

On August 24, 2007 appellant filed a notice of recurrence of disability on April 17, 2007 causally related to his accepted employment injury. He stopped work on April 17, 2007 and returned to work on May 14, 2007. Appellant explained that he experienced pain in his arm and shoulder since his work injury and that he continued to perform repetitive overhead work.

By letter dated October 31, 2007, the Office requested that appellant submit additional factual and medical information, including a detailed medical report addressing the causal relationship between his inability to work and his accepted employment injury. Appellant submitted a report dated December 4, 2007 from Dr. David A. McLeod, a Board-certified internist, who related that he had treated appellant since 1993 for hypertension and musculoskeletal problems “felt to be related to his physical work in the [employing establishment].” He evaluated appellant in November 2005 for shoulder pain and in December 2005 for shoulder and elbow pain due to repetitive motion at work. A computerized tomography (CT) scan revealed narrowing at C5-6 and C7-T1. Dr. McLeod evaluated appellant for shoulder pain on March 29, 2007 and referred him for physical therapy. On November 20, 2007 he noted that appellant “continues to have discomfort in his shoulders clearly related to his having to lift heavy trays at work, often above his head multiple times throughout his [eight]-hour shift.”

By decision dated December 26, 2007, the Office found that appellant failed to establish that he sustained an employment-related recurrence of disability on April 17, 2007.

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 resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.¹

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence a causal relationship between his recurrence of disability and his employment injury.² This burden includes the necessity of 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 employment factors and supports that conclusion with sound medical reasoning.³

ANALYSIS

The Office accepted that appellant sustained right lateral epicondylitis due to factors of his federal employment. He received compensation for total disability from December 28, 2005 to January 26, 2006. Appellant resumed his regular employment on January 29, 2006. On

¹ 20 C.F.R. § 10.5(x).

² *Carmen Gould*, 50 ECAB 504 (1999).

³ *Mary A. Ceglia*, 55 ECAB 626 (2004).

August 24, 2007 he filed a notice of recurrence of disability on April 17, 2007 due to his accepted work injury.

On December 4, 2007 Dr. McLeod discussed his treatment of appellant since 1993 for musculoskeletal conditions due to his employment duties. He evaluated appellant in November 2005 for shoulder pain, in December 2005 for shoulder and elbow pain and on March 29, 2007 for shoulder pain. Dr. McLeod interpreted a CT scan as showing narrowing at C5-6 and C7-T1. He treated appellant on November 20, 2007 for shoulder problems caused by lifting trays and overhead lifting during the course of his employment. Dr. McLeod did not address the relevant issue of whether he was unable to work from April 17 to May 14, 2007 due to his accepted employment-related condition of right lateral epicondylitis. Consequently, his report is of little probative value. As appellant has not submitted any rationalized medical evidence supporting that he was disabled from employment during the period in question, he has not met his burden of proof to show that he sustained a recurrence of disability.⁴

On appeal, appellant asserts that his condition has progressed due to continued lifting and overextending his arms on the job. A recurrence of disability, however, is a work stoppage caused by “a spontaneous change in a medical condition which has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.”⁵ Any disability resulting from a condition caused by new or repeated exposure to work duties would be considered a new injury and not a recurrence as defined by the regulations.

CONCLUSION

The Board finds that appellant has not established that he sustained a recurrence of disability on April 17, 2007 causally related to his November 15, 2005 work injury.

⁴ *Id.*

⁵ 20 C.F.R. § 10.5(x); *see also Theresa L. Andrews*, 55 ECAB 719 (2004).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 26, 2007 is affirmed.

Issued: August 8, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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