

his condition on July 13, 2001 and first attributed this condition to his job duties in August 1992. Appellant stated that his position as a circuit supervisor and assistant regional director required him to drive continually. He stated that he drove up to 400 miles a day in the course of his employment in addition to performing other job duties.

In support of his claim, appellant submitted a form report dated August 9, 2001 from Dr. Dwight E. Lewis, a Board-certified internist, describing appellant's condition as an insidious onset of low back pain, right leg pain, numbness and tingling aggravated by sitting and driving. He noted that appellant had a history of nerve problems involving the right thigh. Dr. Lewis diagnosed low back pain and sciatica. He indicated with a checkmark "yes" that he believed that appellant's condition was caused or aggravated by his employment. Dr. Lewis found that appellant was totally disabled beginning on July 13, 2001.

On a claim for compensation dated August 7, 2001 appellant requested leave-buy back beginning July 16, 2001.

Dr. Lewis completed a form report on October 3, 2001 and repeated his earlier findings indicating with a checkmark "yes" that appellant's condition was due to his employment and stating "sitting and driving clearly aggravates the patient's symptoms." He found that appellant was totally disabled and that he would reassess after six to eight weeks of physical therapy.

By decision dated November 5, 2001, the Office accepted appellant's claim for temporary aggravation of meralgia paresthetica. The Office requested a medical report that "is specific as to your total disability from work due to the temporary aggravation."

In a note dated November 7, 2001, Dr. Lewis stated that appellant continued to experience back pain with right leg pain. He stated, "I would like to continue on with physical therapy and medications and activity restrictions (as before) for treatment for two or three months."

The employing establishment submitted a letter dated January 8, 2002 stating that appellant stopped work on July 16, 2001 and received pay through July 13, 2001. The employing establishment stated "This Agency cannot accommodate his work."

In a report dated January 30, 2002, Dr. Lewis stated that appellant's back pain had improved but that he still experienced significant right leg pain and paraesthesias. He stated that appellant should remain off work until February 22, 2002.

Dr. Lewis completed a form report on February 13, 2002 repeating his previous finding and diagnosing meralgia paresthetica, right, and low back pain with sciatica on the right. He indicated that appellant was totally disabled from July 13, 2001 through February 13, 2002.

Dr. Lewis referred appellant to Dr. Steven P. Kiefer, a Board-certified neurosurgeon. In a report dated February 22, 2002, Dr. Kiefer stated that appellant's right lateral thigh pain, anterior lateral shin and calf pain began in 1990 and gradually worsened. He recommended a lumbar myelogram. On March 27, 2002 Dr. Kiefer found that appellant's electrodiagnostic studies were normal. He opined that appellant had a compressive neurological lesion in the past which had resolved leaving him with some nerve sequelae.

Appellant completed a claim for compensation on December 18, 2003 and requested compensation for leave without pay from November 19, 2001 through April 9, 2002. In a letter dated January 5, 2004, the Office stated that additional medical evidence was required to support a claim for compensation due to his accepted employment injury. The Office allowed appellant 30 days to submit the necessary medical evidence.

By decision dated February 20, 2004, the Office denied appellant's claim for compensation benefits finding that the medical evidence was not sufficient to establish disability for work due to the accepted condition.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employee's Compensation Act¹ has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative and substantial evidence, including the fact that the individual is an "employee of the United States" within the meaning of the Act and 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 or specific condition for which compensation is claimed is causally related to the employment injury.² The issue of whether a particular injury causes an employee to be disabled for employment and the duration of that disability are medical issues which must be proved by the preponderance of the reliable, probative and substantial medical evidence.³

ANALYSIS

The Office accepted that appellant developed a temporary aggravation of meralgia paresthetica due to his employment duties of sitting and driving. However, the Office found that appellant failed to submit sufficient probative and substantial medical evidence to establish that he was totally disabled as a result of his accepted condition.

In support of his claim, appellant submitted several reports from Dr. Lewis, a Board-certified internist, in which the physician described appellant's condition as an insidious onset of low back pain, right leg pain, numbness and tingling aggravated by sitting and driving. He noted that appellant had a history of nerve problems involving the right thigh. Dr. Lewis diagnosed low back pain and sciatica. He indicated with a checkmark "yes" that he believed that appellant's condition was caused or aggravated by his employment. He found that appellant was totally disabled beginning on July 13, 2001. This report is not sufficient to establish appellant's claim for total disability due to the accepted condition of meralgia paresthetica as Dr. Lewis did not attribute appellant's disability to this condition, but instead to low back pain with sciatica which has not been accepted as employment related by the Office. The Board has held that a

¹ 5 U.S.C. §§ 8101-8193.

² *Kathryn Haggerty*, 45 ECAB 383, 388 (1994).

³ *Fereidoon Kharabi*, 52 ECAB 291, 292 (2001).

physician's opinion on causal relation that consists of checking "yes" to a form question has little probative value as it lacks any explanation or rationale for the stated conclusion.⁴

In a report dated October 3, 2001, Dr. Lewis repeated his earlier findings indicating with a checkmark "yes" that appellant's condition was due to his employment and stating "sitting and driving clearly aggravates the patient's symptoms." He found that appellant was totally disabled and that he would reassess after six to eight weeks of physical therapy. This report again fails to provide a diagnosis of the accepted condition and does not establish a period of disability due to meralgia paresthetica. Therefore this report is not sufficient to meet appellant's burden of proof.

On November 7, 2001 and January 30, 2002 Dr. Lewis stated that appellant continued to experience back pain with right leg pain. He stated that appellant should remain off work until February 22, 2002. These reports are also deficient as they fail to provide medical rationale in support of the recommended period of disability due to appellant's temporary aggravation of meralgia paresthetica.

Dr. Lewis completed a form report on February 13, 2002 repeating his previous findings of equal reflexes, diminished sensation in the right fourth and fifth toes, mild disc bulge at L5-S1 and mild facet degeneration as demonstrated on magnetic resonance imaging scan. He diagnosed meralgia paresthetica, right, and low back pain with sciatica on the right. Dr. Lewis indicated that appellant was totally disabled from July 13, 2001 through February 13, 2002. Dr. Lewis diagnosed both meralgia paresthetica and low back pain with sciatica. He did not clearly indicate that the accepted condition of meralgia paresthetica caused or contributed to the period of total disability claimed. In this form report, Dr. Lewis did not provide any opinion that appellant's period of total disability, from July 13, 2001 through February 13, 2002 was in fact due at least in part to the accepted condition of meralgia paresthetica rather than wholly to the unaccepted condition of low back pain with sciatica. Without such specific medical opinion evidence, appellant has not established by the preponderance of the reliable, probative and substantial medical evidence that his claimed period of total disability was due to the accepted condition of temporary aggravation of meralgia paresthetica, and has not met his burden of proof in establishing his claim under the Act.

CONCLUSION

The Board finds that appellant has not submitted the necessary specific medical opinion evidence establishing that his claimed period of total disability from July 13, 2001 through February 13, 2002 was in fact attributable to his accepted employment-related condition of temporary aggravation of meralgia paresthetica.

⁴ See *Debra S. King*, 44 ECAB 203 (1992).

ORDER

IT IS HEREBY ORDERED THAT the February 20, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 9, 2004
Washington, DC

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member