



employing establishment physician reported that she fell that date while working on a sloping panel. Appellant informed him that her back hurt and she was having spasms.

On November 1, 2009 appellant filed a recurrence for medical treatment. She stated that after her September 1, 1999 injury, she never took time off from work, but that she was placed on light duty. Appellant noted that her back had always given her problems and was getting worse with time. She indicated that she sustained two other work-related back injuries in September 1996 and August 1998.

In a letter dated February 1, 2010, the Office informed appellant that as her September 1, 1999 injury was minor, with no time lost, it paid a limited amount of medical expenses without fully developing her claim. Based upon her current claim, it informed her that it would adjudicate whether she experienced a work-related injury on the date in question. The Office advised appellant that the information submitted was insufficient to establish her claim and requested additional information, including a detailed account of the alleged injury and a physician's report, with a diagnosis and a rationalized opinion as to how the diagnosed condition was caused or aggravated by the claimed incident.

Appellant submitted progress notes for the period September 25, 2001 through January 9, 2007 from Dr. Khalid K. Al-Sharif, a Board-certified internist, who treated her for chronic conditions, including chronic obstructive pulmonary disease (COPD), migraines and back pain. On September 25, 2001 Dr. Al-Sharif diagnosed muscular pain, COPD, right shoulder bursitis and migraines. On November 27, 2001 he diagnosed muscular neck and back spasms, migraine, fatigue and gastroesophageal reflux disease (GERD). On January 24, 2002 Dr. Al-Sharif diagnosed lumbar strain, which he stated was improving, and noted appellant's complaints of continued back pain. On February 18, 2002 he diagnosed chronic lower back pain which he stated had increased. On March 1, 2002 Dr. Al-Sharif diagnosed chronic lower back pain and sinusitis. On March 19, 2002 he diagnosed chronic lower back pain and lumbar strain and recommended ruling out radiculitis.

On September 7, 2002 Dr. Al-Sharif provided a history of appellant's back condition. He noted that in November 2001 she fractured her tail bone at T7. In 1996 appellant slipped and again fell on her tail bone. Also in 1996 she was hit by a solid metal aircraft stand which pushed against her back.<sup>2</sup> Since 1996 appellant "has been down with chronic back pain." Dr. Al-Sharif stated that her back pain had worsened since August 7, 2002 due to standing and working long hours on a concrete floor. He reported the results of an electromyogram (EMG) of the lower extremities, which he indicated was compatible with postganglionic sciatic nerve irritation. Dr. Al-Sharif noted a slight demyelination process and substantial axonal degeneration of the sciatic nerve bilaterally and centrally at L4-5. On October 15, 2002 he again diagnosed chronic lower back pain.

On April 15, 2003 Dr. Al-Sharif stated that appellant had experienced lower back pain on the previous Sunday morning. Appellant bent over and "when she stood up she felt pain." Dr. Al-Sharif again diagnosed lower back pain. On May 2 and 30, 2003 he again diagnosed chronic lower back pain. On June 30, 2003 Dr. Al-Sharif added the diagnosis of sciatica. Notes

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<sup>2</sup> The record does not reflect that appellant filed claims with the Office for these alleged incidents.

dated March 26, 2004 reflect a diagnosis of lumbar radiculopathy, lower back pain and GERD. On May 21, 2004 Dr. Al-Sharif diagnosed lower back pain, sinusitis and bronchitis.

On January 26, 2006 Dr. Al-Sharif noted appellant's complaints of pain down both legs. He diagnosed lower back pain and recommended ruling out a herniated disc. Notes dated January 9, 2007 repeated the diagnosis of lumbar strain and contusion. Dr. Al-Sharif stated that appellant's back spasms began on January 3, 2002.

The record contains August 23, 2008 and April 7, 2009 reports of a magnetic resonance imaging (MRI) scan of the lower spine.

In a statement dated February 22, 2010, appellant indicated that she had never sustained an injury to her back outside of her federal employment. The only back injury she sustained since the September 16, 1999 incident occurred on November 3, 1999.

In a February 24, 2010 report, Dr. Jeffrey Rymuza, a Board-certified internist, indicated that he had treated appellant since January 30, 2006 for back pain resulting from injuries suffered at the employing establishment "to include date of injury September 16, 1999." He ordered an MRI scan to determine the cause of her pain on August 23, 2008. Dr. Rymuza stated that the "injury sustained September 16, 1999 cannot be ruled out as [a] contributing factor in findings from [the] MRI [scan]."

By decision dated April 27, 2010, the Office denied appellant's claim. It accepted that the September 16, 1999 work incident occurred as alleged, but found that the medical evidence was insufficient to relate appellant's back condition to the incident of September 16, 1999. The Office also denied her recurrence claim.

### **LEGAL PRECEDENT**

The Federal Employees' Compensation Act provides for payment of compensation for disability or death of an employee resulting from personal injury sustained while in the performance of duty.<sup>3</sup> The phrase "sustained while in the performance of duty" is regarded as the equivalent of the coverage formula commonly found in workers' compensation laws, namely, arising out of and in the course of employment.<sup>4</sup>

An employee seeking benefits under the Act has the burden of proof to establish the essential elements of 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 or specific condition for which compensation is claimed is causally related to the employment injury.<sup>5</sup> When an employee claims that she sustained a

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<sup>3</sup> 5 U.S.C. § 8102(a).

<sup>4</sup> This construction makes the statute effective in those situations generally recognized as properly within the scope of workers compensation law. *Charles E. McAndrews*, 55 ECAB 711 (2004); *see also Bernard D. Blum*, 1 ECAB 1 (1947).

<sup>5</sup> *Robert Broome*, 55 ECAB 339 (2004).

traumatic injury in the performance of duty, she must establish the fact of injury, consisting of two components, which must be considered in conjunction with one another. The first is whether the employee actually experienced the incident that is alleged to have occurred at the time, place and in the manner alleged. The second is whether the employment incident caused a personal injury and generally this can be established only by medical evidence.<sup>6</sup>

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.<sup>7</sup> An award of compensation may not be based on appellant's belief of causal relationship.<sup>8</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish a causal relationship.<sup>9</sup> Simple exposure to a workplace hazard does not constitute a work-related injury entitling an employee to medical treatment under the Act.<sup>10</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established incident or factor of employment. The opinion 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 established incident or factor of employment.<sup>11</sup>

### ANALYSIS

The Office accepted that appellant was a federal employee, that she timely filed her claim for compensation benefits and that the September 16, 1999 incident occurred as alleged. The issue is whether appellant submitted sufficient medical evidence to establish that the employment incident caused an injury. The medical evidence presented does not provide a rationalized medical opinion addressing how the work-related incident caused or aggravated her low back condition or disability. Therefore, appellant failed to satisfy her burden of proof.

The medical evidence submitted by appellant includes progress notes from Dr. Al-Sharif from September 25, 2001 through January 9, 2007. Although these notes listed appellant's

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<sup>6</sup> *Deborah L. Beatty*, 54 ECAB 340 (2003). See also *Tracey P. Spillane*, 54 ECAB 608 (2003); *Betty J. Smith*, 54 ECAB 174 (2002). The term injury as defined by the Act, refers to a disease proximately caused by the employment. 5 U.S.C. § 8101 (5). See 20 C.F.R. § 10.5(q)(ee).

<sup>7</sup> *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

<sup>8</sup> *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

<sup>9</sup> *Id.*

<sup>10</sup> 20 C.F.R. § 10.303(a).

<sup>11</sup> *John W. Montoya*, 54 ECAB 306 (2003).

treatment during this period of time, Dr. Al-Sharif did not provide findings on examination or adequate opinion as to the cause of her diagnosed conditions. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value.<sup>12</sup> The Board notes that on September 7, 2002 Dr. Al-Sharif provided a history of appellant's back condition, noting that she injured her tail bone in November 2001 and again in 1996, and that she was hit in the back by a solid metal aircraft stand in 1996. Dr. Al-Sharif also noted that her chronic back pain had worsened since August 7, 2002 due to standing and working long hours on a concrete floor. His reports did not include a history of the September 16, 1999 incident, or identify it as a possible cause for appellant's back condition. Rather, Dr. Al-Sharif did not attribute her back condition to the accepted incident but to other incidents as noted.

Dr. Al-Sharif failed to provide a firm medical connection to the accepted 1999 incident. His primary diagnosis was chronic lower back pain. The Board has held that pain is a general symptom, rather than a firm medical diagnosis.<sup>13</sup> Dr. Al-Sharif noted that appellant's pain was accompanied by spasms, which would also constitute a symptom, rather than a diagnosis. In 2002, he added the diagnosis of lumbar strain and reported the results of an EMG of the lower extremities, which he stated was compatible with postganglionic sciatic nerve irritation. Dr. Al-Sharif did not provide a medical narrative report based on a complete history of injury and medical treatment or adequate findings on examination to support his lumbar strain diagnosis or explain how the events of September 16, 1999 were competent to cause a lumbar strain or postganglionic sciatic nerve irritation. On January 9, 2007 he diagnosed lumbar strain and contusion and stated that appellant's back spasms began on January 3, 2002. Absent sufficient findings on examination or narrative explanation relating these conditions to the 1999 incident, Dr. Al-Sharif's reports are of limited probative value and are insufficient to establish her claim.

On February 24, 2010 Dr. Rymuza stated that he had treated appellant since January 30, 2006 for back pain resulting from injuries suffered at the employing establishment "to include date of injury September 16, 1999." He ordered an MRI scan on August 23, 2008 and stated that the "injury sustained September 16, 1999 cannot be ruled out as [a] contributing factor in findings from [the] MRI [scan]." Dr. Rymuza's report is deficient on several counts. It does not contain a full or complete history of injury, findings on examination or a definitive diagnosis. Although it refers to an MRI scan report, the record does not contain such a diagnostic study and Dr. Rymuza did not discuss any findings. Dr. Rymuza's report does not contain a definitive opinion as to the cause of appellant's condition. His statement to the effect that the September 16, 1999 incident "cannot be ruled out as [a] contributing factor in findings from [the] MRI [scan]" is speculative at best. As Dr. Rymuza did not provide a complete factual background or explain the nature of the relationship between appellant's back condition and the established incident, his report is of limited probative value, particularly in light of her multiple back injuries.<sup>14</sup>

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<sup>12</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>13</sup> *See C.F.*, Docket No. 08-1102 (issued October 10, 2008). *See also Robert Broome*, 55 ECAB 339, 342 (2004).

<sup>14</sup> *John W. Montoya*, 54 ECAB 306 (2003).

The remaining medical evidence of record includes EMG and MRI scan reports. As these reports do not contain an opinion as to the cause of appellant's condition, they are of limited probative value and are insufficient to establish her claim.

Appellant expressed her belief that her back condition resulted from the September 16, 1999 employment incident. The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.<sup>15</sup> Therefore, appellant's belief that her condition was caused by the work-related incident is not determinative.

The Office advised appellant that it was her responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment and the doctor's opinion, with medical reasons, on the cause of her condition. Appellant failed to submit appropriate medical evidence addressing how her claimed back condition was caused or aggravated by her employment. She has not met her burden of proof to establish that she sustained an injury in the performance of duty on September 16, 1999. The Board finds that the Office correctly determined that her recurrence claim was inappropriate, as her claimed injury was not accepted by the Office.<sup>16</sup>

### **CONCLUSION**

The Board finds that appellant has failed to meet her burden of proof to establish that she sustained a traumatic injury to her back in the performance of duty on September 16, 1999.

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<sup>15</sup> See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

<sup>16</sup> See *Paul E. Thams*, 56 ECAB 503 (2005). See also 20 C.F.R. § 10.5(y).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 27, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 16, 2011  
Washington, DC

Alec J. Koromilas, Judge  
Employees' Compensation Appeals Board

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

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