

In support of the claim, appellant submitted a narrative statement, nursing notes, and a magnetic resonance imaging (MRI) scan report dated October 24, 2001, which diagnosed C4-5 disc herniation. Appellant also submitted work limitation slips dated between December 5, 2002 and April 10, 2003 from Dr. Brian Crume, a chiropractor, which diagnosed acute lumbosacral sprain and lumbar segmental dysfunction. In a March 14, 2003 report, Dr. Crume stated that appellant had been a patient of his for approximately 15 years. He stated that, since 2001, appellant's need for active treatment had progressed because, in 2002, appellant complained of constant low back pain which he related inhibited his ability to bend and lift. Appellant also submitted a duty status report from Dr. Crume dated May 10, 2003 which indicated that appellant's lower back was aggravated by work.

On September 22, 2003 the Office requested additional factual information and medical evidence. The Office further advised appellant of the limitations under the Federal Employees' Compensation Act with respect to chiropractic services. The Office did not receive any additional medical evidence in the allotted 30-day time frame.

By decision dated October 29, 2003, the Office denied appellant's claim on the basis that the medical evidence did not contain an acceptable diagnosis in relation to the claimed employment exposure.

LEGAL PRECEDENT

In order to establish that an injury was sustained in the performance of duty, 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 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 diagnosed condition is causally related to the employment factors identified by the claimant.¹ Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.²

ANALYSIS

The medical evidence in the instant case consists solely of reports from Dr. Crume, a chiropractor, who diagnosed appellant with acute lumbosacral sprain and lumbar segmental dysfunction beginning December 5, 2002 and concluded that his lower back had been aggravated by work. In assessing the probative value of chiropractic evidence, the initial question is whether the chiropractor is considered a physician under section 8101(2) of the Act.³ A

¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

² *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, *supra* note 1. Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

³ 5 U.S.C. § 8101(2).

chiropractor cannot be considered a physician under the Act unless it is established that there is a subluxation as demonstrated by x-ray to exist.⁴

The Board finds that appellant did not establish that he sustained an employment-related injury as the record contains no rationalized medical evidence containing an acceptable diagnosis and relating that diagnosed condition to employment factors. While Dr. Crume diagnosed acute lumbosacral sprain and lumbar segmental dysfunction, he has not diagnosed a subluxation of the lumbar spine as demonstrated on x-ray.⁵ Therefore, Dr. Crume is not considered a physician under the Act and his report is of no probative value.⁶ As there is no other pertinent medical evidence in the record, appellant did not provide the necessary medical evidence to establish that employment factors caused any injuries and the Office properly denied his claim.

CONCLUSION

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 29, 2003 is affirmed.

Issued: March 24, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

⁴ *Thomas R. Horsfall*, 48 ECAB 180 (1996).

⁵ The Board notes that the only diagnostic report contained in the record is an MRI scan of the cervical spine which showed that appellant had a disc herniation. Appellant did not claim that he sustained an employment-related cervical condition and the record does not contain a medical opinion identifying the cause of the herniation.

⁶ *Id.*