



Appellant submitted a duty status report from Dr. Robert R. Roeser, an osteopath, dated March 5, 2007, who noted clinical findings of recurrent groin injury and advised that appellant could resume his regular job.

By letter dated March 22, 2007, the Office asked appellant to submit additional information including a comprehensive medical report from his treating physician which included a reasoned explanation as to how the specific work factors or incidents identified by appellant had contributed to his claimed injury. It also requested that appellant address why he delayed in filing his claim. No additional evidence was received.

In a decision dated August 25, 2007, the Office denied appellant's claim as the evidence was not sufficient to establish that the events occurred as alleged.

On June 30, 2007 appellant requested reconsideration and submitted a statement noting that on August 30, 2006 he was walking down stairs at work carrying a heavy mailbag and lifted the bag so that he could shift it to his other side and reinjured his groin. He indicated that he injured his groin on three occasions while at work and his injury was serious enough to cause considerable pain. Appellant was treated on March 5, 2007 by Dr. Roeser who noted that appellant presented with musculoskeletal symptoms of a pulled groin. He reported injuring himself at work in August and experienced pain since that time. Dr. Roeser noted appellant's history was significant for left inguinal surgery in 1988 and right inguinal surgery in 2005. He diagnosed joint pain of the left leg, spermatocele, benign hypertension and hyperlipidemia. In an attending physician's report dated April 2, 2007, Dr. Roeser diagnosed left leg and hip pain and groin pull on the left. Appellant reported left groin injury from lifting mailbags while at work in August 2006. Dr. Roeser noted with a checkmark "yes" that appellant's condition was caused or aggravated by an employment activity. He returned appellant to work on March 5, 2007. Appellant sought treatment from a chiropractor from March 7 to April 12, 2007 for left hip pain and a left groin injury. He also submitted a workers' compensation questionnaire dated March 26, 2007 and an undated injury form and indicated that on August 30, 2006 he sustained a pulled groin while walking down steps at work.

The employing establishment submitted an accident report prepared by Robin Gay, appellant's supervisor, dated August 31, 2006, who noted that appellant reported sustaining a personal injury on August 30, 2006.

In a decision dated October 15, 2007, the Office denied appellant's claim on the grounds that the medical evidence was not sufficient to establish that his condition was caused by factors of employment. It noted that appellant established that he experienced the employment incident on August 30, 2006; however, there was insufficient medical evidence to establish that the August 30, 2006 work incident caused his groin injury.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim including the fact that the

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

individual is an employee of the United States within the meaning of the Act, that the claim was filed within the applicable time limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>2</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>3</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence. To establish a causal relationship between the condition, as well as any attendant disability, claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence, based on a complete factual and medical background, supporting such a causal relationship.<sup>4</sup>

Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed 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>5</sup> The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.<sup>6</sup>

### ANALYSIS

The Office properly found that on August 30, 2006 appellant was carrying a mailbag and walking down steps as alleged. It is also not disputed that he was diagnosed with a left groin strain. The Board finds, however, that the medical evidence is insufficient to establish that appellant sustained a left groin strain causally related to the August 30, 2006 incident.

On March 22, 2007 the Office advised appellant of the type of medical evidence needed to establish his claim. Appellant did not submit a rationalized medical report from an attending

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<sup>2</sup> *Gary J. Watling*, 52 ECAB 357 (2001).

<sup>3</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>4</sup> *Id.*

<sup>5</sup> *Leslie C. Moore*, 52 ECAB 132 (2000).

<sup>6</sup> *Jimmie H. Duckett*, 52 ECAB 332 (2001); *Franklin D. Haislah*, 52 ECAB 457 (2001) (medical reports not containing rationale on causal relationship are entitled to little probative value).

physician addressing how specific employment factors may have caused or aggravated his claimed condition.

Appellant submitted a report from Dr. Roeser, dated March 5, 2007, who treated him for a pulled groin. Dr. Roeser reported injuring himself at work in August and experienced pain since that time. He noted appellant's history was significant for left inguinal surgery in 1988 and right inguinal surgery in 2005. Dr. Roeser diagnosed joint pain of the left leg, spermatocele, benign hypertension and hyperlipidemia. However, he appears merely to be repeating the history of injury as reported by appellant without providing his own opinion regarding whether appellant's condition was work related.<sup>7</sup> To the extent that Dr. Roeser is providing his own opinion, he failed to provide a rationalized opinion regarding the causal relationship between appellant's condition and the factors of employment believed to have caused or contributed to such condition.<sup>8</sup> In a duty status report dated March 5, 2007, he noted clinical findings of recurrent groin injury and advised that appellant could resume his regular job, but he did not specifically address whether appellant's employment activities had caused or aggravated a diagnosed medical condition.<sup>9</sup> An attending physician's report dated April 2, 2007, diagnosed left leg and hip pain and groin pull on the left and checked a box "yes" on the form report in support of causal relationship. However, Dr. Roeser did not provide medical rationale to explain why appellant's diagnosed condition was related to appellant's employment duties.<sup>10</sup>

Appellant also submitted chiropractor treatment notes from March 7 to April 12, 2007 for hip pain and a left groin injury. Section 8101(2) of the Act provides that chiropractors are considered physicians "only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist and subject to regulation by the Secretary."<sup>11</sup>

Thus, where x-rays do not demonstrate a subluxation (a diagnosis of a subluxation based on x-rays has not been made), a chiropractor is not considered a "physician," and his or her reports cannot be considered as competent medical evidence under the Act.<sup>12</sup> The chiropractor in this case is not a physician as he did not diagnose a spinal subluxation demonstrated by x-ray. Furthermore, appellant's condition of left groin sprain does not pertain to the spine. The Board has held that a chiropractor may only qualify as a physician in the diagnosis and treatment of

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<sup>7</sup> See *Frank Luis Rembisz*, 52 ECAB 147 (2000) (medical opinions based on an incomplete history or which are speculative or equivocal in character have little probative value).

<sup>8</sup> See *Jimmie H. Duckett*, *supra* note 6.

<sup>9</sup> *A.D.*, 58 ECAB \_\_\_\_ (Docket No. 06-1183, issued November 14, 2006) (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>10</sup> See *Alberta S. Williamson*, 47 ECAB 569 (1996) (where the Board has held that an opinion on causal relationship which consists only of a physician checking "yes" to a medical form report without further explanation or rationale is of diminished probative value).

<sup>11</sup> 5 U.S.C. § 8101(2); *see also* 20 C.F.R. § 10.311.

<sup>12</sup> See *Susan M. Herman*, 35 ECAB 669 (1984).

spinal subluxation, his or her opinion is not considered competent medical evidence in evaluation of other disorders, including those of the extremities, although these disorders may originate in the spine.<sup>13</sup> Thus, these reports are not considered competent medical evidence under the Act.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor his belief that his condition was caused, precipitated or aggravated by his employment sufficient to establish causal relationship.<sup>14</sup> Causal relationship must be established by rationalized medical opinion evidence. Appellant failed to submit such evidence and the Office therefore properly denied his claim for compensation.

### **CONCLUSION**

The Board finds that appellant failed to meet his burden of proof to establish that he sustained a left groin strain causally related to his August 30, 2006 employment incident.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the October 15 and August 25, 2007 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: August 12, 2008  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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<sup>13</sup> *Pamela K. Guesford*, 53 ECAB 726 (2002).

<sup>14</sup> *See Dennis M. Mascarenas*, 49 ECAB 215 (1997).