

On June 11, 2007 appellant, then a 61-year-old legal instruments examiner, filed a Form CA-1, traumatic injury claim, alleging that on March 4, 2007 she injured her back while moving a rolling filing cabinet to a new office location. A coworker, Vicki L. Fuller, attested that she witnessed appellant moving the cabinet. In an attached statement, appellant advised that she was transferred to a new unit at the employing establishment, and on March 4, 2007 had to transfer

all files, manuals and personal items to a different location within the building. This included a portable low-profile filing cabinet on wheels that weighed approximately 75 pounds. Appellant stated that the filing cabinet kept going sideways, and she hurt her back in her struggle to keep it in place. She stopped work on May 8, 2007.

In support of her claim, appellant submitted test results dating from March 28 to May 11, 2007, including a right duplex venous scan dated March 28, 2007 that showed no evidence of deep vein thrombosis. An April 9, 2007 lumbar spine x-ray demonstrated mild osteopenia without evidence of an acute bone injury and mild degenerative disc disease and facet joint arthritis at L5-S1. An April 23, 2007 magnetic resonance imaging (MRI) scan of the lumbar spine was interpreted as showing very mild disc bulging at the L3-4 and L4-5 levels, and a generalized disc bulge at the L5-S1 level with associated annular tear within the posterior annulus which, combined with facet joint arthrosis, caused moderate right neural foraminal encroachment with mild encroachment on the left. There was no evidence of disc herniation, nerve root impingement or central spinal canal stenosis. In a May 14, 2007 report, Dr. Gregory Z. Mavian, a Board-certified osteopath specializing in neurosurgery, advised that appellant denied trauma to the spine. He observed that she had more anxiety than pain. Sensory testing was without deficit. Dr. Mavian stated that, while the patient was seated, straight leg raising caused minor gluteal lumbosacral myalgia bilaterally with no pain radiating into the legs. No tenderness was noted on palpation of the lumbar spine, and there was no pain on side bending, extension and flexion of the back and no radicular symptoms or radicular paresthesias of any range of motion. Dr. Mavian reviewed the April 9, 2007 x-rays and the April 23, 2007 MRI scan, and diagnosed acute low back pain with bilateral lower extremity radicular symptoms, most likely related to degenerative disc and protrusion of the lumbar spine, facet arthrosis of the lumbar spine and multiple medical problems by history. He recommended a back rehabilitation program, symptomatic care and treatment and, if necessary, epidural injections. Dr. Steven D. Richards, Board-certified in family medicine, provided an attending physician's report dated June 8, 2007. He advised that he had first treated appellant on May 7, 2007. Dr. Richards took a history of injury that she had injured her back while moving a wheeled filing cabinet and then diagnosed intervertebral disc disorder with myelopathy of the lumbar region. He checked "yes" on a form question, indicating that the diagnosed condition was employment related, stating "no history of back pain in my records prior to reported injury," and advised that total disability began on March 4, 2007. Dr. Richards provided a three-pound lifting restriction with no tugging, hauling or squatting and advised that she should sit no longer than 45 minutes with 15-minute breaks. He opined that she was likely to have some degree of lifelong pain from degenerative disc disease due to osteoarthritis and could return to light duty on June 3, 2007. In a June 11, 2007 report, Dr. Anil J. Patel, a Board-certified anesthesiologist, noted that appellant was being treated for back pain management and that she had epidural injections on May 30, June 1 and 8, 2007.

By letter dated June 15, 2007, the Office informed appellant of the type of evidence needed to support her claim. In an undated statement received on July 12, 2007, appellant indicated that immediately after the claimed injury on March 4, 2007 she applied heat to her back, soaked in warm water, and took over-the-counter pain medication but did not file a claim because she did not know the rules for workers' compensation and continued to work because she had to support herself. She stated that she sustained no other injuries, and the extent of the injury was not evident at first but became worse through time. Appellant stated that she first

contacted a doctor on March 28, 2007. She submitted a June 26, 2007 report in which Dr. Richards reported that she had had constant back and leg pain since March 2007 after lifting a heavy object. Dr. Richards noted that appellant had good mobility and tight trunk range of motion with soft tissue tightness of the lumbar paraspinals without spasm. Deep tendon reflexes were equal and reactive, sensation was intact, and straight leg raising testing was negative. Dr. Richards diagnosed chronic low back pain. On July 19, 2007 he stated that he had reviewed appellant's chart and noted a previous history of reflex sympathetic dystrophy due to a right ankle fracture that had resolved many years ago. Dr. Richards noted that, since he began treating appellant, she had no orthopedic complaints at all other than finding osteoporosis on routine screening, which was a common finding in her age group and diagnosed intervertebral disc disorder with myelopathy of the lumbar region. He concluded that appellant's back condition was caused by the March 3, 2007 injury because he knew of no previous orthopedic complaints and no other injuries and advised that she was disabled and would continue to be for the next six months while she underwent rehabilitation.

By decision dated July 16, 2007, the Office denied the claim. The Office found the March 4, 2007 incident established but that the medical evidence was insufficient to establish that the claimed condition was caused by the March 4, 2007 incident. On July 26, 2007 appellant requested a review of the written record. In an October 18, 2007 decision, an Office hearing representative affirmed the July 16, 2007 decision on the grounds that appellant had not established causal relationship.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> 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. Regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.<sup>2</sup>

Office regulations, at 20 C.F.R. § 10.5(ee) define a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift.<sup>3</sup> To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed. An employee may establish that

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> Gary J. Watling, 52 ECAB 278 (2001).

<sup>3</sup> 20 C.F.R. § 10.5(ee); Ellen L. Noble, 55 ECAB 530 (2004).

the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.<sup>4</sup>

Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>5</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>6</sup> 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.<sup>7</sup>

### ANALYSIS

The Board agrees that the March 4, 2007 incident occurred. Appellant, however, failed to meet her burden of proof to establish that she sustained an injury caused by this incident. The medical evidence of record includes results of testing dating from March 28, 2007 including a lumbar spine x-ray and MRI scan. The earliest report of treatment by a physician, however, is that of Dr. Mavian dated May 14, 2007, two-and-a-half months after the claimed injury. While he diagnosed acute low back pain with bilateral lower extremity radicular symptoms, he stated that appellant reported no trauma to the spine and he did not provide an opinion regarding the cause of the diagnosed conditions. Dr. Patel merely noted that he had evaluated appellant on May 30, 2007 and treated her with epidural injections on June 1 and 8, 2007. 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.<sup>8</sup> Thus the various reports of testing including the lumbar spine MRI scan and the reports of Drs. Mavian and Patel are insufficient to meet appellant's burden of proof to establish that she sustained an employment-related back condition.<sup>9</sup>

Dr. Richards provided reports dated June 8 and 26 and July 19, 2007. He noted a history of injury and that appellant had had pain since March 2007 after lifting a heavy object at work. Dr. Richards also provided a history that she hurt her back while moving a filing cabinet on wheels and diagnosed chronic low back pain. Medical opinion regarding causal relationship must be based on a complete factual and medical background with an accurate history of the

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<sup>4</sup> Gary J. Watling, *supra* note 2.

<sup>5</sup> Jacqueline M. Nixon-Steward, 52 ECAB 140 (2000).

<sup>6</sup> Leslie C. Moore, 52 ECAB 132 (2000); Gary L. Fowler, 45 ECAB 365 (1994).

<sup>7</sup> Dennis M. Mascarenas, 49 ECAB 215 (1997).

<sup>8</sup> Willie M. Miller, 53 ECAB 697 (2002).

<sup>9</sup> *Id.*

claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.<sup>10</sup> Dr. Richards' reports are of diminished probative value because he was unclear regarding the history of the claimed injury. Furthermore, while he opined that appellant's back condition was employment related because she had no previous orthopedic complaints while under his care, the Board has long held that an opinion that a condition is causally related to an employment injury because the employee was asymptomatic before the injury but symptomatic after it is insufficient, without supporting rationale, to establish causal relationship.<sup>11</sup> Dr. Richards provided no rationale to support his conclusion. His opinion is therefore insufficient to meet appellant's burden of proof.

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.<sup>12</sup> Appellant submitted no such evidence in this case and thus did not establish the critical element of causal relationship. She therefore did not meet her burden of proof to establish that she sustained an injury on March 4, 2007.<sup>13</sup>

### **CONCLUSION**

The Board finds that, while appellant met her burden of proof to establish that she sustained an employment incident on March 4, 2006, she did not meet her burden of proof to establish that she sustained an injury causally related to this incident.

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<sup>10</sup> *Joan R. Donovan*, 54 ECAB 615 (2003).

<sup>11</sup> *John F. Glynn*, 53 ECAB 562 (2002).

<sup>12</sup> *Patricia J. Glenn*, 53 ECAB 159 (2001).

<sup>13</sup> *John W. Montoya*, 54 ECAB 306 (2003).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated October 18, 2007 be affirmed.

Issued: August 1, 2008  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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