

**United States Department of Labor
Employees' Compensation Appeals Board**

LISA M. GUILLORN, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Old Forge, PA, Employer**

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**Docket No. 04-1295
Issued: September 9, 2004**

Appearances:
Lisa M. Guillorn, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

COLLEEN DUFFY KIKO, Member
MICHAEL E. GROOM, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On April 19, 2004 appellant filed a timely appeal from a merit decision of the Office of Workers' Compensation Programs dated January 15, 2004, which denied her claim on the grounds that she failed to establish fact of injury. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has established that she sustained an injury on October 4, 2002 in the performance of duty.

FACTUAL HISTORY

On October 4, 2002 appellant, then a 41-year-old city letter carrier, filed a claim for traumatic injury alleging that on that date she experienced a pain in her right hip and leg with numbness. Appellant indicated that it was "unknown" how the injury occurred.

On the reverse side of the claim form, a supervisor indicated that appellant sought medical treatment on October 5, 2002 from Dr. Charles M. Manganiello, a family practitioner. The physician noted that appellant had a red area on her right leg and discomfort in the right leg but did not know what caused it. The supervisor stated that appellant never indicated that she had any trip, fall, strain or sprain on her route.

On a prescription note dated October 17, 2002, Dr. Manganiello wrote that appellant was being evaluated for low back pain and right leg pain and was to pursue restricted activity.

By letter dated November 21, 2002, the Office advised appellant that the information submitted was insufficient to establish her claim. It advised her to submit further factual evidence that an injury occurred as alleged and some rationalized medical evidence listing a specific diagnosis and discussion of causal relation with employment factors.

Appellant submitted a November 27, 2002 report from Dr. Manganiello who stated that appellant was seen on October 4, 2002 complaining of pain and weakness in her right leg. She was sent for x-rays and a magnetic resonance imaging (MRI) scan and referred to Dr. Pamela J. Costello, a Board-certified neurosurgeon.

A Form CA-17 was completed by Dr. Costello, who noted a diagnosis of L5-S1 spondylolisthesis with radiculopathy. Dr. Costello checked "No" to the question of whether appellant could return to work and indicated that she could only lift 5 pounds continuously and 10 pounds intermittently. She indicated that appellant was restricted from climbing, kneeling, bending, stooping, twisting, pushing and pulling and from driving a vehicle, operating machinery and working in adverse conditions.

Appellant also noted that during the day on October 4, 2002 her pain and numbness started and that she twisted a lot that day. Her right leg started to hurt and she experienced a numbness from her hip into her heel. She denied ever having any similar symptoms.

By decision dated January 15, 2003, the Office rejected the claim, finding that the evidence was insufficient to establish that the injurious event occurred as alleged and that the additional evidence did not establish that she sustained an injury "because your physician does not document a mechanism of injury occurring from your [f]ederal duties. Nor do you report such injury."

In an undated letter, appellant requested reconsideration, contending that she had to walk on all sorts of terrain carrying various weights, that she had to get in and out of trucks with a heavy bag on her shoulder, that she had to twist to close the door and that she was walking down the street when a "pain ran down [her] right leg."

In a report dated December 17, 2002, Dr. Costello noted appellant's history, the onset of her symptomatology, physical examination results and nontender palpation and full range of motion of the spine without pain. Dr. Costello noted that appellant's MRI scan and x-rays demonstrated an extruded herniated nucleus pulposus with Grade 1 spondylolisthesis at L5-S1, loss of disc height at L5-S1 with associated facet arthropathy and likely pars fractures.

Dr. Costello recommended surgical decompression and stabilization and recommended full activity restrictions.

By decision dated May 7, 2003, the Office advised that the evidence of record was sufficient to establish that she delivered mail on October 4, 2002 while carrying her mailbag on her shoulder. Her claim was denied because the medical evidence was insufficient to establish that carrying her mailbag on her shoulder resulted in a low back herniated disc.

Appellant submitted a May 14, 2003 letter from Dr. Manganiello, who noted that appellant had been evaluated in his office for a herniated lumbar disc. He stated: "It is my opinion that her herniated disc and radiculopathy are on the basis of her work; therefore, it is my opinion that this is a work-related problem."

On December 20, 2003 appellant requested reconsideration of the May 7, 2003 decision.

On January 6, 2004 the Office received a November 18, 2002 MRI scan of appellant's lumbar spine performed at Dr. Manganiello's request. It demonstrated degeneration and central extrusion of the disc at L5-S1 with minimal caudal migration over the body of S1. The clinical indication was noted as "twisting injury in October 2002. Back pain radiating into the right leg."

By decision dated January 15, 2004, the Office denied modification of the May 7, 2003 decision. The Office found that the medical evidence was insufficient to demonstrate a causal relationship between appellant's degenerative spinal condition and factors of her employment.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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 the Act, that the claim was timely filed within the applicable time limitation period of the Act, 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."² These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

In order to determine whether an employee actually sustained an injury in the performance of her duty, the Office 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. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner

¹ 5 U.S.C. §§ 8101-8193.

² *Caroline Thomas*, 51 ECAB 451, 454 (2000); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

³ *Caroline Thomas*, *supra* note 2.

alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence to establish that the employment incident caused a personal injury.⁴

Appellant has the burden of establishing by the weight of reliable, probative and substantial evidence that the injury claimed was caused or aggravated by her federal employment. As part of this burden, appellant must submit a rationalized medical opinion, based upon a complete and accurate factual and medical background, showing a causal relationship between the injury claimed and factors of her federal employment.⁵ Causal relationship is a medical issue that can be established only by medical evidence.⁶ The Board notes that the fact that a condition manifests itself or worsens during a period of employment does not raise an inference of an employment relationship.⁷ The Board further notes that mere conclusions, such as the one presented by Dr. Manganiello, without supporting rationale are of little probative value.⁸

ANALYSIS

The Office accepted that on October 4, 2002 appellant was delivering mail with her mailbag on her shoulder. The Board finds that appellant has not established that she sustained a low back injury resulting from the accepted employment incident.

Dr. Manganiello, whom she saw for treatment immediately following the employment incident, referred appellant to Dr. Costello. She underwent an MRI scan and x-rays which were reported as demonstrating L5-S1 spondylolisthesis with radiculopathy and an extruded nucleus pulposus with Grade 1 spondylolisthesis at L5-S1, loss of disc height at L5-S1 and associated facet arthropathy and likely pars fractures. None of the medical evidence, however, addresses appellant's employment activities of carrying a heavy mailbag as a cause of her low back and right leg symptomatology or the radiographic findings.

In a May 14, 2003 report, Dr. Manganiello stated in general terms that appellant had been evaluated in his office for a herniated lumbar disc and that "It is my opinion that her herniated disc and radiculopathy are on the basis of her work; therefore, it is my opinion that this is a work-related problem." No further medical explanation of the spinal process or pathology involved was provided and no details of her work activities were given. The Board finds that this report is of reduced probative value and is insufficient to establish appellant's claim.

A November 18, 2002 MRI scan of appellant's lumbar spine was submitted which reported degeneration and central extrusion of the disc at L5-S1 with minimal caudal migration over the body of S1, but no clinical correlation was made nor was causation of the findings

⁴ *Gloria J. McPherson*, 51 ECAB 441, 445 (2000).

⁵ *Steven R. Piper*, 39 ECAB 312 (1987). See 20 C.F.R. § 10.110(a).

⁶ *Mary J. Briggs*, 37 ECAB 578 (1986); *Ausberto Guzman*, 25 ECAB 362 (1974).

⁷ *Paul D. Weiss*, 36 ECAB 720 (1985); *Hugh C. Dalton*, 36 ECAB 462 (1985).

⁸ See *Richard Giordano*, 36 ECAB 134 (1984).

discussed. As this diagnostic report contained no medical rationale addressing causal relationship it is insufficient to establish appellant's claim.

Appellant has not submitted sufficient medical opinion evidence which contains medical rationale that explains how her work activities on October 4, 2002 caused or contributed to her L5-S1 spondylolisthesis and degenerated herniated disc. She has failed to meet her burden of proof to establish her claim.

CONCLUSION

Appellant has not met her burden of proof to establish her claim because she has failed to provide rationalized medical evidence to establish that her disc condition is causally related to the October 4, 2002 employment activities.

ORDER

IT IS HEREBY ORDERED THAT the decisions the Office of Workers' Compensation Programs dated January 15, 2004 and May 7, 2003 are affirmed.

Issued: September 9, 2004
Washington, DC

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member