

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WANDA L. WISNIEWSKI and U.S. POSTAL SERVICE,
LENOX HILL STATION, New York, N.Y.

*Docket No. 96-1962; Submitted on the Record;
Issued August 3, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant established that her recurrence of disability on May 2, 1995 was causally related to the accepted injury sustained on March 19, 1987.

The Board has carefully reviewed the record and finds that appellant has failed to meet her burden of proof in establishing that her recurrence of disability was causally related to the accepted 1987 injury.

Under the Federal Employees' Compensation Act,¹ an employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable, and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.² As part of this burden the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition,³ and supports that conclusion with sound medical reasoning.⁴

Section 10.121(b) provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a medical report covering the dates of examination and treatment, the history given by the employee, the findings, the results of x-ray and laboratory tests, the diagnosis, the course of treatment, the physician's

¹ 5 U.S.C. §§ 8101-8193 (1974).

² *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992).

³ *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

⁴ *Lourdes Davila*, 45 ECAB 139, 142 (1993).

opinion with medical reasons regarding the causal relationship between the employee's condition and the original injury, any work limitations or restrictions, and the prognosis.⁵

Thus, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated, or aggravated by the accepted injury.⁶ In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.⁷ Further, neither the fact that appellant's condition became apparent during a period of employment nor appellant's belief that his condition was caused by his employment is sufficient to establish a causal relationship.⁸ Finally, a physician's opinion on causal relationship is not dispositive simply because it is rendered by a physician.⁹

In this case, appellant, then a 41-year-old carrier who returned to limited duty as a carrier on April 17, 1995,¹⁰ filed a notice of recurrence of disability on May 30, 1995, claiming that on May 2, 1995 she "did nothing" beyond her physical limitations but developed back spasms which caused her to leave work and seek medical attention for pain.

On June 30, 1995 the Office of Workers' Compensation Programs asked appellant to submit further information on the May 2, 1995 incident and a rationalized medical report explaining how her present condition was causally related to the 1987 injury. On September 26, 1995 the Office denied the claim on the grounds that there was no evidence of causal relationship submitted by appellant.

Subsequently, appellant submitted form reports from Dr. Richard Memoli, an orthopedic practitioner and her treating physician, which stated that appellant had an acute exacerbation of severe pain and spasms in her neck and low back, causing her to stop work on May 2, 1995. Dr. Memoli found appellant totally disabled and requested authorization to purchase a TENS (transcutaneous electrical nerve stimulator) unit for her, which was granted.

In an October 18, 1995 report, Dr. Memoli diagnosed a herniated lumbar disc, a cervical sprain, and left wrist and ankle sprains. He stated that appellant developed severe lower back pain and spasms while casing mail on May 2, 1995 and was seen by him on May 22, 1995 when examination revealed muscle spasms and restricted range of motion of the lumbosacral spine.

⁵ 20 C.F.R. § 10.121(b).

⁶ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

⁷ *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

⁸ *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

⁹ *Jean Culliton*, 47 ECAB ____ (Docket No. 94-1326, issued August 26, 1996).

¹⁰ Appellant filed a notice of traumatic injury on March 19, 1987, claiming that while picking up a box of mail she felt pain in her neck and lower back. The Office accepted the claim for a low back strain, bulging disc at L4-5, and muscle spasms in the neck and paid appropriate compensation. Appellant returned to work but sustained recurrences of disability and last worked on October 22, 1991. She was referred to vocational rehabilitation and returned to light duty on April 17, 1995.

He noted follow-up visits on June 27, August 7, and October 3, 1995, with no change in appellant's condition. Dr. Memoli concluded:

"I feel that the recurrence of May 2, 1995 is an acute exacerbation of pain and spasms, causally related to the accident of March 19, 1987. The patient is totally disabled at this time, and will remain so for an undetermined period of time."

Office treatment notes dated November 22, 1995 and February 1 and March 27, 1996 repeated this information. Appellant also submitted three form reports dated May 20 and June 25, 1992 and March 22, 1993, all of which preceded the recurrence of disability in May 1995.

On April 11, 1996 the Office issued a letter stating that, after review of the medical reports from Dr. Memoli, the Office found the evidence insufficient to support a reversal of its prior decision. The Office noted that while appellant had not formally requested reconsideration, it had considered the medical documents submitted after its September 26, 1995 decision.

The Board finds that Dr. Memoli's reports are insufficient to establish a causal relationship between the onset of appellant's pain and spasms on May 2, 1995 and the accepted 1987 injury.

Dr. Memoli stated that he felt appellant's pain and spasms on May 2, 1995 were related to the initial injury but failed to explain with medical rationale how her back condition in 1995 stemmed from the 1987 incident.¹¹ Nor does he discuss any work factors, other than casing mail, that could have caused the conditions he diagnosed, especially in view of the fact that appellant stated that she was working within her physical limitations of no prolonged bending or lifting with a 25-pound weight restriction.¹²

Inasmuch as Dr. Memoli's opinion is insufficient to establish that appellant's recurrence of disability on May 2, 1995 was causally related to the accepted lumbar strain sustained on March 19, 1987 and the other medical notes and forms in the record fail to address the issue of causal relationship, the Board finds that appellant has failed to meet her burden of proof. Therefore, the Office properly denied her claim.¹³

¹¹ See *Margarette B. Rogler*, 43 ECAB 1034, 1039 (1992) (finding that a physician's opinion that provides no medical rationale for its conclusion on causation is of diminished probative value).

¹² See *James D. Champlain*, 44 ECAB 438, 441 (1993) (finding that the medical evidence indicated that appellant's back condition had remained the same and that therefore appellant failed to meet his burden of proof).

¹³ See *Robert J. Krstyen*, 44 ECAB 227, 230 (1992) (finding that appellant failed to submit sufficient medical evidence to establish that specific work factors caused or aggravated his back condition).

The April 11, 1996 and September 26, 1995 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, D.C.
August 3, 1998

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member