

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of THOMAS N. HANSON and U.S. POSTAL SERVICE,  
POST OFFICE, Saginaw, MI

*Docket No. 03-934; Submitted on the Record;*  
*Issued May 27, 2003*

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DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,  
A. PETER KANJORSKI

The issue is whether appellant met his burden of proof to establish that he sustained an injury causally related to his federal employment.

On November 7, 2000 appellant, then a 43-year-old city carrier, filed a traumatic injury claim, alleging that on October 16, 2000 he twisted his back while carrying a heavy tub of mail which caused pain in his upper back to the left shoulder with numbness in both legs and pain in the left leg to the foot. On the claim form, Glenda L. Higgins, Supervisor, Customer Services, commented that management was not informed that appellant had injured himself until two weeks after the injury.

In support of his claim, appellant submitted several reports dated November 7, 2000 from Dr. Harry Frederick, an osteopathic physician. In a Harrison Emergency Department report, Dr. Frederick reported a history of a "lifting injury in October" and diagnosed radicular pain left leg post fall, possible herniated disc." Straight leg raising test was positive. He diagnosed "radicular left leg pain following a fall and a possible herniated disc." In a Covenant Health Care form report to employer, Dr. Frederick again diagnosed radicular left leg pain following fall and advised that appellant could return to work with restrictions to his physical activity. In duty status reports also dated November 7 and 8, 2000, Dr. Frederick advised that appellant could return to work with restrictions. On November 8, 2000 appellant accepted a limited-duty job offer.<sup>1</sup>

By letter dated November 17, 2000, the Office of Workers' Compensation Programs informed appellant of the type of evidence needed to support his claim. In response appellant submitted additional medical evidence including a November 8, 2000 report of thoracic spine

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<sup>1</sup> Appellant also submitted reports completed by Jill Rood, R.N. A registered nurse, however, is not a physician as defined by the Federal Employees' Compensation Act. Thus, a nurse's opinion regarding diagnosis or causal relationship is of no probative value. *Sheila A. Johnson*, 46 ECAB 323 (1994).

x-ray that demonstrated slight S-scoliosis with modest to moderate osteophyte interspace hypertrophic vertebral body marginal lipping of the mid-lower thoracic spine. Lumbosacral spine x-ray dated November 8, 2000 demonstrated mild dextroscoliosis with slight vertebral body interspace osteophyte hypertrophic lipping at L2-3 and L3-4 interspaces. In a report dated November 8, 2000, Dr. Howard J. Hammett, an osteopathic physician, advised that appellant reported that he had injured his back “approximately in October, however, he states that it was exacerbated while moving a bin of mail yesterday.” He diagnosed thoracic spine strain with trapezius strain and lumbosacral pain with possible radicular component. A December 3, 2000 magnetic resonance imaging (MRI) of the lumbar spine revealed a moderate-sized left lateral herniation of the L4-5 disc compressing on the L4 nerve root.

By decision dated December 18, 2000, the Office denied the claim, finding that appellant failed to establish that he actually experienced the employment event at the time, place and in the manner alleged.

On November 9, 2001 appellant requested reconsideration and submitted a December 12, 2000 MRI report of the cervical spine that demonstrated a significant abnormality at C5-6 with irregularity of vertebral end plates and edema pattern in the adjacent vertebral bodies suggestive of osteomyelitis with no evidence of cord compression. In a decision dated December 12, 2001, the Office modified the prior decision to accept that appellant lifted mail at work on October 16, 2000. The Office, however, continued to deny the claim on the grounds that the medical evidence failed to provide an opinion regarding the causal relationship between appellant’s diagnosed condition and the October 16, 2001 employment incident.

On September 6, 2002 appellant again requested reconsideration and submitted a May 6, 2002 letter in which Terri Durham, R.N., case manager at Covenant Occupational Health, described meeting with appellant. She reported his explanation regarding his failure to seek medical care following the October 2000 employment incident.

By decision dated November 14, 2002, the Office denied modification of the prior decision, again noting that the medical evidence of record did not establish a causal relationship between appellant’s condition and the October 16, 2000 employment incident.<sup>2</sup>

The Board finds that appellant failed to establish that his back condition is causally related to the October 16, 2000 employment incident.

Causal relationship is a medical issue,<sup>3</sup> and the medical evidence required to establish a causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician’s rationalized medical 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

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<sup>2</sup> The Office further noted that the report from a nurse did not constitute medical evidence under the Act. *Id.*

<sup>3</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

condition and the specific employment factors identified by the claimant.<sup>4</sup> 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 causal relationship.<sup>5</sup>

The medical evidence in the instant case consists of reports from Drs. Frederick and Hammett, x-ray reports and MRI reports. None of these reports, however, contain an opinion regarding the cause of appellant's condition. The Board therefore finds that, as the record does not contain rationalized medical evidence that relates appellant's back condition to employment factors, including the October 16, 2000 lifting incident, he did not establish that he sustained an employment-related injury.<sup>6</sup>

The decision of the Office of Workers' Compensation Programs dated November 14, 2002 is hereby affirmed.

Dated, Washington, DC  
May 27, 2003

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>4</sup> *Gary L. Fowler*, 45 ECAB 365 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Minnie L. Bryson*, 44 ECAB 713 (1993); *Froilan Negron Marrero*, 33 ECAB 796 (182).

<sup>6</sup> The Board notes that, subsequent to the issuance of the November 14, 2002, appellant submitted medical evidence to the Office. The Board cannot consider this evidence, however, as its review of the case is limited to the evidence of record which was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c). Appellant retains the right to obtain a review of the merits of his claim by showing that the Office erroneously applied or interpreted a point of law, advancing a relevant legal argument not previously considered by the Office, or submitting relevant and pertinent new evidence not previously considered by the Office. 20 C.F.R. § 10.606(b); *Arlesa Gibbs*, 53 ECAB \_\_\_\_ (Docket No. 01-113, issued November 2, 2001).