

On September 26, 2007 appellant, a 45-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that she developed back pain as a result of employment activities. In a statement dated September 19, 2007, she reported that her back began bothering her two months earlier. Appellant indicated that she became concerned and sought medical attention when her condition failed to improve even after she took time off from work.

In a letter dated October 4, 2007, the Office informed appellant that the evidence submitted was insufficient to establish her claim. It advised her to submit details regarding the employment duties she believed caused or contributed to her claimed condition, as well as a comprehensive medical report from a treating physician, which contained symptoms, a diagnosis, and an opinion with an explanation as to the cause of appellant's diagnosed condition.

The record contains a September 14, 2007 report of an x-ray of the lumbar spine; September 10, 2007 laboratory test results; and a September 19, 2007 report of a magnetic resonance imaging (MRI) scan of the lumbar spine. In a report dated September 10, 2007, Dr. Laura Mirsky, a Board-certified internist, related appellant's complaints of left back pain and some shooting pains in her left groin. She noted that appellant's work duties included lifting heavy bags. On examination, she found tenderness in the left lower back and negative straight leg raising. Dr. Mirsky stated that appellant "most likely" had a muscle spasm. In a follow-up report dated September 17, 2007, she noted that an x-ray of the spine showed "a lot of arthritis."

In a report dated October 1, 2007, Dr. Thomas D. Hansen, a Board-certified anesthesiologist, with a specialty in pain medicine, provided a diagnosis of lumbar disc degeneration at S1. He stated that, for the past two months, appellant had been experiencing left-sided buttock and groin pain, particularly with forward flexion. Dr. Hansen noted that she worked in a post office, where she performed quite a bit of lifting and forward flexion.

Appellant submitted an undated response to the Office's October 4, 2007 letter. She stated that she worked 12-hour days, 5 to 7 days per week. Activities that contributed to her alleged back condition included constant bending, lifting and reaching.

By decision dated December 21, 2007, the Office denied appellant's claim on the grounds that she had not established a causal relationship between the diagnosed condition and accepted work-related events.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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,² and that any disability and/or specific condition for which compensation is claimed is causally related to the employment injury.³

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

¹ 5 U.S.C. §§ 8101-8193.

² *Joseph W. Kripp*, 55 ECAB 121 (2003); *see also Leon Thomas*, 52 ECAB 202, 203 (2001). "When an employee claims that he sustained injury in the performance of duty he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury." *See also* 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. § 10.5(q) and (ee) (2002) ("Occupational disease or Illness" and "Traumatic injury" defined).

³ *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

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 diagnosed condition is causally related to the employment factors identified by the claimant.⁴ The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to the claimant's diagnosed condition. To be of probative value, the opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁵

An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents, is sufficient to establish a causal relationship.⁶

ANALYSIS

The Office accepted that the work-related events occurred as alleged, namely that appellant's work activities included lifting, bending and reaching. However, appellant's claim was denied on the grounds that she failed to establish that her claimed medical condition was related to the established events. The Board finds that the medical evidence submitted by appellant is insufficient to establish that her diagnosed medical condition was caused or aggravated by factors of her federal employment. Therefore, she has failed to meet her burden of proof.

On September 10, 2007 Dr. Mirsky related appellant's complaints of left back pain and some shooting pains in her left groin. She noted that appellant's work duties included lifting heavy bags. On examination, she found tenderness in the left lower back and negative straight leg raising, and stated that appellant "most likely" had a muscle spasm. In a follow-up report dated September 17, 2007, she noted that an x-ray of the spine showed "a lot of arthritis." Neither report contains a definitive diagnosis, or provides a fully rationalized opinion as to the cause of appellant's cervical condition. Therefore, they are of limited probative value.⁷ Although Dr. Mirsky mentioned that appellant's work duties included lifting heavy bags, she did not explain the nature of the relationship between appellant's back condition and her employment activities.⁸

⁴ *Michael R. Shaffer*, 55 ECAB 386 (2004). *See also Solomon Polen*, 51 ECAB 341, 343 (2000).

⁵ *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

⁶ *Phillip L. Barnes*, 55 ECAB 426 (2004); *see also Dennis M. Mascarenas*, *supra* note 3 at 218.

⁷ *Michael E. Smith*, 50 ECAB 313 (1999).

⁸ *Leslie C. Moore*, *supra* note 5.

In a report dated October 1, 2007, Dr. Hansen diagnosed lumbar disc degeneration at L5-S1, and stated that appellant had been experiencing left-sided buttock and groin pain for the past two months. He noted that appellant worked in a post office, where she performed quite a bit of lifting and forward flexion. However, Dr. Hansen failed to provide an opinion as to the cause of her diagnosed condition. He did not sufficiently describe appellant's job duties, or explain the medical process through which such duties would have been competent to cause the claimed condition. For these reasons, Dr. Hansen's report is of diminished probative value.

The remaining medical evidence of record consists of laboratory reports and reports of MRIs and x-rays. As they do not contain an opinion as to the cause of appellant's condition, these reports are of limited probative value and are insufficient to establish appellant's claim.⁹

Appellant expressed her belief that her alleged condition resulted from her duties as a mail handler. However, the Board has held that 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.¹⁰ Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.¹¹ Causal relationship must be substantiated by reasoned medical opinion evidence, which appellant must submit. Therefore, appellant's belief that her condition was caused by the accepted work activities is not determinative.

The Office advised appellant that it was her responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment and the doctor's opinion with medical reasons on the cause of her condition. Appellant failed to do so. As there is no probative, rationalized medical evidence addressing how appellant's claimed condition was caused or aggravated by her employment, she has not met her burden of proof in establishing that she developed an occupational disease in the performance of duty causally related to factors of employment.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained an injury in the performance of duty.

⁹ *Michael E. Smith, supra* note 7.

¹⁰ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹¹ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the December 21, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 7, 2008
Washington, DC

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

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

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