

Appellant's treating physician, Dr. Keith C. Raziano, a Board-certified internist, released appellant to full duty with no restrictions on September 8, 2008.

On April 21, 2010 appellant filed a notice of recurrence. She alleged that she sustained a recurrence of disability on March 28, 2010 causally related to the April 23, 2008 employment injury.² Appellant indicated that she suffered from neck, shoulder and leg pain on the right side, which her physicians believed stemmed from her neck injury. The employing establishment noted that she stopped work on April 29, 2010 and that she indicated that she had a recurrence of her April 23, 2008 injury.

In a letter dated May 6, 2010, OWCP informed appellant of the type of evidence needed to support her claim and requested that she submit such evidence within 30 days.

OWCP received several reports from Dr. Jeffrey Glass, a Board-certified neurologist and treating physician. In an April 19, 2010 report, Dr. Glass evaluated appellant for predominant right leg and neck pain. He advised that she related her conditions to an April 23, 2008 motor vehicle accident at work. Dr. Glass indicated that appellant was able to return to work within a few months after pain management treatment. He noted that her condition worsened in recent several weeks and she was unable to work as she was unable to use her right arm to deliver mail and packages. Dr. Glass diagnosed neck, right shoulder, arm and right leg pain, right-sided numbness, occipital headaches and episodes of blurred vision. He opined, "[I] think the neck and right arm pain in particular could be related to [appellant's] motor vehicle accident. I am not sure why it has gotten worse recently, [unless] it is just because of her work. [Appellant] is to the point she [is] unable to do her job and has already been out of work for couple of weeks and wants me to extend this." Dr. Glass noted that he was not able to relate the vision and right body symptoms directly to the neck injury although he noted that appellant indicated that her initial injury also included injuries to the back of her head. He recommended pain management and a magnetic resonance imaging (MRI) scan of the cervical spine and brain and placed her off work. In reports dated April 20, 2010, Dr. Glass recommended an MRI scan and pain management evaluation. He explained that the majority of appellant's problems were cervicogenic and came from her accident at work although the accident did not explain her visual acuity problems or right body numbness.

In a May 6, 2010 report, Dr. Glass noted that a brain MRI scan was normal and that a cervical spine MRI scan showed a central disc protrusion worse to the right at C6-7. He advised that appellant was unable to return to work. Dr. Glass advised that, while he would treat the disc protrusion, he was concerned that her symptoms were "more diffuse than what would be explained by just what has been found on the MRI [scan]." In a May 10, 2010 attending physician's report, he noted the MRI scan findings and diagnosed neck, right shoulder and arm pain. Dr. Glass recommended increased pain medication, pain management and referred appellant for pain management. He checked the box "yes" in response to whether the condition was caused or aggravated by an employment injury. Dr. Glass opined that appellant was unable to resume work. In a June 1, 2010 report, he repeated his previous findings and diagnoses. Dr. Glass noted that appellant related that she had continued problems since April 23, 2008 but

² Although appellant filed in March 26, 2010 for the recurrence, OWCP treated the date of the recurrence as March 28, 2010 as she stopped worked on March 29, 2010.

was “to the point that she cannot successfully do her job. I do have her out of work.” He recommended a neurosurgery evaluation and pain management.

Also submitted was an April 26, 2010 MRI scan report from Dr. Anthony D. Warden, a Board-certified diagnostic radiologist, who noted findings that included a right paracentral disc protrusion at C6-7, without evidence of spinal cord compression; mild anterior thecal sac indentation, secondary to broad-based disc bulge at C5-6 without evidence of spinal cord compression; and mild anterior thecal sac indentation at C3-4 secondary to a small central disc protrusion without evidence of spinal cord compression. In a May 27, 2010 report, Dr. Richard Donadio, a Board-certified internist, diagnosed cervical pain with radiculopathy and provided a right C6-7 epidural steroid injection.

In a June 14, 2010 attending physician’s report, Dr. Glass noted MRI scan findings and diagnosed chronic pain. He checked the box “yes” that appellant’s condition was caused or aggravated by an employment injury. Dr. Glass placed her off work from March 29, 2010 and continuing. He opined that appellant was unable to resume work.

By decision dated June 23, 2010, OWCP denied appellant’s claim for a recurrence of disability beginning March 28, 2010.

LEGAL PRECEDENT

Section 10.5(x) of OWCP’s regulations provide that 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

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.⁴

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant’s claimed condition became apparent during a period of employment nor her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.⁵

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

⁴ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.104.

⁵ *Walter D. Morehead*, 31 ECAB 188 (1986).

ANALYSIS

OWCP accepted that appellant sustained a neck strain on April 23, 2008. Appellant's treating physician returned her to full duty on September 8, 2008. Appellant filed a recurrence of disability on April 21, 2010 attributing her disability beginning March 28, 2010 to her 2008 work injury. She, however, did not submit sufficient reasoned medical evidence to establish that her present condition and disability is causally related to her accepted injury.

Appellant submitted several reports from Dr. Glass. In an April 19, 2010 report, Dr. Glass examined her for right leg and neck pain. He noted appellant's work injury and advised that, recently, her condition worsened such that she could not work as she was unable to use her right arm to deliver mail and deliver packages. Dr. Glass diagnosed neck, right shoulder, arm and right leg pain, right-sided numbness, occipital headaches and episodes of blurred vision. He opined that appellant's neck and right arm pain "could be" related to her motor vehicle accident. The Board initially notes that her claim was only accepted for a neck strain. Dr. Glass also did not provide a rationalized opinion to support causal relationship but instead offered speculative support for causal relationship in advising that appellant's neck and right arm conditions could be due to the work injury. The Board has held that opinions such as the condition is "probably" related, "most likely" related or "could be" related are speculative and diminish the probative value of the medical opinion.⁶ Dr. Glass also questioned if other such symptoms could be related to the employment injury.

In reports dated April 20, 2010, Dr. Glass explained that the majority of appellant's problems were cervicogenic and came from her accident but he did not provide a rationalized opinion in which he explained the reasons for his opinion on causal relationship.⁷ In a May 6, 2010 report, he noted MRI scan findings and explained that he was concerned that her symptoms were "more diffuse" than what could be explained by the MRI scan findings. Dr. Glass provided attending physician's reports dated May 10 and June 14, 2010, in which he checked a box "yes" that appellant's condition was caused or aggravated by her employment. However, these reports are of little probative value as the Board has held that the checking of a box "yes" on a form report, without additional explanation or rationale, is insufficient to establish causal relationship.⁸ Other reports did not specifically address whether appellant's 2008 neck strain caused her disability beginning March 28, 2010. As Dr. Glass did not provide a reasoned opinion explaining why her disability beginning March 28, 2010 was caused by a spontaneous change in her accepted neck strain, his reports are insufficient to establish her claim for a recurrence of disability.

OWCP also received a May 27, 2010 report from Dr. Donadio as well as a report of diagnostic testing. However, these reports are of limited probative value in establishing causal

⁶ S.E., Docket No. 08-2214 (issued May 6, 2009).

⁷ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

⁸ *Calvin E. King*, 51 ECAB 394 (2000).

relationship because they do not provide an opinion on the causal relationship between appellant's claimed recurrent disability and the 2008 work injury.⁹

Appellant did not submit any other evidence to support a recurrence of disability beginning March 28, 2010, with objective findings to support that her recurrence which was causally related to the work injury of April 23, 2008. Consequently, she has not met her burden of proof in establishing her claim for a recurrence of disability.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish a recurrence of disability beginning March 28, 2010 causally related to the April 23, 2008 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the June 23, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 4, 2011
Washington, DC

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

⁹ See *Michael E. Smith*, 50 ECAB 313 (1999).