

ISSUE

The issue is whether appellant has met her burden of proof to establish a recurrence of the need for medical treatment commencing August 20, 2022 causally related to her accepted October 3, 1986 employment injury.

FACTUAL HISTORY

OWCP accepted that on October 3, 1986 appellant, then a 41-year-old supervisor shipment clerk, slipped and fell in a puddle of water on the floor landing on her knees while in the performance of duty. She related that as she attempted to rise, she fell against a wall hitting her elbow, shoulder, and knee. Appellant stopped work on that date. OWCP accepted the claim for contusions of both knees and elbows, acute cervical and thoracic strain, and herniated disc L4-5 with radiculopathy. Appellant returned to light-duty work for four hours a day on July 20, 1987 and OWCP accepted that she sustained a recurrence of disability on August 10, 1987. She stopped work on August 11, 1987.

On September 27, 2017 appellant filed a notice of recurrence (Form CA-2a) alleging a recurrence of the need for medical treatment on that date, causally related to the accepted October 3, 1986 employment injury. She noted that she continued to experience symptoms related to her accepted back conditions and requested authorization to change physicians as her physician of record had retired. Appellant received medical treatment through January 19, 2019.

On August 20, 2022 appellant filed an additional Form CA-2a alleging a recurrence of the need for medical treatment causally related to the accepted October 3, 1986 employment injury. She noted that she continued to experience symptoms related to her accepted back conditions as “[t]he pain never went away.” Appellant reported that she was retired and that she had received wage-loss compensation from OWCP.

In a development letter dated September 15, 2022, OWCP informed appellant of the deficiencies in her claim. It advised her of the type of additional factual and medical evidence needed and provided a questionnaire for her completion. OWCP afforded appellant 30 days to respond.

On October 3, 2022 appellant completed the development questionnaire. She denied any additional injuries and indicated that she had retired in 1988. Appellant attributed her ongoing back conditions to her accepted employment injury.

OWCP received additional medical evidence. In a July 16, 2018 note, Dr. Gregory Lopez, a Board-certified orthopedic surgeon, examined appellant due to chronic low back pain. He diagnosed severe stenosis L3-4 and degenerative disc disease at L1-S1. Dr. Lopez prescribed physical therapy.

On April 17, 2018 and March 26, 2021 appellant underwent lumbar magnetic resonance imaging (MRI) scans which demonstrated multilevel degenerative changes in the lumbar spine with stenosis.

In a February 26, 2022 note, Dr. Fred Richardson, a family practitioner, diagnosed spinal stenosis.

By decision dated October 24, 2022, OWCP denied appellant's recurrence claim, finding that the evidence of record was insufficient to establish a worsening of the accepted work-related conditions requiring further medical treatment.

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.³

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.⁴ 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.⁵ 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.⁶ Where no such rationale is present, medical evidence is of diminished probative value.⁷

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a recurrence of the need for medical treatment commencing August 20, 2022 causally related to her accepted October 3, 1986 employment injury.

Appellant filed a Form CA-2a alleging continuing back pain due to her October 3, 1986 employment injury. In support of this claim, she provided Dr. Lopez's July 16, 2018 note diagnosing severe stenosis L3-4 and degenerative disc disease at L1-S1 and Dr. Richardson's February 26, 2022 note diagnosing spinal stenosis. These notes, however, did not offer an opinion

³ 5 U.S.C. § 8103(a).

⁴ 20 C.F.R. § 10.5(y).

⁵ *W.B.*, Docket No. 22-0985 (issued March 27, 2023); *S.P.*, Docket No. 19-0573 (issued May 6, 2021); *M.P.*, Docket No. 19-0161 (issued August 16, 2019); *E.R.*, Docket No. 18-0202 (issued June 5, 2018).

⁶ Federal (FECA) Procedural Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.4 (June 2013); *see also A.M.*, Docket No. 22-0322 (issued November 17, 2022); *M.F.*, Docket No. 21-1221 (issued March 28, 2022); *J.M.*, Docket No. 09-2041 (issued May 6, 2010). *See also, T.B.*, Docket No. 18-0672 (issued November 2, 2018); *O.H.*, Docket No. 15-0778 (issued June 25, 2015).

⁷ *W.B.*, *supra* note 5; *T.B.*, *id.*; *Michael Stockert*, 39 ECAB 1186, 1187-88 (1988); *see also Mary A. Ceglia*, Docket No. 04-0113 (issued July 22, 2004).

on causal relationship between appellant's current need for medical treatment and the accepted employment injury.⁸ The Board has held that a medical report is of no probative value on a given medical matter if it does not contain an opinion on that matter.⁹ Thus, these reports are insufficient to establish appellant's recurrence claim.

The record also contains lumbar MRI scans. The Board has held, however, that diagnostic studies, standing alone, lack probative value on the issue of causal relationship as they do not address whether the accepted employment injuries resulted in appellant's diagnosed medical conditions.¹⁰

As the medical evidence of record does not contain a rationalized medical opinion establishing a recurrence of the need for medical treatment commencing August 20, 2022 causally related to her accepted employment injury, the Board finds that appellant has not met her burden of proof.

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 the need for medical treatment commencing August 20, 2022 causally related to her accepted October 3, 1986 employment injury.

⁸ *Supra* note 6.

⁹ *M.F.*, *supra* note 6; *S.P.*, Docket No. 19-0573 (issued May 6, 2021); *T.H.*, Docket No. 18-0704 (issued September 6, 2018); *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

¹⁰ *L.A.*, Docket No. 22-0463 (issued September 29, 2022); *D.K.*, Docket No. 21-0082 (issued October 26, 2021); *O.C.*, Docket No. 20-0514 (issued October 8, 2020); *R.J.*, Docket No. 19-0179 (issued May 26, 2020).

ORDER

IT IS HEREBY ORDERED THAT the October 24, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 12, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board