

February 2, 2004. The employing establishment stated that appellant first reported her condition on February 17, 2004 but did not stop work and that she was last exposed to conditions alleged to have caused her condition on February 16, 2004.

In response to a request by the Office dated February 27, 2004, appellant submitted additional medical and factual evidence in support of her claim.

In a report dated February 29, 2004, Dr. Gregory D. Jenkins, a general practitioner, stated that he treated appellant on that day for radicular back pain extending into her left leg. He noted that surgery was pending and prescribed medication.

In a report dated March 2, 2004, Dr. Ira R. Mintz, a Board-certified radiologist, read a chest x-ray as negative.

On the same day, Dr. James Weagley, a general practitioner, stated that appellant had had chronic low back pain for three years with pain extending into the left leg for the last month. He also noted that she had low back surgery three years prior.

In a narrative report received on March 22, 2004, appellant stated that she had worked for the last seven years as a mail processor which required her to lift mail trays and load mail onto a feeder module. She noted that the repetitive motion of lifting heavy mail caused back stress.

Appellant also loaded first-class mail noting that the different weights and the repetitive nature of the job added stress to her back. She was also required to work as a sweeper when the mail had been sorted which required her to bend down repetitively to pick up mail.

By decision dated April 20, 2004, the Office denied appellant's claim on the grounds that she failed to submit medical evidence establishing that her condition was caused by her employment.

On May 27, 2004 appellant requested reconsideration.

In a report dated April 19, 2004, Dr. Hrair E. Darakjian, appellant's attending physician and a Board-certified orthopedic surgeon, stated that he had treated her for a low back injury. He related appellant's complaints of pain and the duties she performed at the employing establishment. Dr. Darakjian reported her medical history, noting that she had an L5-S1 discectomy in April 2001. He treated appellant on July 7, 2003 and again on February 12, 2004 for a flare up of back pain and pain and numbness in the left leg. Dr. Darakjian reviewed a February 13, 2004 magnetic resonance imaging (MRI) scan which revealed an extruded disc herniation at the L5-S1 level; he also noted that surgery was performed on March 8, 2004 but, that appellant reported persisting pain post surgery. A repeat MRI scan revealed a collapsed disc space and residual disc herniation. Appellant remained symptomatic with pain and numbness in the left thigh and leg and had no relief with medication and epidural injections. On examination, he noted that she had a normal heel-toe gait and that her lumbar range of motion was 75 percent with pain on extremes of motion; appellant was also symptomatic with spasms and tenderness in the paraspinal muscles and had a positive straight left leg raising. Dr. Darakjian's diagnosis was

residual disc herniation at L5-S1 with disc space collapse and degeneration. He noted that fusion surgery at L5-S1 was scheduled for July 1, 2004. Dr. Darakjian also submitted several treatment records.

In an August 26, 2004 decision, the Office denied modification of its previous decision denying benefits.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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.² These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or a claim for 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 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, 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. 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.⁴

ANALYSIS

It is not disputed that appellant has a back condition or that she performed duties as alleged in her employment. However, she has submitted insufficient medical evidence to

¹ 5 U.S.C. §§ 8101-8193.

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

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

establish that her slipped disc in her lower back was caused or aggravated by factors of her federal employment.

The medical evidence of record which included Dr. Darakjian's reference to MRI scans revealing herniated disc at L5-S1, fail to provide a discussion of how appellant's federal duties would have caused or contributed to her medical condition. Dr. Darakjian provided a detailed review of appellant's history of injury, noting her April 2001 L5-S1 surgery and her pain in July 2003 and in February 2004. He stated that he reviewed her February 2004 MRI scan, which revealed a herniated disc at L5-S1, Dr. Darakjian noted appellant's subsequent surgery in March 2004 and her continuing symptoms of back pain which was supported by a recent MRI scan. However, he did not provide a rationalized medical opinion supporting a causal relationship between her condition and employment factors. Dr. Darakjian's report does contain a sufficient explanation as to how her low back condition was causally related to factors of her employment as a mail processor. In the history provided by appellant, he noted certain employment factors. However, Dr. Darakjian did not provide his own opinion explaining how such employment factors would have caused or aggravated the diagnosed back condition. For example, he did not indicate how repetitive lifting of mail would have caused or aggravated appellant's herniated disc at L5-S1 and why any such condition would not be due to the preexisting back condition for which appellant had surgery in 2001. Due to these deficiencies, this report is insufficient to establish that appellant's herniated disc at L5-S1 was causally related to factors of her employment. Treatment notes by Dr. Darakjian did not specifically address causal relationship.

Furthermore, none of the remaining physicians offered a specific opinion on whether appellant's employment factors caused or aggravated her claimed condition.

As appellant did not provide a rationalized medical report explaining how her low back condition was causally related to her employment injury, she did not meet her burden of proof.

CONCLUSION

The Board finds that the medical evidence of record does not establish a causal relationship between appellant's diagnosed condition and her federal employment and that, therefore, she failed to meet her burden of proof in establishing that she developed low back pain due to her job duties.

ORDER

IT IS HEREBY ORDERED THAT the August 26 and April 20, 2004 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: March 11, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member