

March 31, 2003, the Office found that appellant had not established that she sustained an injury in the performance of duty. In an April 10, 2003 letter, the Office advised appellant that, in an earlier claim for a traumatic injury sustained on July 30, 2001, it had accepted that she sustained a lumbosacral strain with no time lost from work. The Office recommended that she file a claim for an occupational disease because the evidence indicated that she was claiming that her work duties, rather than the July 30, 2001 injury, was causing her problems.

By letter dated March 25, 2004, appellant requested reconsideration, provided a detailed description of the employment factors to which she attributed her condition and submitted medical evidence. In a June 22, 2004 report, Dr. Leonard Strichman, a neurosurgeon, stated that he first saw appellant on November 7, 2001 for neck pain and dyesthesias into her right upper extremity. She had a history of a laminectomy and disc excision at L5-S1 in 1999. He noted that a cervical magnetic resonance imaging (MRI) scan showed protrusions or herniations at C5-6 and C6-7, that a 1999 MRI scan showed a disc herniation at L5-S1, and that a 2001 MRI scan showed a protrusion at L5-S1 and a herniation at T12-L1. Dr. Strichman stated that, as appellant did not have a prior history of neck pain or weakness of the upper extremities, the disc pathology seen on the MRI scan of her cervical spine was related to her July 30, 2001 injury, and that the disc pathology seen on the lumbar MRI scan at L5-S1 was preexisting but the disc pathology at T12-L1 was related to her July 30, 2001 injury. In a March 28, 2005 report, Dr. Strichman stated that appellant had occasional neck pain and dyesthesias into the right upper extremity that worsened after her 2001 injury.

By decision dated October 28, 2005, the Office found that the medical evidence did not establish that appellant's condition was related to her daily work activities.

LEGAL PRECEDENT

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that her condition was caused or adversely affected by her employment. As part of this burden she must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relation. The mere fact that a disease manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two. Neither the fact that the disease became apparent during a period of employment, nor the belief of appellant that the disease was caused or aggravated by employment conditions, is sufficient to establish causal relation.¹

ANALYSIS

The medical evidence appellant submitted, which consisted of reports from Dr. Strichman, indicate that her back and neck conditions are causally related to a July 30, 2001 traumatic employment injury. This evidence addresses a traumatic injury for which appellant filed a separate claim. It is of no value in establishing the present claim, as appellant attributed her condition to the repetitive twisting and lifting in her employment. The case record does not contain any medical evidence to substantiate the present claim for occupational disease.

¹ *Froilan Negron Marrero*, 33 ECAB 796 (1982).

Dr. Strichman's reports lend no support to appellant's claim that repetitive twisting and lifting caused her herniated discs. She has not met her burden of proof.

CONCLUSION

Appellant has not met her burden of proving that her back and neck conditions are causally related to the duties of her employment.

ORDER

IT IS HEREBY ORDERED THAT the October 28, 2005 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 3, 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