

to a postmenopausal estrogen deficiency. Dr. Timothy W. Hockenberry, a Board-certified family practitioner, found significantly reduced bone density or osteoporosis. He diagnosed osteoporosis on June 1, 2009.

In a letter dated July 20, 2009, the Office requested that appellant provide additional medical evidence in support of her claim and allowed 30 days for a response. Dr. David A. Jones, a Board-certified orthopedic surgeon, on April 9, 2008 stated that she underwent lumbar spine surgery for a work-related injury which resulted in an infection, exploration of her spine wound and removal of hardware. He stated that appellant's current treatment for infection was directly related to her previous surgery and work injury. Dr. Jones submitted notes dated May 16 and July 3, 2008 addressing her treatment for back pain. Dr. Randall L. Goode, a Board-certified anesthesiologist, on July 21, 2009 diagnosed chronic low back pain and lumbar spondylosis.

By decision dated August 26, 2009, the Office denied appellant's claim on the grounds that the medical evidence did not establish a causal relationship between the diagnosis of osteoporosis and her accepted employment injury with resulting surgeries. Appellant, through counsel, requested an oral hearing on September 10, 2009 that was held on December 10, 2009. The hearing representative noted that appellant's previous claim was accepted for herniated disc as well as complications. Appellant testified that she had developed osteoporosis at L1-2 during her second surgery as her spine was scraped to remove the infection.

The hearing representative issued a decision on February 22, 2010 affirming the Office's August 26, 2009 decision, she found that there was insufficient rationalized medical opinion evidence explaining the relationship between appellant's diagnosed osteoporosis and her accepted employment injury.

LEGAL PRECEDENT

It is an accepted principle of workers' compensation law that, when the primary injury is shown to have arisen out of and in the course of employment, every natural consequence that flows from the injury is deemed to arise out of the employment, unless it is the result of an independent intervening cause, which is attributable to the employee's own intentional conduct. As is noted by Larson in his treatise on workers' compensation, once the work-connected character of any injury has been established, the subsequent progression of that condition remains compensable so long as the worsening is not shown to have been produced by an independent nonindustrial cause and so long as it is clear that the real operative factor is the progression of the compensable injury, associated with an exertion that in itself would not be unreasonable under the circumstances.¹

A claimant bears the burden of proof to establish a claim for a consequential injury. As part of this burden, she must present rationalized medical opinion evidence, based on a complete factual and medical background, showing causal relationship. Rationalized medical evidence is evidence which relates a work incident or factors of employment to a claimant's condition, with stated reasons of a physician. The opinion must be one of reasonable medical certainty and must

¹ *Clement Jay After Buffalo*, 45 ECAB 707, 715 (1994).

be supported by medical rationale explaining the nature of the relationship of the diagnosed condition and the specific employment factors or employment injury.²

ANALYSIS

The Office accepted that appellant sustained a herniated disc as a result of her employment and authorized surgery. Appellant underwent a second surgery due to an infection. She filed a notice of occupational disease contending that as a result of her accepted employment injury and surgeries she developed osteoporosis at L1-2.

The Board finds that appellant has not submitted sufficient medical evidence to establish a causal relationship between her osteoporosis and the accepted back injury and surgeries. Dr. Jones opined that her second spine surgery in 2007 was due to an infection resulting from the first surgery; but he failed to provide a diagnosis of osteoporosis or address whether this condition was related to her surgeries. For these reasons, his reports are not sufficient to meet appellant's burden of proof.

Dr. Hockenberry diagnosed osteoporosis based on a bone scan. He did not provide any opinion as to the cause of appellant's osteoporosis. Rather, Dr. Hockenberry indicated that this condition was the result of postmenopausal estrogen deficiency. These reports did not provide a history of employment injury or address whether there is a causal relationship between appellant's osteoporosis and her employment. Due to these deficiencies, these reports are not sufficiently detailed to meet her burden of proof.

On July 21, 2009 Dr. Goode diagnosed chronic low back pain and lumbar spondylosis. He did not diagnose osteoporosis or suggest that appellant's employment injury or resulting surgery caused a consequential condition. The Board finds that appellant has not submitted detailed medical opinion evidence to establish a causal relationship between her osteoporosis and her accepted back injury and resulting surgeries.

CONCLUSION

The Board finds that appellant failed to establish that she developed osteoporosis as a result of her accepted employment injuries.

² *Charles W. Downey*, 54 ECAB 421 (2003).

ORDER

IT IS HEREBY ORDERED THAT the February 22, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 18, 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