

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**R.L., Appellant**

**and**

**U.S. POSTAL SERVICE, MAIN POST OFFICE,  
St. Louis, MO, Employer**

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**Docket No. 13-384  
Issued: June 20, 2013**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
ALEC J. KOROMILAS, Alternate Judge

**JURISDICTION**

On December 6, 2012 appellant filed a timely appeal of a September 6, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant established that she sustained a recurrence of disability causally related to her accepted June 19, 1992 employment injury.

**FACTUAL HISTORY**

On June 19, 1992 appellant, then a 31-year-old city manual distribution clerk, filed a traumatic injury claim alleging that on that day she sustained a cut to her left hand and first finger in the performance of duty. OWCP accepted the claim for left finger laceration and

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

tendon repair and paid appropriate compensation. Appellant stopped work on June 19, 1992, returned to light-duty work on November 17, 1993 and full-duty work on February 16, 1994.<sup>2</sup>

The most recent medical evidence contained in the record is a July 23, 1997 progress note from Dr. A. Salyapongse, a treating physician, who noted that appellant had not been seen by him since April 1996. Dr. Salyapongse wrote that appellant had been given permanent light duty at the employing establishment and had been diagnosed with right carpal tunnel syndrome.

In a letter dated September 7, 2011, appellant requested that OWCP reopen her claims as she was severely and permanently disabled due to her accepted employment injuries. She alleged that as a result of her employment injury she suffered from stress and depression.

By correspondence dated November 16, 2011, OWCP advised as to the medical and factual evidence required to support her recurrence claim. It gave appellant 30 days to provide the requested information.

In response to OWCP's request, appellant submitted a letter and recurrence claim form dated November 29, 2011. In her letter, she requested payment for her injuries. Appellant alleged that she had been in excruciating pain since the date of her injury, that she was not working and was currently receiving disability benefits from social security. She attributed her depression, sleep apnea, emotional anxiety, stress and acid reflux condition to her June 19, 1992 employment injury. Appellant alleged that due to her employment injuries she was unemployable and totally disabled.

By decision dated January 3, 2012, OWCP denied appellant's claim for a recurrence of disability. It found that no medical evidence had been submitted since July 1997.

Following the January 3, 2012 decision, appellant submitted factual and medical evidence including a January 3, 2012 claim for compensation (Form CA-7) for the period December 17 to 30, 2011. She submitted physical therapy notes from 1993.<sup>3</sup>

On January 26, 2012 appellant requested an oral hearing before an OWCP hearing representative and a telephonic hearing was held on June 7, 2012. She testified that her last day of work for the employing establishment was July 30, 1999. Appellant also testified that she was not seeing a doctor for her hand and had not seen a doctor since being in receipt of benefits from the Social Security Administration. The hearing representative noted that OWCP had not received any medical evidence regarding her hand for several years and that the record would be held open for 30 days for the receipt of medical evidence.

Appellant subsequently submitted claims for compensation for the period December 31, 2011 to August 24, 2012.

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<sup>2</sup> By decision dated March 8, 1995, OWCP denied appellant's claim for a recurrence of disability for the period April 16 to July 27, 1994 causally related to the accepted June 19, 1992 employment injury. An OWCP hearing representative affirmed the March 8, 1995 decision on May 21, 1996.

<sup>3</sup> The employing establishment noted that appellant had retired in February 2004 and had been receiving benefits from the Social Security Administration since 2004.

By decision dated September 6, 2012, OWCP's hearing representative affirmed the January 3, 2012 denial of appellant's recurrence claim.

### **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.<sup>4</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>5</sup>

When an employee claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of establishing that the recurrence of disability is causally related to his or her original injury.<sup>6</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>7</sup> In order to establish that his or her claimed recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between his or her present condition and the accepted injury must support the physician's conclusion of a causal relationship.<sup>8</sup> 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.<sup>9</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 OWCP's burden to disprove such relationship.<sup>10</sup>

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<sup>4</sup> 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).

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (May 1997), *Donald T. Pippin*, 54 ECAB 631 (2003).

<sup>6</sup> 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).

<sup>7</sup> *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>8</sup> *C.W.*, Docket No. 07-1816 (issued January 16, 2009); *Mary A. Ceglia*, 55 ECAB 626 (2004); *Ricky S. Storms*, 52 ECAB 349 (2001).

<sup>9</sup> *Michael S. Mina*, 57 ECAB 379 (2006); *Ricky S. Storms*, *supra* note 8.

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

### **ANALYSIS**

OWCP accepted appellant's claim for left finger laceration and tendon repair. Appellant returned to work on November 17, 1993. The record reveals that appellant's last day of work for the employing establishment was July 30, 1999 and that she retired in February 2004.

Appellant filed a number of claims for a recurrence of disability. The issue on appeal is whether she has established that her recurrence of disability was causally related to her accepted June 19, 1992 employment injury.

The Board finds that appellant failed to submit any medical evidence establishing that she sustained a recurrence of disability causally related to the June 19, 1992 employment injury. The most recent medical evidence in the record is a July 23, 1997 progress note from Dr. Salyapongse which related that appellant had not been seen since April 1996 when she had been given permanent light duty at the employing establishment and been diagnosed with right carpal tunnel syndrome. Appellant submitted no medical evidence with her recurrence claim. OWCP advised her in a letter dated November 16, 2011 regarding the evidence required to support her recurrence claim. OWCP's hearing representative also informed her regarding the evidence required at the telephonic hearing and the importance of submitting medical evidence.

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 meet her burden in establishing that she sustained a recurrence of disability causally related to her accepted June 19, 1992 employment injury,

**ORDER**

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

Issued: June 20, 2013  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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