



In a June 6, 2008 statement, appellant noted that on May 16, 2008 he felt a slight pain in his upper back and neck area while fixing a machine. On May 30, 2008 he was vacuuming and pulled the vacuum towards him. As appellant began to stand up he felt a pop or pull in his lower back, which he promptly reported to his supervisor.

In an August 4, 2008 disability certificate, Dr. Kumar M. Kalia advised that appellant was totally incapacitated from May 31 through June 7, 2008 due to back pain, lumbosacral sprain and strain. In a June 25, 2008 attending physician's report, he noted appellant's history as feeling a pop in his back while vacuuming at his job. Dr. Kalia diagnosed lumbosacral sprain aggravation of a lumbosacral herniated disc and checked a box indicating that the diagnosed condition was caused or aggravated by an employment activity. He noted that appellant was totally disabled from May 31 through June 7, 2008. Appellant also submitted discharge instructions from Clinic Midwest Orthopedics.

In a July 24, 2008 decision, the Office denied appellant's claim, finding that the evidence did not establish that the claimed medical condition was related to the accepted work incident.

On August 19, 2008 appellant requested an oral hearing which was held on February 18, 2009. He stated that he had severely injured his back on two prior occasions while carrying mail. Appellant further described the work incidents of May 16 and 30, 2008. He took a week off work following the May 30, 2008 incident and returned to regular duty. Appellant noted that he worked with pain.

Appellant submitted medical records regarding his May 31, 2008 treatment at Rush University Medical Center. The emergency notes indicate that appellant had an onset of right lower back pain about 10:00 a.m. while vacuuming. Dr. Galeta C. Clayton, a physician Board-certified in emergency medicine, prescribed hydrocodone-acetaminophen, diazepam and ibuprofen and discharged appellant. He listed a final diagnosis of lumbar sprain and strain and noted that appellant's condition at discharge was improved. Appellant also submitted medical records with regard to his prior injuries.

In a decision dated May 11, 2009, an Office hearing representative affirmed the July 24, 2008 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of establishing the essential elements of his or her claim, including the fact that an 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

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<sup>1</sup> 5 U.S.C. § 8122(a).

elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>2</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether the fact of injury has been established. There are two components involved in establishing the fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged.<sup>3</sup> Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>4</sup>

Causal relationship is a medical issue<sup>5</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>6</sup> must be one of reasonable medical certainty,<sup>7</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.<sup>8</sup>

### ANALYSIS

The Office accepted that appellant experienced a work incident on May 30, 2008. However, it denied appellant's claim for the reason that the medical evidence did not establish a causal relationship between his low back condition and the accepted work incident.

The Board finds that appellant has not established a causal relationship between his low back condition and the May 30, 2008 work incident. Appellant has not provided a rationalized medical opinion to support his claim. The reports from Dr. Kaliana are of limited probative value on the issue of causal relationship. Dr. Kaliana did not adequately explain how the employment incident caused or contributed to appellant's lumbosacral symptoms. He opined in a June 25, 2008 attending physician's report that appellant's diagnosed condition of lumbosacral sprain and strain was employment related and noted a history of the work incident. However, Dr. Kaliana's opinion on causal relationship consisted of a check mark on a form report, offering

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<sup>2</sup> *Id.*

<sup>3</sup> *John J. Carlone*, 41 ECAB 345 (1989).

<sup>4</sup> *Shirley A. Temple*, 48 ECAB 404 (1997).

<sup>5</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>6</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>7</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>8</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

no medical explanation of his conclusion.<sup>9</sup> His August 4, 2008 disability statement noted only that appellant was disabled from May 31 through June 7, 2008 due to back pain, lumbosacral sprain and strain. However, Dr. Kaliana did not further address the May 30, 2008 work incident at all. The emergency room notes of Dr. Clayton also do not provide a rationalized medical opinion relating appellant's diagnosed lumbar sprain and strain to the accepted employment incident. The record reflects that appellant may have a preexisting lumbar condition. The reports of Dr. Kaliana and Dr. Clayton do not provide a full or acceptable history of appellant's back condition, any prior treatment or address how his work on May 30, 2008 contributed to his need for medical treatment.

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 his belief that the condition was caused by his employment is sufficient to establish causal relationship.<sup>10</sup> The Board has held that the fact that a condition manifests itself or worsens during a period of employment<sup>11</sup> or that the work activities produce symptoms revelatory of an underlying condition<sup>12</sup> does not raise an inference of causal relationship between the two.

### **CONCLUSION**

The Board finds that appellant has not established that he sustained an injury in the performance of duty on May 30, 2008, as alleged.

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<sup>9</sup> See *Calvin E. King*, 51 ECAB 384, 400 (2000) (numerous form reports from a physician who checked a yes box indicating a causal relationship between appellant's spinal stenosis and his employment had little probative value absent supporting rationale and were insufficient to establish causation).

<sup>10</sup> *D.I.*, 59 ECAB \_\_\_\_ (Docket No. 07-1534, issued November 6, 2007); *Ruth R. Price*, 16 ECAB 688, 691 (1965).

<sup>11</sup> *E.A.*, 58 ECAB 677 (2007); *Ruth R. Price*, 16 ECAB 688, 395 (1960).

<sup>12</sup> *D.E.*, 58 ECAB 448 (2007); *Fabian Nelson*, 12 ECAB 155,157 (1960).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 11, 2009 is affirmed.

Issued: July 27, 2010  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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