

FACTUAL HISTORY

On April 25, 2012 appellant, then a 35-year-old mail handler, filed an occupational disease (Form CA-2) alleging that she sustained L4-S1 spondylolisthesis and pinched nerves on or before March 22, 2012. She attributed her condition to climbing steps and prolonged walking on her delivery route. Appellant stopped work on March 24, 2012.

Appellant was first followed by Dr. Christopher Gray, an attending Board-certified family practitioner. On March 15, 2012 Dr. Gray noted that she presented with worsening bilateral hip pain. He related that appellant associated her pain with walking “a lot with her job as a mail carrier,” prolonged sitting and driving a car. Appellant also had hip pain after a fall at work in 2011.² Dr. Gray obtained x-rays showing moderate-to-severe degenerative disc disease at L4-5 and L5-S1.

In a March 22, 2012 report, Dr. Kevin Rutz, an attending Board-certified orthopedic surgeon, noted a two-year history of back pain, worse with walking. He diagnosed an L4 to S1 spondylolisthesis and bilateral hip bursitis. Dr. Rutz administered hip injections.

In an April 5, 2012 report, Dr. Gray diagnosed degenerative joint disease of the lumbar spine and hip tendinitis. Based on appellant’s presentation and imaging studies, he stated that her federal employment contributed “to her physical symptoms as [she] is having difficulty with prolonged standing, sitting, walking and lifting.”

In a July 9, 2012 letter, OWCP advised appellant of the additional evidence needed to establish her claim. It requested a narrative report from her attending physician explaining how and why factors of her federal employment would cause the claimed lumbar condition. Appellant was afforded 30 days to submit such evidence.

Appellant submitted a July 17, 2012 statement asserting that her delivery route required climbing steps for up to seven hours a day while carrying a mail pouch weighing up to 35 pounds. She submitted a May 24, 2012 report from Dr. Daniel Kitchens, an attending Board-certified neurosurgeon, who noted that she had an “intermittent history of back pain throughout the years that worsened in March of this year for no apparent reason.” Dr. Kitchens also noted that appellant was exposed to heavy lifting at work. He diagnosed severe degenerative disc disease from L4-S1 with extensive endplate changes and bilateral foraminal narrowing.³ On June 8, 2012 Dr. Kitchens performed an L4-5 and L5-S1 decompressive laminectomy and fusion with posterior lumbar interbody fusion. He held appellant off work from through July 25, 2012.

By decision dated August 9, 2012, OWCP denied the claim on the grounds that causal relationship was not established. It accepted as factual that appellant’s delivery route required

² A February 19, 2010 lumbar computerized tomography (CT) scan taken after a fall showed osteoarthritis with narrowing of the joint space at L4-5 and L5-S1.

³ A March 22, 2012 lumbar magnetic resonance imaging (MRI) scan showed mild-to-moderate disc desiccation with protrusions at L3-4, L4-5 and L5-S1 with bilateral foraminal exit stenosis at L4-5 and L5-S1.

walking up and down hills and steps. OWCP found, however, that she submitted insufficient medical evidence to establish that the accepted work factors caused her back condition.

In an August 14, 2012 letter, appellant requested a telephonic hearing, held November 14, 2012. At the hearing, she noted that her walking delivery route required frequent stair climbing and over 600 delivery stops. Appellant experienced bilateral hip pain for approximately one year before seeking treatment in March 2012.

By decision dated and finalized January 31, 2013, OWCP's hearing representative affirmed the January 13, 2012 decision, finding that the medical evidence did not sufficiently explain how or why walking up hills and climbing steps caused or aggravated the claimed lumbar condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ 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 FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while 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 on a traumatic injury or an occupational disease.⁶

An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift.⁷ 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) 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 generally rationalized medical opinion 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

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁶ See *Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁷ 20 C.F.R. § 10.5(q).

by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁸

An award of compensation may not be based on appellant's belief of causal relationship.⁹ 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 a causal relationship.¹⁰ Simple exposure to a workplace hazard does not constitute a work-related injury entitling an employee to medical treatment under FECA.¹¹

ANALYSIS

Appellant claimed that she sustained L4-S1 spondylolisthesis and pinched nerves due to walking and climbing steps while delivering mail. OWCP accepted that her job duties required extensive walking and climbing steps. Appellant has established compensable work factors; however, she must also submit sufficient medical evidence to establish that walking and stair climbing caused or aggravated a lumbar spondylolisthesis and nerve root compression. The Board finds that she did not meet her burden of proof.

Appellant submitted the March 15 and April 5, 2012 reports from Dr. Gray, an attending Board-certified family practitioner, who diagnosed degenerative lumbar disease and hip tendinitis. Dr. Gray opined generally that her job duties contributed to her symptoms because she had difficulty with walking and other activities. However, he did not adequately explain how walking at work would cause or aggravate the claimed lumbar spondylolisthesis and nerve root compression. Without such rationale, Dr. Gray's opinion is insufficient to establish causal relationship.¹²

In a March 22, 2012 report, Dr. Rutz, an attending Board-certified orthopedic surgeon, diagnosed an L4 to S1 spondylolisthesis and bilateral hip bursitis. He noted that appellant experienced increased pain symptoms with walking. The Board has held that pain is generally a symptom rather than a firm medical diagnosis.¹³ Dr. Rutz did not explain how the walking at work caused or aggravated her lumbar condition.

Dr. Kitchens, an attending Board-certified neurosurgeon, noted on May 24, 2012 that appellant's back pain worsened in March 2012 "for no apparent reason." He diagnosed severe lumbar degenerative disc and performed an L4-5 and L5-S1 decompression and fusion. Dr. Kitchens attributed appellant's condition to heavy lifting at work, a factor not asserted by her

⁸ *Solomon Polen*, 51 ECAB 341 (2000).

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

¹⁰ *Id.*

¹¹ 20 C.F.R. § 10.303(a).

¹² *Deborah L. Beatty*, 54 ECAB 340 (2003).

¹³ *K.W.*, Docket No. 12-1590 (issued December 18, 2012).

or accepted by OWCP. He did not address how the accepted work factors of walking and climbing stairs would cause or aggravate the L4-S1 spondylolisthesis. Dr. Kitchens' opinion is not sufficiently rationalized to meet appellant's burden of proof.¹⁴

The Board notes that OWCP advised appellant by July 9, 2012 letter of the necessity of submitting rationalized medical evidence supporting a causal relationship between the identified work factors and the claimed lumbar spondylolisthesis. Appellant did not submit such evidence. The Board finds that she has not established that she sustained an L4-S1 spondylolisthesis with pinched nerves due to walking and stair climbing at work on or before March 22, 2012.¹⁵

On appeal, counsel asserts that OWCP's January 13, 2013 decision is "contrary to fact and law." As stated, appellant submitted insufficient medical evidence to establish that the accepted work factors caused a lumbar condition. Therefore, the January 13, 2013 decision was proper under the law and facts of this case. Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not established that she sustained a lumbar condition in the performance of duty.

¹⁴ See *Frank 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).

¹⁵ *Guiseppe Aversa*, 55 ECAB 164 (2003).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 13, 2013 is affirmed.

Issued: July 18, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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