

FACTUAL HISTORY

On May 6, 1996 appellant, then a 31-year-old part-time flexible mail handler, filed a traumatic injury claim alleging that on May 4, 1996 she went to pick up a heavy package and put it in a box when she felt pain. OWCP accepted her claim for right shoulder impingement syndrome and right shoulder rotator cuff repair. Appellant underwent three surgeries on her right shoulder. OWCP terminated appellant's compensation benefits effective August 11, 1999. By decision dated October 10, 2001, the Board reversed the termination finding an unresolved conflict in the medical opinion. The facts of the case as set forth in the previous Board decision are incorporated by reference.²

On June 23, 2005 OWCP issued a schedule award for 19 percent impairment of the right upper extremity. Appellant returned to work limited duty.

On January 11, 2010 appellant filed a recurrence of disability claim due to the May 4, 1996 employment injury commencing on January 5, 2010. In an accompanying statement, she noted that she had been experiencing shoulder pain. Appellant woke up on January 7, 2010 and her fingers were tingling. She felt the same thing on January 8, 2010 but that it "stayed numb." Appellant went to a local emergency room where she was diagnosed with a right shoulder strain.

Appellant submitted discharge instructions which noted that she had been treated for a shoulder strain. In a January 8, 2010 note, Dr. Bernard Jay Heilicser, a Board-certified emergency medicine specialist, advised that appellant could not work until seen by a bone and joint physician on January 11, 2010.

In a January 28, 2010 report, Dr. Nihal S. Gooneratne, a Board-certified radiologist, interpreted a right shoulder x-ray as evincing no abnormalities in the shoulder joint but with a widening of the acromioclavicular joint space.

In a March 5, 2010 health care provider form, Dr. Prakash G. Sane, an attending Board-certified family practitioner, noted that appellant was seen at the emergency room on January 8, 2010 and that he treated her commencing January 19, 2010. He referred appellant for a magnetic resonance imaging (MRI) scan of her right shoulder to be followed by possible physical therapy. Dr. Sane opined that appellant was totally disabled and anticipated that she should be off work from January 5 through April 4, 2010. In a January 19, 2010 disability certificate, Dr. Sane noted that appellant had acute right shoulder pain and was unable to return to work.

In a January 29, 2010 report, Dr. Ram Aribindi, a Board-certified orthopedic surgeon, noted that appellant presented with complaints of pain about the right shoulder girdle for the past month. He stated that appellant sustained an injury to her right shoulder in 1996 and had three surgeries for rotator cuff tears. Dr. Aribindi noted that appellant denied any specific reinjury to the right shoulder. Appellant had pain over the medial aspect of the right clavicle/anterior chest wall and over the supraclavicular region of undetermined etiology.

² Docket No. 00-2433 (issued October 10, 2001).

In an April 20, 2010 decision, OWCP denied appellant's claim for a recurrence of disability.

On May 18, 2010 appellant requested an oral hearing before an OWCP hearing representative. At the August 11, 2010 hearing, she testified that she is not currently working because of her shoulder injury. Appellant noted that, after each surgery, she returned to work. She noted that she returned to operating a forklift in 2006 and was performing these duties at the time of the recurrence in January 2010. Appellant stated that she believed her condition worsened because of continuously using her hands which agitated her situation. She noted that she has not worked since January 3, 2010. Appellant indicated that she is being treated with pain patches and medicine. She testified that no one has suggested additional surgery.

In an August 2, 2010 report, Dr. Sane stated that he first saw appellant on January 19, 2010 at which time appellant was in tears due to pain in her right shoulder and right side of neck with some numbness in the right forearm and hand. He noted that appellant had a history of a rotator cuff tear and has had repair with acromioclavoplasty in 1996. Dr. Sane noted that appellant returned to work as a forklift operator with some restrictions. He noted that in early January 2010 appellant woke up with an increase in pain in her right shoulder and numbness and tingling in her right hand. Dr. Sane noted that he saw appellant shortly thereafter and that his initial impression was that she was having reflex sympathetic dystrophy or complex regional pain syndrome. He noted that he referred appellant to Dr. Aribindi, who referred appellant to a Dr. Alzoobie who is a pain specialist. Dr. Sane stated that Dr. Alzoobie's impression was dysfunctional right upper extremity and that he suspected cervical radiculopathy. He noted that an MRI scan of appellant's cervical spine did not support that diagnosis and an x-ray and CT scan of the right shoulder did not show any new injury. Dr. Sane opined that given all the scenarios mentioned above, appellant's symptoms of the previous injury have returned without any intervening cause or any new findings on all the tests that were performed. He indicated that is why his impression is that this is a recurrence of her previous injury from which she never completely recovered and had no event other than the previous injury accounting for this disability. Dr. Sane opined that appellant has complex regional pain syndrome/reflex sympathetic dystrophy which is consistent with pain syndrome/reflex sympathetic dystrophy which is consistent with pain and hyperesthesia of the shoulder and right upper extremity. He stated that almost any type of injury can lead to reflex sympathetic dystrophy. Dr. Sane concluded that appellant should be given a consideration for her disability due recurrence of her accepted work-related injury.

In a decision dated November 9, 2010, an OWCP hearing representative affirmed the April 20, 2010 decision denying appellant's claim for a recurrence.

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. 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 or when the physical requirements of such an

assignment are altered so that they exceed his or her established physical limitations.³ Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her recurrence of disability commencing January 5, 2010 and the May 4, 1996 accepted employment injury.⁴ 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 disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.⁵

ANALYSIS

OWCP accepted that appellant suffered from right shoulder impingement syndrome and approved multiple surgeries on appellant's right shoulder on May 4, 1996 in the performance of duty. Appellant returned to work in a limited-duty position for the employing establishment. She alleged that she suffered a recurrence of this injury on January 5, 2010 when she experienced shoulder pain.

The Board finds that appellant has not submitted medical evidence that is sufficient to establish a recurrence of disability causally related to her accepted injury of May 4, 1996. The hospital reports and the report of Dr. Aribindi do not address the cause of appellant's shoulder pain. The January 28, 2010 x-ray was interpreted by Dr. Gooneratne as evincing no abnormalities in the shoulder joint and was accordingly insufficient to establish a recurrence. In his August 2, 2010 report, Dr. Sane did note appellant's work history and discussed her medical treatment for shoulder pain commencing January 2010. He opined that appellant's symptoms of the previous injury had returned without any intervening cause or new findings. Dr. Sane then opined that this was a recurrence of appellant's previous injury from which she never completely recovered and that she had no event other than the previous injury accounting for this disability. He further opined that appellant had complex regional pain syndrome/reflex sympathetic dystrophy which is consistent with pain and hyperesthesia of the shoulder and right upper extremity. Dr. Sane noted that almost any type of injury can lead to reflex sympathetic dystrophy, and that appellant should be given a consideration for her disability due to recurrence of her accepted work injury. However, his report is not sufficient to establish a recurrence. Dr. Sane did not discuss the impact of appellant's return to work and what impact her new duties may have had on her condition. He did not provide any objective findings supporting a material worsening of the accepted rotator cuff condition. This is especially significant given the fact that the alleged recurrence occurred 14 years after the initial injury.

Appellant has not submitted a rationalized medical opinion that relates her disability commencing January 5, 2010 to her accepted work injury of May 4, 1996. For this reason, appellant did not show that she sustained a recurrence of disability on or after January 5, 2010.

³ 20 C.F.R. § 10.5(x).

⁴ *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308 (1982).

⁵ *See Nicolea Brusco*, 33 ECAB 1138, 1140 (1982); *L.H.*, Docket No. 10-2248 (issued July 22, 2011).

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 failed to establish a recurrence of disability on January 5, 2010 causally related to her May 4, 1996 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated November 9, 2010 is affirmed.

Issued: October 7, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Judge
Employees' Compensation Appeals Board

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