

FACTUAL HISTORY

On January 28, 2005 appellant, then a 43-year-old clerk, filed a traumatic injury claim alleging that she injured her back during her work shift on April 25 to 26, 2004 while lifting heavy trays, reaching, pulling mail down and pushing containers.² The Office assigned the claim No. 3-2036690. Appellant stopped work on April 26, 2004. She retired on disability effective September 29, 2004. The employing establishment controverted the claim on the grounds that appellant did not provide timely notification of her work injury and she was out on sick leave on April 26, 2004.

In a March 1, 2005 letter, the Office advised appellant of the factual and medical evidence needed to establish her claim. This included providing a description of how the injury occurred as well as providing a detailed, narrative report from appellant's physician which included the history of her injury and all prior industrial and nonindustrial injuries to similar parts of her body, a firm diagnosis of any conditions resulting from this injury, as well as findings, symptoms and/or test results which support all conditions diagnosed, treatment provided, prognosis, period and extent of disability and a rationalized narrative report which explains why the condition diagnosed is believed to have been caused or aggravated by the claimed injury.

In response, appellant submitted a factual statement describing her duties of lifting heavy trays, reaching, pulling mail down and pushing containers. She indicated that after her tour ended she went home and got in bed and was unable to get out of bed the next morning or evening. Appellant called Dr. Joel H. Jaffe, a general practitioner, and sought treatment for her back condition. In a March 16, 2005 handwritten medical note from Dr. Jaffe, which is, in part, illegible, he indicated that she had multiple lumbosacral disc disease, a history of back problems and magnetic resonance imaging (MRI) scans which showed bulging discs. He appears to state that appellant was originally injured at the employing establishment and that she was later transferred to another area which involved a lot of heavy lifting and being on her feet all the time. Dr. Jaffe stated that the repetitive actions of lifting heavy trays and the fact that appellant worked a double shift seemed to irritate her back muscles and cause the back pain to stay constant. He opined that her injury of April 26, 2004 came from her work and caused her lower and mid-back to become worse and worse over the time.

By decision dated April 27, 2005, the Office denied appellant's traumatic injury claim. It found that, while appellant lifts trays and pulls mail as part of her employment, the medical evidence did not establish that the claimed medical condition resulted from the accepted event(s).

In a letter dated April 28, 2005, appellant requested an oral hearing which was held December 15, 2005. She submitted progress notes from Dr. Jaffe dated May 20, 2004 through May 25, 2005 and medical reports dated July 19 and August 16, 2004 and May 26, 2005.

On July 19, 2004 Dr. Jaffe reported that the original injury occurred in November 2001, when appellant was lifting a tub of mail and pulled her back. He indicated that appellant's back

² Under claim number 03-2004519, appellant has an accepted claim for a lumbar strain arising from a November 13, 2001 injury.

has been painful ever since. Dr. Jaffe advised that a May 7, 2004 MRI scan showed a bulging disc at L4-5 with a mild right greater than left neural foraminal stenosis, disc space narrowing and desiccation of the disc at the L4-5 level and hemangiomas within the L3 and T12 vertebral bodies. He indicated that, after the original injury occurred in November 2001, appellant had some moderate dextroscoliosis at the thoracolumbar junction which contributed to her discomfort. Dr. Jaffe opined that appellant was totally disabled from any work at the employing establishment due to her pain and that such disability occurred because of her original work injury. He explained that her condition had deteriorated and she was not able to do any quality work on a sustained time basis because of the recurrent chronic pain. Dr. Jaffe further stated that her back pain would worsen as her condition deteriorates. He also opined that appellant's underlying anxiety and stress syndrome and depression occurred secondary to the job injury.

On August 16, 2004 Dr. Jaffe reiterated that the original injury occurred in November 2001, while appellant lifted a tub of mail and pulled her back. He indicated that appellant's current examination of her lower back showed that her spine was restricted 50 percent or more in all ranges of motion for flexion, extension and side bending and the tests were positive for straight leg and bent leg raising. Based on his examination findings and a May 7, 2004 MRI scan, Dr. Jaffe opined that appellant's bulging disc at L4-5, lumbar spinal stenosis on the right and left side, disc desiccation disease of the lumbar spine and narrowing of the disc space were a traumatic injury secondary to her job and secondary to the occupational injuries she sustained in November 2001. Dr. Jaffe also indicated that secondary to this, appellant had underlying anxiety, stress syndrome and depression. He stated that she was under a lot of discomfort and opined that appellant was totally disabled because of the problems that occurred two and half years ago. Dr. Jaffe explained that, when appellant was originally injured in November 2001, she had moderate dextroscoliosis at the throacolumbar junction, which contributed to her discomfort. He also indicated that the disc bulge at L4-5 with neural foraminal stenosis as well as the recent disc space narrowing at L4-6 and desiccation of the disc and hemangiomas within the L3 and T12 vertebral bodies would cause appellant's discomfort. Dr. Jaffe indicated that appellant's condition has deteriorated and she was unable to do any quality work on a sustained time basis because of her recurrent pain, which would worsen as her condition deteriorated.

In a May 26, 2005 report, Dr. Jaffe opined that appellant's low back condition was aggravated by her work injury on November 13, 2001. After relating a history of appellant's limited-duty positions following her 2001 back injury, Dr. Jaffe stated that, when she got the position involving heavy lifting in 2004, the job reaggravated the back problems she originally had in 2001. He indicated that her back problems were partially resolved, but because of the job she was given in 2004 the problems returned and appellant suffered an exacerbation of the problems with her back that were originally present in 2001. Dr. Jaffe opined that appellant's April 2004 injury was not new, but was medically and causally directly related to the injuries she had in 2001. Thus, he opined that appellant's April 2004 injury was a reexacerbation of her injuries from 2001.

By decision dated January 30, 2006, an Office hearing representative affirmed the April 27, 2005 decision. He found that appellant failed to supply sufficient medical evidence to establish that she developed a medical condition causally related to the accepted employment activities of April 26, 2004.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of proof to establish the essential elements of the claim, including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.⁴ When an employee claims that he sustained a traumatic injury in the performance of duty, he must establish the fact of injury, namely, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged and that such event, incident or exposure caused an injury.⁵

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.⁶ Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. 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.⁷

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 a causal relationship.⁸

ANALYSIS

The Office accepted that appellant was a federal employee and that she timely filed her claim for compensation benefits. The Office also accepted that the workplace incidents occurred as alleged during the single work shift which started April 25, 2004 and ended April 26, 2004.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Robert Broome*, 55 ECAB 339 (2004); *see also Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Betty J. Smith*, 54 ECAB 174 (2002); *see also Tracey P. Spillane*, 54 ECAB 608 (2003). The term injury as defined by the Act refers to a disease proximately caused by the employment. 5 U.S.C. § 8101(5). *See* 20 C.F.R. § 10.5(q), (ee).

⁶ *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

⁷ *John W. Montoya*, 54 ECAB 306 (2003).

⁸ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

Appellant must, however, submit probative medical evidence on the issue of causal relationship between a diagnosed condition and the employment incident.

The medical evidence presented does not contain a rationalized medical opinion establishing that the work-related incidents caused her diagnosed conditions. In July 19 and August 16, 2004 reports, Dr. Jaffe noted the history of appellant's original work injury, presented findings and opined that appellant was totally disabled from work due to her pain. He opined that appellant's disability and the deterioration of her condition occurred because of her original work injury. However, Dr. Jaffe did not offer a specific opinion on causal relationship with respect to the accepted work events of April 26, 2004. In a March 16 and May 26, 2005 reports, he provided some support for causal relationship. However, these reports are insufficient to establish appellant's claim because Dr. Jaffe did not provide adequate medical reasoning to explain how any of the diagnosed conditions were caused or aggravated by the April 26, 2004 work incident. In his March 16, 2005 report, Dr. Jaffe noted that appellant has multiple lumbosacral disc disease and that, after her original injury, appellant was transferred to an area which involved a lot of heavy lifting and being on her feet all the time. He addressed causal relationship by stating that the repetitive actions appellant had been doing and the fact that she worked a double shift "seemed" to irritate her back muscles and cause the pain to stay constant. However, this opinion is equivocal and speculative as to the causal relationship between appellant's back conditions and the accepted work events of April 26, 2004. The Board has held that speculative and equivocal medical opinions regarding causal relationship have no probative value.⁹ Dr. Jaffe further stated that appellant's April 26, 2004 work injury caused her lower and mid-back to worsen over time. However, Dr. Jaffe does not provide a full explanation for concluding that the April 26, 2004 work incident caused or aggravated the diagnosed conditions.¹⁰ He did not explain the medical reasons by which lifting heavy trays on April 26, 2004 would have caused a lumbosacral disc disease condition to worsen. In the May 26, 2005 report, Dr. Jaffe opined that appellant's position involving heavy lifting reagravated the back problems she originally had in 2001 and that the April 2004 injury was a reexacerbation of her 2001 injuries. While Dr. Jaffe referenced appellant's previous work injury, he did not adequately explain the medical reasons of how the April 26, 2004 employment incident would have contributed to the diagnosed conditions and why the diagnosed conditions would not instead have been the result of the natural progression of the preexisting conditions. His May 26, 2005 report is deficient as it addresses causal relationship with regard to appellant's lumbosacral spine conditions in a manner similar to that contained in the March 15, 2005 report. The Board finds that Dr. Jaffe's reports are of limited probative value as they do not sufficiently explain the medical reasoning supporting his opinion on causal relationship.

⁹ *Ricky S. Storms*, 52 ECAB 349 (2001) (while the opinion of a physician supporting causal relationship need not be one of absolute medical certainty, the opinion must not be speculative or equivocal. The opinion should be expressed in terms of a reasonable degree of medical certainty).

¹⁰ In order to be considered rationalized medical evidence, a physician's 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 the claimant's specific employment factors. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989); *Steven S. Saleh*, 55 ECAB 169, 172 (2003). The Board has held that a medical opinion not fortified by medical rationale is of little probative value. *Caroline Thomas*, 51 ECAB 451, 456 n.10 (2000); *Brenda L. Dubuque*, 55 ECAB 212, 217 (2004).

Accordingly, appellant has not met her burden of proof in establishing a causal relationship between her diagnosed conditions and the April 26, 2004 incident.

CONCLUSION

The Board finds that appellant did not meet her burden of proof in establishing that her back condition is causally related to the employment incident on April 26, 2004.

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated January 30, 2006 is affirmed.

Issued: May 2, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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