

employment incident, where appellant had been informed of a threat to kill her made by another employee. With respect to her claim for a recurrence of disability commencing January 25, 2010, the Board found the medical evidence was insufficient to establish the claim. The April 9, 2012 report from Dr. Shanoor Khan, a psychiatrist, had referred to intervening, nonindustrial events as triggering flashbacks to the 1994 trauma. As the Board noted, the evidence did not establish that the claimed disability was the direct and natural result of the original injury. The relevant facts as contained in the Board's prior decision are incorporated herein by reference.

On November 4, 2013 OWCP received a request for reconsideration. Appellant discussed the history of her case and argued that the symptoms from her condition had never gone into remission and it was not a new injury. She contended that any consequences that flow from the original injury are compensable. Appellant referred to provisions of the diagnostic and statistical manual of mental disorders, stated that OWCP records did not accurately reflect the accepted conditions, and noted that she had filed an equal employment opportunity complaint.

With respect to the medical evidence, appellant submitted additional reports from Dr. Khan that were not before OWCP at the time of the July 12, 2012 decision. In a report dated March 1, 2010, Dr. Khan provided a history similar to that in an April 9, 2012 report submitted on April 30, 2012. He noted an August 2008 incident at home where appellant discovered her former coworker had received a decision indicating he could return to work in three years. Dr. Khan also noted a September 2009 incident when she received notice from the employing establishment that they "had opted to remove her from the cornerstone of her original settlement -- exempt status." He stated that appellant's current episode was an acute exacerbation of her underlying chronic condition which resulted from her work injury. Dr. Khan concluded, "The removal from protected status as well as the coincidental reading of her assailant's case on line has aroused dormant symptoms."

In a report dated August 26, 2010, Dr. Khan stated that appellant's mental health had worsened. He stated that her "current exacerbation" began with the threat and then loss of her protected status and this led to reexperiencing symptoms including flashbacks, nightmares and intrusive thoughts. Dr. Khan reported that appellant's condition was subsequently further intensified by a supervisor who routinely appeared at a bowling alley where she went for recreation and socialization."

By report dated March 26, 2011, Dr. Khan repeated the history provided in the March 1, 2010 report. He again stated that appellant's current episode was an acute exacerbation of an underlying chronic condition which resulted from her original injury. Dr. Khan stated, "PTSD is an anxiety condition which clearly can be retriggered. The acute anxiety reaction and a new depressive episode are seen as concurrent and part of the original work-related symptoms set."

In a report dated June 10, 2011, Dr. Khan stated that "course of PTSD invariably involves exacerbations and remissions.... What may retrigger symptoms may often seem totally unconnected to the original trauma." Dr. Khan stated that he "would contend that the original condition had never completely resolved and consequently a causal relationship is moot."

By report dated September 24, 2012, Dr. Khan stated that appellant remained disabled due to her chronic PTSD and major depressive disorder. He asserted that the conditions were “a reactivation of an original on-the-job injury.” Appellant also submitted reports from Dr. Khan dated October 31, November 30 and December 31, 2012, stating that she remained disabled due to a reactivation of her condition. In an October 1, 2013 report, Dr. Khan again referred to a September 2009 personnel action and a supervisor routinely coming to her recreational activity at a bowling alley.

In a decision dated January 31, 2014, OWCP reviewed the case on its merits and 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.”³

A person who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability for which she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish 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 supports that conclusion with sound medical reasoning.⁴

ANALYSIS

Appellant submitted an application for reconsideration and submitted additional medical evidence. The Board notes that she raised an issue with respect to OWCP’s recognition of the accepted conditions in this case. OWCP has accepted PTSD and an acute anxiety reaction. The January 31, 2014 decision acknowledged that these are the accepted conditions and there is no evidence the decision was based on an improper factual background.

On reconsideration, appellant submitted additional medical reports from Dr. Khan dated March 1, 2010 through October 1, 2013. Dr. Khan referred to an exacerbation of appellant’s condition from reading information on her home computer, or seeing a supervisor at a bowling alley. He also refers to removal of her “protected status” by the employing establishment with respect to an original settlement agreement. In the March 1, 2010 report, Dr. Khan noted that the home computer incident and actions of the employing establishment had “aroused dormant symptoms.” In an August 26, 2010 report, he refers to a bowling alley incident as intensifying appellant’s condition.

³ 20 C.F.R. § 10.5 (x).

⁴ *Robert H. St. Onge*, 43 ECAB 1169 (1992); *Dennis J. Lasanen*, 43 ECAB 549 (1992).

As the Board noted in its prior decision, medical evidence detailing that there were intervening events that exacerbated appellant's condition or triggered flashbacks to the 1994 incident do not result in an employment-related disability. The disability is not considered employment-related unless it is the direct and natural result of the employment injury. The intervening incidents or events break the causal connection with the employment injury and the current disability.⁵ A recurrence of disability, as noted above, is a "spontaneous change" in the medical condition without an intervening injury. In addition, if appellant is referring to allegations of new employment incidents, such as administrative error by a supervisor or other allegation, then this would be a new claim, even if it represented an aggravation of a prior injury.⁶ The Board finds that appellant did not submit probative evidence establishing a recurrence of disability as of January 25, 2010.

On appeal, appellant reiterated her arguments that she feels this is not a new injury but a triggering of the accepted conditions. She refers to a Utah State case involving a prior employment-related back condition, where the court held a sneeze triggering a disc herniation was compensable. The facts in the present case are not similar and the issues are resolved by application of the provisions of FECA and Board precedent. To the extent appellant is alleging additional employment factors, this is a new claim for injury and she may pursue such a claim in an appropriate manner. As to the accepted PTSD and acute anxiety reaction, the medical evidence must establish causal relationship between disability commencing January 25, 2010 and the accepted conditions. For the reasons noted, the evidence is not sufficient to meet appellant's burden of proof. 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 a recurrence of disability commencing January 25, 2010 causally related to her June 20, 1994 employment injury.

⁵ See *Stuart K. Stanton*, 40 ECAB 859 (1989).

⁶ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(c)(5) (June 2013).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 31, 2014 is affirmed.

Issued: October 2, 2014
Washington, DC

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

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