United States Department of Labor
Employees' Compensation Appeals Board

L.C., Appellant	)	
	)	
and	)	**Docket No. 08-414**
	)	**Issued: June 5, 2008**
DEPARTMENT OF VETERANS AFFAIRS, CENTRAL ARKANSAS HCS, Little Rock, AR, Employer	)	

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 November 20, 2007 appellant filed a timely appeal from an October 22, 2007 decision of the Office of Workers' Compensation Programs denying her request to expand her claim to include diagnosed cervical conditions. 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 established that her cervical conditions are due to the accepted March 22, 2006 employment injury.

FACTUAL HISTORY

On April 7, 2006 appellant, a 53-year-old nurse, filed a traumatic injury claim alleging that she sustained injuries to her right shoulder on March 22, 2006, when "a stretcher locked up as [she] was pushing against it to make a corner." She felt pain in her right shoulder and numbness in her thumb and fingers.

Appellant submitted March 23, 2006 notes from Odessa M. Hood, a licensed practical nurse, who stated that appellant was experiencing pain in her right shoulder, as a result of a work injury sustained while pushing a stretcher the previous day. Appellant submitted notes and duty status reports from Michael I. Reel, an advanced practical nurse. On March 24, 2006 Mr. Reel stated that appellant had injured her right shoulder while moving a stretcher on March 22, 2006. He assessed inflammation of the longhead of the bicep tendon. In a March 24, 2006 duty status report, Mr. Reel opined that appellant could return to work with restrictions. The April 3, 2006 follow-up reports noted significant discomfort in the head of the bicep tendon.

On April 6, 2006 Dr. Ashley S. Ross, a Board-certified orthopedic surgeon, noted that appellant experienced a sudden onset of pain in her right shoulder on March 22, 2006 when a stretcher she was pushing jammed and stopped suddenly. She allegedly aggravated the shoulder pain on March 31, 2006, while lifting a patient onto another stretcher. Dr. Ross' examination of the right shoulder revealed full range of motion with discomfort, particularly on abduction, and internal and external rotation. She opined that appellant had "probable tendinitis of the right shoulder." Dr. Ross stated, "I cannot rule out some type of cervical dis[c] with radicular pain, although this does not fit any pattern."

Appellant submitted an April 17, 2006 report from Dr. Jeffrey William Johnson, a treating physician. She informed Dr. Johnson that, on March 22, 2006, while pushing a stretcher, it suddenly locked up and she "jammed" her right shoulder. Appellant complained of numbness in her index finger and thumb and significant pain in her right shoulder. On April 16, 2006 she allegedly began experiencing pain in her neck and left shoulder region. On examination, appellant was able to fully flex and abduct the right shoulder with pain. She had full range of motion and full external rotation when relaxed. Internal rotation was to T10 bilaterally, with no signs of impingement. On palpation, there was tenderness on the trapezius on the right. A report of an April 12, 2006 magnetic resonance imaging (MRI) scan of the cervical spine suggested anterior osteophytes at the C4-5 and C5-6 levels, and a small broad-based disc bulge in the central portion of the disc, with mild adjacent spinal cord impingement at C4-5, without evidence of neuroforaminal stenosis. A report of an April 12, 2006 MRI scan of the right shoulder suggested a partial tear of supraspinatus tendinitis, involving the supraspinatus muscle strain of the suprascapularis and a questionable depression of the humeral head in the anterior aspect. Dr. Johnson diagnosed right shoulder pain and possible rotator cuff tendinitis. He recommended a follow up based on results from the cervical MRI scan.

The record contains reports of an April 12, 2006 MRI scan of the cervical spine, and an April 12, 2006 MRI scan of the right shoulder. Appellant submitted notes for the period May 5 through 11, 2006 from Dr. Edwin L. Watson, a Board-certified family practitioner, who treated her for a rotator cuff injury. On May 8, 2006 Dr. Watson noted that the April 12, 2006 MRI scan showed a cervical disc protrusion with mild impingement, without cord signal abnormality.

In a report dated May 10, 2006, Dr. Martin Greenberg, a Board-certified neurosurgeon, stated that appellant injured herself while pulling and twisting a heavy stretcher on March 22, 2006. An MRI scan of the right shoulder showed a right rotator cuff tear. A cervical MRI scan showed central disc herniation at C4-5, and a smaller disc herniation at C5-6. Dr. Greenberg indicated that appellant had no history of a cervical disc problem. His physical examination revealed that appellant was in acute distress from neck and right cervical radicular

pain. Motor examination revealed 4/5 in the right deltoid and right biceps. Deep tendon reflexes were absent in the upper extremities. Hoffman's sign was negative bilaterally. Sensory examination decreased to light touch and pinprick in the right C5-6 distribution. Dr. Greenberg diagnosed cervical disc disease, C4-5, and right C5-6 radiculopathy, which he opined was "clearly secondary to cervical HPN at C4-5 and C5-6."

On May 24, 2006 the Office accepted the claim for sprain/strain of the right rotator cuff. The Office denied appellant's request for an x-ray and CT scan of the spine, because her physician had failed to relate her cervical condition to the accepted injury.

By letter dated June 5, 2006, the Office informed appellant that the evidence of record was insufficient to establish that her cervical condition was causally related to the accepted injury. The Office advised her to submit a medical report with a diagnosis and a rationalized medical opinion as to the cause of the diagnosed cervical condition. On June 15, 2006 the Office asked Dr. Greenberg to provide a rationalized medical opinion explaining the nature of the relationship between appellant's diagnosed cervical condition and the accepted March 22, 2006 injury. In a statement dated June 9, 2006, appellant contended that the information submitted was sufficient to establish a causal relationship between her cervical condition and the March 22, 2006 injury, because she had experienced no cervical pain prior to the accepted injury. She submitted notes dated June 15, 2006 from Dr. Watson, who urged her to proceed with a CT myleogram, even though her neck condition had not been accepted by the Office.

On July 12, 2006 the Office authorized a change in physicians to Dr. Reed Kilgore, a Board-certified orthopedic surgeon. The Office informed appellant that, following her initial examination, her physician should send a complete medical report to the Office, including objective findings, a diagnosis and a rationalized opinion explaining the causal relationship between her diagnosed conditions and the accepted injury. In a July 26, 2006 letter, appellant informed the Office that she had asked Dr. Greenberg to resubmit his medical statement to the effect that her cervical condition was causally related to the March 22, 2006 injury. On August 1, 2006 the Office notified appellant that Dr. Greenberg had not submitted a rationalized medical opinion. In a statement dated August 11, 2006, appellant reiterated her belief that her cervical condition was causally related to the accepted injury because she had never experienced neck pain before March 22, 2006. She enclosed a copy of Dr. Greenberg's May 10, 2006 report and June 29, 2006 discharge instructions, which reflected that Dr. Greenberg performed a two-level anterior cervical discectomy of C4-5 and C5-6 instrumentation.

In an August 9, 2006 report, Dr. Kilgore described the history of injury, as reported by appellant. He noted her claim that her neck and shoulder problems resulted from the accepted injury. Dr. Kilgore stated that appellant's ruptured cervical discs had been repaired by Dr. Greenberg. Pursuant to an MRI scan of the right shoulder, he determined that she had a partial tear of the anterior fibers of the supraspinatus, with a possible full thickness component, as well as tendinosis of the same muscle and muscle strain of the subscapularis. In an accompanying duty status report, Dr. Kilgore diagnosed rotator cuff tear, related to March 22, 2006 injury. Under the heading "other diagnosed conditions," he listed, "ruptured C4-5, C5-6 dis[c], repaired."

By decision dated September 19, 2006, the Office denied appellant's claim for her cervical condition. The Office found that the evidence did not contain a rationalized medical opinion explaining a causal relationship between the diagnosed cervical condition and the accepted injury.

On July 24, 2007 the Office received a request for reconsideration, in which appellant contended that the evidence of record supported a causal relationship between her cervical condition and the accepted injury. Appellant submitted notes from Mary Strickland, a registered nurse, dated September 11 and 19, 2006; a September 19, 2006 duty status report, bearing an illegible signature; and reports dated September 5, 2006 through July 12, 2007 from Dr. Kilgore. On September 5, 2006 Dr. Kilgore performed a subacromial injection. On September 19, 2006 he noted improved range of motion of the shoulder and stated that appellant's neck condition had also improved. In a November 15, 2006 duty status report, Dr. Kilgore diagnosed rotator cuff tear. On July 12, 2007 he noted the possibility of surgery for appellant's rotator cuff tear. In a letter dated August 24, 2007, appellant reiterated her position that Dr. Greenberg's report established that her ruptured discs were causally related to the accepted injury.

By decision dated October 22, 2007, the Office denied modification of the September 19, 2006 decision, finding that the medical evidence was insufficient to establish a causal relationship between the diagnosed cervical condition and the accepted injury.

LEGAL PRECEDENT

Where an employee claims that a condition not accepted or approved by the Office was due to an employment injury, she bears the burden of proof to establish that the condition is causally related to the employment injury.[1] To establish a causal relationship between the condition claimed, as well as any attendant disability, and the employment event or incident, an employee must submit rationalized medical evidence based on a complete medical and factual background supporting such a causal relationship.[2] Causal relationship is a medical issue, and the medical evidence required to establish a causal relationship is rationalized medical evidence.[3] Rationalized medical evidence is evidence which includes a physician's rationalized medical 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 rationalized medical evidence explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.[4] Neither the fact that a disease or condition manifests itself during a

---

[1] *Jaja K. Asaramo*, 55 ECAB 200 (2004).

[2] *Jennifer Atkerson*, 55 ECAB 317 (2004).

[3] *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

[4] *Leslie C. Moore*, 52 ECAB 132 (2000).

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.[5]

ANALYSIS

The Board finds that appellant has not established that her cervical condition is causally related to her accepted injury. The Office accepted the claim for a sprain/strain of the right rotator cuff. Appellant contends that the Office accept her diagnosed cervical conditions, namely cervical disc disease and a herniated disc at C4-6. A review of the medical evidence does not reveal a reasoned medical opinion establishing a causal relationship between appellant's cervical conditions and the accepted injury.

Dr. Greenberg stated that appellant was in acute distress from neck and right cervical radicular pain. After examining her, and reviewing right shoulder and cervical MRI scans, he diagnosed a right rotator cuff tear, as well as cervical disc disease, C4-5, and right C5-6 radiculopathy, which he opined was "clearly secondary to cervical HPN at C4-5 and C5-6." Dr. Greenberg indicated that appellant had no history of a cervical disc problem. However, he did not adequately explain how appellant's cervical condition was causally related to the accepted March 22, 2006 injury. Although Dr. Greenberg opined that the radiculopathy was secondary to a herniated disc at C4-5 and C5-6, he did not offer an opinion as to the cause of the disc herniation. The mere fact that a condition manifests itself during a period of employment is insufficient to establish causal relationship.[6] Therefore, Dr. Greenberg's report is of limited probative value and does not support appellant's claim to expand the scope of accepted conditions.[7] The Board notes that the Office requested clarification from Dr. Greenberg regarding the causal relationship between appellant's cervical condition and the accepted injury. The record does not contain a response to the Office's request.

Dr. Ross opined that appellant had "probable tendinitis of the right shoulder," and stated, "I cannot rule out some type of cervical disc with radicular pain, although this does not fit any pattern." His report is speculative and unsupported by rationalized medical evidence explaining the nature of the relationship between appellant's cervical condition and the accepted injury.[8] Therefore, it, too, is of diminished probative value.

On August 9, 2006 Dr. Kilgore noted appellant's claim that her neck and shoulder problems resulted from the accepted injury, indicating that her ruptured cervical discs had been repaired by Dr. Greenberg. Pursuant to an MRI scan of the right shoulder, he determined that appellant had a partial tear of the anterior fibers of the supraspinatus, with a possible full thickness component, as well as tendinosis of the same muscle and muscle strain of the subscapularis. In an accompanying duty status report, Dr. Kilgore diagnosed rotator cuff tear, related to the March 22, 2006 injury. Under the heading "other diagnosed conditions," he listed,

---

[5] *Ernest St. Pierre*, 51 ECAB 623 (2000).

[6] *Id.*

[7] *Michael E. Smith*, 50 ECAB 313 (1999).

[8] *Leslie C. Moore*, *supra* note 4.

"ruptured C4-5, C5-6 disc, repaired." On September 19, 2006 Dr. Kilgore noted that appellant's neck condition had improved. None of his reports provides an opinion as to the cause of appellant's cervical condition. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.[9]

Dr. Johnson diagnosed right shoulder pain and possible rotator cuff tendinitis. He noted the results of an April 12, 2006 MRI scan of the cervical spine, which suggested anterior osteophytes at the C4-5 and C5-6 levels, and a small broad-based disc bulge in the central portion of the disc, with mild adjacent spinal cord impingement at C4-5. However, as Dr. Johnson failed to provide an opinion as to the cause of appellant's condition, his report is of diminished probative value. Similarly, Dr. Watson's reports do not contain an opinion as to the cause of appellant's cervical condition and, thus, do not support appellant's claim.

Appellant submitted notes and reports from Ms. Hood, a licensed practical nurse; Mr. Reel an advanced practical nurse; and Ms. Strickland, a registered nurse. Nurses do not qualify as "physicians" under the Act. Therefore, their opinions are of no probative value.[10] Reports of MRI scans and x-rays, which do not contain an opinion as to the cause of appellant's condition, are of diminished probative value and are insufficient to establish appellant's claim.[11] Appellant also submitted reports bearing illegible signatures. These reports do not constitute probative medical evidence, in that they lack proper identification.[12]

The Board finds that appellant has failed to meet her burden of proof to establish that the cervical conditions claimed are causally related to the accepted employment injury.[13] The fact that a condition is mentioned in a medical report along with other accepted conditions does not infer that it is related to the work injury. An award of compensation may not be based on surmise, conjecture, speculation, or upon appellant's own belief that there was a causal relationship between her claimed condition and her employment.[14] Accordingly, the Office properly limited the accepted conditions to sprain/strain of the right rotator cuff.

CONCLUSION

The Board finds that appellant failed to establish that her claim should be expanded to include a cervical condition due to the accepted employment injury.

---

[9] *Michael E. Smith*, *supra* note 7.

[10] 5 U.S.C. § 8101(2) of the Act provides as follows: "(2) 'physician' includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law."

[11] *Michael E. Smith*, *supra* note 7.

[12] *See Merton J. Sills,* 39 ECAB 572, 575 (1988).

[13] *Jaja K. Asaramo*, *supra* note 1.

[14] *Patricia J. Glenn*, 53 ECAB 159 (2001).

ORDER

IT IS HEREBY ORDERED THAT the October 22, 2007 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: June 5, 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