



On December 19, 2002 appellant had surgery on her left wrist. She returned to modified work on January 27, 2003. Appellant returned to full duty on February 21, 2003.

In a December 11, 2003 letter, appellant wrote to the Office requesting reevaluation of her claim alleging that she sustained an injury to her lower back as a result of the accepted work-related injury on March 12, 2001. Attached to the letter was a copy of the October 1, 2001 referral by Dr. Phillip B. Cummings, Board-certified in orthopedic surgery, to Dr. Dean Fishman for back pain. Accompanying appellant's letter was a September 26, 2003 computerized tomography (CT) scan report from Dr. Donald R. Puller, Board-certified in diagnostic radiology, who diagnosed a Grade 1 spondylolisthesis at the L4-5 level with moderate to severe degree of spinal stenosis. Also included was a September 26, 2003 nuclear medicine bone scan report from Dr. Puller which diagnosed slight increased activity seen at the level of L5 posterior to the right of midline compatible with arthritic-type change.

On April 21, 2004 appellant filed a notice of recurrence for her back claiming that she has been suffering from continual chronic lower back pain since the initial employment injury on March 12, 2001. She stated that she first sought medical treatment for her back condition on April 29, 2002. In an attached statement, appellant argued that her back condition was caused by the incident as she did not have back pain prior to the incident but did afterwards.

Accompanying the notice was an undated letter (fax stamp of April 19, 2004) from Dr. Marcos Zaragoza, who stated that in regards to the cause of appellant's condition of spondylolisthesis of L5-6 that "one of the probable causes may have been the slip and fall of March 12, 2001 [or] it could be congenital among other causes." In a September 12, 2003 magnetic resonance imaging (MRI) scan report, Dr. Bruce Schlakman, Board-certified in diagnostic radiology, diagnosed spondylolisthesis.

In a July 29, 2004 letter, the Office acknowledged receipt of appellant's notice of recurrence and requested further information.

In a September 2, 2004 letter, the Office denied appellant's claim due to insufficient medical evidence to demonstrate that the claimed medical condition was related to the accepted work-related event.

In a June 23, 2005 letter, appellant requested reconsideration. Attached to the letter were numerous "explanation of benefits" documents from appellant's medical visits. Also submitted was an unsigned September 22, 2003 report from Dr. Christopher A. Brown, Board-certified in orthopedic surgery, which diagnosed L4-5 spondylolisthesis. Accompanying appellant's letter was an unsigned December 6, 2004 letter from Dr. Stephen Wender, Board-certified in orthopedic surgery, who commented on appellant's condition stating that there was "evidence of spondylolisthesis of 4 on 5 Grade 1, [and] there is significant degenerative change in the L4-5 facets bilaterally and right L5-S1 facet." Dr. Wender also noted that appellant had an accident where she injured both wrists and low back and opined that appellant "principally sustained an exacerbation of her preexisting spondylolisthesis with associated degenerative disc disease."

In a June 20, 2005 letter, the Office invited appellant's employer to submit comments relevant to appellant's claim. In an August 12, 2005 letter, the employer agreed with appellant's

statement that she sustained an injury to her back due to the slip and fall accident on March 12, 2001.

In an August 16, 2005 letter, the Office denied modification of the September 2, 2004 decision on the grounds that the evidence failed to provide a rationalized medical opinion demonstrating the causal relationship between the accepted event and appellant's back condition.

In a May 6, 2006 letter, appellant requested reconsideration of the August 16, 2005 decision based on the argument that she was not initially aware of her lower back pain because of the medication she was taking for her accepted left wrist condition.

In a July 26, 2006 letter, the Office denied modification of the prior decision on the grounds that the medical evidence was insufficient to demonstrate causal relation between the work-related event and appellant's back condition.

### **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.<sup>1</sup>

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.<sup>2</sup> Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion 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 established incident or factor of employment.<sup>3</sup>

An award of compensation may not be based on appellant'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 causal relationship.<sup>4</sup>

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<sup>1</sup> *Kimper Lee* 45 ECAB 565 (1994) citing *Froilan Negrón Marrero*, 33 ECAB 796 (1982).

<sup>2</sup> See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of causal relationship must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors. *Id.*

<sup>3</sup> *John W. Montoga*, 54 ECAB 306 (2003).

<sup>4</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

## ANALYSIS

Appellant alleged that she sustained injury on March 12, 2001 in the performance of her duties when she slipped and fell in the women's bathroom. The Office accepted that the employment incident occurred as alleged and accepted appellant's claim for post-traumatic carpal tunnel syndrome in the left wrist. Appellant thereafter alleged that her back condition was causally related to this employment injury. This case turns on whether there is sufficient evidence to establish a causal relation between the employment incident and appellant's back condition. The Board holds that the medical evidence presented does not contain a rationalized medical opinion establishing that appellant's diagnosed back condition is causally related to the work-related incident.

The medical reports submitted failed to provide the necessary rationalized medical opinion. Appellant submitted multiple reports and letters from doctors but none of them contained the required rationalized medical opinion. In the September 26, 2003 CT report, Dr. Puller diagnosed spondylolisthesis but did not offer a medical opinion as to the cause of the condition. In his September 26, 2003 bone scan report, he diagnosed increased activity at the L5 level but again did not offer a medical opinion as to the cause. Dr. Schlakman's diagnosed spondylolisthesis in his September 12, 2003 MRI scan report but failed to offer an opinion as to the cause of it. Dr. Brown's September 22, 2003 report offered a diagnosis but no opinion on the causation. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>5</sup>

In an April 19, 2004 letter, Dr. Zaragoza opined that appellant's spondylolisthesis may have been caused by the slip and fall on March 12, 2001 or it could be congenital among other causes. The Board has held that medical opinions that are speculative or equivocal in character are of diminished probative value.<sup>6</sup>

In a December 6, 2004 unsigned letter, Dr. Wender diagnosed spondylolisthesis and opined that appellant has sustained an exacerbation of her preexisting spondylolisthesis with associated degenerative disc disease. Dr. Wender's discussion of appellant's history consists of stating that appellant had an "accident where she injured both wrists and low back." The Board has consistently held that unsigned doctor's reports are of diminished probative value.<sup>7</sup> Additionally to establish causal relationship, appellant must submit a physician's report in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination, state whether the employment injury caused or aggravated the diagnosed conditions and present medical rationale in support of his or her opinion.<sup>8</sup> Dr. Wender's report fails to demonstrate causation.

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<sup>5</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>6</sup> *D.D.*, 57 ECAB \_\_\_\_ (Docket No. 06-1315, issued September 14, 2006), citing *Kathy A. Kelley*, 55 ECAB 206 (2004).

<sup>7</sup> *Merton J. Sills*, 39 ECAB 572 (1988).

<sup>8</sup> *D.D.*, *supra* note 6, citing *Calvin E. King*, 51 ECAB 394 (2000).

Appellant believes that her back condition resulted from the March 12, 2001 employment incident. An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between her claimed condition and her employment.<sup>9</sup> Appellant's mere belief is not enough. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>10</sup>

As there is no probative, rationalized medical evidence addressing how appellant's claimed back condition was caused or aggravated by her employment she has not met her burden of proof in establishing that she sustained an injury in the performance of duty causally related to factors of her federal employment.

### **CONCLUSION**

Appellant has not met her burden of proof to establish that she sustained a back condition causally related to the March 12, 2001 employment incident .

### **ORDER**

**IT IS HEREBY ORDERED THAT** the July 26, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 11, 2007  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>9</sup> *D.D.*, *supra* note 6, citing *Robert A. Boyle*, 54 ECAB 381 (2003); *Patricia J. Glann*, 53 ECAB 159 (2001).

<sup>10</sup> *Roy L. Humphrey*, 57 ECAB \_\_\_\_ (Docket No. 05-1928, issued November 23, 2005), citing *Joe T. Williams*, 44 ECAB 518, 521 (1993).