



shoulders, arms, hands, low back, hip and leg as a result of performing his duties. Appellant identified July 5, 2001 as the date he realized his condition was caused or aggravated by his employment. In an undated statement, received by the Office on September 28, 2001, appellant indicated that his injuries started on his first day in the telephone unit on July 5, 2001 and after two and a half hours, he began to have pain and numbness.

An August 9, 2001 magnetic resonance imaging (MRI) scan of the cervical spine demonstrated diffuse degenerative changes of the cervical spine with borderline spinal stenosis at C4-5 and C5-6 and bilateral neuroforaminal stenosis at C3-4, C4-5, C5-6 and C6-7, from a combination of posterior spurring and bony overgrowth from facet degenerative changes.

By letter dated October 16, 2001, the employing establishment indicated that appellant was employed as a seasonal employee commencing July 2, 2001 and he last worked on September 14, 2001. Dan Myers, chief of support services, stated that appellant informed the employing establishment that he had back problems and did not believe that a sedentary position would be a problem. Mr. Myers noted that appellant indicated that he first noticed his symptoms within two hours of being on the telephone unit. However, Mr. Myers stated that he believed appellant's symptoms were preexisting.

In an October 19, 2001 chart note, Dr. Terrill H. Simmons, a Board-certified orthopedic surgeon, diagnosed multi-level degenerative disc disease. In an undated attending physician's report, Dr. Simmons diagnosed multi-level disc disease and indicated that he believed appellant's condition was caused or aggravated by an employment activity.

In a December 20, 2001 decision, the Office denied appellant's claim on the grounds that the medical evidence of record failed to establish that his claimed medical condition was caused or aggravated by factors of his employment.

Appellant subsequently requested a hearing, which was held on January 8, 2003. He also submitted additional medical evidence, which included September 12, 2001 progress notes from Dr. James D. Harris, a Board-certified physiatrist, who diagnosed right C6 nerve root irritation, left C5-6 nerve root irritation, chronic cervical spondylosis, chronic low back pain and noninsulin dependent diabetes mellitus. In a January 15, 2002 report, Dr. Harris repeated his previous diagnoses and added increased body mass index.

The Office also received an October 2, 2002 report from Dr. Richard A. Hastings, an osteopath Board-certified in internal medicine, who noted appellant's history of injury and treatment, including that appellant sustained an accidental on-the-job injury due to repetitive cumulative trauma through September 11, 2001, while working for the employing establishment. Dr. Hastings opined that appellant sustained a traumatic injury to the cervical spine and lumbosacral back exacerbating preexisting underlying conditions and that appellant sustained a traumatic injury to the right and left hands and wrists, resulting in the appearance of recurrent carpal tunnel syndrome, which exacerbated a preexisting underlying condition of carpal tunnel syndrome, for which he had undergone bilateral surgery in 1992.

By decision dated May 9, 2003, the Office hearing representative remanded the claim and requested that the Office prepare a statement of accepted facts and refer appellant for a second

opinion for a detailed and reasoned opinion on the relationship between appellant's underlying preexisting conditions and his work activities.

The Office subsequently prepared a statement of accepted facts and referred appellant for a second opinion examination. In a July 16, 2003 report, Dr. Robert P. Shackelford, a Board-certified orthopedic surgeon and Office referral physician, noted appellant's history of injury and treatment, which began in 1988 and 1989 when appellant developed diffuse back pain, diagnosed as a series of strains and was treated conservatively. He reported findings that included no tenderness of the neck and no limitations on range of motion. Dr. Shackelford noted that appellant had a normal range of motion of the shoulder with no evidence of impingement syndrome or capsulitis. He also noted a normal range of motion of the wrists and hands with no evidence of atrophy and normal motor strength in the shoulder, elbow and wrist muscles. Dr. Shackelford indicated that the sensory examination was completely within normal limits. He explained that, due to the lack of physical findings, diagnostic reports would not add to the examination, however, he reviewed the preexisting diagnostic reports and indicated that they showed "some cervical spine degenerative changes as well as congenital spinal stenosis." Dr. Shackelford diagnosed fibromyalgia, chronic recurrent cervical and low back pain and chronic recurrent bilateral carpal tunnel syndrome. He noted that appellant did not have a specific work-related injury and thus appellant did not have a causal relationship between his employment and his symptoms. Dr. Shackelford opined that appellant's present condition was due to the underlying disease of fibromyalgia and there was no change in appellant's preexisting condition. He also indicated that there were no objective findings to substantiate appellant's subjective complaints.

By decision dated September 30, 2003, the Office denied appellant's claim for compensation as the medical evidence failed to establish that appellant's condition was causally related to his employment.

### **LEGAL PRECEDENT**

To establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>2</sup> Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.<sup>3</sup>

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<sup>2</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>3</sup> *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, *supra* note 2. Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

## ANALYSIS

In this case, appellant has not submitted sufficient medical evidence to establish that his conditions of pain in the head, neck, shoulders, arms, hands, low back, hip and legs were caused or aggravated by factors of his employment. The employing establishment indicated that appellant claimed an injury within two hours of being on the telephone and that appellant had preexisting back problems.

Appellant provided a report dated October 19, 2001 from Dr. Simmons, who provided a diagnosis of multi-level degenerative disc disease. However, he did not offer any opinion on causal relationship. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>4</sup> In an undated report, Dr. Simmons checked the box "yes" and indicated that appellant's condition was caused or aggravated by the employment activity. However, 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 a causal relationship.<sup>5</sup>

Dr. Hastings documented appellant's preexisting conditions in his October 2, 2002 report and opined that appellant sustained an on-the-job injury due to repetitive cumulative trauma through September 11, 2001 while working. However, he did not provide an explanation of how factors of appellant's employment caused or contributed to his preexisting condition. For example, he offered no explanation with regard to distinguishing appellant's preexisting degenerative problems from his employment activities, or to explain the various employment-related activities appellant may have engaged in, which contributed to his condition.

In reports dated September 12, 2001 and January 15, 2002, Dr. Harris merely provided a diagnosis and did not offer an opinion on causal relation. Appellant also submitted diagnostic reports from Dr. Gale L. Joslin dated August 9, 2001, along with numerous other diagnostic reports. However, these reports merely reported findings and did not contain an opinion regarding the cause of the reported condition.

Appellant provided articles on carpal tunnel. However, newspaper clippings, medical texts and excerpts, from publications are of no evidentiary value in establishing the causal relationship between a claimed condition and a claimant's federal employment as such materials are of general application and are not determinative of whether the specific condition claimed is related to particular employment factors or incidents.<sup>6</sup> Appellant also provided a pain diary journal. However, the fact that work activities produced pain or discomfort revelatory of an underlying condition does not raise an inference of causal relation.<sup>7</sup>

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<sup>4</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>5</sup> *Gary J. Watling*, 52 ECAB 278 (2001).

<sup>6</sup> *Gloria J. McPherson*, 51 ECAB 441 (2000).

<sup>7</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001).

Moreover, the record contains evidence that appellant's condition was not caused or aggravated by his employment. In a July 16, 2003 report, Dr. Shackelford provided a rationalized opinion in which he noted findings on examination, that were normal and reported appellant's history of injury, which dated back to 1989. He diagnosed fibromyalgia, chronic recurrent cervical and low back pain and chronic recurrent bilateral carpal tunnel syndrome. Dr. Shackelford indicated that appellant did not have a specific work-related injury and thus, appellant did not have a causal relationship between his employment and his symptoms. He opined that appellant's present condition was due to the underlying disease of fibromyalgia and there was no change in appellant's preexisting condition. Dr. Shackelford also indicated that there were no objective findings to substantiate appellant's subjective complaints.

Because the medical evidence submitted does not establish a causal relationship between appellant's claimed condition and factors of his employment, appellant has not met his burden of proof in establishing his claim. In the absence of a rationalized medical opinion stating that appellant's condition was causally related to his employment, the Board finds that appellant is not entitled to compensation.

**CONCLUSION**

The Board finds that appellant failed to establish that he sustained an injury in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated September 30, 2003 is affirmed.

Issued: May 12, 2004  
Washington, DC

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member