United States Department of Labor
Employees' Compensation Appeals Board

A.G., Appellant	)	
and	)	**Docket No. 07-893**
	)	**Issued: August 8, 2007**
U.S. POSTAL SERVICE, WILLOW GLEN DELIVERY DISTRIBUTION CENTER, San Jose, CA, Employer	)	

Appearances:
Appellant, 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

JURISDICTION

On February 2, 2007 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated July 20, 2006 denying his recurrence claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits. The Board also has jurisdiction to review the Office's January 10, 2007 nonmerit decision denying reconsideration.

ISSUES

The issues are: (1) whether appellant established that he sustained a recurrence of disability on and after March 27, 2006; and (2) whether the Office properly refused to reopen appellant's case for further review of the merits pursuant to 5 U.S.C. § 8128(a).

FACTUAL HISTORY

On August 11, 2005 appellant, then a 55-year-old mail processing clerk, filed a traumatic injury claim alleged that on August 8, 2005 he badly bruised his right wrist due to "repeated

contact with pie cart frame while sweeping mail." He did not stop working. The Office accepted the claim for a left wrist strain.[1]

In an August 24, 2005 report, a physician whose signature is illegible noted that appellant's wrist pain had mostly resolved, the prognosis was excellent and that he had recovered such that he could work full time without restrictions.

On March 27, 2006 appellant filed a claim for a recurrence of disability due to his August 8, 2005 injury.[2] He noted that he had pain in his left wrist and frequent numbness in his left hand.

In a letter dated June 12, 2006, the Office advised appellant of the additional medical and factual evidence needed to establish his claim for a recurrence of disability. The Office noted an August 24, 2005 report indicated that his left wrist strain had mostly resolved and released him to work with no restrictions. The Office emphasized the need to submit a rationalized report from his attending physician explaining how and why the accepted wrist strain had not resolved. Appellant also was requested to provide information on the accommodations he stated were made for him following his injury and why no medical evidence was submitted subsequent to the August 24, 2005 report. Appellant was provided 30 days to submit the requested information. No response was received.

By decision dated July 20, 2006, the Office denied appellant's recurrence claim.

In a letter dated November 27, 2006, appellant requested reconsideration and submitted a November 7, 2006 form report and a November 7, 2006 report by Dr. Sheldon Cober. In a November 7, 2006 workers' and physician's report for workers' compensation claims, Dr. Cober checked the box "aggravation; actual worsening of underlying condition." Appellant completed the worker section by checking the box "Report of aggravation of original injury" and attributing his swollen wrist "to repeated contact with poorly maintained Postal equipment." Dr. Cober, in the November 7, 2006 report, diagnosed chronic left ulnar wrist pain. He noted the history of appellant's injury, that he returned to his normal duties within two weeks and that he "exacerbated his injury in January 2006." Dr. Cober reviewed an x-ray taken "soon after his alleged injury," which the physician interpreted as showing left carpal bony anatomy and ulnar neutral variance. He noted that appellant resigned or was terminated from his position in May 2006.

By decision dated January 10, 2007, the Office denied appellant's request for a merit review. It found that, while Dr. Cober's report was new, it was not relevant to the issue at hand, *i.e.*, whether appellant sustained a recurrence of disability due to his accepted August 8, 2005 injury.

[1] Appellant resigned his job effective June 8, 2006.

[2] Appellant did not provide a date for the recurrence of disability. On the back of the form, the employing establishment noted the date of recurrence as March 27, 2006 and that appellant did not stop working.

LEGAL PRECEDENT -- ISSUE 1

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]
>
> "Recurrence of medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a 'need for further medical treatment after release from treatment,' nor is an examination without treatment."[4]

Where 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.[5] 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.[6] Moreover, the physician's conclusion must be supported by sound medical reasoning.[7]

ANALYSIS -- ISSUE 1

The Office accepted appellant's claim for left wrist strain due to the August 8, 2005 injury. The Office received an August 24, 2005 medical report indicating that appellant's left wrist sprain was resolving and that he was capable of working without restrictions. Appellant filed a claim for a recurrence of disability on March 27, 2006.

The Office informed appellant of the type of evidence necessary to establish his claim by letter dated June 12, 2006; however, he did not submit any evidence in response to the Office's request. At the time of the July 20, 2006 decision, the record was void of any medical evidence concerning appellant's recurrence claim. For example, appellant did not submit medical

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[3] 20 C.F.R. § 10.5(x).

[4] 20 C.F.R. § 10.5(y).

[5] *Robert H. St. Onge*, 43 ECAB 1169 (1992).

[6] 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 his 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.

[7] *Robert H. St. Onge*, *supra* note 5.

evidence explaining the reasons why his accepted left wrist strain caused a recurrence of disability or a recurrence of a medical condition beginning on or about March 27, 2006.

Consequently, appellant did not establish a recurrence of disability or of a medical condition and the Office properly denied his claim.

LEGAL PRECEDENT -- ISSUE 2

The Federal Employees' Compensation Act[8] provides that the Office may review an award for or against payment of compensation at any time on its own motion or upon application.[9] The employee shall exercise this right through a request to the district Office. The request, along with the supporting statements and evidence, is called the application for reconsideration.[10]

An employee (or representative) seeking reconsideration should send the application for reconsideration to the address as instructed by the Office in the final decision. The application for reconsideration, including all supporting documents, must be in writing and must set forth arguments and contain evidence that either: (1) shows that the Office erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by the Office; or (3) constitutes relevant and pertinent new evidence not previously considered by the Office.[11]

An application for reconsideration must be sent within one year of the date of the Office decision for which review is sought.[12] A timely request for reconsideration may be granted if the Office determines that the employee has presented evidence or argument that meets at least one of these standards. If reconsideration is granted, the case is reopened and the case is reviewed on its merits. Where the request is timely but fails to meet at least one of these standards, the Office will deny the application for reconsideration without reopening the case for a review on the merits.[13]

ANALYSIS -- ISSUE 2

Appellant disagreed with the Office's July 20, 2006 decision, which denied his claim for a recurrence. The underlying issue on reconsideration was whether he submitted sufficient medical evidence to show that he sustained a recurrence of disability causally related to his accepted employment injury. However, appellant did not provide any relevant or pertinent new

[8] 5 U.S.C. § 8101 *et seq.*

[9] 5 U.S.C. § 8128(a). *See Tina M. Parrelli-Ball*, 57 ECAB ___ (Docket No. 06-121, issued June 6, 2006).

[10] 20 C.F.R. § 10.605.

[11] 20 C.F.R. § 10.606. *See Susan A. Filkins*, 57 ECAB ___ (Docket No. 06-868, issued June 16, 2006).

[12] 20 C.F.R. § 10.607(a). *See Joseph R. Santos*, 57 ECAB ___ (Docket No. 06-452, issued May 3, 2006).

[13] 20 C.F.R. § 10.608(b). *See Candace A. Karkoff*, 56 ECAB ___ (Docket No. 05-677, issued July 13, 2005).

evidence to the issue of whether he sustained a recurrence of disability causally related to his accepted employment injury.

In support of this request, appellant submitted additional new medical evidence, two November 7, 2006 reports from Dr. Cober. However, this evidence was not sufficient to require the Office to reopen appellant's claim for consideration of the merits as the evidence did not specifically address the relevant issue of whether appellant sustained a recurrence of disability as a result of his accepted left wrist strain. In his narrative report, Dr. Cober diagnosed chronic left ulnar wrist pain and noted the history of appellant's injury, including appellant's account of having "exacerbated his injury in January 2006." However, Dr. Cober's report is not relevant as he did not provide his own opinion regarding whether appellant sustained a spontaneous change in a medical condition which had resulted from the previous injury without an intervening injury. Likewise, Dr. Cober's November 7, 2006 form report is not relevant because he did not specifically address whether appellant sustained a recurrence of disability. He checked a box on the form to indicate that the report pertained to an "aggravation; actual worsening of underlying condition." But this appears to be a mere description of the type of report that was being rendered and not his own opinion as to whether appellant sustained an employment-related recurrence of disability or recurrence of a medical condition. For example, the form report did not identify the date of the original employment injury or otherwise mention the original employment injury nor did it specifically address whether appellant's current condition represented a recurrence of the original injury.

The Board has held that the submission of evidence which does not address the particular issue involved in the case does not constitute a basis for reopening the claim.[14] Consequently, the evidence submitted by appellant on reconsideration does not satisfy the third criterion, noted above, for reopening a claim for merit review.

Furthermore, appellant also has not shown that the Office erroneously applied or interpreted a specific point of law, or advanced a relevant new argument not previously submitted. Therefore, the Office properly denied his request for reconsideration.

CONCLUSION

The Board finds that appellant failed to establish that he sustained a recurrence of disability causally related to his August 8, 2005 employment injury.

[14] *See David J. McDonald*, 50 ECAB 185 (1998).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated January 10, 2007 and July 20, 2006 are affirmed.

Issued: August 8, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board