

to employment factors.¹ She indicated that she first realized her condition was causally related to employment factors on October 29, 2007. In a supplemental statement, appellant explained that she believed her injury occurred when she moved supplies in a cluttered supply room.

On May 29, 2008 the Office advised appellant that it required factual and medical evidence to determine whether she was eligible for compensation benefits. It asked her to submit a comprehensive report from her treating physician describing her symptoms and the medical reasons for her condition, an opinion as to whether her claimed condition was causally related to her federal employment. The Office requested that appellant submit this evidence within 30 days.

In an October 29, 2007 report, Dr. Plinio A. Caldera, a specialist in orthopedic surgery and appellant's treating physician, advised that appellant had complaints of left buttocks pain, which radiated to her left leg and left knee. He related that she began to experience this pain gradually in July 2007 and had no history of trauma, falls or injuries. Dr. Caldera stated that appellant's pain worsened with sitting or lying down; he related that walking ameliorated the pain. He diagnosed anemia, low back pain syndrome and left-sided sciatica. Dr. Caldera recommended treatment with medication, activity modification and physical therapy.

In a November 26, 2007 report, Dr. Caldera stated that appellant's pain had diminished somewhat due to her course of physical therapy. He advised that she had occasional pulling at her left thigh posteriorly but denied having any numbness or tingling. Dr. Caldera reiterated his diagnoses of low back pain syndrome and left-sided sciatica and advised her to continue with medication and physical therapy.

In an April 4, 2008 report, Dr. Caldera noted that appellant was experiencing persistent pain in her left buttocks, left hip, left thigh and left knee despite treatment with medication and physical treatment. He noted on examination that she had no tenderness in her sacrum and lumbar spine or sacroiliac joints, with mild tenderness over the left sciatic notch; no deformities or muscle spasms; and full range of motion in the waist, left hip and left knee with some left leg pain at the extreme of flexion. Dr. Caldera reiterated his previously stated diagnoses of low back pain syndrome and left-sided sciatica and recommended that appellant undergo a magnetic resonance imaging (MRI) scan to determine whether she had a herniated nucleus pulposus in her lumbar spine.

In an April 22, 2008 report, Dr. Samuel Alianell, Board-certified in physical and rehabilitative medicine, stated that appellant had complaints of low back and left leg pain. He noted that she had experienced low back pain for the last six to eight months with no specific injury; she related constant, mild pain in the low back radiating into the left buttock and down the lateral left thigh and posterior left calf along with a cold sensation behind the knee and calf. Dr. Alianell stated that a lumbar MRI scan indicated a right-sided mild foraminal herniated

¹ Appellant did not indicate the type of condition for which she was seeking compensation on her CA-2 form; however, the Office adjudicated this claim as one based on a lower back condition given the fact that the medical evidence she submitted pertained predominantly to her lower back. The record also contains references to her being treated for pain in her left leg; however, the medical evidence contains no diagnosis or condition pertaining to the left leg.

nucleus pulposus at L3-4, a large left extruded disc at L5-S1 and displaced S1, S2 nerve roots. He stated that appellant had lumbar radiculopathy in addition to the herniated lumbar disc and discussed with her the option of surgical intervention.

Appellant underwent electromyogram and nerve conduction tests on May 8, 2008, the results of which were normal. The study presented no electrodiagnostic evidence to suggest lumbar radiculopathy, lumbosacral plexopathy or peripheral neuropathy, despite the MRI scan results showing herniated nucleus pulposus at L3-4 and LS-51 with disc extrusion.

By decision dated November 17, 2008, the Office denied appellant's claim, finding that she failed to submit medical evidence sufficient to establish that she sustained the claimed condition in the performance of duty. It found that she failed to submit evidence that any of her specific work duties caused the claimed medical condition. The Office further found that appellant failed to submit medical evidence sufficient to establish that her claimed condition was related to factors of employment.

By letter dated November 27, 2008, appellant requested an oral hearing, which was held on March 26, 2009.² She did not submit any additional medical evidence.

By decision dated May 1, 2009, an Office hearing representative affirmed the November 17, 2008 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act³ has the burden of establishing that the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained 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.⁴ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the

² Appellant's husband testified at the hearing that she initially began to experience pain in her left leg, which subsequently began to radiate down into her lower back. As noted above, however, the medical evidence appellant submitted in this case pertains predominantly to her lower back.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *Victor J. Woodhams*, 41 ECAB 345 (1989).

employment factors identified by the claimant were the proximate cause of the condition 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 claimant. The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized 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 medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁶

Appellant has the burden of establishing by the weight of the substantial, reliable and probative evidence, a causal relationship between his claimed right shoulder condition and his federal employment. This burden includes providing medical evidence from a physician who concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.⁷

ANALYSIS

In the instant case, appellant has failed to submit any medical opinion containing a rationalized, probative report which relates her claimed lower back condition to factors of her employment. For this reason, she has not discharged her burden of proof to establish her claim that this condition was sustained in the performance of duty.

Appellant submitted reports from Drs. Caldera and Alianell who related findings of lower back pain on examination and diagnosed low back pain syndrome, left-sided sciatica, herniated nucleus pulposus at L3-4 and L4-5 with disc protrusion at L5-S1 and lumbar radiculopathy. Neither of these physicians, however, provided a probative, rationalized medical opinion that the claimed conditions or disability were causally related to employment factors. Dr. Caldera stated that in his October 29 and November 26, 2007 reports that appellant began to experience pain in June 2007 in her left buttocks which radiated to her left leg and left knee. He noted that she had no history of trauma, falls or injuries. Dr. Caldera's opinion is of limited probative value as it does not contain any medical rationale explaining how or why appellant's claimed lower back condition was related to factors of employment.⁸ The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.⁹ Dr. Caldera did not sufficiently describe appellant's job duties or explain the medical process through which such duties would have been competent to cause the claimed condition.

⁶ *Id.*

⁷ *See Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

⁸ *William C. Thomas*, 45 ECAB 591 (1994).

⁹ *See Anna C. Leanza*, 48 ECAB 115 (1996).

Dr. Alianell stated in his April 22, 2008 report that appellant had experienced constant, mild low back pain radiating into the left buttock and down her left thigh and left calf along with a cold sensation behind the knee and calf for six to eight months, with no specific injury. He noted that the results of the lumbar MRI scan showed herniations, bulges, displaced nerve roots, lumbar radiculopathy and mentioned surgery as a possible course of action. Dr. Alianell's opinion also is of limited probative value as it does not contain any medical rationale explaining how appellant's job duties physiologically caused the diagnosed conditions of left-sided sciatica, right-sided mild foraminal herniated nucleus pulposus at L3-4, a large left extruded disc at L5-S1, displaced S1, S2 nerve roots and lumbar radiculopathy. His report thus did not constitute adequate medical evidence to establish that appellant's claimed lower back condition was causally related to her employment.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.¹⁰ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

The Office advised appellant of the evidence required to establish her claim; however, she failed to submit such evidence. Consequently, appellant has not met her burden of proof in establishing that her claimed lower back condition was causally related to her employment.

CONCLUSION

The Board finds that appellant has failed to meet her burden of proof in establish that her claimed lower back condition was sustained in the performance of duty.

¹⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the May 1, 2009 and November 17, 2008 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: April 13, 2010
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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