

dropped the driver's license, moved the photocopier to retrieve the license and then pulled the photocopier back in place. Appellant stated that she felt a spasm in the rib cage area of her right side. She did not stop work at the time she filed her claim.²

By letter dated May 13, 2013, OWCP requested that appellant submit additional factual and medical evidence in support of her claim.

In a May 1, 2013 statement, appellant stated that at 10:30 a.m. on May 1, 2013 she was making photocopies and noted, "I dropped a license and had to move the copier a bit to get to it on the floor. I felt a snap on the right side of neck and back area and a spasm from neck area across to my rib cage/breast area."

In a May 1, 2013 form report, Dr. Bruce Patterson, an attending Board-certified emergency medicine physician, provided the following history of injury on May 1, 2103 by indicating, "Moving copy machine and felt pain in [right] rib area." He diagnosed "muscle spasm" and indicated that appellant could resume work on May 1, 2013.

In a May 8, 2013 report, Dr. Anthony Hicks, an attending Board-certified preventive medicine physician, reported appellant's recitation of the claimed injury history by stating, "On 05/02/2013 at work I was moving the Xerox copier to get an item that fell under the copier & I experienced severe pain & spasms in my lower & middle back."³ He stated that appellant's reported cervical, trapezial, thoracic, lumbar, bilateral sacroiliac joint, and bilateral gluteal mass complaints were "more likely than not directly and solely related to (*i.e.*, caused by) the 05-02-2013 work incident as reported, and have definitively worsened after the specific 05-02-2013." Dr. Hicks indicated that appellant's complaints were consistent with medical diagnoses listed in the medical records submitted and stated that these complaints were consistent with the required work duties being performed and the clearly-established May 2, 2013 work-related copier moving incident.⁴ He noted:

"Further at the time of the initial evaluation, the patient reported no prior inferior thoracic/lumbar/bilateral [sacroiliac joint]/bilateral gluteal complaints (prior to the injury in question) before the 05-02-2013 work[-]related incident (leading to the injuries noted). Normal physical functioning was noted before the May 2, 2013 work[-]related incident."

² At the time of the claimed May 1, 2013 injury, appellant was working in a limited-duty position due to the fact that an earlier claim had been accepted for work-related thoracic sprain, neck sprain, right shoulder sprain and right carpal tunnel syndrome. The record contains a statement in which a supervisor detailed the manner in which appellant reported that she sustained injury on May 1, 2013.

³ Dr. Hicks noted that the implicated work incident occurred on May 2, 2013, despite the fact that appellant reported, and other evidence supports, that it occurred on May 1, 2013.

⁴ In this report, Dr. Hicks provided numerous diagnoses, including possible displacement of intervertebral disc without myelopathy, other and unspecified disorders of joint, muscles spasm, possible articular cartilage derangement, possible closed fracture of vertebra, nonallopathic lesions of the cervical, thoracic, lumbar and sacral regions, cervical, shoulder, thoracic, lumbar and sacroiliac sprain, and cervical thoracic and lumbar pain.

In duty status reports dated May 8 and 16 and June 6, 2013, Dr. Hicks provided diagnoses of right chest strain, displacement of intervertebral disc without myelopathy, cervicalgia, neck sprain and lumbar sprain. The reports listed a May 1, 2013 work injury and noted that appellant reported pushing and pulling a photocopier on that date. Dr. Hicks recommended various work restrictions.

In a June 21, 2013 decision, OWCP denied appellant's claim that she sustained a work-related injury on May 1, 2013. It accepted that a work incident occurred on May 1, 2013 when appellant moved a photocopier, but found that appellant had not submitted sufficient medical evidence to establish that she sustained a specific medical condition due to the accepted work incident. The reports submitted by appellant lacked medical rationale in support of their conclusions on causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA 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 timely filed within the applicable time limitation period of FECA, 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 compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁶

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁷ Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.⁸

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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

⁵ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁶ *Delores C. Ellyett*, 41 ECAB 992, 998-99 (1990), *Ruthie M. Evans*, 41 ECAB 416, 423-27 (1990). A traumatic injury refers to injury caused by a specific event or incident or series of incidents occurring within a single workday or work shift whereas an occupational disease refers to an injury produced by employment factors which occur or are present over a period longer than a single workday or work shift. 20 C.F.R. §§ 10.5(q), (ee), *Brady L. Fowler*, 44 ECAB 343, 351 (1992).

⁷ *Julie B. Hawkins*, 38 ECAB 393, 396 (1987), *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

⁸ *John J. Carlone*, 41 ECAB 354, 356-57 (1989), *see* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803.2a (June 1995).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

ANALYSIS

Appellant filed a traumatic injury claim alleging that she sustained injury on May 1, 2013 when she dropped a driver's license, moved a photocopier to retrieve the license and then pulled the photocopier back in place. She did not stop work. In a June 21, 2013 decision, OWCP accepted that a work incident occurred on May 1, 2013, but denied appellant's claim on the grounds that she had not submitted sufficient medical evidence to establish that she sustained a specific medical condition due to the accepted work incident.

The Board finds that appellant did not submit sufficient medical evidence to establish that she sustained an injury in the performance of duty on May 1, 2013.

In a May 1, 2013 form report, Dr. Patterson, an attending Board-certified emergency medicine physician, provided a history of the claimed May 1, 2013 injury, diagnosed "muscle spasm" and indicated that appellant could resume work on May 1, 2013. This report is of limited probative value on the relevant issue of this case as Dr. Patterson did not provide any explanation of how the reported May 1, 2013 work incident caused the observed muscle spasms. Therefore, Dr. Patterson's reporting of such spasms must be considered to constitute the reporting of symptoms rather than the occurrence of a specific, diagnosed condition.

In a May 8, 2013 report, Dr. Hicks, an attending Board-certified preventive medicine physician, reported appellant's recitation of the claimed injury history, although he reported the work incident as occurring on May 2, 2013 rather than May 1, 2013. He stated that appellant's reported cervical, trapezial, thoracic, lumbar, bilateral sacroiliac joint, and bilateral gluteal mass complaints were "more likely than not directly and solely related to (*i.e.*, caused by) the 05-02-2013 work incident as reported, and have definitively worsened after the specific 05-02-2013." Dr. Hicks indicated that appellant's complaints were consistent with numerous medical diagnoses he listed which involved multiple body parts. He stated that these complaints were consistent with the reported work incident and noted that appellant reported no thoracic, lumbar, bilateral sacroiliac joint or bilateral gluteal complaints prior to the May 2013 injury.

This report is of limited probative value in establishing the claimed May 1, 2013 injury as Dr. Hicks did not provide any medical rationale in support of his opinion on causal relationship. He indicated that the moving of the photocopier caused injury to a wide variety of body parts without explaining how this action could have caused appellant's injury. Dr. Hicks' opinion also is speculative in nature as he used phrase "more likely than not" in describing the causal relationship between the May 2013 work incident and the observed medical conditions.¹⁰ Further, his report is of limited probative value as it is not based on a complete and accurate factual and medical history. Dr. Hicks stated that appellant reported that she had no thoracic

⁹ See *Donna Faye Cardwell*, 41 ECAB 730, 741-42 (1990).

¹⁰ See *Jennifer Beville*, 33 ECAB 1970, 1973 (1982); *Leonard J. O'Keefe*, 14 ECAB 42, 48 (1962) (finding that an opinion which is speculative in nature is of limited probative value on the issue of causal relationship).

complaints prior to May 2013, but the record reflects that appellant had a previous claim that was accepted for work-related thoracic sprain as well as for neck sprain, right shoulder sprain and right carpal tunnel syndrome.¹¹

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 did not meet her burden of proof to establish that she sustained an injury in the performance of duty on May 1, 2013.

ORDER

IT IS HEREBY ORDERED THAT the June 21, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 26, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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

¹¹ In duty status reports dated May 8 and 16 and June 6, 2013, Dr. Hicks provided diagnoses of right chest strain, displacement of intervertebral disc without myelopathy, cervicgia, neck sprain and lumbar sprain. However, he did not explain how the moving of the photocopier could have caused such injuries.