

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

A.L., Appellant)
and) Docket No. 09-192
U.S. POSTAL SERVICE, POST OFFICE,) Issued: July 27, 2009
St. Clair Shores, MI, Employer)

)

Appearances:

Alan J. Shapiro, Esq., for the appellant
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 October 27, 2008 appellant, through her representative, filed a timely appeal from the October 3, 2008 merit decision of the Office of Workers' Compensation Programs, which denied her claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the merits of the case.

ISSUE

The issue is whether appellant's falls at work on February 19, 2008 caused an injury. Appellant's attorney argues that the Office's decision is contrary to fact and law.

FACTUAL HISTORY

On February 21, 2008 appellant, then a 35-year-old letter carrier, filed a claim alleging that she sustained an injury in the performance of duty on February 19, 2008: "I was walking my route and fell on ice, that was underneath snow." She fell on her knees and hands and fell again on her back and buttocks. Dr. Varsha S. Revankar, a specialist in internal medicine, reported that she was treating appellant for a fall and lower back pain. She stated that appellant

was being seen for backache due to injury. On March 6, 2008 Dr. Revankar diagnosed low back pain.

On March 13, 2008 Dr. Revankar completed an attending physician's form report. She diagnosed "low back injury" and indicated with an affirmative mark that the condition found was caused or aggravated by her fall on the ice.

On April 21, 2008 Dr. Revankar noted that appellant, who was pregnant, did not have back pain from her pregnancy prior to the fall at work. "It is very hard to say how much of her back pain is from the pregnancy and how much is due to injury. Given that the back pain was not there prior to the fall I would say it is most likely due to the fall."

On June 26, 2008 Dr. Revankar stated that appellant's low back pain was not getting any better, even after having her child. "This pain is most likely from her injury." Dr. Revankar added:

"The patient was also given a letter through the postal service stating that this is not a workers' compensation issue, but to notice the patient never had back pain before she fell on ice in this winter while on job duty and she has had back pain since then and now the back pain is not getting better even after she has delivered, so that does indicate this is the back injury, which sustained at work."

On July 9, 2008 Dr. Revankar diagnosed lumbar strain with functional limitations related to poor posture and body mechanics, trunk and lower extremity weakness and soft tissue and joint restrictions.

Appellant came under the care of Dr. Brian D. Titesworth, another internist. On August 12, 2008 Dr. Titesworth reported that appellant had been diagnosed with lumbar strain/low back strain. He stated: "It is of note that the patient did not have back pain prior to this incident and her condition has not improved following the birth of her child 1½ months ago."

In a decision dated October 3, 2008, the Office denied appellant's claim for compensation. It found that the medical evidence was inadequate to establish a causal relationship between the incident at work and appellant's medical diagnosis.

LEGAL PRECEDENT

The Federal Employees' Compensation Act provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.¹ An employee seeking benefits under the Act has the burden of proof to establish the essential elements of her claim. When an employee claims that she sustained an injury in the performance of duty, she must submit sufficient evidence to establish that she experienced a specific event,

¹ 5 U.S.C. § 8102(a).

incident or exposure occurring at the time, place and in the manner alleged. She must also establish that such event, incident or exposure caused an injury.²

Causal relationship is a medical issue³ 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 of the physician must be based on a complete factual and medical background of the claimant,⁴ must be one of reasonable medical certainty⁵ 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.⁶

When a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.⁷

When a physician concludes that a condition is causally related to an employment because the employee was asymptomatic before the employment injury, the opinion is insufficient, without supporting medical rationale, to establish causal relationship.⁸

ANALYSIS

The Office accepted that appellant twice slipped and fell on the ice while in the performance of duty on February 19, 2008. She has established that she experienced a specific incident occurring at the time, place and in the manner alleged. The only question that remains is whether the incident that day caused or aggravated a diagnosed medical condition.

The Board notes that most of the medical evidence does not diagnose a specific medical disease or pathology. The Board has held, generally, that low back pain or backache is a symptom not a specific medical condition.⁹ It does not inform the Office what medical condition is being treated or what medical condition is causing the employee's complaint. Appellant's only diagnosis came on July 9, 2008, when Dr. Revankar, her internist, diagnosed lumbar strain, which is a soft-tissue injury to a musculotendinous structure.

² *E.g., John J. Carbone*, 41 ECAB 354 (1989).

³ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁵ See *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁶ See *William E. Enright*, 31 ECAB 426, 430 (1980).

⁷ *E.g., Lillian M. Jones*, 34 ECAB 379 (1982).

⁸ *Thomas D. Petrylak*, 39 ECAB 276 (1987).

⁹ *Robert Broome*, 55 ECAB 339 (2004).

Dr. Revankar attributed appellant's low back condition to her fall at work because, as stated on April 21, 2008, appellant's back pain "was not there prior to the fall." Although a temporal relationship may be consistent with causal relationship, it is not sufficient to establish that causal relationship.¹⁰ It is not enough simply to state that a causal relationship exists. Dr. Revankar must support her opinion with sound medical reasoning sufficient to convince a lay adjudicator that her conclusion is rational and logical. She must clearly explain from a medical perspective how the specific incident in question caused or aggravated appellant's diagnosed medical condition. It is for this reason that Dr. Revankar's March 13, 2008 attending physician's form report carries little probative weight. Simply checking "yes" to a form question does not provide the medical explanation required to establish a causal relationship between appellant's February 19, 2008 falls at work and her diagnosed lumbar strain.

Dr. Revankar's June 26, 2008 report again pointed out that appellant was asymptomatic before she fell on the ice, stating that her low back pain was not getting better after she delivered her baby. Dr. Revankar's conclusion rested in part on the exclusion of another possible cause. She did not explain whether low back pain during pregnancy always or usually resolves once the mother delivers or address how falling on ice, in the manner that appellant fell, would cause a lumbar strain. Dr. Revankar's July 9, 2008 report diagnosed lumbar strain with functional limitations related to poor posture and body mechanics, trunk and lower extremity weakness, and soft tissue and joint restrictions. This report did not appear to attribute appellant's lumbar strain to the falls at work on February 19, 2008. Dr. Titesworth, the internist who took over appellant's care, repeated Dr. Revankar's June 26, 2008 observations. His August 12, 2008 report is similarly deficient in addressing the issue of causal relation.

Because appellant did not submit a well-reasoned medical opinion explaining how the incident at work on February 19, 2008 caused or aggravated a diagnosed lumbar strain, the Board finds that she has not met her burden of proof to establish the critical element of causal relationship. The Board will affirm the Office's October 3, 2008 decision denying her claim for compensation benefits.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty on February 19, 2008. The medical opinion evidence is insufficient to establish causal relationship.

¹⁰ See *id.*

ORDER

IT IS HEREBY ORDERED THAT the October 3, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 27, 2009
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