

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**JESSE WATTS, Appellant**

**and**

**U.S. POSTAL SERVICE, St. Louis, MO,  
Employer**

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**Docket No. 03-1463  
Issued: December 5, 2003**

*Brian A. McKinsey, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chairman  
COLLEEN DUFFY KIKO, Member  
DAVID S. GERSON, Alternate Member

**JURISDICTION**

On May 19, 2003 appellant filed a timely appeal from the Office of Workers' Compensation Programs' merit decision dated February 19, 2003. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant sustained an injury in the performance of duty on October 22, 1999. On appeal, appellant alleges that no review or final decision would be appropriate until he submits additional medical evidence.

**FACTUAL HISTORY**

On October 22, 1999 appellant, then a 55-year-old postal clerk, filed a notice of traumatic injury alleging that on October 22, 1999 he injured his left leg, hip and back while lifting a tub of mail. Appellant submitted emergency room medical reports from Dr. Gregory J. Beirne, a Board-certified internist, dated October 22, 1999, indicating: "Acute left back pain developed today when patient [was] lifting a 20-pound box." Dr. Beirne alternatively diagnosed acute

lumbosacral spasm, acute lumbar myositis and lumbosacral somatic dysfunction. In a duty status report dated October 22, 1999, he stated: “No heavy lifting for three days” and noted “yes” that the diagnosis of acute lumbosacral spasm was due to the injury.

Appellant also submitted various treatment notes from his attending physician, Dr. Michael Spezia, an osteopath, dated from September 1999 to April 2000. In a form report dated October 28, 1999, Dr. Spezia diagnosed a lumbosacral condition<sup>1</sup> and indicated that it was caused or aggravated by the October 22, 1999 lifting incident. Dr. Spezia restricted appellant during this period from lifting more than 10 pounds, twisting, or engaging in repetitive bending for one month. Also, an x-ray of the lumbar spine performed on October 22, 1999 indicated degenerative disc disease L4 through S1.

By letter dated May 2, 2002, the Office informed appellant that additional medical evidence was necessary to make a determination regarding the claim. The Office noted that a physician’s opinion supported by a medical explanation as to how the reported work incident of October 22, 1999 caused or aggravated the claimed injury was crucial to appellant’s claim.

Appellant submitted additional treatment notes from Dr. Spezia and a letter indicating that he accepted various light-duty assignments. In a July 8, 2002 report, Dr. Spezia stated: “October 22, 1999 back injury causing results as per CT [computerized tomography] scan and aggravation underlying arthritis.”

On June 7, 2002 appellant also filed a notice of recurrence of disability (Form CA-2a) alleging that he sustained a recurrence of disability on June 3, 2002 causally related to the October 22, 1999 work incident. He stated: “My original condition was a controlled condition that flared up again. My sudden twisting movement to try and stop my mail from falling to the floor caused the same pain as before to return.”

By decision dated June 14, 2002, the Office denied appellant’s claim for an injury on October 22, 1999 and his claim for a recurrence of disability on June 3, 2002 on the grounds that the medical evidence was insufficient to establish that appellant’s condition was caused by employment duties.

By letter dated September 10, 2002, appellant requested a review of the written record.<sup>2</sup> By decision dated February 19, 2003, the Office hearing representative affirmed the June 14, 2002 decision on the grounds that the medical evidence was insufficient to establish a causal relationship between the condition and employment factors.

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<sup>1</sup> The recitation of the diagnosed condition is only partially legible.

<sup>2</sup> Appellant also submitted documents already in the record as well as medical records regarding an unrelated heart condition.

## LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act<sup>3</sup> 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 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.<sup>4</sup> These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To determine whether an employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. 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.<sup>6</sup> 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.<sup>7</sup>

The medical evidence required to establish a causal relationship is 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 by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>8</sup>

## ANALYSIS

In this case, appellant claimed that he injured his left leg, hip and lower back on October 22, 1999 while lifting a tub of mail. However, the medical reports of record contained no firm diagnosis, no rationale and no explanation of mechanism of injury. Dr. Beirne, an attending Board-certified internist, offered diagnoses of acute lumbosacral spasm, lumbosacral dysfunction and acute lumbar myositis; however, these conditions are vague and indeterminate and do not qualify as a firm diagnosis. In a form report dated October 28, 1999, Dr. Spezia, an

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

<sup>5</sup> *Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>7</sup> *Id.*

<sup>8</sup> *Delores C. Ellyett* and *Ruthie M. Evans*, *supra* note 5.

attending osteopath, diagnosed a lumbosacral condition, but, due to illegibility, the precise nature of the diagnosis is unclear.

Neither Dr. Beirne nor Dr. Spezia provided a rationalized medical opinion relating appellant's condition to employment factors. Dr. Beirne, in his October 22, 1999 report, noted that appellant developed acute left back pain while lifting a 20-pound box, yet this is not a clear opinion that appellant's condition was caused by employment factors. Dr. Beirne also indicated "yes" that the diagnosis was due to the injury, but he did not support his statement with medical rationale or explain the mechanism of injury. The Board has found that checking a box marked "yes" on a form report that the condition was caused or aggravated by appellant's employment without further explanation or rationale, is insufficient to establish causal relationship.<sup>9</sup>

In an October 28, 1999 report, Dr. Spezia indicated that appellant's lumbosacral condition was caused or aggravated by the October 22, 1999 lifting incident. He stated in his July 8, 2002 report that appellant's October 22, 1999 back injury caused the results observed in the CT scan and aggravated his underlying arthritis. However, Dr. Spezia's reports did not provide any medical rationale for their ostensible opinions on causal relationship or explain the mechanism of injury. The Board has long recognized that a medical opinion without supporting medical rationale of insufficient probative value to establish a claim.<sup>10</sup> Furthermore, neither physician provided a complete medical report with a history of injury, a complete medical history, and a rationalized medical opinion that appellant's condition was caused by employment factors on October 22, 1999.

Regarding appellant's claim for a recurrence of disability on June 3, 2002, this issue is moot since the Office has not accepted that appellant sustained an employment-related injury on October 22, 1999 and, therefore, appellant cannot claim that he sustained a recurrence of that injury.

Appellant also stated that he would submit an additional medical report and would forward the report to the Board; however, the Board's review of a case is limited to the evidence in the case record which was before the Office at the time of its final decision.<sup>11</sup> As such, the Board may not review this additional medical evidence.

### **CONCLUSION**

Under the circumstances described above, the Board finds that appellant has not established that he sustained an injury in the performance of duty on October 22, 1999.

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<sup>9</sup> *Barbara J. Williams*, 40 ECAB 649 (1989); *Lillian M. Jones*, 34 ECAB 379 (1982). The record contains x-rays of the lumbar spine performed on October 22, 1999 which show degenerative disc disease at levels L4-S1 but the findings offered no medical rationale causally relating the condition to employment factors.

<sup>10</sup> *Sheila A. Johnson*, 46 ECAB 323 (1994).

<sup>11</sup> 20 C.F.R. § 501.2(c).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 19, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 5, 2003  
Washington, DC

Alec J. Koromilas  
Chairman

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member