

**United States Department of Labor
Employees' Compensation Appeals Board**

M.C., Appellant

and

DEPARTMENT OF THE NAVY, MEDICAL
COMMAND, Fort Campbell, KY, Employer

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**Docket No. 16-1267
Issued: February 24, 2017**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

PATRICIA H. FITZGERALD, Deputy Chief Judge
COLLEEN DUFFY KIKO, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On June 6, 2016 appellant filed a timely appeal from a February 22, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the claim.

ISSUE

The issue is whether appellant met her burden of proof to establish a recurrence of her medical condition causally related to her March 17, 2006 employment injury.

FACTUAL HISTORY

On March 22, 2006 appellant, then a 40-year-old food service worker, filed a traumatic injury claim (Form CA-1) alleging that on March 17, 2006 she broke two front teeth when she slipped and fell, striking a gallon jar she was carrying. Evidence received with the claim indicated that the teeth were not appellant's natural teeth, but were part of a 14 unit bridge of

¹ 5 U.S.C. § 8101 *et seq.*

artificial teeth. The medical evidence also indicated that the bridge needed to be replaced as it could not be repaired. Appellant was noted to have had a partial denture for her lower teeth, in addition to lower jaw problems due to missing lower back teeth. These were not reported as being related to the instant claim, though the dentist indicated that treatment was necessary for the lower jaw. OWCP accepted the claim for broken upper front teeth and lower back teeth and paid wage-loss compensation benefits, including authorization of the requested bridge replacement.

In January 2015, appellant contacted OWCP by telephone. She indicated that due to her husband's military service her family had been transferred to Japan in 2006 and that they were now stationed in Belgium. Appellant stated that she needed her claim reopened for a medical appointment. She subsequently provided a new mailing address in writing.

On May 19, 2015 OWCP received appellant's claim for a recurrence (Form CA-2a) requesting follow-up care for appellant's denture. Appellant indicated that every six months her prosthetic denture needed adjustment and replacement of the rubber and that her prosthetic dentures were getting loose. She indicated that she was unable to see her doctor every six months as her family was stationed overseas.

In a January 20, 2015 letter, Dr. Joseph C. Steele, a prosthodontist, indicated that appellant's denture had been replaced due to an injury on March 17, 2006 and that annual examinations were needed to maintain oral health along with proper fit of partial dentures. He noted that his original treatment included: upper metal partial denture, porcelain fused to high noble crown on teeth numbers 2, 6, 11, 13, and 14, and precision attachments for teeth numbers 2, 6, and 11.

In a June 2, 2015 letter, OWCP advised appellant of the evidence needed to establish her claimed recurrence. It advised that for her to be entitled to additional medical treatment for her work injury after being released from care, or not receiving care for a significant period of time, she must provide evidence to support that her need for treatment was due to a worsening of the accepted work-related conditions(s) without intervening cause. OWCP noted that the evidence received was insufficient to establish her claim for recurrence because she was claiming that she needed to follow up for adjustment and replacement of the rubber every six months. It requested that she provide additional factual evidence along with copies of all medical records for the work-related condition and a comprehensive, narrative medical report from her treating physician which established the relationship between her current medical condition and the original injury. Appellant was afforded 30 days to submit the requested evidence.

In a July 15, 2015 statement, appellant related that before she left for Japan in 2006, her dentist, Dr. Steele, had told her that the replacement rubber for her dentures needed to be replaced two to three times a year. She did nothing about it for the first year because she did not note any problem. Appellant ultimately returned to the United States and saw Dr. Steele, who changed the replacement rubber for her, but she ended up paying the bill on her own as her workers' compensation claim had been closed. She indicated that she had trouble getting the rubber replaced as needed because she could not find any dentists to do it. Appellant saw Dr. Steele again in 2011, but he recommended that, since she lived in Belgium, she should get the work done there. She indicated that she was still trying to get her dentures repaired in Belgium.

Medical treatment notes from 2015 indicated that some of the attachments in appellant's upper prosthesis and crowns were broken. The dentist performed the repair, but indicated that this was not a good solution. The dentist recommended an extraction of teeth of upper jaw and a fixed temporary bridge for six months, after which a fixed bridge would be in upper jaw. Handwritten treatment records from 2015, mostly illegible, bills and a claim for medical reimbursement were provided.

By decision dated July 28, 2015, OWCP denied the recurrence claim as the medical evidence of record failed to establish that the requested treatment was due to the accepted injury.

On August 27, 2015 OWCP received appellant's August 13, 2015 request for review of the written record before OWCP's Branch of Hearings and Review. Appellant provided duplicative evidence already of record.

Medical evidence from 2006 indicated a bridge had been made in April 2004 with five teeth supporting that bridge and that appellant's upper jaw was missing multiple teeth. The lower jaw was also missing back teeth, the lower right first molar and the lower left first molar and second premolar. Appellant broke the upper front teeth off her bridge due to her accident at work on March 17, 2006 and the dentists of record all indicated that her bridge had to be replaced. The treatment plan indicated that teeth numbers 2, 6, 11, 13, 14, and 15 were involved.

By decision dated February 22, 2016, an OWCP hearing representative affirmed the July 28, 2015 decision, finding that the medical evidence of record failed to explain how appellant's current need for dental work was due to the accepted March 17, 2006 work injury.

LEGAL PRECEDENT

The United States shall furnish to an employee who is injured while in the performance of duty the services, appliances, and supplies prescribed or recommended by a qualified physician that the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of any disability, or aid in lessening the amount of any monthly compensation.²

Recurrence of medical condition means 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 condition or injury is not considered a need for further medical treatment after release from treatment, nor is an examination without treatment.³

If a claim for recurrence of medical condition is made more than 90 days after release from medical care, a claimant is responsible for submitting a medical report supporting a causal relationship between the employee's current condition and the original injury in order to meet her burden.⁴

² 5 U.S.C. § 8103(a).

³ 20 C.F.R. § 10.5(y).

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.4(b) (June 2013); *see also J.M.*, Docket No. 09-2041 (issued May 6, 2010).

An employee has the burden of proof to establish that he or she sustained a recurrence of a medical condition that is causally related to his or her accepted employment injury. To meet this burden, the employee must submit medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, supports that the condition is causally related to and supports appellant's conclusion with sound medical rationale.⁵

ANALYSIS

OWCP accepted that appellant's March 17, 2006 employment injury resulted in broken upper front teeth and lower back teeth. It authorized an upper bridge replacement due to two broken artificial teeth on a bridge that could not be repaired. In 2015, appellant filed a claim for recurrence of medical condition, which OWCP denied as the medical evidence of record failed to establish that the requested treatments were due to the accepted injury.

Appellant requested medical care for replacement rubber for her dentures. The medical records from 2015 also indicated that some attachments in appellant's upper prosthesis and crowns were broken.

In a January 20, 2015 letter, Dr. Steele indicated that appellant's denture had been replaced due to an injury on March 17, 2006 and that annual examinations were needed to maintain oral health along with proper fit of partial dentures. Dr. Steele, however, did not mention any of the above medical care claimed. 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.⁶

The dental records provided from 2015 also fail to mention that the necessary treatment is due to the accepted work injury of 2006. Moreover, there are no dental records from 2006 to 2015 to substantiate that the claimed recurrence of medical care is due to the work injury of 2006.

In order for a medical condition to be covered under FECA, medical evidence must demonstrate that it is related to the accepted injury. Appellant's physician must explain how the work injury of 2006 caused or affected her current dental condition, based upon an accurate factual and medical history, citing objective findings in support of the opinion. As noted, no dentist has explained how appellant's current need for dental work continued to be related to the work injury of 2006. In short, appellant bears the burden of establishing a recurrence of medical condition.

The Board finds that the evidence submitted by appellant lacks adequate rationale to establish causal relationship between the alleged recurrence of her medical conditions and the accepted employment injury. Appellant has the burden of submitting sufficient medical evidence to document the need for further medical treatment. She did not submit such evidence as required and failed to establish a need for continuing medical treatment.⁷

⁵ *O.H.*, Docket No. 15-0778 (issued June 25, 2015), *K.T.*, Docket No. 15-1758 (issued May 24, 2016).

⁶ *Jaja K. Asaramo*, 55 ECAB 200 (2004).

⁷ *See P.Q.*, Docket No. 14-1905 (issued May 26, 2015); *J.F.*, 58 ECAB 331 (2006).

On appeal, appellant contends that the medical evidence of record supports that her whole bridge needed to be replaced to restore her mouth back to the way it was prior to the accident. As noted, OWCP authorized the replacement of appellant's upper bridge and all necessary work, which appellant had done. The current issue, however, involves appellant's claim for medical treatment. As noted, the evidence submitted by appellant lacks adequate rationale to establish causal relationship between the alleged recurrence of her medical conditions and the accepted employment injury.

Appellant may submit new evidence or argument as part of a formal 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 her medical condition causally related to her March 17, 2006 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated February 22, 2016 is affirmed.

Issued: February 24, 2017
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