

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of MARILYN THOMPSON-CHILDS and DEPARTMENT OF THE ARMY,  
Fort Polk, La.

*Docket No. 97-220; Submitted on the Record;  
Issued August 11, 1998*

---

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
BRADLEY T. KNOTT

The issue is whether appellant has established a recurrence of disability commencing on or after September 5, 1995 causally related to a February 19, 1987 employment injury.

The Board has reviewed the case record and finds that appellant has not established a recurrence of disability commencing on or after September 5, 1995.

On March 9, 1987 appellant, then a 39-year-old projects clerk, filed a claim alleging that she sustained injuries on February 19, 1987 while in the performance of duty. The Office of Workers' Compensation Programs accepted the claim for a low back strain. On September 13, 1995 appellant filed a notice of recurrence of disability (Form CA-2a) commencing September 5, 1995. Appellant stated that she had been limited since her February 19, 1987 employment injury "as far as lifting, bending, reaching, standing and sitting." The Office denied appellant's claim by decision dated September 17, 1996.

Appellant has the burden of establishing by reliable, probative and substantial evidence that the recurrence of a disabling condition for which she seeks compensation was causally related to her employment injury. As part of such burden of proof, appellant must submit rationalized medical opinion evidence, based on a complete and accurate factual and medical background, showing a causal relationship between the recurrence of disability and the accepted employment injury.<sup>1</sup>

In the present case, appellant submitted a May 22, 1996 medical report from Dr. K.E. Wojcik, a chiropractor. Dr. Wojcik stated that he initially treated appellant on September 15, 1995 but "was not provided with previous records or x-rays by (appellant) at the time of her initial visit," and therefore was unable to render an opinion regarding the possible causal relationship between appellant's medical condition and her accepted injury. The Board notes

---

<sup>1</sup> *Lourdes Davila*, 45 ECAB 139 (1993).

that the Federal Employees' Compensation Act<sup>2</sup> provides that a chiropractor is considered a physician only if he or she establishes that there is a subluxation as demonstrated by x-ray evidence to exist. Given that Dr. Wojcik did not provide a diagnosis of any kind including subluxation as demonstrated by x-ray, his opinion is of no probative medical value and thus the Office properly denied appellant's claim.

As noted above, it is appellant's burden to submit sufficient medical evidence to establish an employment-related recurrence of disability. The medical evidence of record is not sufficient to meet appellant's burden.

The decision of the Office of Workers' Compensation Programs dated September 17, 1996 is affirmed.

Dated, Washington, D.C.  
August 11, 1998

George E. Rivers  
Member

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

---

<sup>2</sup> 5 U.S.C. § 8101(2).