

FACTUAL HISTORY

Appellant, a 34-year-old pipefitter supervisor, filed a claim for benefits on February 6, 2014, alleging that on that day he felt something pop in his lower back while picking up bags of cast-iron fittings.

In a February 11, 2014 report, Dr. Joseph T. Sanelli, an osteopath, reported that appellant had complaints of lumbar pain and weakness which radiated into his left buttock and left leg. He attributed these complaints to the February 6, 2014 work incident. Appellant rated the pain as a 5 on a scale of 1 to 10, with a stabbing and aching sensation which gradually progressed and increased with bending, coughing, general activities, lying down, sitting, standing and walking. Dr. Sanelli referred appellant for a magnetic resonance imaging (MRI) scan of the lumbar spine in light of the fact that his complaint was lumbar radicular pain. He diagnosed disc displacement with lumbar myelopathy, sciatica, discogenic syndrome and facet syndrome and opined that there was a causal relationship between the diagnoses and the February 6, 2014 work incident.

In a report dated March 10, 2014, Dr. Sanelli reported that appellant underwent a lumbar MRI scan which showed mild multilevel degenerative changes, in particular at L4-5 with mild facet hypertrophy and a diffuse disc bulge with slight flattening of the ventral thecal sac and minimal foraminal compromise. He diagnosed disc displacement without myelopathy, lumbar sciatica, facet syndrome and discogenic syndrome. On examination Dr. Sanelli noted that appellant showed painful motion during axial extension, axial flexion and left side axial rotation; lateral motion caused axial pain. Appellant's range of motion was somewhat restricted, but motor strength testing revealed no gross weakness in the lower extremities. Dr. Sanelli advised that appellant had no sensory deficits, no myelopathic findings and that he had a normal lower extremity examination with regard to his joints. He recommended a course of physical therapy for his current lower back pain and a lower extremity electromyogram (EMG) for further evaluation of a lumbosacral radiculopathy versus entrapment neuropathy in the event physical therapy did not produce an improvement of his lower back condition. Dr. Sanelli stated that there was a causal relationship between the diagnoses and the injury of record.

Dr. Sanelli submitted several form reports on which he indicated that he had examined appellant for a lower back injury and checked a box indicating that appellant's injury corresponded with his description of how the work incident occurred. In an April 10, 2014 report, he essentially reiterated his previous findings and conclusions. Dr. Sanelli stated that appellant continued to experience constant, mechanical pain which was a 4 on a scale of 1 to 10.

By letter dated May 7, 2014, OWCP informed appellant that, while it had initially handled his claim administratively and authorized payment of a limited amount of medical expenses, it was reopening his claim because his medical bills had exceeded \$1,500.00. It noted that the merits of the claim now needed to be formally considered and advised that it required additional factual and medical evidence to determine whether he was eligible for compensation benefits. OWCP asked appellant to submit a comprehensive medical report from his treating physician describing his symptoms and the medical reasons for his condition, and an opinion as to whether his claimed condition was causally related to his federal employment. It requested that he submit the additional evidence within 30 days.

In a May 22, 2014 report, Dr. Sanelli stated that appellant had continued back pain which he rated as a 5 on a scale of 1 to 10. He referred appellant for a lumbar EMG of the lower extremity to determine whether he had lumbar radiculopathy, entrapment neuropathy, double crush syndrome or peripheral neuropathy.

In a May 30, 2014 report, Dr. Sanelli stated that appellant had constant lower back pain which was predominantly left sided, with left-sided lower back weakness and radiation into the left buttocks. He reviewed appellant's treatment history and his account of injury and reiterated his previous findings and conclusions. Dr. Sanelli stated that radiographic studies of the lumbar spine showed straightening of the normal lumbar lordosis, most likely secondary to muscular spasm with mild degenerative changes of the lower lumbar segments. He reiterated his previous findings, conclusions and diagnoses. Dr. Sanelli opined that appellant's symptoms were directly and causally related to the lifting injury he sustained while lifting bags of plumbing materials on February 6, 2014. Appellant also submitted several reports from a physical therapist which documented his treatment for his left knee condition.

By decision dated June 12, 2014, OWCP denied appellant's claim, finding that he failed to submit sufficient medical evidence in support of his claim that he sustained a lower back injury in the performance of duty on February 6, 2014.

LEGAL PRECEDENT

An employee seeking benefits under FECA² has the burden of establishing that 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 are causally related to the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁴

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. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged.⁵ 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.⁶ The medical evidence required to establish causal relationship is usually rationalized medical evidence. Rationalized medical

² *Id.*

³ *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁵ *John J. Carlone*, 41 ECAB 354 (1989).

⁶ *Id.* For a definition of the term "injury," see 20 C.F.R. § 10.5(a)(14).

opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. 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.⁷

The Board has held that the mere fact that a condition manifests itself during a period of employment does not raise an inference that there is a causal relationship between the two.⁸

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that his condition was caused, precipitated or aggravated by his employment is sufficient to establish causal relationship.⁹ Causal relationship must be established by rationalized medical opinion evidence and appellant failed to submit such evidence.

ANALYSIS

OWCP accepted that appellant experienced lower back pain while picking up bags of cast-iron fittings on February 6, 2014. The question of whether an employment incident caused a personal injury can only be established by probative medical evidence.¹⁰ The Board finds that appellant has not submitted rationalized, probative medical evidence to establish that the February 6, 2014 employment incident would have been competent to cause the claimed injury.

Dr. Sanelli submitted several reports in which he noted appellant's complaints of lower back pain on examination and indicated that appellant had lumbar myelopathy, sciatica, discogenic syndrome and facet syndrome lumbar myelopathy, sciatica, discogenic syndrome and facet syndrome. These reports, however, did not sufficiently relate the diagnoses to the February 6, 2014 incident at work. The weight of medical opinion is determined by the opportunity for and thoroughness of examination, the accuracy and completeness of physician's knowledge of the facts of the case, the medical history provided, the care of analysis manifested and the medical rationale expressed in support of stated conclusions.¹¹

Dr. Sanelli advised in his February 11, 2014 report that appellant had complaints of lumbar pain and weakness which radiated into his left buttock and left leg, which he attributed to the February 6, 2014 work incident. He related that appellant rated the pain as a 5 on a scale of 1 to 10. Dr. Sanelli diagnosed disc displacement with lumbar myelopathy, sciatica, discogenic syndrome and facet syndrome. He opined that there was a causal relationship between the

⁷ *Id.*

⁸ *See Joe T. Williams*, 44 ECAB 518, 521 (1993).

⁹ *Id.*

¹⁰ *John J. Carlone*, *supra* note 5.

¹¹ *See Anna C. Leanza*, 48 ECAB 115 (1996).

diagnoses and the February 6, 2014 work incident. In his March 10, 2014 report, Dr. Sanelli stated that appellant underwent a lumbar MRI scan which showed mild multilevel degenerative changes, mostly at L4-5 with mild facet hypertrophy and a diffuse disc bulge with slight flattening of the ventral thecal sac and minimal foraminal compromise. He advised that appellant had no sensory deficits and no myelopathic findings and recommended a course of physical therapy. In his May 30, 2014 report, Dr. Sanelli reiterated his previous findings, conclusions and diagnoses. He stated that radiographic studies of the lumbar spine showed straightening of the normal lumbar lordosis, most likely secondary to muscular spasm with mild degenerative changes of the lower lumbar segments. Dr. Sanelli opined that appellant's symptoms were directly and causally related to the lifting injury he sustained while lifting bags of plumbing materials on February 6, 2014.

Although Dr. Sanelli presented several diagnoses of appellant's condition, he did not adequately address how these diagnoses were causally related to the February 6, 2014 work incident. The medical reports of record do not explain how, medically, appellant would have sustained lumbar myelopathy, sciatica, discogenic syndrome and facet syndrome lumbar myelopathy, sciatica, discogenic syndrome and facet syndrome due to picking up bags of cast iron fittings on February 6, 2014. The medical evidence of record is to establish that appellant's lower back injury was work related. The reports from Dr. Sanelli merely assert in summary fashion that appellant's lower back condition was caused by the February 6, 2014 work incident, and that his conditions were caused by his injury. Dr. Sanelli's opinion on causal relationship is of limited probative value in that he did not provide adequate medical rationale in support of his conclusions.¹² He did not describe appellant's incident in any detail or explain how physiologically it would have been competent to cause the claimed lower back conditions.¹³ Furthermore, the form reports from Dr. Sanelli which support causal relationship with a check mark are insufficient to establish the claim, as the Board has held that without further explanation or rationale, a checked box is not sufficient to establish causation.¹⁴ Therefore, appellant failed to provide a medical report from a physician that explains how the work incident of February 6, 2014 caused or contributed to the claimed lower back injury.

In addition, the Board notes that appellant submitted several reports from a physical therapist. These reports, however, do not constitute medical evidence under section 8101(2). Because healthcare providers such as nurses, acupuncturists, physicians assistants and physical therapists are not considered "physicians" under FECA, their reports and opinions do not constitute competent medical evidence to establish a medical condition, disability or causal relationship.¹⁵

OWCP advised appellant of the evidence required to establish his claim; however, he failed to submit such evidence. Appellant did not provide a medical opinion which describes or explains the medical process through which the February 6, 2014 work incident would have

¹² *William C. Thomas*, 45 ECAB 591 (1994).

¹³ *C.A.*, Docket No. 14-1123 (issued August 21, 2014).

¹⁴ *Debra S. King*, 44 ECAB 203 (1992); *Salvatore Dante Roscello*, 31 ECAB 247 (1979).

¹⁵ 5 U.S.C. § 8101(2); *see also G.G.*, 58 ECAB 389 (2007); *Jerré R. Rinehart*, 45 ECAB 518 (1994); *Barbara J. Williams*, 40 ECAB 649 (1989); *Jan A. White*, 34 ECAB 515 (1983).

caused the claimed injury. Accordingly, he did not establish that he sustained a lower back injury in the performance of duty. OWCP properly denied appellant's claim for compensation.

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 has failed to establish that he sustained a lower back injury in the performance of duty on February 6, 2014.

ORDER

IT IS HEREBY ORDERED THAT the June 12, 2014 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: October 20, 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