



In a November 25, 2003 medical report, appellant's treating physician Dr. Robert Blake, a Board-certified orthopedic surgeon, opined that appellant's left traumatic lateral epicondylitis had resolved and appellant was able to return to full duty without restrictions.

In a January 2, 2004 report, Dr. Blake reported that appellant had been working at Montana State University setting up and tearing down the bleachers and that this activity bothered her left elbow. Dr. Blake's impression was that of left lateral epicondylitis exacerbated by pushing and lifting.

On February 9, 2004 the Office received a request for authorization of physical therapy for appellant's left lateral epicondylitis. In a February 19, 2004 letter, the Office advised appellant that additional information was needed to determine how her current condition was related to the August 26, 2003 injury. Accordingly, the Office directed appellant to complete a notice of recurrence, Form CA-2a.

On February 23, 2004 appellant filed a recurrence of disability claim beginning December 6, 2003. She advised that she was on light duty with lifting restrictions for her left arm until her season ended on October 24, 2003. She acknowledged that her symptoms subsided while she was between jobs and stated that she returned to work on December 3, 2003 at Montana State University as a stage production coordinator. She alleged that the tendinitis in her left elbow flared up again when she was pushing bleachers and setting up for basketball games. Appellant submitted physical therapy notes dated February 10, 12 and 17, 2004 and a March 3, 2004 medical report from Dr. Blake, in which he noted that appellant's left elbow condition had resolved but became sore again when she went to work at Montana State University. He opined that appellant was capable of work but should avoid any strenuous lifting with the left arm on a repetitive basis.

By decision dated April 5, 2004, the Office denied appellant's claim for a recurrence of disability on the grounds that causal relationship was not established without intervening cause.

On April 9, 2004 appellant requested a review of the written record. In an April 20, 2004 report, Dr. Blake stated that after appellant was laid off in October, she had a period of rest and when he saw her on November 25, 2003, her elbow inflammation seemed resolved. He stated that when she returned to work at Montana State University in January 2004, her symptoms immediately recurred which indicated that she had not fully recovered from the August 26, 2003 traumatic injury. He opined that her employment at the Montana State University was an exacerbation of the August 26, 2003 work injury she sustained while employed by the Federal Government.

By decision dated February 7, 2005, an Office hearing representative affirmed the April 5, 2004 decision, finding that appellant's recurrence was not causally related to her accepted injury as her work at Montana State University constituted an intervening incident unrelated to the original work injury.

## LEGAL PRECEDENT

A claimant seeking compensation under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence.<sup>2</sup> 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 has resulted from a previous injury or illness without an intervening injury or new exposure to the work environment that caused the illness.<sup>3</sup> If the disability results from new exposure to work factors, the legal chain of causation from the accepted injury is broken, and an appropriate new claim should be filed.<sup>4</sup>

A claimant has the burden of establishing that she sustained a recurrence of a medical condition on December 6, 2003 causally related to her August 26, 2003 employment injury.<sup>5</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 condition is causally related to the employment injury and supports that conclusion with sound medical rationale.<sup>6</sup> Where no such rationale is present, the medical evidence is of diminished probative value.<sup>7</sup> In order to establish that her claimed recurrence of the condition was caused by the accepted injury, medical evidence of bridging symptoms between her present condition and the accepted injury must support the physician's conclusion of a causal relationship.<sup>8</sup>

## ANALYSIS

The Office accepted that appellant sustained a left lateral epicondylitis condition as a result of her federal employment. Appellant's seasonal appointment with the federal establishment ended and, during the brief time she was between jobs, her left lateral epicondylitis condition resolved based on the November 23, 2003 report of Dr. Blake. Appellant started working at the Montana State University and filed a February 23, 2004 claim alleging a recurrence of disability commencing December 6, 2003.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Edward W. Spohr*, 54 ECAB \_\_\_\_ (Docket No. 03-1173, issued September 10, 2003).

<sup>3</sup> 20 C.F.R. § 10.5(x).

<sup>4</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3 (May 1997); *Donald T. Pippin*, 54 ECAB \_\_\_\_ (Docket No. 03-205, issued June 19, 2003).

<sup>5</sup> Recurrence of a medical condition means a documented need for further medical treatment after release from treatment for the accepted condition or injury when there is no accompanying work stoppage. Continuous treatment for the original condition or injury is not considered a "need for further medical treatment after release from treatment," nor is an examination without treatment. 20 C.F.R. § 10.5(y) (2002).

<sup>6</sup> *Ronald A. Eldridge*, 53 ECAB 218 (2001).

<sup>7</sup> *Albert C. Brown*, 52 ECAB 152 (2000).

<sup>8</sup> *See Ricky S. Storms*, 52 ECAB 349 (2001).

Appellant alleged a worsening of the accepted left lateral epicondylitis condition, but attributed this change in her condition to the work she performed at Montana State University while setting up and tearing down bleachers. Rather than attributing her recurrence of disability to a spontaneous change in the accepted left lateral epicondylitis condition, appellant implicated a new intervening cause.<sup>9</sup> She stopped working limited duty for the employing establishment on October 25, 2003 when her season ended. Dr. Blake advised that her work-related condition had resolved as of November 25, 2003 and appellant acknowledged that her symptoms had subsided while she was off work. Appellant started her employment with Montana State University on December 3, 2003 and saw Dr. Blake on January 2, 2004 with complaints in her left elbow symptoms after taking down and setting up bleachers. Although Dr. Blake diagnosed lateral epicondylitis in his March 3, 2004 report, he did not provide any medical explanation of how her current condition was medically connected to the accepted employment injury of August 26, 2003.<sup>10</sup> On April 20, 2004 Dr. Blake opined that appellant's employment at Montana State University had exacerbated her August 26, 2003 injury which had not fully resolved because her symptoms immediately recurred when she started work. Dr. Blake did not provide any further explanation to support his change of opinion with regard to whether the employment-related condition had resolved. Rather, it appears that the exposure to the new work factors at Montana State University, pushing bleachers in December 2003, broke the legal chain of causation between the accepted left lateral epicondylitis condition sustained at the employing establishment and appellant's medical condition on and after December 3, 2003.<sup>11</sup> This is especially so in light of Dr. Blake's opinion that the employment-related condition had resolved prior to the beginning of appellant's employment with Montana State University. The Board finds that appellant did not establish a recurrence of disability causally related to the August 26, 2003 injury.

### CONCLUSION

The Board finds that appellant has not established that her recurrence of disability on and after December 6, 2003 was causally related to her accepted August 26, 2003 employment injury.

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<sup>9</sup> See 20 C.F.R. § 10.5(x).

<sup>10</sup> See *Albert C. Brown supra* note 7.

<sup>11</sup> See *Carlos A. Marrero*, 50 ECAB 117, 119-20 (1998) (the Board found that the claimant's use of an exercise machine constituted an intervening cause of appellant's disability and thus the Office properly denied appellant's claim for recurrence of disability); *Clement Jay After Buffalo*, 45 ECAB 707, 715 (1994) (the Board found that the claimant's knee injury sustained while playing basketball broke the legal chain of causation from an accepted knee injury sustained in the performance of his duties as a firefighter).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 7, 2005 is affirmed.

Issued: September 1, 2005  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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