

In an April 4, 2002 report, Dr. Stanley K. Saunders, a Board-certified family practitioner, noted seeing appellant on March 13, 2002 for back pain. He stated that a March 27, 2002 magnetic resonance imaging (MRI) scan revealed a possible L1 compression deformity and an L4-5 disc protrusion. Dr. Saunders opined that appellant had a “workers’ compensation injury with a muscular component and possibly a small herniated disc in addition with compression fracture.” The March 27, 2002 MRI scan noted a bone marrow finding for which metastatic disease could not be ruled out. The report also noted a “probable recent” compression deformity at L1 and a small protrusion at L4-5 without stenosis or foraminal narrowing.

By decision dated May 2, 2002, the Office denied appellant’s claim on the grounds that the medical evidence was insufficient. On February 11, 2003 an Office hearing representative, remanded the case to the Office for further medical development.

On April 15, 2003 the Office referred appellant to Dr. Norman L. Pollak, a Board-certified orthopedic surgeon, for a second opinion. In a May 9, 2003 report, he noted that the medical records indicated diagnosis of lumbar strain. A March 27, 2002 magnetic resonance imaging (MRI) scan suggested a compression fracture of L1. Dr. Pollak noted that Dr. Kornblum’s August 27, 2002 progress note indicated multiple compression fractures from T11 to L5 and suggested treatment of vertebroplasties, which involved injection of cement into the vertebral bodies to prevent further collapse. He set forth his findings and concluded that appellant had sustained a sprain to his lower back while working on March 6, 2002. Appellant continued to experience pain and was diagnosed with multiple myeloma throughout the lower thoracic and lumbar spine. He underwent chemotherapy and radiation therapy as well as vertebroplasties. Dr. Pollak found that appellant’s treatment for multiple myeloma and his continued back symptoms were not residuals of the March 6, 2001 work injury, but was secondary to the underlying myeloma condition. He advised that the multiple myeloma condition was preexisting and had progressed into multiple vertebral collapses or compression fractures and were not the result of the work injury. Dr. Pollak opined that appellant could not return to his regular duties and recommended a functional capacity evaluation. The Office requested that Dr. Pollak clarify his opinion. In a May 28, 2004 report, he stated that any symptoms from appellant’s March 6, 2002 lumbar sprain would only have been of short-term significance. Dr. Pollak reiterated that appellant’s ongoing complaints were due to his underlying condition of multiple myeloma. He explained that the multiple compression fractures had occurred secondary to the multiple myeloma.

On June 9, 2003 the Office accepted appellant’s claim for a low back strain on the basis of Dr. Pollak’s opinion.

On July 8, 2003 appellant filed a Form CA-7 claiming wage loss for total disability beginning June 7, 2002. The Office adjudicated the claim as one for a recurrence of disability.

On July 16, 2003 the Office advised appellant that the evidence was insufficient to establish that his disability of June 7, 2002 was causally related to the accepted work injury. The Office requested further factual and medical information, including a physician’s rationalized opinion addressing how his current condition was due to the work-related injury

Appellant submitted an August 13, 2003 statement. A June 6, 2002 disability slip from Providence Hospital advised that he was treated for lumbar disc disease. It stated that appellant was unable to work on June 6, 2002 but could return to work on June 8, 2002. In an August 27, 2002 progress report, Dr. Martin B. Kornblum, an attending Board-certified orthopedic surgeon, noted the history of injury. He stated that appellant was discovered to have multiple myeloma. Dr. Kornblum noted that appellant was admitted to the hospital for an acute exacerbation of pain and was currently undergoing treatment for myeloma. He diagnosed multiple myeloma of the lumbar spine with compression fractures at T11, L1 and L2. Dr. Kornblum opined that appellant's compression fractures of his back were secondary to multiple myeloma of the lumbar spine. He reported that appellant's pain was stable. Dr. Kornblum provided restrictions on lifting and bending.

In a September 3, 2002 report, Dr. Stanley K. Saunders, a Board-certified family practitioner, advised that appellant was originally taken off work on June 8, 2002 for severe lumbosacral pain. In his reports of November 3, 2002 and August 5, 2003, he provided a summary of appellant's clinical history and the dates when he examined him. Dr. Saunders concluded that appellant had a workers' compensation injury with a muscular component complicated by multiple myeloma.

By decision dated August 25, 2003, the Office denied the claim for compensation beginning June 7, 2002 on the basis that the disability was not found to be causally related to the accepted low back strain of March 6, 2002.

Appellant requested an oral hearing, which was held on April 29, 2004. The Office received progress reports from Dr. Kornblum dated September 11, 2003 to April 22, 2004. They addressed the status of appellant's multiple thoracolumbar compression fractures and multiple myeloma. On May 18, 2004 Dr. Gary Chodoroff, a Board-certified physiatrist, noted the history of injury and appellant's clinical course. Appellant was found to have multiple myeloma in July 9, 2002 and compressed vertebrae in August 2002. He was status post seven vertebroplasties. Dr. Chodoroff noted that appellant's symptoms began with the March 6, 2002 work incident and opined that appellant was not capable of working.

By decision dated July 20, 2004, the Office hearing representative affirmed the August 25, 2003 decision. The Office hearing representative determined that the medical evidence did not establish that appellant's myeloma or thoracolumbar compression fractures were due to the March 6, 2002 work injury or that appellant's work stoppage of June 7, 2002 was due to the accepted low back strain.

On December 7, 2004 appellant requested reconsideration. An October 9, 2004 statement from Clarence Jenkins, a retired manager of the priority mail center, advised that appellant's work-related injury caused appellant hardship as well as a loss of services and leadership to the employing establishment. Progress notes from Dr. Kornblum dated July 15, August 10 and November 23, 2004 were submitted. He opined that appellant was permanently disabled and that his work-related injury was the major initial event leading to his disability. Dr. Kornblum stated that appellant was highly functional up to the point where he had the work-related lumbar strain in March 2002, which eventually led to a permanent back condition. He

noted that, although appellant had myeloma, the work injury caused the cascade of spinal fractures as appellant never recovered from the initial injury. Although appellant's spinal fractures were discovered several months after the March 2002 work injury, the initial injury abused total disability.

In a November 18, 2004 report, Dr. Saunders addressed the relationship between appellant's June 6 and 10, 2002 visits for severe back pain and the March 6, 2002 work injury. On June 6, 2002 he noted the history of appellant's acute back injury at work and explained that his back spasms were severe enough to keep him off work. Dr. Saunders referred him to a specialist which supported a relationship between the original injury and his increased pain following the injury. On June 10, 2002 his working diagnosis was "workers' compensation back injury" and appellant was taken off work. Dr. Saunders stated that that it was necessary for him to stop work on June 6, 2002 due to pain and the March 6, 2002 injury. He concluded that appellant was functioning well at the time of the March 6, 2002 injury which led to his disability. Dr. Saunders explained that, although the multiple myeloma caused the spinal fractures, which necessitated vertebroplasty, it was the March 6, 2002 workers' compensation back injury that disabled him.

By decision dated December 20, 2004, the Office denied modification of the July 20, 2004 decision.

Appellant requested reconsideration. In reports dated January 20 and September 22, 2005, Dr. Kornblum advised that appellant's residual back pain began with his work-related injury. Appellant tried to go back to work briefly without success. Dr. Kornblum stated that appellant last worked June 6, 2002 and had multiple spinal fractures. He stated that appellant was fairly stable, surgically, but was permanently disabled as he was at risk for further fractures with work. Dr. Kornblum opined that this was a work-related injury. He explained that the injury occurred at work and appellant developed fractures as a result of the work-related injury. Dr. Kornblum advised that, while the multiple myeloma was preexisting, the spinal fractures were not there prior to his work-related injury. But for the work-related injury, appellant would not have sustained the fractures. He had no new fractures since he stopped work. Dr. Kornblum further opined that appellant was disabled from work as a result the spinal fractures.

By decision dated December 13, 2005, the Office denied modification of its December 20, 2004 decision.

On June 16, 2006 appellant requested reconsideration. In a May 30, 2006 report, Dr. Kornblum reiterated that appellant's March 6, 2002 work injury caused the multiple spine fractures. He noted that, while the multiple myeloma condition was preexisting and was a contributing factor in that it weakened the spine to some extent, it was not the primary cause of the spinal fractures. Dr. Kornblum opined that, but for the lifting injury, appellant would not have fractured multiple vertebrae in the manner that developed. He believed the fractures were present at the time of his symptoms in March and continued until they were eventually diagnosed and treated. Secondary to the multiple vertebral fractures, appellant would not have been able to perform his regular duties as it caused severe pain and difficulty in handling his own body weight, difficulty in allowing him to stand up straight or sit for long periods, walk, bend, stoop,

reach or lift. Prior to the March 6, 2002 injury, he had no problems performing his duties and had no pain or postural problems.

By decision dated February 26, 2007, the Office denied modification of its December 13, 2005 decision, finding that appellant had not established that his disability commencing June 7, 2002 was related to his March 6, 2002 injury.

LEGAL PRECEDENT

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 the reliable, probative and substantial evidence a recurrence of disability. As part of this burden, 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.¹

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. 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 requirements of such an assignment are altered so that they exceed his or her established physical limitations.²

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the subsequent disability for which compensation is claimed is causally related to the accepted injury.³ 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.⁴ Moreover, the physician's conclusion must be supported by sound medical reasoning.⁵ In addition, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.⁶ In this regard, medical evidence of bridging symptoms

¹ *Terry Hedman*, 38 ECAB 222 (1986).

² *See* 20 C.F.R. § 10.5(x).

³ *Charles H. Tomaszewski*, 39 ECAB 461, 467 (1988).

⁴ 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.

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

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

between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.⁷ 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.⁸

ANALYSIS

The Office accepted that appellant sustained a low back strain as a result of his March 6, 2002 work injury. The record reflects that he was able to resume light-duty work following his injury but later became disabled after being diagnosed with multiple myeloma and spinal compression fractures were detected. Appellant stopped work on June 7, 2002 and claimed total disability beginning that day. The Office developed the matter as claim for a recurrence of disability on and after June 7, 2002.⁹ The Office advised appellant of the medical evidence needed to establish his claim. However, he did not submit sufficient reasoned medical evidence establishing that his claimed disability was due to his March 6, 2002 low back strain.¹⁰ The Board also notes that there is no evidence showing a change in the nature and extent of the light-duty job requirements. There is no evidence that appropriate light-duty work was not made available.

Appellant submitted a statement from Clarence Jenkins attesting to the effects of appellant's work injury. However, the matter of the residuals of a work injury is a medical question and lay persons are not competent to render a medical opinion.¹¹ Thus, Mr. Jenkins' statement is irrelevant to appellant's claim. The June 6, 2002 disability slip from Providence Hospital advised that appellant was treated for lumbar disc disease and was unable to work June 6 and 7, 2002. However, there was no indication from a physician that he stopped work due to the accepted low back strain. In his May 18, 2004 report, Dr. Chodoroff noted that appellant's symptoms began with the March 6, 2002 work injury and opined that he was

⁷ For the importance of bridging information in establishing a claim for a recurrence of disability, see *Robert H. St. Onge*, *supra* note 5; *Shirloyn J. Holmes*, 39 ECAB 938 (1988); *Richard McBride*, 37 ECAB 748 (1986).

⁸ See *Ricky S. Storms*, 52 ECAB 349 (2001).

⁹ Although appellant did not specifically file a claim for a recurrence of disability (Form CA-2a), Office regulations defining a recurrence of disability are applicable to this situation and the Office properly treated it as such. See 20 C.F.R. § 10.5(x). The Board notes that if appellant is claiming that the work he performed after his return to work on May 7, 2002 aggravated his preexisting condition, this would form the basis for a claim for a new injury. See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(b)(2) (May 1997).

¹⁰ Although appellant asserts that other conditions, such as compression fractures, were caused by his employment injury, the Office only accepted the claim for a low back strain. See *Jaja K. Asaramo*, 55 ECAB 200 (2004) (where an employee claims that a condition not accepted or approved by the Office was due to an employment injury, he or she bears the burden of proof to establish that the condition is causally related to the employment injury).

¹¹ See *id.* at 206.

disabled. However, his report is insufficient to establish appellant's claim as he did not specifically address the cause of appellant's disability.¹²

Appellant submitted numerous progress notes and medical reports from Dr. Kornblum. In an August 27, 2002 progress note, Dr. Kornblum noted the history of injury and opined that his spinal compression fractures were secondary to multiple myeloma. However, he offered no opinion regarding appellant's work stoppage of June 6, 2002 or an opinion regarding the relationship between his current condition and the accepted work-related injury of a lower back strain. While Dr. Kornblum continued to report on the status of appellant's condition and ongoing treatment, it was not until his report of August 10, 2004 that he opined that there was a connection between appellant's employment and the multiple fractures of the spine.

In his August 10, 2004 report, Dr. Kornblum opined that appellant's work injury led to permanent disability. He stated that the work injury caused appellant's cascade of spinal fractures as he never recovered from the work-related injury. Dr. Kornblum, however, did not explain how appellant's accepted low back strain would cause or contribute to his worsening symptomology or establish that his compression fractures and disability were causally related to his accepted condition and not to the preexisting myeloma condition. In his January 20 and September 22, 2005 reports and May 30, 2006 report, he acknowledged that the multiple myeloma condition was preexisting and opined that, but for the work-related injury, appellant would not have had the spinal fractures and his subsequent work stoppage. In Dr. Kornblum's January 20 and September 22, 2005 report, he stated that the fractures were not there prior to his work-related injury and there had been no new fractures since appellant stopped work. In his May 30, 2006 report, he opined that, but for the work injury, appellant would not have fractured the multiple vertebra in the manner that developed. Dr. Kornblum's opinion on causal relationship, however, is of little probative value as it contains a conclusory statement on causal relationship.¹³ In his reports, he failed to sufficiently explain how the March 6, 2002 work injury resulted in the diagnosed spinal fractures. While Dr. Kornblum stated in his May 30, 2006 report that he believed that the spinal fractures were present at the time of the March 6, 2002 work injury the most contemporaneous medical evidence, a March 27, 2002 MRI scan report, notes only a "probable recent" compression deformity at L1. Additionally, he failed to provide an opinion in his reports as to how appellant's condition worsened such that he was no longer able to perform his limited-duty work. The mere fact that appellant did not have problems in performing his duties or have the pain and postural problems prior to his work-related injury or experienced new fractures since his work stoppage, is not sufficient to establish a causal relationship to the work injury.¹⁴ For these reasons, Dr. Kornblum's reports are insufficient to establish appellant's claim.

Appellant also submitted numerous reports from Dr. Saunders. In a September 3, 2002 report, Dr. Saunders indicated that appellant was taken off work June 8, 2002 for severe

¹² *Michael E. Smith*, 50 ECAB 313 (1999) (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).

¹³ *See Albert C. Brown*, 52 ECAB 152 (2000).

¹⁴ *See Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997); *Manuel Garcia*, 37 ECAB 767 (1986).

lumbosacral pain. In reports of November 3, 2002 and August 5, 2004, he concluded that appellant had a workers' compensation injury complicated by multiple myeloma. Dr. Saunders, however, does not provide a reasoned explanation regarding the relationship between appellant's current condition and the March 6, 2002 work injury, or address appellant's work stoppage of June 6, 2002. While, his November 18, 2004 report also addressed causal relationship, stating that appellant was taken off work as a result of failure to improve from his "workers' compensation back injury" and that his subsequent referral to a specialist was indicative of a relationship between the work injury and appellant's exacerbation of pain. However, to establish a causal relationship between the condition, as well as any attendant disability claimed, and the employment injury, there must be rationalized medical evidence based on a complete medical and factual background supporting such a causal relationship.¹⁵ Dr. Saunders reference to a "workers' compensation injury," subsequent referral to a specialist and opinion that the workers' compensation injury rendered appellant disabled does not establish causal relationship as no explanation is offered as to the nexus with the accepted low back strain. There is no discussion on how appellant's accepted strain would cause or contribute to his worsening symptomology or establish that his exacerbation of pain and disability was causally related to his accepted condition. Thus, his reports are insufficient to establish appellant's claim.

Thus, the medical reports from appellant's treating physicians do not offer a rationalized medical opinion establishing that appellant's disability beginning June 7, 2002 is due to an employment-related condition.

Dr. Pollak, an Office referral physician, stated in April 9 and May 28, 2003 reports that appellant's disability beginning June 7, 2002 was due to his underlying multiple myeloma condition which led to his vertebral collapses and compression fractures and caused his disability from work after he returned to light duty following his March 6, 2002 work injury. Dr. Pollak was provided with appellant's entire medical file and presented a well-reasoned explanation for his opinion that the myeloma and compression fracture conditions along with the resulting disability from work were not causally related to the March 6, 2002 low back strain.

Appellant has not submitted sufficient medical evidence to establish that his disability beginning June 7, 2002, was a result of his accepted employment injury.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained a recurrence of disability or a medical condition on and after June 7, 2002 causally related to his accepted employment injury of March 6, 2002.

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

ORDER

IT IS HEREBY ORDERED THAT the February 26, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 5, 2008
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