United States Department of Labor
Employees' Compensation Appeals Board

A.B., Appellant	)	
and	)	**Docket No. 06-2144**
	)	**Issued: February 7, 2007**
GENERAL SERVICES ADMINISTRATION, New York, NY, Employer	)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On September 19, 2006 appellant filed a timely appeal of a July 14, 2006 merit decision of the Office of Workers' Compensation Programs, denying her claim for a recurrence of disability. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant sustained recurrences of disability on July 25, August 5 and December 28, 2005 or April 12, 2006 causally related to her June 15, 2004 employment injury.

FACTUAL HISTORY

On June 19, 2004 appellant, then a 50-year-old regional account/project manager, filed a traumatic injury claim alleging that on June 15, 2004 she experienced low back pain after securing cables to a fax machine that tilted and almost fell off a table. She stopped work on June 16, 2004. Appellant was released to return to full-duty work on June 28, 2004 by

Dr. Lisa R. Herbert, a Board-certified family practitioner. On October 27, 2005 the Office accepted appellant's claim for aggravation of lumbar radiculopathy.

On March 20, 2006 appellant filed claims, CA-2a forms, alleging that she sustained recurrences of disability on July 25, August 5 and December 28, 2005. Regarding the alleged July 25, 2005 recurrence of disability, she stated that, after arriving at work, she experienced severe radiating pain after walking from the bus stop to her office building. Appellant indicated that she could not work. As to the alleged August 5, 2005 recurrence of disability, she stated that she was unable to raise her legs to step up onto a bus without experiencing back pain. Concerning the alleged December 28, 2005 recurrence of disability, appellant related that, while walking upstairs at home with laundry, she felt a sharp pain in her lower back which radiated down both legs to her calves and she could not continue walking. She stated that the pain and radiation remained for several days.

On April 17, 2006 appellant filed a CA-2a form alleging that she sustained a recurrence of disability on April 12, 2006. She stated that, as she tried to get out of bed, she experienced severe back pain, her legs trembled and pain radiated down both legs.

Appellant submitted a January 12, 2006 form report from Dr. Soon-Chae Choi, a Board-certified orthopedic surgeon, who provided a history that on June 15, 2004 appellant sustained a work-related lower back injury when she lifted a fax machine. Dr. Choi diagnosed facet hypertrophy in the lower back based on x-ray examination. He also diagnosed chronic low back pain and lumbar radiculopathy. Dr. Choi stated that appellant was totally disabled from December 28 to 30, 2005 and noted her physical limitations.

By letter dated May 31, 2006, the Office advised appellant that it had not received medical evidence sufficient to establish her recurrence of total disability claims. It further advised her about the factual and medical evidence she needed to submit to establish her claims.

The Office received reports dated April 27 and May 18, 2006 which contained the typed name of Dr. Germaine N. Rowe, a Board-certified physiatrist, who stated that appellant received epidural steroid injections at the L4-5 and L5-S1 levels for low back pain and lumbar radiculopathy. Additional reports of the same date which also contained Dr. Rowe's typed name stated that appellant had degenerative disc changes at multiple levels, bilateral facet hypertrophy at L4-5 and L5-S1 and a posterior disc protrusion at L5-S1.

Appellant submitted post-procedure instructions dated April 27 and May 18, 2006 that were signed by a nurse whose signature is illegible. In a May 30, 2006 note, Dr. Choi indicated that appellant was treated on November 17, 2005 and January 11, March 2, April 6 and May 30, 2006.

By decision dated July 14, 2006, the Office found that appellant did not sustain recurrences of total disability on July 25, August 5 and December 28, 2005 and April 12, 2006

causally related to the accepted June 15, 2004 employment-related injury. Appellant failed to submit sufficient medical evidence to establish her claims.[1]

LEGAL PRECEDENT

A recurrence of disability means an inability to work after an employee has returned to work, caused by a spontaneous change in a medical condition which had resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.[2]

A person who claims a recurrence of disability has the burden of establishing by the weight of the substantial, reliable and probative evidence that the disability, for which she claims compensation is causally related to the accepted employment injury.[3] Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence a causal relationship between her recurrence of disability and her employment injury.[4] This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes that the condition is causally related to the employment injury.[5] Moreover, the physician's conclusion must be supported by sound medical reasoning.[6]

The medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated or aggravated by the accepted injury.[7] 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.[8] While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty.[9]

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[1] Following the issuance of the Office's July 14, 2006 decision, the Office received additional evidence. The Board may not consider evidence for the first time on appeal which was not before the Office at the time it issued the final decision in the case. 20 C.F.R. § 501.2(c). Appellant can submit this evidence to the Office and request reconsideration. 5 U.S.C. § 8128; 20 C.F.R. § 10.606.

[2] 20 C.F.R. § 10.5(x).

[3] *Kenneth R. Love*, 50 ECAB 193, 199 (1998).

[4] *Carmen Gould*, 50 ECAB 504 (1999); *Lourdes Davila*, 45 ECAB 139 (1993).

[5] *Ricky S. Storms*, 52 ECAB 349 (2001); *see also* 20 C.F.R. § 10.104(a)-(b).

[6] *Alfredo Rodriquez*, 47 ECAB 437 (1996); *Louise G. Malloy*, 45 ECAB 613 (1994).

[7] *See Ricky S. Storms*, *supra* note 5; *see also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

[8] For the importance of bridging information in establishing a claim for a recurrence of disability, *see Richard McBride*, 37 ECAB 748 at 753 (1986).

[9] *See Ricky S. Storms*, *supra* note 5; *Morris Scanlon*, 11 ECAB 384, 385 (1960).

ANALYSIS

The Office accepted that appellant sustained an aggravation of lumbar radiculopathy while in the performance of duty on June 15, 2004. On March 20 and April 17, 2006 she sought compensation for her ongoing back problems. The Board finds that appellant has failed to submit rationalized medical evidence establishing that her claimed recurrent back condition was caused or aggravated by her accepted employment-related aggravation of lumbar radiculopathy.

Dr. Choi's January 12, 2006 form report stated that appellant sustained a work-related lower back injury while in the performance of duty on June 15, 2004. He indicated that she was totally disabled from December 28 to 30, 2005. However, Dr. Choi did not address how appellant's disability during the claimed period was causally related to the accepted employment injury. The Board finds that Dr. Choi's report is insufficient to establish appellant's claim.

The unsigned reports which contain the typed name of Dr. Rowe have no probative value as the author(s) cannot be identified as a physician.[10] As these reports lack proper identification, the Board finds that they do not constitute probative medical evidence sufficient to establish appellant's burden of proof.[11] The post-procedure instructions of a nurse whose signature is illegible do not constitute probative medical evidence inasmuch as a nurse is not considered a physician under the Federal Employees' Compensation Act.[12]

Appellant failed to submit sufficient rationalized medical evidence establishing that her disability on July 25, August 5 and December 28, 2005 or April 12, 2006 resulted from the effects of her employment-related aggravation of lumbar radiculopathy. The Board finds that she has not met her burden of proof.

CONCLUSION

The Board finds that appellant has failed to establish that she was disabled on July 25, August 5 and December 28, 2005 and April 12, 2006 due to her accepted employment injury.

[10] *Ricky S. Storms*, *supra* note 5.

[11] *Vickey C. Randall*, 51 ECAB 357, 360 (2000); *Merton J. Sills*, 39 ECAB 572 (1988) (reports not signed by a physician lack probative value).

[12] *See Thomas Lee Cox*, 54 ECAB 509 (2003); *Janet L. Terry*, 53 ECAB 570 (2002).

ORDER

IT IS HEREBY ORDERED THAT the July 14, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 7, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board