

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of KATHRYN G. BUCHANAN and U.S. POSTAL SERVICE,
POST OFFICE, Richmond, VA

*Docket No. 00-1083; Submitted on the Record;
Issued March 15, 2001*

DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a recurrence of disability on September 18, 1998 causally related to the January 18, 1995 employment injury.

On January 20, 1995 appellant, then a 44-year-old mailhandler, sustained an employment-related lumbosacral strain. On October 28, 1998 she filed a claim for recurrence of disability, alleging that her condition was not improving at all, that she could not stand or walk for a long time and was, at times, having back spasms. Appellant also complained of numbness in her lower back and in her legs. In support of her recurrence claim, appellant submitted a duty status report dated September 18, 1998, in which Dr. Sigmund P. Seiler, a Board-certified family practitioner, set forth light-duty requirements.

By letter dated May 11, 1999, the Office of Workers' Compensation Programs requested that appellant furnish further information pertaining to medical treatment received since January 18, 1995 and a physician's opinion, with a supporting explanation, as to the causal relationship between appellant's current disability and the original injury.

In response, appellant submitted additional medical evidence including a radiology report dated November 10, 1998 which revealed severe scoliosis and degenerative changes to the lumbar spine; medical records dated August 28, September 18, November 10 and 17, 1998 and January 6 and April 7, 1999; a duty status report dated April 7, 1999 from Dr. Seiler; forms dated April 11 and May 23, 1999 from the employing establishment setting forth appellant's light-duty position; and a letter dated June 6, 1999 in which Dr. Seiler opined that appellant should still be kept on light duty and restrictions as previously outlined.

By decision dated September 27, 1999, the Office denied appellant's claim for a recurrence on the grounds that the evidence submitted did not establish that the recurrence was causally related to the injury of January 18, 1995. In the attached memorandum, the Office

noted that the evidence submitted was insufficient because the medical evidence in the record indicated that appellant's condition related to her January 18, 1995 incident had resolved and that she suffers from scoliosis, which is a preexisting condition. This appeal followed.

The Board finds that appellant did not meet her burden of proof in establishing that she sustained a recurrence of disability related to her January 18, 1995 employment-related injury.

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 to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that he or she cannot perform such light duty. As part of this burden, the employee must show either 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.¹

Causal relationship is a medical issue² and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.³

In this case, appellant has not submitted medical evidence establishing that her condition is a recurrence of the original injury of January 18, 1995. In his report dated June 6, 1999, Dr. Seiler stated:

“Repeat x-rays on November 10, 1998 continue to show severe scoliosis and diffuse degenerative changes of both thoracic [sic] and lumbar spines. There is also significant disc narrowing in the L4-5 and L5-S1 area.

“It is still my opinion that [appellant] be kept on light duty and restrictions as previously outlined in the forms filled out by me previously.”

¹ *Mary A. Howard*, 45 ECAB 646 (1994); *Cynthia M. Judd*, 42 ECAB 246 (1990); *Terry R. Hedman*, 38 ECAB 222 (1986).

² *Mary J. Briggs*, 37 ECAB 578 (1986).

³ *Joe L. Wilkerson*, 47 ECAB 604 (1996); *Alberta S. Williamson*, 47 ECAB 569 (1996); *Kurt R. Ellis*, 47 ECAB 505 (1996); *Thomas L. Hogan*, 47 ECAB 323 (1996); *Charles E. Burke*, 47 ECAB 185 (1995); *Victor J. Woodhams*, 41 ECAB 345 (1989).

The record also contains a second opinion evaluation dated September 7, 1998, in which Dr. Michael K. Kyles, a Board-certified orthopaedic surgeon, opined:

“It appears that the incident of January 18, 1995 was certainly nothing more than a rating or listing of a back strain. However, obviously [sic] it should have healed and resolved on its own within three months of time. The reason for her continued problem however is related to her preexisting condition of significant thoracolumbar scoliosis.”

An x-ray of the lumbar spine dated November 10, 1998 demonstrated that appellant had severe scoliosis and degenerative changes in both the thoracic and the lumbar spines.

As part of the burden of proof, a claimant must present rationalized medical evidence based on a specific and accurate history.⁴ In this case, both Drs. Seiler and Kyles opined that appellant’s back condition was caused by preexisting scoliosis. Appellant, therefore, has not established that she sustained a recurrence of disability.

The decision of the Office of Workers’ Compensation Programs dated September 27, 1999 is hereby affirmed.

Dated, Washington, DC
March 15, 2001

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁴ See *Richard A. Weiss*, 47 ECAB 182 (1997).