

By report dated December 14, 2013, Dr. Ali E. Guy, Board-certified in physical medicine and rehabilitation, stated that appellant was totally disabled from that date until his next evaluation in four to six weeks. He continued to state that appellant was totally disabled in a letter dated January 14, 2014.

In notes dated January 8, 2014, a nurse noted that appellant had a prior case for workers' compensation related to his back and had been on limited duty for approximately four years as a result of the prior claim.² She noted that appellant had filed for both a recurrence and for a new traumatic injury as he was unsure which form to file.

In an attending physician's report dated January 13, 2014, Dr. Guy stated that appellant had reinjured his back on December 14, 2013. He diagnosed appellant with displacement of an unspecified lumbar disc and checked a box indicating that appellant's condition resulted from an employment activity.

By letter dated January 14, 2014, OWCP informed appellant of the evidence needed to support his claim and noted that his claim had been reopened because it had received an indication that he had not yet returned to work in a full-time capacity. It afforded him 30 days to submit additional evidence.

By decision dated February 14, 2014, OWCP denied appellant's claim for compensation because the medical evidence was insufficient to support that his diagnosed condition was causally related to the incident of December 14, 2013. It noted that no action would be taken on his separate claim for a recurrence based on the same event, as his description of the incident indicated that it was a new traumatic injury.

On February 26, 2014 appellant claimed compensation for leave without pay between January 29 and February 21, 2014. On March 11, 2014 OWCP informed appellant that his claim for compensation was not payable because it had been denied by decision dated February 14, 2014.

On March 12, 2014 appellant requested a review of the written record before OWCP's Branch of Hearings and Review.

In a report dated March 8, 2014, Dr. Guy diagnosed appellant with L1-L2 disc herniation; a L2-L3 disc bulge; an L3-L4 lateral disc herniation contacting the exiting L3 nerve root; an L4-L5 disc bulge indenting the ventral thecal sac; an L5-S1 disc herniation impinging the right S1 nerve root; right L4 through S1 radiculopathy; and traumatic myofascial pain syndrome. He noted, "The patient had a prior preexisting injury dating to January 27, 2010 with multiple disc herniations and he had another episode of an acute exacerbation while working at the job bending, lifting mail he reinjured his back that was [sic] on December 14, 2013. Therefore, [appellant] sustained an exacerbation of his prior preexisting multiple lumbar disc herniations with no new levels of injuries." Dr. Guy noted that appellant had been under his care since February 3, 2010, and that appellant returned to work on light duty on April 23, 2012. He further

² OWCP accepted that appellant had a work-related sprain and strain of the lumbar region on April 23, 2012 under claim number xxxxxx976.

noted that appellant had received continuous physical therapy treatments. Dr. Guy stated that electromyographic studies of appellant's lower extremities revealed evidence of right L4 through S1 radiculopathy.

By decision dated September 17, 2014, the hearing representative affirmed OWCP's February 14, 2014 decision. She noted that Dr. Guy had not explained how any findings support a change in appellant's conditions as a result of the claimed event, but had only claimed that appellant had an exacerbation of conditions he had all along. The hearing representative further noted that while Dr. Guy stated that appellant was in need of treatment for pain and muscle spasm, review of the prior claim indicated that appellant had been under treatment for these symptoms prior to the claimed event.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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.⁴ 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.⁵

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.⁶ 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 sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁸

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.⁹ An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that

³ 5 U.S.C. § 8101 *et seq.*

⁴ *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364, 366 (2006).

⁵ *S.P.*, 59 ECAB 184, 188 (2007); *Joe D. Cameron*, 41 ECAB 153, 157 (1989).

⁶ *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 4.

⁷ *D.B.*, 58 ECAB 464, 466 (2007); *David Apgar*, 57 ECAB 137, 140 (2005).

⁸ *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734, 737 (2008); *Bonnie A. Contreras*, *supra* note 4.

⁹ *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.¹⁰

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.¹¹ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and compensable employment factors.¹² The opinion of the physician must be based on a complete factual and medical background of the employee, 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 employee.¹³

ANALYSIS

OWCP found and the Board agrees that the December 14, 2013 lifting incident occurred. The Board finds, however, that the medical evidence submitted by appellant is insufficient to establish that this incident caused a medical condition.

Appellant has a history of lumbar conditions related to work. On April 23, 2012 OWCP accepted that appellant sustained sprain and strain to the lumbar region as a result of a traumatic event at work, under claim number xxxxxx976. In a report dated March 8, 2014, Dr. Guy stated, "The patient had a prior preexisting injury dating January 27, 2010 with multiple disc herniations and he had another episode of an acute exacerbation while working at the job bending, lifting mail he reinjured his back that was on December 14, 2013. Therefore, he sustained an exacerbation of his prior preexisting multiple lumbar disc herniations with no new levels of injuries." Dr. Guy noted that appellant had been under his care since February 3, 2010, and that appellant returned to work on light duty on April 23, 2012. He further noted that appellant had received continuous physical therapy treatments. Dr. Guy stated that electromyographic studies of appellant's lower extremities revealed evidence of right L4 through S1 radiculopathy.

While Dr. Guy provided an opinion regarding the causal relationship between the traumatic incident of December 14, 2013 and appellant's present conditions, he did not explain the mechanics of the incident or establish causal relationship between the incident and the injury. He also did not explain how appellant's condition had worsened, and noted that appellant had not sustained any new injuries. There is no objective evidence in Dr. Guy's March 8, 2014 report supporting an aggravation of appellant's conditions. Rather, Dr. Guy merely notes that appellant reported increased symptoms, while he had already been under treatment for the same symptoms under another claim. Medical evidence submitted to support a claim for compensation should reflect a correct history, and the physician should offer a medically sound explanation of how the

¹⁰ *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

¹¹ *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-56 (2006); *D'Wayne Avila*, 57 ECAB 642, 649 (2006).

¹² *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

¹³ *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

claimed work event caused or aggravated the claimed condition.¹⁴ No physician did so in 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 did not meet his burden of proof to establish a traumatic injury in the performance of duty on December 14, 2013.

ORDER

IT IS HEREBY ORDERED THAT the September 17, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 27, 2015
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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

¹⁴ *D.D.*, Docket No. 13-1517 (issued April 14, 2014).