

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of DARLENE M. McGEE and U. S. POSTAL SERVICE,  
POST OFFICE, Jackson, Miss.

*Docket No. 96-2488; Submitted on the Record;  
Issued June 22, 1998*

---

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
BRADLEY T. KNOTT

The issue is whether appellant has established that she sustained a recurrence of disability causally related to her February 24, 1995 employment injury.

On April 17, 1995 appellant, then a 41-year-old distribution clerk, filed a claim for compensation alleging that she became aware on February 24, 1995 that her cervical strain and left shoulder strain were causally related to her employment. On September 9, 1995 the Office of Workers' Compensation Programs accepted appellant's claim for cervical strain and left shoulder strain.

In response to appellant's telephone call, the Office, on April 12, 1996, advised her of the procedures and medical evidence required to file a claim for recurrence of disability based on her accepted claim. Included in the Office notice was the requirement to submit a detailed narrative medical report from an attending physician explaining with medical rationale the causal relationship between appellant's current medical condition for which she was receiving treatment and her initial employment injury.

On April 22, 1996 appellant filed a claim for recurrence of disability and, in an attached narrative, stated that the pain from her original injury returned gradually commencing on May 16, 1995, the day she returned to regular duty. Appellant noted subjective complaints of intermittent discomfort and pain down the left shoulder. She also stated that "within the last couple of months the pain is also down the right shoulder," which her treating physician believed was caused by greater use of the right arm.

In a medical report dated April 26 1996, Dr. Cheryl Colletti, an osteopath and appellant's treating physician, stated that she had been appellant's treating physician since March 29, 1995 when she diagnosed appellant with "cervical strain with spasm secondary to repetitive motions involved in her job," which the Office accepted as an employment injury. She ordered appellant to physical therapy and, subsequent to appellant's participation in therapy, released her to limited

duty from May 12 through 15, 1995, and to regular duty from May 16, 1995. She then stated that appellant returned for treatment on February 21, 1996 with subjective complaints of “left-sided neck pain radiating into her shoulder.” Dr. Colletti indicated that, based on physical examination, appellant had spasms in the cervical neck and decreased range of motion of the left shoulder. She ordered appellant to undertake an additional regimen of physical therapy and again examined her on April 11, 1996 for “continued pain in the neck and bilateral shoulders.” Appellant stated that she could work for only several days before the spasms would return. Dr. Colletti stated that appellant’s “recurrence of neck and shoulder pain is directly related to her job,” and requested that the Office approve an electromyography (EMG) study for further diagnostic evaluation.

By decision dated June 13, 1996, which incorporated a memorandum to the Director, the Office denied appellant’s claim for recurrence of disability on the grounds that “the evidence fails to demonstrate that the claimed February 21, 1996 recurrent condition or disability is causally related to the February 24, 1995 occupational illness.”<sup>1</sup>

The Board finds that this case is not in posture for decision.

A person who claims benefits under the Federal Employees’ Compensation Act<sup>2</sup> has the burden of establishing the essential elements of his or her claim<sup>3</sup> including the fact that he or she sustained an injury while in the performance of duty, and that he or she had a disability as a result.<sup>4</sup> As part of his burden, the claimant must present rationalized medical opinion evidence, based upon a complete factual and medical background, showing causal relationship.<sup>5</sup>

In her April 26, 1996 report, Dr. Colletti, appellant’s treating physician since her initial employment injury and continuing throughout her subsequent examinations and treatments, demonstrated an in-depth familiarity with appellant’s injury and treatment history, stated specific findings upon physical examination, recommended an EMG study for further diagnostic evaluation, listed diagnoses and opined that appellant’s current medical condition was causally related to her employment injury.

Although this report fails to contain sufficient rationale to discharge appellant’s burden of proving by the weight of the reliable, substantial and probative evidence that her condition is causally related to factors of her federal employment, it raises an uncontroverted inference of causal relationship sufficient to require further development of the case record by the Office.<sup>6</sup>

---

<sup>1</sup> The Board attributes June 13, 1996 as the date of the initial decision noting that the decision itself is dated June 13, 1996. However, the Office’s notice to appellant including the June 13, 1996 decision is undated.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Margaret A. Donnelly*, 15 ECAB 40 (1963).

<sup>4</sup> *Daniel R. Hickman*, 34 ECAB 1220 (1983).

<sup>5</sup> *Id.*; see also *William Nimitz, Jr.*, 30 ECAB 567 (1979).

<sup>6</sup> *Horace Langhorne*, 29 ECAB 821 (1978).

On remand the Office should refer a statement of accepted facts, the case record, and appellant, if necessary, to an appropriate Board-certified specialist for an evaluation and a rationalized medical opinion on whether appellant's diagnosed conditions of cervical strain with spasm secondary to repetitive motion/neck and shoulder pain are causally related to her employment injury. After such development of the medical evidence as the Office deems necessary, a *de novo* decision shall be issued.

The decision of the Office of Workers' Compensation Programs dated June 13, 1996 is set aside and the case remanded for further proceedings in accordance with this decision of the Board.<sup>7</sup>

Dated, Washington, D.C.  
June 22, 1998

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Bradley T. Knott  
Alternate Member

---

<sup>7</sup> The Board notes that several records included in the case record are not part of the claim before the Board and appear to represent seven separate claimants.