

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**G.G., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Rocklin, CA, Employer**

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**Docket No. 08-2240  
Issued: June 1, 2009**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

COLLEEN DUFFY KIKO, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On August 12, 2008 appellant filed a timely appeal of the Office of Workers' Compensation Programs' hearing representative's decision dated May 6, 2008 affirming the finding that he had not established a recurrence of disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant sustained a recurrence of disability from March 24 to April 18, 2007 causally related to the accepted November 14, 2000 employment injury.

**FACTUAL HISTORY**

On November 15, 2000 appellant, then a 39-year-old mail carrier, filed a traumatic injury claim alleging that on November 14, 2000 he injured his lower back while lifting a tray of mail. The Office accepted the claim for a lumbar strain. Appellant stopped work that day and returned to light-duty work on May 7, 2001.

In a March 29, 2007 disability note, Dr. Yousery Y. Kelada, a treating Board-certified family practitioner, requested that appellant be excused from work for the period March 25 to April 19, 2007 due to back pain.

On April 26, 2007 appellant filed a claim for wage-loss compensation for the period March 24 to April 18, 2007. The Office adjudicated the claim as one for a recurrence of disability.

By letter dated April 3, 2007, the Office informed appellant of the evidence needed to support his claim.

Appellant submitted an undated disability note and progress notes dated March 16 to April 18, 2007 from Dr. Kelada, who indicated that appellant could return to work on April 27, 2007. Dr. Kelada diagnosed leg and lower back pain and indicated that appellant could return to modified work on March 16, 2007. On April 18, 2007 he diagnosed lower back pain and lumbar radiculopathy.

By decision dated May 4, 2007, the Office denied appellant's claim for recurrence of disability.

On May 14, 2007 appellant requested an oral hearing before an Office hearing representative, which was held on February 27, 2008. He submitted medical and factual evidence for the period October 13, 2000 and March 5, 2008, including progress notes dated March 29 and October 31, 2007 by Dr. Asish Ghosahl, a treating Board-certified psychiatrist and neurologist, who reported that appellant was working a modified job full time. Dr. Ghosahl stated that appellant related persistent pain symptoms radiating into the left lower extremity. A neurological examination revealed reflexes 1+ of the deep tendons and no focal abnormalities. Dr. Ghosahl diagnosed persistent left lumbar radiculopathy. He reported that appellant continued to work full time in a modified job and neurological examination revealed no focal abnormalities.

By decision dated May 6, 2008, the Office hearing representative affirmed the denial of appellant's recurrence claim.

### **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.<sup>1</sup> This term also means an inability to work that takes place 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

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<sup>1</sup> 20 C.F.R. § 10.5(x).

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

A person who claims a recurrence of disability has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability, for which he claims compensation is causally related to the accepted employment injury.<sup>3</sup> Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence a causal relationship between his recurrence of disability and his employment injury.<sup>4</sup> 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.<sup>5</sup> Moreover, the physician's conclusion must be supported by sound medical reasoning.<sup>6</sup>

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup>

### ANALYSIS

The Office accepted that appellant sustained a lumbar strain as a result of his November 14, 2000 work injury. The record reflects that he was able to resume light-duty work on May 7, 2001. Appellant stopped work on March 24, 2007 and claimed a recurrence of total disability beginning that day. The Office advised appellant of the medical evidence needed to establish his claim. However, appellant did not submit sufficient medical evidence to establish that his disability was due to his November 14, 2000 lumbar strain.

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<sup>2</sup> *Id.* See *J.F.*, 58 ECAB \_\_\_\_ (Docket No. 06-186, issued October 17, 2006).

<sup>3</sup> *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

<sup>4</sup> *Carmen Gould*, 50 ECAB 504 (1999); *Lourdes Davila*, 45 ECAB 139 (1993).

<sup>5</sup> *S.S.*, 59 ECAB \_\_\_\_ (Docket No. 07-579, issued January 14, 2008); *Ricky S. Storms*, 52 ECAB 349 (2001); see also 20 C.F.R. § 10.104(a)-(b).

<sup>6</sup> *Alfredo Rodriguez*, 47 ECAB 437 (1996); *Louise G. Malloy*, 45 ECAB 613 (1994).

<sup>7</sup> See *Ricky S. Storms*, *supra* note 5; see also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

<sup>8</sup> For the importance of bridging information in establishing a claim for a recurrence of disability, see *Richard McBride*, 37 ECAB 748 at 753 (1986).

<sup>9</sup> See *Ricky S. Storms*, *supra* note 5; *Morris Scanlon*, 11 ECAB 384, 385 (1960).

In support of his of claim, appellant submitted treatment notes dated March 16 to April 18, 2007 from Dr. Kelada, a treating Board-certified family practitioner, who indicated that appellant was disabled for the period March 25 to April 19, 2007 due to back pain and that appellant could return to work on April 27, 2007. On March 16, 2007 Dr. Kelada diagnosed leg and lower back pain and indicated that appellant could return to modified work as of March 16, 2007. On April 18, 2007 he again diagnosed lower back pain and lumbar radiculopathy. Apart from noting that appellant had pain to his low back, Dr. Kelada did not address how appellant's symptoms as of March 16, 2007 were related to the accepted lumbar strain of 2000. The treatment reports do not provide any discussion of how or why appellant's current low back condition precluded him from performing his light-duty assignment. Without this pertinent information, Dr. Kelada's notes are of limited probative value. They are insufficient to establish that appellant experienced an employment-related recurrence of disability.

The record also contains reports dated March 29 and October 31, 2007 from Dr. Ghosahl, a treating Board-certified psychiatrist and neurologist. He noted that appellant related persistent pain symptoms radiating into the left lower extremity. On October 31, 2007 Dr. Ghosahl diagnosed persistent left lumbar radiculopathy symptoms. He noted that appellant continued to work full time in a modified job. Dr. Ghosahl offered no opinion regarding appellant's work stoppage of March 24, 2007 or addressing the relationship between his current condition and the accepted work-related injury of a lumbar strain. The Board has held that 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.<sup>10</sup> Dr. Ghosahl's recent reports are insufficient to establish that appellant's work stoppage on March 24, 2007 was causally related to his accepted November 14, 2000 lumbar strain.

The medical evidence does not demonstrate a change in the nature and extent of appellant's injury-related condition such that he was no longer able to perform his light-duty assignment beginning March 24, 2007. The Office properly denied his recurrence claim.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish that he sustained a recurrence of disability from March 24 to April 18, 2007 causally related to the accepted November 14, 2000 employment injury.

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<sup>10</sup> A.F., 59 ECAB \_\_\_ (Docket No. 08-977, issued September 12, 2008).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 6, 2008 is affirmed.

Issued: June 1, 2009  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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