United States Department of Labor
Employees' Compensation Appeals Board

J.B., Appellant	)	
and	)	**Docket No. 06-896**
	)	**Issued: September 14, 2006**
DEPARTMENT OF VETERANS AFFAIRS, REGIONAL OFFICE, St. Petersburg, FL, Employer	)	

Appearances:
Dean Albrecht, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On March 8, 2006 appellant filed a timely appeal of the decision of the Office of Workers' Compensation Programs dated December 30, 2005 wherein the Office denied appellant's request to expand her claim to be accepted for additional medical conditions. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this claim.

ISSUE

The issue is whether appellant has established that her accepted condition of aggravation of cervical degenerative disc disease at C6-7 should be expanded to include radiculopathy of the left upper extremity, radiculopathy of the left lower extremity, degenerative and herniated discs, degenerative joint disease, migraine headaches and aggravation of fibromyalgia.

FACTUAL HISTORY

On March 17, 2004 appellant, then a 49-year-old rating specialist, filed an occupational disease claim alleging that as a result of the heavy lifting and lifting overhead required by her

federal position, she sustained, *inter alia*, recurrent tenosynovitis in her right hand and degenerative disc disease in her cervical spine with radiculopathy in the left upper extremity. She also indicated that she had an increase in her fibromyalgia and recurrent tenosynovitis in her right hand. Appellant noted that she was in training in a classroom setting in December 2003 and that, when she started working with her team, she was constantly lifting and carrying heavy files as well as lifting them over her head.

Appellant's prior medical history is significant for cervical, dorsal and lumbar myositis as well as a thoracic outlet syndrome on the left as a result of an automobile accident of July 11, 1994. She also has a prior history of, *inter alia*, degenerative joint disease, herniated nucleus pulposus L4-5 and L5-S1, migraines, allergic rhinitis, hyperlipidemia, fibromyalgia and resolved bilateral carpal tunnel syndrome with cubital tunnel syndrome.

In support of her claim, appellant submitted a March 12, 2004 medical report by Dr. Michael A. Franklin, her treating Board-certified neurologist. In this report, he noted that this was a follow-up to his report of October 20, 2003. Dr. Franklin noted that there was electrophysiologic evidence of a left-sided cervical radiculopathy which appeared to be located in the C6 and C7 nerve roots and continued demonstration of bilateral median nerve dysfunction seen in carpal tunnel syndrome. He noted no demonstration of ulnar neuropathies or mononeuropathy and no demonstration of brachial plexopathy. Dr. Franklin noted that there was a dramatic change in the findings in this study as compared to the October 2003 study with respect to evidence of cervical radicular disease.

In reports dated February 9 to June 8, 2004, Dr. Richard T. Herrick, a Board-certified orthopedic surgeon indicated that he was treating appellant for synovitis of the right hand and recently released carpal tunnel and cubital tunnel syndromes.

In an April 16, 2004 opinion, Dr. Steven B. Warren, a Board-certified orthopedic surgeon, indicated that appellant noted that she had an injury at work on April 13, 2004 to her left shoulder. He indicated that she should not lift with her left arm.

By decision dated July 20, 2004, the Office denied appellant's claim for the reason that the medical evidence did not establish that her claimed medical condition resulted from the accepted events. The Office noted that appellant had a prior claim that had been accepted for a left shoulder condition, Office File No. 062111895 and that she should seek medical treatment for her left shoulder under this claim.

By letter dated October 13, 2004, appellant requested reconsideration. In support thereof, she submitted reports by Dr. Sardha Perera, an anesthesiologist and general surgeon, dated August 23 and September 22, 2004. In her August 23, 2004 report, Dr. Perera listed impressions of chronic and persistent neck pain, cervical degenerative disc disease, cervical radiculopathy, cervical spinal stenosis, cervical facet joint arthropathy, status post multiple laser discectomies and forminotomies, cervical myofascial pain syndrome and occipital neuralgia. Dr. Perera opined: "Clearly, appellant has a long-standing history of cervical problems; however, her symptoms were well controlled until her recent work for the employing establishment." This has

clearly flared her recent symptoms and, as per appellant's history, is the clear cause of the reexacerbation of her symptoms.

The Office denied modification of a decision dated November 17, 2004.

On January 5, 2005 appellant requested reconsideration of her claim. In support thereof, she submitted medical reports dated August 16, October 31 and December 1, 2004 by Dr. Franklin. In his October 31, 2004 report, Dr. Franklin stated:

> "[Appellant] does have a history of chronic neck and low back pain no doubt associated with post cervical and lumbar laminectomy pain syndromes along with fibromyalgia and chronic migraine. There is no doubt that she would have difficulties stacking heavy files overhead. Such activities of stacking over her head several times a day exacerbated [appellant's] prior conditions, most especially the left-sided cervical radiculopathy. It is obvious that her job duties, particularly stacking heavy files overhead aggravated her preexisting cervical spine disease. There is a history of cervical spondylosis and cervical spinal stenosis and it should be pointed out that electrodiagnostic studies done on March 12, 2004 indicated [that] there was evidence of a left C6-7 radiculopathy, which was not demonstrated on electrodiagnostic studies in October 2003. The recommendation at that point was to repeat a magnetic resonance imaging [MRI scan] of the cervical spine and consideration for cervical epidural steroid injections or additional interventional pain management. [Appellant] also had evidence of bilateral carpal tunnel syndrome as of the electrodiagnostic studies done in March 2004. There was demonstration of cervical spondylosis and spinal stenosis extending from the C4-5 through C5-6 and C6-7 levels on an MRI [scan] of the cervical spine dated March 2004.
>
> "It is my medical opinion that the cervical spine conditions are chronic and have been permanently aggravated by [appellant's] occupation. It should also be taken into consideration in light of [appellant's] chronic migraine and fibromyalgia."

Appellant also submitted two follow up reports by Dr. Perera dated October 26 and November 26, 2004, wherein she indicated that she continued to treat appellant for chronic and persistent neck pain, cervical radiculopathy, degenerative disc disease, spinal stenosis, multilevel osteophytes, ridging and protrusion.

In a decision dated March 3, 2005, the Office accepted appellant's claim for aggravation of cervical degenerative disc disease at C6-7.

By letter dated July 29, 2005, appellant requested reconsideration of the decision dated March 3, 2005. She contended that the Office did not issue a complete decision as it did not address the issues of radiculopathy of the left upper extremity involving the nerve roots for C4, C5, C6 and C7; radiculopathy of the left lower extremity involving the nerve roots for L4-5 and S1; degenerative and herniated discs at C3-4, C4-5, C5-6 as well as L4-5 and L5-S1; and degenerative joint disease involving C3, C4, C5, C6 and C7 as well as L4, 5 and S1.

In support of her request, appellant submitted an operative report by Dr. Alfred O. Bonati, an orthopedic surgeon, dated May 9, 2005,wherein he indicated that she had neck pain with bilateral C5 and 6 radiculopathy, neck pain with left C7 and T1 radiculopathy, bulging disc C4-5, C5-6 and C6-7, degenerative disc disease C4-5, C5-6, C6-7 and postoperative changes noted with scar tissue, left C3-4, left C5-6 and left C6-7. He noted that appellant indicated the onset of this syptomatology in March 2004 while she was lifting files into a cabinet. She underwent an anterior cervical discogram, discectomy and foramenostomy C4-5 left and anterior interbody arthodesis with allograft, C4-5 left. In a May 10, 2005 report, Dr. Bonati noted that he was treating appellant for continuation of pain affecting the L5 and S1 nerve roots, foraminal narrowing L5-S1, foraminal stenosis L5-S1 and unstable spine due to foraminal stenosis L5-S1. On May 23, 2005 he performed a reexploration lumbar laminectomy, L5-S1 left, with decompression of nerve root, partial facetectomy, foraminotomy, perineurectomy and removal of bone fragment.

In medical reports dated December 22, 2004 and January 31 and April 13, 2005, Dr. Franklin noted that appellant was being treated with Botox injections. He noted consistent migraine headaches as well as continuing problems with depression, poor sleep hygiene, diffuse musculoskeletal pain compatible with fibromyalgia.

Appellant also submitted the results of MRI scans of her lumbar and cervical spines taken on April 11, 2005.

By decision dated December 30, 2005, the Office found that appellant's claim should not be expanded to include the additional conditions as there was no medical evidence that these conditions were causally related, by way of direct causation and aggravation, to appellant's work as a rating specialist.

LEGAL PRECEDENT

To establish a causal relationship between the condition was well as any attendant disability claimed and the employment injury, an employee must submit rationalized medical evidence based on a complete medical and factual background supporting such a casual relationship.[1] Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.[2] Rationalized medical evidence is evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between the diagnosed condition and the specific employment factors identified by the claimant.[3] Neither the mere fact that a disease or condition manifests

[1] *John D. Jackson*, 55 ECAB ___ (Docket No. 03-2281, issued April 8, 2004).

[2] *Mary J. Summers*, 55 ECAB ___ (Docket No. 04-704, issued September 29, 2004).

[3] *Phillip L. Barnes*, 55 ECAB ___ (Docket No. 02-14410, issued March 31, 2004); *Leslie C. Moore*, 52 ECAB 132 (2000).

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 causal relationship.[4]

ANALYSIS

In the instant case, the Board finds that appellant did not submit medical evidence sufficient to establish that her alleged conditions were causally related to the accepted factors of her federal employment, for which the Office accepted aggravation of cervical degenerative disc disease at C6-7. In order to be rationalized medical evidence, 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.[5]

Appellant alleged that her medical conditions were caused by the heavy lifting of boxes and lifting over her head. However, she had a long history of previous medical problems including herniated discs, radiculopathy and fibromyalgia.

Appellant's claim was accepted for aggravation of cervical degenerative disc disease, But she alleged that her claim should also be accepted for radiculopathy of the left upper extremity, radiculopathy of the left lower extremity, degenerative and herniated discs, degenerative joint disease, migraine headaches and aggravation of fibromyalgia. The Board finds that the medical evidence does not support appellant's claim.

Dr. Herrick noted that he treated appellant for synovitis of the right hand and recently released carpal and cubital tunnel syndromes. He made no statement with regard to causation of these injuries. Similarly, Dr. Bonati treated appellant for numerous injuries including bilateral C5 and C6 radiculopathy, neck pain and degenerative disc disease. However, he made no comment with regard to causation.

Dr. Perera stated that, although appellant clearly had a long-standing history of cervical problems, her recent symptoms were caused by her work for the employing establishment in that her symptoms were well controlled until her recent work experience. However, the mere fact that her symptoms manifest itself during a period of employment does not indicate that the employment factors caused or aggravated said condition.[6]

Dr. Franklin, appellant's treating physician, opined that her cervical spine conditions are chronic and have been permanently aggravated by her employment. He does not explain the objective test results that he uses to support his opinion. Dr. Franklin does note that there was a dramatic change in the findings when the October 2003 study is compared to the one electrophyisiologic evidence obtained in March 2004. However, as previously noted, the fact that symptoms appear during appellant's employment is insufficient to establish causal

[4] *Ernest St. Pierre*, 51 ECAB 623 (2000).

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

[6] *Ernest St. Pierre*, *supra* note 4.

relationship.[7] Furthermore, Dr. Franklin's statement that the Office should also consider aggravation of her chronic migraines and fibromyalgia should be taken into light is speculative without further explanation as to the nexus with the accepted employment conditions.

There is no rationalized medical evidence relating appellant's employment to her injury. Accordingly, the Office properly denied expansion of the claim.

CONCLUSION

The Office properly found that appellant has failed to establish that her accepted condition of aggravation of cervical degenerative disc disease at C6-7 should be expanded to include radiculopathy of the left upper extremity, radiculopathy of the left lower extremity, degenerative and herniated discs and degenerative joint disease and, therefore, properly denied expansion of the accepted conditions.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated December 30, 2005 is affirmed.

Issued: September 14, 2006
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

[7] *Id.*