

FACTUAL HISTORY

On September 29, 2009 appellant, then a 37-year-old supply technician, filed an occupational disease claim alleging that she sustained a strained back due to heavy lifting. She became aware of her condition and its relationship to her federal employment on May 4, 2009, stopped work on June 1, 2009 and returned on August 25, 2009.²

In an October 7, 2009 letter, OWCP informed appellant that additional evidence was needed to establish her claim. It gave her 30 days to submit a physician's comprehensive report explaining how her employment activity contributed to her condition.

Appellant submitted medical evidence. A series of January 19, 2009 magnetic resonance imaging (MRI) scan reports from Dr. F. Scott Pereles, a Board-certified diagnostic radiologist, exhibited degenerative discogenic and joint changes at C5-6 and C6-7, bilateral L5 spondylolysis with grade 2 anterolisthesis of the L5 over S1 and severe L5-S1 bilateral neural foraminal stenosis and facet arthrosis.³ A March 6, 2009 lumbar x-ray obtained by Dr. Amy L. DeFatta, a Board-certified diagnostic radiologist, confirmed bilateral pars defects at L5.

In a July 23, 2009 report, Dr. Willard B. Wong, a Board-certified orthopedic surgeon, related that appellant experienced chronic neck and lower back pain for approximately 20 years. He noted that a January 19, 2009 MRI scan showed grade 2 anterolisthesis of the L5-S1, resulting in severe bilateral neural foraminal stenosis. Dr. Wong commented that lifting exacerbated appellant's lower back condition and that she would benefit from a job that restricted her lifting requirements.

In a July 27, 2009 report, Dr. B. Elene Brandt, a Board-certified family practitioner, noted that appellant sustained headaches, limited cervical range of motion (ROM) and chronic back pain. She added that bending and lifting aggravated these symptoms. Dr. Brandt released appellant to restricted duty as of August 17, 2009. Dr. Brandt detailed in an October 20, 2009 report that appellant injured her back as a teenager when she was thrown from a horse and that her condition worsened while she served in the military. She was asymptomatic until April 26, 2006, when she complained of back pain after lifting computers and printers at work. On examination, Dr. Brandt observed cervical pain and trapezius and lumbar spasms. In addition to the results of the January 19, 2009 MRI scans, she pointed out that a May 2006 nerve conduction study indicated right L5 and S1 radiculopathy. Dr. Brandt diagnosed chronic neck and back strain and advised, "I do n[o]t think [appellant] should be lifting computers in the workplace."⁴

² Appellant was removed from her position effective November 13, 2009 based on her inability to perform essential job functions. The record indicates that she presently works for another federal agency.

³ A thoracic MRI scan showed a "nearly normal thoracic spine ... with minimal age-related early degenerative changes present...."

⁴ The evidence of record includes treatment notes from Dr. Brandt for the period April 16, 2003 to October 17, 2009, the findings of which were incorporated into her July 27 and October 20, 2009 reports.

By decision dated December 2, 2009, OWCP denied appellant's claim, finding the medical evidence insufficient to demonstrate that the accepted employment factor aggravated a preexisting back condition.

Following the December 2, 2009 decision, appellant submitted a January 27, 2009 work restriction form and a June 3, 2009 physical therapy report, both of which were signed by Dr. Brandt.⁵ She requested a telephonic hearing, which was held on March 9, 2010. Appellant testified that she originally broke her back when she fell off a horse. Her condition was later exacerbated by her former job duties, namely lifting 100-pound printers over a one-week period in April 2009.

On June 1, 2010 an OWCP hearing representative affirmed the December 2, 2009 decision.

Appellant's counsel requested reconsideration on September 1, 2010 and furnished additional evidence. In a May 5, 2010 report, Dr. Michael G. Klassen, a Board-certified orthopedic surgeon, related that appellant aggravated preexisting cervical, thoracic and lumbar injuries when she moved 43-pound printers on April 17, 2009. Appellant also complained of right lower extremity radiculopathy. She originally fractured her bilateral pars interarticularis at age 17 when she fell off a horse. Appellant was also involved in motor vehicle accidents in 1992 and 1998. On examination, Dr. Klassen observed cervical muscle spasms, lumbar tenderness, restricted cervical and lumbar ROM and slight nerve root tension during the straight leg raising test. He assessed cervicalgia, grade 2 spondylolisthesis and lumbago with right leg radiculopathy. After reviewing the medical file, Dr. Klassen opined, "It is within a reasonable degree of medical probability that the specific incident at work lifting the computer printers aggravated [appellant's] condition to her cervical spine and lumbar spine."

By decision dated November 18, 2010, OWCP denied modification of the June 1, 2010 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of establishing 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 FECA, that the claim was timely filed within the applicable time limitation period, that an injury was sustained in the performance of duty as alleged and that any disabilities and/or specific conditions for which compensation is claimed are causally related to the employment injury.⁶ 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.⁷

⁵ The relevant contents of the physical therapy report were incorporated into Dr. Brandt's July 27 and October 20, 2009 reports.

⁶ *Elaine Pendleton*, 40 ECAB 1143 (1989).

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

Whether an employee actually sustained an injury in the performance of duty begins with an analysis of whether fact of injury has been established.⁸ To establish fact of injury in an occupational disease claim, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁹

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.¹⁰

ANALYSIS

The evidence of record supports that appellant lifted computer printers as part of her former job duties. Appellant was diagnosed with chronic neck and back strain, degenerative C5-C7 discogenic and joint changes, cervicgia, spondylolisthesis, bilateral L5 spondylolysis, L5-S1 anterolisthesis and bilateral neural foraminal stenosis, facet arthrosis and lumbago with right lower extremity radiculopathy. The Board finds that appellant did not meet her burden of proof as the medical evidence is not sufficient to establish that the accepted employment factor aggravated her preexisting back condition.

After obtaining a thorough history of injury, conducting a physical examination and reviewing the complete medical file, Dr. Klassen opined in a May 5, 2010 report that appellant aggravated preexisting cervical and lumbar injuries on April 17, 2009 as a result of lifting 43-pound computer printers at work.¹¹ The Board finds that he did not provide adequate medical rationale explaining how such lifting pathophysiologically aggravated her preexisting condition.¹² The need for such rationale is particularly important in light of appellant's significant history which included a back injury as a teenager that worsened when she was in military service.

⁸ See *S.P.*, 59 ECAB 184, 188 (2007).

⁹ See *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *R.R.*, Docket No. 08-2010 (issued April 3, 2009).

¹⁰ *I.J.*, 59 ECAB 408 (2008); *Woodhams*, *supra* note 7.

¹¹ The Board notes that Dr. Klassen's opinion is more consistent with a claim for traumatic injury than one for occupational disease as he related that appellant's aggravation occurred during a single workday or shift rather than over a period of time. See 20 C.F.R. § 10.5(q) and (ee).

¹² *Joan R. Donovan*, 54 ECAB 615, 621 (2003); *Ern Reynolds*, 45 ECAB 690, 696 (1994).

In a July 27, 2009 report, Dr. Brandt briefly noted that bending and lifting aggravated appellant's cervical and lumbar symptoms. She then clarified in an October 20, 2009 report that appellant, who sustained a preexisting back condition, was asymptomatic until she complained of back pain on April 26, 2006 after lifting computers and printers at work. Dr. Brandt merely related appellant's belief regarding causal relationship.¹³ To the extent that this represents her own opinion on causal relationship, she did not offer adequate medical rationale to explain the reasons why work duties caused or aggravated a diagnosed condition.¹⁴

The remaining medical evidence, namely Dr. Pereles' January 19, 2009 MRI scan reports, Dr. DeFatta's March 6, 2009 x-ray report and Dr. Wong's July 23, 2009 report, is of limited probative value on the issue of causal relationship as none of these documents addressed whether appellant's federal employment aggravated a preexisting back condition.¹⁵ In the absence of rationalized medical opinion evidence, appellant failed to meet her burden.

Appellant may submit new evidence or argument as part of a formal written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant did not establish that she sustained an occupational disease in the performance of duty.

¹³ See *P.K.*, Docket No. 08-2551 (issued June 2, 2009) (an award of compensation may not be based on a claimant's belief of causal relationship).

¹⁴ See *George Randolph Taylor*, 6 ECAB 986, 988 (1954) (a medical opinion not fortified by medical rationale is of little probative value).

¹⁵ *J.F.*, Docket No. 09-1061 (issued November 17, 2009); *S.E.*, Docket No. 08-2214 (issued May 6, 2009).

ORDER

IT IS HEREBY ORDERED THAT the November 18, 2010 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: November 22, 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