

cervical disc disease. Appellant received medical attention for neck and left shoulder complaints and for headaches.

On January 31, 2005 appellant filed a claim alleging a recurrence causally related to his May 23, 1997 employment injury. He did not indicate a date of recurrence. The employing establishment explained that appellant was asking to have the Office expand his claim to include injuries to his back, which became evident after the neck condition.

Form reports indicated that appellant was diagnosed with lumbosacral disc disease. The Office asked appellant to submit additional evidence to support his claim, including his physician's opinion on causal relationship. The Office advised appellant that his physician's opinion was crucial to his claim.

On January 27, 2005 Dr. Nazih A. Moufarrij, appellant's neurosurgeon, reported the following:

“[Appellant] needs a decompressive lumbar laminectomy for very significant lumbar stenosis, mostly at L4-5. His symptoms consist of back and left lower extremity pain and have increased since his accident of May 1997, which was work related. He states that he has not had any traumatic injury since.”

On September 1, 2005 Dr. Moufarrij stated: “The history of the injury as reported to me by the patient is that of a fall from a moving truck.” He diagnosed severe lumbar canal stenosis and offered his opinion on causal relationship, as follows:

“My opinion regarding the relationship between the need to continue medical treatment and the accepted work[-]related conditions is at this point in time his medical treatment was done to recuperation from his surgery and gradual increase in his activities. He should be able to resume work. In civilian cases, I usually refer patients to a physiatrist who will go into the specifics of their limitations and the specifics of their disabilities.”

In a decision dated September 27, 2005, the Office denied appellant's claim of recurrence. The Office noted that the earliest record of low back pain was dated March 14, 2000.¹ The Office found that Dr. Moufarrij did not provide rationale to explain why he believed appellant's low back pain was causally related to the fall on May 23, 1997.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish

¹ The treatment note referred to appellant's “neck and back.” It did not specify low back complaints but did find, among other things, no reproducible pain or tenderness in the thoracic or lumbar spine.

² 5 U.S.C. §§ 8101-8193.

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.³

Causal relationship is a medical issue,⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

ANALYSIS

Appellant has requested that the Office expand his 1997 claim to include a low back injury on May 23, 1997. The Office accepts that appellant sustained a neck injury in the performance of duty that date, due to the employment incident. The question for determination is whether this incident caused or aggravated appellant's diagnosed low back condition.

To support his claim, appellant has submitted two narrative reports from his neurosurgeon, Dr. Moufarrij; however, the physician did not provide an explanation as to how appellant's diagnosed low back condition was causally related to the May 23, 1997 employment incident. He reported only that appellant's medical treatment was done "to recuperation from his surgery and gradual increase in his activities."

Dr. Moufarrij noted that appellant had significant lumbar stenosis, mostly at L4-5 and that his symptoms "have increased since his accident of May 1997, which was work related." But there can be no inference that any and all medical conditions which show themselves at any time subsequent to an established employment incident must be causally related to that incident. Temporal relationships alone are not sufficient to establish causal relationship. The Board has held when a physician concludes that a condition is causally related to an employment because the employee was asymptomatic before the employment injury, the opinion is insufficient, without supporting medical rationale, to establish causal relationship.⁸ Indeed, the mere fact that a

³ See generally *John J. Carlone*, 41 ECAB 354 (1989); *Abe E. Scott*, 45 ECAB 164 (1993); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15)-5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ See *William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ *Thomas D. Petrylak*, 39 ECAB 276 (1987).

condition manifests itself or worsens during a period of federal employment raises no inference of causal relationship between the two.⁹

Dr. Moufarrij added that appellant reported no traumatic injuries since May 1997. But he did not explain the significance of this observation or why he believed that appellant's very significant lumbar stenosis, mostly at L4-5, was the product of a traumatic injury. Moreover, a September 24, 2002 medical form states that appellant had a motor vehicle accident "5 years ago." So it is not entirely clear that Dr. Moufarrij's comments as to appellant's medical history is correct.

In his September 1, 2005 report, Dr. Moufarrij noted that appellant fell from a moving truck. This is too brief a description of the May 23, 1997 incident to permit a finding that Dr. Moufarrij had a complete and accurate history of injury. He did not describe the circumstances of the fall, in particular, how fast the truck was moving, how far appellant fell, how appellant landed and to what surface. Complicating matters is the fact that the record is not entirely consistent about how appellant landed. A November 17, 1997 physical therapy report stated that appellant landed on the small of his back. A December 17, 1997 medical report stated that he fell flat on his back. A January 13, 2003 medical report stated that he landed on his back and lower neck area. On April 14, 2003 an Office medical adviser reported that appellant landed on his buttocks.¹⁰

Perhaps the biggest shortcoming in Dr. Moufarrij's reports is his failure to address the absence of any low back complaints or symptoms for nearly three years following the May 23, 1997 incident. The Board has carefully reviewed all of the medical evidence of record and notes that the first instance of a low back or radiating complaint was on March 30, 2000: "He also states that he occasionally has numbness and paresthesias in the right buttock and posterior thigh." On December 28, 2000: "[Appellant] comes in, complaining of some back and neck pain. He has had this for some time. He is not sure what is causing it. He does have a history of bulging disc disease. He is complaining of some pain in his lower back and left hip." Appellant's diagnoses that day included lumbosacral disc disease and arthritis of the left hip. An x-ray of the lumbar spine was negative and an x-ray of the left hip showed mild degenerative changes.

Appellant did not yet relate this low back complaint to the May 23, 1997 incident. On February 20, 2002 he gave a brief description of the injury as follows: "May [19]97 [i]njury to neck." When he underwent an initial evaluation on January 13, 2003, appellant gave no history of a back injury in 1997. He did note that over "the past several months" it felt like vertebrae in his back were rubbing together and he had some pain in the upper buttocks areas.

Any medical opinion relating appellant's lumbar stenosis to the incident that occurred on May 23, 1997 must be based on a complete factual and medical background, must be one of reasonable medical certainty and must be supported by sound medical reasoning explaining the nature of the relationship between the diagnosed condition and the established incident or factor

⁹ *Steven R. Piper*, 39 ECAB 312 (1987).

¹⁰ The source of this information is unknown.

of employment. Appellant has submitted no such medical opinion in this case and for that reason the Board finds that he has not met his burden of proof. The Board will affirm the denial of his claim that he sustained a low back injury on May 23, 1997.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that his diagnosed low back condition is causally related to the employment incident that occurred on May 23, 1997. The medical evidence submitted to support his claim has little probative or evidentiary value.

ORDER

IT IS HEREBY ORDERED THAT the September 27, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 15, 2006
Washington, DC

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

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