United States Department of Labor
Employees' Compensation Appeals Board

J.C., Appellant	)	
	)	**Docket No. 10-15**
and	)	**Issued: July 15, 2010**
U.S. POSTAL SERVICE, SOUTH SOUND DISTRIBUTION CENTER, Fife, WA, Employer	)	

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 September 30, 2009 appellant filed a timely appeal from a November 5, 2008 merit decision of the Office of Workers' Compensation Programs finding that he did not establish 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 established a recurrence of disability or a recurrence of a medical condition on January 18, 2008 causally related to his February 24, 2006 employment injury.

FACTUAL HISTORY

On February 24, 2006 appellant, then a 48-year-old mail handler, filed a traumatic injury claim alleging that on that date he injured his back, neck and right knee when he tried to sit down on a chair that had been moved. He stopped work on February 24, 2006 and returned to work on February 28, 2006. In a duty status report dated March 1, 2006, Dr. James H. Nelson, Board-

certified in preventive medicine, listed findings of a resolved cervical back sprain, diagnosed a back contusion and released appellant to resume his regular employment.

On May 7, 2008 appellant filed a recurrence of disability claim due to his February 24, 2006 employment injury. He stopped work on January 18, 2008. Appellant noted that he performed the work duties within his bid position after his employment injury. His physician informed him on March 19, 2007 that his disabling pain was the result of striking his right sacroiliac joint on February 24, 2006. The employing establishment advised that appellant began performing light duty on March 31, 2007.

On May 14, 2008 the Office advised appellant that it had originally processed his case as an uncontroverted, no time lost from work case without considering it on the merits. It accepted his claim for a neck sprain and contusions of the face, scalp and neck. The Office noted that appellant's physician released him to work on March 1, 2006 without restrictions and that his case was administratively closed as he obtained no further medical treatment.

On April 1, 2008 Dr. Charles S. Paxson, a Board-certified internist, requested an extension of appellant's limited-duty work pending further evaluation. He referred to a May 14, 2007 duty status report for work restrictions.[1] Appellant also submitted treatment notes from the Department of Veterans Affairs predating his alleged recurrence of disability.[2]

By decision dated July 9, 2008, the Office found that appellant did not establish an employment-related recurrence of disability. It found that he had submitted medical reports regarding his treatment through the Department of Veterans Affairs but this evidence failed to address whether he sustained a recurrence of disability due to his February 24, 2006 work injury.

In a form report dated June 12, 2008, received by the Office on August 25, 2008, Dr. Paxson diagnosed a sacroiliac strain and indicated that the history of injury provided by appellant corresponded to that on the form of a chair being moved while he was sitting down on February 24, 2006. He listed as other disabling conditions peripheral neuropathy and carpal tunnel syndrome and found that appellant could work full time with restrictions.

On August 18, 2008 Dr. Paxson found that appellant could work full time with restrictions. On August 19, 2008 Dr. Bruce Buchanan, a Board-certified internist, referred to progress reports dated March 12 and June 12, 2008 for information regarding appellant's

[1] In a duty status report dated May 14, 2007, Dr. Paxson diagnosed back and hip pain and checked "yes" that the condition corresponded to the history of appellant trying to sit down on a chair that had been moved. He provided work restrictions.

[2] The treatment notes from the Department of Veterans Affairs dated after appellant's release to resume his regular employment do not address the causal relationship between any diagnosed condition and appellant's February 24, 2006 employment injury.

February 24, 2006 back injury.[3] He noted that appellant also received chiropractic treatment following his fall. Dr. Buchanan stated:

> "During my most recent examination, June 12, 2008, I felt there were subtle signs of trouble at the right sacroiliac joint, not recorded by me in March 2007. However, over a number of recent examinations it is not possible to define a new set of clinical findings after [appellant's] accident date, nor can one conclude his symptoms are suspect. Such a fall can jar/injure lumbar joints, discs or sacroiliac joints with subtle changes in already limited function.
>
> "I believe [appellant's] claim for symptom worsening is valid, based on the injury reported and suggest a physical capacities evaluation as an appropriate tool to determine his future employability with the [employing establishment]."

On August 22, 2008 appellant requested reconsideration.

In a report dated August 29, 2008, Dr. Niriksha Malladi, a Board-certified physiatrist, noted that appellant sought clarification regarding whether his right sacroiliac joint pain was due to his February 24, 2006 fall at work and whether his carpal tunnel syndrome resulted from his employment. She assessed him as having sacroiliac joint dysfunction and carpal tunnel syndrome and noted that he was seeking a medical retirement.

In a November 5, 2008 decision, the Office denied modification of its July 9, 2008 decision. It noted that he currently had an occupational disease claim pending for pain in his back and hip after his February 24, 2006 injury, assigned file number xxxxxx659. The Office found that there was no evidence that appellant's need for medical treatment or disability beginning January 18, 2008 was causally related to the accepted work injury.

LEGAL PRECEDENT

When an appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of the reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury.[4] 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 and supports this conclusion with sound medical reasoning.[5]

Section 10.5(x) of the Office's regulations provide 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

[3] The March 12 and June 12, 2008 progress reports from Dr. Buchanan do not appear to be in the case record.

[4] 20 C.F.R. § 10.104(b); *Carmen Gould*, 50 ECAB 504 (1999).

[5] *Ricky S. Storms*, 52 ECAB 349 (2001); *Helen Holt*, 50 ECAB 279 (1999).

had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness."[6]

Section 10.5(y) of the Office's regulations states:

"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."[7]

ANALYSIS

The Office accepted that appellant sustained a neck sprain and contusions of the face, scalp and neck on February 24, 2006. Appellant stopped work that day and resumed work on February 26, 2008. He performed his usual employment until March 31, 2007, when he accepted a light-duty position. On May 7, 2008 appellant filed a recurrence of disability claim contending that he stopped work on January 18, 2008 due to his February 24, 2006 work injury.

The medical evidence is insufficient to establish that appellant sustained a recurrence of disability or a medical condition due to her accepted work injury. Regarding the recurrence of a medical condition, as he is more than 90 days of release from initial medical care, it is his responsibility to submit "an attending physician's report which contains a description of the objective findings and supports causal relationship between the claimant's current condition and the previously accepted work injury."[8]

In a form report dated June 12, 2008, Dr. Paxson diagnosed a sacroiliac strain. He noted that the history of injury provided by appellant corresponded to that on the form of a chair being moved while he was sitting on February 24, 2006. The Board has held, however, that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form question on whether the claimant's condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.[9]

On April 1, 2008 Dr. Paxson requested that appellant continue to work limited duty until he was further evaluated. On August 18, 2008 he listed work restrictions. Dr. Paxson did not, however, address causation, provide findings on examination or render a diagnosis. The issue of whether a claimant's disability is related to his or her employment is a medical question which must be established by a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disability is causally related to employment factors and

[6] 20 C.F.R. § 10.5(x).

[7] *Id*. at § 10.5(y).

[8] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.5(b) (May 2003).

[9] *Cecelia M. Corley*, 56 ECAB 662 (2005); *Deborah L. Beatty*, 54 ECAB 334 (2003) (the checking of a box "yes" in a form report, without additional explanation or rationale, is insufficient to establish causal relationship).

supports that conclusion with sound medical reasoning.[10] Additionally, findings on examination are needed to support a physician's opinion that an employee is disabled for work.[11]

On August 19, 2008 Dr. Buchanan related that during a June 12, 2008 examination, he found symptoms of a right sacroiliac joint condition that were not present in March 2007. He noted that a fall such as in appellant's work injury could injure "lumbar joints, discs or sacroiliac joints with subtle changes in already limited function." Dr. Buchanan advised that appellant's symptoms had worsened and recommended a functional capacity evaluation to determine work restrictions. His opinion that appellant's work injury "could" result in an injury to the sacroiliac joint is speculative in nature and general in nature; thus it is of limited probative value.[12] Further, the Office did not accept any sacroiliac joint condition due to the February 24, 2006 work injury. Where appellant claims that, a condition not accepted or approved by the Office was due to his employment injury, he bears the burden of proof to establish that the condition is causally related to the employment injury through the submission of rationalized medical evidence.[13] Dr. Buchanan did not provide any rationale for his opinion and thus his report is insufficient to meet appellant's burden of proof.[14]

In a report dated August 29, 2008, Dr. Malladi discussed appellant's request that he clarify whether the pain in his right sacroiliac joint was due to his February 24, 2006 work injury. She noted that he sought a medical retirement and diagnosed sacroiliac joint dysfunction and carpal tunnel syndrome. Dr. Malladi, however, did not address whether appellant's right sacroiliac joint pain was related to his February 24, 2006 work injury. 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.[15]

An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is a causal relationship between his claimed condition and his employment.[16] Appellant must submit a physician's report in which the physician reviews those factors of employment identified by him as causing his condition and, taking these factors into consideration as well as findings upon examination and the medical history, explain how employment factors caused or aggravated any diagnosed condition and present medical rationale

[10] *Sandra D. Pruitt*, 57 ECAB 126 (2005).

[11] *Laurie S. Swanson*, 53 ECAB 517 (2002).

[12] *Kathy A. Kelley*, 55 ECAB 206 (2004); *Rickey S. Storms*, 52 ECAB 349 (2001) (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).

[13] *T.M.*, 60 ECAB ___ (Docket No. 08-975, issued February 6, 2009); *JaJa K. Asaramo*, 55 ECAB 200, 204 (2004).

[14] *Mary E. Marshall*, 56 ECAB 420 (2005); *Willa M. Frazier*, 55 ECAB 379 (2004); *Jimmy H. Duckett*, 52 ECAB 332 (2001).

[15] *S.E.*, 60 ECAB ___ (Docket No. 08-2214, issued May 6, 2009); *Conrad Hightower*, 54 ECAB 796 (2003).

[16] *George H. Clark*, 56 ECAB 162 (2004); *Patricia J. Glenn*, 53 ECAB 159 (2001).

in support of his or her opinion.[17] He failed to submit such evidence and therefore failed to discharge his burden of proof.

CONCLUSION

The Board finds that appellant has not established that he sustained a recurrence of disability or a recurrence of a medical condition on January 18, 2008 causally related to his February 24, 2006 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the November 5, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 15, 2010
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

[17] *Robert Broome*, 55 ECAB 339 (2004).