

FACTUAL HISTORY

On December 19, 2011 appellant, then a 46-year-old landscape supervisor, filed an occupational disease claim alleging that he sustained lumbar spondylosis and stenosis causally related to factors of his federal employment. He indicated that he could no longer perform his work duties of lifting up to 100 pounds, climbing, planting, kneeling, squatting, searching inmates and responding to emergencies.

In a January 23, 2012 disability certificate, Dr. David S. Geckle, a Board-certified neurosurgeon, asserted that appellant was totally disabled from January 30 through April 1, 2012.

By letter dated June 29, 2012, OWCP requested additional factual and medical information from appellant, including a detailed report from his attending physician addressing the causal relationship between any diagnosed condition and the work duties to which he attributed his condition.

In a report dated January 23, 2012, Dr. Geckle related that appellant had a history of lumbar spondylosis. Over the past few months, he experienced “more leg symptomatology with radiation of the pain down the posterolateral leg to the knee with burning and tingling sensation intermittently into the left foot.” Dr. Geckle diagnosed lumbosacral spondylosis. In a progress report dated March 9, 2012, he provided findings on examination and diagnosed lumbosacral spondylosis.

On July 6, 2012 Dr. Geckle evaluated appellant for neck pain. He diagnosed cervical spondylosis. Dr. Geckle noted that appellant currently had no significant radiculopathy due to lumbar spondylosis and had no work limitations.

In a report dated July 9, 2012, Dr. Geckle indicated that he had treated appellant for a back condition since 2006. He diagnosed lumbar spondylosis with current symptoms of “low back pain that radiates into the left paraspinous musculature. There is no significant radiation of pain to the buttock or down the legs at the present time.” Dr. Geckle related that a magnetic resonance imaging (MRI) scan study revealed disc degeneration and a disc bulge at L4-5 and mild degeneration at L5-S1. He indicated that appellant attributed the onset of his symptoms to lifting a power washer in 2000 while at work. Dr. Geckle related, “[Appellant’s] work injury of 2000 is related to his chronic ongoing low back issues. These have been managed well medically over a protracted period of time. Appellant suffers occasional exacerbations of symptoms that require ongoing medical treatments.”

The record reflects that appellant filed a claim for an August 24, 2000 employment injury.

In response to OWCP’s request for additional information, in a statement dated July 9, 2012, appellant related that his injury initially occurred on August 24, 2000 and that he reinjured his back on October 9, 2001 and March 8, 2006. He maintained that he had constant discomfort in his low back that now spread down his left leg. Appellant asserted that operating machinery while sitting or driving long distances, bending and standing aggravated his condition. He

described in detail the work duties that he believed contributed to his condition, including lifting bags, searching inmates, emergency response, walking, loading machinery, snow removal and climbing stairs.

By decision dated October 5, 2012, OWCP denied appellant's claim on the grounds that he did not establish a medical condition causally related to the accepted factors of employment.

On November 5, 2012 appellant, through his attorney, requested an oral hearing before an OWCP hearing representative. On February 28, 2013 his attorney requested a review of the written record in lieu of an oral hearing.

In a report dated February 4, 2013, Dr. Geckle indicated that he initially evaluated appellant for a low back condition he sustained in 2000 lifting a power washer at work. He diagnosed lumbar spondylosis and noted that it was "a degenerative condition of his spine that has been progressively worsening over the years since his injury." Dr. Geckle stated, "It is my opinion that the lifting of the power washer did significantly impact his lower back structurally and has contributed to the progressive decline in his functioning due to his degenerative issues. The lower back injury has left him with chronic problems with lifting and bending." Dr. Geckle found that appellant had permanent disability and required some periodic work modifications when his symptoms increased. He further related that appellant had degenerative changes of the cervical spine not related to his 2000 injury but causing limitations.

By decision dated May 15, 2013, an OWCP hearing representative affirmed the October 5, 2012 decision. She found that the medical evidence was insufficient to show that he sustained a back condition due to the identified work factors. The hearing representative instructed appellant that if he believed that a work incident in 2000 caused his condition he should file either an injury claim or a notice of recurrence of disability related to that incident.

On appeal appellant's attorney contends that OWCP accepted that he had a back condition as the result of a March 8, 2006 work injury but that the hearing representative did not discuss this injury in her decision. He further alleges that Dr. Geckle's February 4, 2013 report establishes that appellant had an employment-related back condition.

LEGAL PRECEDENT

An employee seeking benefits under FECA² 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 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

² 5 U.S.C. § 8101 *et seq.*

employment injury.³ 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.⁴

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;⁵ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁶ and (3) medical evidence establishing the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁷

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁸ must be one of reasonable medical certainty⁹ explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.¹⁰

ANALYSIS

Appellant attributed his low back condition to the performance of work duties, including lifting bags, loading equipment, walking, climbing stairs, snow removal and responding to emergencies in the course of his federal employment. OWCP accepted the occurrence of the claimed employment factors. The issue, therefore, is whether the medical evidence establishes a causal relationship between the claimed conditions and the identified employment factors.

In a report dated January 23, 2012, Dr. Geckle discussed his treatment of appellant for lumbar spondylosis and his complaints of pain over the past few months radiating from the left leg into the left foot. He diagnosed lumbosacral spondylosis. In a disability certificate dated January 23, 2012, Dr. Geckle found that appellant was disabled from employment. On March 9, 2012 he discussed examination findings and diagnosed lumbosacral spondylosis. In a report dated July 6, 2012, Dr. Geckle discussed appellant's symptoms of neck pain and diagnosed cervical spondylosis. He found no radiation from the lumbar spondylosis and no work restrictions. In these reports, however, Dr. Geckle did not address causation. Medical evidence

³ *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *See Ellen L. Noble*, 55 ECAB 530 (2004).

⁵ *Michael R. Shaffer*, 55 ECAB 386 (2004).

⁶ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁷ *Beverly A. Spencer*, 55 ECAB 501 (2004).

⁸ *Tomas Martinez*, 54 ECAB 623 (2003); *Gary J. Watling*, 52 ECAB 278 (2001).

⁹ *John W. Montoya*, 54 ECAB 306 (2003).

¹⁰ *Judy C. Rogers*, 54 ECAB 693 (2003).

that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship.¹¹

On July 9, 2012 Dr. Geckle diagnosed lumbar spondylosis with pain radiating to the left paraspinous musculature. He noted that appellant asserted that his symptoms began in 2000 after he lifted a power washer at work. Dr. Geckle found that appellant's low back problems resulted from his 2000 injury at work lifting a power washer and indicated that he periodically experienced exacerbations of symptoms. As he attributed appellant's condition to lifting a power washer in 2000 rather than the work duties identified by appellant in his December 2011 occupational disease claim, his opinion is of diminished probative value.

In a report dated February 4, 2013, Dr. Geckle related that he began treating appellant in 2000 after he injured his low back at work lifting a power washer. He diagnosed progressively worsening lumbar spondylosis. Dr. Geckle found that lifting a power washer caused structural changes in appellant's back and "contributed to the progressive decline in his functioning due to his degenerative issues." He determined that appellant required intermittent work limitations due to his symptoms. Again, however, as Dr. Geckle attributed appellant's condition to a 2000 injury, his opinion is of diminished probative value. In the absence of rationalized medical evidence relating a diagnosed condition to the work factors identified by appellant as causing his condition, appellant has not met his burden of proof to establish his December 19, 2011 occupational disease claim.¹²

On appeal appellant's attorney asserts that OWCP's hearing representative should have discussed appellant's March 8, 2006 work injury and resulting low back condition. The issue, however, is whether appellant has established a back condition caused or aggravated by the work factors identified in his December 2011 occupational disease claim.

Counsel further alleges that Dr. Geckle's February 4, 2013 report establishes that appellant had an employment-related back condition. As discussed, however, Dr. Geckle did not relate a diagnosed condition to the work factors identified by appellant as causing his condition, and thus his opinion is of diminished probative value.¹³

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 and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that appellant has not established that he sustained a back condition causally related to factors of his federal employment.

¹¹ *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Conard Hightower*, 54 ECAB 796 (2003).

¹² *See B.E.*, Docket No. 14-63 (issued December 16, 2013).

¹³ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the May 15, 2013 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 14, 2014
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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