U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DONALD L. PAIGE and ARCHITECT OF THE CAPITOL, WORKERS' COMPENSATION OFFICE, Washington, DC

Docket No. 97-2406; Submitted on the Record;
Issued July 26, 1999

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT, A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof to establish that he sustained a recurrence of disability beginning February 24, 1997 causally related to his October 19, 1995 employment injury.

On October 19, 1995 appellant, then a 45-year-old laborer (night), sustained a low back strain in the performance of duty. On April 25, 1997 the Office of Workers' Compensation Programs accepted appellant's claim for back strain.

On March 20, 1997 appellant filed a recurrence of disability claim alleging that he has been experiencing chronic back pain and that he experienced a recurrence of disability on February 24, 1997. He noted that the date of his original injury was July 24, 1993. It is unclear whether appellant stopped working following his alleged recurrence, but it is noted that appellant resumed work on March 3, 1997.

By letter dated April 25, 1997, the Office advised appellant of the deficiencies in the claim. The Office requested appellant submit rationalized medical evidence addressing whether his present condition was causally related to his accepted condition of October 19, 1995. The Office noted that there were some ambiguities which required resolution before appellant's claim for recurrence could be processed. This included the fact that appellant claimed an injury date of July 24, 1993, while the Office accepted an injury for October 19, 1995; the medical evidence submitted listed different dates of injury; and many of the medical reports submitted were not completed by a medical physician or signed by one.

Evidence submitted in support of the claim included progress notes from Kaiser Permanente and a May 15, 1997 letter from Betty Duffy, a certified nurse practictioner, who stated that appellant was treated at Kaiser for three on-the-job injuries of July 24, 1993, April 12, 1994 and October 20, 1995. Ms. Duffy stated that appellant suffers from chronic low back pain due to low back strain resulting from the two previous injuries. She opined that the incident on

October 20, 1995 exacerbated appellant's previously diagnosed low back strain, causing back pain.

In a decision dated June 6, 1997, the Office rejected appellant's claim, finding that the evidence of record failed to establish causal relationship between the accepted October 19, 1995 injury and appellant's claimed recurrence of disability.

The Board finds that appellant did not meet his burden of proof in establishing that he sustained a recurrence of disability beginning February 24, 1997 causally related to his October 19, 1995, employment injury.

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the recurrence of a disabling condition for which he seeks compensation was causally related to his employment injury.[1] As part of such burden of proof, rationalized medical evidence showing causal relation must be submitted.[2] The fact that a condition manifests itself during a period of employment does not raise an inference of causal relationship between the two.[3]

In this case, appellant has not submitted any medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, has concluded that he has any condition or disability causally related to his October 19, 1995 employment injury, which is the issue in this case. Furthermore, there is no medical evidence providing temporary total disability for the period claimed on the recurrence claim form. Appellant submitted an explanatory letter from Ms. Duffy, a nurse practitioner; however, a nurse practitioner is not a "physician" as defined in the Federal Employees' Compensation Act.[4] Lay individuals such as physician assistants, nurse practitioners and social workers are not competent to render a medical opinion.[5]

Appellant was advised of the deficiencies in the claim and had failed to provide the requested information. This included a request that appellant submit rationalized medical evidence addressing how his current condition would be related to his October 19, 1995 work injury. It is not enough for appellant to allege a causal relationship between his work and his stated condition; evidence of the nature of any disabling condition and its relationship to a particular's employee's work can only be given by a physician fully acquainted with the relevant facts and circumstances of the employment injury and the medical findings. Thus, as a lay person, appellant's opinion that his current back condition is causally related to his employment

[1] *Barbara J. Williams*, 40 ECAB 649 (1989); *James A. Long*, 40 ECAB 538 (1989).

[2] *Id.*

[3] *Id.*

[4] *See Bertha L. Arnold*, 38 ECAB 282 (1986). As defined by the Act in 5 U.S.C. § 8101(2), "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law.

[5] *See Arnold A. Alley*, 44 ECAB 912 (1992); *Sheila Arbour*, 43 ECAB 779 (1992); *Barbara J. Williams*, 40 ECAB 649 (1989).

has no probative value on the medical isssue.[6] Appellant, therefore, has not provided probative medical evidence sufficient to establish that he sustained a recurrence of disability causally related to his October 19, 1995 employment injury.

The decision of the Office of Workers' Compensation Programs dated June 6, 1997 is hereby affirmed.

Dated, Washington, D.C.
July 26, 1999

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

[6] *Birger Areskog*, 30 ECAB 571 (1979); *see also James A. Long*, 40 ECAB 538 (1989).