

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

C.S., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
North Ridgeville, OH, Employer)

**Docket No. 06-1718
Issued: November 29, 2006**

Appearances:

*Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director*

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On July 20, 2006 appellant filed a timely appeal from a decision of the Office of Workers' Compensation Programs dated June 13, 2006 which denied her claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over this case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she has a back condition causally related to factors of her federal employment.

FACTUAL HISTORY

On February 16, 2005 appellant, then a 53-year-old letter carrier, filed a Form CA-2, occupational disease claim, alleging that factors of employment caused left hip pain radiating down her left leg and into her foot. She was first aware of the condition and its relationship to her employment in June 2004. In an attached statement, appellant advised that the seat in her postal vehicle had been changed the previous summer and the new seat caused the pain which was constant and severe. She did not stop work.

By letter dated March 4, 2005, the Office informed appellant of evidence needed to support her claim. Appellant submitted reports from Dr. Florencio E. Yuzon, a Board-certified internist. In a February 11, 2005 treatment note, Dr. Yuzon reported appellant's complaints of severe, radiating lower back pain which had been present since her truck seat was changed. He noted tenderness on examination of the back and stated that, while a herniated disc had to be considered, a muscle strain was a high possibility and recommended an abdominal binder and a muscle relaxant. A February 14, 2005 lumbar spine x-ray demonstrated severe degenerative changes and lumbar spondylosis and levoscoliosis. In a duty status report dated February 21, 2005, Dr. Yuzon diagnosed lumbar spondylosis and levoscoliosis which he stated was sustained by use of a seat in a postal vehicle and advised that appellant could not work.

In a February 16, 2005 statement, appellant's supervisor noted that appellant went to her physician because her back hurt and he provided restrictions to her physical activities, stating that she could not deliver mail. She was provided a CA-2 claim form.

By decision dated May 5, 2005, the Office denied the claim on the grounds that the medical evidence was insufficient. On May 10, 2005 appellant, through counsel, requested a hearing. She submitted an April 12, 2005 treatment note in which Dr. Yuzon noted appellant's continued complaint of back pain.¹ In a May 11, 2005 report, he stated: "I cannot form an accurate medical opinion as to the relationship of the symptoms to the work activities. [She] was not seen by me when the initial injury occurred and she was treated when she came to the office [on February 11, 2005] for the symptoms she was having at the time of the visit." At the hearing, held on March 28, 2006, appellant testified regarding her condition and her complaints about the postal vehicle seat. She submitted March 8 and May 26, 2005 duty status reports in which Dr. Yuzon provided restrictions to her physical activity. In an April 18, 2006 report, Dr. Yuzon noted appellant's report on February 11, 2005 that her back pain had been caused by a change in the back of the seat in her postal vehicle.² He provided examination and x-ray findings and advised that she was referred to physical therapy. Dr. Yuzon concluded that "the history of the injury that was given to me by [appellant] corresponds with her examination findings."

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ 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

¹ Dr. Yuzon noted that appellant was seen because of headaches and dizziness and also complaining of right rotator cuff pain.

² Appellant also submitted a duplicate of the February 14, 2005 x-ray and physical therapy notes.

³ 5 U.S.C. §§ 8101-8193.

compensation is claimed are causally related to the employment injury. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.⁴

Office regulations define the term “occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift.”⁵ 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.⁶

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁷ 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.⁸ Neither the mere 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.⁹

ANALYSIS

The Board finds that appellant failed to meet her burden of proof to establish that she sustained a left shoulder condition caused by employment factors. The February 14, 2005 lumbar spine x-ray does not contain an opinion regarding the cause of any diagnosed condition. Medical evidence that does not offer any opinion regarding the cause of an employee’s condition is of limited probative value on the issue of causal relationship.¹⁰ The reports submitted by

⁴ *Gary J. Watling*, 52 ECAB 278 (2001).

⁵ 20 C.F.R. § 10.5(ee).

⁶ *Solomon Polen*, 51 ECAB 341 (2000).

⁷ *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

⁸ *Id.*

⁹ *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

¹⁰ *Willie M. Miller*, 53 ECAB 697 (2002).

Dr. Yuzon, appellant's attending Board-certified internist, are insufficient to meet her burden of proof. Dr. Yuzon initially stated that he could not "form an accurate medical opinion as to the relationship of the symptoms to the work activities." While he later advised that the history of injury provided by appellant corresponded with her examination findings, he did not provide a clear opinion that her diagnosed condition was due to work factors. Dr. Yuzon did not provide a sufficient description of appellant's work duties or otherwise provide medical rationale explaining how appellant's back condition was caused by the change in her postal vehicle seat.¹¹

The fact that work activities produced pain or discomfort revelatory of an underlying condition does not raise an inference of causal relationship¹² and a diagnosis of "pain" does not constitute the basis for payment of compensation.¹³ While 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, neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.¹⁴ Dr. Yuzon's reports are not sufficiently rationalized to establish that appellant has an employment-related back condition.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that she sustained an employment-related back condition.

¹¹ See *Vicky L. Hannis*, 48 ECAB 538 (1997).

¹² *Jimmie H. Duckett*, 52 ECAB 332 (2001).

¹³ *Robert Broome*, 55 ECAB 339 (2004).

¹⁴ *Patricia J. Glenn*, 53 ECAB 159 (2001).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 13, 2006 is affirmed.

Issued: November 29, 2006
Washington, DC

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

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board