

**United States Department of Labor  
Employees' Compensation Appeals Board**

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D.B., Appellant

and

U.S. POSTAL SERVICE, POST OFFICE,  
Jacksonville, FL, Employer  
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**Docket No. 12-870  
Issued: September 6, 2012**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
PATRICIA HOWARD FITZGERALD, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On March 13, 2012 appellant filed a timely appeal from a February 24, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her occupational disease claim. Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUE**

The issue is whether appellant met her burden of proof to establish that she developed a back injury causally related to factors of her federal employment.

**FACTUAL HISTORY**

On January 4, 2012 appellant, then a 40-year-old rural letter carrier, filed an occupational disease claim (Form CA-2) alleging that she developed back pain, pressure and shooting pains down her legs as a result of constant lifting, turning, pulling and climbing in and out of her

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

employing establishment vehicle from her employment duties. She first became aware of her condition and of its relationship to her employment on December 30, 2010. Appellant notified her supervisor on January 5, 2012.

By letter dated January 10, 2012, OWCP informed appellant that the evidence of record was insufficient to support her claim. Appellant was advised of the medical and factual evidence needed and was directed to submit it within 30 days.

In a January 18, 2012 narrative statement, appellant stated that, every morning, her duties include lifting large buckets with flats of mail that she had to unload. She then removes each of the flats to place them in the correct slots. This process entails a lot of bending, twisting, lifting, stooping and reaching. Appellant stated that she also has to lift full trays of mail, sort through and carry parcels and case mail by pulling down all the flats. All of these functions require repetitive bending, lifting, standing, turning and pulling for three hours a day. Appellant further stated that she loads her vehicle to deliver mail, delivers mail to apartment buildings and constantly has to get in and out of her vehicle. When delivering mail from her postal vehicle, she is constantly twisting and reaching to place the mail in the mailboxes. Appellant reported that she performs these activities numerous times a day which causes her pain in her back and legs.

In a January 5, 2012 medical report, Dr. Stephen C. Allen, a Board-certified orthopedic surgeon, reported that appellant experienced intermittent neck and back pain for many years, increasing since 2002. Appellant complained of continued lower back and leg pain, worse with activity. A February 18, 2004 magnetic resonance imaging (MRI) scan of the lumbosacral spine showed asymmetrical leftward disc bulging at L4-5 with disc material lying adjacent to left L5 nerve root. Dr. Allen noted that appellant was a postal worker and that driving her postal vehicle irritated her back. He further noted that her employment duties included driving, sorting and carrying mail. Dr. Allen provided a surgical history, which included an appendectomy in 1976, c-section in 1990, tubal ligation in 1993, carpal tunnel release right in 2002 and left in 2011 and a hemorrhoidectomy in 2011. He diagnosed mechanical neck and back pain and degenerative disc disease. Dr. Allen recommended x-rays of the LS spine and restricted appellant to working eight hours a day with lifting restrictions of 25 pounds, bending and squatting occasionally and no twisting when holding greater than 10 pounds.

In a January 10, 2010 duty status report (Form CA-17), Dr. Allen stated that appellant developed mechanical neck and back pain and spondylosis disc degeneration beginning December 30, 2011 as a result of long hours standing, lifting, sitting, twisting and climbing in and out of her postal vehicle which caused pressure and pain in her lower back down to her legs. He provided her with work restrictions and recommended physical therapy.

By decision dated February 24, 2012, OWCP denied appellant's claim on the grounds that the evidence was insufficient to establish that she sustained an injury. It found that the incident occurred as alleged; however, that the evidence failed to provide a firm medical diagnosis which could be reasonably attributed to the accepted employment incident. OWCP further noted that the medical evidence submitted contained a diagnosis of "pain" which is a symptom and not a diagnosed medical condition.

## 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 filed within the applicable time limitation; that an injury was sustained while 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>2</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>3</sup>

In order to determine whether an employee actually sustained an 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 which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>4</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, 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.<sup>5</sup>

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.<sup>6</sup> 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. This medical opinion must include an accurate history of the employee’s employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician’s opinion.<sup>7</sup>

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<sup>2</sup> Gary J. Watling, 52 ECAB 278 (2001); Elaine Pendleton, 40 ECAB 1143, 1154 (1989).

<sup>3</sup> Michael E. Smith, 50 ECAB 313 (1999).

<sup>4</sup> Elaine Pendleton, 40 ECAB 1143 (1989).

<sup>5</sup> See Roy L. Humphrey, 57 ECAB 238, 241 (2005); Ruby I. Fish, 46 ECAB 276, 279 (1994).

<sup>6</sup> See 20 C.F.R. § 10.110(a); John M. Tornello, 35 ECAB 234 (1983).

<sup>7</sup> James Mack, 43 ECAB 321 (1991).

## ANALYSIS

OWCP accepted that appellant engaged in repetitive activities as a rural letter carrier. The issue, therefore, is whether appellant submitted sufficient medical evidence to establish that the employment exposure caused a back injury. The Board finds that she did not submit sufficient medical evidence to support that she sustained a back injury causally related to factors of her federal employment as a rural mail carrier.<sup>8</sup>

In a January 5, 2012 medical report, Dr. Allen stated that appellant experienced intermittent neck and back pain for many years, increasing since 2002. A February 18, 2004 MRI scan of the lumbosacral spine showed asymmetrical leftward disc bulging at L4-5 with disc material lying adjacent to left L5 nerve root. Dr. Allen noted that appellant's postal vehicle irritated her back and that her employment duties included driving, sorting and carrying mail. He diagnosed mechanical neck and back pain and degenerative disc disease. Dr. Allen recommended x-rays of the LS spine and restricted appellant to working eight hours a day with lifting restrictions of 25 pounds, bending and squatting occasionally and no twisting while holding greater than 10 pounds.

In a January 10, 2010 duty status report, Dr. Allen stated that appellant developed mechanical neck and back pain and spondylosis disc degeneration beginning December 30, 2011 as a result of long hours standing, lifting, sitting, twisting and climbing in and out of her postal vehicle, which caused pressure and pain in her lower back down to her legs. He provided her with work restrictions and recommended physical therapy.

In its February 24, 2012 decision, OWCP found insufficient evidence to establish a firm medical diagnosis of appellant's condition. The Board finds, however, that, contrary to OWCP finding, the medical evidence of record establishes a sufficient diagnosis of spondylosis disc degeneration. Both of Dr. Allen's reports provide a diagnosis of disc degeneration. His diagnosis of mechanical neck and back pain is a symptom, however, and not a compensable medical diagnosis.<sup>9</sup> Given that appellant has established a diagnosed condition, the question becomes whether her employment duties caused or aggravated her spondylosis disc degeneration. Thus, she must submit rationalized medical evidence to establish that her diagnosed medical condition is causally related to the accepted factors of employment.

While Dr. Allen's reports establish a diagnosis, they are not rationalized on causal relation. In his Form CA-17, Dr. Allen stated that appellant developed mechanical neck and back pain and spondylosis disc degeneration beginning December 30, 2011 as a result of long hours spent standing, lifting, sitting, twisting and climbing in and out of her postal vehicle which caused pressure and pain in her lower back down to her legs. Though he provided an opinion on causal relationship, his report is not well rationalized because he did not explain how the accepted employment factors caused or contributed to appellant's injury. Further, it is unclear from her medical history if her back condition was caused by a preexisting condition rather than her federal employment duties. In his January 5, 2012 report, Dr. Allen stated that a

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<sup>8</sup> See *Robert Broome*, 55 ECAB 339 (2004).

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

February 18, 2004 MRI scan of the lumbosacral spine showed asymmetrical leftward disc bulging at L4-5 with disc material lying adjacent to left L5 nerve root. He failed to provide an opinion on whether this condition had resolved or whether it was related to appellant's current disc degeneration. To establish causal relationship, appellant must submit a physician's report in which the physician reviews those factors of employment alleged to have caused her condition and, taking these factors into consideration, as well as findings upon examination and her medical history, explain how these employment factors caused or aggravated any diagnosed condition and present medical rationale in support of his opinion.<sup>10</sup> Medical reports without more extensive rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.<sup>11</sup> Thus, Dr. Allen's reports do not meet that standard and are insufficient to meet appellant's burden of proof.

In the instant case, the record is without rationalized medical evidence establishing a causal relationship between the accepted factors of employment and appellant's back condition. Thus, appellant has failed to establish her burden of proof. She may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

### **CONCLUSION**

The Board finds that appellant did not meet her burden of proof to establish that she sustained a back injury in the performance of duty, as alleged.

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<sup>10</sup> *Id.*

<sup>11</sup> *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 24, 2012 decision of the Office of Workers' Compensation Programs is affirmed, as modified.

Issued: September 6, 2012  
Washington, DC

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

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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