



aware of a possible causal relationship between her hip condition and her employment on August 22, 2005.

In notes dated September 22, 2005, Dr. Kevin M. Koutsky, an attending Board-certified orthopedic surgeon, stated that he examined appellant but he did not provide any specific physical findings. He opined that repetitive heavy lifting in her job caused or aggravated her cervical and lumbar spine degeneration. In notes dated April 2, 2007, Dr. Koutsky stated that he treated appellant for a neck and shoulder injury sustained at work. Appellant also submitted pages one and three of a January 24, 2008 report from Spine and Rehabilitation Services. There is no physician name or signature on these pages.

By letter dated July 30, 2008, the employing establishment controverted appellant's claim, citing the five-year delay in filing a claim since she retired and lack of information on her physical activities since her October 31, 2003 retirement.

By letter dated August 14, 2008, the Office asked appellant to submit additional evidence including a detailed description of her employment activities and a comprehensive medical report from her treating physician with a description of symptoms, the results of tests, a diagnosis and a rationalized medical opinion as to how the condition was causally related to specific factors of her employment.

In an October 13, 2008 report, Dr. Koutsky stated that he had treated appellant since March 25, 2005 for neck and back conditions and bilateral shoulder and hip pain. Appellant provided a history of repetitive activities in her job. Dr. Koutsky noted her statement that she "works for the [employing establishment] and does a lot of lifting." Magnetic resonance imaging (MRI) scans performed in 2004 and 2006 revealed degenerative disc changes in her spine and some mild stenosis. A 2006 right shoulder MRI scan revealed tendinosis and tendinitis of the rotator cuff. A 2008 right shoulder MRI scan revealed degenerative changes. Bilateral x-rays of her hips in 2005 revealed some mild degenerative changes. X-rays of her shoulders in 2006 revealed minimal degenerative changes. Dr. Koutsky stated that "[I]t is likely that her conditions were aggravated by her repetitive activities at work."

By decision dated October 27, 2008, the Office denied appellant's claim, finding that the evidence did not establish that her bilateral hip condition was causally related to factors of her federal employment. On November 21, 2008 appellant requested a review of the written record. She submitted a statement in which she described her physical job requirements and the course of the treatment of her hip condition and shoulder conditions.<sup>1</sup> Appellant also submitted a May 23, 2008 report of x-rays taken of her pelvis and hips that noted mild degenerative changes.

By decision dated March 19, 2009, an Office hearing representative affirmed the October 27, 2008 decision.

---

<sup>1</sup> In her statement, appellant asserted that the Office should consider her separate claim filed under OWCP File No. xxxxxx001. However, the Office noted in its March 19, 2009 decision that her separate claim was approved for cervical and thoracic spinal disc degeneration and spondylosis. Appellant's claim in this case is for a different condition, a bilateral hip condition.

## LEGAL PRECEDENT

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or 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>2</sup> Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical 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>3</sup>

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that an employee's claimed condition became apparent during a period of employment, nor her belief that her condition was aggravated by her employment, is sufficient to establish causal relationship.<sup>4</sup>

## ANALYSIS

Appellant alleged that she sustained a bilateral hip condition causally related to repetitive lifting of heavy mail tubs and other repetitive tasks in her federal job. She described her physical job requirements and asserted that they caused a work-related bilateral hip condition. The Board notes that lay individuals are not competent to render a medical opinion.<sup>5</sup> The mere fact that a disease or condition manifests itself during a period of employment does not raise any inference of causal relationship between the two.<sup>6</sup>

On September 22, 2005 Dr. Koutsky stated that he examined appellant but did not provide any specific physical findings. He opined that repetitive heavy lifting in her job caused or aggravated her cervical and lumbar spine degeneration.<sup>7</sup> Dr. Koutsky did not mention her bilateral hip condition. In notes dated April 2, 2007, he stated that he treated appellant for a neck and shoulder injury sustained at work. Dr. Koutsky did not address her hip condition. In an

---

<sup>2</sup> See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>3</sup> *I.J.*, 59 ECAB \_\_\_\_ (Docket No. 07-2362, issued March 11, 2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

<sup>4</sup> *D.I.*, 59 ECAB \_\_\_\_ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

<sup>5</sup> See *Robert J. Krstyen*, 44 ECAB 227 (1992).

<sup>6</sup> See *Joe T. Williams*, 44 ECAB 518 (1993).

<sup>7</sup> As noted, the Office has accepted spinal conditions in a separate claim.

October 13, 2008 report, he stated that he had treated appellant since March 25, 2005 for neck and back conditions and bilateral shoulder and hip pain. Appellant provided a history of repetitive activities in her job. Dr. Koutsky noted her statement that she “works for the ... and does a lot of lifting.” It appears that he did not know that appellant was no longer performing these tasks in 2008 as she had retired in 2003. Dr. Koutsky described MRI scans and x-rays taken from 2004 to 2008 that revealed degenerative disc changes and stenosis in her spine, tendinosis and tendinitis of the right rotator cuff and bilateral shoulder degenerative changes. Bilateral x-rays of her hips in 2005 revealed mild degenerative changes. Dr. Koutsky stated that “[I]t is likely that her conditions were aggravated by her repetitive activities at work.” However, his opinion is speculative in that he merely opined that it was “likely” that repetitive activities at work caused her conditions. Additionally, he provided no description of appellant’s specific physical job requirements and tasks that caused or aggravated her claimed bilateral hip conditions. Dr. Koutsky failed to provide a comprehensive report, based on a complete and accurate factual background, with a rationalized explanation as to how appellant’s bilateral hip condition was caused or aggravated by specific work duties. Due to these deficiencies, his reports are not sufficient to establish that appellant sustained a bilateral hip condition causally related to factors of her employment.

There is no medical evidence of record with a description of appellant’s specific job duties and medical rationale establishing that her bilateral hip condition is causally related to specific factors of her employment. Therefore, appellant failed to meet her burden of proof to establish that her bilateral hip condition was caused or aggravated by her job.

### **CONCLUSION**

The Board finds that appellant failed to meet her burden of proof in establishing that she sustained a bilateral hip condition in the performance of duty.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers' Compensation Programs dated March 19, 2009 and October 27, 2008 are affirmed.

Issued: February 5, 2010  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

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