

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EVETTA H. CLEMENT and DEPARTMENT OF VETERANS AFFAIRS,
VETERANS ADMINISTRATION MEDICAL CENTER, Seattle, WA

*Docket No. 98-2328; Submitted on the Record;
Issued February 1, 2000*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

The issue is whether appellant met her burden to establish that her current condition or disability of the low back was caused or aggravated by her accepted April 7, 1993 lower back injury.

On April 7, 1993 appellant, a 38-year-old program supervisor, injured her lower back in the performance of duty. She filed a claim for benefits on March 21, 1994, which the Office of Workers' Compensation Programs accepted for low back strain by letter dated July 31, 1995.

On June 11, 1997 appellant, filed a Form CA-2 claim for benefits, alleging that she sustained a recurrence of disability, which was caused or aggravated by the accepted April 7, 1993 employment injury.

By letter dated July 3, 1997, the Office advised appellant that it required medical evidence, including a medical report, to support her claim that her current condition or disability was causally related to her accepted April 7, 1993 employment injury. The Office also requested that appellant submit a factual statement explaining the circumstances of her alleged recurrence. The Office stated that appellant had 30 days in which to submit the requested information. Appellant did not respond to this request.

By decision dated August 25, 1997, the Office denied appellant compensation for a recurrence of her accepted April 7, 1993, employment-related low back condition. The Office found that appellant failed to submit rationalized medical evidence sufficient to establish that the claimed recurrence of disability was caused or aggravated by the April 7, 1993 employment injury.

By letter to the Office dated November 18, 1997, appellant requested reconsideration of the Office's decision. In support of her claim, appellant submitted:

(1) A report from Dr. Ronald L. Horn, appellant's treating physician and a Board-certified family practitioner, which the Office received on September 17, 1997. Dr. Horn stated that appellant initially injured her back on April 7, 1993 and that since that time she had experienced recurrent back pain with no obvious source of aggravation. He opined that there had been no intervening, aggravating factors in the evolution of appellant's problem.

(2) A November 7, 1997 medical report from Dr. Jeffrey M. Cortazzo, Board-certified in emergency medicine, who noted findings on examination and stated that appellant had experienced some pain mainly in the left side of her upper neck and in the back of her head for the past two or three days. Dr. Cortazzo also stated that appellant had some tightness in the superior and posterior aspect of her left shoulder. He advised that she had not appreciably improved and was having some difficulty at work just doing her normal fairly sedentary job. Dr. Cortazzo diagnosed tension cephalgia secondary to muscle spasm.

(3) Clinical notes and treatment reports from August, September and November 1997 and January to April and December 1998 which noted back and neck pain, with headaches.

(4) Lumbar spine evaluations dated January 8 and 29, 1998 from a physical therapy clinic.

By decision dated April 14, 1998, the Office denied appellant's request for reconsideration, finding that the evidence submitted was not sufficient to warrant modification of the August 25, 1997 decision.

The Board finds that appellant has not established that her current condition or disability of the low back was caused or aggravated by the April 7, 1993 employment injury.

An individual who claims a recurrence of disability resulting from an accepted employment injury has the burden of establishing that the disability is related to the accepted injury. This burden requires furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to the employment injury and who supports that conclusion with sound medical reasoning.¹

The record contains no such medical opinion. Indeed, appellant has failed to submit any medical opinion containing a rationalized, probative report, which relates her current condition or disability to her April 7, 1993 employment injury. For this reason, she has not discharged her burden of proof to establish her claim that she sustained a recurrence of disability as a result of her accepted employment injury.

¹ *Dennis E. Twardzik*, 34 ECAB 536 (1983); *Max Grossman*, 8 ECAB 508 (1956); 20 C.F.R. § 10.121(a).

In the present case, the only medical evidence appellant submitted in support of her claim for a recurrence of disability were medical reports from Drs. Cortazzo and Horn, which noted appellant's history of injury and related appellant's complaints of pain, and various treatment and clinic reports² from 1997 and 1998. These reports indicated appellant had intermittent low back pain in the four years following her April 7, 1993 employment injury, but do not contain a probative, rationalized medical opinion sufficient to establish that appellant's current condition or disability was caused or aggravated by her April 7, 1993 employment injury. In his September 17, 1997 report Dr. Horn, appellant's treating physician, stated that appellant had experienced recurrent back pain with no obvious source of aggravation and advised that she had been treated conservatively with mixed results. Dr. Horn's report, however, does not constitute sufficient medical evidence demonstrating a causal connection between her work duties and her lower back condition. Causal relationship must be established by rationalized medical opinion evidence. Dr. Horn did not describe appellant's job duties in any detail or explain the medical process through which such duties would have been competent to cause the claimed condition or lower back condition. Moreover, his opinion on causal relationship is of minimal probative value because it is equivocal and generalized in nature in that he only noted that appellant had recurrent back pain with no obvious source of aggravation or intervening factors in the evolution of her condition. Therefore, the Board finds that appellant has not met her burden of proof in establishing that she sustained a recurrence of disability.

As there is no medical evidence addressing and explaining why appellant's current condition was caused or aggravated by her April 7, 1993 employment injury, appellant has not met her burden of proof in establishing that she sustained a recurrence of disability.

The April 14, 1998 and August 25, 1997 decisions of the Office of Workers' Compensation Programs are, therefore, affirmed.

Dated, Washington, D.C.
February 1, 2000

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member

Bradley T. Knott

² The Board notes that the reports from the physical therapy clinic were not signed by a physician and, therefore, does not constitute medical evidence under 5 U.S.C. § 8101(2). See *Diane Williams*, 47 ECAB 613 (1996); *Shelia Johnson*, 46 ECAB 323 (1994).

Alternate Member