

September 4, 1986. OWCP accepted displacement of lumbar intervertebral disc without myelopathy and appellant received wage-loss compensation and medical benefits until her return to work in a light-duty full-time position on July 6, 1989.

In medical reports dated September 18 and October 6, 1986, Dr. Nai-Phon Wang, a Board-certified orthopedic surgeon, reported that he first began treating appellant on September 9, 1986 due to acute back pain and sudden weakness of the right foot with numbness to the right leg. Diagnostic testing revealed a large herniated nucleus pulposus with a ruptured and compressed disc and severely damaged nerve. Due to her ruptured disc, appellant underwent emergency surgery for laminectomy with removal of ruptured disc on September 12, 1986. Dr. Wang stated that her herniated lumbar disc caused sciatica and drop foot (paralysis of muscle) which was a result of her employment-related duties of bending and lifting.

On December 7, 1993 appellant filed a recurrence claim (Form CA-2a) alleging a return/increase of disability as of November 24, 1993.

In medical reports dated February 3 and April 7, 1994, Dr. Joseph M. Koziol, a Board-certified neurological surgeon, reported a history of surgery in 1986 for a herniated disc at L4-5 at which time she had complete footdrop. He noted that a December 3, 1993 magnetic resonance imaging scan of the lumbar spine revealed disc herniation at L5-S1 with obliteration of the right S1 nerve root and postoperative changes on the right at L4-5. As a result, appellant underwent microsurgical discectomy on December 13, 1993. Dr. Koziol diagnosed herniated disc at L5-S1 and opined that her condition and surgery were caused by the September 4, 1986 employment injury. Appellant was released to work on April 11, 1994 with restrictions.

By decision dated February 7, 1995, OWCP accepted appellant's recurrence claim for herniated disc at L4-5 and L5-S1 and placed her on the daily rolls from November 27, 1993 to April 14, 1994 after which she returned to a full-time limited-duty position.

On April 12, 2013 appellant filed a recurrence claim alleging increased disability as of January 29, 2013. She stated that, because of her 1986 injury, she had a drop foot and would sometimes experience spasms and numbness. On January 29, 2013 appellant was preparing for work when her right foot went numb as a result of her drop foot, causing her to twist her foot and fall, breaking her right ankle.

In medical reports dated January 29 to April 18, 2013, Dr. David Loya, a Board-certified orthopedic surgeon, reported that on January 29, 2013 appellant twisted her right ankle at home and fell. He further noted that she had a chronic footdrop and tripped over her foot. Upon review of diagnostic testing, Dr. Loya diagnosed trimalleolar fracture of the right ankle and chronic footdrop present on admission. Appellant underwent immediate surgery for open reduction and internal fixation of the right ankle. In postoperative notes, Dr. Loya noted that her chronic right footdrop contributed to her fall.

By letter dated May 13, 2013, OWCP informed appellant that the evidence of record was insufficient to support her recurrence claim. Appellant was advised of the medical and factual evidence needed and was directed to submit it within 30 days.

In a May 28, 2013 narrative statement, appellant reported that she was performing regular duty, which involved pitching flats and letters, sorting mail and working at the window. She noted that she had a herniated disc injury, which caused her drop foot, which she underwent surgery for in 1987 and 1993. Appellant stated that her footdrop would worsen after standing for long periods of time. She noted that she was preparing for work on January 29, 2013 when her foot went numb, causing her to twist her ankle and fall.

By decision dated June 17, 2013, OWCP denied appellant's recurrence claim finding that the medical evidence did not establish that she sustained a recurrence of disability causally related to the accepted September 4, 1986 employment injury. It noted that her September 4, 1986 injury was accepted for displacement of lumbar intervertebral disc without myelopathy and other unspecified complications of medical care. OWCP further noted that the evidence of record failed to establish causal relationship between her current diagnosis of right ankle fracture and the work-related condition of displacement of lumbar intervertebral disc.

On June 20, 2013 appellant requested reconsideration of OWCP's decision.

In support of her claim, appellant submitted a June 14, 2013 medical report from Dr. Loya. In his report, Dr. Loya stated that she presented to the emergency room on January 29, 2013 with complaints of right ankle pain. Appellant stated that she had a chronic right footdrop as a result of a work-related lower back injury from September 4, 1986, which caused her to frequently trip over her foot. As a result, she caught her right foot and twisted her ankle at home, sustaining a closed trimalleolar fracture dislocation. Appellant underwent surgical repair of the fracture on that same date. Dr. Loya noted that her medical history was remarkable for lumbar discectomy in connection with her September 4, 1986 work-related lower back injury. He further noted a chronic right foot drop associated with appellant's injury. Dr. Loya provided findings on physical examination in postoperative treatment notes. He noted that three months postsurgery, appellant's wounds were healing well and that she had chronic footdrop. Dr. Loya opined that her closed trimalleolar fracture dislocation of her right ankle occurred when she fell at home on January 29, 2013. He stated that the mechanism of injury was such that appellant caught her right foot while walking and tripped and fell. Dr. Loya further stated that her chronic right footdrop was a consequence of her September 4, 1986 injury and caused her to fall and break her ankle.

By decision dated September 19, 2013, OWCP affirmed the June 17, 2013 decision finding that the medical evidence of record failed to establish a recurrence of disability causally related to the accepted September 4, 1986 injury.

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 resulted from a previous compensable injury or illness and without an intervening injury or new exposure in the work environment.²

² 20 C.F.R. § 10.5(x); *see S.F.*, 59 ECAB 525 (2008). *See* 20 C.F.R. § 10.5(y) (defines recurrence of a medical condition as a documented need for medical treatment after release from treatment for the accepted condition).

An employee 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 he or 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, for each period of disability claimed, the disabling condition is causally related to the employment injury and supports that conclusion with medical reasoning.³ Where no such rationale is present, the medical evidence is of diminished probative value.⁴

ANALYSIS

OWCP accepted appellant's September 4, 1986 claim for displacement of lumbar intervertebral disc without myelopathy and other unspecified complications of medical care. On February 7, 1995 it accepted her recurrence claim for herniated disc at L4-5 and L5-S1. Appellant returned to full duty. The issue is whether she established a recurrence of disability on January 23, 2013, when she fell at home, causally related to her accepted September 4, 1986 injury. The Board finds that appellant has not met her burden of proof.

Appellant twisted her ankle and fell at home on January 29, 2013, which she alleges was a recurrence of her accepted September 4, 1986 back injury.

In medical reports dated January 29 to June 14, 2013, Dr. Loya diagnosed trimalleolar fracture of the right ankle and chronic foot drop. He noted that appellant tripped over her foot as a result of her chronic footdrop, which was caused by her work-related September 4, 1986 back injury. Dr. Loya provided a medical history of work-related lumbar discectomy and chronic right footdrop. He stated that appellant's mechanism of injury was such that she caught her right foot while walking and tripped and fell. Dr. Loya further noted that her chronic right footdrop was a consequence of her September 4, 1986 injury, causing her to fall and break her ankle. The medical reports submitted from Dr. Wang and Dr. Koziol indicate a right footdrop condition related to appellant's herniated disc injury in 1986, as well as her recurrence of disability in 1993.

The Board finds however that appellant has never filed a claim alleging that her drop foot is causally related to her accepted September 4, 1986 injury or any other factors of her federal employment.⁵ OWCP has, therefore, never accepted footdrop as a compensable condition.

Review of the medical evidence of record does not establish that appellant sustained a spontaneous recurrence of disability causally related to her accepted lumbar disc condition. There is no rationalized medical evidence of record which describes how the accepted lumbar

³ *Ronald A. Eldridge*, 53 ECAB 218 (2001).

⁴ *Mary A. Ceglia*, Docket No. 04-113 (issued July 22, 2004).

⁵ When an injury arises in the course of employment, every natural consequence that flows from that injury likewise arises out of the employment, unless it is the result of an independent intervening cause attributable to the employee's own intentional misconduct. *See S.S.*, 59 ECAB 315 (2008). Appellant may file a claim alleging that her drop foot was consequential to her accepted September 4, 1986 injury.

condition caused her injuries on January 29, 2013. Appellant has, therefore, not met her burden of proof to establish a recurrence of disability on January 29, 2013.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability on January 29, 2013.

ORDER

IT IS HEREBY ORDERED THAT the September 19, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 14, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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