

back at work. Appellant related that he slipped on ice in November 2000. He did not believe he had been injured, but within a week his back began to bother him. Appellant did not stop work.

Appellant submitted an October 8, 2002 functional capacity evaluation. In a summary report dated October 8, 2002, Dr. David Goodspeed, a Board-certified orthopedic surgeon, related that appellant had “discomfort in the right lower back and left leg” which he stated “were part of the reasons for limitations in lifts, carries and ambulation activities.” Dr. Goodspeed stated, “objective signs coincided with the statements of discomfort.”

By letter dated February 4, 2003, the Office notified appellant that the evidence submitted was insufficient to establish his claim. The Office advised him about the factual and medical evidence he needed to submit to his claim. The Office pointed out that, although appellant had discussed a traumatic injury in his occupational disease form, it had no record of a traumatic injury. It requested that he submit evidence relative to his occupational disease claim, “which means your condition arose as a result of your employment duties over more than one work shift.”

In certifications of health care provider (Form WH-380) dated July 12 and August 14, 2001, Dr. Don DeArmitt, a Board-certified family practitioner, diagnosed low back pain and sciatica due to a herniated disc as seen on a magnetic resonance imaging (MRI) scan. He related appellant’s disability began on December 15, 2000 and he will have intermittent periods of incapacity for an indefinite period.

On March 4, 2003 the Office received copies of medical report forms from Dr. DeArmitt for the period June 12 through July 12, 2001, progress notes for the period May 3 through July 12, 2001, a June 12, 2001 lumbar spine MRI scan by Dr. Barbara G. Bronitsky, a Board-certified diagnostic radiologist, a June 26, 2001 MRI scan by Dr. Dean M. Brockmole, a Board-certified diagnostic radiologist.

In medical report forms dated June 12 and 21 and July 12, 2001, Dr. DeArmitt noted an injury date of December 15, 2000. His diagnoses included herniated disc, sacralization of L5, mechanical low back pain and sciatica and stated that appellant was restricted to no carrying more than 20 pounds.

Dr. DeArmitt diagnosed probable muscular strain and mechanical low back pain on May 3, 2001 progress notes. He noted that appellant “carries the bag over his left shoulder and the pain is localized to the right lower back.” A physical examination revealed fair back range of motion, “tenderness clearly localized” in the lower right back “along the posterior iliac crest,” negative modified straight leg raise, “no palpable muscle spasm,” symmetric and 2+ deep tendon reflexes, and “no sacrioliac joint or sciatic notch tenderness.” In progress notes dated June 12, 2001, Dr. DeArmitt stated that appellant’s back improved while on vacation and that “as soon as he goes back to carrying mail, his back gets progressively more tender.”

In a June 12, 2001 diagnostic imaging report of the lumbar spine, Dr. Bronitsky diagnosed no identified abnormalities and “four lumbar vertebral bodies with sacralization of L5.”

Based on a June 26, 2001 lumbar spine MRI scan, Dr. Brockmole diagnosed “degenerative disc disease with mild central canal narrowing L4-5 and small central disc protrusion L5-S1” and “probable mild central canal narrowing L5-S1.”

By decision dated March 18, 2003, the Office denied appellant’s claim on the grounds that he failed to establish that his back condition was causally related to his employment. The Office found that appellant failed to submit a medical opinion containing a rationalized opinion on the cause of his back condition.

In a March 20, 2003 letter, appellant, through counsel, requested an oral hearing before an Office hearing representative. A hearing was held on October 27, 2003 at which appellant was represented by counsel and provided testimony.

On December 12, 2003 the Office received a November 18, 2003 report by Dr. DeArmitt. The physician noted that he first saw appellant on May 3, 2001 for persistent back pain and appellant “was on a limited carrying weight profile for work but still noted increased pain with walking.” Dr. DeArmitt opined that appellant’s “recurrent back strains and sprains” were due to injuries he “suffered in his regular duties as a [letter carrier].” The physician noted that it was “well established that recurrent injury can lead to degenerative changes in [the] joints” and “the structural abnormality of [appellant]’s back (the sacralization of the L5 vertebra) would have predisposed him to back problems, but the recurrent lifting and carrying required by [appellant]’s occupation is likely what caused the problems to develop.”

By decision dated January 6, 2004, an Office hearing representative affirmed the denial of appellant’s claim. The hearing representative found the evidence insufficient to establish a causal relationship between his low back condition and employment factors.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees’ Compensation Act¹ has the burden of establishing that the essential elements of his 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.² These are essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the

¹ 5 U.S.C. §§ 8101-8193.

² *Derrick C. Miller*, 54 ECAB ____ (Docket No. 02-140, issued December 23, 2002).

³ *Janice Guillemette*, 54 ECAB ____ (Docket No. 03-1124, issued August 25, 2003); *Kathryn A. Tuel-Gillem*, 52 ECAB 451 (2001).

presence or existence of the disease or condition for which compensation is claimed;⁴ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁵ and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁶ The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is insufficient to establish causal relation.⁷ The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁸ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁹

The medical evidence required to establish causal relationship generally 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.¹⁰ The opinion of the physician must be based on a complete factual and medical background of the claimant,¹¹ must be one of reasonable medical certainty¹² 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.¹³

ANALYSIS

In this case, appellant has not submitted sufficient medical evidence establishing that his lower back condition was causally related to factors of his federal employment.

⁴ *Solomon Polen*, 51 ECAB 341 (2000).

⁵ *Marlon Vera*, 54 ECAB ____ (Docket No. 03-907, issued September 29, 2003); *Janet L. Terry*, 53 ECAB ____ (Docket No. 00-1673, issued June 5, 2002); *Roger Williams*, 52 ECAB (2001).

⁶ *Ernest St. Pierre*, 51 ECAB 623 (2000).

⁷ *Luis M. Villanueva*, 54 ECAB ____ (Docket No. 03-977, issued July 1, 2003).

⁸ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁹ *Id.*

¹⁰ *Conard Hightower*, 54 ECAB ____ (Docket No. 02-1568, issued September 9, 2003).

¹¹ *Tomas Martinez*, 54 ECAB ____ (Docket No. 03-396, issued June 16, 2003).

¹² *John W. Montoya*, 54 ECAB ____ (Docket No. 02-2249, issued January 3, 2003).

¹³ *Judy C. Rogers*, 54 ECAB ____ (Docket No. 03-565, issued July 9, 2003).

The only physician to address causal relationship was Dr. DeArmitt; however, the Board finds that his reports do not adequately explain the causal connection between appellant's employment and his lower back condition. As noted, causal relationship must be established by rationalized medical opinion evidence; however, Dr. DeArmitt's reports did not contain a probative, rationalized medical opinion addressing and explaining why his claimed condition was causally related to factors of his employment. Dr. DeArmitt diagnosed low back pain and sciatica due to a herniated disc as seen on an MRI scan. The physician diagnosed herniated disc, mechanical low back pain, sciatica and sacralization at L5 and restricted appellant to carrying no more than 20 pounds in reports dated June 12 and 21 and July 12, 2001. On May 3, 2001 the physician diagnosed probable muscular strain and mechanical low back pain and in progress notes dated June 12, 2001 he noted the tenderness of appellant's back increases when he returns to carrying mail. On November 18, 2003 Dr. DeArmitt stated appellant's "recurrent back strains and sprains" were due to an injury he sustained "in his regular duties as a [letter carrier]." He went on to state that it was "well established that recurrent injury can lead to degenerative changes in [the] joints" and "the structural abnormality of [appellant]'s back the sacralization of the L5 vertebra" would have predisposed him to back problems, but the recurrent lifting and carrying required by [appellant]'s occupation is likely what caused the problems to develop." Dr. DeArmitt's conclusions were of a summary nature and his reports do not contain a sufficiently rationalized medical opinion explaining why appellant's claimed condition and disability were caused by employment factors. He did not provide a clear opinion that appellant's employment duties of carrying mail and the back problems he attributed to his duties as a letter carrier caused or contributed to appellant's claimed conditions. Dr. DeArmitt's opinion is speculative as he concluded, without further explanation, that appellant's "occupation is likely what caused the problems to develop."¹⁴ Accordingly, as appellant failed to meet his burden to submit probative, rationalized medical evidence establishing that his claimed lower back condition was caused by factors of an incident of his employment, the Board finds that the Office properly denied appellant's claim for compensation.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that his low back condition was sustained in the performance of duty.

¹⁴ While the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. See *Ricky S. Storms*, 52 ECAB 349 (2001).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs' hearing representative dated January 6, 2004 is affirmed.

Issued: December 2, 2004
Washington, DC

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member