

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

T.G., Appellant)	
)	
and)	Docket No. 14-751
)	Issued: October 20, 2014
DEPARTMENT OF VETERANS AFFAIRS,)	
VETERANS ADMINISTRATION MEDICAL)	
CENTER, New Orleans, LA, Employer)	
)	

Appearances:
Debra Hauser, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge
ALEC J. KOROMILAS, Alternate Judge

JURISDICTION

On February 20, 2014 appellant, through counsel, filed a timely appeal from a January 10, 2014 merit decision of the Office of Workers' Compensation Programs (OWCP) denying her traumatic injury claim. Pursuant to the Federal Employees' Compensation Act¹ (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 met her burden of proof to establish that she sustained an injury in the performance of duty on October 25, 2010.

FACTUAL HISTORY

This case has previously been before the Board. On October 27, 2010 appellant, then a 36-year-old veterans administration claims examiner, filed a traumatic injury claim (Form CA-1)

¹ 5 U.S.C. § 8101 *et seq.*

alleging that on October 25, 2010 she sustained a back strain when she was placing a file in a cabinet and the entire cabinet fell forward.

By decision dated March 22, 2013, the Board affirmed OWCP's July 20 and August 24, 2012 decisions finding that appellant failed to establish that her back, leg, neck and hand injuries were causally related to the October 25, 2010 employment incident.² The findings of fact and conclusions of law from the prior decision and order are hereby incorporated by reference.

On August 12, 2013 appellant, through counsel, requested reconsideration, arguing that the medical evidence of record established appellant's claim. Counsel stated that she was submitting a new supplemental medical report from Dr. Shannon Ceasar, a family practitioner, which provided additional information and cured the deficiencies of her prior report.

In an undated narrative report, Dr. Ceasar related that she evaluated appellant on March 27, 2012 for injuries stemming from an October 25, 2010 work-related incident. She reported that appellant was placing a file in a file cabinet when the entire cabinet began to fall forward. This caused appellant to grab the file cabinet to stop it from falling. Dr. Ceasar noted that following this occurrence appellant began to experience pain in her lower back, weakness in the right side and leg, sharp pain in the left side and leg, pain in the neck and numbness in both hands at the fourth and fifth digits. She provided an activity of daily living assessment, a palpation evaluation and a summary of appellant's prior medical reports and treatment beginning October 25, 2010. Dr. Ceasar noted that, although appellant's current symptoms existed prior to the October 25, 2010 employment incident, those symptoms were noticeably exacerbated and aggravated by the incident. She further concluded that appellant's previous conditions did not contribute to her present condition.

Dr. Ceasar diagnosed displacement of intervertebral disc without myelopathy, degeneration of lumbar or lumbosacral intervertebral disc, cervicgia, cervicobrachial syndrome, lumbago, spasm of muscle, cervical segmental dysfunction and lumbar segmental dysfunction. She reported that, prior to the October 25, 2010 filing cabinet incident, appellant did not experience pain or discomfort in the cervical, thoracic and lumbar spine. Dr. Ceasar did note that appellant experienced chronic lower back discomfort approximately two years prior to the October 25, 2010 incident which was evidenced by an abnormal magnetic resonance imaging (MRI) scan. She opined that, although appellant experienced on and off discomfort in the lower back, the October 25, 2010 incident caused a marked exacerbation of her condition. Following the October 25, 2010 employment incident, appellant's condition worsened due to the weakened area of the spine which was under a constant state of stress as a result of her work-related duties, causing the complicated conditions of the upper and mid back. Dr. Ceasar stated that appellant's condition did not have time to stabilize due to her daily required work-related duties, causing exacerbations of her condition including numbness into the hand and pain and discomfort into the lumbar spine. She further stated that appellant had difficulty carrying files during her daily work due to the pain and loss of proper hand function. Dr. Ceasar opined with reasonable medical certainty that the resulting impact of the heavy cabinet caused an exacerbation and worsening of appellant's injuries and the continued heavy workload and lifting exacerbated the problem into the neck and hand.

² Docket No. 13-76 (issued March 22, 2013).

By decision dated January 10, 2014, OWCP denied appellant's claim finding that the medical evidence of record failed to establish that her diagnosed conditions were causally related to the October 25, 2010 employment incident. It noted that Dr. Ceasar's report was previously submitted and OWCP was not in receipt of an updated medical report since the hearing representative's decision dated March 22, 2013.

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 filed within the applicable time limitation; that an injury was sustained while in the performance of duty as alleged and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.³ These are the essential elements of every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

In order to determine whether an employee actually sustained an injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.⁵ The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

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

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence based on a complete factual and medical background, supporting such a causal relationship.⁷ The opinion of the physician must be 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 claimant. This medical opinion must include an accurate history of the employee's employment injury and must explain how the

³ *Gary J. Watling*, 52 ECAB 278 (2001); *Elaine Pendleton*, 40 ECAB 1143, 1154 (1989).

⁴ *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ *Elaine Pendleton*, *supra* note 3.

⁶ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested and the medical rationale expressed in support of the physician's opinion.⁸

ANALYSIS

OWCP accepted that the October 25, 2010 employment incident occurred as alleged. The issue is whether appellant established that the incident caused her multiple medical conditions. The Board finds that she has still not submitted sufficient medical evidence to support that her neck, back, leg and hand injuries are causally related to the October 25, 2010 employment incident.⁹

Following the Board's last decision, which affirmed the denial of the claim, appellant submitted an August 12, 2013 request for reconsideration accompanied with a newly submitted, undated medical report from Dr. Ceasar. Counsel argued that this additional report established appellant's traumatic injury claim. While the January 10, 2014 OWCP decision found this report to be duplicative of Dr. Ceasar's previously submitted reports, the Board finds the report is not entirely duplicative of those previously submitted as it provides additional details and comments regarding appellant's medical history and cause of her conditions. The Board finds, however, that the opinion of Dr. Ceasar is not well rationalized.¹⁰

Dr. Ceasar's undated supplemental report provided a summary of appellant's medical treatment and history beginning October 25, 2010. She reported that she evaluated appellant on March 27, 2012 for injuries stemming from an October 25, 2010 work-related incident when appellant grabbed a file cabinet to stop it from falling forward. Dr. Ceasar diagnosed displacement of intervertebral disc without myelopathy, degeneration of lumbar or lumbosacral intervertebral disc, cervicgia, cervicobrachial syndrome, lumbago, spasm of muscle, cervical segmental dysfunction and lumbar segmental dysfunction. She did note that appellant experienced chronic lower back discomfort approximately two years prior to the October 25, 2010 incident which was evidenced by an abnormal MRI scan. Dr. Ceasar opined that, although appellant experienced on and off discomfort in the lower back, the October 25, 2010 incident caused a marked exacerbation of her condition. Following the October 25, 2010 employment incident, appellant's condition worsened due to the weakened area of the spine which was under a constant state of stress as a result of her work-related duties, causing the complicated conditions of the upper and mid back.

While Dr. Ceasar's report addresses appellant's preexisting back condition and opined that the October 25, 2010 employment incident caused a marked exacerbation, she failed to provide a rationalized opinion regarding the cause of appellant's injury. She provided eight different diagnoses, yet only generally stated that appellant's condition was exacerbated by the October 25, 2010 incident. Dr. Ceasar failed to address each condition specifically with an opinion on how a falling file cabinet would cause each of the diagnoses provided. She generally

⁸ *James Mack*, 43 ECAB 321 (1991).

⁹ *See Robert Broome*, 55 ECAB 339 (2004).

¹⁰ A.S., Docket No. 10-1696 (issued April 21, 2011).

stated that, following the October 25, 2010 incident, appellant's condition worsened due to the weakened area of the spine which was under a constant state of stress as a result of her work-related duties, causing the complicated conditions of the upper and mid back. This statement fails to provide a sufficient explanation as to the mechanism of injury pertaining to this traumatic injury claim, namely, how a falling cabinet would cause or aggravate appellant's multiple diagnosed conditions.¹¹ Without explaining how physiologically the movements involved in the employment incident caused or contributed to the diagnosed conditions, Dr. Ceasar's opinion that the impact of the heavy cabinet caused an exacerbation and worsening of appellant's injuries is equivocal in nature and of limited probative value.¹²

Dr. Ceasar further stated that appellant's condition did not have time to stabilize due to her daily required work-related duties, causing exacerbations of her condition including numbness into the hand and pain and discomfort into the lumbar spine. She noted that appellant had difficulty carrying files during her daily work due to the pain and loss of proper hand function. Dr. Ceasar opined that the continued heavy workload and lifting exacerbated the problem into the neck and hand. As previously noted in the Board's March 22, 2013 decision,¹³ it appears that she is attributing appellant's injuries to an occupational injury produced by her work environment over a period longer than a single workday or shift rather than an injury from a single occurrence within a single workday as alleged by appellant in this claim.¹⁴ Thus, Dr. Ceasar's opinion pertaining to appellant's work-related duties as the cause of her injuries does not provide support for a traumatic injury claim.¹⁵

Medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.¹⁶ The opinion of a physician supporting causal relationship must rest on a complete factual and medical background supported by affirmative evidence, address the specific factual and medical evidence of record and provide medical rationale explaining the relationship between the diagnosed condition and the established incident or factor of employment.¹⁷ Dr. Ceasar's report does not meet that standard and is insufficient to meet appellant's burden of proof.¹⁸

¹¹ *S.W.*, Docket 08-2538 (issued May 21, 2009).

¹² *See L.M.*, Docket No. 14-973 (issued August 25, 2014); *R.G.*, Docket No. 14-113 (issued April 25, 2014); *K.M.*, Docket No. 13-1459 (issued December 5, 2013); *A.J.*, Docket No. 12-548 (issued November 16, 2012).

¹³ *Supra* note 2.

¹⁴ A traumatic injury means a condition of the body caused by a specific event or incident or series of events or incidents, within a single workday or shift. 20 C.F.R. § 10.5(ee). An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

¹⁵ *S.R.*, Docket No. 12-1098 (issued September 19, 2012).

¹⁶ *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

¹⁷ *See Lee R. Haywood*, 48 ECAB 145 (1996).

¹⁸ *C.B.*, Docket No. 08-1583 (issued December 9, 2008).

In the instant case, the record lacks rationalized medical evidence establishing a causal relationship between the October 25, 2010 employment incident and appellant's injuries. Thus, appellant has failed to meet her burden of proof.

Appellant may submit additional evidence, together with a written request for reconsideration, to OWCP within one year of the Board's merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

CONCLUSION

The Board finds that appellant did not meet her burden of proof to establish that her back, leg, neck and hand injuries are causally related to the October 25, 2010 employment incident, as alleged.

ORDER

IT IS HEREBY ORDERED THAT the January 10, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 20, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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