

container door became unlatched and struck the left side of her head. The employing establishment issued an authorization (Form CA-16) for appellant to seek medical treatment immediately after the injury. Appellant stopped work on the date of injury and received continuation of pay through May 23, 2013.

Dr. William E. Dalton, attending Board-certified family practitioner, noted examining appellant on April 9, 2013 for complaints of vision changes in her left eye following a head injury.² He released her to work as of May 2, 2013.

Dr. Mark. I. Sharfman, an attending Board-certified neurologist, provided a May 20, 2013 report diagnosing post-traumatic headache due to activation of the trigeminal and greater occipital nerves, postconcussion syndrome, and post-traumatic cervicocranial syndrome. He held appellant off work and prescribed medication.

On June 12, 2013 appellant accepted a job assignment as a modified clerk, with no climbing, and lifting and carrying limited to 10 pounds. She returned to work in the modified position shortly after accepting the job offer. Appellant had intermittent work absences due to headaches and medication side effects. She participated in cognitive behavioral therapy sessions and physical therapy.

Dr. Sharfman provided periodic reports from July 25 to September 25, 2013, holding appellant off work intermittently for severe headaches due to post-traumatic trigeminal nerve trauma. He continued to restrict appellant from lifting or carrying more than 10 pounds. On October 29, 2014 Dr. Sharfman noted that appellant resumed full-duty work but she continued to have acute headaches. He later found that appellant had reached maximum medical improvement by April 13, 2015. Dr. Sharfman provided periodic reports through June 25, 2015 finding appellant able to perform full duty although her headaches continued.

Dr. Robert R. Reppy, an attending osteopath specializing in family medicine, followed appellant beginning on September 8, 2014. In reports through July 10, 2015, he diagnosed post-traumatic headaches, herniated cervical discs, and postconcussion syndrome that intermittently disabled appellant from work.³ As of September 23, 2015, Dr. Reppy limited appellant to working eight hours a day with no overtime, directing that she be allowed to leave work if her headaches became severe. He explained in a September 25, 2015 report that overtime work increased appellant's head and neck pain.

On November 24, 2015 appellant claimed wage-loss compensation beginning November 6, 2015 (Form CA-7). She did not return to work. OWCP developed the claim as one for recurrence of disability.

² On April 23, 2013 Dr. Victor Thomas, an attending Board-certified ophthalmologist, found no pathology related to the April 8, 2013 injury.

³ Appellant sustained a left wrist contusion at work on August 7, 2015. She filed a separate claim for the injury.

In a November 6, 2015 report, Dr. Reppy held appellant off work for four weeks. He alleged that appellant had been made to work outside of her restrictions by working more than eight hours a day, causing increased headaches.

In a December 7, 2015 letter, OWCP advised appellant of the type of additional evidence needed to establish her claim for a recurrence of disability, including medical evidence establishing a spontaneous worsening of the accepted conditions. It afforded appellant 30 days to submit such evidence.

In response, appellant provided a December 4, 2015 report from Dr. Reppy noting continued cervical spine pain, daily headaches, and continued limited cervical motion and paraspinal spasticity. He prescribed medication.

By decision dated January 12, 2016, OWCP denied appellant's claim for recurrence of disability, finding that she had not alleged or established withdrawal of her modified-duty position, or that the accepted conditions had spontaneously worsened such that she was no longer able to perform the modified position.

In a March 16, 2016 letter, appellant requested reconsideration, explaining that the modified position had aggravated her symptoms and that she had returned to her original date-of-injury position on her own initiative.⁴ She explained in a December 14, 2015 affidavit that she was forced to work overtime on September 4, 7, 11, 17, and October 12, 2015, in violation of Dr. Reppy's restriction limiting her to working eight hours a day. Appellant alleged that because her modified position required lifting tubs and sacks of mail weighing 20 pounds or more, she voluntarily transferred back to her full-duty, date-of-injury position. However, in April 30 and May 9, 2016 letters, appellant and her attorney at the time alleged that she had never been given a modified-duty position.

The employing establishment submitted an April 14, 2016 letter contending that appellant was not made to exceed her restrictions while working modified duty prior to September 2, 2013, when she returned to full duty at her own request, as approved by Dr. Reppy.

Appellant also submitted medical evidence. Dr. Sharfman opined on June 25, 2015 that appellant could not work with heavy machinery if she had a headache, and would require a permanent four day a week schedule. In a September 21, 2015 report, Dr. Dalton limited appellant to working eight hours a day, five days a week. He asserted in an April 25, 2016 letter that "long hours of work activity" exacerbated appellant's headaches.

Dr. Reppy provided January 8 and February 4, 2016 reports alleging that the employing establishment violated appellant's work restrictions by forcing her to work overtime. He therefore held her off work. Dr. Reppy clarified, however, that it was "the nature of the job itself" and not the overtime hours that exacerbated her symptoms. He noted symptomatic

⁴ Appellant also submitted leave records, and physical therapy notes from August 2015 to April 2016.

improvement on March 11 and April 22, 2016, and released appellant to part-time modified duty as of May 20, 2016.⁵

By decision dated June 6, 2016, OWCP denied modification of its January 12, 2016 decision, finding that the evidence of record indicated that appellant sustained a new injury due to additional occupational exposures, and not a recurrence of disability.

LEGAL PRECEDENT

OWCP's implementing regulations define a recurrence of disability as "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."⁶

When a claimant claims a recurrence of disability due to an accepted employment-related injury, he or she has the burden of establishing by the weight of the reliable, probative and substantial evidence that the recurrence of disability is causally related to the original injury. This burden includes the necessity of furnishing evidence from a qualified physician, who on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury and supports this conclusion with sound medical reasoning.⁷

ANALYSIS

OWCP accepted that appellant sustained postconcussion syndrome, post-traumatic headache, cervicocranial syndrome, intervertebral disc disorder with myelopathy, and herniated discs at C3-4, C4-5, C5-6, and C6-7 due to an April 8, 2013 head injury. She performed modified duty from approximately June 12 to September 2, 2013, at which time she resumed full duty with the approval of Dr. Reppy, an attending family practitioner.

Appellant continued to perform full duty until she stopped work on November 6, 2015 and claimed compensation for total disability. She contended that working overtime on September 4, 7, 11, 17, and October 12, 2015 increased her head and neck symptoms. Appellant thus has the burden of providing sufficient evidence, including rationalized medical evidence, to establish the causal relationship asserted.⁸

Dr. Sharfman, an attending Board-certified neurologist, noted on June 25, 2015 that appellant would require a four-day-a-week schedule due to her headaches. However, he did not

⁵ On May 12, 2016 appellant claimed a schedule award. As there is no final decision of record regarding the schedule award claim prior to the date appellant filed her appeal, the Board is without jurisdiction to address the schedule award issue. *See* 20 C.F.R. § 501.2(c).

⁶ 20 C.F.R. § 10.5(y); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2.a (June 2013). *See also Philip L. Barnes*, 55 ECAB 426 (2004).

⁷ *Ricky S. Storms*, 52 ECAB 349 (2001); *Helen Holt*, 50 ECAB 279 (1999).

⁸ *Ricky S. Storms, id.*

address her condition on and after November 6, 2015. Similarly, Dr. Dalton, an attending Board-certified family practitioner, noted on April 25, 2016 that work activity exacerbated appellant's headaches, but did not report any worsening of her condition as of November 6, 2015. As Dr. Sharfman and Dr. Dalton did not address the specific time period at issue, their opinions are insufficient to meet appellant's burden of proof.

Dr. Reppy opined on November 6, 2015 that working overtime caused increased headaches and disabled her from work. However, he asserted on February 4, 2016 that appellant's job duties aggravated her symptoms, independent of overtime work. Dr. Reppy thus attributes appellant's symptoms on and after November 6, 2015 to new work exposures, and not to a spontaneous worsening of the accepted conditions. His opinion negates appellant's contention that she sustained a recurrence of disability. Also, the equivocal nature of Dr. Reppy's reasoning diminishes the probative value of his reports.⁹

OWCP advised appellant by December 7, 2015 letter to submit rationalized medical evidence regarding whether the accepted conditions worsened on November 6, 2015 as claimed. Appellant did not submit such evidence. Therefore, OWCP properly denied her claim for recurrence of disability.

On appeal, appellant contends that Dr. Reppy's February 4, 2016 report is sufficient to establish her claim. As stated, she did not submit sufficient medical evidence to establish that the accepted head and cervical spine injuries spontaneously worsened on November 6, 2015 as alleged. Therefore, OWCP properly found that appellant failed to establish the claimed recurrence of disability.

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 November 6, 2015, causally related to accepted head and cervical spine injuries.

⁹ See *Steven S. Saleh*, 55 ECAB 169 (2003).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 6, 2016 is affirmed.

Issued: December 15, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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