



that there was no medical evidence of record which offered a well-rationalized explanation of how the February 20, 2010 incident or other work-related activities caused appellant's lumbar condition.<sup>2</sup> The facts of the previous Board decision are incorporated herein by reference.<sup>3</sup>

On January 15, 2013 appellant's representative requested reconsideration and submitted additional medical evidence. In a November 22, 2013 medical report, Dr. Gordon D. Donald, a Board-certified orthopedic surgeon, stated that appellant sustained a work-related injury as a mail carrier and mail truck driver involved in the distribution of mail during inclement weather and a snowstorm on February 20, 2010. He noted that appellant reported that he sustained repeated impact loading as well as flexion-type injuries to his low back secondary to poor road conditions in ruts caused by the snow. This was combined with multiple torsional activities required by him to appropriately perform his job activities. Dr. Donald took issue with the Board's October 24, 2013 finding that his explanation on a copy of OWCP's September 24, 2010 letter and in an April 23, 2012 report was speculative and equivocal in nature. In those documents, Dr. Donald had opined that the axial loading and torsional activities appellant experienced while driving a truck in adverse weather conditions, on snowy icy roads and other types of activity, were well corroborated with the mechanisms of annular tearing and disc herniation and could physically induce lumbar disc herniation. To clarify his opinion, he provided multiple peer review published references which supported the biomechanical evidence that the combination of torsional loading and flexion activities clearly are involved in the mechanism of annular injury and disc herniation. Dr. Donald also provided as a reference demonstrating that drivers, as a group, have the highest degree of lumbar disc herniations requiring hospitalization and treatment. He stated that, as a biomechanical engineer and orthopedic spinal surgeon, he can attest that this information was well known and generally accepted across medical specialties. Dr. Donald concluded that it is clear that appellant sustained his lumbar injuries, including a disc herniation and annular injury resulting in debilitating low back pain, causally related to his work activities on February 20, 2010. He attached several published references to his report.

By decision dated March 6, 2014, OWCP denied modification of its prior decision.

### **LEGAL PRECEDENT**

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.<sup>4</sup> An employee seeking benefits under FECA has the burden of proof to establish the essential elements of 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 exposure

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<sup>2</sup> Docket No. 13-1052 (issued October 24, 2013).

<sup>3</sup> On February 23, 2010 appellant, then a 43-year-old mail carrier, filed a traumatic injury claim alleging that he injured his back on February 20, 2010 when he turned and stepped down to exit his truck. He also noted that he had "bounced around" in his truck all week. Appellant stopped work on February 23, 2010.

<sup>4</sup> 5 U.S.C. § 8102(a).

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>5</sup>

Causal relationship is a medical issue<sup>6</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>7</sup> must be one of reasonable medical certainty,<sup>8</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>9</sup>

### ANALYSIS

OWCP accepted that the employment incident of February 20, 2010 occurred at the time, place, and in the manner alleged. Appellant alleged that he experienced back pain when he turned and exited his truck, after being bounced around in his truck due to inclement weather during the past week. The Board previously found that appellant did not meet his burden of proof to establish his claim for compensation benefits as there was no medical evidence which offered a well-reasoned explanation of how the February 20, 2010 incident or other work-related activities caused his lumbar condition.

In his November 22, 2013 report, Dr. Donald noted a history of appellant having repeated impact loading as well as flexion-type injuries to his low back secondary to poor road conditions in ruts caused by the snow on February 20, 2010 as well as multiple torsional activities required to perform his job activities. He noted the reasons the Board gave for finding his previous opinions on causal relationship deficient and reiterated his opinion that appellant sustained his present lumbar injuries, including a disc herniation and annular injury resulting in debilitating low back pain, causally related to the trauma of his work activities on February 20, 2010. Dr. Donald explained that the biomechanical evidence of the combination of torsional loading and flexion activities were involved in the mechanism of annular injury and disc herniation. He also opined that drivers, as a group, have the highest degree of lumbar disc herniations requiring hospitalization and treatment. He provided published references in support of his opinion.

While Dr. Donald's medical report does not contain sufficient medical reasoning to overcome appellant's burden of proof, his report is generally supportive of appellant's claim and

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<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>6</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>7</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>8</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>9</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

raises an uncontroverted inference of causal relationship sufficient to require further development by OWCP.<sup>10</sup>

On remand, OWCP should refer appellant, the case record, and a statement of accepted facts to an appropriate Board-certified specialist for an evaluation and rationalized medical opinion concerning the cause of his back condition. After such further development as deemed necessary, it should issue a *de novo* decision.<sup>11</sup>

**CONCLUSION**

The Board finds that this case is not in posture for a decision.

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 6, 2014 decision of the Office of Workers' Compensation Programs is set aside and the case remanded for further proceedings consistent with the above opinion.

Issued: December 15, 2014  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

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<sup>10</sup> See also *E.J.*, Docket No. 09-1481 (issued February 19, 2010); see *John J. Carlone*, 41 ECAB 354 (1989); *Horace Langhorne*, 29 ECAB 820 (1978).

<sup>11</sup> In light of the Board's disposition of this case, appellant's arguments on appeal are rendered moot.