

**United States Department of Labor
Employees' Compensation Appeals Board**

A.G., Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Seattle, WA, Employer**

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**Docket No. 07-2038
Issued: February 6, 2008**

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On July 30, 2007 appellant timely appealed a June 21, 2007 merit decision of the Office of Workers' Compensation Programs denying her occupational disease claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met her burden of proof to establish that her diagnosed conditions were causally related to factors of her federal employment.

FACTUAL HISTORY

On March 27, 2007 appellant, a 36-year-old mail carrier, filed a Form CA-2, notice of occupational disease, claiming that she sustained pain in her back and left shoulder as a result of lifting, pulling, and pushing buckets through a van and into buildings. She realized her condition was related to her federal employment on March 13, 2007.

In an April 5, 2007 letter, the Office requested that appellant submit additional evidence she believed contributed to her condition. The Office instructed her to submit comprehensive medical reports from her physician which included a diagnosis and the physician's opinion supported by a medical explanation as to how appellant's federal employment caused or aggravated the claimed injury.

In response, appellant provided an April 11, 2007 statement describing her job duties. She also submitted duty status reports dated March 27 to April 18, 2007 together with treatment notes commencing April 6, 2007 from physicians with illegible signatures. The reports diagnosed cervical, thoracic and lumbar strains. A chiropractic treatment note from April 5, 2007 diagnosed cervical, thoracic and lumbar sprain/strain, muscle spasm and trapezoids strain. The record includes physician assistant notes from April 5, 2007 and physical therapy treatment notes from April 2, 2007. Evidence pertaining to an anxiety condition which arose in 2000 was also submitted.

By decision dated June 21, 2007, the Office denied appellant's claim. It found that, while the work-related events occurred, there was insufficient medical evidence to establish her condition was caused by her employment.

LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) medical evidence establishing the presence or existence of a condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the employment factors identified by the employee were the proximate cause of the condition or illness, for which compensation is claimed or stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.¹

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence. Rationalized medical evidence is medical evidence which includes a physician's rationalized medical opinion on the issue of whether there is a causal relationship between an employee's diagnosed conditions and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed conditions and the specific employment factors identified by the employee.²

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,

¹ *Donna L. Mims*, 53 ECAB 730 (2002).

² *Id.*

nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.³

ANALYSIS

The Board finds that appellant has failed to establish her claim because she failed to provide sufficient medical evidence to establish that her back or left shoulder conditions were caused or contributed to by factors of her federal employment.

Appellant submitted medical reports and treatment notes from physicians with illegible signatures which diagnosed cervical, thoracic and lumbar strains. However, these reports do not contain any rationalized medical opinion supporting that her employment duties caused her diagnosed conditions. Appellant also submitted reports from her chiropractor, who diagnosed cervical, thoracic and lumbar sprain/strains, muscle spasm and trapezoids strain. However, such reports are of no probative value. A chiropractor is only considered a “physician” under the Act to the extent that he or she diagnosed a spinal subluxation as demonstrated by x-ray.⁴ As appellant’s chiropractor did not diagnose a spinal subluxation as demonstrated by x-ray, he or she is not considered a physician.⁵ The Office also received treatment notes from a physician’s assistant and physical therapists. However, providers such as nurses, acupuncturists, physician’s assistants and physical therapists are not physicians under the Act. Thus, their opinions do not constitute medical evidence and have no weight or probative value.⁶ The other evidence submitted by appellant pertaining to an emotional condition does not pertain to her claimed back and left shoulder conditions.

The Board finds that appellant has failed to submit reliable, substantial and probative medical evidence sufficient to establish her claimed back and left shoulder conditions are causally related to her employment factors. 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.⁷ Neither the fact that the condition became apparent during a period of employment nor the belief that the condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.⁸ Causal relationship must be substantiated by reasoned medical opinion evidence, which is appellant’s responsibility to submit.

³ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

⁴ *See* 5 U.S.C. § 8101(2).

⁵ *See Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

⁶ *See Thomas R. Horsfall*, 48 ECAB 180 (1996); *Jan A. White*, 34 ECAB 515, 518 (1983). *See* 5 U.S.C. § 8101(2). This subsection defines the term physician. *See also Charley V.B. Harley*, *supra* note 5.

⁷ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁸ *Id.*

As there is no reasoned medical evidence explaining how appellant's employment duties caused or aggravated her back or left shoulder condition, she has not met her burden of proof in establishing that she sustained a medical condition in the performance of duty causally related to factors of her employment.

CONCLUSION

The Board finds that appellant has not met her burden of proof in establishing that she sustained a back or left shoulder condition causally related to factors of her employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 21, 2007 is affirmed.

Issued: February 6, 2008
Washington, DC

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

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

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