

U. S. DEPARTMENT OF LABOR  
Employees' Compensation Appeals Board

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In the Matter of ALICE J. GRESHAM and U.S. POSTAL SERVICE,  
POST OFFICE, Austell, GA

*Docket No. 99-2507; Submitted on the Record;  
Issued October 4, 2000*

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DECISION and ORDER

Before DAVID S. GERSON, PRISCILLA ANNE SCHWAB,  
VALERIE D. EVANS-HARRELL

The issue is whether appellant sustained a back condition causally related to factors of her federal employment.

On October 19, 1998 appellant, then a 43-year-old rural letter carrier, filed an occupational disease claim alleging that she sustained lumbar disc disease, which she attributed to the performance of her employment duties. Appellant related:

“I had never had any type of back problems before I injured it on the job.<sup>1</sup> Since that time I have had problems off and on. Always [the] same area, same diagnosis, even from different doctors. I was told that the bending, stooping[,] picking up weight [and] twisting at the waist is something that only aggravated my injury.”

Appellant stopped work on October 23, 1997.

By letter dated October 23, 1998, the employing establishment controverted appellant's claim. The employing establishment indicated that appellant had originally filed her claim as a recurrence of disability due to her October 4, 1994 employment injury but that the Office had denied the claim.<sup>2</sup>

By decision dated December 1, 1998, the Office denied appellant's claim on the grounds that she had not established fact of injury. The Office found that appellant had experienced the

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<sup>1</sup> The record indicates that the Office of Workers' Compensation Programs accepted that appellant sustained lumbosacral strain due to a traumatic injury on October 4, 1994.

<sup>2</sup> The record indicates that, in a decision dated April 23, 1998, the Office denied appellant's November 25, 1997 claim for a recurrence of disability causally related to her October 4, 1994 employment injury.

claimed employment factors but did not submit sufficient medical evidence to establish that she had any condition attributable to her employment.

In a letter dated January 19, 1999, appellant requested reconsideration of her claim. By decision dated May 20, 1999, the Office denied appellant's modification of the prior decision. The Office found that newly submitted evidence showed that she had experienced a nonemployment-related injury which cast doubt on the validity of her claim. The Office further found that the medical reports were not based on an accurate factual history as the physicians did not indicate knowledge of the nonemployment-related fall.

The Board finds that appellant has not established that she sustained a back condition causally related to factors of her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> has the burden of establishing the essential elements of her claim, including the fact that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>4</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying the employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant.<sup>5</sup> The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence.<sup>6</sup>

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>7</sup> must be one of reasonable medical certainty,<sup>8</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors

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<sup>3</sup> 5 U.S.C. §§ 8101-8193.

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *Jerry D. Osterman*, 46 ECAB 500 (1995); *see also Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>6</sup> The Board has held that in certain cases, where the causal connection is so obvious, expert medical testimony may be dispensed with to establish a claim; *see Naomi A. Lilly*, 10 ECAB 560, 572-73 (1959). The instant case, however, is not a case of obvious causal connection.

<sup>7</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>8</sup> *See Morris Scanlon*, 11 ECAB 384-85 (1960).

identified by the claimant.<sup>9</sup> The mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the condition became apparent during a period of employment, nor the belief of appellant that the condition was caused by or aggravated by employment conditions is sufficient to establish causal relation.<sup>10</sup>

In the present case, appellant alleged that bending, stooping, twisting and lifting at work aggravated her back condition. The Office accepted the occurrence of the described employment factors but found that appellant had not submitted sufficient medical evidence to establish that she sustained an occupational injury due to these factors. The Office further noted that neither appellant's statement nor the medical evidence submitted in support of her claim contained a history of her nonemployment-related fall contemporaneous to the time she stopped work in October 1997.

Regarding appellant's nonemployment-related fall, in a report dated October 24, 1997, a physician listed appellant's complaints of increasing pain after a fall down stairs and after sneezing. He noted findings of tenderness at L4-5 of the lumbar spine. A radiologist's report from the same date listed appellant's history of injury as a fall on the steps three days prior. In a report dated October 28, 1997, Dr. Howard J. Colier, a Board-certified orthopedic surgeon, indicated that appellant "fell last week, then coughed and felt a sharp left[-]sided back pain with radiation down the left leg."

In an undated medical report, Dr. Suzie C. Tindall, appellant's attending physician who is a Board-certified neurologist and neurosurgeon, discussed appellant's history of a 1994 employment injury and noted that two months before she "had a sudden recurrence of her low back pain. This time, however, the situation was unique in that her pain actually radiated down the left lateral calf into the top and lateral aspect of the left foot." Dr. Tindall noted that the heavy weight appellant carried at work exacerbated her low back pain. She found that a magnetic resonance imaging (MRI) study obtained on October 31, 1997 revealed "an enormous left-sided eccentric L5-S1 disc as well as a smaller left L4-5 disc."<sup>11</sup> Dr. Tindall, however, did not address the cause of the diagnosed condition of disc herniations and thus her report is insufficient to meet appellant's burden of proof.<sup>12</sup>

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<sup>9</sup> See *William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>10</sup> *Manuel Garcia*, 37 ECAB 767, 773 (1986); *Juanita C. Rogers*, 34 ECAB 544, 546 (1983).

<sup>11</sup> On December 16, 1997 Dr. Tindall performed a lumbar partial hemilaminectomy and a partial fasciectomy and discectomy at L4-5 and L5-S1 on the left side.

<sup>12</sup> *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

In a report dated May 19, 1998, Dr. Tindall indicated that she initially treated appellant on December 12, 1997 and stated:

“[Appellant] relates a history of having her first back injury on the job in 1994 and having several episodes of waxing/waning pain following that initial injury. These episodes spanned three years between the initial injury and the time she underwent a two-level lumbar discectomy on December 16, 1997. At the time of her surgery, her pain had progressed from back-buttock to back-radicular leg pain.”

While Dr. Tindall described the history related by appellant of her condition and symptoms, the physician did not specifically attribute the progression of appellant’s symptoms to specific employment factors and thus her opinion is of little probative value.

In a report dated June 19, 1998, Dr. Tindall related:

“Based on what I know about [appellant] and her medical problem, I believe that she first injured her back while at work in 1994, and that she subsequently was unable to get adequate relief of her back and leg symptoms from conservative care and, therefore, eventually required surgery for her protruded lumbar discs.”

Dr. Tindall attributed appellant’s back condition to her 1994 employment injury rather than factors of her federal employment.<sup>13</sup> Further, Dr. Tindall’s report did not contain a history of appellant’s nonemployment-related fall in October 1997. Medical opinions which are based on an incomplete or inaccurate factual background are entitled to little probative value in establishing a claim for compensation benefits.<sup>14</sup>

In a report dated August 14, 1998, Dr. Tindall listed employment duties performed by appellant between 1994 and 1997, which she stated, “probably contributed to a worsening of her lumbar disc condition.” Dr. Tindall’s opinion that specific employment duties “probably” aggravated appellant’s back condition is couched in speculative terms and is thus insufficient to establish causal relationship.<sup>15</sup>

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<sup>13</sup> As previously noted, the Office denied appellant’s claim for a recurrence of disability causally related to her 1994 employment injury.

<sup>14</sup> *Daniel J. Overfield*, 42 ECAB 718 (1991).

<sup>15</sup> *Jennifer L. Sharp*, 48 ECAB 209 (1996).

In a report dated January 4, 1999, Dr. Tindall diagnosed “lumbar disease, status post lumbar discectomy [and] chronic intermittent low back pain.” She stated:

“The current diagnosis is the result of a lumbar disc herniation that, by history, occurred on the job in 1994 and was exacerbated by heavy duty for the ensuing three years.

“The medical rationale is that [appellant] gave a history consistent with lumbar disc herniation exacerbated by heavy duty. Her physical examination prior to surgery showed paravertebral muscle spasm and positive straight leg raising. MRI scan of the lumbar spine did show lumbar disc herniations consistent with [appellant’s] history. She underwent lumbar discectomies and had remarkable improvement, except when stressing her back with heavy lifting or excessive bending/stooping.”

Again, Dr. Tindall did not indicate knowledge that appellant injured her back falling down stairs in October 1997. In order to be of probative value, a medical opinion must be based on a complete and accurate factual and medical history.<sup>16</sup> As Dr. Tindall’s report does not contain a history of appellant’s nonemployment-related fall and an explanation of the effects of the fall on the progression of her back condition, it is insufficient to meet her burden of proof.

In an office visit note dated July 8, 1998, Dr. Colier noted that appellant underwent a double laminectomy in December 1997 and stated that “her symptoms appear to be related to her workers’ comp[ensation] injury of 1994. She has been symptomatic since her injury in 1994.” He attributed appellant’s condition to her 1994 employment injury rather than specific factors of her federal employment and thus Dr. Colier’s opinion does not support her claim that she sustained an occupational disease in the performance of duty. In addition, Dr. Colier’s opinion that appellant’s symptoms “appear” to be due to her 1994 injury is speculative and equivocal in nature and thus of little probative value.<sup>17</sup> He further noted in support of his causal relationship determination that appellant had been symptomatic since her injury; however, a medical opinion that a condition is causally related to an employment injury because the employee was symptomatic after the injury but not before the injury is insufficient, without supporting rationale, to establish causal relationship.<sup>18</sup>

In a report dated August 20, 1998, Dr. Colier described appellant’s 1994 employment injury and her job duties. He opined that appellant’s work “did worsen her condition to warrant the surgery she had in December.” Dr. Colier, however, did not provide any supporting medical rationale for his conclusion or discuss the effects of appellant’s nonemployment-related back injury. Thus, Dr. Colier’s opinion is of little probative value.<sup>19</sup>

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<sup>16</sup> *Joseph M. Popp*, 48 ECAB 624 (1997).

<sup>17</sup> *Alberta S. Williamson*, 47 ECAB 569 (1996).

<sup>18</sup> *Cleopatra McDougal-Saddler*, 47 ECAB 480 (1996).

<sup>19</sup> *Jacquelyn L. Oliver*, 48 ECAB 232 (1996) (medical conclusions unsupported by medical rationale are of

In a report dated July 9, 1998, Dr. Robert Strickland, Jr., an osteopath, related that he treated appellant on April 13 and October 24, 1997 for low back pain and that there “could be a causal relationship to a previous injury occurring on her job.” Dr. Strickland, however, did not provide a diagnosis, attribute appellant’s condition to the described factors of her federal employment, or provide a definite causation finding. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty, explained by medical rationale and based on a complete and accurate factual background.<sup>20</sup>

As appellant has not submitted rationalized medical evidence to substantiate that she sustained a back condition due to factors of her federal employment, she has not met her burden of proof.

The decisions of the Office of Workers’ Compensation Programs dated May 20, 1999 and December 1, 1998 are affirmed.

Dated, Washington, DC  
October 4, 2000

David S. Gerson  
Member

Priscilla Anne Schwab  
Alternate Member

Valerie D. Evans-Harrell  
Alternate Member

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diminished probative value).

<sup>20</sup> *Connie Johns*, 44 ECAB 560 (1993).