



On November 27, 2002 the Office advised appellant that it required additional factual and medical evidence to determine whether she was eligible for compensation benefits. The Office asked appellant to submit a comprehensive medical report from her treating physician describing her symptoms and the medical reasons for her condition, and an opinion as to whether her claimed condition was causally related to her federal employment. The Office requested that appellant submit the additional evidence within 30 days.

Appellant submitted a report by Dr. Jennifer A. Elliott, a general practitioner, dated June 1, 2002 who noted that appellant had begun a new job as a bus driver a few days earlier and had developed right knee pain while driving the bus. Dr. Elliot also noted that appellant's previous back problems were doing well after she received an epidural steroid injection. She diagnosed a history of low back pain secondary to spinal stenosis and acute onset of right knee pain.

In a report dated December 5, 2002, Dr. Shavonne L. Danner, a general practitioner, stated that appellant had tenderness at the L4-5 level, with increased lumbar lordosis and bilateral sacroiliac joint tenderness. Dr. Danner diagnosed bilateral lumbar radiculopathy, spinal stenosis with annular tear and possible discogenic pain, but did not relate these findings to factors of employment.

By decision dated December 31, 2002, the Office denied appellant's claim finding that appellant failed to submit medical evidence sufficient to establish that she sustained the claimed lower back condition in the performance of duty.

By letter dated January 27, 2003, appellant requested an oral hearing, which was held on July 30, 2003.

In a January 13, 2003 report, Dr. Elliott stated findings on examination and noted complaints of low back and bilateral leg pain. She stated that she had been treating appellant since January 2002, at which time appellant related that she had been pain-free prior to starting work at the employing establishment in 1998, and that this pain was progressively worsened with frequent lifting and pushing of heavy objects full of mail. Dr. Elliott advised that a magnetic resonance imaging (MRI) scan showed a large disc protrusion at L4-5 associated with lumbar spondylosis and annular tear resulting in severe central canal stenosis. She stated:

“Certainly such pathology as a dis[c] protrusion and annular tear could be related to frequent repetitive heavy lifting as was required during her job at the [employing establishment]. However, I began seeing [appellant] relatively late in her presentation and cannot with 100 percent certainty state that this is completely job related.”

Dr. Elliott diagnosed low back pain, lumbar radiculopathy, herniated disc with severe central canal stenosis and concomitant 23-week intrauterine pregnancy.

By decision dated September 29, 2003, an Office hearing representative affirmed the December 31, 2003 Office decision.

On March 17, 2004 appellant requested reconsideration. In a report dated March 8, 2004, Dr. Chris J. Maeda, a Board-certified orthopedic surgeon, stated that appellant's physical examination and lumbar MRI scan results were consistent with severe spinal stenosis and degenerative spondylolisthesis at L4-5. He stated, however, that these diagnoses were not causally related to appellant's employment with the employing establishment. Dr. Maeda observed that the above-described diagnoses were caused by natural wear and tear processes, the natural aging process, and too much body weight. He then opined that symptoms of lumbar spinal stenosis were aggravated by prolonged walking, standing, lifting and bending performed by appellant at the employing establishment, and that additional work-related activities caused acceleration in the normal degenerative processes which cause lumbar spinal stenosis.

By decision dated April 22, 2004, the Office denied appellant's claim on reconsideration.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing that 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>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>3</sup>

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 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 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. The medical evidence required to establish causal relationship is usually rationalized medical 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

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<sup>1</sup> 5 U.S.C. § 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>4</sup>

### ANALYSIS

In the instant case, appellant has alleged that prolong standing on a concrete floor, lifting up to 70 pounds, repeated kneeling and bending caused her back conditions which have been variously diagnosed as lumbar stenosis, spondylosis and herniated disc. She has, however, failed to submit any medical opinion containing a rationalized, probative report which relates her claimed lower back condition to factors of her employment. For this reason, she has not discharged her burden of proof to establish her claim that this condition was sustained in the performance of duty.

Appellant submitted reports from Drs. Elliott and Danner. In her January 13, 2003 report, Dr. Elliott diagnosed low back pain, lumbar radiculopathy, herniated disc with severe central canal stenosis and complications with pregnancy. She indicated that appellant had been pain-free before beginning work at the employing establishment in 1998, and that this pain was progressively worsened with frequent lifting and pushing of heavy objects full of mail. Dr. Elliott stated that a disc protrusion and annular tear as shown by an MRI scan could be related to frequent repetitive heavy lifting performed at her job with the employing establishment; however, she was unable to state with any certainty that appellant's diagnosed conditions were job related. Dr. Elliott's opinion regarding causal relationship is therefore speculative at best. Dr. Elliott's opinion is also of limited probative value as it does not contain any medical rationale explaining how or why appellant's claimed lower back condition was causally related to factors of employment.<sup>5</sup> The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.<sup>6</sup> Dr. Elliott did not describe appellant's job duties or explain the medical process through which such duties would have been competent to cause the claimed conditions. Moreover, her opinion is of limited probative value for the further reason that it is generalized in nature and equivocal in that he only noted summarily that appellant's condition was causally related to her employment. Dr. Elliott's report thus did not constitute sufficient medical evidence to establish that appellant's claimed lower back condition was causally related to her employment.

Dr. Danner opined that appellant had tenderness at the L4-5 level with increased lumbar lordosis and bilateral sacroiliac joint tenderness, and diagnosed bilateral lumbar radiculopathy, spinal stenosis with annular tear and possible discogenic pain, but did not indicate whether these findings were causally related to factors of employment. The Office therefore properly found in its September 29, 2003 decision that appellant did not meet her burden of proof in establishing that her claimed lower back condition was causally related to her employment.

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<sup>4</sup> *Id.*

<sup>5</sup> *William C. Thomas*, 45 ECAB 591 (1994).

<sup>6</sup> *See Anna C. Leanza*, 48 ECAB 115 (1996).

Following the Office's September 29, 2003 decision, appellant requested reconsideration and submitted Dr. Maeda's March 8, 2004 report, which indicated that appellant's physical examination and lumbar MRI scan results were consistent with severe spinal stenosis and degenerative spondylolisthesis at L4-5. He stated, however, that these diagnoses were not causally related to appellant's employment with the employing establishment. Dr. Maeda ascribed appellant's condition and low back symptoms to nonwork-related factors such as natural wear and tear, the natural aging process, and too much body weight. He further stated that her symptoms of lumbar spinal stenosis were aggravated by prolonged walking, standing, lifting and bending performed by appellant at the employing establishment, and that additional work-related activities caused acceleration in the normal degenerative processes which cause lumbar spinal stenosis.

Dr. Maeda's March 8, 2004 report is not sufficient to meet appellant's burden to submit probative, rationalized medical evidence to establish that her claimed lower back condition was causally related to her employment. The report is contradictory in that Dr. Maeda diagnoses lower back conditions and opines that they were not caused by factors of employment, then states that work activities aggravated her symptomatology. He also attributed appellant's low back condition to factors such as obesity, the aging process and natural wear and tear. Dr. Maeda's report, therefore, does not constitute sufficient medical evidence demonstrating a causal connection between appellant's claimed condition and factors of her employment. Consequently, appellant has not met her burden of proof, as she failed to establish that her claimed lower back condition was causally related to her employment. The Board therefore affirms the Office's April 22, 2004 decision, affirming the Office's September 29, 2003 decision denying benefits for her claimed lower back condition.

Accordingly, as appellant has failed to submit any probative medical evidence establishing that she sustained a lower back condition in the performance of duty, the Office properly denied appellant's claim for compensation.

### **CONCLUSION**

The Board finds that appellant has failed to establish that she sustained a lower back condition in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 22, 2004 and September 29, 2003 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: October 25, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member