



Dr. Mavian reviewed an MRI scan which noted degenerative changes at L4-5, marked degeneration at L5-S1 with decreased disc spaces and some protrusions at L4-5 and L5-S1. He stated in a January 23, 2007 report that appellant was unsure as to whether his condition was work related. Dr. Mavian was unable to state whether appellant's condition was work related given the short time of the encounter. In an April 2, 2007 treatment note, Dr. Jordan stated that appellant worked as a mail carrier on December 24, 2006 through snowy and adverse conditions and that he "apparently" injured his back while carrying mail and developed a disc bulge. He opined that appellant's condition was caused or aggravated by his employment activities and that the mechanism of carrying mail was consistent with injury.

In a decision dated May 23, 2007, the Office denied appellant's claim, finding that he did not submit sufficient medical evidence to establish a causal relationship between his back condition and factors of employment. In an April 8, 2008 decision, an Office hearing representative affirmed the May 23, 2007 decision.

In a January 29, 2009 decision,<sup>1</sup> the Board affirmed the Office's April 8, 2008 decision. The Board found that he failed to submit medical evidence sufficient to establish that his work duties caused or aggravated his diagnosed lumbar condition. The facts of this case are set forth in the Board's January 29, 2009 decision and are herein incorporated by reference.

By letter dated May 3, 2009, appellant's attorney requested reconsideration. In an April 14, 2009 report, Dr. Richard M. Ward, Board-certified in orthopedic surgery, stated that, based on the history, as related, appellant injured his back on December 22, 2006. He stated that appellant specifically remembered that on December 22, 2006 he was bending and lifting heavier than usual bundles of mail and when he developed pain in his low back which spread to his right lower extremity. Appellant underwent an MRI scan on December 27, 2006, just five days later, that showed a disc protrusion, mainly on the right side at the L4-5 level, consistent with right-sided radicular pain. Dr. Ward stated that the disc protrusion might have existed prior to the December 22, 2006 injury; however, if it did, it was totally asymptomatic and was made symptomatic by the December 22, 2006 incident, based on a medical probability.

In a decision dated December 14, 2009, the Office denied the claim, finding that appellant failed to submit medical evidence sufficient to establish that his claimed lumbar condition was related to factors of employment.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> 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

---

<sup>1</sup> Docket No. 08-1537 (issued January 29, 2009).

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

for which compensation is claimed are causally related to the employment injury.<sup>3</sup> 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.<sup>4</sup>

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 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.<sup>5</sup>

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.<sup>6</sup>

### ANALYSIS

It is not contested that appellant's work duties as a letter carrier include lifting and carrying mail on his route. He has failed to submit medical opinion containing a rationalized explanation that relates his low back condition to the accepted factors of his employment. For this reason, appellant has not established his claim for compensation benefits.

Appellant submitted the report from Dr. Ward, who related appellant's assertion that he injured his back while bending and lifting heavy bundles of mail on December 22, 2006. Dr. Ward provided the diagnosis of disc protrusion at L4-5 as demonstrated by a December 27, 2006 MRI scan. He advised that if appellant had a disc protrusion prior to the December 22, 2006 injury it was totally asymptomatic and was made symptomatic by the December 22, 2006 injury, based on a medical probability. Dr. Ward did not provide a fully-rationalized medical

---

<sup>3</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>4</sup> *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>5</sup> *Id.*

<sup>6</sup> *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

opinion addressing how appellant's lumbar condition.<sup>7</sup> He did not describe appellant's bending or lifting activities on December 22, 2006 or how his work would be competent to cause the diagnosed disc protrusions. Dr. Ward's opinion is of limited probative value because it is equivocal on causal relationship. He only noted the "medical probability" that appellant's condition was made symptomatic by the alleged December 22, 2006 work injury. The Board notes that the history of injury appellant provided to Dr. Ward was not previously reported by any other physician of record or by the employing establishment.<sup>8</sup> This suggests that Dr. Ward did not obtain an accurate history of injury. His description conflicts with that appellant provided Dr. Jordan, who stated in an April 2, 2007 report that appellant had apparently injured his back while carrying mail. Dr. Adams advised that appellant did not sustain a new injury as of December 26, 2006. 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.<sup>9</sup> Dr. Ward 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. His report thus did not constitute adequate medical evidence to establish that appellant's claimed lower back condition was causally related to his 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 his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.<sup>10</sup> 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 his claim; however, he failed to submit such evidence. Consequently, appellant has not met his burden of proof in establishing that his claimed lower back condition was causally related to his employment.

### **CONCLUSION**

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

---

<sup>7</sup> *William C. Thomas*, 45 ECAB 591 (1994).

<sup>8</sup> *See Geraldine H. Johnson*, 44 ECAB 745 (1993).

<sup>9</sup> *See Anna C. Leanza*, 48 ECAB 115 (1996).

<sup>10</sup> *Id.*

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 14, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 14, 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