

lumbar strain.¹ He alleged that the constant hunching over to write and do computer work caused herniated cervical discs in his neck. Appellant stopped work on October 12, 2004 and did not return. The Office adjudicated appellant's claim as an occupational disease claim. The record indicates that appellant underwent an anterior cervical discectomy and fusion at C5-6 and C6-7 on December 6, 2004.

In an October 18, 2004 report, Dr. Jocelyn DeVita² noted that appellant had a history of right sciatica under another Office claim and was currently working light duty. She indicated that appellant awoke one day with left-sided neck stiffness and had a three-day history of worsening left-sided neck pain. No injury or trauma to the neck was noted. Dr. DeVita diagnosed a neck strain and took appellant off work for three days.

In a November 3, 2004 report, Dr. Richard E. Waltman, a Board-certified family practitioner, noted that appellant had been doing well on light duty and that his complaints of neck and shoulder pain were getting worse. Dr. Waltman diagnosed cervical disc disease with myelopathy and cervicgia and indicated that surgery would be needed.³ He advised that appellant could not work or engage in any strenuous activity pending surgery. In an attached document, Dr. Waltman diagnosed cervical disc herniation which he attributed to constant neck bend positions. Appellant was totally disabled until surgery and rehabilitation was completed. In December 11, 2004 and January 12, 2005 reports, Dr. Waltman provided the status of appellant's condition.

In a June 28, 2005 letter, the Office advised appellant that the evidence submitted was insufficient to determine his eligibility for benefits as it contained no history of his federal work duties, which may have caused or contributed to his herniated neck condition. There was no statement from his physician which established a causal relationship between his neck condition to his federal work factors. The Office requested that appellant submit additional factual and medical information, including a detailed narrative report from his attending physician which explained with medical rationale how such exposure to his federal work factors caused or contributed to his neck condition.

In response, appellant resubmitted medical reports already of record, a copy of the January 3, 2005 x-ray of the cervical spine and new medical evidence.

In a November 5, 2004 report, Dr. Daniel G. Nehls, a Board-certified neurological surgeon, noted that appellant reported some shoulder discomfort after he returned to work in June 2004, but experienced a significant change in his symptoms after he awoke with a kink in his neck about three weeks earlier. Since that time, appellant developed left shoulder and arm

¹ The Office indicated that under file number 142023668, it had accepted an August 12, 2003 traumatic injury for a lumbar strain. The Office stated that appellant was off work from August 12, 2003 until June 2004, when he returned to a full-time light-duty clerk position. The Office further stated that compensation for wage-loss and medical benefits were terminated effective August 31, 2004. As file number 142023668 is not before the Board, the Board has no jurisdiction over that claim in the present appeal. 20 C.F.R. § 501.2(c).

² Dr. DeVita's credentials are not of record.

³ Dr. Waltman also diagnosed sciatica and cardiac ectopy.

pain with some weakness in the arm. Formal testing could not be performed due to pain but a computerized tomography (CT) scan demonstrated significant degenerative changes at C5-6 and C6-7 with large spurs or ossifications. In a November 10, 2004 chart note, Dr. Nehls noted that the magnetic resonance imaging (MRI) scan demonstrated significant disc herniations or spurs at C5-6 and C6-7 and provided an impression of cervical spondylosis with marked spinal canal narrowing. He opined that this “most likely was not an L&I injury as the CT scan showed these to be spurs or ossifications.” An anterior cervical discectomy and fusions at C5-6 and C6-7 was recommended.

In an October 28, 2004 report, Dr. Waltman noted that appellant was on light duty because of his back. He noted that “appellant has had neck and shoulder pain ... but says he may be compensating for low back pain, which does bother him from time-to-time after a workplace injury. He now says that his neck is sore, his shoulders hurt and he has occasional tingling in both arms without loss of function. He has had no other neurological functions and has been ‘doing OK’ on light duty.” Dr. Waltman advised that appellant had a significant cervical strain. Additional reports from Dr. Waltman dated November 3, 2004 to June 20, 2005 reported appellant’s status.

In a May 2, 2005 letter, Dr. Waltman stated that appellant has preexisting degenerative disease of the lumbar spine and opined that it was likely that compensating for the lumbar spine problems while at work led to exacerbation of his cervical spine problems. In a September 1, 2005 letter, Dr. Waltman indicated that appellant was unable to perform his specific job duties or any task which required prolonged sitting at a desk.

By decision dated September 7, 2005, the Office denied appellant’s claim on the grounds that he had not established a causal relationship between the diagnosed cervical condition and his work activities.

On October 4, 2005 appellant requested reconsideration. In an undated statement, appellant noted that he was on light duty from June 18 to October 12, 2004 and believed that the constant sitting, bending, writing and data entry involved in the compilation of screened baggage contributed to an exacerbation of his cervical condition. He indicated that his neck, shoulder and back pain started about three weeks into his light-duty position and that he stopped working upon his doctor’s advice. He submitted a copy of the November 4, 2005 MRI scan of the cervical spine and medical evidence from Dr. Nehls, which included a copy of a preoperative visit, the surgical report of December 6, 2004 and postoperative visits dated January 2 and March 2, 2005.

In an October 3, 2005 letter, Dr. Waltman stated that appellant initially developed work-related exacerbation of lumbar disc disease with pain and discomfort. Then, while on light duty, appellant developed severe neck discomfort and loss of motor function in his left arm, the direct result of his work responsibilities, which included leaning over, prolonged writing and prolonged data entry into a computer system. Dr. Waltman opined that these activities exacerbated appellant’s underlying cervical disc disease. Dr. Waltman opined that appellant was on disability due to his neck and low back problems and stated that because of appellant’s cervical and lumbar decompensation, he was disabled for work.

By decision dated February 23, 2006, the Office denied modification of its September 7, 2005 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act⁴ 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.⁵

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.⁶ 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.⁷

An award of compensation may not be based on an employee'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.⁸

ANALYSIS

Appellant alleged that constant bending over to write and do computer work in his light-duty logistical position caused neck and shoulder symptoms. The Office properly developed appellant's claim as an occupational disease.⁹ Appellant has submitted insufficient medical

⁴ 5 U.S.C. §§ 8101-8193.

⁵ *Dennis M. Mascarenas*, 49 ECAB 215, 217 (1997).

⁶ *Solomon Polen*, 51 ECAB 341, 344 (2000).

⁷ *Leslie C. Moore*, 52 ECAB 132, 134 (2000); *see also Ern Reynolds*, 45 ECAB 690, 695 (1994).

⁸ *Dennis M. Mascarenas*, *supra* note 5 at 218.

⁹ 20 C.F.R. § 10.5(x); Federal (FECA) Procedure Manual, Part 2 -- Claims, Recurrences, Chapter 2.1500.3 (May 1997); *Donald T. Pippin*, 54 ECAB 631 (2003). *See* 20 C.F.R. § 10.5(q) for the definition of an occupational disease.

evidence to establish that his diagnosed cervical condition was caused or aggravated by factors of his federal employment.

In an October 18, 2004 report, Dr. DeVita noted that appellant was performing light duty and that he awoke one day with left-sided neck stiffness. A neck strain was diagnosed and appellant was taken off work for three days. Dr. DeVita's report is of diminished value as she failed to address how appellant's neck strain and disability was caused by any work-related factors.¹⁰ Her report is insufficient to establish appellant's claim.

In a November 5, 2004 report, Dr. Nehls noted that appellant experienced some shoulder discomfort after he returned to work in June 2004, but had a significant change in his symptoms when he awoke with a kink in his neck. Appellant developed pain into the left shoulder, shoulder blade and arm with some weakness in the arm. Dr. Nehls failed to specifically address the causal relationship between appellant's neck, shoulder and arm condition and any work-related factors.¹¹ Moreover, in a November 10, 2004 chart note, Dr. Nehls stated that it was unlikely that appellant's condition was an injury as the CT scan showed spurs or ossifications. Thus, Dr. Nehls' reports are insufficient to establish appellant's claim.

The record indicates that Dr. Waltman first evaluated appellant on October 28, 2004. He noted that appellant was on light duty because of his low back condition and that appellant stated that he was compensating for his low back pain. He diagnosed a neck strain and, in subsequent reports, diagnosed cervical disc disease with herniation and myelopathy and cervicalgia which rendered appellant totally disabled. On November 2, 2004 Dr. Waltman attributed appellant's cervical condition to constant neck bend positions. On October 10, 2005 Dr. Waltman explained that while appellant was on light duty as a result of a work-related exacerbation of his lumbar disc disease, he developed severe neck discomfort and loss of motor function in his left arm. Dr. Waltman opined that appellant's work responsibilities of leaning over, prolonged writing and prolonged data entry exacerbated his underlying cervical disc disease. However, he failed to address how appellant's underlying cervical disc disease was caused or exacerbated by his light-duty work requirement. Dr. Waltman did not explain the physiological processes by which specific employment duties would cause or aggravate the diagnosed cervical conditions. The Board has long held that medical opinions not containing rationale on causal relation are of diminished probative value.¹² Thus, Dr. Waltman's opinion is of diminished probative value and insufficient to meet appellant's burden of proof.

The remaining medical evidence of record does not contain a rationalized medical opinion explaining how work-related incidents or factors caused or aggravated any medical condition or disability. Therefore, appellant has failed to satisfy his burden of proof.

Appellant expressed his belief that his alleged condition resulted from his employment activities of his logistical position. The Board has held that the mere fact that a condition

¹⁰ See *Michael E. Smith*, 50 ECAB 313 (1999).

¹¹ *Id.*

¹² See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (where the Board found that a medical opinion not fortified by medical rationale is of little probative value).

manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.¹³ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.¹⁴ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant's responsibility to submit. Therefore, appellant's belief that his condition was caused by the alleged work duties is not determinative.

As there is no probative, rationalized medical evidence addressing how appellant's claimed conditions were caused or aggravated by his light-duty employment, he has not met his burden of proof in establishing that he sustained an occupational disease in the performance of duty causally related to factors of employment.

CONCLUSION

The Board finds that appellant has not met his burden of proof in establishing that he sustained an injury in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the February 23, 2006 and September 7, 2005 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: July 18, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

¹³ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

¹⁴ *Id.*