

FACTUAL HISTORY

On September 28, 2015 appellant, then a 30-year-old mail handler, filed a traumatic injury claim (Form CA-1) alleging that on September 25, 2015 she sustained right shoulder, back, neck, finger, and arm pain while using a stick to pull mail across rollers on a mail sorting machine. After a period off work she returned to limited duty on November 6, 2015. OWCP accepted the claim for right shoulder joint sprain on May 24, 2016.

On May 9, 2016 appellant filed a claim for a recurrence of disability (Form CA-2a) commencing April 26, 2016. She stated that she had been on light-duty work until the end of March 2016 as she was only able to pull/push mail for 15 minutes per hour. Appellant was uncertain as to the exact date of her recurrence of disability as her pain never stopped and her condition never healed. She stated that her work stoppage was due to her unbearable pain from the accepted injury. On the back of the form the employing establishment noted that appellant stopped work on April 15, 2016 and her pay stopped on April 26, 2016. It further noted that she had been given a light-duty position within her work restrictions.

Appellant filed claims for compensation (Form CA-7) for intermittent wage loss for the period April 26 to July 8, 2016.

By letter dated July 19, 2016, OWCP informed appellant that the evidence of record was insufficient to support her claim for a recurrence of disability. It provided a definition of a recurrence under FECA. OWCP advised appellant regarding the medical and factual evidence required to establish her claim. Appellant was afforded 30 days to provide the requested evidence.

In a response to OWCP's questions, appellant related that following her September 15, 2015 employment injury she was placed in a light-duty position in October 2015 and remained in that position until April 15, 2016. She stated that while working the light-duty job she favored the left side of her body. Appellant advised her supervisor in March 2016 that she was unable to perform her usual job duties and that her injury continued to impact her. She stated that she performed full-duty work from April 5 to 15, 2016 and then felt extreme and unbearable pain. Appellant explained that her accepted shoulder condition never healed and that the pain increased with walking or standing for long periods. She stated that she had been diagnosed with a herniated disc by her physician based on a magnetic resonance imaging (MRI) scan.

A May 4, 2016 x-ray interpretation revealed right cervical radiculopathy. On May 20, 2016 appellant underwent a cervical spine MRI scan, which revealed moderate C4-5 central disc herniation and small central C5-6 disc herniation.

On May 23, 2016 Dr. Eugene Young Koh, a treating Board-certified orthopedic surgeon, released appellant to return to light-duty work on May 31, 2016. In a progress note dated May 25, 2016, he reported that appellant was seen for complaints of bilateral shoulder pain with pain radiating down her arms to her fingers with burning, tingling, and numbness. Dr. Koh reviewed a May 20, 2016 MRI scan which showed C4-5 cervical disc herniation and stenosis. He diagnosed cervical myelopathy and discussed surgical options.

In a July 11, 2016 report, Dr. Koh diagnosed C4-5 herniated disc, cervical myelopathy, and right shoulder radicular pain. He requested that appellant be excused from work and advised that she was currently undergoing physical therapy and that cervical surgery might be necessary in the future.

By decision dated August 31, 2016, OWCP denied appellant's recurrence claim. It found that she had worked in a light-duty capacity since November 6, 2015 and had worked in that position until she stopped work on April 15, 2016. OWCP also found that appellant had failed to establish that she was disabled due to a material worsening of the employment-related condition.

LEGAL PRECEDENT

When an employee, who is disabled from the job he or she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establishes that he or she can perform the light-duty position, the employee has the burden of proof to establish, by the weight of the reliable, probative, and substantial evidence a recurrence of disability and to show that he or she cannot perform such light duty.² 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 light-duty requirements.³

A recurrence of disability is defined as the 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.⁴ The Board has held that whether a particular injury causes an employee to be disabled for work is a medical question that must be resolved by competent and probative medical evidence.⁵ The weight of medical opinion is determined on the report of a physician, who provides a complete and accurate factual and medical history, explains how the claimed disability is related to the employee's work and supports that conclusion with sound medical reasoning.⁶

In order to establish that a claimant's alleged recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between her present condition and the accepted injury must support the physician's conclusion of a causal relationship.⁷

² *K.C.*, Docket No. 08-2222 (issued July 23, 2009); *Richard A. Neidert*, 57 ECAB 474 (2006).

³ *C.S.*, Docket No. 08-2218 (issued August 7, 2009); *Joseph D. Duncan*, 54 ECAB 471 (2003); *Roberta L. Kaamoana*, 54 ECAB 150 (2002); *Terry R. Hedman*, 38 ECAB 222 (1986).

⁴ 20 C.F.R. § 10.5(x). *See S.F.*, 59 ECAB 525 (2008); *Albert C. Brown*, 52 ECAB 152 (2000); *Terry R. Hedman*, *supra* note 3.

⁵ *See R.C.*, 59 ECAB 546 (2008); *Carol A. Lyles*, 57 ECAB 265 (2005); *Donald E. Ewals*, 51 ECAB 428 (2000).

⁶ *See C.S.*, *supra* note 3; *Sandra D. Pruitt*, 57 ECAB 126 (2005).

⁷ *Mary A. Ceglia*, 55 ECAB 626, 629 (2004).

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a recurrence of disability commencing April 26, 2016 causally related to her September 25, 2015 employment injury.

OWCP accepted the claim for right shoulder joint sprain. Following her injury appellant returned to a light-duty position on November 6, 2015. She stopped work on April 15, 2016. Appellant filed a claim for a recurrence of disability beginning April 26, 2016 and filed claims for compensation (Form CA-7) for intermittent wage loss for the period April 26 to July 8, 2016. By decision dated August 31, 2016, OWCP denied appellant's claim for a recurrence of disability.

Appellant alleged that her pain increased because she worked full duty from April 5 to 15, 2016. On the back of her recurrence claim, the employing establishment indicated that appellant had been given a light-duty job within her work restrictions. The record contains no evidence reflecting that her light-duty job had been withdrawn or her work restrictions had changed.⁸ On her recurrence claim, appellant attributed her inability to work to a worsening of her employment-related condition and that her shoulder condition never healed. She, therefore, has the burden of proof to provide medical evidence to establish that she was disabled due to a worsening of her accepted work-related condition.⁹

Appellant submitted several reports from Dr. Koh diagnosing C4-5 herniated disc, cervical myelopathy, and right shoulder radicular pain. While additional conditions have been diagnosed, Dr. Koh's reports fail to provide medical rationale explaining how the diagnosed conditions were causally related to the accepted September 25, 2015 employment injury. The only accepted condition is a right shoulder sprain. It is the employee's burden to provide rationalized medical evidence sufficient to establish a causal relationship for conditions not accepted by OWCP as being employment related, not OWCP's burden to disprove such relationship.¹⁰

Dr. Koh provided reports dated May 25 and July 26, 2016 pertaining to appellant's bilateral shoulder pain and right shoulder radicular pain. He diagnosed cervical myelopathy, stenosis, and C4-5 disc herniation, but he did not indicate the cause of these conditions. The record also contains a May 23, 2016 report from Dr. Koh releasing appellant to light-duty work effective May 31, 2016. The Board has found that medical evidence that does not offer any

⁸ Appellant is alleging that her pain and condition had been aggravated by work performed from April 5 to 15, 2016 aggravated her condition. To the extent that appellant is alleging new employment factors, this could be considered a claim of occupational disease.

⁹ *D.L.*, Docket No. 13-1653 (issued November 22, 2013).

¹⁰ *G.A.*, Docket No. 09-2153 (issued June 10, 2010); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Alice J. Tysinger*, 51 ECAB 638 (2000).

opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹¹ Accordingly, Dr. Koh's reports are of limited probative value.

The diagnostic reports appellant submitted are likewise insufficient to establish her recurrence claim. Appellant submitted a May 4, 2016 x-ray interpretation and a May 20, 2016 MRI scan of her cervical spine. These diagnostic reports do not address disability or causal relationship. The Board has found that 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.¹² Therefore, these diagnostic reports also fail to establish causal relationship and appellant's recurrence claim.

Appellant was advised by July 19, 2016 letter of the evidence needed to establish her claim for recurrence of disability, including rationalized medical evidence from her attending physician supporting a causal relationship between the accepted condition and her disability commencing April 20, 2015. As she did not submit such evidence, she failed to meet her burden of proof.¹³

On appeal appellant alleges that OWCP's decision is incorrect as she never healed from her original injury. She notes that she had been on limited duty for six months and had not been informed her claim had been closed. As found above, none of the medical evidence appellant submitted contained any discussion or rationale explaining how she sustained a recurrence of disability on April 25, 2016 causally related to her accepted shoulder sprain or how the additional conditions had been caused or aggravated by the accepted September 25, 2015 employment injury.

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 a recurrence of disability commencing April 26, 2016 causally related to her accepted September 25, 2015 employment injury.

¹¹ *R.E.*, Docket No. 10-679 (issued November 16, 2010); *K.W.*, 59 ECAB 271 (2007); *Ellen L. Noble*, 55 ECAB 530 (2004).

¹² *R.E.*, *id.*; *K.W.*, *id.*; *Jaja K. Asaramo*, *supra* note 10.

¹³ *Beverly A. Spencer*, 55 ECAB 501 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated August 31, 2016 is affirmed.

Issued: April 6, 2017
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