

FACTUAL HISTORY

On October 6, 2005 appellant, then a 45-year-old file clerk, filed an occupational disease claim (Form CA-2)³ alleging that she sustained left shoulder, left arm, and neck pain as a result of her new permanent assignment as a file clerk. She noted that she had to frequently use the telephone, which caused overuse of her left side.⁴ Appellant noted that she had previously undergone left shoulder surgery and believed that her job duties aggravated her condition. OWCP accepted this claim for cervical and thoracic strain. Appellant stopped work on September 20, 2005 and returned to full duty on November 14, 2005. She continued to undergo physical therapy and receive medical treatment. The last medical report of the record prior to the current recurrence claim was dated December 15, 2008.

On October 23, 2015 appellant filed a recurrence claim (Form CA-2a) alleging that on April 15, 2015 she sustained a recurrence of her accepted cervical condition. She noted that when she returned to work after the original injury she was placed on light duty as a switchboard operator. Appellant reported that she went to therapy three times a week and was on pain medication. She explained that currently the pain medication was not working and she experienced severe pain in her shoulder and neck.

In a letter dated November 30, 2015, OWCP advised appellant that the evidence submitted was insufficient to establish that she sustained a recurrence of disability. It requested that she respond to specific questions and submit medical evidence to establish that her accepted conditions had worsened to the extent that she was no longer able to work as a result of her accepted conditions. Appellant was afforded 30 days to submit this additional evidence.

On December 18, 2015 OWCP received appellant's response to its development letter. Appellant responded on a questionnaire for completion that on April 15, 2015 she answered the telephone and experienced a sharp pain in her arm and almost immediately her shoulder began to swell. She reported that after returning to work from the original injury she was on light duty as a switchboard operator. Appellant indicated that she had severe pain in her left shoulder going up to her neck and that she could no longer lift her arm without being in pain. She believed that her inability to work was due to her accepted injury because the pain was in the same arm and she experienced the same symptoms. Appellant believed that her symptoms and the pain had worsened due to picking up the telephone on a daily basis at work. She clarified that she was not claiming a new traumatic injury or occupational disease claim.

OWCP denied appellant's recurrence claim in a decision dated January 21, 2016. It determined that the medical evidence failed to establish that her accepted cervical and thoracic conditions had changed or worsened to the extent that she was no longer able to work.

³ Section 10.5(q) defines an occupational disease or illness as "a condition produced by the work environment over a period longer than a single workday or shift." 20 C.F.R. § 10.5(q).

⁴ Appellant has a previously accepted traumatic injury claim for left shoulder rotator cuff strain (File No. xxxxxx207). She underwent surgery on February 18, 2003 and received a schedule award of 14 percent of the left upper extremity.

LEGAL PRECEDENT

When appellant claims a recurrence of disability due to an accepted employment-related injury, 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 the conclusion with sound medical reasoning.⁵

Section 10.5(x) of OWCP's regulations provide in pertinent part:

“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 had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.”⁶

ANALYSIS

OWCP accepted that appellant sustained cervical and thoracic strain as a result of her repetitive employment duties as a file clerk. Appellant stopped work on September 20, 2005 and returned to full duty on November 14, 2005. She filed a recurrence of disability claim alleging disability as of April 15, 2015 due to her accepted conditions.

Appellant alleged that her current disability was related to her accepted injury because the pain was in the left arm and she experienced the same symptoms. She described severe pain in her left shoulder radiating up to her neck and that she could not lift her arm without being in pain. Appellant did not submit any medical evidence to support her recurrence claim.

It is appellant's burden of proof to establish a recurrence of disability by the weight of the probative medical evidence.⁷ Appellant's lay opinion is of no probative value as lay individuals are not competent to render a medical opinion.⁸ The Board will not require OWCP to pay compensation for disability in the absence of any medical evidence directly addressing the specific dates of disability for which compensation is claimed. To do so would essentially allow employees to self-certify their disability and entitlement to compensation.⁹ Accordingly, as appellant did not submit any medical evidence in support of her claim, the Board finds that the evidence of record is insufficient to show that appellant became disabled beginning April 15, 2015 causally related to her accepted cervical and thoracic conditions.

Furthermore, the Board notes that appellant explained that the pain had worsened due to picking up the telephone on a daily basis at work. As previously noted a recurrence of disability

⁵ *Ricky S. Storms*, 52 ECAB 349 (2001); *Helen Holt*, 50 ECAB 279 (1999).

⁶ 20 C.F.R. § 10.5(x).

⁷ *Supra* note 4.

⁸ *See R.B.*, Docket No. 15-1143 (issued January 27, 2016).

⁹ *See H.C.*, Docket No. 16-0145 (issued March 2, 2016).

is an inability to work caused by a spontaneous change in an accepted medical condition without an intervening injury or new exposure in the work environment.¹⁰ A recurrence of disability does not include disability resulting from exposure to new work factors.¹¹ Any disability resulting from a condition aggravated by employment duties would be considered a new injury rather than a recurrence of disability. As appellant has appeared to attribute her new symptoms to her employment duties, she may consider filing a new occupational disease claim as a result of her repetitive duties or a new traumatic injury claim relating to the single incident of April 15, 2015.

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 establish a recurrence of disability on April 15, 2015 causally related to her accepted thoracic and cervical conditions.

ORDER

IT IS HEREBY ORDERED THAT the January 21, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 18, 2016
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

¹⁰ *Supra* note 5.

¹¹ *See also J.H.*, Docket No. 15-0058 (issued May 1, 2015).