

August 3, 2005. In a report dated August 24, 2005, Dr. John Cohen, an orthopedic surgeon, found that diagnostic testing was unremarkable. He diagnosed lumbosacral strain and appellant was released to regular duty on August 17, 2005.

The Office accepted the claim for lumbosacral sprain. On September 27, 2006 appellant filed a notice of recurrence (Form CA-2a) and he checked a box “medical treatment only.” He reported the recurrence occurred on September 1, 2006 and he indicated that he had pain going down his left side.

In a report dated September 7, 2006, Dr. Ramesh Padiyar, an employing establishment physician, reported that appellant was having back pain radiating into the left leg. He noted the May 2005 incident and stated no additional injury had occurred. An August 9, 2006 x-ray of the lumbar spine showed minimal anterior degenerative spur formation at L3-4 and L4-5.

By decision dated April 2, 2007, the Office denied the claim for a recurrence commencing September 1, 2006. Appellant requested a hearing before an Office hearing representative, which was held on November 30, 2007. In a report dated December 19, 2007, Dr. Jacob Gordon, a neurologist, noted that appellant had reported low back pain after pushing down on a patient lift device in May 2005. He stated that a May 2007 MRI scan showed bulging of the L4-5 disc and neural foramen impingement. Dr. Gordon opined that appellant “suffered an acute disc herniation during the episode at his job site in May 2005, with persistence to this day of radicular pain and functional limitations regarding lifting and twisting.” In a form report (CA-20) dated March 16, 2007, Dr. Vidya Chalarin, a family practitioner, diagnosed sciatica and chronic low back pain. He reported the date of injury as of September 1, 2006, described a ceiling lift incident and checked a box “yes” that the conditions found were causally related to employment.

By decision dated February 14, 2008, the Office hearing representative affirmed the April 2, 2007 decision.

Appellant requested reconsideration, and submitted an August 12, 2008 report from Dr. Joshua Adler, an employing establishment physician, who stated that appellant, had suffered two injuries, the first in May 2005 and the second in September 2006. Dr. Adler noted the results on the May 2007 MRI scan and opined that it was highly likely that the disc bulge was the result of the second injury.

In a decision dated September 30, 2008, the Office denied modification of the February 14, 2008 decisions.

LEGAL PRECEDENT

A recurrence of a medical condition is defined in the Office’s procedure manual as “the documented need for further treatment of the accepted condition when there is no work stoppage.”¹ When a claim for a recurrence of medical condition is made more than 90 days after

¹ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(a) (January 1998).

release from medical care, a claimant is responsible for submitting a medical report that contains a description of objective findings and supports causal relationship between the claimant's current condition and the previous work injury.²

Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on the issue of whether there is a causal relationship between a diagnosed condition and the employment injury. The opinion of the physician must be based on a complete and accurate factual and medical history, supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the employment injury.³ The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of the analysis manifested and the medical rationale expressed in support of the physician's opinion.⁴

ANALYSIS

Appellant filed a notice of recurrence commencing September 1, 2006 and indicated that he was claiming only medical treatment. The accepted condition in this case was a lumbar sprain resulting from a May 1, 2005 incident. With respect to any additional diagnosed conditions, appellant has the burden of proof to establish they are causally related to the employment injury.⁵

The medical evidence does not contain a rationalized medical opinion establishing that on or about September 1, 2006 appellant's current condition was causally related to the May 1, 2005 employment injury. Dr. Gordon diagnosed an L4-5 disc herniation, but he did not provide a rationalized opinion on causal relationship based on a complete background. He noted a May 2007 MRI scan, but failed to discuss the August 2005 diagnostic tests, which did not show any disc herniation.⁶ Dr. Gordon did not provide medical rationale to support his opinion that appellant did not sustain a disc herniation as a result of the May 1, 2005 employment incident, nor did he discuss appellant's condition as of September 1, 2006.

Dr. Charalin diagnosed sciatica, without providing a rationalized opinion on causal relationship with the May 1, 2005 employment injury. The checking of a box "yes" in a form report, without additional explanation or rationale, is not sufficient to establish causal relationship.⁷

² *Id.* at Chapter 2.1500.5(b) (September 2003).

³ *Helen K. Hunt*, 50 ECAB 279 (1999).

⁴ *Jennifer Atkerson*, 55 ECAB 317, 319 (2004).

⁵ It is appellant's burden of proof to establish a specific condition is causally related to employment. *Robert Broome*, 55 ECAB 339 (2004).

⁶ When there is a long delay between the testing on which the opinion is based and the employment incident, the probative value of the opinion offered is diminished. The longer the period of time between the testing and the employment incident, the greater the likelihood that an event not related to employment has caused or worsened the condition. *Mary A. Ceglia*, 55 ECAB 626, 629 (2004).

⁷ *See Barbara J. Williams*, 40 ECAB 649, 656 (1989).

Dr. Charalin appeared to describe the May 1, 2005 incident, but he reported the date of injury as September 1, 2006. He did not provide a complete factual and medical background or explain his opinion on causal relationship.

The Board notes that Dr. Adler indicated there was a second injury in September 2006 that caused a disc bulge; however, he did not provide a description this injury. The claim was for a recurrence of a medical condition as of September 1, 2006 causally related to the May 1, 2005 employment injury. It is appellant's burden of proof to submit probative medical evidence establishing the claim. The Board finds that he did not meet his burden of proof in this case.

CONCLUSION

The Board finds appellant did not meet his burden of proof to establish a recurrence of a medical condition on or about September 1, 2006.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated September 30 and February 14, 2008 are affirmed.

Issued: July 16, 2009
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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