

noted satisfactory alignment of the vertebra bodies with minimal spondylosis without evidence of disc space narrowing.²

On November 20, 2012 appellant filed a Form CA-2a claim alleging that on October 15, 2012 she sustained a recurrence of disability due to her October 12, 2011 injury. She stopped work on October 15, 2011 and returned to work on October 18, 2012. After the original injury, appellant returned to light duty on October 24, 2011 and to full duty on November 2, 2011. The employing establishment noted that, upon returning to full duty, she still had neck and shoulder pain.

Appellant submitted an October 16, 2012 report from Dr. Mozella Williams, Board-certified in family medicine, who diagnosed neck and left shoulder pain. Dr. Williams stated that appellant presented for treatment of a “workman’s comp[ensation]” condition. In a November 5, 2012 report, Dr. Castel Santana, a family practitioner, noted that appellant was treated for ongoing neck and left shoulder pain. He advised that appellant was at work in October 2011 when a patient fell on her. While appellant tried to catch the patient she injured her neck and left shoulder. Dr. Santana placed appellant off work from October 15 to 17, 2012 and advised that she could return to full duty with no restrictions.

On January 4, 2013 OWCP advised appellant of the medical evidence needed to establish her claim for a recurrence of disability. It explained that a recurrence was defined as a “spontaneous return or increase of disability due to a previous injury or occupational disease without intervening cause.” OWCP advised her that, if she had a new injury or exposure, she should file a new notice of injury.

By decision dated February 6, 2013, OWCP denied appellant’s claim for a recurrence of disability. It found that the medical evidence of record was insufficient to establish that she became disabled on October 15, 2012 due to a material worsening of her October 12, 2011 neck sprain as her physician did not adequately address causal relation.

On March 4, 2013 appellant requested reconsideration. On March 11, 2013 OWCP received a January 29, 2013 letter in which appellant contended that her neck symptoms and need for medical treatment was related to her October 12, 2011 injury. Appellant explained that she caught a male patient weighing approximately 175 pounds, who had lost the ability to hold himself up. She held up the patient until another nurse helped her to place him on a bed. Appellant returned to regular duty on November 2, 2011 but her pain never stopped and she did not regain full range of motion of her head. She also experienced headaches, numbness and tingling in her left arm, which she was unable to manage with the pain medication. Appellant noted that she did not have any new injuries since October 12, 2011 and believed that her daily duties were exacerbating her condition.

² An October 27, 2011 magnetic resonance imaging (MRI) scan of the cervical spine and left shoulder read by Dr. Theresa J. Kou, a Board-certified diagnostic radiologist, revealed multilevel degenerative changes most significant at the C3-4 and C5-6 levels resulting in abutment and mild cord flattening without cord signal abnormality and moderate-to-severe right C3-4 neural foraminal narrowing.

Appellant submitted a September 25, 2012 treatment record from Dr. Jonathan Gibson, a Board-certified internist. She was seen for chest pain over the past two to three weeks. Dr. Gibson also noted that appellant had neck pain from an old work injury. In an October 16, 2012 treatment note, Dr. Santana stated that appellant presented with ongoing neck and left shoulder pain. He noted a history of a prior traumatic head and neck injury at work in 2007. In October 2011, appellant reinjured her neck at work when she caught a patient who was falling. At that time, she experienced neck and left shoulder pain with numbness tingling down the left arm, without weakness in the left arm or shooting pain. Appellant related ongoing neck and shoulder pain since the injury. Dr. Santana diagnosed neck and left shoulder pain. He advised that a facet locking malalignment was most likely causing muscle spasm.

On February 26, 2013 Dr. Williams advised that appellant had ongoing neck and back pain since her work-related neck strain on October 12, 2011. She advised that appellant's nursing duties, such as pushing, pulling or lifting more than 10 pounds, exacerbated her pain. Dr. Williams opined that appellant's neck pain has not improved since the injury and recommended physical therapy. She diagnosed neck strain and chronic pain.

Appellant resubmitted diagnostic studies from October 2011 previously of record.

In a June 7, 2013 decision, OWCP denied modification of the February 6, 2013 decision. It found that the reports of appellant's attending physicians addressed how her work duties had exacerbated her condition. OWCP advised her to submit a new claim for occupational disease.

LEGAL PRECEDENT

Section 10.5(x) of OWCP's regulations provide that 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.³

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden to establish that the disability is related to the accepted injury. This burden requires 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 the employment injury and who supports such conclusion with sound medical reasoning.⁴

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.⁵

³ 20 C.F.R. § 10.5(x); see *Theresa L. Andrews*, 55 ECAB 719 (2004).

⁴ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.104.

⁵ *Walter D. Morehead*, 31 ECAB 188 (1986).

ANALYSIS

OWCP accepted that appellant sustained a traumatic neck sprain in the performance of duty on October 12, 2011. Appellant stopped work on October 21, 2011 and returned to light duty on October 24, 2011 and to regular duty on November 2, 2011.

Appellant filed a recurrence of disability claim on November 20, 2012, alleging that on October 15, 2012 she became disabled due to her October 12, 2011 work injury. The Board finds that she did not submit sufficient reasoned medical evidence to establish that her disability in 2012 was causally related to her 2011 injury.

In reports dated October 16 and November 5, 2012, Dr. Santana treated appellant for neck and left shoulder pain. He noted that she had a previous head and neck injury at work in 2007 and in 2011 she reinjured her neck at work when catching a patient who was falling. At that time appellant had neck and left shoulder pain with numbness and tingling down the left arm. Dr. Santana noted that she related that “since last year, both neck and shoulder pain have been getting worse.” He diagnosed neck pain and left shoulder pain and placed appellant off work from October 15 to 17, 2012. Thereafter, appellant could return to full duty with no restrictions. The Board notes that Dr. Santana failed to adequately address the issue of causal relation. Dr. Santana noted a history of injury in 2007 and 2011 but did not explain why appellant could not work beginning October 15, 2012 due to her accepted neck sprain of October 12, 2011. He referenced the accepted 2011 injury but he did not explain how there was a spontaneous change in the accepted neck sprain that caused disability and a need for continuing treatment.

Dr. Williams’ February 26, 2013 report merely noted ongoing neck and back pain since the October 12, 2011 job injury. She also advised that appellant’s nursing duties exacerbated her condition. Dr. Williams did not provide any further opinion explaining why appellant became disabled on October 15, 2012 due to her October 12, 2011 employment injury. Rather, she implicated that appellant’s work after her return to regular duty in November 2011 was the cause of her ongoing symptoms. This would be a basis for a new claim of occupational disease rather than a recurrence of a traumatic injury, as noted by OWCP. In an October 16, 2012 report, Dr. Williams merely noted appellant’s neck and left shoulder pain. She did not specifically address how appellant’s condition was caused by a spontaneous change in the accepted neck sprain of October 12, 2011.

Other medical reports of record do not specifically address how appellant’s condition on or after October 15, 2012 was causally related to the 2011 employment injury.⁶

Appellant has not met her burden of proof to establish her claim for a recurrence of disability beginning October 15, 2012 causally related to the work injury of October 12, 2011.

⁶ *Jaja K. Asaramo*, 55 ECAB 200 (2004) (medical evidence that does not offer any opinion regarding the cause of an employee’s condition is of diminished probative value on the issue of causal relationship).

Appellant may submit evidence or argument with a written request for reconsideration 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 did not meet her burden of proof to establish a recurrence of disability beginning October 15, 2012 causally related to her October 12, 2011 traumatic injury.

ORDER

IT IS HEREBY ORDERED THAT the June 7, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 30, 2014
Washington, DC

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

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

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