United States Department of Labor
Employees' Compensation Appeals Board

M.C., Appellant	)	
and	)	**Docket No. 07-661**
	)	**Issued: November 8, 2007**
DEPARTMENT OF HEALTH & HUMAN SERVICES, U.S. FOOD & DRUG ADMINISTRATION, Rockville, MD, Employer	)	

Appearances:
Brian R. Bregman, Esq., for the appellant
Office of Solicitor, for the Director

Oral Argument October 9, 2007

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On January 13, 2006 appellant timely appealed the December 14, 2005 merit decision of the Office of Workers' Compensation Programs, which denied her claim for recurrence of a medical condition. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of the claim.[1]

[1] The record on appeal includes additional medical evidence received after the Office issued its December 14, 2005 decision. The Board cannot consider evidence for the first time on appeal. The review of a case shall be limited to the evidence in the case record which was before the Office at the time of its final decision. 20 C.F.R. § 10.501.2(c) (2007).

ISSUE

The issue is whether appellant sustained a recurrence of a medical condition causally related to her February 18, 1993 employment injury.

FACTUAL HISTORY

Appellant, a 71-year-old laboratory associate, sustained an employment-related injury on February 18, 1993 when she inadvertently punctured the thenar region of her left hand with a needle containing an allergenic extract. The puncture caused an allergic reaction, which was treated with a corticosteroid, Prednisone.[2] The Office initially accepted the claim for left hand puncture wound and allergic reaction. In March 1993, laboratory test results revealed an elevated blood glucose level and appellant was diagnosed with steroid-induced diabetes mellitus.[3] However, by November 1993, appellant's blood sugar level had returned to normal and it was believed that there were no long-term deleterious effects from the Prednisone she received. The Office, therefore, expanded appellant's claim to include temporary aggravation of diabetes mellitus as an accepted condition.[4]

On September 13, 2004 appellant filed a notice of recurrence for medical treatment only. She indicated that her condition had not changed since the February 18, 1993 employment injury. Appellant further indicated that she had been receiving medical treatment on a regular basis, which included monthly visits to her podiatrist and biannual eye examinations. She also stated that she took medications for her diabetes on a daily basis and saw her doctor every three months to monitor her blood sugar level.[5]

[2] The oral steroid therapy was administered by the National Institutes of Health, Occupational Medical Service.

[3] In a May 22, 1993 report, appellant's treating physician, Dr. Barbara G. Douglas, a Board-certified internist, indicated that she diagnosed steroid-induced diabetes mellitus based on March 8, 1993 laboratory results and a prior history of appellant having been treated with oral steroids following the February 18, 1993 employment injury. Dr. Douglas explained that prior to the February 1993 employment incident, appellant had been in relatively good health. Her prior medical history included treatment for occasional arthritis, allergic rhinitis and hyperlipidemia. Dr. James Vorosmarti, an employing establishment consultant, disagreed with Dr. Douglas' diagnosis of steroid-induced diabetes mellitus. In a January 24, 1994 report, Dr. Vorosmarti explained that steroid-induced diabetes takes much longer to develop and occurs only in 10 percent of patients taking high doses of steroids for long periods of time. In contrast, appellant's dosage was relatively small and occurred over a very short period of time. Dr. Vorosmarti believed appellant already had sub-clinical diabetes and her condition became evident when the stress of steroid administration was added.

[4] The Office's acceptance of appellant's diabetic condition was based on the November 23, 1993 report of Dr. Frank C. Blackburn, a Board-certified internist and Office referral physician. Dr. Blackburn indicated that appellant was genetically predisposed to developing diabetes. He further explained that appellant had Syndrome X, characterized by overeating and weight gain, which allowed for the expression of diabetes and hyperlipidemia. According to Dr. Blackburn, the steroid therapy appellant received merely brought to light a hidden problem.

[5] Although appellant reported seeing her treating physician every three months, the most recent report from Dr. Douglas regarding her diabetic condition is dated November 28, 1994.

In support of her claim, appellant submitted a March 16, 2005 report from Dr. Nathaniel G. Clark, a Board-certified endocrinologist, who initially examined appellant in January 2005, found that her ongoing diabetes was related to the steroids she received in 1993. Dr. Clark diagnosed Type II diabetes mellitus and noted a history of injury in 1993 when appellant was treated with a steroid taper for an allergic reaction. He explained that while the steroid taper was discontinued in early March 1993, appellant continued to have significantly high blood glucose levels throughout 1993. Almost 12 years after the incident, appellant continued to take medication for her diabetes. Dr. Clark noted that appellant's blood glucose levels were currently under control and thus, he was unsure whether continued medication was necessary. He explained that he was in the process of tapering appellant off of her current medications to see if it would have any effect on her blood glucose levels. Dr. Clark further indicated that, regardless of whether appellant needed medication, she continued to have diabetes.

In a December 14, 2005 decision, the Office denied appellant's recurrence claim. The Office found that appellant had not submitted rationalized medical evidence explaining how her current diabetic condition was still aggravated by the February 18, 1993 employment injury.

LEGAL PRECEDENT

A recurrence of a medical condition is defined as a "documented need for further medical treatment after release from treatment for the accepted condition or injury…."[6] Continuous treatment for the original condition or injury is not considered a recurrence of a medical condition nor is an examination without treatment.[7] As distinguished from a recurrence of disability, a recurrence of a medical condition does not involve an accompanying work stoppage.[8] It is the employee's burden to establish that the claimed recurrence is causally related to the original injury.[9]

ANALYSIS

Appellant's position on appeal is that the steroids she received in February and March 1993 either caused or aggravated her diabetic condition and that the effects of the steroids are ongoing despite the Office's acceptance of only a temporary aggravation. Her counsel argued that there was no recent medical evidence indicating that the current diabetic condition was unrelated to the February 18, 1993 employment injury and subsequent steroid treatment. However, appellant has the burden of production and persuasion before the Board.

The Office is not obligated to continue to produce medical evidence in support of its decision to accept the claim for only a temporary aggravation of diabetes mellitus. Based on the contemporaneous medical evidence, appellant's blood glucose level had returned to normal when

[6] 20 C.F.R. § 10.5(y).

[7] *Id.*

[8] *Id.*; 20 C.F.R. § 10.5(x).

[9] *See* 20 C.F.R. § 10.104; *Mary A. Ceglia,* 55 ECAB 626, 629 (2004).

she was examined by Dr. Blackburn in November 1993. He expressed the opinion that appellant was genetically predisposed to developing diabetes and that the steroids she received earlier that year merely uncovered a hidden condition. Dr. Blackburn also cautioned that appellant's diabetes would manifest itself again if she did not maintain a proper diet and continue to reduce her weight. He unequivocally stated that the steroids appellant received had no long-term deleterious effects. Thus, the probative medical evidence at the time indicated that appellant's diabetes was temporarily aggravated by the steroid therapy she received in response to her February 18, 1993 employment injury and that the aggravating effects had subsided as of November 23, 1993.

If appellant disagrees with the Office's decision to rely on Dr. Blackburn's November 23, 1993 assessment, it is her responsibility to produce credible medical evidence to the contrary. In this case, appellant has failed to produce such evidence. While Dr. Clark opined in March 2005 that appellant's current diabetic condition was steroid related, he did not offer a reasoned explanation for his opinion. The only apparent justification for his opinion on causal relationship is that appellant took steroids in 1993 and she has been on diabetic medication ever since.[10] Noticeably, absent from Dr. Clark report is any discussion of other potential causative factors such as genetics, obesity, diet, exercise, ethnicity, gender or age. He also did not mention the fact that appellant's blood glucose level had returned to normal by November 1993. Because steroid usage is only one of several generally recognized causes for diabetes mellitus, it is incumbent upon Dr. Clark, or any other physician appellant might consult, to explain how it is possible to distinguish the 1993 steroid usage from other causative factors, such as those identified by Dr. Blackburn.

The Board finds that appellant has not met her burden of proof. Dr. Clark's March 16, 2005 report is insufficient to establish that appellant's ongoing diabetic condition is causally related to the steroid treatment she received as a result of the February 18, 1993 employment injury. Accordingly, the Office properly denied her September 13, 2004 claim for recurrence of a medical condition.

CONCLUSION

Appellant failed to establish that her current diabetic condition is causally related to the February 18, 1993 employment injury.

[10] Apart from her visits to a podiatrist, there is an 11-year gap in documented medical treatment for appellant's diabetes-related conditions. While Dr. Clark's reference to a 12-year treatment history for diabetes may ultimately be proven to be accurate, it is currently not supported by the record.

ORDER

IT IS HEREBY ORDERED THAT the December 14, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 8, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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