



left upper back strain and right elbow strain on August 27, 2003. Appellant returned to a light-duty position of October 11, 2003.

Appellant filed claims for compensation requesting compensation from August through October 12, 2007. By decision dated April 9, 2008, the Office denied these claims.

Appellant's attending physician, Dr. Bhavesh Robert J. Pandya, a Board-certified internist, completed a report on April 21, 2009 and noted that appellant was involved in a motor vehicle accident on March 30, 2009 resulting in pain in the neck and shoulder. He noted that appellant's magnetic resonance imaging (MRI) scan demonstrated a rotator cuff tear and labral tear. Dr. Pandya found a tear in the supraspinatus tendon, superior glenoid labral tear, ganglion cyst and hypertrophic changes at the acromioclavicular joint. He diagnosed strain of shoulder, rotator cuff tear, labral tear, cervical strain and wrist and thumb conditions which were not employment related. Dr. Pandya recommended modified activity beginning April 21 through May 19, 2009. On a claim form dated May 8, 2009 appellant again requested wage-loss compensation benefits beginning April 25, 2009.

On May 7, 2009 appellant filed a recurrence of disability claim alleging that she could no longer case mail and began delivering the express mail, packages and mail to carriers as well as working the lobby. She stated that, due to her neck, right shoulder, thumb and elbow and back conditions, the employing establishment had no work for her. Appellant attributed her current condition to her accepted employment injury by stating, "Because over the years of casing mail, stamping mail, driving to the hubs, express mail, working the lobby, doing passports. Working back end it all took a toll on my shoulder, neck, back and arm." On the reverse of the form, appellant's supervisor indicated that she did not stop work.

Appellant submitted a letter from the employing establishment dated April 17, 2009 noting that there were no operationally necessary tasks meeting appellant's work restrictions within her regular tour of duty. Dr. Pandya examined appellant on May 4, 2009 and listed appellant's conditions to include a 1989 knee injury and fibromatosis of plantar fascia.

In a letter dated June 23, 2009, the Office stated that this claim was accepted for minor left upper back strain and right elbow strain. It noted that appellant had also filed a notice of recurrences of disability in claim number xxxxxx154.<sup>1</sup> The Office also noted that appellant had received work-related neck, upper back, lower back and left knee leg injuries on March 30, 2009 as a result of a motor vehicle accident. It requested evidence that appellant's current disability was attributable to the conditions accepted in this claim and allowed 30 days for a response.

Appellant sought treatment from Dr. Pandya on May 18, 2009 for traumatic tear of the rotator cuff, cervical radiculitis and nontraumatic rotator cuff tear. Dr. Pandya examined appellant on June 12, 2009 and noted that appellant reported neck pain. He listed the date of injury as July 5, 2003 and diagnosed osteoarthritis acromioclavicular joint and traumatic tear of the rotator cuff. Dr. Pandya also diagnosed lateral epicondylitis and cervical radiculitis. On June 24, 2009 he treated appellant due to the conditions of neck strain and shoulder strain. Dr. Pandya listed appellant's date of injury as July 5, 2003. Appellant reported that her

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<sup>1</sup> This claim is not currently before the Board.

condition had worsened with intense neck and right shoulder pain, left shoulder pain, right arm and thumb pain. Dr. Pandya stated that electrodiagnostic studies demonstrated probable cervical C6 and C5 motor acute radiculopathy of the right neck and arm with no carpal tunnel syndrome. He provided work restrictions. Dr. Pandya examined appellant on July 14 and 20, 2009 and noted that appellant underwent shoulder surgery on June 17, 2009. He diagnosed sprain or strain of the cervical spine with cervical radiculitis and stated that appellant had a probable industrial aggravation of cervical spondylosis that was stable. In a note dated August 3, 2009, Dr. Pandya discussed appellant's various conditions and stated that she was totally disabled following her shoulder surgery.

By decision dated August 20, 2009, the Office denied appellant's claim for recurrence of disability due to a lack of work from the employing establishment. It stated that appellant had provided no medical evidence that the medical restrictions were related to her accepted employment injuries in this claim.

Appellant requested an oral hearing on September 9, 2009. She submitted a note from Dr. Pandya dated September 1, 2009 releasing her to return to modified work on August 17, 2009. On September 24 and October 8, 2009 Dr. Pandya examined appellant. He submitted reports dated October 8, November 4 and December 2, 2009 and listed appellant's date of injury as July 5, 2003.

Appellant testified at the oral hearing on December 18, 2009. She stated that her first employment injury was in 1989 which was injury to her legs and feet. Appellant testified that she began sedentary duty in 1996. Her injury in 2003 was the result of her sedentary work. Appellant stated that her primary duty became driving after 2003. On March 20, 2009 she was involved in a work-related motor vehicle accident resulting in injuries to her head, knee, shoulder and back. On April 17, 2009 the employing establishment informed appellant that there was no work available for her and appellant has not returned to work since that date.

Appellant submitted a report from Dr. Julie M. Fuller, a physician, dated December 30, 2009 diagnosing back injury with a date of injury of July 5, 2003. Dr. Fuller reported pain in the neck shoulder and right arm. She diagnosed status post rotator cuff tear repair, shoulder region pain, tenosynovitis de Quervains, cervical radiculitis and lateral epicondylitis.

By decision dated February 24, 2010, the hearing representative affirmed the Office's August 20, 2009 decision finding that the medical evidence did not establish that appellant's current conditions were related to her accepted employment injury. He noted that appellant had additional claims accepted for bilateral plantar fibromatosis in 1994 and cervical, thoracic and lumbar sprain and left knee sprain on March 30, 2009. The hearing representative noted that appellant had filed an occupational disease claim in 2007 for neck, back and upper extremity conditions which the Office denied on March 13, 2008.

### **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. This term also means an inability to work that takes place when a light-duty assignment made specifically to accommodate an employee's physical limitations due to his or her work-related injury or illness is withdrawn or when the physical requirements of such an assignment are altered so that they exceed his or her established physical limitations.<sup>2</sup>

When an employee, who is disabled from the job she held when injured on account of employment-related residuals, returns to a light-duty position or the medical evidence of record establish that she can perform the light-duty position, the employee has the burden to establish by the weight of the reliable, probative and substantial evidence a recurrence of total disability and show that she cannot perform such light duty. As part of this burden, the employee must show a change in the nature and extent of the injury-related condition or a change in the nature and extent of the light-duty requirements.<sup>3</sup> 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.<sup>4</sup>

### ANALYSIS

Appellant sustained an accepted employment injury to her feet in 1994 resulting in a light-duty position requiring sedentary work. While working in this light-duty position in 2003, the Office accepted that she developed additional employment-related conditions of minor left upper back strain and right elbow strain. Appellant sustained a new employment injury on March 30, 2009 resulting in accepted conditions of cervical, thoracic and lumbar sprain and left knee sprain. She has filed a recurrence of disability claim alleging that, beginning April 27, 2009, the employing establishment withdrew her light-duty position finding that there was no work within her restrictions available.

The medical evidence in this case consists of a series of reports from Dr. Pandya diagnosing a wide variety of conditions and listing appellant's date of injury and July 5, 2003. Dr. Pandya does not offer any medical reasoning for attributing appellant's current conditions and work restrictions to her July 5, 2003 employment injury or any other employment injury or factors. He merely provides a repeating recitation of appellant's diagnosed conditions including tear in the supraspinatus tendon, superior glenoid labral tear, ganglion cyst and hypertrophic changes at the acromioclavicular joint, strain of shoulder, rotator cuff tear, labral tear and cervical strain. Dr. Pandya's reports indicate that these conditions are work related as appellant's wrist and thumb conditions are not.

Appellant also submitted a report dated December 30, 2009 from Dr. Fuller diagnosing back injury with a date of injury of July 5, 2003. Dr. Fuller also provided a list of diagnosed conditions including status post rotator cuff tear repair, shoulder region pain, tenosynovitis de Quervains, cervical radiculitis and lateral epicondylitis. She also failed to offer any medical

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<sup>2</sup> 20 C.F.R. § 10.5(x).

<sup>3</sup> *Terry R. Hedman*, 38 ECAB 222 (1986).

<sup>4</sup> *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

reasoning in support of her opinion of appellant's conditions and resulting restrictions are related to her employment or to her 2003 injury.

The Board is unable to determine from the medical evidence submitted appellant's current work restrictions if any due to her accepted 2003 employment injury. In order to establish her claim, appellant must submit a detailed medical report noting her history of injury in 2003 and explaining why the accepted left upper back strain and right elbow strain continue to result in work restrictions as well as the additional conditions currently alleged as employment related. Without medical evidence establishing that appellant's current work restrictions are due to her accepted employment injuries, the Board cannot determine whether the withdrawal of appellant's light-duty position was due to accepted employment injuries or to other conditions not accepted as work related. For these reasons, the Board finds that appellant failed to meet her burden of proof in establishing a recurrence of disability on or after April 27, 2009.

**CONCLUSION**

The Board finds that appellant has failed to submit the necessary medical opinion evidence to establish a recurrence of disability on or after April 27, 2009.

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 24, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 15, 2011  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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