

that properly submitted medical evidence had not been reviewed by the Office.¹ The law and the facts of the previous Board decision are incorporated herein by reference.

Subsequent to the Board's decision, on February 13, 2003 appellant filed a recurrence claim. She stated that she was still working but because of overuse of her left upper extremity, her right upper extremity had been injured. In a merit decision dated March 31, 2003, the Office found that appellant had not established a recurrence of disability. In March 2003, the Office referred her to Dr. Tim Lachman, a Board-certified neurologist, for a second opinion evaluation. In reports dated April 25 and May 1, 2003, Dr. Lachman diagnosed right lateral epicondylitis, reduced cervical range of motion from a nonemployment-related 1982 automobile accident and residual numbness of fingers four and five from ulnar neuropathy at the elbow. He advised that appellant could continue with her current job.

Appellant continued to submit reports from an attending neurologist, Dr. Sondra M. DeAntonio, and on July 20, 2004 accepted a limited mail handler position for four hours a day. The job description indicated that she was to check that employees' identification badges were worn properly in the truck terminal annex and processing and distribution center. Physical restrictions were that she not use either arm, not lift over five pounds with no bending, stooping, reaching over the shoulders or repetitive activities of the upper extremities and no exposure to extreme temperatures and no work around fans, cold air or drafts.

On January 18, 2005 appellant submitted a recurrence claim and stopped work. In an attached statement, she reported that she could not continue to work due to constant pain which also made it difficult to perform everyday tasks, and caused sleeplessness and inability to concentrate. Appellant submitted a January 17, 2005 report in which Dr. DeAntonio advised that appellant's pain symptoms had worsened and her condition had progressed to a complex regional pain syndrome which involved both upper extremities. Dr. DeAntonio also noted a history of cervical radiculopathy and disc disease that occurred subsequent to the 1980s motor vehicle accident, appellant's report that movement exacerbated her symptoms, right lateral ulnar chondritis and median nerve dysfunction at the wrist. Findings on examination included decreased upper extremity strength and sensory deficit. Electromyography (EMG) examination was reported as abnormal with evidence of compression neuropathy of the ulnar nerve on the left, bilateral median nerve dysfunction at the wrist and findings consistent with C5-6 radiculopathy. Dr. DeAntonio recommended that appellant stop work, stating that her work restrictions had not been followed. In a January 17, 2005 work capacity evaluation, she stated that appellant could not work due to progressive worsening of a complex regional pain syndrome and ulnar compression neuropathy with developing cervical myelomalacia.

By letter dated February 9, 2005, the Office informed appellant of the evidence needed to support her claim. On February 14, 2005 it referred her to Dr. Steven Mandel, a Board-certified neurologist.²

¹ Docket No. 02-1819 (issued December 3, 2002). The accepted conditions at that time were strains of the neck and left shoulder and cubital ulnar palsy of the left elbow.

² Dr. Mandel was furnished with the medical record, a set of questions and a statement of accepted facts with a job description that indicated that right lateral epicondylitis was also an accepted condition.

In a statement dated February 16, 2005, appellant described her job history and stated that her most recent limited-duty job was to check employee badges and deliver small letters which consisted of walking throughout all five floors of the building and occasionally required her to open doors which, she stated, was not in accordance with her medical restrictions and that she stopped work on the advice of her physician. She submitted Dr. DeAntonio's January 17, 2005 EMG study and a disability slip dated that day in which she advised that appellant could not work. In a report dated February 23, 2005, Dr. DeAntonio reiterated her opinion that appellant had a complex regional pain syndrome that had worsened, noting her complaints of worsening left upper extremity and low back pain, weakness and atrophy with positive EMG findings. She stated that, as described by appellant, her job duties exceeded her restrictions, but that she could work four hours a day at a sedentary position. Dr. DeAntonio also submitted a March 1, 2005 report in which Dr. D. Greg Anderson, Board-certified in orthopedic surgery, noted appellant's history that her neck complaints began after a motor vehicle accident in approximately 1982 and that her current complaint was of progressive weakness in her arms and legs with difficulty in balance and ambulating and with fine motor activities of her hands. He reported that appellant "says pain is really not the major problem, although she does have some intermittent pain that radiates in the right shoulder to the arm" and some mild low back pain, "but nothing of a severe nature." Findings on examination included mild neck tenderness with a shooting sensation into the upper spinal region but near normal neck range of motion and 5/5 upper extremity strength except for wrist flexors which were 4/5. Dr. Anderson stated that on examination she became very unbalanced, and noted that a January 22, 2005 cervical magnetic resonance imaging (MRI) scan demonstrated age appropriate degenerative changes with slight subluxation at C6-7 and a positive upright T2 weighted signal within the substance of the spinal cord which could be consistent with myelomalacia or a demyelinating cord process. Cervical spine x-rays demonstrated focal kyphosis at C6-7 which he suspected was due to her past injury. Dr. Anderson diagnosed cervical myelopathy and recommended a cervical collar and further neurologic workup.

In a report dated March 1, 2005, Dr. Mandel noted his review of the statement of accepted facts and the medical record and appellant's report that she could not perform her limited duty because of extreme temperatures, that she could not stand and walk for four hours because her arms hurt, that she ached all over when walking around, and that she had difficulty opening doors, including the door to the ladies room with pain around both regions of the elbows going down to the fourth and fifth fingers of the left hand. He stated that she continued to drive and dress herself. Physical examination demonstrated no evidence of muscle atrophy and bilateral positive Tinel's signs. Dr. Mandel noted diffuse weakness in the left hand that did not follow any specific nerve root or peripheral nerve pattern with tremulousness and reduced sensation in both median and ulnar distributions. No weakness or sensory loss was present on the right. Dr. Mandel opined that appellant had no evidence to indicate a complex regional pain syndrome and diagnosed employment-related bilateral ulnar neuropathy and left carpal tunnel syndrome. In answer to specific questions, he advised that appellant was capable of performing her limited-duty job for four hours a day, five days a week, with a lifting restriction of five pounds. In an attached work capacity evaluation dated March 25, 2005, Dr. Mandel reiterated his diagnoses, advised that she could work 4 hours a day, and provided restrictions that she could sit, stand and walk for 8 hours a day, reach, twist and drive for 2 hours a day, push, pull and lift

five pounds for 4 hours a day, could not repetitively move her wrists or elbows, should not climb a ladder and should have a 15-minute break every 4 hours.

In a March 22, 2005 statement, the employing establishment advised that appellant's assigned limited-duty job required her to walk throughout the postal facility to monitor compliance of wearing identification badges from 10:00 a.m. to 2:00 p.m. daily and noted that there were few doors except at the elevators. Two or three times a week appellant would have to deliver a letter to an office with a normal office door. She was not required to reach above her shoulders, lift, push or pull, was not assigned to sort mail, work with equipment or write anything and could stroll through the building at her own pace. Twice a day appellant would carry a bundle of mail weighing less than one pound to another department, was allowed a break at noon and essentially stopped work at 1:45 pm.

By decision dated March 7, 2005, the Office found that the opinion of Dr. Mandel represented the weight of medical opinion and that appellant did not establish that she sustained a recurrence of disability on January 18, 2005.

On March 22, 2005 appellant, through counsel, requested a hearing that was changed to a request for a review of the written record. She submitted a report dated December 22, 2004 in which Dr. DeAntonio stated that she reported that her job entailed going in and out of many doors and noted her complaints of significant hand, arm and shoulder pain. Upper extremity examination demonstrated sensory and motor deficits bilaterally. Dr. DeAntonio diagnosed ulnar compression neuropathy and complex regional pain syndrome of both upper extremities. She advised, "it seems that her condition has worsened. In particular, this is likely because work restrictions have not been observed." Dr. DeAntonio recommended further evaluation. In a July 25, 2005 report, she reiterated her previous findings and conclusions and also noted that appellant's workplace was very cold which indicated that her work restrictions were not being met. Dr. DeAntonio noted cervical MRI scan findings of a bulging disc at C5 and C6-7 with myelomalacia at T2, as confirmed by repeat study with gadolinium. She concluded that appellant should work at a sedentary occupation for 20 hours a week with no repetitive use of either arm or hand, no lifting over five pounds, no bending, stooping, reaching above the shoulder and no extremes of temperature, specifically no working around fans, cold air or drafts.

In a November 7, 2005 decision, an Office hearing representative affirmed the March 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 had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.³ This term also means an inability to work when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn (except when such withdrawal occurs for reasons of misconduct, nonperformance of job duties or a reduction-in-force), or when the physical

³ 20 C.F.R. § 10.5(x); see *Theresa L. Andrews*, 55 ECAB 719 (2004).

requirements of such an assignment are altered so that they exceed his or her established physical limitations.⁴

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability. As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition, or a change in the nature and extent of the light-duty requirements.⁵

Under the Federal Employees' Compensation Act, the term "disability" means the incapacity, because of an employment injury, to earn the wages that the employee was receiving at the time of injury. Disability is thus not synonymous with physical impairment, which may or may not result in an incapacity to earn wages. An employee who has a physical impairment causally related to a federal employment injury, but who nevertheless has the capacity to earn the wages he or she was receiving at the time of injury, has no disability as that term is used in the Act.⁶ Whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by a preponderance of the reliable, probative and substantial medical evidence.⁷

ANALYSIS

The Board finds that the weight of the medical evidence rests with the opinion of Dr. Mandel, the second opinion examiner. Dr. Mandel reviewed the medical record and a statement of accepted facts which included an accurate job description. The accepted conditions in this case are neck and left shoulder strain, left elbow cubital nerve palsy and right lateral epicondylitis. In 1982 appellant sustained a cervical injury in a nonwork-related automobile accident. In assessing medical evidence, the number of physicians supporting one position or another is not controlling. The weight of such evidence is determined by its reliability, its probative value and its convincing quality. The factors that comprise the evaluation of medical evidence include the opportunity for and the thoroughness of physical examination, the accuracy and completeness of the physician's knowledge of the facts and medical history, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁸

By report dated March 1, 2005, Dr. Mandel reviewed the medical records and set forth findings on examination. Appellant had no evidence of a complex regional pain syndrome. Dr. Mandel diagnosed employment-related bilateral ulnar neuropathy and left carpal tunnel

⁴ *Id.*

⁵ *Shelly A. Paolinetti*, 52 ECAB 391 (2001); *Robert Kirby*, 51 ECAB 474 (2000); *Terry R. Hedman*, 38 ECAB 222 (1986).

⁶ *Cheryl L. Decavitch*, 50 ECAB 397 (1999).

⁷ *Fereidoon Kharabi*, 52 ECAB 291 (2001).

⁸ *Anna M. Delaney*, 53 ECAB 384 (2002).

syndrome. In answer to specific questions, he advised that appellant was capable of performing her limited-duty job for four hours a day, five days a week, with a lifting restriction of five pounds. In an attached work capacity evaluation dated March 25, 2005, Dr. Mandel reiterated his diagnoses and advised that appellant could work 4 hours a day with restrictions that she could sit, stand and walk for 8 hours a day, reach, twist and drive for 2 hours a day, push, pull and lift five pounds for 4 hours a day, could not repetitively move her wrists or elbows, should not climb a ladder and should have a 15-minute break every 4 hours.

In his March 1, 2005 report, Dr. Anderson stated that appellant reported that pain was not the major problem, although she complained of intermittent pain in the right shoulder to the arm and some mild low back pain and had her current complaints of progressive weakness in her arms and legs with difficulty in balance and ambulating and with fine motor activities of her hands. Dr. Anderson diagnosed cervical myelopathy. However, he did not provide an opinion as to the cause of this condition. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁹

Appellant's attending neurologist Dr. DeAntonio submitted a number of reports. However, she did not provide a rationalized explanation on why appellant's employment-related conditions prevented her from performing her light-duty work.¹⁰ Although Dr. DeAntonio advised that appellant was working outside her restrictions, she stated that this was based on appellant's description of her work activities. 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 little probative value.¹¹ In a March 22, 2005 statement, the employing establishment described appellant's limited-duty job, stating that she walked throughout the postal facility to monitor compliance of wearing identification badges from 10:00 a.m. to 2:00 p.m. daily and noted that there were few doors except at the elevators. Two or three times a week appellant would have to deliver a letter to an office with a normal office door. She was not required to reach above her shoulders, lift, push or pull, was not assigned to sort mail, work with equipment or write anything and could stroll through the building at her own pace. Twice a day appellant would carry a bundle of mail weighing less than one pound to another department and was allowed a break at noon and essentially stopped work at 1:45 pm. Her job description further advised that she was not to use either arm, not lift over five pounds with no bending, stooping, reaching over the shoulders or repetitive activities of the upper extremities and have no exposure to extreme temperatures and no work around fans, cold air or drafts.

Dr. DeAntonio provided essentially the same work restrictions as Dr. Mandel and appellant's limited-duty job at the time of the claimed recurrence was well within those restrictions. Dr. Mandel reviewed the job description and advised that appellant could perform her limited-duty job for four hours a day. Appellant worked inside a postal facility building and

⁹ *Willie Miller*, 53 ECAB 697 (2002).

¹⁰ *See Shelly A. Paolinetti*, *supra* note 5.

¹¹ *Douglas M. McQuaid*, 52 ECAB 382 (2001).

merely walked and checked employee's identification, only occasionally having to open a door. The evidence therefore does not establish that appellant had to work in extreme cold conditions or otherwise work outside her restrictions. Dr. DeAntonio also noted appellant's complaints and diagnoses involving her cervical spine condition and lumbosacral spine complaints. A lumbar spine condition has not been accepted as work related, and, while a neck strain was accepted as employment related, appellant initially injured her cervical spine in a nonwork-related automobile accident in 1982 and the accepted neck strain occurred in March 1985. Furthermore, Dr. DeAntonio advised that appellant's complex pain syndrome was her primary diagnosis, and the Office has not rendered a final diagnosis on whether this condition is employment related.¹²

A medical opinion regarding causal relationship must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the employment injury.¹³ The Board finds that, as Dr. DeAntonio did not adequately explain how the employment-related conditions caused appellant's recurrence of disability because she based her opinion on an inaccurate work history and on conditions not employment related, her reports are of diminished probative value and insufficient to establish that appellant's absence from work beginning on January 18, 2005 was caused by the employment injuries.¹⁴

Dr. Mandel's opinion that appellant was capable of performing her limited-duty job for four hours a day, five days a week, was supported by his physical findings, based on an accurate job description. He submitted a comprehensive report, answered specific Office questions, and provided a work capacity evaluation. Medical reports, such as Dr. Mandel's, which present medical evidence as to why a claimed recurrence was not caused by the employment injury and which presents that conclusion with sound medical reasoning is entitled to great weight.¹⁵

It is appellant's burden of proof to submit the necessary medical evidence to establish a claim for a recurrence. A mere conclusion without the necessary medical rationale explaining how and why the physician believes that a claimant's accepted exposure would result in a diagnosed condition is not sufficient to meet her burden of proof. The medical evidence must also include rationale explaining how the physician reached the conclusion he or she is supporting.¹⁶ The record in this case does not contain a medical report providing a reasoned medical opinion that appellant's claimed recurrence of disability was caused by the accepted conditions.

¹² The Board's jurisdiction is limited to reviewing final decisions of the Office. 20 C.F.R. § 501.2(c); *Karen L. Yaeger*, 54 ECAB 323 (Docket No. 02-499, issued January 7, 2003).

¹³ *Joan R. Donovan*, 54 ECAB 615 (2003).

¹⁴ *Leslie C. Moore*, 52 ECAB 132 (2000).

¹⁵ *See John D. Jackson*, 55 ECAB 465 (2004).

¹⁶ *Beverly A. Spencer*, 55 ECAB 501 (2004).

CONCLUSION

The Board finds that appellant failed to meet her burden of proof to establish that she sustained a recurrence of disability on January 18, 2005 causally related to her March 26, 1985 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 7 and March 7, 2005 be affirmed.

Issued: May 1, 2007
Washington, DC

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

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

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