



On July 20, 2004 appellant, then a 51-year-old distribution clerk, filed a traumatic injury claim alleging that on July 1, 2004 he injured his back, groin and hips when he attempted to push three parcels weighing 50 pounds each to his right side along a counter.<sup>2</sup>

In a December 8, 2003 report, Dr. Daniel A. Capen, an attending Board-certified orthopedic surgeon, addressed appellant's November 26, 2003 employment-related lumbar strain/sprain and noted that he also had systemic lupus. He noted that in 1993 appellant underwent bilateral hip surgery due to avascular necrosis (AVN) caused by long-term steroid use and systemic lupus. In a December 1, 2004 report, Dr. Andrew R. Jarminski, an attending family practitioner and associate of Dr. Capen, described appellant's physical progress following the November 26, 2003 employment-related lumbar sprain/strain.

In a July 2, 2004 report, Dr. Jay E. Persselin, an attending rheumatologist, stated that appellant developed hip pain the previous day. Tests were ordered to determine the cause of the condition.

On August 25, 2004 Dr. Capen recommended limited-duty work in connection with the claimed July 1, 2004 injury, indicating that he had limited spinal motion. He did not provide a diagnosis. An August 26, 2004 report from Dr. Capen addressed appellant's November 26, 2003 lumbar sprain/strain. He did not mention the claimed July 1, 2004 injury.

By decision dated September 15, 2004, the Office denied appellant's claim on the grounds that the evidence did not establish that his back, groin and hip conditions were causally related to his employment.

On September 13, 2005 appellant requested reconsideration and submitted additional evidence.

In a July 8, 2004 report, Dr. Persselin stated that appellant was experiencing groin and bilateral hip pain, probably caused by hip arthritis and osteoarthritis secondary to AVN and possible lumbar nerve root irritation. He had a history of AVN of the hips. Appellant also had radicular pain in both legs with decreased sensation likely due to lumbar nerve root irritation but possibly caused by systemic lupus erythematosus with associated peripheral neuropathy. In a December 1, 2004 duty status report, Dr. Persselin diagnosed lumbar sprain/strain and provided work restrictions. In a June 28, 2005 report, Dr. Persselin discussed appellant's systemic lupus condition.

In a September 15, 2004 report, Dr. Jarminski diagnosed a lumbar sprain/strain resulting from the November 26, 2003 employment injury. In a December 1, 2004 report, he provided findings on physical examination and stated that appellant was feeling better since his November 26, 2003 employment injury.

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<sup>2</sup> At the time of his claimed July 1, 2004 injury, appellant was working in a limited-duty position with the restriction of no lifting over five pounds. The Office had previously accepted a lumbosacral strain sustained on November 26, 2003.

In a July 6, 2005 duty status report, Dr. Capen diagnosed lumbar sprain/strain and indicated that the condition was caused by the July 1, 2004 work incident. He provided a list of work restrictions. In an unsigned July 15, 2005 report, Dr. Capen stated that appellant was still experiencing pain in his back, left buttock and both feet. Findings on physical examination of the lumbar spine included spasm, discomfort and limited range of motion and radicular irritation into both feet. He diagnosed lumbar sprain/strain syndrome with left L4 radiculopathy. An August 30, 2004 electromyogram revealed left L4 radicular irritation.

In a September 20, 2005 report, Dr. Capen stated that on July 1, 2004 appellant was pushing several heavy packages at work and exacerbated his low back pain with tingling and numbness in the lower extremities as well as groin and bilateral hip pain. He stated, "It is my opinion that [appellant] did have an exacerbation of his condition, which would be an expected response considering his medical history and his physical condition."<sup>3</sup>

By decision dated November 16, 2005, the Office denied modification of its September 15, 2004 decision.

On July 6, 2006 the Office reissued its November 16, 2005 denial of appellant's claim on the grounds that the evidence failed to establish that his back, groin and hip conditions were causally related to factors of his federal employment.<sup>4</sup>

### **LEGAL PRECEDENT**

To establish a causal relationship between a claimant's medical conditions and his employment, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship.<sup>5</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's opinion on the issue of whether there is a causal relationship between the claimant's condition and the implicated employment factors. 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.<sup>6</sup> Neither the 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>7</sup>

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<sup>3</sup> The Board notes that an August 9, 2004 report mentioned by Dr. Capen in his September 20, 2005 report is not of record.

<sup>4</sup> Appellant submitted additional evidence subsequent to the Office decision of July 6, 2006. The Board's jurisdiction is limited to the evidence that was before the Office at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c). The Board may not consider this evidence for the first time on appeal.

<sup>5</sup> *Michael S. Mina*, 57 ECAB \_\_\_\_ (Docket No. 05-1763, issued February 7, 2006).

<sup>6</sup> *Gary J. Watling*, 52 ECAB 278 (2001); *Gloria J. McPherson*, 51 ECAB 441 (2000).

<sup>7</sup> *Michael S. Mina*, *supra* note 5.

## ANALYSIS

Appellant has the burden to establish that he sustained injuries to his back, groin and hips on July 1, 2004 when he moved heavy parcels along a counter at work.

A December 8, 2003 report from Dr. Capen addressed appellant's November 26, 2003 employment-related lumbar strain/sprain. He also noted that appellant underwent bilateral hip surgery in 1993 and had systemic lupus. In a December 1, 2004 report, Dr. Jarminski addressed appellant's physical progress following the November 26, 2003 injury. These reports relate to a separate November 26, 2003 employment injury. They do not explain how the claimed July 1, 2004 injuries to appellant's back, groin and hips were caused or aggravated when he attempted to push heavy parcels along a counter. Therefore, these reports do not establish that appellant's back, groin and hip conditions are causally related to his employment. On August 25, 2004 Dr. Capen recommended limited-duty work in connection with the claimed July 1, 2004 injury. However, he did not provide a diagnosis or any medical rationale explaining how appellant's injury or need for limited duty was causally related to his employment. In a September 15, 2004 report, Dr. Jarminski diagnosed lumbar sprain/strain resulting from the November 26, 2003 employment injury but did not mention the claimed July 1, 2004 injuries. In a December 1, 2004 report, he provided findings on physical examination and stated that appellant was feeling better since his November 26, 2003 employment injury. These reports do not address the issue of whether appellant's back, groin and hip conditions were caused or aggravated by the July 1, 2004 work incident. In a July 6, 2005 duty status report, Dr. Capen diagnosed lumbar sprain/strain and indicated that the condition was caused by the July 1, 2004 work incident but provided no medical rationale in support of his opinion. An unsigned July 15, 2005 report included the observation that appellant was still experiencing pain in his back, left buttock and both feet. He diagnosed lumbar sprain/strain syndrome with left L4 radiculopathy but provided no rationalized explanation for the cause of the condition. In a September 20, 2005 report, Dr. Capen stated that on July 1, 2004 appellant was pushing several heavy packages at work and exacerbated his low back pain with tingling and numbness in the lower extremities as well as groin and bilateral hip pain. He stated, "It is my opinion that [appellant] did have an exacerbation of his condition, which would be an expected response considering his medical history and his physical condition." However, Dr. Capen did not provide a specific diagnosis for the groin and hip conditions. Additionally, he provided insufficient medical rationale for his opinion on causal relationship. Such rationale is particularly important in light of the fact that appellant had a preexisting hip condition for which he underwent surgery and a prior back injury. Dr. Capen did not adequately explain how the July 1, 2004 incident caused either a new injury to his back, groin and hips or an aggravation of his preexisting back and hip conditions. Medical reports that do not contain adequate rationale on causal relationship are of diminished probative value and are generally insufficient to meet an employee's burden of proof.<sup>8</sup> Lacking sufficient medical rationale addressing the issue of causal relationship, the reports from Dr. Capen and Dr. Jarminski are not sufficient to establish that appellant's back, groin and hip conditions were caused or aggravated by his employment.

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<sup>8</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

In a July 2, 2004 report, Dr. Persselin stated that appellant developed hip pain the previous day. However, he did not opine that this condition was caused by the incident at work on July 1, 2004. On July 8, 2004 Dr. Persselin stated that appellant was experiencing groin and bilateral hip and leg pain. He indicated that the cause of the pain was hip arthritis and osteoarthritis secondary to AVN and possible lumbar nerve root irritation. Dr. Persselin did not provide a rationalized medical opinion explaining how appellant's groin, hip and leg conditions were caused or aggravated by the July 1, 2004 work incident. Rather, he appears to relate appellant's problems to preexisting nonwork-related conditions. Because of these deficiencies, the reports of Dr. Persselin are not sufficient to establish that appellant sustained work-related injuries to his back, groin and hips on July 1, 2004, as alleged.

### **CONCLUSION**

The Board finds that appellant failed to establish that his back, groin and hip conditions were causally related to factors of his federal employment.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated July 6, 2006 is affirmed.

Issued: January 24, 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