

a right shoulder myositis. Appropriate compensation was paid. Appellant returned to light-duty work on February 21, 1984 and eventually resumed full-duty work.

On September 22, 1998 appellant filed a recurrence of disability from September 19, 1998 for pain in his back, shoulder, neck, arm and cervical spine, which he alleged arose from his January 5, 1984 work injury. He stated that he received an injury on the left side of his neck and back, which caused his right side to act up again. In a January 29, 1999 letter, the Office advised appellant that some of the medical evidence revealed new injuries for which a new claim of injury could be filed. This included an exacerbation of left upper extremity symptoms by work activities on August 30, 1998, a new injury of April 20, 1998, where a thoracic injury was diagnosed and a new injury of May 6, 1998, where a cervical radiculopathy was diagnosed.¹ In a June 28, 1999 letter, the Office advised appellant that the medical evidence also indicated that he sustained new injuries after lifting a heavy bale of mail on June 1, 1998² and on August 30, 1998, while throwing some mail.

In an October 3, 2001 decision, the Board affirmed the Office decisions dated September 19 and May 22, 2000, finding that appellant failed to establish a causal relationship between the January 5, 1984 work injury and his alleged recurrence of disability commencing September 19, 1998.³ In a February 13, 2003 decision, the Board affirmed the Office's July 30, 2002 decision denying modification of its denial of recurrence of disability.⁴ In a December 16, 2005 decision, the Board set aside the Office's June 3, 2005 nonmerit denial of reconsideration decision and remanded the case on the grounds that the Office abused its discretion by refusing to reopen and review the merits of appellant's claim.⁵ The Board found that on February 15, 2005 appellant had requested reconsideration of the Office's February 24, 2004 decision denying his claim for a recurrence and had submitted medical evidence along with an April 25, 2005 follow-up letter, which the Office received prior to the issuance of its June 3, 2005 nonmerit decision. The facts and the circumstances of the cases are set forth in the Board's prior decisions and are incorporated herein by reference.

¹ The record reflects that appellant filed a claim for a new injury of April 20, 1998, which was assigned Office file number 060705056 and accepted for the condition of acute thoracic strain. In an April 8, 1999 letter, appellant's counsel was advised that the Office would not consolidate the current claim, Office file number 100336090, with appellant's April 20, 1998 claim, Office file number 060705056.

² The Office indicated that appellant's June 1, 1998 injury, Office file number 060704116, was denied on August 27, 1998.

³ Docket No. 01-224 (issued October 3, 2001).

⁴ Docket No. 02-2389 (issued February 13, 2003).

⁵ Docket No. 05-1464 (issued December 16, 2005).

Following the Board's decision, the Office reopened the case and reviewed the evidence submitted with appellant's February 15, 2005 reconsideration request to determine whether he sustained a recurrence of disability causally related to his January 5, 1984 work injury.⁶

In a December 23, 2004 report, Dr. Steven A. Norris, a Board-certified neurologist, noted the history of appellant's work injury of January 5, 1984, a second work injury of May 6, 1998, carpal tunnel syndrome and appellant's January 2004 cervical discectomy and fusion at C3-4, C4-5 and C5-6. An impression of cervical radiculopathy, occipital neuralgia, enthesopathy (pain), thoracic pain and migraine headache was provided. In reports dated January 16 and February 7, 2005, Dr. Norris opined that appellant continued to suffer with problems from the January 5, 1984 work injury, for which he had C-spine surgery. He indicated that he was aware of the history of onset of symptoms on January 5, 1984, appellant's continuing symptoms and his medical file. Dr. Norris opined that it was medically reasonable that appellant's bag carrying injury was consistent with his long-term problems. He explained that appellant's original injury was significant enough to permanently injure the cervical tissues at C3-6, which had not completely healed. Thus, Dr. Norris opined that appellant's current diagnoses and continued C-spine radiculopathy were injury related.

By decision dated February 14, 2006, the Office denied modification of its previous decisions. It found that appellant did not have any continuing disability causally related to the January 5, 1984 work injury. It also noted that appellant had two prior cases which had been denied.⁷

In a May 8, 2006 request for reconsideration, appellant, through his attorney, argued that the Office failed to consider all the evidence previously submitted in support of appellant's claim, specifically Dr. Norris' February 7, 2005 report. Additional evidence submitted included a March 27, 2006 electromyogram, which indicated continuing cervical radiculopathy and an April 6, 2006 progress report from Dr. Norris.

A November 22, 2004 report from Dr. Joe T. Kelley, III, a Board-certified internist, and a February 7, 2006 report from Dr. Oettinger were also submitted. However, neither physician rendered an opinion on the cause of appellant's symptoms.

By decision dated July 27, 2006, the Office denied modification of its prior decisions.

LEGAL PRECEDENT

A recurrence of disability means the inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which resulted from a previous

⁶ Evidence submitted, which was previously considered, included: a May 1, 1993 magnetic resonance imaging scan report; medical reports from Dr. Mark B. Lonstein, a Board-certified orthopedic surgeon, dated December 29, 2003 and January 6 and February 9, 2004; and a January 26, 2004 report from Dr. Jeffrey M. Oettinger, a Board-certified orthopedic surgeon.

⁷ This included the June 1, 1998 denial, Office file number 060704116, for failure to establish fact of injury and a denial for compensation for the carpal tunnel condition, Office file number 062129944.

injury or illness without an intervening injury or a new exposure to the work environment.⁸ 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.⁹ 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.¹⁰ Moreover, the physician's conclusion must be supported by sound medical reasoning.¹¹

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.¹² 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.¹³ 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.¹⁴

ANALYSIS

The Office accepted that appellant sustained a neck strain and right shoulder myositis on January 5, 1984. It additionally noted that the medical evidence revealed new injuries for which a new claim of injury could be filed. Of the new claims appellant filed, the Office accepted only the April 20, 1998 injury.¹⁵

Following the Board's December 16, 2005 decision, the Office considered the evidence submitted in support of appellant's recurrence claim. In a December 23, 2004 report, Dr. Norris noted the history of appellant's January 5, 1984 work injury and mentioned a second work injury of May 6, 1998. He also provided diagnoses of appellant's conditions following a January 2004 cervical discectomy and fusion. In his January 16 and February 7, 2005 reports, Dr. Norris

⁸ 20 C.F.R. § 10.5(x).

⁹ *Robert H. St. Onge*, 43 ECAB 1169 (1992).

¹⁰ 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 physicians 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.

¹¹ See *Robert H. St. Onge*, *supra* note 9.

¹² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

¹³ For the importance of bridging information in establishing a claim for a recurrence of disability, see *Robert H. St. Onge*, *supra* note 9; *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 748 (1986).

¹⁴ See *Ricky S. Storms*, 52 ECAB 349 (2001).

¹⁵ See *supra* note 1.

opined that appellant's current conditions were causally related to the January 5, 1984 work injury. He stated that appellant's original injury of January 5, 1984 had permanently injured the cervical tissues at C3-6, which had not healed. While Dr. Norris mentioned a second work injury of May 6, 1998, there is no evidence that the Office has accepted such an injury. Additionally, there is no evidence that he was aware of the medical evidence of file following the January 5, 1984 work injury which denoted the possibility of other new injuries. Thus, Dr. Norris did not provide a medical opinion based on a complete history of injury. Therefore, his opinion is of diminished probative value. It is well established that medical reports must be based on a complete and accurate factual and medical background and medical opinions based on an incomplete or inaccurate history are of diminished probative value.¹⁶ Additionally, Dr. Norris failed to provide medical rationale explaining how or why appellant's continuing residuals were caused by the accepted soft-tissue conditions.¹⁷ The additional medical evidence submitted fails to offer an opinion on the causal relationship of appellant's medical conditions.¹⁸

The Board notes that an award of compensation may not be based on surmise, conjecture or speculation.¹⁹ 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.²⁰ 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 his federal employment.²¹

Appellant has not submitted any rationalized medical evidence establishing that he sustained a recurrence of disability causally related to his accepted employment-related injuries of January 5, 1984. The Board finds that appellant has not discharged his burden of proof to establish that he sustained a recurrence of disability as a result of his accepted employment conditions.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability on and after September 19, 1998 causally related to his accepted employment injury of January 5, 1984.

¹⁶ *James R. Taylor*, 56 ECAB ____ (Docket No. 05-135, issued May 13, 2005).

¹⁷ *Franklin D. Haislah*, 52 ECAB 457 (2001); *Jimmie H. Duckett*, 52 ECAB 332 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

¹⁸ See *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

¹⁹ *Shirloyn J. Holmes*, *supra* note 13.

²⁰ See *Gary R. Fullbright*, 40 ECAB 737 (1989); *Dominic M. DeSala*, 37 ECAB 369 (1986).

²¹ *Lucretia M. Nielson*, 42 ECAB 583 (1991).

ORDER

IT IS HEREBY ORDERED THAT the July 27 and February 14, 2006 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 20, 2007
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