

¹ Docket No. 05-1858 (issued March 10, 2006).

sustained right shoulder and arm injuries as a result of his job duties as a letter carrier. Appellant indicated that he had worked at the employing establishment for 32 years and noted that recently he worked six days a week for a month due to a staffing shortage. The Board found the medical evidence was insufficient to meet appellant's burden of proof. The history of the case is contained in the Board's prior decision and is incorporated herein by reference.

By letter dated January 9, 2007, appellant requested reconsideration of his claim and submitted additional medical evidence. In a report dated March 28, 2006, Dr. Srini Sundarum, a physiatrist, noted that on May 29, 2004 appellant had been treated by Dr. Kenneth Blumenfeld, a neurosurgeon, for right scapular pain after working a six-day shift. Dr. Sundarum stated that he talked to appellant about his job and explained that some of the magnetic resonance imaging (MRI) scan findings of the cervical spine "show evidence of arthritis, which could have been evolving over many years of exposure to cumulative stress. It is likely that on that one particular day in May 2004, when he had to work a long shift, the patient started having radiating pain to the neck and shoulder blade area, which is consistent with a C7 type of root lesion." Dr. Sundarum indicated that an August 7, 2004 MRI scan showed a right paracentral disc bulge, and he opined "on a more probable than not basis the condition of cervical dis[c] herniation in the setting of preexisting arthritis could have most likely occurred following intense work exposures the days preceding the condition becoming symptomatic." According to Dr. Sundarum a November 30, 2005 electrodiagnostic study showed chronic C7 radiculopathy. He concluded, "I do agree that the preexisting arthritis in the cervical spine could have occurred over many years of natural progression of the condition, though the condition of cervical disc herniation can be due to a one-time injury event as described by the patient in May 2004."

Appellant also submitted an October 21, 2004 treatment note from Dr. Blumenfeld and form reports from Dr. Brian Karvelas, a physiatrist, from 2004 providing results on examination. By decision dated April 24, 2007, the Office reviewed the case on its merits and denied modification of the prior decisions.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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;

² 5 U.S.C. §§ 8101-8193.

³ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁶ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁷

ANALYSIS

Appellant filed an occupational disease claim identifying casing and delivering mail as contributing to a right shoulder, arm or neck condition. The Board considered the medical evidence of record before the Office at the time of the July 12, 2005 decision. The evidence submitted after this decision includes the March 28, 2006 report from Dr. Sundarum. In this report, Dr. Sundarum primarily discusses two conditions: cervical arthritis and a cervical disc herniation based on an August 7, 2004 MRI scan. As to the arthritis, Dr. Sundarum initially stated that it could be related to years of "cumulative stress," and then he indicated that it could be related to years of natural progression of the condition. It is not clear whether he believed an arthritis condition was causally related to specific factors of appellant's federal employment. Dr. Sundarum did not provide a rationalized medical opinion with respect to arthritis and the identified employment factors.

As to a cervical disc herniation, it appeared that Dr. Sundarum believed a disc bulge revealed on the August 7, 2004 MRI scan was related to appellant's work sometime prior to May 29, 2004, when he was treated by Dr. Blumenfeld. He stated that it "could have most likely occurred following intense work exposures" prior to May 29, 2004. This is a speculative statement that is of diminished probative value without medical rationale in support of the opinion.⁸ With respect to a factual background, while Dr. Sundarum stated that he talked with appellant about his job, he did not discuss the specific job duties or the repetitive activities identified by appellant. He referred to "intense" work, but it is not clear whether he is referring to an extra day of work per week, or other factors. Moreover, he did not explain how the specific work duties caused a disc bulge or herniation.

⁴ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁵ *See Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

⁸ Medical opinions such as the implant "may have ruptured" and the condition is "probably" related, "most likely" related or "could be" related are speculative and diminish the probative value of the medical opinion evidence. *Kathy A. Kelley*, 55 ECAB 206, 211 (2004).

The Board finds that the medical evidence is not sufficient to meet appellant's burden of proof. The record does not contain a rationalized medical opinion, based on a complete background, on causal relationship between a diagnosed cervical condition and the identified employment factors.

CONCLUSION

Appellant did not meet his burden of proof to establish a diagnosed cervical or other condition causally related to identified employment factors.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated April 24, 2007 is affirmed.

Issued: May 6, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board