



and pain which made walking difficult. Appellant also had difficulty breathing. The employing establishment noted that she took occasional sick days and her job duties remained the same.

Appellant submitted a request for reasonable accommodation to the employing establishment. She requested a reserved accessible parking space close to the building with an unobstructed and easily traveled path into the workplace that was away from the smoking area. Appellant also requested that she be provided a modified work schedule and be given a three-month full-time telework agreement. She stated that she was unable to walk a significant distance or climb stairs due to a permanent disability and had an increase in respiratory issues.

In letters dated July 29, 2013, OWCP informed appellant of the evidence needed to support her claim. Appellant was specifically advised to provide a physician's opinion as to how employment activities caused, contributed to or aggravated the claimed conditions. OWCP also asked the employing establishment to provide a statement regarding her exposure to harmful substances.

In a statement dated August 29, 2013, appellant advised that her pulmonary condition was caused by carpet glue at the employing establishment. She stated that the scent was very strong and that she was exposed to it for approximately two hours. Appellant stated that, from the date of her employment in October 2011, having to walk into the building and inhale cigarette smoke for 15 minutes up to three times a day also contributed to her respiratory condition. She had been an asthmatic since childhood but the workplace exposures caused symptoms of difficulty breathing, shortness of breath, wheezing, coughing, vomiting, hoarseness, chest tightness and rapid heartbeat. Appellant noted that she was permanently disabled due to a leg condition and had to walk a long distance or approximately 25 minutes three times daily from her vehicle to the building which resulted in severe swelling and pain.

Appellant submitted an August 2, 2012 report from Dr. John P. McConnell, a Board-certified orthopedic surgeon, who advised that she was permanently disabled due to patellar tendinitis, should not walk significant distances and should be allowed to park in a handicapped parking area. Dr. Mark J. Granada, Board-certified in internal medicine and pulmonary disease, provided an October 22, 2012 certification of health care provider. He first saw appellant in July 2012 and she had severe coughing and asthma flares. Dr. Granada stated that she could not perform her job due to an intractable cough, noting that she had difficulty speaking and quickly became short of breath with limited routine activity. Appellant's pulmonary function studies demonstrated 60 percent of normal function. Dr. Granada noted that she should work from home for three months. On a November 6, 2012 certification of health care provider, Dr. McConnell stated that appellant needed to work from home from November to February due to pain and swelling of the left knee caused by ambulation. On December 18, 2012 Dr. Granada noted a history of allergic rhinitis that was very difficult to treat, asthma and gastroesophageal reflux. He stated that appellant was very sensitive to multiple environmental exposures and, given the severity of her symptoms, it was in her best medical interest to be allowed to work from home for several months in order to gain better control of her condition. Dr. Granada repeated this request on March 13, 2013. On March 26, 2013 he indicated that appellant was unable to work due to vomiting and excessive cough.

On April 24, 2013 Dr. Bhavin Patel, a Board-certified internist, advised that appellant must limit the use of her vocal cords due to “current medical conditions.” In brief notes dated May 17 to July 17, 2013 Dr. Granada listed that she continued with unresolved vomiting, cough and significant vocal cord inflammation with limited use of vocal cords. He noted that appellant’s condition was refractory to treatment and requested that she be allowed to telework. In August 21, 2013 correspondence, Dr. Granada noted that she had a persistent severe cough of multifactorial etiology that was most likely from gastroesophageal reflux but that was refractory to therapy. He deferred and opinion to a Dr. Stafford Goldstein to determine an approximate time frame for recovery but, due to the severity of her laryngitis secondary to the reflux, appellant could not return to work. On October 11, 2013 appellant was seen in an emergency department by Dr. Thomas H. Clark, Board-certified in internal and emergency medicine, who diagnosed asthma, cervical radiculitis and osteoarthritis of the cervical spine.

By decision dated November 5, 2013, OWCP denied appellant’s claim.

### **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 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 is causally related to the employment injury. These are the essential elements of each and every compensation claim; regardless of whether the asserted claim involves traumatic injury or occupational disease, an employee must satisfy this burden of proof.<sup>2</sup>

OWCP regulations define the term “occupational disease or illness” as a condition produced by the work environment over a period longer than a single workday or shift.”<sup>3</sup> To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (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. The medical opinion 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.<sup>4</sup>

Causal relationship is a medical issue and the medical evidence required to establish a causal relationship is rationalized medical evidence.<sup>5</sup> The opinion of the physician must be

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<sup>2</sup> *Roy L. Humphrey*, 57 ECAB 238 (2005).

<sup>3</sup> 20 C.F.R. § 10.5(ee).

<sup>4</sup> *Roy L. Humphrey*, *supra* note 2.

<sup>5</sup> *Jacqueline M. Nixon-Steward*, 52 ECAB 140 (2000).

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 employee.<sup>6</sup> Neither the mere fact that a disease or condition manifests itself during a period of employment nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>7</sup>

### ANALYSIS

The Board finds that appellant did not meet her burden of proof to establish that she sustained a pulmonary or leg condition caused by her federal employment because the medical evidence is insufficient to establish causal relationship. The medical evidence is insufficient to establish that any diagnosed condition was caused or aggravated by walking at work, exposure to particular workplace substances or other work factors.

In reports dated August 2 and November 6, 2012, Dr. McConnell advised that appellant was permanently disabled due to left patellar tendinitis and should limit walking, be given a handicapped parking place and be allowed to work from home. He did not adequately address how her diagnosed left knee condition was caused or aggravated by employment factors or describe any cause of the diagnosed condition. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>8</sup>

In reports dated from October 22, 2012 to July 17, 2013, Dr. Granada did not address the cause of appellant's diagnosed respiratory condition. On August 21, 2013 he reported that she had a persistent severe cough secondary to gastroesophageal reflux. Dr. Granada did not relate any diagnosed condition to specific employment factors and deferred his opinion to Dr. Goldstein. The record contains no reports from Dr. Goldstein.

Dr. Patel merely advised that appellant should limit the use of her vocal cords. Although Dr. Clark diagnosed asthma, cervical radiculitis and osteoarthritis of the cervical spine, he too provided no opinion regarding the cause of the diagnosed conditions.

The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.<sup>9</sup> It is appellant's burden to establish that her claimed conditions are causally related to factors of her federal employment. In this case, she submitted insufficient

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<sup>6</sup> *Leslie C. Moore*, 52 ECAB 132 (2000); *Gary L. Fowler*, 45 ECAB 365 (1994).

<sup>7</sup> *Dennis M. Mascarenas*, 49 ECAB 215 (1997).

<sup>8</sup> *Willie M. Miller*, 53 ECAB 697 (2002).

<sup>9</sup> *A.D.*, 58 ECAB 149 (2006).

evidence to show that she sustained either a pulmonary or leg condition caused by her employment duties.

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 that she sustained either a pulmonary or leg condition causally related to factors of her federal employment in this occupational disease claim.

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 5, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 7, 2014  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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