

FACTUAL HISTORY

On May 16, 2012 appellant, then a 52-year-old transportation security officer, filed a claim for benefits, alleging that he sustained a lower back strain and ruptured a disc while processing baggage on November 6, 2011.

By letter dated May 29, 2012, OWCP advised appellant that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. It asked him to submit a comprehensive medical report from his treating physician describing his symptoms with a medical opinion explaining the cause of any diagnosed condition.

In a November 14, 2011 surgical report received by OWCP, Dr. Ziad Sous, Board-certified in internal medicine, noted that appellant underwent a lumbar fusion on November 9, 2011. The procedure was performed by Dr. John T. Main, a Board-certified neurosurgeon. Dr. Sous stated that appellant had experienced low back pain with increased numbness and lower extremity weakness. Appellant presented at his hospital admission with foot weakness, increased numbness and weakness in his lower extremities and increased urinary retention. Dr. Sous listed a history that appellant had sustained a remote back injury with a prior lumbar fusion at L4-5 and L5-S1 in 1989. Appellant did well until several days prior to admission, when he began to have increased weakness and numbness and became unable to walk, to dorsiflex his feet or to urinate. Dr. Sous stated that appellant underwent magnetic resonance imaging (MRI) scans which showed significant cervical and lumbar spine issues, with cauda equina compression at L3-4. Appellant subsequently underwent a complex L3-4 decompression with fusion. Dr. Sous advised that appellant was doing well postoperatively.

By decision dated July 9, 2012, OWCP denied appellant's claim, finding that he failed to submit sufficient medical evidence to establish that his low back condition was due to the November 6, 2011 lifting incident.

On July 25, 2012 appellant requested an oral hearing, which was held on November 5, 2012.

In a December 19, 2012 report, Dr. Main stated that he performed back surgery on appellant on November 9, 2011. Appellant presented to the emergency room with severe back pain and the inability to ambulate. He related a history of injury to his back two weeks prior while working around the house. Appellant related that his symptoms improved and he returned to work until the following week, when he wrenched his back while picking up baggage at work. Dr. Main stated that appellant went to the hospital emergency room where he was treated conservatively. Appellant's symptoms worsened and he underwent an MRI scan which was limited because he had prior back surgery 20 years previously. Dr. Main performed surgery on November 9, 2011.

Dr. Main recalled that appellant told him, after he performed surgery, that he injured his back while lifting baggage at work. He opined to a reasonable degree of medical certainty that appellant had sustained a work-related injury. Dr. Main advised that appellant had a chronic back condition which was partially due to continued lifting over the past several years, which he injured while lifting baggage.

By decision dated January 18, 2013, OWCP's hearing representative affirmed the July 9, 2012 decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing that 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 of FECA, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.³ 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.⁴

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined whether a "fact of injury" has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁵ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁶

The Board has held that the mere 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.⁷

An award of compensation may not be based on surmise, conjecture or speculation. Neither, the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁸ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

ANALYSIS

OWCP accepted that appellant lifted baggage on November 6, 2011. The question of whether this employment incident caused the claimed back condition or necessitated surgery. The

² 5 U.S.C. §§ 8101-8193.

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(e).

⁷ See *Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁸ *Id.*

Board finds that⁹ appellant has not submitted sufficient medical evidence to establish that the November 6, 2011 employment incident caused his back condition.

Appellant submitted reports from Dr. Sous and Dr. Main. They advised that he was admitted to the emergency room and underwent back surgery on November 9, 2011. Neither physician, however, provided a fully rationalized opinion explaining how the November 6, 2011 work incident caused appellant's back condition.

The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided the care of analysis manifested and the medical rationale expressed in support of stated conclusions.¹⁰ Dr. Sous stated in a November 14, 2011 report that appellant had complaints of low back pain, foot weakness, increased numbness and lower extremity on November 9, 2011. He obtained a history of a prior back injury in 1989, for which appellant underwent lumbar fusion at L4-5 and L5-S1. Dr. Sous stated that the results of an MRI scan showed significant cervical and lumbar spine issues, with cauda equina compression at L3-4. He related that Dr. Main performed a complex L3-4 decompression with fusion. Dr. Sous did not address the November 6, 2011 incident at work. Dr. Main stated on December 19, 2012 that appellant initially injured his back at home two weeks prior to the November 9, 2011 surgery. He stated that appellant returned to the hospital after wrenching his back while picking up baggage at work. Dr. Main did not provide a history of the November 6, 2011 incident but stated that appellant had a chronic back condition which he partially attributed to repetitive lifting for the past several years.

The medical reports from Dr. Sous and Dr. Main do not adequately address how the November 6, 2011 incident caused or contributed to appellant's L3-4 cauda equina compression or need for surgery. Their opinions regarding causal relationship are of limited probative value in that they did not provide adequate medical rationale in support of their conclusions.¹¹ The reports do not adequately describe appellant's preexisting lumbar condition or explain how the November 6, 2011 incident was competent to cause the claimed condition. The reports noted a prior injury and lumbar surgery in 1989, as well as an injury at home a few days prior to November 6, 2011. Neither physician explained the effect of the prior events to appellant's current condition. Appellant failed to provide sufficient medical opinion from a physician that explains how the work incident of November 6, 2011 caused or contributed to the claimed lower back injury. Accordingly, he did not establish that his L3-4 condition or surgery was work related. OWCP properly denied appellant's claim for compensation.

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.

⁹ *Supra* note 5.

¹⁰ *See Anna C. Leanza*, 48 ECAB 115 (1996).

¹¹ *William C. Thomas*, 45 ECAB 591 (1994).

CONCLUSION

The Board finds that appellant has failed to establish that he sustained a lower back injury in the performance of duty on November 6, 2011.

ORDER

IT IS HEREBY ORDERED THAT the January 18, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 12, 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