



accepted appellant's claim for a lumbar sprain, thoracic or lumbosacral neuritis or radiculitis, and joint pain in the pelvic and thigh region. Appellant stopped work on August 17, 2009 and returned to light-duty work four hours per day on September 18, 2009. She returned to full-time work with restrictions on August 9, 2010 until she stopped work completely on June 6, 2012.

Appellant underwent a magnetic resonance imaging (MRI) scan of the lower extremities on May 10, 2010 which revealed trochanteric bursitis/gluteus tendinitis. She was treated by Dr. Reeta M. Arora, a Board-certified orthopedist, from March 29, 2010 to February 22, 2012 for right hip pain. On August 9, 2010 Dr. Arora noted that appellant was status post work-related injury in August 2009 with ongoing bilateral hip and thigh pain. He returned her to work full time with restrictions.

Appellant was also treated by Dr. Richard D. Knauft, a Board-certified orthopedist, from August 18 to November 17, 2010 for left hip pain. Dr. Knauft noted that she experienced pain in her hip since an accident that occurred on August 8, 2010. He diagnosed trochanteric bursitis in the left hip.

Appellant filed several Form CA-7, claims for compensation for leave without pay, for the period beginning June 6, 2012.

In a letter dated June 19, 2012, OWCP noted that following the work injury appellant returned to work on September 18, 2009 in a limited-duty capacity and continued to work until June 6, 2012 when she stopped completely. It noted that her claim would be developed as a recurrence of disability. OWCP advised appellant of the type evidence needed to establish her claim. It particularly asked that she submit a physician's reasoned opinion addressing the relationship of her claimed condition and specific employment factors.

In response to OWCP questions, appellant indicated that she always had back pain and pain from bursitis, but that she had used medication to cope with the pain. However, she was unable to continue taking the medication because she was pregnant. Appellant indicated that she was in severe pain.

Appellant submitted a June 6, 2012 report from Dr. Knauft who treated her for chronic pain and discomfort in her hips with trochanteric bursitis type symptoms that have not resolved. Dr. Knauft noted that she fell at work and filed a workers' compensation claim. He noted that appellant was eight weeks pregnant and reported being unable to perform her job because of hip and back pain and believed that her pregnancy aggravated her condition. Dr. Knauft noted findings of subjective low back discomfort, discomfort on palpation of the trochanteric bursa in each hip, intact hip range of motion, intact knee and ankle motion, negative straight leg raises, and intact motor function. He diagnosed unresolved chronic pain at the trochanteric area in both hips. Dr. Knauft noted that appellant would remain off work. In a report dated July 11, 2012, he noted her complaints of continued pain in the left hip and proximal left thigh. Dr. Knauft noted that appellant fell at work and had pain over the last two years. He noted that the examination was unchanged and she remained off work due to this problem. Appellant submitted attending physician's reports from Dr. Knauft dated June 6 and July 11, 2012, who noted findings of lumbar spine and bilateral hip pain. He diagnosed lumbar strain, sciatica, and nerve root irritation and noted with a checkmark "yes" that appellant's condition was caused or aggravated

by an employment activity. Dr. Knauft opined that she was out of work from June 6 to August 16, 2012. In a duty status report dated June 6 and July 11, 2012, he noted that appellant was totally disabled. Appellant also submitted physical therapy notes.

In a July 23, 2012 decision, OWCP found that the evidence submitted did not establish that appellant sustained a recurrence of disability on June 6, 2012 causally related to her August 17, 2009 work injury.

Appellant submitted a report from Dr. Aaron Marlow, an orthopedic surgeon, dated August 16, 2012, who treated her for left leg numbness. Dr. Marlow noted that she filed a claim for a workers' compensation injury in 2009 when she fell and injured her left leg. He noted that appellant also had chronic, recurrent bursitis. Dr. Marlow noted that her symptoms had worsened since 2009 and she has been unable to work for a number of months. He noted findings on examination of no antalgic gait, the hips rotate adequately, but have trochanteric irritation with palpation, mild sensory changes, negative straight leg raises, low back tenderness to palpation at approximately L3-4, and the SI joints were mildly tender. Dr. Marlow opined that appellant's condition represented an unresolved case where she still had problems from her work injury. He noted that he could not fully assess her because he did not have any current x-rays. Dr. Marlow recommended x-rays and an MRI scan.

On July 1, 2013 appellant requested reconsideration. In a statement dated July 23, 2013, she reiterated that her back pain and bursitis have always existed. Appellant reiterated that she was given medication to cope with the pain, but was unable to take the medication because she was pregnant. She indicated that she was in severe pain.

In a decision dated September 30, 2013, OWCP denied modification of the decision dated July 23, 2012.

On July 23, 2014 appellant requested reconsideration. She submitted a report from Dr. David H. Cyr, an osteopath, dated July 18, 2014, who noted that she was a long-standing patient. Dr. Cyr advised that, in May 2012, appellant informed him that she was pregnant and he instructed her to stop taking all medications for the duration of her pregnancy to prevent harm to the baby.

In a decision dated November 3, 2014, OWCP denied modification of the decision dated September 13, 2013.

### **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 resulting from a previous injury or illness without an intervening cause or a new exposure to the work environment that caused the illness. It can also mean an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related

injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.<sup>2</sup>

When an employee who is disabled from the job he or she held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of record establishes that he or she can perform the limited-duty position, the employee has the burden of proof to establish, by the weight of the reliable, probative, and substantial evidence, a recurrence of total disability and an inability to perform such limited-duty work. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the limited-duty job requirements.<sup>3</sup> To establish a change in the nature and extent of the injury-related condition, there must be a probative medical opinion, based on a complete and accurate factual and medical history as well as supported by sound medical reasoning, that the disabling condition is causally related to employment factors.<sup>4</sup> In the absence of rationale, the medical evidence is of diminished probative value.<sup>5</sup> While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, it must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.<sup>6</sup>

### ANALYSIS

OWCP accepted that appellant sustained lumbar sprain, thoracic or lumbosacral neuritis or radiculitis, and joint pain in the pelvic and thigh region after a fall. Appellant returned to a light-duty job and continued to work until June 6, 2012 when she stopped work completely. On June 7, 2012 she filed a Form CA-7, which OWCP developed as a recurrence of disability. The Board finds that the record lacks a well-reasoned narrative from appellant's physicians relating appellant's claimed recurrent disability to her accepted employment injury. Furthermore, appellant has not presented evidence that the employing establishment either withdrew her light-duty job or altered the assignment so as to require her to exceed her physical restrictions before she stopped work.

Appellant submitted a June 6, 2012 report from Dr. Knauft who treated her for trochanteric bursitis and chronic hip and back pain. Dr. Knauft noted that she had a workers' compensation injury after falling at work. He reported that appellant was eight weeks pregnant and unable to perform her job because of hip and back pain and that he believed that her pregnancy aggravated her condition. Dr. Knauft diagnosed unresolved chronic pain at the trochanteric area in both hips and noted that she would remain off work. On July 11, 2012 he

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<sup>2</sup> *J.F.*, 58 ECAB 124 (2006). A recurrence of disability does not apply when a light-duty assignment is withdrawn for reasons of misconduct, nonperformance of job duties, or other downsizing. 20 C.F.R. § 10.5(x). See also *Richard A. Neidert*, 57 ECAB 474 (2006).

<sup>3</sup> *A.M.*, Docket No. 09-1895 (issued April 23, 2010); *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>4</sup> *Mary A. Ceglia*, 55 ECAB 626, 629 (2004).

<sup>5</sup> *Id.*; *Robert H. St. Onge*, 43 ECAB 1169 (1992).

<sup>6</sup> *Ricky S. Storms*, 52 ECAB 349 (2001).

noted appellant's pain complaints since a fall at work and reported that she was disabled due to this problem. However, Dr. Knauft did not specifically address whether she had a recurrence of disability on June 6, 2012 causally related to the accepted employment conditions or otherwise provide medical reasoning explaining why any current condition or disability was due to the accepted August 17, 2009 work injury. He also did not explain how bursitis was causally related to the accepted conditions. In June 6 and July 11, 2012 attending physician's reports, Dr. Knauft diagnosed lumbar strain, sciatica, and nerve root irritation and checked a box "yes" that appellant's condition was employment related. He opined that appellant was out of work from June 6 to August 16, 2012. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.<sup>7</sup> Duty status reports dated June 6 and July 11, 2012, advised that appellant was totally disabled from work, but Dr. Knauft did not address how this was due to a spontaneous change in the accepted conditions. Consequently, the reports from Dr. Knauft are insufficient to establish a recurrence of disability.

In an August 16, 2012 report, Dr. Marlow who treated appellant for left leg numbness, noted that she was treated for a work injury in 2009 when she fell and injured her left leg. He noted her symptoms have worsened since 2009 and she has been unable to work for a number of months. Dr. Marlow opined that appellant's work-related injury was unresolved. However, his report is conclusory and insufficient to establish her claim as he did not provide a rationalized opinion explaining the reasons why her recurrent condition and disability was due to the accepted work injury.<sup>8</sup> Additionally, Dr. Marlow failed to note a specific date of a recurrence of disability and he did not note a particular change in the nature of appellant's physical condition, arising from the employment injury, which prevented her from performing her light-duty position.

Appellant submitted a report from Dr. Cyr dated July 18, 2014, who noted in May 2012 that she informed him she was pregnant and he instructed her to stop taking all medications for the duration of her pregnancy to prevent harm to the baby. The Board notes that this report is insufficient to establish her claim for a recurrence of disability on June 6, 2012 as Dr. Cyr failed to note a specific date of a recurrence of disability and he did not note a particular change in the nature of her physical condition, arising from the employment injury, which prevented her from performing her light-duty position.

Appellant submitted physical therapy notes. The Board has held that treatment notes signed by a physical therapist are not considered medical evidence as a physical therapist is not considered a physician under FECA.<sup>9</sup>

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<sup>7</sup> *D.D.*, 57 ECAB 734 (2006); *Sedi L. Graham*, 57 ECAB 494 (2006).

<sup>8</sup> *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); see *Jimmie H. Duckett*, 52 ECAB 332 (2001).

<sup>9</sup> See *David P. Sawchuk*, 57 ECAB 316 (2006) (lay individuals such as physician assistants, nurses and physical therapists are not competent to render a medical opinion under FECA); 5 U.S.C. § 8101(2) (this subsection defines a "physician" as surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law).

Appellant did not otherwise submit medical evidence showing that she sustained a recurrence of disability causally beginning June 6, 2012 causally related to her August 17, 2009 work injury.

On appeal appellant asserts that her work-related condition was chronic and continued up until her work stoppage on June 6, 2012 when she could no longer take pain medications because of her pregnancy. However, as noted above, the medical evidence submitted did not provide a rationalized medical opinion explaining why her claimed recurrent condition or disability on June 6, 2012 was due to the August 17, 2009 work injury.<sup>10</sup>

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 met her burden of proof to establish that she sustained a recurrence of disability causally related to her accepted condition.

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<sup>10</sup> See *K.S.*, Docket No. 12-1258 (issued December 17, 2012) (appellant filed a claim alleging a recurrence of disability after she discontinued her medications due to her pregnancy; the Board found the medical evidence insufficient to establish a causal relationship).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 3, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 21, 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