Office decision.

### **CONCLUSION**

The Board finds that appellant has not met his burden to establish that he was entitled to compensation for a recurrence of disability as of September 24, 2003 causally related to his accepted lumbar strain condition.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 19, 2005 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: September 7, 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