

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

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**V.S., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Versailles, KY, Employer**

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**Docket No. 13-122  
Issued: April 3, 2013**

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

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

PATRICIA HOWARD FITZGERALD, Judge  
ALEC J. KOROMILAS, Alternate Judge  
MICHAEL E. GROOM, Alternate Judge

**JURISDICTION**

On October 22, 2012 appellant filed a timely appeal from the October 4, 2012 merit decision of the Office of Workers' Compensation Programs (OWCP), which denied her injury 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 sustained a lumbar spine injury in the performance of duty.

**FACTUAL HISTORY**

On July 2, 2012 appellant, a 47-year-old rural carrier associate (RCA), filed an occupational disease claim alleging that her lumbar disc bulging with stenosis and pinched nerve resulted from her federal employment. She explained that the main injury occurred on

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

September 16, 2006 and worsened over the years. “I was working as RCA on [route] at the time of injury.” Appellant indicated that she first realized that her disease was caused or aggravated by her employment on May 14, 2012.<sup>2</sup>

The employing establishment controverted appellant’s claim, in part, on the grounds that appellant was scheduled to work only one day a week and on an as-needed basis. Appellant also did farm work, including raising tobacco. Due to the physical nature of her work away from the employing establishment and her infrequent delivery of mail, the employing establishment challenged her claim that her back problems were caused by her federal employment.

Appellant submitted progress notes from Dr. Timothy C. Sunda, a chiropractor, and Dr. Richard Lingreen, a Board-certified pain specialist. A July 9, 2012 magnetic resonance imaging (MRI) scan showed a small herniated disc fragment at the T12-L1 level, multilevel disc bulges with no evidence of large disc herniation within the lumbar spine or significant spinal stenosis and an atrophic right kidney.

Dr. Mark Myers, the attending orthopedic surgeon, completed a CA-20 form report. He diagnosed lumbar disc degeneration and noted a history of chronic back pain since 2006. Dr. Myers marked “no” when asked whether appellant’s condition was caused or aggravated by an employment activity, but noted: “Possible repetitive use.” Together with Dr. Myers’ form report, OWCP received an online article on the causes of bulging discs.

In an October 4, 2012 decision, OWCP denied appellant’s claim. It found that the work event occurred as alleged, but the medical evidence was not sufficient to establish that her medical condition was causally related to the event. “The reason for this finding is that none of the medical evidence provides a direct link between the diagnosed lumbar degenerative disc disease and your federal job duties.”

Appellant argues that she has submitted all medical evidence showing that her 2006 injury started the deterioration in her back. “The repetitive motion of my job specifics has caused the deterioration of the discs causing them to bulge.” Appellant noted that most of the medical evidence points to the 2006 work injury, which was denied, but she alleges that the 2006 injury is what started it all.

### **LEGAL PRECEDENT**

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.<sup>3</sup> An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident or

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<sup>2</sup> An imaging study was obtained on that date.

<sup>3</sup> 5 U.S.C. § 8102(a).

exposure occurring at the time, place and in the manner alleged. He or she must also establish that such event, incident or exposure caused an injury.<sup>4</sup>

Causal relationship is a medical issue,<sup>5</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant,<sup>6</sup> must be one of reasonable medical certainty<sup>7</sup> 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>8</sup>

### ANALYSIS

Appellant attributed her occupational disease initially to an incident in 2006 but also to the duties she subsequently performed as a rural carrier associate, which she alleges made her condition worse. OWCP does not dispute her work duties. The question remains whether those duties caused her diagnosed low back condition. Although she submitted progress notes from her chiropractor, Dr. Sunda, and her pain specialist, Dr. Lingreen, neither expressed a professional opinion whether the specific duties she performed in her federal employment caused or aggravated her diagnosed low back condition.

Dr. Myers, an orthopedic surgeon, provided a form report. The Board has held, however, that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, that opinion has little probative value and is insufficient to establish causal relationship.<sup>9</sup> Appellant's burden includes the necessity of furnishing an affirmative opinion from a physician who supports his conclusion with sound medical reasoning.

By checking "no," Dr. Myers indicated that appellant's condition was not caused or aggravated by her federal employment, but he added: "Possible repetitive use." Such a contradictory and brief explanation is not sufficient to establish the critical element of causal relationship. The expression is speculative,<sup>10</sup> does not demonstrate an understanding of

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<sup>4</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>5</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>6</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>7</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>8</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>9</sup> *E.g., Lillian M. Jones*, 34 ECAB 379 (1982).

<sup>10</sup> *See Philip J. Deroo*, 39 ECAB 1294 (1988) (although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal); *Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value).

appellant's duties<sup>11</sup> and does not explain from a medical point of view how those duties materially affected appellant's low back condition.<sup>12</sup> Dr. Myers did not explain how he was able to determine from the objective medical evidence that the worsening of appellant's condition was a result of her light schedule as a rural carrier associate, as opposed to the physical demands of working on a farm raising tobacco or simply the natural progression of her degenerative disc disease.

For these reasons, the Board finds that Dr. Myers' opinion on causal relationship carries little if any probative weight and is insufficient to discharge appellant's burden of proof.

Newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship, as they are of general application and are not determinative of whether the specific condition claimed was causally related to the particular employment involved.<sup>13</sup> The online article on the causes of bulging discs is therefore insufficient to establish causal relationship.

Appellant contends that she has submitted medical evidence to establish that her 2006 injury started the deterioration in her back. Causal relationship requires that a physician demonstrate his or her understanding of the duties appellant performed as a rural carrier associate, including the extent to which he or she performed those duties. The physician must also demonstrate an understanding of appellant's activities outside her federal employment. Further, the physician should analyze the available medical evidence and explain whether that evidence shows a causal relationship to federal employment, and if so, how. The physician's medical reasoning is critical.

Appellant has not submitted sufficient medical opinion evidence necessary to establish causal relationship. The Board finds that she has not met her burden to establish that she sustained a lumbar spine injury in the performance of duty, as alleged. Accordingly, the Board will affirm OWCP's October 4, 2012 decision denying her occupational disease 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**

The Board finds that appellant has not met her burden to establish that she sustained a lumbar spine injury in the performance of duty, as alleged. The medical evidence does not establish causal relationship.

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<sup>11</sup> *James A. Wyrick*, 31 ECAB 1805 (1980) (the physician's report was entitled to little probative value because the history was both inaccurate and incomplete). See generally *Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

<sup>12</sup> Medical conclusions unsupported by rationale are of little probative value. *Ceferino L. Gonzales*, 32 ECAB 1591 (1981); *George Randolph Taylor*, 6 ECAB 968 (1954).

<sup>13</sup> *Gaetan F. Valenza*, 35 ECAB 763 (1984); *Kenneth S. Vansick*, 31 ECAB 1132 (1980).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 4, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 3, 2013  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board

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