

On February 7, 2004 appellant, a 49-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that the degenerative disc disease in her lumbar spine was caused or aggravated by her federal employment. Her work included repetitive bending, lifting, carrying, loading and unloading heavy objects, walking up and down stairs and getting in and out of the postal vehicle. She became aware of her condition on February 14, 2003. The record reflects

that appellant stopped work on February 14, 2003 due to an accepted cervical spine condition under file number xxxxxx081 and has been on the periodic compensation rolls under that claim since March 2003.¹

In a statement dated February 7, 2004, appellant indicated that she first experienced pain and soreness in her low back and legs in January 2003 and that a magnetic resonance imaging (MRI) scan showed degeneration changes. She returned to work because the soreness and pain were not very bad. However, appellant's back pain became worse and more frequent. She stated that her neurosurgeon reviewed a January 28, 2004 MRI scan and advised her that the damage to her low back was caused by her occupation. A copy of the MRI scan report was submitted.

In a February 11, 2004 attending physicians report (Form CA-20), Dr. Pamela Costello, a neurosurgeon, diagnosed lumbar degenerative disc disease, spondylosis and radiculopathy. She opined that the repetition of appellant's daily duties of lifting, bending and carrying heavy objects of work on a daily basis caused her conditions. Dr. Costello noted that aquatic therapy for the cervical and lumbar spine had been prescribed.²

In a letter dated March 9, 2004, the Office informed appellant that the evidence submitted was insufficient to establish her claim. It requested that she submit details regarding the employment duties she believed caused or contributed to her condition, as well as a comprehensive medical report from a treating physician which provided an opinion as to the cause of her diagnosed degenerative lumbar spine condition.

In a letter dated March 10, 2004, the Office requested additional information from Dr. Costello. It noted that appellant reported that she first became aware of her lumbar disc disease on February 14, 2003 but Dr. Costello did not mention this in her reports of July 1 and October 10, 2003. The Office requested that Dr. Costello address why the lumbar disc disease condition was not previously discussed. It also requested a comprehensive medical report, which contained symptoms, a diagnosis and an opinion with an explanation as to the cause of her diagnosed degenerative lumbar spine condition. The Office provided Dr. Costello with a copy of an October 29, 2003 report from Dr. Peter Feinstein, a Board-certified orthopedic surgeon, who provided a second opinion examination in appellant's accepted cervical spine condition under file number xxxxxx081.³ Dr. Costello did not respond.

In a March 18, 2004 statement, appellant described her job duties. She stated that the pain and soreness in her back and legs had been constant since March 2003 and that a physicians report would be forthcoming. Appellant submitted duplicative copies of reports previously of record, together with a July 13, 1987 application for employment; a January 23, 2004 request for physical and aquatic therapy from Dr. Costello, which contained diagnoses of cervical and

¹ File number xxxxxx081 is not presently before the Board.

² The record also contains treatment notes from Dr. Costello dated July 1 and October 10, 2003.

³ On October 29, 2003 report Dr. Feinstein found, in part, that appellant's lumbar spine and lower extremities were grossly intact with no long tract signs that might involve cervical disc disease or any dysfunction in her lower extremities. Dr. Feinstein opined that appellant did not have any work-related problems of her lumbar spine or lower extremities.

lumbar spondylosis and radiculopathy; and copies of physical therapy reports from January 29, 2004.

By decision dated April 13, 2007, the Office denied the claim on the grounds that the medical evidence was insufficient to establish that appellant's degenerative lumbar disc disease condition was causally related to her work-related activities.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act⁴ has the burden of establishing that 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.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

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 employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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.⁷

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between her claimed degenerative lumbar disc disease and her federal employment. This burden includes providing medical evidence from a physician

⁴ 5 U.S.C §§ 8101-8193.

⁵ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁶ *Gary J. Watling*, 52 ECAB 357 (2001); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *Solomon Polen*, 51 ECAB 341 (2000).

who concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.⁸

ANALYSIS

The Office accepted that appellant performed the work duties of a letter carrier as alleged. However, the medical evidence submitted is insufficient to establish that her degenerative lumbar disc disease, spondylosis and radiculopathy were caused or aggravated by these activities.

In a February 11, 2004 report, Dr. Costello diagnosed lumbar degenerative disc disease, spondylosis and radiculopathy. She attributed appellant's condition to her work duties of lifting, bending and carrying heavy objects at work on a daily basis. However, Dr. Costello he did not provide an explanation regarding causal relationship that addressed how the employment activities caused or contributed to the diagnosed conditions.⁹ She did not explain the processes by which lifting, bending or carrying objects on a daily basis would cause or aggravate any preexisting degenerative condition of the lumbar spine or how this resulted in spondylosis or appellant's symptoms of radiculopathy. In a January 23, 2004 referral to physical therapy, Dr. Costello did not address the causal relationship between the diagnosed conditions and factors of appellant's employment.¹⁰ She did not provide findings on examination or indicate that her opinion was based on a complete factual and medical background. For these reasons, the Board finds that the medical evidence from Dr. Costello is insufficient to establish appellant's claim.

The remainder of the medical evidence, which includes a January 28, 2004 MRI scan report of the lumbar spine, fails to provide any opinion on the causal relationship between appellant's job duties and her lumbar spine conditions. While appellant also submitted notes and reports signed by a physical therapist, it is well establish that a physical therapist is not a "physician" as defined under the Act. This material does not constitute probative medical evidence.¹¹

Appellant expressed her belief that her alleged back condition resulted from her duties as a letter carrier. However, the Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship

⁸ See *Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

⁹ *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value); *Jimmie H. Duckett*, 52 ECAB 332 (2001).

¹⁰ *A.D.*, 58 ECAB ____ (Docket No. 06-1183, issued November 14, 2006) (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).

¹¹ A medical report may not be considered as probative medical evidence if there is no indication that the person completing the report qualifies as a physician as defined in 5 U.S.C. § 8101(2). Section 8101(2) of the Act provides as follows: (2) physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law. See *Merton J. Sills*, 39 ECAB 572, 575 (1988).

between the two.¹² Neither the fact that the condition became apparent during a period of employment, nor the belief that the condition was caused or aggravated by employment factors or incidents, is sufficient to establish causal relationship.¹³ Causal relationship must be substantiated by reasoned medical opinion evidence, which it is appellant's responsibility to submit.

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof in establish that her claimed degenerative lumbar disc disease was sustained in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the April 13, 2007 Office of Workers' Compensation Programs decision is affirmed.

Issued: November 19, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

¹² See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹³ *Id.*