

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

---

**J.A., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Coppell, TX, Employer**

---

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

**Docket No. 15-1425  
Issued: December 18, 2015**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
ALEC J. KOROMILAS, Alternate Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On June 17, 2015 appellant filed a timely appeal from an April 14, 2015 merit decision of the Office of Workers' Compensation Programs.<sup>1</sup> Pursuant to the Federal Employees' Compensation Act<sup>2</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 has met his burden of proof to establish a recurrence of a medical condition commencing February 20, 2010 causally related to his accepted November 26, 1998 employment injuries.

---

<sup>1</sup> On June 17, 2015 appellant submitted a timely request for oral argument in connection with OWCP's April 14, 2015 decision. By letter dated October 27, 2015, he withdrew the request for an oral argument and requested that the matter proceed to a decision based on the evidence of record.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

OWCP accepted that on November 26, 1998 appellant, then a 62-year-old mail handler, sustained a bilateral leg contusion and an ankle contusion when his left leg and both feet became jammed between two pallets at work. He stopped work on November 27, 1998 and returned on December 2, 1998.<sup>3</sup>

The claim was dormant from early 1999 until late 2012 when appellant requested a copy of his claim file. Thereafter, OWCP provided appellant a copy of his file.

On December 18, 2013 appellant filed a claim for a recurrence (Form CA-2a) of medical condition commencing February 20, 2010 causally related to his accepted November 26, 1998 employment injuries. He had retired from the employing establishment on December 5, 2007. Since that time, appellant related that he had been dealing with constant pain running up and down his legs and feet, swelling of his foot and ankle, and stiffness in his joints and bones. He sought medical treatment from time to time. The employing establishment controverted the claim noting that appellant was removed for unsatisfactory attendance.<sup>4</sup>

In reports dated September 24 and October 4, 2013, Dr. Larry W. Blackburn, a Board-certified family practitioner, noted appellant's complaints of a productive cough. The reason for his visit was for an evaluation of his flank, right leg, and right hip pain and gastroesophageal reflux disease. Dr. Blackburn noted that appellant experienced right leg pain following an injury at work a few months ago. He also noted that appellant had recently received care in an emergency room. Dr. Blackburn provided a history of his family, social, and medical background. He reported findings on physical and neurological examination. Dr. Blackburn provided an impression of bronchitis, flank pain that was musculoskeletal in origin, esophageal reflux, and leg pain that was unremarkable on examination. Dr. Blackburn also assessed lumbar radiculopathy. On October 14, 2014 he ordered physical therapy to treat, among other things, appellant's lumbar radiculopathy.

In an October 9, 2013 lumbar magnetic resonance imaging (MRI) scan report, Dr. Christopher J. Chicoskie, a Board-certified radiologist, found minimal degenerative disc disease. There was no neural foramina stenosis. There was diffuse loss of normal fatty bone marrow signal intensity which could have been due to red bone marrow reconversion caused by chronic anemia. An October 14, 2013 report from appellant's physical therapist addressed appellant's treatment.

By letter dated February 12, 2014, OWCP advised appellant of the deficiencies of his claim and requested additional factual and medical evidence.

---

<sup>3</sup> No wage-loss compensation was paid.

<sup>4</sup> An attached April 7, 2008 notification of personnel action (PS Form 50) advised that, effective December 5, 2007, appellant was removed for unsatisfactory attendance/failure to be regular in attendance. Appellant's last day in pay status was May 3, 2007.

On February 26, 2014 appellant stated that he developed symptoms from time to time five years after he stopped working, but that his symptoms had increased causing him constant pain and discomfort in the same areas as his accepted injuries. He claimed that he had not sustained any other injuries and that his right flank pain should be associated with his accepted injuries and exercise. Appellant received medical treatment on December 1, 1998, December 13, 2012, and October 14, 2013.

Appellant submitted a September 13, 2012 right ankle x-ray report from Dr. Allen M. Donnelly, a Board-certified diagnostic radiologist, who found no evidence of fracture or other osseous abnormality. Physical therapy reports dated December 3 to 30, 2013 addressed appellant's treatment.

In a June 18, 2014 decision, OWCP denied appellant's recurrence of a medical condition claim as he failed to submit sufficient medical evidence to establish a causal relationship between his current conditions and his accepted November 26, 1998 work injuries.

By letter dated July 9, 2014, appellant requested a telephone hearing with an OWCP hearing representative. He resubmitted Dr. Donnelly's September 13, 2012 right ankle x-ray report. A telephone hearing was held on February 18, 2015. Appellant testified that he filed his recurrence of a medical condition claim because he began having pains which he thought were due to the work injury. He asked that OWCP pay for his physical therapy and other treatment. The hearing representative informed appellant of the type of medical evidence needed to establish his claim.

In an April 14, 2015 decision, an OWCP hearing representative affirmed the June 18, 2014 decision, finding the medical evidence submitted was insufficient to establish a causal relationship between appellant's current conditions and his accepted employment-related injuries.

### **LEGAL PRECEDENT**

A recurrence of a medical condition is defined as a documented need for further medical treatment after release from treatment for the accepted condition or injury.<sup>5</sup> 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.<sup>6</sup>

An employee who claims a recurrence of medical condition has the burden of proof to establish causal relationship by the weight of substantial, reliable, and probative evidence. This burden requires that an employee furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the employee's need for

---

<sup>5</sup> 20 C.F.R. § 10.5(y).

<sup>6</sup> *Id.*

additional medical care is causally related to the accepted injury and supports that conclusion with sound medical reasoning.<sup>7</sup>

### ANALYSIS

The Board finds that appellant did not meet his burden of proof to establish that he sustained a recurrence of a medical condition commencing February 20, 2010. OWCP accepted that on November 26, 1998 appellant sustained a bilateral leg contusion and an ankle contusion while working as mail handler. He was separated from the employing establishment on December 5, 2007. On December 18, 2013 appellant filed a recurrence claim, alleging that his current medical conditions were causally related to the accepted conditions.

Dr. Blackburn's September 24 and October 4, 2013 reports provided an impression of bronchitis, flank pain that was musculoskeletal in origin, esophageal reflux, and leg pain that was unremarkable on examination, and assessed lumbar radiculopathy. While Dr. Blackburn referenced the history of injury and physical examination findings as the basis for his conclusion, he did not provide an opinion stating that the diagnosed conditions were causally related to the accepted November 26, 1998 employment injuries. The Board has held that medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>8</sup> Dr. Blackburn's October 14, 2014 prescription ordered physical therapy to treat appellant's conditions, including lumbar radiculopathy, but offered no opinion on causal relationship of the diagnosed conditions.<sup>9</sup>

Similarly, the diagnostic test reports of Dr. Chicoskie are insufficient to establish causal relationship. Neither physician provided an opinion on the causal relationship between appellant's diagnosed gastrointestinal and lumbar conditions, and the accepted work injuries.<sup>10</sup>

Dr. Donnelly, in his September 13, 2012 x-ray report, did not address whether appellant had a right ankle condition causally related to the November 26, 1998 employment injuries. Rather, he found no evidence of fracture or other osseous abnormality.

The reports from appellant's physical therapist have no probative medical value, as a physical therapist is not considered a physician as defined under FECA.<sup>11</sup>

The Board finds that there is insufficient rationalized medical evidence of record to establish that appellant sustained a recurrence of a medical condition commencing February 20,

---

<sup>7</sup> *E.O.*, Docket No. 11-1099 (issued February 24, 2012); *J.B.*, Docket No. 11-1410 (issued January 5, 2012).

<sup>8</sup> *See C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

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

<sup>10</sup> *Id.*

<sup>11</sup> *A.C.*, Docket No. 08-1453 (issued November 18, 2008). Under FECA, a physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8101(2). *See also Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

2010 causally related to the accepted November 26, 1998 employment injuries. Appellant did not meet his 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 failed to meet his burden of proof to establish a recurrence of a medical condition commencing February 20, 2010 causally related to his accepted November 26, 1998 employment injuries.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 14, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 18, 2015  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board