



muscle spasms due to heavy mail flow on a machine.<sup>2</sup> OWCP accepted the claim for a lumbar strain. Appellant stopped work on November 21, 2001 and accepted a light-duty job on January 3, 2002. OWCP paid wage-loss compensation for the periods August 9, 2002 to January 2, 2003, June 16 to July 16, 2003 and February 1 to March 4, 2004 and partial disability for the period August 9, 2002 to January 2, 2003.<sup>3</sup> Appellant retired effective February 20, 2007, but her last day of work at the employing establishment was August 11, 2004.<sup>4</sup>

On August 9, 2007 OWCP received an August 12, 2004 report from Dr. Herman D. Colomb, a treating Board-certified psychiatrist, opining that appellant was permanently disabled from working due to her chronic severe major depressive disorder and post-traumatic stress disorder. On May 25 and August 2, 2010 appellant filed claims for a recurrence of disability, Form CA-2a, beginning August 11, 2004 until her retirement. In her May 25, 2010 Form CA-2a, she stated that she retired in August 2004 while on the August 2, 2010 Form CA-2a she noted February 20, 2007 as the date of her retirement. Appellant alleged that her condition had worsened as she had developed consequential injuries of fibromyalgia, L4-5 bulging disc, radiating pain into her legs and severe depression due to the pain.

In support of her claim, appellant submitted medical and factual evidence including a March 25, 2010 prescription note from Dr. Vinod Dasa, a treating Board-certified orthopedic surgeon, diagnosing lumbar spondylosis.

In a letter dated December 22, 2010, appellant was advised as to the definition of a recurrence and the evidence required to support a recurrence claim. She was given 30 days to provide medical and factual evidence supporting her claim.

In a May 26, 2010 report, Dr. Dasa provided physical findings and noted that appellant injured her back while working in 2001. Diagnoses included L4-5 and L5-S1 degenerative disc disease and a history of depression and fibromyalgia.

On September 27, 2011 a conference was held between appellant and OWCP to clarify issues in the claim. A memorandum summarizing the issues discussed was on September 29, 2011. Appellant related that she was claiming a worsening of her back condition as well as consequential injuries of an L4-5 bulging disc, lumbar spondylolysis and fibromyalgia.

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<sup>2</sup> At the time of the injury, appellant had been working a light-duty job since April 2000.

<sup>3</sup> By decision dated August 3, 2004, OWCP denied appellant's claim for wage-loss compensation for the period March 7 to July 31, 2002. On August 17, 2004 it denied her claim for a schedule award. By decisions dated June 30, 2005, OWCP's hearing representative affirmed the denial of intermittent wage-loss compensation for the period March 7 to July 31, 2002 and the denial of a claim for a schedule award. On September 13, 2007 OWCP denied appellant's request for reconsideration on the grounds that her request was untimely and she failed to establish clear evidence of error.

<sup>4</sup> In a January 25, 2005 letter, the Social Security Administration (SSA) informed appellant that she was entitled to monthly disability benefits starting December 2004. It found that under its rules she became disabled on June 24, 2004. The record also contains letters dated February 7, 2013 from the Office of Personnel Management (OPM) informing appellant that her claim for disability retirement had been accepted as OPM found her to be totally disabled from working due to her post-traumatic stress disorder. In a March 14, 2007 letter, OPM advised her regarding her retirement benefits.

By decision dated December 1, 2011, OWCP denied appellant's claim for a recurrence of disability beginning August 2004. It noted that she stopped work on August 11, 2004 and that this was her last date in a pay status.

On December 28, 2011 appellant requested reconsideration. In support of her claim, she submitted evidence including a January 16, 2012 report from Dr. Wanda Timpton, a treating Board-certified family medicine practitioner, who noted an injury date of November 18, 2001 and that she recently saw appellant on December 22, 2011. Appellant was informed that her medical records had been destroyed by the 2005 hurricane. Dr. Timpton related that as a result of the September 18, 2001 employment injury appellant sustained a lower lumbar spine injury and subsequent stress due to pain and the stress of her employment. In concluding, she opined that appellant had been "severely affected by this injury" and attributed her pain and symptoms as a direct result of the November 18, 2001 employment injury.

By decision dated April 16, 2012, OWCP denied modification.

### **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 has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.<sup>5</sup> If the disability results from new exposure to work factors, the legal chain of causation from the accepted injury is broken and an appropriate new claim should be filed.<sup>6</sup>

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes that light duty can be performed, the employee has the burden to establish by the weight of reliable, probative and substantial evidence a recurrence of total disability.<sup>7</sup> As part of this burden of proof, the employee must show either a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.<sup>8</sup> In order to establish that her claimed recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between her present condition and the accepted injury must support the physician's conclusion of a causal relationship.<sup>9</sup> While the opinion of a

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<sup>5</sup> 20 C.F.R. § 10.5(x). See also *A.M.*, Docket No. 09-1895 (issued April 23, 2010); *Hubert Jones, Jr.*, 57 ECAB 467 (2006).

<sup>6</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (May 1997); *K.C.*, Docket No. 08-2222 (issued July 23, 2009); *Cecelia M. Corley*, 56 ECAB 662 (2005); *Donald T. Pippin*, 54 ECAB 631 (2003).

<sup>7</sup> 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. 20 C.F.R. § 10.5(y).

<sup>8</sup> *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>9</sup> *Ricky S. Storms*, 52 ECAB 349 (2001).

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.<sup>10</sup>

For conditions not accepted by OWCP as being employment related, it is the employee's burden to provide rationalized medical evidence sufficient to establish causal relation, not the Office's burden to disprove such relationship.<sup>11</sup>

### ANALYSIS

OWCP accepted that appellant sustained a lumbar sprain as a result of the accepted November 18, 2001 employment injury. Appellant filed claims for a recurrence of disability beginning August 11, 2004 due to her accepted employment injury. OWCP denied her recurrence claim on December 1, 2011 and April 16, 2012. The issue on appeal is whether appellant submitted sufficient evidence supporting her claim for a recurrence of disability. The Board finds that she failed to establish her recurrence claim.

Although the record indicates that appellant had worked in a limited-duty capacity for a period of time, she did not submit evidence showing that the requirements of her job had changed from the time she began limited-duty work. She has the burden of proof to show a spontaneous change in her medical condition or a change in the nature and extent of the light-duty requirements.

In support of her claim, appellant submitted medical reports from Drs. Colomb, Dasa and Timpton. Dr. Dasa diagnosed lumbar spondylosis, L4-5 and L5-S1 degenerative disc disease and history of fibromyalgia and depression. He noted in a May 26, 2010 report that appellant injured her back at work in 2001. Dr. Dasa, however, offered no opinion as to the cause of her condition beyond noting that she injured her back at work in 2001 nor did he discuss a recurrence of disability. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>12</sup> The Board finds that the medical evidence from Dr. Dasa is insufficient to establish appellant's claim.

Appellant also submitted reports from Drs. Colomb and Timpton opining that she was totally disabled. In an August 12, 2004 report, Dr. Colomb opined that she was permanently disabled from working due to her chronic severe major depressive disorder and post-traumatic stress disorder. Dr. Timpton, in a January 16, 2012 report, opined that appellant developed stress as a result of her employment-related lower lumbar spine injury and the pain and stress of her employment. The Board notes that OWCP has not accepted a chronic severe major depressive disorder and post-traumatic stress disorder casually related to the November 18, 2001

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<sup>10</sup> *Id.*

<sup>11</sup> *Alice J. Tysinger*, 51 ECAB 638 (2000).

<sup>12</sup> *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *K.W.*, 59 ECAB 271 (2007); *Jaja K. Asaramo*, 55 ECAB 200 (2004).

employment injury.<sup>13</sup> Neither Dr. Colomb nor Dr. Timpton provided sufficient rationale addressing how accepted lumbar strain caused chronic major depressive disorder and post-traumatic stress disorder. The Board has held that opinions unsupported by rationale are of diminished probative value.<sup>14</sup> Thus, the opinions of Dr. Colomb and Dr. Timpton are also insufficient to support this claim.

The Board finds that the evidence submitted by appellant does not provide adequate rationale to show a spontaneous change in her medical condition which has resulted from the November 18, 2001 employment injury nor a change in the nature and extent of the injury-related condition. Moreover, appellant has not shown a change in her light-duty requirements.

Therefore, appellant did not meet her burden of proof to establish disability as a result of a recurrence.

On appeal, appellant contends that she has submitted sufficient evidence supporting her claim for a recurrence of disability. As discussed above, none of the medical evidence submitted by her establishes that her claim for a recurrence of disability was causally related to her accepted lumbar strain. Rather, the evidence indicates that appellant's work stoppage was unrelated to her lumbar strain, but was due to a nonemployment-related emotional condition. Both SSA and OPM found appellant to be totally disabled as a result of her post-traumatic stress disorder, which OWCP has not accepted as employment related.

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 on and after August 11, 2004 causally related to her accepted November 18, 2001 employment injury.

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<sup>13</sup> *Charles W. Downey*, 54 ECAB 421 (2003); *supra* note 11 (for conditions not accepted by OWCP as being employment related, it is the employee's burden to provide rationalized medical evidence sufficient to establish causal relation, not OWCP's burden to disprove such relationship).

<sup>14</sup> *T.M.*, Docket No. 08-975 (issued February 6, 2009); *Roma A. Mortenson-Kindschi*, 57 ECAB 418 (2006).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 16, 2012 is affirmed.

Issued: April 24, 2013  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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