



## **FACTUAL HISTORY**

On July 16, 2008 appellant, then a 33-year-old secretary, filed a traumatic injury claim alleging that on June 20, 2008 she witnessed the fatal stabbing of a coworker. She developed panic attacks and insomnia. OWCP accepted appellant's claim for anxiety on July 30, 2008. Appellant returned to work on September 25, 2008. On November 7, 2009 her physician, Dr. Manolito V. Castillo, a Board-certified psychiatrist, directed her to gradually discontinue her medications as she no longer needed them. He diagnosed acute stress disorder, resolved.

On April 2, 2011 appellant sought medical treatment with Dr. M. Daisy Ilano, a Board-certified psychiatrist. She stopped her medication after becoming pregnant. Appellant began to develop symptoms of irritability, crowd avoidance, nightmares, sleep disturbance and panic in March 2011. Dr. Ilano described the original employment injury and diagnosed panic disorder without agoraphobia. In a note dated May 23, 2011, she noted the relapsing nature of appellant's condition and recommended medication.

Appellant filed a recurrence of disability claim on December 13, 2011, alleging that from March 2010 through March 2011 she was unable to take her medications as she was pregnant and breast feeding. After her baby was born on November 3, 2010, she began to experience anxiety symptoms. Appellant stated that on multiple occasions she had to leave work due to anxiety, panic attacks and flash backs of the original incident.

OWCP requested additional factual and medical evidence by letter dated January 6, 2012 in order to establish appellant's claimed recurrence of disability. It allowed her 30 days for a response.

By decision dated February 6, 2012, OWCP denied appellant's recurrence of disability claim on the grounds that she failed to submit sufficient medical opinion evidence to establish a causal relationship between her current condition and her accepted employment injury.

## **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made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.<sup>3</sup>

An employee has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between his or her recurrence of disability commencing December 1, 2010 and her June 20, 2008 employment injury.<sup>4</sup> This burden includes the

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<sup>3</sup> 20 C.F.R. § 10.5(x).

<sup>4</sup> *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-9 (1982).

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.<sup>5</sup>

### **ANALYSIS**

In 2008, OWCP accepted that appellant sustained anxiety after witnessing the fatal stabbing of a coworker while in the performance of duty. Appellant's attending physician, Dr. Castillo, examined her on November 7, 2009 and stated that she was to gradually discontinue her medications as she no longer needed them. He stated that her acute stress disorder had resolved.

In December 2010, appellant filed a claim alleging that she sustained a recurrence of her accepted condition. She discontinued her medications due to her pregnancy. Appellant sought medical treatment from Dr. Ilano. Dr. Ilano noted appellant's history of witnessing the fatal stabbing of a coworker and discontinuing her medications. She mentioned the relapsing nature of appellant in general. Dr. Ilano did not provide a rationalized opinion addressing causal relation.

Appellant has the burden of proof to establish a causal relationship between her accepted employment injury of anxiety and her current condition of panic disorder without agoraphobia. Dr. Ilano mentioned appellant's history of injury and stated that her illness was subject to relapses; however, she did not explain how appellant's accepted condition caused or contributed to the current diagnosis. She did not explain the basis which she attributed appellant's condition to her accepted work condition rather than to outside stresses. Appellant has not met her burden of proof.

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 has not established that she sustained a recurrence of disability.

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<sup>5</sup> See *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 6, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 17, 2012  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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