



By letter dated March 10, 2004, the Office advised appellant that the information submitted in his claim was not sufficient to determine whether he was eligible for benefits. The Office requested that he submit a statement describing the employment-related activities which he believed contributed to the condition. The Office also requested a medical opinion from his doctor describing his symptoms, a history of injury, current medical examination findings including recent diagnostic test results, a firm diagnosis and treatment provided. It also asked that appellant's doctor provide an opinion on the causes of his claimed condition.

On March 30, 2004 appellant submitted a CA-7 form for compensation from January 7 to March 7, 2004. The employing establishment noted that appellant was on sick leave from January 11 to February 19, 2004 and on leave without pay from February 22 to March 7, 2004.

By decision dated May 24, 2004, the Office denied appellant's claim on the grounds that the evidence was insufficient to establish fact of injury in the performance of duty.

On November 1, 2004 appellant requested reconsideration and submitted additional evidence. In a report dated January 12, 2004, Dr. George Peters, a Board-certified radiologist, stated that a right hip magnetic resonance imaging (MRI) scan taken that day revealed a negative finding. In another report dated January 12, 2004, Dr. Francis C. Yu, Board-certified in allergy and immunology, stated that upon examination appellant had no spinal tenderness, bilateral paralumbar areas without spasm and normal sensation and strength. He opined that appellant had sciatica and hypertension.

On January 28, 2004 Dr. Derek Fong, an internist, stated that appellant had persistent low back pain thought to be secondary to sciatica. Appellant was placed on light duty for one week. On February 12, 2004 Dr. Fong stated that appellant had been treated since January for low back pain thought to be secondary to sciatica. Appellant related pain consistent with prior examination. On February 20, 2004 a doctor placed appellant off work from that date to February 22, 2004 and then on restricted duty until March 7, 2004 with a lifting restriction of 10 pounds.<sup>1</sup>

On March 10, 2004 Dr. Sulabha Masih, a Board-certified radiologist, stated that x-rays of the lumbosacral spine revealed minor degenerative disc disease, normal lordotic curvature with no evidence of spondylolisthesis and no evidence of osseous fractures, dislocations or subluxations. Disc spaces were within normal limits.

In a report dated June 4, 2004, Dr. Shahla Modarressi, a Board-certified radiologist, stated that appellant had a normal MRI scan that day that revealed no evidence of avascular necrosis or fracture of the hips or pelvis.

In a report dated July 26, 2004, Dr. Brett Peterson, an orthopedic surgeon, stated that appellant had complained of right hip pain since January 2003 as a result of lifting a suitcase; he determined that appellant had right paraspinal muscle strain and recommended lumbar physical therapy. On August 19, 2004 appellant stated that on January 7, 2004 he sustained excruciating right hip pain when he lifted a bag, he then finished his shift, returned to work the next day but

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<sup>1</sup> The doctor's name is illegible.

still felt pain and, on the following day, sought medical care. On August 22, 2004 Dr. Peterson stated that appellant was treated on July 26, 2004 for lumbar paraspinous muscle strain and that he was able to perform light-duty tasks with a lifting restriction of no more than 40 pounds. The record includes an amended CA-2 claim form dated January 29, 2004 and received by the Office on September 22, 2004 in which appellant stated that his right hip injury occurred on January 7, 2004 when he lifted a customer's bag.

In a decision dated November 30, 2004, the Office denied modification of the May 24, 2004 decision. The Office found that the medical evidence did not establish a causal relationship between appellant's diagnosed condition and his employment activities.

### **LEGAL PRECEDENT**

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 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. The medical opinion 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.<sup>2</sup>

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>3</sup> Rationalized medical evidence is medical evidence which includes a physician's rationalized medical 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, 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.<sup>4</sup> Neither the 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 causal relationship.<sup>5</sup>

### **ANALYSIS**

There is no dispute that appellant lifted bags at work as alleged. However, appellant has submitted insufficient medical evidence to establish that his right hip condition was caused or aggravated by factors of his federal employment. The medical evidence of record which

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<sup>2</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>3</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

<sup>4</sup> *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>5</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

addresses appellant's diagnosed medical condition fails to provide sufficient medical explanation of how appellant's federal work duties caused or contributed to his medical conditions. The Office informed appellant of the evidence needed to establish his claim in its letter of March 10, 2004.

The record includes two MRI scans taken on January 12 and June 4, 2004 and x-rays taken March 10, 2004, which do not support a medical condition related to his employment. Medical reports dated January 12, 2004 from Dr. Yu, and January 28 and February 12, 2004 from Dr. Fong also do not address a causal relationship between appellant's diagnosed medical condition and factors of his employment. In fact, Dr. Fong noted treating appellant for low back pain on January 12, 2004 but made no mention of employment activities or of a hip condition. While Dr. Yu related the history of the claimed injury provided by appellant, the doctor did not provide an opinion regarding whether the employment caused or aggravated a particular condition.

On July 26, 2004 Dr. Peterson related a history of injury that appellant injured himself while lifting a suitcase at work in January "2003."<sup>6</sup> However, Dr. Peterson did not provide an opinion regarding whether appellant's employment caused or aggravated a particular medical condition. He did not provide an explanation of the mechanics by which appellant's job would cause or aggravate his back condition. The medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty; however, such opinion should not be speculative or equivocal. Dr. Peterson did not support his stated conclusion on causal relationship with sufficient rationale.

### **CONCLUSION**

The Board finds that appellant failed to meet his burden of proof to establish that his claimed condition was caused or aggravated in the performance of duty.

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<sup>6</sup> This was apparently a typographical error as the incidents alleged by appellant occurred in January 2004.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated November 30 and May 24, 2004 are affirmed.<sup>7</sup>

Issued: July 15, 2005  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

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<sup>7</sup> The Board notes that this case record contains evidence which was submitted to the Board subsequent to the Office's November 30, 2004 decision. The Board has no jurisdiction to review this evidence for the first time on appeal; *see* 20 C.F.R. § 501.2(c); *James C. Campbell*, 5 ECAB 35, 36 n.2 (1952).