



## **FACTUAL HISTORY**

Appellant, a 57-year-old letter carrier, filed a traumatic injury claim (Form CA-1) for low back strain that allegedly occurred April 11, 2012 while delivering mail. She claimed to have been injured while “turning with a weighted mailbag.” Appellant stated that she had gone up some stairs to place mail in the mailbox and when she turned to go down the stairs she experienced a sharp pain in her back which went down her left leg. She had a prior history of chronic low back pain and left-side sciatica dating back to 2009.

Dr. Robert M. Gullberg, a Board-certified internist, examined appellant on April 12, 2012.<sup>3</sup> He noted that, while at work the previous day, appellant reportedly twisted her back and felt a shooting pain going down her left flank. There was no reported weakness in the leg or numbness. Dr. Gullberg also noted that appellant really was not doing any lifting or anything in particular at the time other than apparently going down some stairs. Physical examination of her back showed good range of motion. However, appellant was very tender in the lumbosacral spine from L2 to L4 and there was tenderness into the buttock. Dr. Gullberg also noted that lateral and forward range of motion was fair. Ambulation was also fair with a noted mild limp. There were no motor symptoms at the time. Dr. Gullberg’s clinical impression was “low back pain secondary to a muscle strain likely....” He indicated that there was no need for an x-ray at the time because he thought it was a “soft tissue” injury. Dr. Gullberg recommended conservative treatment that included ice and heat therapy. He also prescribed a muscle relaxant and pain medication and advised appellant to avoid strenuous activity for six weeks. Dr. Gullberg told appellant to follow up in one week. His follow-up treatment notes dated April 26, 2012 indicated an impression of musculoskeletal back pain. Dr. Gullberg also provided several work status reports excusing appellant from work due to left lower back pain. He released appellant to return to restricted duty effective May 14, 2012. At the time, Dr. Gullberg imposed a two-hour walking restriction per day.

By decision dated May 30, 2012, OWCP denied appellant’s claim because she failed to establish that she sustained an injury causally related to the April 11, 2012 employment incident. It explained that pain was a symptom and not a diagnosis of a medical condition.

## **LEGAL PRECEDENT**

A claimant seeking benefits under FECA has the burden of establishing the essential elements of her claim by the weight of the reliable, probative and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.<sup>4</sup>

To determine if an employee sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether “fact of injury” has been established. Generally, fact of injury consists of two components that must be considered in conjunction with one another.

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<sup>3</sup> Appellant had been a patient of his for over 20 years. Dr. Gullberg was aware of appellant’s prior history of left-side sciatica and chronic low back pain.

<sup>4</sup> 20 C.F.R. § 10.115(e), (f); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

The first component is whether the employee actually experienced the employment incident that is alleged to have occurred.<sup>5</sup> The second component is whether the employment incident caused a personal injury.<sup>6</sup> An employee may establish that an injury occurred in the performance of duty as alleged but fail to establish that the disability or specific condition for which compensation is being claimed is causally related to the injury.<sup>7</sup>

### ANALYSIS

Appellant claims to have suffered a left low back strain on April 11, 2012 while delivering mail. Her long-standing treating physician, Dr. Gullberg, reported a prior history of chronic low back pain and left-side sciatica dating back to 2009. When he examined appellant on April 12, 2012, Dr. Gullberg's clinical impression was "low back pain secondary to a muscle strain likely...." His follow-up treatment notes from April 26, 2012 indicated an impression of musculoskeletal back pain.

As OWCP correctly noted, pain is a symptom and not a specific medical diagnosis. When Dr. Gullberg examined appellant on April 12, 2012, he indicated that her low back pain was secondary to a muscle strain "likely." While he surmised that appellant sustained a soft tissue injury, this does not represent a definitive diagnosis of an employment-related muscle strain. Moreover, in his April 26, 2012 follow-up treatment notes, Dr. Gullberg made no mention of a muscle strain, but instead noted musculoskeletal back pain. It is also noteworthy that Dr. Gullberg did not distinguish appellant's prior history of chronic low back pain and left-side sciatica from her current low back complaints which she attributed to the April 11, 2012 employment incident. The record at the time OWCP issued its May 30, 2012 decision did not include a definitive medical diagnosis attributable to the April 11, 2012 employment incident. Accordingly, OWCP properly denied appellant's traumatic injury claim.

Appellant may submit new evidence or argument with a 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

Appellant failed to establish that she sustained an injury in the performance of duty on April 11, 2012.

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<sup>5</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>6</sup> *John J. Carlone*, 41 ECAB 354 (1989). Causal relationship is a medical question which generally requires rationalized medical opinion evidence to resolve the issue. See *Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factors must be based on a complete factual and medical background. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

<sup>7</sup> *Shirley A. Temple*, 48 ECAB 404, 407 (1997).

**ORDER**

**IT IS HEREBY ORDERED THAT** the May 30, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 5, 2012  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board