

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHERYL GREY and U.S. POSTAL SERVICE,
POST OFFICE, Chicago, IL

*Docket No. 03-1567; Submitted on the Record;
Issued October 10, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant met her burden of proof to establish that she sustained a back injury on October 28, 2000 causally related to factors of her federal employment.

On March 12, 2001 appellant, then a 49-year-old letter carrier, filed a notice of traumatic injury alleging that on October 28, 2000 she was bending over in her truck to get mail and she felt a sharp pain in her lower and upper back.¹

In support of her claim, she submitted a treatment note from Dr. Fred Richardson, a Board-certified family practitioner, dated October 20, 2000, diagnosing severe back strain and indicating "patient is unable to work." In a subsequent note, Dr. Richardson indicated that appellant could return to work on November 7, 2000 with restrictions of no climbing, pushing, pulling or lifting more than 10 pounds.

A magnetic resonance imaging (MRI) scan of the lumbar spine performed on April 19, 2001 showed: "L4-5 and L5-S1 central disc protrusions causing a moderate degree of stenosis. The discs at these levels are also degenerated. Milder degree of diffuse disc bulging at L3-4 with a degenerated disc also at this level."

In a treatment note dated May 1, 2001, Dr. Raghu R. Singh² listed restrictions of no climbing stairs, no pushing and pulling and no lifting over 10 pounds. On May 3, 2001 appellant accepted a limited-duty job offer within these restrictions.

¹ Appellant also filed a notice of recurrence of disability (Form CA-2a) claiming that she was totally disabled on this same date due to a previous injury. Appellant filed a second notice of recurrence of disability alleging a recurrence of disability on January 24, 2002 due to the alleged October 28, 2000 work injury.

² The Board was unable to determine whether he is Board-certified.

By letter dated March 7, 2002, the Office of Workers' Compensation Programs informed appellant that the medical evidence was insufficient to establish that her condition was caused by federal employment factors. The Office noted that appellant's original diagnosis was a lumbar strain and new evidence she submitted diagnosed degenerative disc disease. The Office afforded appellant 30 additional days to submit the additional evidence.

In an attending physician's report dated February 21, 2002, Dr. Singh diagnosed lumbar radiculopathy and checked "yes" that the condition was caused or aggravated by an employment activity and indicated "injured while lifting mail." He listed work restrictions and indicated that appellant was totally disabled from October 31 through November 6, 2000.

By decision dated April 16, 2002, the Office denied appellant's claim for compensation finding that the medical evidence was insufficient to establish that appellant's condition was caused by the injury.

By letter received on May 21, 2002, appellant requested a written hearing and submitted a May 7, 2002 narrative report from Dr. Richardson, who indicated that he initially treated appellant on October 28, 2000 for severe low back pain after lifting a mailbag at work. He stated that she was initially diagnosed with low back strain and was treated conservatively with anti-inflammatory medication, rest, heat and a back brace. Dr. Richardson noted that her symptoms did not improve and that she developed pain which radiated down into the right leg. He also mentioned the April 19, 2001 MRI scan which showed degenerative disc disease and diffuse disc bulging at different levels. Dr. Richardson mentioned that Dr. Singh, appellant's neurosurgeon, diagnosed appellant with right-sided lumbar radiculopathy and recommended physical therapy. He also stated that appellant's pain persisted and that she would benefit from a trial of physical therapy and should remain on restricted duty with no heavy lifting over 10 pounds and no pushing or pulling over 10 pounds until a full course of physical therapy has been completed.

By decision dated December 9, 2002, the Office hearing representative affirmed the April 16, 2002 decision finding that appellant did not submit rationalized medical opinion evidence relating her diagnosed lumbar sprain and degenerative disc disease to factors of her federal employment.

By letter dated February 18, 2003, appellant requested reconsideration and also requested physical therapy for her back injury. In support of her request, she submitted a January 13, 2003 letter from Dr. Richardson. He stated:

"In response to the question of causality, my opinion continues to be that repetitive lifting at work, the reported mechanism of injury, certainly contributed to [appellant's] low back pain and degenerative disc disease. Further issues concerning causality should be referred to her neurosurgeon, Dr. Singh."

By decision dated March 3, 2003, the Office denied appellant's request for modification finding that Dr. Richardson's opinion on causal relationship was based on an inaccurate history of injury and was not supported by medical rationale and was therefore insufficient to warrant modification of the previous decision.

The Board finds that appellant did not meet her burden of proof to establish that she sustained a back injury on October 28, 2000 causally related to factors of her federal employment.

An employee seeking benefits under the Federal Employees' Compensation Act³ 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.⁴ These are the essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

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.⁶ 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.⁷ An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that his or her disability and/or a specific condition for which compensation is claimed are causally related to the injury.⁸

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.⁹

In this case, appellant submitted medical evidence diagnosing both a lumbar sprain and degenerative disc disease; however, she did not submit a medical opinion report supported by

³ 5 U.S.C. §§ 8101-8193.

⁴ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

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

⁶ *John J. Carlone*, 41 ECAB 354 (1989).

⁷ *Id.*

⁸ As used in the Act, the term "disability" means incapacity because of an injury in employment to earn wages the employee was receiving at the time of the injury, *i.e.*, a physical impairment resulting in loss of wage-earning capacity. *Frazier V. Nichol*, 37 ECAB 528 (1986).

⁹ *John J. Carlone*, *supra* note 6.

medical rationale establishing a causal relationship between either of these conditions and her federal employment.

Dr. Singh indicated in his February 21, 2002 attending physician's report that appellant was injured while lifting mail and checked "yes" that the diagnosed condition of lumbar radiculopathy was caused or aggravated by an employment activity. This statement is insufficient to establish causal relationship between appellant's condition and her employment, because it is not a physician's narrative report containing a factual and medical background of appellant's condition, supported by sound medical rationale. The Board has held that, when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.¹⁰

Dr. Richardson indicated in his May 7, 2002 report that appellant was complaining of severe low back pain on October 28, 2000 after lifting a mailbag at work and was diagnosed with low back strain. He did not, however, provide a rationalized medical opinion explaining that appellant's low back strain was due to her employment duties, nor did he explain the mechanism of injury of how the lifting of a mailbag would result in the low back strain. Dr. Richardson also mentioned the diagnosed degenerative disc disease but did not provide a medical opinion on the cause of this condition or relate it to appellant's work duties.

In the January 13, 2002 report, Dr. Richardson attempted to establish a causal relationship between appellant's back condition and her employment duties but did not support his opinion with medical rationale. He opined that repetitive lifting at work, the reported mechanism of injury, "certainly contributed" to [appellant's] low back pain and degenerative disc disease. However, Dr. Richardson's report is incomplete and insufficient to establish causal relationship for several reasons. First, he does not provide a factual and medical history of appellant's back condition. A history of appellant's condition is especially important in this case, since appellant has been diagnosed with both a lumbar strain and degenerative disc disease, two very different conditions. She is also claiming that both conditions were caused by her federal employment duties. Next, Dr. Richardson does not support his statement regarding causal relationship with medical rationale or explain the mechanism of injury. He notes that repetitive lifting at work was "the reported mechanism of injury," yet he does not explain the medical process of how this physical action caused a lumbar strain or degenerative disc disease. The Board has found on numerous occasions that a conclusory statement without supporting rationale is of little probative value.¹¹

The Board notes that it is also especially important in this case for appellant's attending physician to describe the mechanism of injury between appellant's back conditions and her employment duties, since she is claiming that both the lumbar strain and the degenerative disc disease were caused or aggravated by her employment duties. The lumbar strain is a traumatic injury and appellant properly filed a Form CA-1 for this condition; however, she also claims that the degenerative disc disease was caused by her employment. Appellant's physician did not

¹⁰ *Ruth S. Johnson*, 46 ECAB 237 (1994).

¹¹ *Marilyn D. Polk*, 44 ECAB 673 (1993).

distinguish between the two diagnosed back conditions or explain how each individual condition was caused or aggravated by appellant's employment duties.

Appellant did not submit any other rationalized medical opinion evidence relating her back condition to her federal employment duties. Since she did not submit the necessary medical evidence to establish causal relationship, the Board finds that the Office properly denied her claim.

Accordingly, the March 3, 2003 and December 9, 2002 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
October 10, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member