

In a July 9, 2007 statement, a supervisor advised that it was safer for appellant to “deliver the route park and loop,” rather than driving, because driving required him to get in and out of the vehicle for every delivery. By letter dated November 14, 2007, the Office advised appellant that it was developing his claim as a new occupational claim, since he had identified new work factors. It requested that he submit additional factual and medical evidence.

With respect to medical evidence, appellant submitted reports from Dr. James Reynolds, an orthopedic surgeon. On May 18, 2006 Dr. Reynolds listed a history of a 2002 motor vehicle accident and provided results on examination. He stated that appellant had either a herniated disc or central stenosis. In a report dated June 29, 2006, Dr. Reynolds stated that appellant’s first injury occurred in a motor vehicle accident in 2001, and he “reinjured himself with increased workload in 2004. Appellant, again, has aggravated his condition and reinjured himself because of increased workload.” By report dated July 14, 2006, Dr. Reynolds diagnosed lumbar facet syndrome. He stated that the motor vehicle accident occurred in either January 2001 or January 2002. In a report dated January 16, 2007, Dr. Reynolds stated that appellant continued to have cervical, thoracic, and lumbar problems that progressed since the date of injury in 2001, and progressively increased symptoms in these areas because of his workload. According to him, appellant had been off work for one month recently due to his back condition. Dr. Reynolds diagnosed herniated discs at C5-6 and L2-3.

By decision dated January 3, 2008, the Office denied the claim for compensation. It found the factual and medical evidence was insufficient to establish the claim.

Appellant requested a hearing before an Office hearing representative, which was held on May 27, 2008. At the hearing, he noted that he had to start walking his route in 2004. Appellant stated that walking up hills aggravated his condition and he was hoping to get “reinstated to keep seeing the doctor....”

In a decision dated August 18, 2008, the hearing representative affirmed the January 3, 2008 Office decision. The hearing representative found that appellant did not establish a new injury in April 2005 or a recurrence of his prior injuries.

On August 10, 2009 appellant requested reconsideration of his claim. He submitted an April 29, 2005 form report from a physician whose signature is illegible. The report listed chronic low back pain since a 2002 accident and that appellant should be off work April 29 and 30, 2005.²

By decision dated November 6, 2009, the Office denied modification of the August 18, 2008 decision.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees’ Compensation Act³ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative

² There is also an April 18, 2005 form report, but it is unclear whether this report was prepared or reviewed by a physician.

³ 5 U.S.C. §§ 8101-8193.

and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.⁴

To establish that an injury was sustained in the performance of duty, a claimant must submit: (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 diagnosed condition is causally related to the employment factors identified by the claimant.⁵

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁶ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁷ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁸

ANALYSIS

Appellant filed a Form CA-2a, notice of recurrence of disability, on July 12, 2007 and identified a prior January 30, 2002 injury, which apparently concerned a motor vehicle accident claim. The Office noted that in 2005 appellant had filed a CA-2a, apparently under a prior occupational claim. As appellant alleged new work exposures on the July 12, 2007 claim form, the Office adjudicated the claim as a new injury claim. The issue is whether appellant established a new occupational injury.⁹

The Board notes that appellant did not submit a detailed factual statement regarding the work factors alleged to have caused an injury. Appellant referred to having to walk up hills, without clearly explaining the implicated job duties, when these activities occurred or how much hill climbing was involved on his route. He referred briefly to 2004, but is unclear when in 2004 his route changed or how long it lasted.

⁴ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁵ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁶ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁷ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ *Id.*

⁹ The Office decisions dated August 18, 2008 and November 6, 2009 also refer to a recurrence of disability. To the extent it was attempting to adjudicate a recurrence of disability claim, it would not be appropriate under this claim. As noted, it is not clear what appellant was claiming, but any claim for a recurrence of disability should be adjudicated pursuant to the underlying accepted injury claim.

As noted, to meet his burden of proof appellant must also submit rationalized medical evidence. In this case, Dr. Reynolds noted briefly an “increased workload” without further explanation. A rationalized opinion is an opinion based on an accurate factual and medical background and supported by rationale explaining causal relationship between a diagnosed condition and the identified employment factors. The reports of the physician failed to provide any factual or medical review of appellant’s cervical or lumbar conditions or explain how the herniated discs at C5-6 or L2-3 were caused or contributed to by appellant’s dates on his postal route. The Board finds appellant did not submit sufficient factual or medical evidence to meet his burden of proof.¹⁰

CONCLUSION

The Board finds appellant did not establish an injury causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers’ Compensation Programs dated November 6, 2009 is affirmed.

Issued: February 8, 2011
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

¹⁰ The Board’s jurisdiction is limited to evidence that was before the Office at the time of its final decision. 20 C.F.R. § 501.2(c).