



## **FACTUAL HISTORY**

This case has previously been before the Board.<sup>2</sup> In a September 2, 2009 decision, the Board affirmed OWCP decisions dated March 5 and August 20, 2008, finding that appellant did not sustain an injury in the performance of duty on October 30, 2007. The Board found that appellant failed to submit sufficiently rationalized medical evidence establishing a causal relationship between her claimed injury and the accepted October 30, 2007 employment incident. The facts of the case as set forth in the Board's prior decision are incorporated by reference.<sup>3</sup>

By letter dated August 17, 2010, appellant, through her attorney, requested reconsideration before OWCP. In a December 15, 2009 medical report, Dr. James B. Billys, an attending Board-certified orthopedic surgeon, stated that he reviewed her history. In a prior January 17, 2008 report, he concluded that appellant experienced sciatica in the right leg as a result of twisting at a mail drop when alighting from her vehicle. Dr. Billys opined that, based on the history of the accepted employment incident, his physical examination finding of sciatica pain down her right leg and magnetic resonance imaging (MRI) scan evidence of two lumbar disc herniations, she sustained a work-related injury when she twisted and got out of the vehicle. He stated that the accepted employment incident coincided with the onset of her symptoms and "could have certainly caused the [diagnosed] disc herniations, which have led to [appellant's] continued symptomatology."

In an October 25, 2010 decision, OWCP denied modification of its finding that appellant did not sustain an injury in the performance of duty on October 30, 2007. It found that the medical evidence was insufficient to establish that the claimed injury was causally related to the accepted October 30, 2007 employment incident.

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</sup> has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA; that the claim was filed within applicable time limitation; that an injury was sustained while 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

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<sup>2</sup> Docket No. 09-363 (issued September 2, 2009).

<sup>3</sup> On November 1, 2007 appellant, then a 48-year-old rural route carrier, filed a traumatic injury claim alleging that on October 30, 2007 she hurt her right leg when she exited her long life vehicle. In a December 21, 2007 decision, OWCP denied her claim, finding that the October 30, 2007 incident occurred as alleged, but that the evidence failed to establish that the claimed medical condition was causally related to the accepted work-related incident. In decisions dated March 5 and August 20, 2008, it denied modification of its denial of appellant's claim.

<sup>4</sup> 5 U.S.C. §§ 8101-8193.

employment injury.<sup>5</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>6</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components, which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident or exposure, which is alleged to have occurred.<sup>7</sup> In order to meet her burden of proof to establish the fact that she sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that she actually experienced the employment injury or exposure at the time, place and in the manner alleged.<sup>8</sup>

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.<sup>9</sup> The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.<sup>10</sup> The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.<sup>11</sup>

### ANALYSIS

The Board previously found the medical evidence of record insufficient to establish that appellant sustained an injury causally related to the accepted October 30, 2007 employment incident. Appellant requested reconsideration before OWCP and submitted a medical report from Dr. Billys, an attending physician.

In a December 15, 2009 report, Dr. Billys noted his prior findings from January 17, 2008 that appellant sustained employment-related sciatica symptoms in her right leg based on the accepted history that she twisted it during a mail drop when alighting from her vehicle on October 30, 2007. He reiterated his findings based on the history of the October 30, 2007 employment incident, his physical examination findings of sciatica pain down the right leg and an MRI scan evidence of two lumbar disc herniations. Dr. Billys concluded that the accepted employment incident coincided with the onset of appellant's symptoms and "could have

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<sup>5</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 5.

<sup>7</sup> *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

<sup>8</sup> *Linda S. Jackson*, 49 ECAB 486 (1998).

<sup>9</sup> *John J. Carlone*, 41 ECAB 354 (1989); *see* 5 U.S.C. § 8101(5) (injury defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (traumatic injury and occupational disease defined).

<sup>10</sup> *Lourdes Harris*, 45 ECAB 545 (1994); *see Walter D. Morehead*, 31 ECAB 188 (1979).

<sup>11</sup> *Charles E. Evans*, 48 ECAB 692 (1997).

certainly caused the [diagnosed lumbar] disc herniations, which have led to her continued symptomatology.” He did not adequately explain how the mechanism of twisting and alighting from vehicle on October 30, 2007 caused or contributed to her right leg and lumbar conditions. Rather, Dr. Billys provided a speculative opinion in causal relation. Medical reports without adequate rationale on causal relationship are of diminished probative value and are insufficient to meet an employee’s burden of proof.<sup>12</sup> Without medical reasoning explaining how the October 30, 2007 employment incident caused or contributed to the sciatica and lumbar disc herniations, Dr. Billys’ reports are insufficient to meet appellant’s burden of proof.<sup>13</sup>

On appeal, appellant’s attorney contended, without explanation, that OWCP’s decision was contrary to fact and law. For the reasons stated, the Board finds that appellant did not submit sufficient medical evidence establishing that she sustained an injury causally related to the established employment incident.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has failed to establish that she sustained an injury causally related to the October 30, 2007 employment incident.

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<sup>12</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

<sup>13</sup> *C.B.*, Docket No. 08-1583 (issued December 9, 2008).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 25, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 10, 2011  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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