

On July 17, 2007 appellant filed a recurrence of disability claim (Form CA-2a). She performed modified work duties with medical restrictions after her accepted employment injury. Appellant did not stop work following the alleged recurrence of disability. Instead, she claimed that she was trying to reopen her case to obtain medical treatment for her low back pain. In a July 17, 2007 letter, appellant explained that she was instructed to submit updated medical information to the employing establishment to continue working in her modified position. She was advised that the Office had closed her workers' compensation case.

A January 31, 2007 medical report of Dr. Gregory D. Carlson, an attending Board-certified orthopedic surgeon, reviewed a history of appellant's accepted employment injury, medical treatment, family and social background. He diagnosed lumbar spinal stenosis, lumbar degenerative disc disease and lumbar scoliosis. Dr. Carlson advised that appellant could continue working with restrictions. In a January 31, 2007 disability certificate, he released appellant to return to work with restrictions for six weeks.

The June 13, 1990 report and May 13, June 18 and September 16, 2003 treatment notes of Dr. Harry L. Gibson, an attending Board-certified orthopedic surgeon, advised that appellant sustained lumbar degenerative disc disease, mild stenosis at L2-3 and L3-4, lateral subluxation at L4-5 and L3-4, and degenerative spondylolisthesis with marked narrowing of the disc spaces.

By letter dated August 13, 2007, the Office advised appellant that the evidence submitted was insufficient to establish her claim. It also advised her of the factual and medical evidence necessary to establish a recurrence claim.

In a September 14, 2007 decision, the Office denied appellant's recurrence claim. The medical evidence was found insufficient to establish that she sustained a medical condition due to her accepted employment-related injury.

In a September 17, 2007 report, a physician whose signature is illegible advised that appellant sustained spondylolisthesis, stenosis and degenerative disc disease of the lumbar spine.

On December 3, 2007 appellant requested reconsideration of the September 14, 2007 decision. In a December 2, 2007 letter, she stated that she experienced continuing problems related to her accepted employment injury. A November 8, 2007 report of Dr. Zafar S. Khan, an attending Board-certified orthopedic surgeon, advised that appellant sustained degenerative changes from L3 to L5 with significant evidence of lumbar spondylolisthesis and stenosis, which were consistent with degenerative disc disease. He reviewed her medical records and stated that she had been experiencing back problems since 2003. Dr. Khan opined that appellant's back conditions were related to her accepted employment injury.

By decision dated March 6, 2008, the Office denied modification of the September 14, 2007 decision. The evidence submitted by appellant was insufficient to establish that she sustained a recurrence of a medical condition causally related to her accepted employment injury. In an April 3, 2008 letter, she requested reconsideration. Appellant stated that her supervisors and managers were aware of her ongoing back problems.

In reports dated March 17 and June 9, 2008, the physician whose signature is illegible, advised that appellant sustained lumbar radiculopathy.

By decision dated July 8, 2008, the Office denied modification of the March 6, 2008 decision. The evidence submitted by appellant was insufficient to establish that the claimed recurrence of a medical condition was caused by her accepted employment injury.

On July 17, 2008 appellant requested reconsideration. A September 14, 2007 report contained the typed name of Dr. Thomas E. Walden, a Board-certified radiologist, and the results of a magnetic resonance imaging (MRI) scan of the lumbar spine. Appellant sustained a five millimeter broad-based disc bulge at L3-4 and discogenic disease from L2 to S1. In a September 10, 2007 report, Dr. Khan reiterated his prior diagnoses of degenerative disc disease at L3-4 and L4-5 and lumbar spondylolisthesis and stenosis and opinion that the degenerative condition was causally related to the accepted employment injury. On March 17, 2008 he opined that appellant's resultant back surgery was causally related to her accepted employment injury. In an October 17, 2007 operative report, Dr. Khan described appellant's back surgery on that date. In an October 18, 2007 report, Dr. Kazuo Yamazaki, a Board-certified pathologist, provided the results of an MRI scan of appellant's lumbar spine. He found an anterior disc at L3-5 showing fragments of bone and cartilaginous tissue with degenerative changes.

In an August 11, 2008 report, the physician whose signature is illegible reiterated the diagnosis of lumbar spondylolisthesis and radiculopathy.

By decision dated October 22, 2008, the Office denied modification of the July 8, 2008 decision. Appellant failed to submit rationalized medical evidence establishing that she sustained a recurrence of a medical condition causally related to her accepted employment injury.

On November 16, 2008 appellant requested reconsideration. In reports dated March 13, 1991 to March 7, 1994 and treatment notes dated September 18, 1990 to February 28, 1991, Dr. Gibson addressed appellant's degenerative lumbar condition and her ability to work with restrictions. In a November 10, 2008 report, Dr. Khan opined that appellant's current back pain was aggravated by a change in her modified work duties. According to appellant, she was required to sit for extended periods of time at a computer forwarding system. She was forced to twist at her waist and to sit for extended periods of time. Dr. Khan advised that extended sitting and twisting apparently caused her a great deal of back pain and aggravated her previous work-related back condition. He stated that appellant sustained degenerative disc disease L4-5 and L3-4, which required surgery. In a February 16, 2009 report, the physician whose signature is illegible reiterated the prior diagnoses of lumbar stenosis and radiculopathy.

In a February 24, 2009 decision, the Office denied modification of the October 22, 2008 decision. The evidence submitted by appellant was insufficient to establish that she sustained a recurrence of a medical condition due to her accepted employment injury.

LEGAL PRECEDENT

A 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. Continuous treatment for the original condition or injury is not

considered a need for further medical treatment after release from treatment, nor is an examination without treatment.¹

For recurrences of medical conditions, the claimant has the burden of proof to establish the relationship of the claimed recurrence to the injury.² This burden includes the necessity of furnishing medical evidence from a 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 that conclusion with sound medical rationale. Where no such rationale is present, the medical evidence is of diminished probative value. In order to establish that a claimant's alleged recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between his present condition and the accepted injury must support the physician's conclusion of a causal relationship.³

ANALYSIS

The Office accepted that appellant sustained temporary aggravation of lumbar spondylosis while in the performance of duty. Appellant was performing modified work duties when she filed a CA-2a form on July 17, 2007 alleging that she sustained a recurrence of her employment-related back condition. She explained that she had been advised by the employing establishment that the Office had closed her workers' compensation claim. Appellant contended that her employment injury never resolved. The Board finds, however, that appellant has failed to submit sufficient medical evidence to establish the recurrence of a medical condition causally related to her accepted injury.

Dr. Gibson's reports and treatment notes dated June 13, 1990 to September 16, 2003 advised that appellant sustained lumbar degenerative disc disease, mild stenosis at L2-3 and L3-4, lateral subluxation at L4-5 and L3-4, and degenerative spondylolisthesis with marked narrowing of the disc spaces. Although he noted appellant's continuing back problems, Dr. Gibson did not provide any opinion addressing whether the diagnosed conditions were causally related to the accepted employment injury. Medical evidence, which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁴ The Board finds that Dr. Gibson's reports and treatment notes are insufficient to establish appellant's claim.

Dr. Khan's reports dated September 10, 2007 to March 17, 2008 indicated that appellant had been experiencing back problems since 2003. He opined that her degenerative changes from L3 to L5 with significant evidence of lumbar spondylolisthesis and stenosis, which were consistent with degenerative disc disease and her resultant back surgery were causally related to her accepted employment injury. However, Dr. Khan did not explain why appellant's current

¹ 20 C.F.R. § 10.5(y); see *Mary A. Ceglia*, 55 ECAB 626 (2004).

² Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2 (January 1995).

³ *Mary A. Ceglia*, *supra* note 1.

⁴ *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

diagnosed conditions were causally related to the accepted employment injury. The Board finds, therefore, that Dr. Khan's reports are insufficient to establish her claim.

In a November 10, 2008 report, Dr. Khan opined that appellant required surgery to treat her degenerative disc disease L4-5 and L3-4, which was aggravated by a change in her modified work duties. He advised that she was required to sit for extended periods of time at a computer forwarding system. Dr. Khan further advised that she was forced to twist at her waist and to sit for extended periods of time. He stated that extended sitting and twisting apparently caused her a great deal of back pain and aggravated her previous work-related back condition. Dr. Khan did not, however, provide medical rationale to support his opinion on the causal relationship between appellant's current back condition and need for surgery and change in the requirements of her limited-duty work. The Board finds that his report is insufficient to establish appellant's claim.

Dr. Yamazaki's October 18, 2007 MRI scan report which does not contain an opinion as to the cause of appellant's diagnosed anterior disc at L3-5 showing fragments of bone and cartilaginous tissue with degenerative changes, is of limited probative value and is insufficient to establish her claim.⁵

The reports dated September 17, 2007 to February 16, 2009 bearing an illegible signature and the September 14, 2007 report containing Dr. Walden's typed name with no accompanying signature have no probative medical value as the author(s) cannot be identified as a physician.⁶ As this evidence lacks proper identification, the Board finds that the reports do not establish appellant's claim.⁷

As appellant has failed to submit rationalized medical evidence establishing that her alleged recurrence of a medical condition resulted from the effects of her employment-related temporary aggravation of lumbar spondylosis, she has not met her burden of proof.

CONCLUSION

The Board finds that appellant has failed to establish that she sustained a recurrence of a medical condition causally related to her accepted employment-related injury.

⁵ *Id.*

⁶ See *Ricky S. Storms*, 52 ECAB 349 (2001); *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *Merton J. Sills*, 39 ECAB 572 (1988).

ORDER

IT IS HEREBY ORDERED THAT the February 24, 2009, October 22 and July 8, 2008 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 9, 2010
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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