

FACTUAL HISTORY

This case has previously been before the Board.³ The facts and circumstances of the case as set forth in the Board's prior orders are incorporated herein by reference. The relevant facts are as follows.

On September 20, 2017 appellant, then a 47-year-old mail carrier, filed a traumatic injury claim (Form CA-1) alleging that, on the same date, she sustained injuries to her arms, left knee, and right ankle when she was delivering mail and fell in an asphalt hole on the sidewalk while in the performance of duty. She stopped work on that date. OWCP accepted appellant's claim under OWCP File No. xxxxxx759 for left shoulder strain, left elbow contusion/abrasions, left knee contusion/abrasions, and right ankle sprain/strain. It paid her wage-loss compensation on the supplemental rolls, effective November 6, 2017.⁴

OWCP previously accepted, under OWCP File No. xxxxxx182, that appellant sustained a cervical strain/sprain and lumbar strain/sprain due to a January 16, 2016 work-related motor vehicle accident. After a period of disability related to this injury, she returned to her regular duty without restrictions on November 21, 2016. OWCP administratively combined OWCP File No. xxxxxx182 and OWCP File No. xxxxxx759, with the latter serving as the master file.

On February 7, 2019 OWCP expanded the acceptance of appellant's conditions under OWCP File No. xxxxxx759 to include left biceps tendinitis and partial tear of the rotator cuff infraspinatus tendon of the left shoulder.

Appellant sustained partial and total disability for various periods wherein OWCP paid her wage-loss compensation. On January 7, 2021 she began working eight hours per day, five days per week, in a light-duty position with restrictions including lifting no more 15 pounds constantly and no reaching above shoulder level with her left arm. The work restrictions were based on a January 6, 2021 assessment by Dr. David Prieskorn, an osteopath and Board-certified orthopedic surgeon.

Appellant stopped work on April 24, 2021.

In a May 4, 2021 report, Dr. Anita Craig, an osteopath specializing in physiatry, indicated that appellant presented for evaluation of neck and shoulder pain. Appellant reported that "the symptoms began in 2016 with inciting incident of injury at work (car accident)." Dr. Craig noted that appellant also reported that she initially had left shoulder pain, but developed right-sided pain in 2018 and now mostly suffered from left-sided pain. Appellant further reported that her left shoulder pain was tolerable at the end of 2020, although shoulder range of motion (ROM) remained decreased. She noted that her left shoulder symptoms flared up severely in March 2021. Dr. Craig indicated that appellant was followed by rheumatology for myopathy and

³ *Order Dismissing Appeal*, Docket No. 22-0881 (issued December 14, 2022); *Order Granting Petition for Reconsideration and Reinstating Appeal*, Docket No. 22-0881 (issued February 5, 2024).

⁴ OWCP paid appellant wage-loss compensation on the periodic rolls for the period October 11 through November 7, 2020, and then placed her back on the supplemental rolls, effective November 8, 2020.

markedly elevated creatine kinase. Her physical examination revealed decreased cervical ROM, and very limited left shoulder ROM with severe pain and increased shoulder girdle hypertonicity. Dr. Craig diagnosed myositis, left shoulder pain, frozen left shoulder, and left arm pain “referred from shoulder [*versus*] cervical radiculopathy (less likely).” She ordered a left shoulder intra-articular injection and advised that appellant should continue off work until after the injection.

In a May 4, 2021 note, Dr. Craig indicated that appellant should remain off work for six weeks.

A May 13, 2021 magnetic resonance imaging (MRI) scan test of the left shoulder demonstrated an impression of supraspinatus and subscapularis tendinosis with no significant rotator cuff tear, mild thickening of the subacromial subdeltoid bursa, and thickening of the superior and inferior glenohumeral capsular complex, a nonspecific finding and can be seen with adhesive capsulitis.

In a May 25, 2021 letter, Dr. Craig indicated that appellant last visited her clinic on May 17, 2021 at which time she “was seen for recurrence of adhesive capsulitis of the shoulder.” She advised that appellant had a “prior history of shoulder pain and frozen shoulder due to work injury in 2016.” Dr. Craig stated that the return of appellant’s symptoms began in March 2021. She noted that appellant was to receive a shoulder injection, undergo physical therapy, and repeat shoulder imaging. Dr. Craig indicated that appellant was excused from work for six weeks while she underwent this treatment.

On July 19, 2021 appellant filed a notice of recurrence (Form CA-2) alleging that she sustained a recurrence of total disability on April 24, 2021 due to her accepted September 20, 2017 employment injury. She maintained that she was unable to use her left arm and hand, and had a partial tear of her left rotator cuff, continuous left arm pain, and a swollen left hand.

In an August 20, 2021 development letter, OWCP noted that appellant was claiming disability due to a material change/worsening of her accepted work-related conditions, and requested that she provide additional factual and medical evidence in support of her recurrence claim. It afforded her 30 days to submit the necessary evidence.

In response to OWCP’s development letter, appellant maintained that her April 24, 2021 recurrence of disability was due to her September 20, 2017 employment injury because the “same recurrence continually happens every [four] to [five] months.” With respect to any injuries sustained after September 20, 2017, she advised that she got a blood clot in her right arm when she was off work in June 2021. Appellant characterized her blood clot as unrelated to her work for the employing establishment.

By decision dated October 1, 2021, OWCP denied appellant’s claim, finding that the medical evidence of record was insufficient to establish a recurrence of disability on or after April 24, 2021, causally related to the accepted September 20, 2017 employment injury.

On October 5, 2021 appellant, through counsel, requested a hearing before a representative of OWCP’s Branch of Hearings and Review.

On January 10, 2022 OWCP received a December 6, 2021 report wherein Dr. Craig indicated that appellant returned for evaluation of neck and shoulder pain. Appellant reported that in June 2021 she developed deep vein thrombosis (DVT) in her right arm. Dr. Craig discussed the findings of her physical examination and diagnosed left shoulder pain, frozen left shoulder with improved ROM, myositis, and right arm weakness and pain after DVT. Appellant recommended physical therapy to improve strength and ROM of the left shoulder.

A hearing was held on January 14, 2022 during which appellant described the worsening of her left upper extremity condition in early 2021, particularly with regard to her left shoulder and hand.

Appellant subsequently submitted additional evidence.

In a May 12, 2021 report, Dr. Zachary London, a Board-certified neurologist, indicated that he performed an initial consultation with appellant for evaluation of elevated creatine kinase, also known as hyperCKemia. He noted that his examination/laboratory evaluation of her was significant for hyperCKemia and left shoulder pain with active and passive movement. Dr. London opined that it did not seem likely her left shoulder symptoms were related to a myopathy.

In a December 6, 2021 note, Dr. Craig indicated that appellant had been undergoing physical therapy for her right arm, which had residual swelling after DVT.

By decision dated March 31, 2022, OWCP's hearing representative affirmed the October 1, 2021 decision.

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 compensable injury or illness and without an intervening injury or new exposure in the work environment.⁵ This term also means an inability to work because a light-duty assignment made specifically to accommodate an employee's physical limitations, and which is necessary because of a work-related injury or illness, is withdrawn or altered so that the assignment exceeds the employee's physical limitations. A recurrence does not occur when such withdrawal occurs for reasons of misconduct, nonperformance of job duties, or a reduction-in-force.⁶

OWCP's procedures provide that a recurrence of disability includes a work stoppage caused by a spontaneous material change in the medical condition demonstrated by objective findings. That change must result from a previous injury or occupational illness rather than an intervening injury or new exposure to factors causing the original illness. It does not include a

⁵ 20 C.F.R. § 10.5(x); *see J.D.*, Docket No. 18-1533 (issued February 27, 2019).

⁶ *Id.*

condition that results from a new injury, even if it involves the same part of the body previously injured.⁷

An employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of proof to establish by the weight of the substantial, reliable, and probative evidence that the disability for which he or she claims compensation is causally related to the accepted injury. This burden of proof requires that a claimant furnish medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that, for each period of disability claimed, the disabling condition is causally related to the employment injury, and supports that conclusion with medical reasoning.⁸ Where no such rationale is present, the medical evidence is of diminished probative value.⁹

When an employee who is disabled from the job he or she held when injured on account of employment-related residuals returns to a limited-duty position or the medical evidence of record establishes that he or she can perform the limited-duty position, the employee has the burden of proof to establish by the weight of the reliable, probative, and substantial evidence a recurrence of total disability and to show that he or she cannot perform such limited-duty work.¹⁰ 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 limited-duty job requirements.¹¹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish a recurrence of total disability on or after April 24, 2021, causally related to the accepted September 20, 2017 employment injury.

In a May 4, 2021 report, Dr. Craig indicated that appellant presented for evaluation of neck and shoulder pain. Appellant reported that “the symptoms began in 2016 with inciting incident of injury at work (car accident).” Dr. Craig noted that appellant further reported that appellant’s left shoulder pain was tolerable at the end of 2020, although shoulder ROM remained decreased, and her left shoulder symptoms flared up severely in March 2021. Physical examination revealed decreased cervical ROM, very limited left shoulder ROM with severe pain and increased shoulder girdle hypertonicity. Dr. Craig diagnosed myositis, left shoulder pain, frozen left shoulder, and left arm pain “referred from shoulder [*versus*] cervical radiculopathy (less likely).” She ordered a left shoulder injection and advised that appellant should continue off work until after the injection. In a May 25, 2021 letter, Dr. Craig indicated that appellant last

⁷ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.2b (June 2013); *L.B.*, Docket No. 18-0533 (issued August 27, 2018).

⁸ *J.D.*, Docket No. 18-0616 (issued January 11, 2019); *see C.C.*, Docket No. 18-0719 (issued November 9, 2018).

⁹ *H.T.*, Docket No. 17-0209 (issued February 8, 2018).

¹⁰ *See D.W.*, Docket No. 19-1584 (issued July 9, 2020); *S.D.*, Docket No. 19-0955 (issued February 3, 2020); *Terry R. Hedman*, 38 ECAB 222 (1986).

¹¹ *C.B.*, Docket No. 19-0464 (issued May 22, 2020); *Terry R. Hedman, id.*; *R.N.*, Docket No. 19-1685 (issued February 26, 2020).

visited her clinic on May 17, 2021 at which time appellant “was seen for recurrence of adhesive capsulitis of the shoulder.” She advised that appellant had a “prior history of shoulder pain and frozen shoulder due to work injury in 2016.” Dr. Craig stated that the return of appellant’s symptoms began in March 2021. She noted that appellant was to receive a shoulder injection, undergo physical therapy, and repeat shoulder imaging. Dr. Craig indicated that appellant was excused from work for six weeks while she underwent this treatment.

The Board find that these reports are of no probative value on the underlying issue of this case because Dr. Craig did not provide an opinion that appellant sustained a recurrence of total disability on or after April 24, 2021 causally related to the accepted September 20, 2017 employment injury. Although Dr. Craig denoted periods of disability, she did not clearly identify the cause of this disability. The Board has held that medical evidence that does not offer an opinion regarding the cause of an employee’s condition or disability is of no probative value on the issue of causal relationship.¹² Therefore, this evidence from Dr. Craig is insufficient to establish appellant’s claim.

Appellant also submitted other medical evidence, but these reports do not contain an opinion that she sustained a recurrence of disability on or after April 24, 2021 causally related to the accepted September 20, 2017 employment injury. In a May 4, 2021 note, Dr. Craig indicated that appellant should remain off work for six weeks. In a May 12, 2021 report, Dr. London noted that his examination/laboratory evaluation was significant for hyperCKemia and left shoulder pain with active and passive movement. In a December 6, 2021 report, Dr. Craig discussed the findings of her physical examination and diagnosed left shoulder pain, frozen left shoulder with improved ROM, myositis, and right arm weakness and pain after DVT. In a December 6, 2021 note, she advised that appellant had been undergoing physical therapy for her right arm, which had residual swelling after DVT. As noted above, medical evidence that does not offer an opinion regarding the cause of an employee’s condition or disability is of no probative value on the issue of causal relationship.¹³ Therefore, this evidence is insufficient to establish appellant’s claim.

Appellant also submitted a left shoulder MRI scan dated May 13, 2021. However, diagnostic studies, standing alone, lack probative value on causal relationship as they do not address whether employment factors caused the diagnosed condition.¹⁴

As appellant has not submitted a rationalized opinion establishing causal relationship between her claimed recurrence of disability and the accepted September 20, 2017 employment injury, the Board finds that she has not met her burden of proof.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

¹² See *F.S.*, Docket No. 23-0112 (issued April 26, 2023); *L.B.*, Docket No. 18-0533 (issued August 27, 2018); *D.K.*, Docket No. 17-1549 (issued July 6, 2018).

¹³ *Id.*

¹⁴ *C.S.*, Docket No. 19-1279 (issued December 30, 2019).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish a recurrence of total disability on or after April 24, 2021, causally related to the accepted September 20, 2017 employment injury.

ORDER

IT IS HEREBY ORDERED THAT the March 31, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 17, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board