

FACTUAL HISTORY

On December 12, 2013 appellant, then a 57-year-old letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 28, 2013 she slipped and fell on steps at work, hitting her head and back, and twisting her right foot, while in the performance of duty. As a consequence, she indicated that she had sustained a sprain of her lower back and right ankle “with lump on the middle portion of the rear” of her head. Appellant indicated on the reverse side of the claim form that she was not claiming lost time from work or medical expenses. OWCP accepted the claim for contusion of face, scalp, and neck except left eye, as well as a right ankle sprain.

In a January 28, 2013 treatment note, Dr. Francisco Javier Merino, an osteopathic physician specializing in family medicine, indicated that appellant presented with an ankle and head injury related to a fall at work. He examined her and related that she denied “pain in her shoulders, trapz, upper or lower back.” Dr. Merino diagnosed right ankle sprain and contusion of head due to accidental fall. He released appellant to full-duty work on January 31, 2013.

The record reveals that appellant returned to work in a full-time regular-duty capacity on January 31, 2013.

In an August 19, 2013 treatment note, Dr. Kyle Hsiao-Hung Lee, an osteopath Board-certified in family practice, noted that appellant presented with left side pain shooting down her leg for approximately one week. He related that, one week prior when she was at work, she bent over to pull out mail from the back of the truck, felt a spasm in the left buttock area, and a “locked up spasm” which radiated down the right thigh. Dr. Lee diagnosed sciatica.

In an October 28, 2013 treatment note, Dr. Lee related that appellant presented with a back injury and reported a sudden onset of pain one day prior. He diagnosed low back pain and back strain and placed her off work from October 29 to November 2, 2013. In a September 21, 2014 work status report, Dr. Lee also placed appellant off work from August 19 through November 19, 2014.

In a December 27, 2013 report, Dr. Jeanny Ahmed Abouelsood, a family medicine specialist, placed appellant off work from December 28, 2013 through January 1, 2014. She noted that appellant would be capable of returning to work at “full capacity” on January 2, 2014.

In a March 27, 2014 treatment note, Dr. Evon Ghatas Ebrahim, a Board-certified family practitioner, indicated that appellant had back pain and “hurt her back at work.” In a work status report on the same date, she diagnosed low back pain, placed appellant off work from March 27 through April 3, 2014, and added that she would be able to resume work at “full capacity” on April 4, 2014.

OWCP received September 12, 2014 progress notes from Dr. Maria Socorro Robles-Bell, an optometrist, a November 12, 2014 work status report from Dr. Deborah Yeh Gilliland, a Board-certified family practitioner, a November 26, 2014 work status report from Dr. Carol Kyung Sun, an osteopath who placed appellant off work from November 26, 2014 through February 26, 2015, progress notes dated December 31, 2014, from a physical therapist, February 19, 2015 work

restrictions and progress notes from Dr. Sun who diagnosed back, neck, and arm pain, and April 20, 2015 diagnostic reports.

On August 15, 2018 appellant filed a notice of recurrence (Form CA-2a) in which she checked the box denoting that she was claiming a recurrence due to time lost for work related to her accepted January 28, 2013 employment injury.³ Regarding the date of recurrence she noted “see document support.” Appellant indicated that her back injury of January 28, 2013, evolved into sciatica. On the reverse side of the form, appellant’s supervisor indicated that she had not stopped work as a result of a recurrence of disability and that after the initial injury she “worked full duty.”

On August 24, 2018 OWCP received a statement from appellant documenting her injuries at work and requesting that the acceptance of her claim be expanded to include a back condition. Appellant provided a September 4, 2018 statement addressed to her physician, Dr. Carol Kyung Sun Han, an osteopath Board-certified in internal medicine, requesting that Dr. Han provide a report detailing the cause of her back condition.

In a development letter dated September 17, 2018, OWCP informed appellant that the evidence of record was insufficient to support her recurrence claim.⁴ It advised her of the medical and factual evidence needed and provided a questionnaire for her completion.⁵ OWCP afforded appellant 30 days to submit the necessary evidence.

Appellant also submitted a statement describing her interactions with the employing establishment related to her injuries and alleged discrimination by her supervisor.

By decision dated October 19, 2018, OWCP denied appellant’s claim for a recurrence finding that the medical evidence of record was insufficient to establish that her need for additional medical treatment was causally related to the accepted January 28, 2013 employment injury from which she was released to full duty. It advised her that her claim remained closed for medical care and that she could file a claim for an occupational disease if she believed that her back, right shoulder, neck, and or anxiety conditions developed from factors of her employment.

³ Prior to filing her CA-2a form, appellant’s representative had contacted OWCP to request that appellant’s back condition be accepted as causally related to her January 28, 2013 employment injury. The issue of acceptance of the additional condition pertaining to her back is not presently before the Board as there is no final adverse OWCP decision. 20 C.F.R. § 501.2(c).

⁴ OWCP advised appellant that a back condition was not accepted because there was no contemporaneous evidence establishing that she sustained a back injury when she fell at work on January 28, 2013 and noted that she returned to full duty on January 31, 2013. It explained that on August 19, 2013 she had sought medical treatment related to bending over to pull mail out of her mail truck, that she returned to full duty on November 3, 2013 and that she was on and off work until March 27, 2014, when the medical evidence indicated that she hurt her back at work.

⁵ OWCP requested that appellant provide a medical report explaining the effects of intervening injuries to her back *versus* a spontaneous recurrence of her January 28, 2013 employment-related condition.

LEGAL PRECEDENT

A recurrence of a 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.⁶ 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 without intervening cause.⁷

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 his or her burden.⁸ 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 and supports his or her conclusion with sound medical rationale.⁹ Where no such rationale is present, medical evidence is of diminished probative value.¹⁰

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a recurrence of the need for medical treatment causally related to her accepted January 28, 2013 employment injury.

While appellant filed a notice of recurrence (Form CA-2a) on August 15, 2018 alleging lost time due to her January 28, 2013 employment injury, she did not indicate any specific periods of disability she was alleging due to the accepted employment injury. She had been released to full duty as of January 31, 2013. OWCP thereafter developed the recurrence claim as a claim for recurrence of medical treatment.

OWCP had accepted appellant's January 28, 2013 claim for scalp, face, and neck contusions, and right ankle sprain. Appellant did not contemporaneously seek further medical treatment for the accepted conditions. She submitted numerous medical records in support of her request for further medical treatment, however, those reports do not set forth additional treatment recommendations for her accepted employment conditions. Therefore, the Board finds that the medical evidence appellant submitted does not contain an opinion that she required further medical care after January 28, 2013, causally related to her accepted January 28, 2013 employment

⁶ 20 C.F.R. § 10.5(y).

⁷ See *E.G.*, Docket No. 18-1383 (issued March 8, 2019); *T.B.*, Docket No. 18-0762 (issued November 2, 2018); *E.R.*, Docket No. 18-0202 (issued June 5, 2018).

⁸ 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).

⁹ *A.C.*, Docket No. 17-0521 (issued April 24, 2018); *O.H.*, Docket No. 15-0778 (issued June 25, 2015).

¹⁰ *O.H.*, *id.*; *Michael Stockert*, 39 ECAB 1186 (1988); see *Ronald C. Hand*, 49 ECAB 113 (1997).

injury.¹¹ As appellant filed the recurrence more than 90 days following her last medical treatment for her accepted employment conditions, she was required to submit a rationalized medical opinion establishing causal relationship between her current condition and the original injury, without intervening cause.¹² She submitted no such evidence.

As appellant has not submitted medical evidence showing a recurrence of medical condition due to her accepted employment injury, the Board finds that she has not met her burden of proof.¹³

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 the need for medical treatment causally related to her accepted January 28, 2013 employment injury.

¹¹ *Id.*

¹² *Supra* note 6.

¹³ *See E.R.*, Docket No. 18-0202 (issued June 5, 2018).

ORDER

IT IS HEREBY ORDERED THAT the October 19, 2018 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 16, 2019
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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