United States Department of Labor
Employees' Compensation Appeals Board

P.G., Appellant	)	
and	)	**Docket No. 10-1681**
	)	**Issued: March 1, 2011**
U.S. POSTAL SERVICE, POST OFFICE, Sterling, KS, Employer	)	

Appearances:
Alan J. Shapiro, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

JURISDICTION

On June 9, 2010 appellant filed a timely appeal from a May 12, 2010 merit decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

ISSUE

The issue is whether appellant met her burden of proof to establish that she sustained a traumatic injury in the performance of duty on March 1, 2008.

FACTUAL HISTORY

On October 22, 2008 appellant, then a 56-year-old rural letter carrier, filed a traumatic injury claim alleging that she was loading a postal vehicle with mail on March 1, 2008 when she tripped over a curb, fell and hit her back on a mail hamper causing a back injury. She did not stop work.

In an October 31, 2008 letter, the Office informed appellant that additional evidence was needed to establish her claim.

The employing establishment controverted the claim on November 6, 2008 on the basis that appellant did not seek immediate medical attention after the March 1, 2008 incident. It pointed out that she did not file the claim until seven months later.

In an October 31, 2008 statement, appellant specified that she could not rest and recuperate after her fall because she did not have sufficient leave and no substitute was available to cover for her. She denied any preexisting back conditions.

A November 7, 2008 report from Dr. Matthew Schlotterback, a Board-certified family practitioner, noted that appellant fell and hit her back on a mail hamper on March 1, 2008. He obtained spinal x-rays that appeared stable. Dr. Schlotterback diagnosed back pain and muscle strain. He checked "yes" in response to a form question asking whether appellant's condition was caused or aggravated by her employment and remarked that her pain started after the fall.

By decision dated December 19, 2008, the Office denied appellant's claim, finding that the evidence supported that the March 1, 2008 incident occurred but the medical evidence did not provide a definitive diagnosis.

Appellant requested reconsideration on December 17, 2009 and submitted a December 7, 2009 report from Dr. M. Camden Whitaker, a Board-certified orthopedic surgeon, who noted that appellant presented with severe low back and lower extremity pain. She related that the pain developed after she fell on March 1, 2008. Appellant told the physician that she had intermittent low back pain for eight years before the workplace fall exacerbated her condition and caused it to progress. A discogram and magnetic resonance imaging (MRI) scan demonstrated a degenerative L5-S1 disc. Dr. Whitaker recommended an anterior lumbar interbody fusion at L5-S1.

Appellant requested a telephone hearing on January 27, 2010. By decision dated March 1, 2010, the Office hearing representative denied her request on the grounds that it was not made within 30 days of the Office's December 19, 2008 decision. The Office hearing representative noted that the matter could be further addressed through the reconsideration process.[1]

In a March 24, 2010 report, Dr. Whitaker noted appellant's history of injury and stated that she had an anterior lumbar interbody fusion at L5-S1 about three months earlier. Appellant reported having intermittent back and leg symptoms for about eight years. Dr. Whitaker advised that she related having a fall on March 1, 2008 after which she had severe low back and leg symptoms. Appellant advised that her symptoms gradually diminished over a few weeks but after three months there was a gradual increase in the severity of her low back and bilateral leg symptoms. Regarding the March 1, 2008 workplace fall, Dr. Whitaker noted that appellant "said the injury occurred on March 1, 2008, when she tripped over a cement curb while loading a vehicle with mail. She fell, hitting the mail cart with her upper back and buttock, twisting the spine. [Appellant] mentioned that at that time the pain was so intense that she thought she would vomit."

[1] Appellant did not appeal this decision to the Board.

In a May 12, 2010 decision, the Office denied appellant's claim. It found the medical evidence insufficient to establish that her low back condition was causally related to the March 1, 2008 work incident.

LEGAL PRECEDENT

An employee seeking compensation under the Federal Employees' Compensation Act[2] has the burden of establishing the essential elements of her claim by the weight of reliable, probative and substantial evidence,[3] including that she is an "employee" within the meaning of the Act and that she filed her claim within the applicable time limitation.[4] The employee must also establish that she sustained an injury in the performance of duty as alleged and that her disability for work, if any, was causally related to the employment injury.[5]

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it first must be determined whether fact of injury has been established. There are two components involved in establishing fact of injury. First, the employee must submit sufficient evidence to establish that she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit evidence, in the form of medical evidence, to establish that the employment incident caused a personal injury.[6]

Causal relationship is a medical issue and the evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is evidence which includes 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. The opinion of the physician must be based on a complete factual and medical background, 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.[7]

ANALYSIS

The evidence supports that appellant was loading a vehicle with mail when she tripped over a curb and fell on March 1, 2008. However, she has not submitted sufficient medical evidence to establish that this employment incident caused or aggravated her low back condition.

Dr. Whitaker stated in his December 7, 2009 and March 24, 2010 reports that appellant had cervical, lumbar and lower extremity pain related to the March 1, 2008 fall, notably cervical

[2] 5 U.S.C. §§ 8101-8193.

[3] *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 57 (1968).

[4] *R.C.*, 59 ECAB 427 (2008).

[5] *Id.*; *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

[6] *T.H.*, 59 ECAB 388 (2008).

[7] *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

spondylosis and a degenerative L5-S1 disc. He noted that appellant described the injury as occurring on March 1, 2008, when she tripped over a cement curb, causing her to fall, hitting the mail cart with her upper back and buttock, twisting the spine. However, Dr. Whitaker appeared to relate appellant's belief regarding causal relationship.[8] He did not specifically offer his own opinion regarding whether the March 1, 2010 work incident caused or aggravated her low back condition. To the extent that his description of the work incident represents his opinion on causal relationship, he did not provide adequate medical rationale to explain why the fall on March 1, 2010 would cause or aggravate her low back condition. A medical opinion not fortified by medical rationale is of little probative value.[9] The need for medical reasoning is particularly important as Dr. Whitaker pointed out that appellant had preexisting back problems for eight years before the incident. Appellant had denied any preexisting back condition in an October 31, 2008 statement. It is not apparent that Dr. Whitaker had a full or accurate history of appellant's preexisting condition. This reduces the probative value of his opinion on causal relation.[10]

Dr. Schlotterback's November 7, 2008 report is also insufficient to establish the claim. While the physician checked a box "yes" that appellant's condition was caused or aggravated by the March 1, 2008 incident, he provided little reasoning in support of his opinion.[11] The only explanation he provided was that appellant's pain started after the fall. He did not explain the reasons why the type of fall experienced by appellant would cause or aggravate a diagnosed low back sprain. The Board has held that the 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.[12] Consequently, this report is insufficient to meet appellant's burden of proof.

Appellant argues on appeal that the Office's decision was contrary to fact and law. As stated above, the medical evidence did not sufficiently explain how her March 1, 2008 fall brought about her condition.

CONCLUSION

The Board finds that appellant failed to establish that she sustained a traumatic injury in the performance of duty on March 1, 2008.

[8] *See P.K.*, 60 ECAB ___ (Docket No. 08-2551, issued June 2, 2009) (an award of compensation may not be based on a claimant's belief of causal relationship).

[9] *See George Randolph Taylor*, 6 ECAB 986, 988 (1954).

[10] *See Robert Broome*, 55 ECAB 339 (2004).

[11] *See Alberta S. Williamson*, 47 ECAB 569 (1996) (an opinion on causal relationship which consists only of a physician checking "yes" on a form report without further explanation or rationale is of little probative value).

[12] *L.D.*, 61 ECAB ___ (Docket No. 09-1503, issued April 15, 2010).

ORDER

IT IS HEREBY ORDERED THAT the May 12, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 1, 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