

back condition was causally related to factors of her federal employment.¹ The law and facts of the previous Board decision are incorporated herein by reference.

On December 15, 2009 appellant, through her attorney, requested reconsideration and submitted a December 11, 2008 report, in which Dr. Robert D. Zaas, an attending Board-certified orthopedic surgeon, noted appellant's report that she was working limited duty and her complaints of continued back pain that were worse with prolonged standing and greatly increased with repeated bending, twisting or lifting. Dr. Zaas noted magnetic resonance imaging (MRI) scan findings of a disc bulge at L3-4 and a disc herniation at L4-5 and physical examination findings of lumbar tenderness and diminished range of motion. He advised that the claim had been accepted for lumbar sprain, sprain/strain of the hips, sprain/strain of the left knee, left knee chondromalacia patella and lumbar radiculopathy and opined that these conditions were directly related to a December 27, 2007 work incident. In a March 21, 2009 treatment note, Dr. Zaas described shoulder, neck and back complaints and appellant's report that she had not worked since January 31, 2009. He again described MRI scan findings, noted lumbar tenderness and restricted range of motion on physical examination and repeated the knee and back diagnoses he believed had been accepted. Dr. Zaas also stated that a March 7, 2006 work injury had been accepted for sprain/strain of the cervical spine, bilateral shoulder sprain, rotator cuff syndrome and rotator cuff sprain. He concluded that appellant was totally disabled "as a result of the December 27, 2007 claim, as well as impairments from the March 7, 2006 work accident."

By report dated November 20, 2009, Dr. Zaas advised that he had seen appellant on four prior occasions, the most recent on May 19, 2009, when she had complaints of low back pain radiating into her left leg, most consistent with lumbar radiculopathy at L5. He noted that a December 21, 2007 MRI scan demonstrated abnormalities at L3-4 consistent with degenerative disc disease and a large disc herniation at L4-5 with compression at the left L5 nerve root. Dr. Zaas stated:

"In my opinion, the L4-5 dis[c] herniation with left lumbar radiculopathy is causally related to the December 27, 2007 incident at work when [appellant] repeatedly bent forward, lifted, pushed and pulled mail. [Appellant] had worked for the [employing establishment] for 19 years. She never previously had any major problems with her back. My opinion with regard to causal relationship of the herniated dis[c] to the December 27, 2007 accident is based on the history I received from [appellant], her symptoms and physical findings on four examinations in my office and the abnormal December 21, 2007 MRI scan, which correlates with her symptoms and physical findings."

In a merit decision dated February 23, 2010, the Office denied modification of the prior decision.

¹ Docket No. 09-621, (issued September 18, 2009).

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing 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. These are the essential elements of each and every compensation claim, regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.³

Office regulations define the term "occupational disease or illness" as a condition produced by the work environment over a period longer than a single workday or shift."⁴ 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 diagnosed condition is causally related to the employment factors identified by the claimant. The medical opinion 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.⁵

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.⁶ Rationalized medical evidence is medical 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 medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁷ Neither the mere fact that a disease or condition manifests itself during a 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.⁸

² 5 U.S.C. §§ 8101-8193.

³ *Roy L. Humphrey*, 57 ECAB 238 (2005).

⁴ 20 C.F.R. § 10.5(ee).

⁵ *Roy L. Humphrey*, *supra* note 3.

⁶ *D.G.*, 59 ECAB 743 (2008).

⁷ *Id.*

⁸ *Roy L. Humphrey*, *supra* note 3.

ANALYSIS

The Board finds the medical evidence insufficient to establish that appellant has a back condition causally related to her federal employment. In his reports dated December 11, 2008 and March 21, 2009, Dr. Zaas assumed that a lumbar sprain and lumbar radiculopathy had been accepted and advised that these were related to a December 27, 2007 work incident. The record does not contain a description of a December 27, 2007 work incident and he did not describe this incident or explain how it caused the claimed back condition in either of these reports. Dr. Zaas' November 20, 2009 report is internally inconsistent as he stated that the December 21, 2007 MRI scan study findings were caused by the December 27, 2007 employment incident. The MRI scan study, however, was done on December 21, 2007, six days before the implicated work injury of December 27, 2007. Dr. Zaas provided no explanation for the apparent discrepancy in these dates or rationale in support of his conclusions. As his opinion is equivocal in nature and unsupported by medical rationale, it is of diminished probative value and insufficient to meet appellant's burden.⁹

The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to his federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.¹⁰ It is appellant's burden to establish that she has a back condition causally related to factors of her federal employment. She cannot rely on Dr. Zaas' unrationalized opinion and as she submitted no additional evidence, she did not establish that she sustained an employment-related back condition.

CONCLUSION

The Board finds that appellant did not establish that she sustained a back condition causally related to factors of her federal employment.

⁹ *D.D.*, 57 ECAB 734 (2006).

¹⁰ *A.D.*, 58 ECAB 149 (2006).

ORDER

IT IS HEREBY ORDERED THAT the February 23, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 8, 2010
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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