



and pain in her lower back, which occurred when she attempted to stand, sit, bend over or twist her torso. Appellant stated that she first became aware of her injury on January 16, 2004. In support of her claim, appellant provided Phoebe Putney Memorial Hospital discharge instructions for her dated January 16, 2004, which reflect that she was seen by Dr. Andrew G. Misulia and received a primary diagnosis of “local injury affecting the low back.” The discharge forms were not signed by either a doctor or a staff member.

By letter dated February 17, 2004, the Office notified appellant that the information previously submitted was insufficient to substantiate her claim. The Office advised appellant to provide within 30 days from the date of its letter: a comprehensive medical report from her treating physician which described her symptoms; results of examinations and tests; diagnosis; the treatment provided; the effect of the treatment; and the doctor’s opinion, with medical reasons, on the cause of her condition. The letter specifically advised appellant to secure from her physician a reasoned medical opinion as to how appellant’s sitting in a vehicle for six to eight hours per day caused or contributed to her diagnosed medical condition.

In response to the Office’s request, appellant provided a letter dated March 17, 2004 from Eric Solomon, D.O., a Board-certified psychiatrist, stating that appellant was continuing to receive treatment through his office for back pain and lower extremity involvement. The letter further advised that, although magnetic resonance imaging (MRI) scan studies had been performed which demonstrated disc disease at several levels along with spinal stenosis, appellant had not yet begun therapy. The letter was not accompanied by the treating physician’s clinical notes. Causal relationship was not addressed.

By decision dated April 21, 2004, the Office denied appellant’s claim for compensation on the grounds that the medical evidence did not demonstrate that the claimed medical condition was causally related to the established work-related event, as required for coverage under the Federal Employees’ Compensation Act.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim, including the fact 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>

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 the 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>3</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

<sup>3</sup> *Solomon Polen*, 51 ECAB 341, 344 (2000).

The medical evidence required to establish a causal relationship, generally, is rationalized medical opinion evidence, *i.e.*, medical evidence presenting a physician's well-reasoned opinion on how the established factor of employment caused or contributed to claimant's diagnosed condition. To be of probative value, 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.<sup>4</sup> Furthermore, the Board has consistently held that unsigned medical reports are of no probative value<sup>5</sup> and that any medical evidence upon which the Office relies to resolve an issue must be in writing and signed by a qualified physician.<sup>6</sup>

An award of compensation may not be based on appellant's belief of causal relationship. 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 a causal relationship.<sup>7</sup>

The general rule regarding coverage of employees on travel status or on temporary duty assignments is set forth by Larson in his treatise, *The Law of Workers' Compensation*:

"Employees whose work entails travel away from the employer's premises are held in the majority of jurisdictions to be within the course of their employment continuously during the trip, except when a distinct departure on a personal errand is shown."<sup>8</sup>

Similarly, the Board has recognized the rule that the Act covers an employee 24 hours a day when he or she is on travel status or on a temporary-duty assignment or special mission and engaged in activities essential or reasonably incidental to such duties.<sup>9</sup>

### ANALYSIS

The medical evidence included in the record does not provide sufficient facts or a rationalized medical opinion to establish that appellant's alleged injury was causally related to her employment.

As a special agent/criminal investigator for the employing establishment, on temporary assignment to the Carter Protective Division, appellant's activities which are essential or reasonably incidental to such duties are covered by the Act. Appellant alleges that she was

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<sup>4</sup> *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

<sup>5</sup> *Merton J. Sills*, 39 ECAB 572, 575 (1988).

<sup>6</sup> *James A. Long*, 40 ECAB 538, 541 (1989).

<sup>7</sup> *Dennis M. Mascarenas*, *supra* note 2 at 218.

<sup>8</sup> Larson, *The Law of Workers' Compensation* § 25.01 (2000).

<sup>9</sup> *Lawrence J. Kolodzi*, 44 ECAB 818, 823 (1993).

required to remain in a vehicle for six to eight hours per day to conduct counter-surveillance. These activities appear to be essential or reasonably related to appellant's assigned duties and, therefore, are covered under the Act. However, appellant has failed to meet the criteria established by this Board in an occupational disease claim. Specifically, appellant has failed to submit medical evidence establishing that the condition for which compensation is claimed was causally related to the employment factors identified by the claimant or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.

In support of her initial claim, appellant submitted her unsigned discharge instructions from Phoebe Putney Memorial Hospital dated January 16, 2004. The forms indicated that appellant was seen by Dr. Misulia. The form further reflects "Primary Diagnosis: (1) Local Injury affecting the low back." First, under *Sills* and its progeny, because the discharge instructions were unsigned, they are of no probative medical value.<sup>10</sup> Additionally, there was neither a specific diagnosis nor a factual statement identifying employment factors alleged to have caused or contributed to the alleged condition. Therefore, even if the document had been signed, it provided no medical evidence establishing that the employment factors identified by appellant were the proximate cause for her claimed condition.

Although appellant alleged in her complaint that "the constant sitting" caused her lower back muscles to tense up "causing muscle spasms and pain" when she attempted to stand, sit, bend over or twist her torso, no medical evidence was presented in support of her claim. Appellant was afforded an opportunity to submit additional evidence to support her claim. By letter dated February 17, 2004, the Office advised appellant to provide within 30 days from the date of its letter: a comprehensive medical report from her treating physician which described her symptoms; results of examinations and tests; diagnosis; the treatment provided; the effect of the treatment; and the doctor's opinion, with medical reasons, on the cause of her condition. The letter specifically advised appellant to secure from her physician a reasoned medical opinion as to how appellant's sitting in a vehicle for six to eight hours per day caused or contributed to her diagnosed medical condition. Appellant failed to provide the requested documentation. Instead, appellant submitted a letter dated March 17, 2004 from Dr. Solomon, a Board-certified physiatrist, stating that appellant was continuing to receive treatment through his office for back pain and lower extremity involvement. The letter further advised that, although MRI scan studies had been performed, which demonstrated disc disease at several levels along with spinal stenosis, appellant had not yet begun therapy. Although Dr. Solomon's letter included a general diagnosis, it did not provide any opinion regarding the cause of appellant's condition. It is unknown whether these conditions preexisted the temporary-duty assignment or were in any way caused or aggravated by the work assignment. The Board has long held that 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>11</sup> An award of compensation may not be based on appellant's belief of causal relationship. Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or

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<sup>10</sup> *Merton J. Sills, supra* note 5.

<sup>11</sup> *Dennis M. Mascarenas, supra* note 2 at 218.

condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.<sup>12</sup>

The Board, therefore, finds that none of the reports provided by appellant included a rationalized opinion regarding the causal relationship between appellant's alleged low back pain and the factors of appellant's employment believed to have caused or contributed to such condition. As appellant did not submit medical evidence to establish that she sustained a back injury causally related to factors of employment, she has failed to meet her burden of proof.

**CONCLUSION**

Appellant has failed to meet her burden of proof that her claimed medical condition is due to her employment as alleged.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated April 21, 2004 is hereby affirmed.

Issued: October 19, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>12</sup> *James A. Long, supra* note 6.