

In the medical portion an authorization for examination and/or treatment (Form CA-16) dated August 4, 2009, Dr. James Chambliss diagnosed cervalgia and lumbago, but provided no opinion as to whether the conditions were employment related. He noted appellant's history of the injury as a traumatic fall with back and neck pain. Dr. Chambliss diagnosed lumbago and neuralgia in an August 4, 2009 CA-17 form and that she injured herself on July 28, 2008 when she slipped on a ramp and landed on her back and head.

In progress notes dated August 13 to 26, 2009, Dr. Chambliss noted the injury occurred when appellant slipped on a wet ramp on July 28, 2009 while delivering mail and fell on her back and neck. He diagnosed cervalgia, back pain and neurologic deficit. In September 2 and 9, 2009 progress notes, Dr. Chambliss diagnosed headaches and cervalgia and diagnosed cervalgia in September 16 and 29, 2009 notes. He noted the history of the injury, diagnosed cervalgia and headache and provided work restrictions in an October 27, 2009 CA-17 form.

In a November 5, 2009 letter, the Office informed appellant that her claim had been handled administratively to allow medical payments of up to \$1,500.00, but was to be adjudicated on the merits as medical benefits exceeded that amount. It informed her that the medical evidence currently of record was insufficient to support her claim and advised her as to the medical evidence required to establish a compensable injury.

Appellant subsequently submitted progress notes dated August 4 to November 20, 2009 from Dr. Chambliss, who noted her injury history and diagnosed cervalgia, headache and back pain.

An August 14, 2009 cervical spine magnetic resonance imaging (MRI) scan was essentially normal with minimal C5-6 and C6-7 central disc protrusion and some normal cervical lordotic curvature straightening. Similarly, the lumbar spine MRI scan reported findings within normal limits and a minimal L5-S1 central disc bulge.

By decision dated December 15, 2009, the Office denied appellant's claim finding insufficient medical evidence explaining how the diagnosed conditions were causally related to the July 28, 2009 incident at work.

On January 11, 2010 appellant's counsel requested an oral hearing before an Office hearing representative, which was held on April 7, 2010.

Following the hearing appellant submitted a December 3, 2009 report from Dr. Lon Burba, an examining physician, with an electromyograph (EMG) report. Dr. Burba related that on July 28, 2009 she slipped on a wet ramp and fell on her back which caused headaches and neck pain. He diagnosed cervical spasms, cervical headaches with retro-orbital pain or post-traumatic migraines and confusional spells. Appellant's examination was essentially normal except for the findings of tenderness over the greater occipital nerves and stiff neck. Dr. Burba attributed her headaches to pressure beginning in the occipital nerve distribution which radiated to the back of her head. The EMG report noted right condylar groove syndrome, right carpal tunnel syndrome and mild chronic C5 and C7 dorsal root denervation due to degenerative disc disease.

On May 5, 2010 Dr. Scott M. Schlesinger, an examining Board-certified neurological surgeon, reported appellant's ulnar neuropathy complaints began following her fall at work. He assumed the history given by her was correct and concluded that "she must have injured the ulnar nerve during the fall and developed symptoms of ulnar neuropathy at the elbow." Dr. Schlesinger noted that it was possible to develop ulnar neuropathy with no trauma. Considering the lack of symptoms prior to the injury, he concluded that appellant's ulnar neuropathy was a result of her fall at work.

By decision dated May 25, 2010, the Office hearing representative affirmed the denial of her claim.

LEGAL PRECEDENT

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.² First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.³ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁴

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.⁵ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and the compensable employment factors.⁶ 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 condition and the specific employment factors identified by the employee.⁷

ANALYSIS

The Office accepted the July 28, 2009 employment incident at work in which appellant fell on a ramp. Appellant's burden is to demonstrate the established employment incident caused an injury. Causal relationship is a medical issue that can only be established by probative medical opinion evidence. Appellant has not submitted sufficient medical opinion evidence

² *John J. Carlone*, 41 ECAB 354 (1989); *B.F.*, Docket No. 09-60 (issued March 17, 2009).

³ *D.B.*, 58 ECAB 464 (2007); *Paul Foster*, 56 ECAB 208 (2004).

⁴ *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, 57 ECAB 364 (2006); *see also C.B.*, Docket No. 08-1583 (issued December 9, 2008).

⁵ *A.D.*, 58 ECAB 149 (2006); *Michael S. Mina*, 57 ECAB 379 (2006); *see also Y.J.*, Docket No. 08-1167 (issued October 7, 2008).

⁶ *Sedi L. Graham*, 57 ECAB 494 (2006); *J.J.*, Docket No. 09-27 (issued February 10, 2009).

⁷ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

supporting her claim. The Board finds that she has not established that she sustained an injury in the performance of duty on July 28, 2009, causally related to her employment.

In support of her claim appellant submitted MRI scans of the cervical and lumbar spine, duty status reports and medical reports from Drs. Chambliss, Burba and Schlesinger. The reports from Drs. Chambliss and Burba have limited probative value on causal relationship because they lack an opinion explaining how the established employment incident caused the conditions they diagnosed.⁸ In his various reports and duty status reports from August 4 to November 20, 2009, Dr. Chambliss provided diagnoses of cervalgia, headache and back pain. While he related that appellant's injury occurred at work when she slipped on a wet ramp and fell on to her back and head, he never stated that this injury was the cause of the diagnosed conditions. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.⁹ The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record and provide medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.¹⁰ Therefore, Dr. Chambliss' medical reports are insufficient to meet appellant's burden of proof.

Similarly, Dr. Burba's December 3, 2009 report is also insufficient to meet appellant's burden of proof. He noted that she sustained a work injury on July 28, 2009 when she slipped on a wet ramp and fell on her back which caused headaches and neck pain. Dr. Burba noted an essentially normal examination and diagnosed cervical spasms, cervical headaches with retro-orbital pain or post-traumatic migraines and confusional spells. He did not explain how the diagnosed cervical spasms, cervical headaches with retro-orbital pain or post-traumatic migraines and confusional spells were caused or contributed to by the July 28, 2009 employment incident.¹¹ Moreover, the Board notes that pain is generally considered a symptom, not a firm medical diagnosis.¹² Thus, Dr. Burba's opinion is insufficient to establish that the diagnosed conditions were caused or aggravated by appellant's employment injury.

The record also contains a May 5, 2010 report from Dr. Schlesinger diagnosing ulnar neuropathy which he attributed to appellant's employment fall on July 28, 2009. Dr. Schlesinger attributed this condition to the employment injury as she had no problems prior to the fall while

⁸ *Elizabeth H. Kramm (Leonard O. Kramm)*, 57 ECAB 117 (2005); *Mary E. Marshall*, 56 ECAB 420 (2005); *see F.T.*, Docket No. 09-919 (issued December 7, 2009); (medical reports that do not contain rationale on causal relationship have little probative value).

⁹ *Jaja K. Asaramo*, 55 ECAB 200 (2004); *C.B.*, Docket No. 09-2027 (issued May 12, 2010); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

¹⁰ *See Roy L. Humphrey*, 57 ECAB 238 (2005); *Lee R. Haywood*, 48 ECAB 145 (1996).

¹¹ *See Gloria J. McPherson*, 51 ECAB 441 (2000) (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).

¹² *Robert Broome*, 55 ECAB 339 (2004); *C.F.*, Docket No. 08-1102 (issued October 10, 2008).

noting that it was possible to develop ulnar neuropathy with no trauma. The Board notes that the mere fact that a condition arises after an injury and was not present before an injury is not sufficient to support causal relationship.¹³ Furthermore, Dr. Schelsinger's report lacked a clear explanation on the causal connection of appellant's ulnar neuropathy to her fall on July 28, 2009 and failed to support such explanation with medical evidence. Medical reports not fortified by rationale on causal relationship are of diminished probative value and are insufficient to meet a claimant's burden of proof.¹⁴

The August 14, 2009 lumbar and cervical MRI scans and EMG report insufficient to establish appellant's claim as the issue of causal relationship was not addressed in the reports.¹⁵

An award of compensation may not be based on surmise, conjecture or speculation.¹⁶ Neither the fact that appellant's claimed condition became apparent during a period of employment nor her belief that her condition was aggravated by her employment is sufficient to establish causal relationship.¹⁷ The fact that a condition manifests itself or worsens during a period of employment¹⁸ or that work activities produce symptoms revelatory of an underlying condition¹⁹ does not raise an inference of causal relationship between a claimed condition and an employment incident.

Because appellant has not submitted competent medical opinion evidence containing a reasoned discussion of causal relationship, one that soundly explains how the accepted employment incident caused or aggravated a firmly diagnosed medical condition, the Board finds that she has not established the essential element of causal relationship.

On appeal, appellant's counsel contends that the Office's decisions are contrary to fact and law. As noted, however, the medical evidence of record is not sufficient to establish a diagnosed condition causally related to her accepted July 28, 2009 employment incident.

CONCLUSION

The Board finds appellant has not established that she sustained an injury in the performance of duty on July 28, 2009, causally related to her employment.

¹³ *Michael S. Mina*, 57 ECAB 379 (2006).

¹⁴ *Cecelia M. Corley*, 56 ECAB 662 (2005).

¹⁵ *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, *supra* note 9; *Michael E. Smith*, 50 ECAB 313 (1999).

¹⁶ *D.D.*, 57 ECAB 734 (2006); *Paul E. Thams*, 56 ECAB 503 (2005); *E.J.*, Docket No. 09-1481 (issued February 19, 2010).

¹⁷ *Sandra D. Pruitt*, 57 ECAB 126 (2005); *W.D.*, Docket No. 09-658 (issued October 22, 2009).

¹⁸ *E.A.*, 58 ECAB 677 (2007); *Albert C. Haygard*, 11 ECAB 393 (1960).

¹⁹ *D.E.*, 58 ECAB 448 (2007); *Fabian Nelson*, 12 ECAB 155 (1960).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated May 25, 2010 is affirmed.

Issued: July 8, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board