

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

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**D.J., Appellant**

**and**

**U.S. POSTAL SERVICE, CARRIER ANNEX,  
Inglewood, CA, Employer**

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**Docket No. 13-1377  
Issued: November 26, 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 May 20, 2013 appellant filed a timely appeal of an April 16, 2013 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.<sup>2</sup>

**ISSUE**

The issue is whether appellant has established that she sustained a recurrence of disability on and after December 29, 2012 causally related her accepted January 11, 2011 employment injury.

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

<sup>2</sup> Following the April 16, 2013 decision, OWCP received additional evidence. Appellant also submitted new evidence with her appeal. However, the Board may only review evidence that was in the record at the time OWCP issued its final decision. *See* 20 C.F.R. § 501.2(c)(1); *M.B.*, Docket No. 09-176 (issued September 23, 2009); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

## **FACTUAL HISTORY**

On January 12, 2011 appellant, then a 55-year-old distribution window clerk, filed a traumatic injury claim alleging that on January 11, 2011 she slipped and fell from a moving chair and sprained her right lower arm in the performance of duty. She did not stop working as she was released by her physician to her limited-duty job with no change in her work restrictions. OWCP accepted the claim for right hand contusion and right buttocks contusion.

On February 5 and 8, 2013 OWCP received appellant's claim for wage-loss compensation for December 29, 2012 and continuing. Appellant noted that she was requesting wage-loss compensation under claim number xxxxxx300.

In a letter dated February 19, 2013, OWCP informed appellant of the evidence required to support her claim for a recurrence of disability. It also informed her that it had no record of claim number xxxxxx300 and it was unclear whether she was seeking wage-loss compensation due to her January 11, 2011 employment injury.

In a letter dated February 28, 2013, appellant noted her disagreement with OWCP with respect to the existence of claim number xxxxxx300. She stated that she had documentation sent by OWCP proving that this claim existed and that she was requesting wage-loss compensation under that claim. Appellant stated that she was not filing a claim for a recurrence of disability and that OWCP was mixing up her two claims.

By decision dated April 16, 2013, OWCP denied appellant's claim for a recurrence of disability. It found that no evidence was submitted establishing that her accepted conditions had worsened. OWCP also informed appellant that issues regarding wage-loss compensation claimed under claim number xxxxxx300 were to be addressed under claim number xxxxxx895.<sup>3</sup>

## **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>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, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence establishes

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<sup>3</sup> The Board notes that a separate appeal is pending under Docket No. 13-2126 for claim number xxxxxx895.

<sup>4</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>5</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).

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>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 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>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>

### ANALYSIS

OWCP accepted appellant's claim for right hand contusion and right buttocks contusion with no wage-loss compensation as she did not stop working her light-duty job. Appellant filed claims for wage-loss compensation for December 29, 2012 and continuing which OWCP treated a claim for a recurrence of disability. By decision dated April 16, 2013, OWCP denied appellant's claim for a recurrence of disability on and after December 29, 2012. The issue to be resolved is whether appellant established that she sustained a recurrence of disability on and after December 29, 2012 causally related to her January 11, 2011 accepted right wrist, hand and buttocks contusions.

The Board finds that appellant failed to submit any medical evidence to support her claim. OWCP advised her in a letter dated February 19, 2013 of the evidence required to support her recurrence claim. In order to establish a recurrence of disability, she must submit medical evidence from a physician addressing how her current condition is causally related to her accepted employment injury. Without any current medical evidence, appellant cannot establish a recurrence of disability and, thus, is not entitled to wage-loss compensation.

As appellant failed to submit any medical evidence establishing a recurrence of disability, she has failed to meet her burden of proof.

On appeal appellant contends that OWCP erred in finding that claim number xxxxxx300 does not exist and in failing to consider her claim for wage-loss compensation under that claim. She also argues that OWCP erred in adjudicating her claim for wage-loss compensation as a recurrence of disability under current claim number xxxxxx820. OWCP considered and rejected

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<sup>6</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>7</sup> *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>8</sup> *Ricky S. Storms*, 52 ECAB 349 (2001).

<sup>9</sup> *Id.*

appellant's arguments regarding claim number xxxxxx300, noting that her claims for wage-loss compensation would be addressed under claim number xxxxxx895.<sup>10</sup>

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 December 29, 2013 causally related to her accepted January 11, 2011 employment injury.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 16, 2013 is affirmed.

Issued: November 26, 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

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<sup>10</sup> As noted at *supra* note 3, claim number xxxxxx895 will be addressed under Docket No. 13-2126.