

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

O.H., Appellant)

and)

DEPARTMENT OF THE ARMY, ARMY)
CORPS OF ENGINEERS, New Orleans, LA,)
Employer)

**Docket No. 15-0778
Issued: June 25, 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
PATRICIA H. FITZGERALD, Deputy Chief Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On February 19, 2015 appellant filed a timely appeal from an October 8, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (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 his accepted January 13, 2003 injury requiring medical treatment as of March 12, 2011.

FACTUAL HISTORY

This is the second appeal before the Board. Appellant, a 53-year-old civil engineering technician, injured his lower back on January 13, 2003. He filed a claim for benefits on

¹ 5 U.S.C. § 8101 *et seq.*

January 13, 2003 which OWCP accepted for displacement of lumbar intervertebral disc. By decision dated August 22, 2003, OWCP reduced appellant's compensation benefits to zero, finding that he failed to cooperate with rehabilitation efforts based on his refusal to cooperate with a nurse intervention program. By decision dated December 10, 2003, it denied reconsideration. In a decision dated September 2, 2004,² the Board reversed the August 22, 2003 decision and reinstated appellant's compensation benefits, finding that his refusal to cooperate with the nurse intervention program did not constitute a refusal to undergo vocational rehabilitation under section 8113(b) of FECA and section 10.519(c) of OWCP regulations. The complete facts of this case are set forth in the Board's September 2, 2004 decision and are incorporated herein by reference.

By decision dated July 18, 2005, OWCP terminated appellant's compensation for wage-loss benefits, finding that he no longer had any disability due to his accepted displaced lumbar intervertebral disc condition. Appellant's medical benefits were not terminated. He retired from the employing establishment on August 3, 2005.

On March 26, 2014 appellant filed a Form CA-2 claim for a recurrence of medical condition, alleging that he required medical treatment as of March 12, 2011 causally related to his accepted January 13, 2003 employment injury.

By letter dated April 11, 2014, OWCP advised appellant that it required additional factual and medical evidence, including a comprehensive medical report, to support his claim that his alleged condition as of March 12, 2011 was causally related to his accepted condition of displacement of his lumbar intervertebral disc. It noted that, according to records on file, he had not received medical treatment for his work-related condition since May 25, 2005.

On May 19, 2014 appellant submitted 379 pages of brief progress notes and hospital reports from the North Texas Veterans Administration Health Care System dating from 2006 to 2011. These reports discussed and made findings regarding various medical conditions; most of these conditions, however, were not accepted by OWCP and were not related to appellant's accepted injury.

From appellant's submission the relevant medical evidence included a clinical note dated March 24, 2011 from Dr. Madhavi Rajulapalli, a specialist in internal medicine, who noted that appellant was treated for lumbago. Dr. Rajulapalli also submitted an April 18, 2011 progress note in which he reported that the results of a magnetic resonance imaging (MRI) scan of the lumbar spine showed a prominent bulge at L2-3 and a mild disc bulge at L4-5 which slightly indents the canal without causing severe stenosis. The record also contains progress notes from January, August, and November 2012 which document that appellant was experiencing low back pain.

By decision dated October 8, 2014, OWCP denied the claim for a recurrence of his medical condition.

² Docket No. 04-584 (issued September 2, 2004).

LEGAL PRECEDENT

A recurrence of a medical condition is defined under OWCP's implementing federal regulations as a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage.³ 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.⁴

An employee has the burden of establishing that he or she sustained a recurrence of a medical condition that is causally related to his or her accepted employment injury. To meet this burden, the employee must submit medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, supports that the condition is causally related and supports his or her conclusion with sound medical rationale.⁵

ANALYSIS

In the instant case, appellant has not provided a medical report with a rationalized, probative opinion which relates his claimed recurrence as of March 12, 2011 to his January 13, 2003 work injury. For this reason, he has not met his burden to establish his claim that he sustained a recurrence of his medical condition causally connected to his accepted employment condition. OWCP, therefore, properly denied the claim for a recurrence.

In support of his claim, appellant submitted the March 24, 2011 clinical note and April 18, 2011 progress report from Dr. Rajulapalli. In his March 24, 2011 note, Dr. Rajulapalli reported that he was treating appellant for lumbago and advised in his April 18, 2011 progress report that the results of a lumbar MRI scan showed a prominent bulge at L2-3 and a mild disc bulge at L4-5. These brief reports, however, did not contain an opinion describing how appellant's accepted displacement of lumbar intervertebral disc injury condition would have been competent to cause the claimed recurrence of medical condition and necessitated medical treatment in 2011. This is especially critical given the paucity of medical evidence relating to appellant's accepted back condition from 2005 to 2011. As noted, appellant has the burden of proof to submit rationalized medical evidence establishing the relationship of the claimed recurrence to the original injury. The weight of the medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested, and the medical rationale expressed in support of stated conclusions.⁶

Appellant has not submitted a physician's reasoned opinion in which the physician explains the reasons why appellant's current condition as of March 12, 2011 was causally related

³ 20 C.F.R. § 10.5(y). *See also R.B.*, Docket No. 13-1663 (issued July 29, 2014).

⁴ *Id.* *See also S.C.*, Docket No. 15-146 (issued March 9, 2015).

⁵ *See Ronald A. Eldridge*, 53 ECAB 218 (2001).

⁶ *See Ann C. Leanza*, 48 ECAB 115 (1996).

to the January 13, 2003 work injury and only now required medical treatment. For these reasons, the medical evidence is insufficient to establish a recurrence of a medical condition causally related to the accepted displacement of lumbar intervertebral disc injury. The Board therefore affirms OWCP's October 8, 2014 decision.

CONCLUSION

The Board finds that appellant has not met his burden to establish a recurrence of his January 13, 2003 injury requiring medical treatment as of March 12, 2011.

ORDER

IT IS HEREBY ORDERED THAT the October 8, 2014 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: June 25, 2015
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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