



extremities and tingling in her right big toe when she stood for more than two hours. She first attributed this condition to her employment duties on June 1, 2004.

In a report dated March 21, 2005, Dr. Robert P. Margolis, a Board-certified neurologist, noted appellant's symptoms of numbness in her right leg since June 2004, tingling in her toes and leg weakness. He found decreased pin perception over the lateral aspect of her right foot and 10 percent vibratory loss in her feet diffusely. Dr. Margolis diagnosed mild peripheral neuropathy. He stated that he was uncertain as to the cause of appellant's symptoms, but did not blame her current symptoms on her work and indicated that she could return to duty. On April 7, 2005 Dr. Margolis reported his findings and made a tentative diagnosis of tendinitis of the peroneous longus.

The Office requested additional factual and medical evidence by letter dated April 25, 2005. Appellant responded on May 19, 2005 and noted that she had previously injured her back on April 14, 2003 which was denied by the Office. She asked that this claim be reopened.

In a letter dated May 31, 2005, the Office provided appellant with an additional 30 days to provide additional medical evidence addressing the relationship between her diagnosed conditions and her employment. By report dated June 22, 2005, Dr. Lisa Armbruster, a family practitioner, noted that appellant reported a back injury in April 2003 with resulting muscle spasm impeding her cervical range of motion. She stated in June 2004 that appellant felt increasing symptoms in her back and legs. Dr. Armbruster reported appellant's diagnoses of lumbar disc syndrome, lumbar disc degeneration and low back pain, sciatica and cervicgia made by the Back Pain Institute. She stated, "My impression is that her symptoms did originate and were exacerbated while performing her work duties."

On June 28, 2005 Dr. Richard Culligan, a chiropractor, stated that appellant injured her lower back in April 2003 while lifting in the performance of duty. He diagnosed sciatic radiculopathy. Dr. David J. Pernikoff, a chiropractor, completed a report on June 23, 2005 and stated that appellant's diagnosis was bulging lumbar disc and degenerative disc disease of the lumbosacral spine. He stated that repetitive lifting, bending and prolonged standing at her work could exacerbate both a bulging disc and degenerative disc disease.

By decision dated July 7, 2005, the Office denied appellant's claim finding that she failed to submit sufficient medical opinion evidence to establish a causal relationship between her diagnosed conditions and her employment duties.<sup>1</sup>

### **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 of existence of a the disease or condition for which compensation is claimed; (2) a

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<sup>1</sup> Following the Office's July 7, 2005 decision, appellant submitted additional new evidence. As the Office did not consider this evidence in reaching a final decision, the Board may not review the evidence for the first time on appeal. See 20 C.F.R. § 501.2(c).

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. 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>

Section 8101(2) of the Federal Employees' Compensation Act provides that the term "physician" ... includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist."<sup>3</sup>

### ANALYSIS

Appellant attributed her leg and foot symptoms to her employment duties of standing and walking. In support of her claim, she submitted a report from Dr. Margolis, a Board-certified neurologist, diagnosing mild peripheral neuropathy. However, he indicated that her condition was not work related. On April 7, 2005 Dr. Margolis suggested a diagnosis of tendinitis of the peroneus longus. These reports are not sufficient to meet appellant's burden of proof in establishing a condition due to factors of her employment as Dr. Margolis negated a causal relationship between appellant's employment duties and her various conditions.

Dr. Armbruster, a family practitioner, diagnosed lumbar disc syndrome, lumbar disc degenerative, low back pain, sciatica and cervicalgia. She mentioned an alleged work-related back injury in April 2003 as well as increased back and leg symptoms in June 2004. Dr. Armbruster did not describe the April 2003 incident and did not provide any explanation for appellant's increased symptoms in June 2004. She stated, "My impression is that her symptoms did originate and were exacerbated while performing her work duties." While this report generally supports a causal relationship between appellant's diagnosed conditions and her employment, Dr. Armbruster did not provide a complete history of injury, physical findings on examination or any medical reasoning in support of her stated conclusion. For these reasons this report is not sufficient to meet appellant's burden of proof.

Appellant also submitted reports from Drs. Culligan and Pernikoff, chiropractors, diagnosing sciatic radiculopathy and bulging lumbar disc, and degenerative disc disease of the lumbosacral spine, respectively. As neither Dr. Culligan nor Dr. Pernikoff, diagnosed a subluxation of the spine as demonstrated by x-rays, neither chiropractor is a "physician" as defined under the Act. These reports do not constitute competent medical evidence. Appellant has not met her burden of proof in establishing a causal relationship between her various diagnosed conditions and her federal employment.

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<sup>2</sup> *Solomon Polen*, 51 ECAB 341, 343-44 (2000).

<sup>3</sup> 5 U.S.C. § 8101(2).

**CONCLUSION**

The Board finds that appellant has failed to submit the necessary medical opinion evidence to establish a causal relationship between her diagnosed conditions and her employment and that the Office properly denied her claim.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 7, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 19, 2005  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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