

accepted with limited medical care provided as he continued to work following the injury. On June 15, 2010 OWCP informed appellant that his claim had been accepted for thoracic, neck, shoulder and upper arms strains and rotator cuff.

On June 5, 2010 appellant filed a claim for a recurrence of medical treatment and wage loss. He noted his ability to carry, lift and maneuver following his return to work. Appellant noted that he had numbness in his arms, legs and face following his return to work and that it occurred gradually. He related feeling tingling sensation in his finger, face tingling and numbness in his legs and feet on his return to work following his injury. On the back of the form, the employing establishment noted that limited-duty work had been provided to appellant following his employment injury.

By letter dated June 15, 2010, OWCP advised appellant of the medical and factual information required to support a recurrence claim.² No evidence was received.

By decision dated July 30, 2010, OWCP denied appellant's recurrence claim.

On August 10, 2010 appellant's counsel requested a telephonic hearing before an OWCP hearing representative, which was held on November 5, 2010.

Subsequent to the hearing appellant submitted medical evidence. In progress notes dated July 13, 2010, Dr. Adrian M. Zachary, a treating Board-certified physiatrist, diagnosed chronic left C5-6 radiculopathy with some suggestion of myelopathy. Appellant informed the physician that he had a long history of left arm pain and aching, left neck pain and left hand itching and that he suffered an employment injury in 2004. Dr. Zachary noted that appellant has intermittent symptoms since his December 23, 2004 employment injury. Complaints include cervical pain radiating into the left shoulder and left upper arm with left arm and hand numbness. Appellant also mentioned having left numbness at times and that his pain is worse at night or when carrying a mailbag.

In a July 14, 2010 medical certification form, Dr. Kevin D. Hopkins, a treating physician Board-certified in family medicine, diagnosed cervical degenerative disc disease with radiculitis. He indicated that appellant was unable to lift or carry and that the condition began in 2004.

By decision dated December 22, 2010, an OWCP hearing representative affirmed the denial of appellant's recurrence claim.

On December 7, 2011 appellant's counsel requested reconsideration and submitted medical evidence in support of his request.

In a November 11, 2011 report, Dr. Hopkins stated that he has treated appellant for left arm, back and neck problems sustained as a result of the accepted December 23, 2004 employment injury. He noted the history of the injury, that appellant's symptoms subsided following treatment, but began to have significant physical limitations in January 2010. At this

² A review of the record indicates that this letter was returned to OWCP as undeliverable. On June 23, 2010 OWCP indicated that appellant's mailing address was updated and the development letter resent that day.

time appellant sustained a recurrence of neck and upper back pain radiating into his left arm. Dr. Hopkins stated that he first saw appellant on June 14, 2010 for his pain complaints and that he went to the emergency room on June 15, 2010 due to severity of his pain. A physical examination revealed tenderness over the left trapezius and C7.

In an August 18, 2010 report, Dr. Hopkins stated that appellant was only able to work three hours per day.

In a follow-up examination on March 11, 2011, appellant related being off work for a month and that his symptoms resurfaced upon returning to work. He informed Dr. Hopkins that his work hours had increased to 10 to 12 hours per day and that his pain was a 9 on a scale of 1 to 10.

In appellant's last visit on June 3, 2011, Dr. Hopkins noted that appellant was considering another career due to his severe pain. He noted that the pain was quite debilitating at times for appellant and varied in intensity. In concluding, Dr. Hopkins attributed appellant's ongoing back, neck and left arm symptoms to the December 23, 2004 employment injury.

On January 3, 2012 OWCP received a December 5, 2011 progress note from Dr. Hopkins, which was signed on December 5, 2011 diagnosing cervical radiculitis. Dr. Hopkins noted that appellant had been off work for three months for varicocele surgery and returned to work two weeks ago. Since returning to work, appellant related having symptoms of tingling and numbness in his neck, back and left arm as well as trouble twisting and bending.

By decision dated February 17, 2012, OWCP denied modification.

LEGAL PRECEDENT

OWCP's implementing regulations define a recurrence of disability as 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.³ 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.⁴

When an employee claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing that the recurrence of disability is causally related to his original injury.⁵ 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

³ 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3.b(a)(1) (May 1997). *See also Phillip L. Barnes*, 55 ECAB 426 (2004).

⁴ *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (May 1997); *Donald T. Pippin*, 54 ECAB 631 (2003).

⁵ 20 C.F.R. § 10.104(b); *S.S.*, 59 ECAB 315 (2008); *Carmen Gould*, 50 ECAB 504 (1999); *Helen K. Holt*, 50 ECAB 279, 382 (1999); *Robert H. St. Onge*, 43 ECAB 1169 (1992).

extent of the light-duty requirements.⁶ In order to establish that his claimed 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.⁷ While the opinion of a 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.⁸

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.⁹

ANALYSIS

OWCP accepted the claim for thoracic, neck, shoulder and upper arms strains and rotator cuff. Appellant claimed that he sustained a recurrence of disability due to his accepted December 23, 2004 employment injury. He did not stop working following his injury and minimal medical treatment was provided. The issue on appeal is whether appellant sustained a recurrence of disability on and after June 5, 2010 causally related to his accepted December 23, 2004 employment injury.

In order to establish his claim for recurrence, appellant is required to submit evidence from a qualified physician containing medical opinion bridging the symptoms of his present condition to the accepted employment injury.¹⁰ This is particularly important in the current case as he lost no time from work or required ongoing medical treatment following his injury on December 23, 2004 until he filed his recurrence claim on June 5, 2010. OWCP informed appellant of the requirements for supporting his recurrence claim, including the need for medical opinion bridging his current symptoms with his accepted employment injury by letter dated June 5, 2010.

The Board finds that appellant failed to submit sufficient medical evidence establishing that he sustained a recurrence of disability on and after June 5, 2010 causally related to the December 23, 2004 employment injury. Appellant submitted various reports from Dr. Hopkins in support of his claim. In the July 14, 2010 certification form, Dr. Hopkins diagnosed cervical degenerative disc disease with radiculitis, noted that appellant's condition began in 2004 and he was unable to lift or carry. In the November 11, 2011 report, he noted that he has treated appellant for left arm, back and neck problems occurring as a result of a December 23, 2004 employment injury. Dr. Hopkins noted that appellant began to have significant physical

⁶ *Terry R. Hedman*, 38 ECAB 222 (1986).

⁷ *C.W.*, Docket No. 07-1816 (issued January 16, 2009); *Mary A. Ceglia*, 55 ECAB 626 (2004); *Ricky S. Storms*, 52 ECAB 349 (2001).

⁸ *Michael S. Mina*, 57 ECAB 379 (2006); *Ricky S. Storms*, *id.*

⁹ *G.A.*, Docket No. 09-2153 (issued June 10, 2010); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Alice J. Tysinger*, 51 ECAB 638 (2000).

¹⁰ See *Mary Ceglia*, *supra* note 7.

limitations as a result of his symptoms from his employment injuries in January 2010. On August 18, 2010 he related that appellant had recently returned to work, but was only able to work three hours per day. Dr. Hopkins, in a June 3, 2011 report, attributed appellant's ongoing back, neck and left arm symptoms to the accepted December 23, 2004 employment injury, but provided no supporting rationale. To be considered rationalized medical opinion evidence; however, a physician's opinion must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the claimant's employment factors.¹¹ Dr. Hopkins did not relate a full medical history from 2004, which established the progression of appellant's condition since 2004 in any of his 2010 and 2011 reports. His medical reports stated a conclusion, but did not provide a clear explanation with certainty as to how appellant's current neck, left arm and back conditions were related to the accepted December 23, 2004 employment injury. Dr. Hopkins' stated assumption of causal relationship is speculative and, thus, his reports are of limited probative value.¹²

The record also contains a December 5, 2011 progress note from Dr. Hopkins diagnosing cervical radiculitis and a July 13, 2010 progress note from Dr. Zachary diagnosing chronic left C5-6 radiculopathy with a suggestion of myelopathy. Neither Dr. Zachary nor Dr. Hopkins, however, offered no opinion as to the cause of appellant's condition or discussed 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.¹³ These reports are also insufficient to establish appellant's claim.

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 he sustained a recurrence of disability on and after June 5, 2010 is causally related to his accepted December 23, 2004 employment injury.

¹¹ *S.D.*, 58 ECAB 713 (2007); *Ricky S. Storms*, *supra* note 7.

¹² Medical opinions based on an incomplete history or which are speculative are of diminished probative value. *See Cecelia M. Corley*, 56 ECAB 662 (2005).

¹³ *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *K.W.*, 59 ECAB 271 (2007); *Jaja K. Asaramo*, *supra* note 9.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated February 17, 2012 is affirmed.

Issued: January 8, 2013
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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