



per day as well as lifting, reaching, bending, twisting and stretching. Since this date, she has been on light duty, assigned to manual operation sorting.

Appellant submitted four reports dated April 15, 2006, July 11, 2007, February 6 and April 16, 2008, signed by Dr. Chandrasekharn Nair, a Board-certified neurosurgeon, releasing appellant to light duty with restrictions. These reports noted diagnoses of lumbar disc herniation, stenosis and lumbar disc degeneration.

Appellant submitted a report dated May 20, 2008, signed by Dr. Margit Bleecker, a Board-certified neurologist, who presented a review of appellant's medical history and findings on examination. Dr. Bleecker noted that a magnetic resonance imaging (MRI) scan examination from 2005 revealed L5-S1 disc protrusion; she also diagnosed appellant with chronic back pain. She opined that appellant's back pain was aggravated by standing, twisting, pushing/pulling and lifting in awkward positions. Dr. Bleecker opined that repeated grasping and holding bundles of mail with her hands caused bilateral carpal tunnel syndrome that required conservative management.

Appellant submitted an April 6, 2005 report, signed by Dr. Nafi Aygun, a Board-certified diagnostic radiologist, who reported that sagittal and axial T1 and T2 weighted images of the lumbar spine revealed L5-S1 disc protrusion and severe left neural foraminal stenosis.

By decision dated November 7, 2008, the Office accepted that appellant's federal employment involved processing of mail using automated mail processing equipment or manual methods of sorting and distribution; however, it denied appellant's claim because the evidence of record did not demonstrate that her alleged medical condition was related to these accepted work activities.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of the claim, including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was filed within the applicable time limitation, that an injury was sustained while 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.<sup>2</sup> These are essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>3</sup>

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *C.S.*, 60 ECAB \_\_ (Docket No. 08-1585, issued March 3, 2009).

<sup>3</sup> *S.P.*, 59 ECAB \_\_ (Docket No. 07-1584, issued November 15, 2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>4</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable 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 condition and the specific employment factors identified by the employee.<sup>5</sup>

### ANALYSIS

The Board finds that appellant has not met her burden to establish that she sustained an injury in the performance of duty causally related to her employment. The Office accepted that appellant's federal employment involved processing of mail using automated mail processing equipment or manual methods of sorting and distribution. Appellant's burden was to demonstrate, through production of probative rationalized medical evidence, that these alleged conditions were causally related to the accepted employment factors.

The relevant medical evidence of record consisted of reports from Drs. Aygun, Bleecker, and Nair. These reports are of diminished probative value as none of these reports furnished a rationalized opinion concerning the causal relationship between appellant's alleged conditions and the accepted employment factors. The Board notes initially that while Dr. Nair and Dr. Aygun offered diagnoses of appellant's lumbar condition as lumbar disc herniation, stenosis, and disc degeneration, neither Dr. Nair nor Dr. Aygun's reports offered any opinion regarding causal relationship.

Furthermore, Dr. Bleecker noted the L5-S1 disc protrusion found on appellant's 2005 MRI scan and noted back pain as well as bilateral carpal tunnel syndrome. She did opine that appellant's back pain was aggravated by standing, twisting, pushing/pulling and lifting in awkward positions, and that repeated grasping and holding bundles of mail with her hands caused bilateral carpal tunnel syndrome. Dr. Bleecker failed to provide any medical explanation or rationale causally relating the diagnosed conditions to the alleged work activities. The Board has long held that work activities may produce pain or discomfort revelatory of an underlying condition but any such pain does not raise an inference of causal relationship.<sup>6</sup>

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<sup>4</sup> See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>5</sup> *I.J.*, 59 ECAB \_\_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>6</sup> *Gary M. DeLeo*, 56 ECAB 656 (2005).

The Board has consistently held that medical reports lacking a rationale on causal relationship are of diminished probative value.<sup>7</sup> As none of these reports provided such an opinion, these reports are of diminished probative value and are insufficient to satisfy appellant's burden of proof.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that his condition was aggravated by her employment is sufficient to establish causal relationship.<sup>8</sup>

As there was no rationalized medical evidence of record establishing that appellant's alleged conditions were causally related to the accepted employment factors, the Board finds that appellant has not met her burden of proof to establish that she sustained an injury in the performance of duty causally related to her employment.<sup>9</sup>

### 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 causally related to her employment

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<sup>7</sup> See *Mary E. Marshall*, 56 ECAB 420 (2005) (medical reports that do not contain rationale on causal relationship have little probative value).

<sup>8</sup> *D.I.*, 59 ECAB \_\_\_ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

<sup>9</sup> The record reflects that appellant submitted information concerning bariatric surgery, an article detailing a study on the relationship between nicotine use and disc degeneration as well as an article concerning lumbar degenerative disc conditions and another which concerned lumbar spine conditions in obese patients. The Board has held that articles such as newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the causal relationship between a claimed condition and a claimant's federal employment as such materials are of general application and are not determinative of whether the specific condition claimed is related to particular employment factors or incidents. *Richard Yadron*, 57 ECAB 207 (2005); *Eugene Butler*, 36 ECAB 393 (1984). As such, these articles are of no evidentiary value in establishing a causal relationship between appellant's claimed condition and her federal employment as they are not relevant to the underlying medical issue in appellant's claim and therefore do not constitute a basis for reopening this claim for merit review.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 7, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 17, 2009  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board