

coworker. He stopped work on February 1, 2003 and returned to work on February 5, 2003. The Office assigned the claim file number 012014192.¹

In a disability certificate dated February 1, 2003, a physician indicated that appellant should remain off work for four days.²

In a form report dated February 25, 2003, Dr. Mats Agren, an orthopedic surgeon, noted appellant's complaints of back pain, leg numbness and foot tingling. He checked "yes" that the condition was work related and found that appellant could perform modified duty. In a duty status report of the same date, Dr. Agren noted findings of low back pain and found that appellant could work with restrictions.

In a report dated February 28, 2003, Dr. Agren discussed his treatment of appellant for back pain and recommended that he frequently change position and limit "bending, lifting or twisting activities."

In a report dated April 16, 2003, Dr. Agren diagnosed stable low back pain and mild right leg symptoms. He stated that he would "not give [appellant] specific restrictions, although he should limit himself when it comes to heavy lifting, twisting or stooping."³

On March 11, 2003 the Office informed appellant that the information was insufficient to establish his claim and requested a medical report containing a definitive diagnosis and rationalized medical opinion regarding causation.

In a response dated March 21, 2003, appellant discussed his history of a workers' compensation injury to his back in 2001 while in private employment. He stated, "Something did pop in my back on February 1, 2003 and it caused me to have leg and foot numbness for several weeks which scared me a great deal."

By decision dated April 25, 2003, the Office denied appellant's claim on the grounds that the medical evidence did not establish a diagnosed condition causally related to the "established work-related event(s)."

On August 18, 2003 appellant requested reconsideration in Office file number 012014192 "because I have new evidence to present from my [d]octor that tells how lifting checked baggage

¹ Appellant previously filed a claim for a traumatic injury on January 6, 2003 in the performance of duty. The Office assigned the claim file number 012015435 and, in a decision dated April 25, 2003, denied the claim on the grounds that appellant did not establish a medical condition due to the employment incident. As this decision is more than one year prior to the date of this appeal, the Board lacks jurisdiction to review the Office's April 25, 2003 decision denying appellant's January 6, 2003 traumatic injury claim. *See* 20 C.F.R. § 501.2(c).

² The name of the physician is not legible.

³ Appellant also submitted evidence relevant to a 2001 injury to his back.

aggravated my back condition on January 6, 2003, and again on February 1, 2003.” He submitted a report from Dr. Agren dated August 11, 2003, who stated:

“In early February 2003, he was evaluated for a complaint of increased back pain. He reported that he was doing a lot of lifting, and also lifted a bag that reportedly weighed about 80 pounds. This caused him to have increased pain in his back, as well as some burning in his legs. He was seen in the emergency room and discharged with medication. He was again placed on limited duty, and gradually continued to improve. There were no further radiographic studies obtained. It was felt that this was an aggravation of his underlying degenerative condition.”

Dr. Agren noted that appellant’s back aggravation has improved but that he would continue to have exacerbations when he performed “a lot of lifting, twisting or stooping activities.”

By letter dated September 25, 2003, appellant requested reimbursement for medical bills and compensation for lost work time from April 9 to May 13, 2003. He noted that he was requesting reconsideration on Office file number 012014192 for injuries which occurred on January 6 and February 1, 2003.

In a decision dated November 17, 2003, the Office denied modification of the April 25, 2003 decision in Office file number 01201492. The Office found that the medical evidence did not show a diagnosed condition due to the February 1, 2003 employment incident.⁴

On April 7, 2004 appellant requested reconsideration of the Office’s November 17, 2003 decision. In an accompanying letter, he stated that he was requesting reconsideration of Office file number 012015435 “which was denied on November 17, 2003.” Appellant indicated that he was submitting another report from Dr. Agren which “clearly states I strained my back while lifting checked baggage on February 1, 2003.” Appellant asserted that there was “no question I suffered a back strain on February 1, 2003.”

In a report dated January 27, 2004, Dr. Agren related:

“I believe [appellant] had increased back pain in February 2003. This pain continued since then with some changes secondary to medical treatment. I believe that he strained his back and since he has continued complaints of pain, I feel he aggravated his underlying degenerative dis[c] disease.”

Dr. Agren opined that appellant’s aggravation had not ceased.

In an Office internal memorandum, a claims examiner noted that appellant’s request for reconsideration referenced the decision dated November 17, 2003 and an alleged injury on February 1, 2003 but provided claim file number 012015435. The claim’s examiner stated, “As both factual and medical information the claimant submitted in support of his request pertain to

⁴ The Office did not address appellant’s request for reconsideration of the denial of his January 6, 2003 employment injury.

the alleged injury of February 1, 2003 a merit review was conducted and a decision was issued under the claim file number 012014192.

By decision dated July 7, 2004, the Office denied modification of its November 17, 2003 decision in Office file number 012014192.⁵

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act⁶ has the burden of establishing 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 filed within the applicable time limitation; that an injury was sustained while 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.⁷ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁸

To determine whether an employee sustained a traumatic injury in the performance of duty, the Office must determine whether "fact of injury" is established. First, an employee has the burden of demonstrating the occurrence of an injury at the time, place and in the manner alleged, by a preponderance of the reliable, probative and substantial evidence.⁹ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish a causal relationship between the employment incident and the alleged disability and/or condition for which compensation is claimed.¹⁰ An employee may establish that the employment incident occurred as alleged, but fail to show that his or her disability and/or condition relates to the employment incident.¹¹

In order to satisfy his burden of proof, an employee must submit a physician's rationalized medical opinion on the issue of whether the employment incident caused the alleged injury.¹² 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

⁵ The Office stated, "Although the claimant made the request under another claim file number (012015435) he made references to this injury, *i.e.*, alleged injury of February 1, 2003 and the prior decision of November 17, 2003. Therefore, a merit review was conducted under this claim file number (012014192).

⁶ 5 U.S.C. §§ 8101-8193.

⁷ *Caroline Thomas*, 51 ECAB 451 (2000); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁸ See *Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 7.

⁹ *Delphyne L. Glover*, 51 ECAB 146 (1999).

¹⁰ *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

¹¹ *Gary J. Watling*, *supra* note 10.

¹² *Gary L. Fowler*, 45 ECAB 365, 371 (1994).

employee's alleged injury and the employment incident.¹³ The physician's opinion must be based on a complete factual and medical history of the employee, must be of reasonable certainty and must rationally explain the relationship between the diagnosed injury and the employment incident as alleged by the employee.¹⁴

ANALYSIS

Appellant alleged that he sustained an injury on February 1, 2003 to which the Office assigned claim file number 012014192 when he "felt something pop" in his lower back while lifting a piece of luggage with the assistance of a coworker. He provided a statement from the coworker confirming that he felt a "pop" when they lifted a bag on that date. Appellant has established that the February 1, 2003 incident occurred at the time, place and in the manner alleged. The issue, consequently, is whether the medical evidence establishes that he sustained a compensable injury as a result of the incident.

The Board finds that appellant has not established that the February 1, 2003 employment incident resulted in an injury. The determination of whether an employment incident caused an injury is generally established by medical evidence.¹⁵ Appellant submitted a report dated February 1, 2003 from a physician who found that he should remain off work for four days. The name of the physician, however, is not legible and thus the report does not constitute probative medical evidence.¹⁶

In form reports dated February 25, 2003, Dr. Agren discussed appellant's complaints of back pain, leg numbness and foot pain. He opined that appellant could work in a limited-duty capacity and checked "yes" that the condition was related to his employment. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion has little probative value and is insufficient to establish a claim.¹⁷

Dr. Agren, in a report dated February 28, 2003, indicated that he was treating appellant for back pain and recommended frequent position changes and limiting bending, lifting and twisting. In a report dated April 16, 2003, Dr. Agren diagnosed low back pain and mild right leg symptoms and again found that he was lifting, twisting and stooping. He did not, however, provide a definite diagnosis or a finding regarding the causal relationship between the listed limitations and the February 1, 2003 employment incident. Medical evidence that does not offer

¹³ *Gary J. Watling*, *supra* note 10.

¹⁴ See *John W. Montoya*, 54 ECAB ____ (Docket No. 02-2249, issued January 3, 2003); *Shirley R. Haywood*, 48 ECAB 404 (1997).

¹⁵ *Lois E. Culver (Clair L. Culver)*, 53 ECAB 412 (2002).

¹⁶ *Merton J. Sills*, 39 ECAB 572 (1988).

¹⁷ *Lee R. Haywood*, 48 ECAB 145 (1996).

any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.¹⁸

In a report dated August 11, 2003, Dr. Agren indicated that he treated appellant in the early part of February 2003 for complaints of increased back pain. He stated, “[appellant] reported that he was doing a lot of lifting, and also lifted a bag that reportedly weighed about 80 pounds. This caused him to have increased pain in his back, as well as some burning in his legs.” Dr. Agren noted that appellant improved with work restrictions and opined that the increased pain was “an aggravation of his underlying degenerative condition. He relied, however, on an incomplete history of injury as he did not provide the specific date of injury or the history of appellant feeling a “pop” in his lower back lifting a bag with a coworker.¹⁹

In a report dated January 27, 2004, Dr. Agren again noted that appellant had “increased back pain in February 2003.” He stated, “I believe that he strained his back and since he has continued complaints of pain, I feel he aggravated his underlying degenerative dis[c] disease.” Dr. Agren, however, did not provide the history of injury or any rationale for his opinion explaining how appellant strained his back or aggravated his degenerative disc disease due to the February 1, 2003 employment incident. The opinion of a physician supporting causal relationship must be supported by affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.²⁰

As appellant has not submitted rationalized medical evidence to support his allegation that he sustained an injury while lifting a bag with a coworker on February 1, 2003, he has not met his burden of proof to establish his claim.

CONCLUSION

The Board finds that appellant has not established that he sustained an injury on February 1, 2003 in the performance of duty.

¹⁸ *Willie M. Miller* 53 ECAB 697 (2002).

¹⁹ *Frank Luis Rembisz*, 52 ECAB 147 (2000).

²⁰ *Patricia J. Glenn*, 53 ECAB 159 (2001).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated July 7, 2004 and November 17, 2003 are affirmed.

Issued: September 23, 2005
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board