

He asserted that he experienced an aggravation of an injury which required surgery 17 years prior. Appellant went to a physician for treatment of his left leg but was subsequently referred to another physician, who diagnosed his back condition and recommended surgery.

On February 23, 2009 the Office advised appellant that it required additional factual and medical evidence to determine his eligibility for benefits. It asked him to submit a comprehensive report from a treating physician describing his condition and an opinion as to whether the claimed condition was causally related to his federal employment.

Appellant submitted an undated Form CA-17, which outlined work restrictions and indicated that he could work an eight-hour day.

In a February 2, 2009 report, Dr. Robert L. Ledford, Board-certified in internal medicine, stated that appellant had been experiencing lumbago for a week. Appellant's back began to stiffen up due to lifting at work. Dr. Ledford related that appellant began to have a tingly feeling in his left leg three days prior similar to that which he experienced when he previously underwent back surgery.

On February 4, 2009 Dr. Daniel S. Burrus, Board-certified in orthopedic surgery, advised that appellant experienced back and left lower extremity pain for approximately five days, which became severe. Appellant did not relate a specific history of injury but described a previous lumbar laminectomy in 1991. He considered his current pain similar to that he experienced at that time. Appellant also referenced an arthritis condition. On examination Dr. Burrus found that appellant had some mild dysrhythmia with mild sciatic tension on the right. He stated that lumbar x-ray results showed degenerative changes, particularly at L4-5 and L5-S1. Dr. Burrus diagnosed lumbar radicular syndrome. In a February 13, 2009 report, he again stated that appellant had some positive sciatic tension and suspected a disc herniation. Dr. Burrus noted lower extremity pain, numbness and tingling that varied in intensity.

Appellant underwent a magnetic resonance imaging (MRI) scan on February 13, 2009. At the L4-5 level, he had a small right posterolateral cranial extrusion or sequestration abutting the exiting right L4 root and displacing the right L5 root. There was also a suspected tiny left posterolateral caudal extrusion or sequestration. The MRI scan showed posterior endplate spurs about the left S1 root at the L4-5 level, with minimal indication of disc herniation.

In a March 3, 2009 report, Dr. Ledford stated that appellant was experiencing back pain. He opined that appellant's back pain was partly attributable to his work-related lifting and bending for more than 20 years.

By decision dated April 17, 2009, the Office denied the claim, finding that appellant failed to submit sufficient medical evidence to establish that his back condition was related to factors of employment.

On July 3, 2009 appellant requested reconsideration.

A March 11, 2009 report from Tennessee Orthopedic Alliance listed that appellant could return to light duty on March 16, 2009 with restrictions on lifting, bending, twisting and prolonged sitting/standing.

In a May 8, 2009 report, Dr. Ledford stated that he examined appellant on February 2, 2009, at which time he complained of left leg and low back pain. He advised that the cause was sciatica, which was a lower back problem. Dr. Ledford opined that appellant had a history of sciatica, which triggered his leg and back pain.

In a May 18, 2009 note, Dr. John Klemin, a chiropractor, stated that he treated appellant for a health condition. He released appellant to return to normal duties as of May 18, 2009.

In a report dated May 28, 2009, Dr. W. Casey Beardon, a chiropractor, stated that appellant underwent spinal decompression and manipulative therapy from March 4 to April 21, 2009 to treat a chronic, recurring, bulging disc, with stenosis of the lumbar spine. He opined that appellant's condition largely stemmed from residuals of his previous lumbar surgery, complicated and accelerated by the repetitive movements required by his job.

By decision dated September 16, 2009, the Office denied modification of the April 17, 2009 decision.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² 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 for which compensation is claimed are causally related to the employment injury.³ 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.⁴

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

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 42 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

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.⁵

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.⁶

ANALYSIS

The Board finds that appellant failed to submit sufficient medical evidence to establish that his claimed low back condition was related to factors of his employment. For this reason, he has not discharged his burden of proof.

Appellant submitted reports from Drs. Ledford and Burrus, who related findings of lower back pain on examination and diagnosed lumbago, lumbar radicular syndrome and degenerative arthritis at L4-5 and L5-S1. Neither physician, however, provided rationalized medical opinion addressing how the claimed conditions or disability was causally related to his employment duties. Dr. Ledford stated in a February 2, 2009 report that appellant had experienced back stiffness because his job duties entailed frequent lifting. He related that appellant also had tingling in his left leg, which he likened to the sensation he experienced when he underwent back surgery in 1991. Dr. Ledford stated that appellant had lumbago. On March 3, 2009 he reiterated that appellant was experiencing back pain, which he attributed to 20 years of work-related lifting and bending. On May 8, 2009 Dr. Ledford noted again that appellant had complaints of left leg pain and lower back pain and diagnosed sciatica, the condition which triggered his leg and lower back pain. His opinion, however, is of limited probative value as it does not provide a full history of appellant's preexisting lumbar condition or medical rationale as to how his low back condition was currently related to factors of employment.⁷ 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.⁸ Dr. Ledford 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.

Dr. Burrus stated on February 4, 2009 that appellant had been experiencing back, left leg and left lower extremity pain which became progressively worse. He briefly listed a prior lumbar laminectomy in 1991 and that the current symptoms were similar to those at the time of his surgery. Dr. Burrus advised that appellant did not attribute his symptoms to any specific

⁵ *Id.*

⁶ See *Nicolea Brusco*, 33 ECAB 1138, 1140 (1982).

⁷ *William C. Thomas*, 45 ECAB 591 (1994).

⁸ See *Anna C. Leanza*, 48 ECAB 115 (1996).

injury. He diagnosed lumbar radicular syndrome, sciatica and degenerative arthritis at L4-5 and L5-S1. On February 13, 2009 Dr. Burrus stated that appellant had some lingering sciatic tension, numbness and tingling, with a suspected disc herniation. The reports are of limited probative value as Dr. Burrus did not explain how appellant's job duties caused the diagnosed conditions. He did not address appellant's preexisting conditions in any detail or how appellant's work duties were competent to cause the diagnosed conditions. The February 13, 2009 MRI scan was inconclusive for disc herniation.

Appellant also submitted the May 18 and 28, 2009 chiropractic reports from Drs. Klemin and Beardon; however, they do not constitute medical evidence from a physician as there was no diagnosis of subluxation as demonstrated by x-ray.⁹

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.¹⁰ 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.

⁹ See 5 U.S.C. § 8101(2).

¹⁰ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the September 16, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 10, 2011
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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