

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

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**C.M., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Wauchula, FL, Employer**

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**Docket No. 13-900  
Issued: July 3, 2013**

*Appearances:*

*Alan J. Shapiro, Esq., for the appellant  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

PATRICIA HOWARD FITZGERALD, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On March 5, 2013 appellant, through her attorney, filed a timely appeal from a February 1, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). 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 an injury causally related to factors of her federal employment.

**FACTUAL HISTORY**

On January 5, 2012 appellant, then a 37-year-old rural carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained a lumbar nerve injury causally related to

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

her federal employment.<sup>2</sup> She became aware of the condition and its relationship to employment on December 28, 2011. On the claim form appellant identified the repetitive movements in delivering mail and described the nature of her condition as a sporadic L4-5 nerve.

The medical evidence includes a report dated January 27, 2012 from Dr. Abdullah Haider, a family practitioner. The history provided stated that appellant was an office manager.<sup>3</sup> Dr. Haider reported that appellant was treated for right shoulder, lumbar and left hip pain. Appellant also received treatment from Dr. Jose Briceno, a family practitioner and associate of Dr. Haider, on February 8, 2012.

By decision dated March 26, 2012, OWCP denied the claim for compensation. It found the medical evidence was insufficient to establish causal relation.

Appellant requested a hearing before an OWCP hearing representative, which was held on July 17, 2012. She submitted a June 8, 2012 report from Dr. Darryl Miller, a Board-certified orthopedic surgeon, who obtained a history that appellant “feels that she was injured while working” at the employing establishment. He stated that symptoms began approximately six months prior to December 2011. Dr. Miller provided results on examination and diagnosed symptomatic radiculopathy of the right arm and left leg.

In a report dated July 12, 2012, Dr. Miller stated that appellant advised of being injured during the course of her employment as a rural mail carrier on or about December 28, 2011. He noted the results of a June 6, 2012 examination. Dr. Miller stated that he reviewed the physical requirements of a rural letter carrier, and “[b]ased upon these physical requirements, the accurate factual and medical history provided by [appellant], and my physical examination, it is my opinion, within a reasonable degree of medical probability, that the physical injuries sustained by [appellant] were directly caused by the physical requirements of her job” as a rural letter carrier.

By decision dated September 13, 2012, an OWCP hearing representative affirmed the March 26, 2012 decision. She found that the medical evidence from Dr. Miller did not identify or address the cause of any radicular symptoms or relate it to appellant’s work activity.

In a letter dated December 19, 2012, appellant, through her representative, requested reconsideration. In a report dated December 18, 2012, Dr. Miller noted the results of a November 5, 2012 MRI scan that included a C5-6 disc protrusion, disc bulges at C3-4, superimposed at C5-6 and present at C6-7, bilateral foraminal stenosis at C5-6 and straightening of the expected lumbar lordosis. He opined that appellant’s job as a rural carrier “caused, contributed, aggravated or exacerbated the central disc protrusion at C5-6; disc bulges at C4 through C6; and straightening of lumbar lordosis shown on [appellant’s] November 5, 2012 cervical MRI [scan], as [appellant] was asymptomatic prior to her date of injury.”

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<sup>2</sup> The employing establishment indicated that appellant was a temporary relief carrier with work hours that varied.

<sup>3</sup> The record contains appellant’s job application from November 2009 indicating that she worked as an office manager in private employment. A February 9, 2012 letter from the employing establishment stated that appellant also had a job “cleaning” at a radio station.

By decision dated February 1, 2013, OWCP reviewed the merits of the claim for compensation. It denied modification on the grounds that the medical evidence was insufficient on the issue of causal relation.

### **LEGAL PRECEDENT**

A claimant seeking benefits under FECA<sup>4</sup> has the burden of establishing the essential elements of his or 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>5</sup>

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.<sup>6</sup>

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.<sup>7</sup> 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 must be based on a complete factual and medical background of the claimant.<sup>8</sup> Additionally, in order to be considered rationalized, the 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.<sup>9</sup>

### **ANALYSIS**

Appellant claimed that her job duties as a rural carrier contributed to her back and neck conditions. Dr. Miller diagnosed a right arm and left leg radiculopathy, C5-6 disc protrusion and disc bulges from C4-6 and straightening of lumbar lordosis. With respect to causal relationship between a diagnosed condition and appellant's federal employment, the Board finds there is insufficient medical evidence.

A rationalized medical opinion is an opinion based on a complete factual and medical background. It is not clear from the record how long appellant worked as a rural carrier or how

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<sup>4</sup> 5 U.S.C. §§ 8101-8193.

<sup>5</sup> 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

<sup>6</sup> *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>7</sup> See *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>8</sup> *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

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

many hours she worked. There is also an indication that she also worked in private employment. Dr. Miller did not provide a detailed factual background or history discussing these issues or demonstrating a complete understanding of appellant's work history. He stated only that he reviewed a job description without providing a complete and accurate background.

As to causal relationship, a medical opinion must be supported by rationale addressing how specific work activities or duties caused or contributed a diagnosed condition. Dr. Miller opined in a December 18, 2012 report that he believed the central disc protrusion at C5-6, disc bulges at C4 through C6 and straightening of lumbar lordosis were related to the rural carrier job "as [appellant] was asymptomatic prior to her date of injury." The Board notes that Dr. Miller did not clarify his stated conclusion on causal relations. In a June 8, 2012 report, he indicated that appellant had symptoms six months prior to December 2011, but in the July 12 and December 18, 2012 reports, he referred to appellant's statement that December 28, 2011 was the date of injury. It is well established that an opinion that a condition is causally related to a federal employment because the employee previously was asymptomatic is insufficient, without supporting medical rationale, to establish causal relationship.<sup>10</sup> The statement by Dr. Miller that appellant had been asymptomatic prior to an unexplained date of injury is of diminished probative value. He did not provide an adequate explanation as to how specific job duties as a rural carrier contributed to a diagnosed condition.

The Board finds that appellant did not meet her burden of proof. The medical evidence of record does not provide a rationalized medical opinion, based on a complete and accurate background, on causal relationship between a diagnosed condition and her federal employment.

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 did not establish an injury causally related to factors of her federal employment.

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<sup>10</sup> *Michael S. Mina* 57 ECAB 379 (2006); *Kimper Lee*, 45 ECAB 565 (1994); *Thomas D. Petrylak*, 39 ECAB 276 (1987).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 1, 2013 is affirmed.

Issued: July 3, 2013  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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