

aware of her condition on March 19, 2009, but did not realize it was employment related until March 22, 2009.

Appellant submitted reports dated March 30 and April 1, 2009 from Dr. Robert D. Hibler, an attending Board-certified internist, who noted that appellant was seen on March 30, 2009 and evaluated for muscle spasm and low back pain due to prolonged sitting at her desk. In an April 24, 2009 attending physician's report, Dr. Hibler diagnosed low back pain with spasm and checked "yes" to the question of whether the condition was employment related. He completed a work capacity evaluation form that date which provided work restrictions of frequent breaks.

In an undated disability note, Karen Forbes, a physician's assistant, released appellant to return to work on March 24, 2009. She indicated that the disability was occupational.

In an undated statement, appellant related that she experienced back pain for approximately a year and, when she rose from her chair while at work on March 18, 2009, she felt sharp back pain. She was unable to stand up straight for several minutes and found it painful to walk. Appellant's back pain continued for several days and she contacted her health care provider on March 23, 2009.

In a June 22, 2009 decision, the Office denied appellant's claim finding that the medical evidence was insufficient to establish that her back condition was causally related to her use of a chair at work.

On July 28, 2009 appellant requested reconsideration and resubmitted her statement; diagnostic studies and treatment records from Kaiser Permanente dated from 2006 through 2008; and treatment notes dated March 30 and July 23, 2009 from Dr. Hibler who reiterated that appellant was seen for low back pain radiating into her legs that occurred when bending or lifting. Dr. Hibler noted that her job required appellant to sit at a computer all day. He advised treating appellant on March 30, 2009 for low back pain which began on March 18, 2009 while appellant was at work. On physical examination, Dr. Hibler found low back muscle spasm aggravated by lumbar spine extension and forward bending. He stated that appellant's work duties included extended periods of remaining seated while using a computer. An ergonomic evaluation was recommended after discussion of her work environment and her back pain. The diagnostic studies submitted from Kaiser Permanente include a May 5, 2009 x-ray of the lumbar spine which was reported as within normal limits. A magnetic resonance imaging scan of the pelvis obtained that date revealed an enlarged fibroid laden uterus and mild degenerative desiccation at L5-S1.

By decision dated October 22, 2009, the Office denied modification of the June 22, 2009 decision.

LEGAL PRECEDENT

An occupational disease or illness means a condition produced in the work environment over a period longer than a single workday or shift by such factors as systemic infection,

continued or repeated stress or strain or other continued or repeated conditions or factors of the work environment.¹

To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) medical evidence establishing the presence or existence of a condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the condition; and (3) medical evidence establishing that the employment factors identified by the employee were the proximate cause of the condition or illness, 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 employee.²

Causal relationship is a medical issue and the medical evidence required to establish causal relationship is rationalized medical evidence.³ 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 an employee's diagnosed conditions and the implicated employment factors.⁴ 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 conditions and the specific employment factors identified by the employee.⁵

ANALYSIS

It is not disputed that appellant's duties as a program analyst include prolonged sitting during computer use. On April 14, 2009 the Office advised appellant of the medical evidence needed to establish her claim. The Board finds that appellant did not submit a rationalized medical report from an attending physician addressing how the use of her chair at work caused or aggravated her back condition.

Dr. Hibler advised that he treated appellant on March 30, 2009 for low back complaints she related to prolonged sitting at work. He noted that she experienced pain on March 18, 2009 while at work and that her duties included extended periods of seated work while at a computer. Dr. Hibler also advised that appellant experienced back pain with bending and lifting. On examination, he found that she had back spasm and low back pain. The Board finds that the reports of Dr. Hibler are not sufficient to establish appellant's claim. Dr. Hibler generally addressed her work while seated and that she experienced an episode of intense back pain on March 18, 2009. His reports do not, however, provide a thorough review of appellant's history

¹ *Donald W. Wenzel*, 56 ECAB 390 (2005); *William Taylor*, 50 ECAB 234 (1999); *see also* 20 C.F.R. § 10.5(q).

² *D.D.*, 57 ECAB 734 (2006); *Donna L. Mims*, 53 ECAB 730 (2002).

³ *David Apgar*, 57 ECAB 137 (2005)

⁴ *G.G.*, 58 ECAB 389 (2007); *Kathryn E. Demarsh*, 56 ECAB 677 (Docket No. 05-269, issued August 18, 2005).

⁵ *J.M.*, 58 ECAB 303 (2007); *Roy L. Humphrey*, 57 ECAB 238 (2005).

of low back pain or of any medical treatment prior to his examination of March 30, 2009.⁶ Appellant noted that she had experienced low back pain for over a year and submitted diagnostic studies that included a finding of mild degenerative desiccation at L5-S1. The record does not establish that she provided this information to Dr. Hibler for his review. Although Dr. Hibler described muscle spasm and low back pain on examination; he did not provide a firm medical diagnosis of appellant's low back condition.⁷ He did not address whether she sustained a soft tissue sprain or strain. Moreover, Dr. Hibler's opinion on causal relationship consists largely of a checkmark on the April 24, 2009 attending physician form report. It is well established that a physician's opinion on causal relation that consists of checking "yes" to a medical form question is of diminished probative value.⁸ Dr. Hibler did not adequately address how prolonged sitting at work would cause or contribute to appellant's low back symptoms

Appellant submitted a disability note from a physician's assistant noting her release to work on March 24, 2009. A physician's assistant is not a physician as defined under the Act.⁹ Therefore, this note has no probative medical value and does not support appellant's claim.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that a condition became apparent during a period of employment or the belief that the condition was caused, precipitated or aggravated by employment activities is sufficient to establish causal relationship.¹⁰ Causal relationships must be established by rationalized medical opinion evidence. Appellant failed to submit sufficient medical evidence and the Office properly denied her claim.

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that she sustained a low back condition causally related to her federal employment.

⁶ Medical opinions based on an incomplete history are of diminished probative value. See *James R. Taylor*, 56 ECAB 537 (2005).

⁷ See *A.D.*, 58 ECAB 149 (2006). The absence of a firm medical diagnosis reduces the probative value of a physician's report.

⁸ See *Cecelia M. Corley*, 56 ECAB 662 (2005).

⁹ *J.M.*, 58 ECAB 303 (2007); *David P. Sawchuk*, 57 ECAB 316 (2006).

¹⁰ See *S.S.*, 59 ECAB ____ (Docket No. 07-579, issued January 14, 2008); *D.D.*, 57 ECAB 734 (2006); *Paul E. Thams*, 56 ECAB 503 (2005); *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

ORDER

IT IS HEREBY ORDERED THAT the October 22, 2009 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: October 7, 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