



## **FACTUAL HISTORY**

On March 24, 2009 appellant, then a 51-year-old veterinarian, filed a traumatic injury claim (Form CA-1) alleging that on that same date, while he was working with cattle doing a tuberculosis screening, he attempted to tag a cow and the cow hit him in the face causing him to fall backwards. OWCP accepted his claim for chin laceration and closed fracture of the right base of the skull without intracranial injury and no loss of consciousness. Appellant stopped worked intermittently after the injury and returned to full-time work on May 5, 2009.

Medical evidence of record includes March 24, 2009 emergency room records from Dr. Dane Chapman, Board-certified in emergency medicine, who treated appellant for head trauma. Appellant reported being hit in the head by a cow when he was attempting to tag the animal. He noted a chin laceration. A head computerized tomography (CT) scan revealed a laceration through the temporal bone forming the anterior external auditory canal. Dr. Chapman diagnosed complex through and through laceration, eight centimeters left chin, right anterior temporal bone fracture with obstruction of the external auditory canal and closed head injury. Appellant submitted an authorization for examination and/or treatment (Form CA-16) prepared by Dr. Chapman dated March 24, 2009, who treated him for a chin and right face injury sustained when appellant was hit by a cow. He noted findings of a complete left chin laceration full thickness, blood in the right ear canal, and a head injury. Dr. Chapman repaired three lacerations on the chin and referred appellant to an otolaryngologist. A March 24, 2009 x-ray of the mandible was normal while a March 24, 2009 CT scan of the head revealed a fracture of the skull base of the anterior bony margin at the external auditory canal on the right.

Appellant was treated by Dr. Richard C. Schultz, Jr., a Board-certified otolaryngologist, on April 16, 2009. Dr. Schultz performed otologic evaluation and audiometric testing. He reported that appellant had sustained facial injuries when he was struck in the face by a cow while trying to perform tuberculosis screening. A CT scan revealed a temporal bone fracture in the portion of the right temporal bone lateral to the tympanic membrane over the glenoid fossa. Dr. Schultz noted an oral examination was clear, dentition was in fine repair, and occlusion appeared normative, with no tenderness in the temporomandibular joint (TMJ) region. He diagnosed temporal bone fracture which was lateral to the glenoid fossa which may cause disability with mastication. Dr. Schultz performed audiometric testing and diagnosed sensorineural hearing loss.

Appellant was treated by Dr. Michael J. Steber, a dentist, who reported, in an April 27, 2009 report, that appellant's lower jaw felt more forward and his bite was not aligned. Upon examination appellant's bite looked normal, his second bite appeared more "end to end" with no popping or pain in the jaw area. Dr. Steber noted that appellant may have TMJ disorder. The initial evaluation and x-rays were performed on March 24, 2009 when appellant was swollen and in pain and he was instructed to return when his discomfort subsided. In a June 3, 2010 letter, the financial coordinator for Dr. Steber indicated that on December 22, 2009 Dr. Steber repaired teeth number 23, 24, and 25 which were chipped when he was kicked in the face by a cow.

In a June 9, 2010 letter to Dr. Steber, OWCP denied authorization for the medical treatment of appellant's teeth. It noted that there was no corresponding medical documentation to support that he sustained injuries to his teeth as alleged due to the work injury. OWCP noted

that the original medical evidence from March 24, 2009 indicated that the teeth were intact and the mandible was nontender but there was no mention of a chipped tooth. It requested Dr. Steber to provide copies of the office visits that support that appellant sustained an injury to his number 23, 24, and 25 teeth as a result of the work injury of March 24, 2009.<sup>2</sup>

On May 15, 2015 appellant filed a notice of recurrence (Form CA-2a) beginning February 23, 2015 causally related to the March 24, 2009 accepted work injury. He sought medical treatment only. Appellant noted that he returned to regular duty following the original injury and was not limited in performing his usual duties. He indicated that the recurrence was detected on routine x-rays by his dentist and the injured tooth from the March 24, 2009 work injury required a root canal. Appellant advised that his dentist warned him that his injured teeth may require further treatment.

In an undated narrative statement, appellant indicated that his initial injury occurred on March 24, 2009 and he was treated in the emergency room for a laceration on his chin and a temporal bone fracture. On March 24, 2009 he was also seen by his dentist, Dr. Steber, for evaluation of several injured teeth. The lower anteriors were determined to be the injured teeth. Appellant noted being treated on October 15, 2009 for chips on his teeth which occurred on March 24, 2009. He stated that the dentist's notes specifically mention number 23 IL and number 25 IL. Appellant was referred to an endodontist for a root canal on tooth number 23. He noted that Dr. Steber advised that he could develop future issues.

In support of his claim, appellant submitted treatment records from Dr. Steber dated April 8, 2009 to October 18, 2011 who performed dental cleanings, crowns, and root canals. On March 24, 2009 he presented and reported that he had injured the lower anterior in an altercation with a cow. Appellant reported being treated in the emergency room. Dr. Steber instructed appellant to return when the pain and swelling had subsided. On April 27, 2009 appellant presented with complaints of lower jaw pain, his jaw felt more forward, and his bite was off. Dr. Steber noted findings that appellant's bite looked good and his second bite was more end to end signaling a TMJ issue. He noted that there was no popping or pain in the jaw area and recommended Ibuprophen. Dr. Steber noted that appellant may need future care. On October 15, 2009 he stated that appellant presented with chips on tooth numbers 23 and 25 noting these resulted from the previous injury. Dr. Steber noted that appellant was also grinding his teeth and recommended a bite splint. On December 22, 2009 he repaired teeth number 23 and 25.

Also submitted was a note from Dr. Geoffrey J. Carter, a dentist specializing in endodontics, dated February 23, 2015, which noted that appellant had a toothache at number 23 and required evaluation.

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<sup>2</sup> On October 20, 2010 appellant filed a notice of traumatic injury alleging that on October 19, 2010 he injured his left hand while testing a cow for tuberculosis when his left hand became pinned between the animal and a metal plate. Appellant submitted an x-ray of the left hand dated November 1, 2010 which was normal. An x-ray of the lumbosacral spine revealed degenerative disc disease at L2-3 and L3-4. The record does not indicate that OWCP further developed this matter and it is not before the Board on the present appeal.

By letter dated August 26, 2015, OWCP advised appellant of the type of factual and medical evidence needed to establish his recurrence claim. It particularly requested that he submit a physician's reasoned opinion addressing the relationship of his claimed condition and specific employment factors. OWCP allotted 30 days to submit the requested evidence.

In a decision dated September 30, 2015, OWCP found that the evidence of record did not establish that appellant required additional medical treatment due to a worsening of his accepted work-related conditions.

In a December 7, 2015 appeal request form, received by OWCP on December 23, 2015, appellant requested reconsideration. He completed an OWCP questionnaire regarding his recurrence claim and noted that on February 23, 2015 he attended his sixth-month dental checkup and was diagnosed with periapical abscess with fistula on tooth number 23. Appellant indicated that the dental records on the day of the injury showed injury to tooth number 23 and the dentist warned about possible future issues. He noted that his chipped teeth were repaired including tooth numbers 23 and 25 on December 22, 2009 and September 16, 2010.

Appellant submitted a report from Dr. Steber dated October 12, 2015 who noted treating appellant on March 24, 2009 after a work-related altercation with a cow. He reported being treated for a laceration to the face, trauma to lower anterior and broken temporal bone. Dr. Steber noted that on the initial examination x-rays were taken on March 24, 2009 which revealed no obvious fractures, chipped teeth number 23 IL and 25 IL. He diagnosed periapical abscess with fistula. Dr. Steber noted that appellant was seen on April 27, 2009 for lower jaw pain and his bite felt off and more forward. He noted the restorative treatment on teeth 23 IL and 25 IL was completed on December 22, 2009 and June 16, 2010. Dr. Steber noted teeth number 21B, 22ML, 23 IDL, and 24 MLI were restored on October 18, 2011. He referred appellant to Dr. Carter, an endodontist, for tooth 23 IL due to an abscess resulting from getting hit in the mouth by a cow.

In a decision dated March 21, 2016, OWCP denied modification of its prior decision.

### **LEGAL PRECEDENT**

A recurrence of medical condition refers to a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original treatment or injury is not considered a "need for further medical treatment after release from treatment," nor is an examination without treatment.<sup>3</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

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<sup>3</sup> 20 C.F.R. § 10.5(y).

additional medical care is causally related to the accepted injury and supports that conclusion with sound medical reasoning.<sup>4</sup>

### ANALYSIS

OWCP accepted appellant's claim for chin laceration and closed fracture of the right base of the skull without intracranial injury and no loss of consciousness. Appellant worked intermittently thereafter. On May 15, 2015 he filed a claim for a recurrence of medical condition alleging that on February 23, 2015 his current tooth conditions were causally related to the March 24, 2009 work injury which was detected on routine dental x-rays and required a root canal. The Board finds that the medical record lacks a well-reasoned narrative from appellant's physicians relating appellant's claimed recurrent condition beginning February 23, 2015 to his accepted employment injury.

Appellant submitted medical records from Dr. Steber. On March 24, 2009 Dr. Steber related that appellant presented and reported that he injured the lower anterior in an altercation with a cow. He instructed appellant to return when the pain and swelling had subsided. On April 27, 2009 appellant returned with complaints of lower jaw pain and his jaw felt misaligned and his bite was off. Dr. Steber noted that there was no sensitivity but just bite issues. He examined appellant and felt that he could have a TMJ issue. On October 15, 2009 Dr. Steber advised that appellant presented with chips on teeth numbers 23 and 25 as a result of his prior injury. However, he did not otherwise explain how these dental conditions were due to the employment injury. This is especially important where there is no mention of chipped teeth in earlier reports from Dr. Steber or in the initial emergency room records.<sup>5</sup>

In an October 12, 2015 report, Dr. Steber noted having treated appellant on March 24, 2009 after a workplace incident with a cow. He noted that on the initial examination x-rays were taken on March 24, 2009 which showed no obvious fractures but did reflect chipped teeth numbers 23 IL and 25 IL which would need to be repaired at a future date. Dr. Steber diagnosed periapical abscess with fistula. He noted that appellant was seen on April 27, 2009 for lower jaw pain and for his bite. Dr. Steber indicated that restorative treatment on appellant's teeth was later performed. OWCP has not accepted any chipped teeth as employment related.<sup>6</sup> Additionally, Dr. Steber has not provided medical reasoning explaining how any dental condition was caused or aggravated by the employment injury of March 24, 2009. The Board has found that vague and unrationalized medical opinions on causal relationship have little probative value.<sup>7</sup>

Also submitted was a note from Dr. Carter, dated February 23, 2015, which noted that appellant had a toothache at number 23 and required evaluation. However, this note is of limited

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<sup>4</sup> *E.O.*, Docket No. 11-1099 (issued February 24, 2012); *J.B.*, Docket No. 11-1410 (issued January 5, 2012).

<sup>5</sup> See *S.S.*, 59 ECAB 315 (2008) (the Board has held that contemporaneous evidence is entitled to greater probative value than later evidence).

<sup>6</sup> See *Jaja K. Asaramo*, 55 ECAB 200 (2004) (where an employee claims that a condition not accepted or approved by OWCP was due to an employment injury, he bears the burden of proof to establish that the condition is causally related to the employment injury).

<sup>7</sup> See *Jimmie H. Duckett*, 52 ECAB 332 (2001).

probative value as Dr. Carter did not specifically address whether appellant had a condition causally related to the accepted employment condition.<sup>8</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 his burden of proof in establishing a recurrence of a medical condition causally related to his accepted March 24, 2009 employment injury.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the March 21, 2016 decision of the Office of Workers' Compensations Programs is affirmed.

Issued: September 9, 2016  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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<sup>8</sup> See *K.W.*, 59 ECAB 271 (2007) (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).