

On appeal appellant argues that the evidence of record establishes his claim.

FACTUAL HISTORY

On October 29, 2013 appellant, then a 30-year-old mail handler assistant, filed a traumatic injury claim alleging that on October 2, 2013 he injured his lower back as the result of pushing an all-purpose container. He stopped work on October 2, 2013.

Accompanying his claim were reports dated October 10 to 23, 2013 from Dr. Mitchell Goldflies, a treating Board-certified orthopedic surgeon, and an October 8, 2013 report from a Dr. Nadira Alikhan, who noted that appellant was treated for a work-related back muscle pain and sciatica nerve pain and released to work on October 23, 2013.

In a November 5, 2013 disability note, a physician indicated that appellant was totally disabled due to back pain for the period November 4 to 11, 2013.³

A November 7, 2013 duty status report (Form CA-7), Dr. Goldflies noted that appellant was disabled from working. He diagnosed pain, tenderness and limited range of motion and stated that appellant injured his back at work on October 2, 2013.

In a November 7, 2013 progress note, Dr. Goldflies reported that appellant was in distress with decreased hips, knees and spine range of motion with guarding and pain. He diagnosed sciatica.

In a November 7, 2013 attending physician's report, Dr. Goldflies noted that appellant injured his back at work. He diagnosed sciatica and checked "yes" to the form question of whether the condition was employment related. On physical examination, Dr. Goldflies noted tenderness on palpation, decreased range of motion and pain.

By letter dated December 2, 2013, OWCP informed appellant that it initially appeared that he had sustained a minor injury and that the merits of the claim had not been formally adjudicated. It stated that his claim was reopened and that the evidence of record was insufficient to support his claim. Appellant was advised as to the medical and factual evidence required to support his claim and provided 30 days to submit additional information.

In a December 23, 2013 attending physician's report, Dr. Goldflies advised that appellant remained totally disabled from work. Under the history of the injury, he noted that appellant presented with low back pain, sciatica radiating down the left leg and numbness in the left leg and arm. The diagnoses included sciatica and low back pain. Dr. Goldflies checked "yes" to the form question of whether the condition was employment related with an explanation stating the condition was caused by the job's repetitive motion.

³ The physician's signature is illegible.

By decision dated January 2, 2014, OWCP denied appellant's claim. It found that the medical evidence was insufficient to establish a back injury as a result of the October 2, 2013 employment incident.

LEGAL PRECEDENT

An employee seeking benefits under FECA⁴ has the burden of establishing the essential elements of her claim, including the fact that the individual is an employee of the United States within the meaning of FECA; that the claim was filed within the applicable time limitation; that an injury was sustained while 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.⁵ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁶

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.⁷ First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.⁸ 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.⁹

If a claimant does establish an employment factor, he must also submit medical evidence showing that a medical condition was caused by such a factor.¹⁰ The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence from a physician. The opinion of the physician must be based on a complete factual and medical background of the employee, 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.¹¹

⁴ 5 U.S.C. § 8101 *et seq.*

⁵ C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

⁶ S.P., 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁷ B.F., Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 5.

⁸ D.B., 58 ECAB 464 (2007); *David Apgar*, 57 ECAB 137 (2005).

⁹ C.B., Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734 (2008); *Bonnie A. Contreras*, *supra* note 5.

¹⁰ C.D., Docket No. 09-1881 (issued April 20, 2010); *Effie Morris*, 44 ECAB 470 (1993).

¹¹ D.S., Docket No. 09-860 (issued November 2, 2009); *I.J.*, 59 ECAB 408 (2008); *B.B.*, 59 ECAB 234 (2007); *Solomon Polen*, 51 ECAB 341 (2000); *Victor J. Woodhams*, 41 ECAB 345 (1989).

ANALYSIS

OWCP accepted that the October 2, 2013 work incident occurred as alleged. It denied appellant's claim on the grounds that the medical evidence was not sufficient to establish his low back condition was causally related to the accepted work incident. The Board finds that appellant failed to submit sufficient medical evidence to establish that his low back condition is causally related to the October 2, 2013 work incident.

In reports dated October 10 to November 6, 2013, Dr. Goldflies reported diagnoses of low back pain and sciatica which he attributed to appellant's work. In a November 7, 2013 duty status report, Dr. Goldflies noted that appellant injured his back at work on October 2, 2013. He provided no opinion explaining how the diagnosed conditions were caused or aggravated by the accepted October 2, 2013 employment incident. Medical evidence that offers no opinion regarding the cause of an employee's condition is of diminished probative value and insufficient to establish causal relationship.¹²

The record also contains attending physician's forms dated November 7 and December 23, 2013 in which Dr. Goldflies checked "yes" to the question of whether the conditions had been caused or aggravated by the identified employment activity. Dr. Goldflies attributed the condition to appellant's repetitive work without any supporting rationale or explanation as to how appellant's job duties caused or contributed to the diagnosed sciatica condition. The Board has held that when a physician's opinion on causal relationship consists only of checking "yes" to a form question, without explanation or rationale, that opinion is of diminished probative value and is insufficient to establish a claim.¹³

Appellant also submitted a November 5, 2013 disability note from a doctor with an illegible signature. The Board finds that this report is of no probative value as the author cannot be identified as a physician.¹⁴

Dr. Alikhan diagnosed work-related muscle back pain in an October 8, 2013 report; but this report is also of diminished probative value as the physician did not provide a history of the October 2, 2013 employment incident; did not describe the employment activity appellant engaged in on October 2, 2013; or provide any medical rationale explaining how and why appellant's condition was attributable to his employment activity.

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's conditions became apparent during a period of employment nor the belief that her condition was caused, precipitated or aggravated by her employment is sufficient to establish causal relationship.¹⁵ Causal relationship must be established by

¹² *A.F.*, 59 ECAB 714 (2008); *Ellen L. Noble*, 55 ECAB 530 (2004).

¹³ *D.D.*, 57 ECAB 734 (2006); *Cecelia M. Corley*, 56 ECAB 662 (2005).

¹⁴ *See Merton J. Sills*, 39 ECAB 572, 575 (1988).

¹⁵ *See D.U.*, Docket No. 10-144 (issued July 27, 2010); *D.I.*, 59 ECAB 158 (2007); *Robert Broome*, 55 ECAB 339 (2004); *Anna C. Leanza*, 48 ECAB 115 (1996).

rationalized medical opinion evidence and she failed to submit such evidence. OWCP advised appellant that it was his responsibility to provide a comprehensive medical report which described her symptoms, test results, diagnosis, treatment and the physician's opinion, with medical reasons, on the cause of his condition. Appellant failed to submit appropriate medical documentation in response to OWCP's request.

CONCLUSION

The Board finds that appellant failed to meet his burden in establishing that his back pain and sciatica were causally related to the accepted October 2, 2013 employment incident.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 2, 2014 is affirmed.

Issued: July 16, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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