

employing establishment controverted continuation of pay, noting that appellant's claim was not filed within 30 days of the alleged date of injury.

By letter dated August 14, 2013, OWCP informed appellant of the evidence needed to support her claim and sent her a questionnaire for completion.

On August 20, 2013 Dr. Kathy H. Brandli, Board-certified in family medicine, assessed appellant with low back pain radiating to the left leg. She noted that appellant had pain in her left buttocks down to her knee since an injury at work on June 22, 2013, and prescribed aspirin, ibuprofen and Tylenol. Dr. Brandli referred appellant for a magnetic resonance imaging (MRI) scan of her lumbar spine. In another report of the same date, she noted that appellant told her she was unloading a tray from one cart to another cart, leaned forward to grab a tray and move it to another nearby location, and that during the process of moving one of these trays, she felt a crunching sensation in the lower back. While it was not painful immediately, the next day appellant began to experience more severe pain in the back of the left upper leg/hamstring region. She worked the next day. On examination, Dr. Brandli noted that appellant was able to ambulate without assistance and could move from the chair to the examination table without difficulty. She noted tenderness at the L4 level of the spine and mild-left sacroiliac joint tenderness. On straight-leg-raising, Dr. Brandli noted exacerbation of hamstring and back discomfort, with elevation to approximately 70 degrees. She assessed appellant with low back pain radiating to the left leg, suspicious for disc herniation and nerve impingement, with symptoms ongoing for over eight weeks.

In a duty status report dated August 21, 2013, Dr. Brandli assessed appellant with lower back pain radiating to the left leg and recommended work restrictions of carrying no more than 10 pounds continuously or 20 pounds intermittently.

In an undated statement received by OWCP on August 27, 2013, appellant stated that she was off work for two weeks after the injury, and that this absence was the reason she had not reported her injury within 30 days. Appellant noted that her injury occurred when she was transferring a tray of DPS mail from one cart to another. The immediate effect of her injury was a crackling sensation in her lower back. Appellant stated that she had not sustained any injury since that time, and that on the day after her injury, she began to feel pain in her left thigh to her knee, which she treated with over-the-counter pain medication. She noted that she did not have any similar disability or symptoms before this injury.

Appellant submitted an undated witness statement in support of her claim. H.W., a coworker, noted that on June 22, 2013 appellant and she were distributing mail to carriers at the employing establishment. As they moved DPS letter trays from cart to cart, appellant gave a small cry and exclaimed, "Oh, my back. I just felt a crackling sensation in my back."

In a diagnostic report dated August 28, 2013, Dr. Phyllis J. Noss, a Board-certified radiologist, examined the results of an MRI scan of appellant's lumbar spine. She noted a 2.3 centimeter area of high signal in the L4 vertebral body, which was probably a hemangioma. There was a tiny foci of high signal in the S1 segment of the sacrum and L3, which most likely represented lipomata. At L5-S1, the disc height was preserved, and Dr. Noss noted an annular tear posterior to the left of the midline without disc herniation. She observed a moderately

severe hypertrophy of the facet joints and ligamentum flavum bilaterally. An annular tear was also observed at L4-5, which was posterior laterally on the left, with no disc herniation. Dr. Noss noted moderately severe degenerative change in the facet joints bilaterally with marked bilateral hypertrophy of the ligamentum flavum. At L3-4, there was mild circumferential bulging of the disc annulus with no herniation, with the same moderately severe degenerative changes. At L2-3, there was a one millimeter anterolisthesis due to ligamentous laxity in the facet joints and mild circumferential bulging of the disc annulus, with the same moderately severe degenerative changes. At L1-2, Dr. Noss noted mild degenerative change in the facet joints and slight hypertrophy of the ligamentum flavum, with normal disc appearance.

By decision dated September 18, 2013, OWCP denied appellant's claim on the grounds that appellant did not establish a causal relationship between her condition and the incident of June 22, 2013.

On October 12, 2013 appellant requested a review of the written record by the Branch of Hearings and Review.

In a memorandum addressed to OWCP dated October 8, 2013, Dr. Brandli stated that appellant sustained an injury at work on June 22, 2013, which caused pain development into the left lower back, buttock region and into the left leg. She noted that appellant had no prior history of lower back pain or radicular pain until her injury at work on June 22, 2013. Dr. Brandli stated that her notation from August 20, 2013 clearly outlined the history and report of a work-related injury. She noted that appellant continued to complain of pain and that her MRI scan demonstrated the presence of bulging discs. Dr. Brandli observed that the disc bulging "certainly could have been caused by her work injury on [June 22, 2013]." She explained, "As already stated, patient had no prior history of back pain or radicular symptoms until she sustained her injury at work, therefore it is in my opinion that her current symptoms are caused/aggravated by the injury that occurred at work." Dr. Brandli noted that appellant would benefit from physical therapy and a recommendation on whether she should have epidural steroid or facet injections. She noted that appellant was very frustrated with her workers' compensation claim, and agreed that she had been unjustly denied. Dr. Brandli asked OWCP to reconsider its denial as her symptoms were directly related to an injury sustained at work.

On March 26, 2014 the hearing representative affirmed the decision dated September 18, 2013, denying appellant's claim on the grounds that she had not established a causal relationship between her condition and the incident of June 22, 2013.

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 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.⁵ 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.⁶ 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.⁷

The claimant has the burden of establishing by the weight of reliable, probative and substantial evidence that the condition for which compensation is sought is causally related to a specific employment incident or to specific conditions of employment.⁸ An award of compensation may not be based on appellant's belief of causal relationship. 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 a causal relationship.⁹

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.¹⁰ Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on whether there is a causal relationship between the employee's diagnosed condition and compensable employment factors.¹¹ 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.¹²

³ C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364, 366 (2006).

⁴ S.P., 59 ECAB 184, 188 (2007); *Joe D. Cameron*, 41 ECAB 153, 157 (1989).

⁵ B.F., Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 3 at n.5.

⁶ D.B., 58 ECAB 464, 466 (2007); *David Apgar*, 57 ECAB 137, 140 (2005).

⁷ C.B., Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734, 737 (2008); *Bonnie A. Contreras*, *supra* note 3 at n.5.

⁸ *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

⁹ P.K., Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

¹⁰ Y.J., Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-56 (2006); *D Wayne Avila*, 57 ECAB 642, 649 (2006).

¹¹ J.J., Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

¹² I.J., 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

ANALYSIS

The Board finds that the evidence established that on June 22, 2013, appellant lifted and moved trays of mail at work. However, the Board finds that the medical evidence submitted by appellant is insufficient to establish that this incident caused or aggravated a medical condition.

On October 8, 2013, Dr. Brandli stated that appellant sustained an injury at work on June 22, 2013, which caused pain development into the left lower back, buttock region, and into the left leg. She noted that appellant continued to complain of pain and that her MRI scan demonstrated the presence of bulging discs. Dr. Brandli observed that the disc bulging “certainly could have been caused by her work injury on [June 22, 2013].” She explained, “As already stated, patient had no prior history of back pain or radicular symptoms until she sustained her injury at work, therefore it is in my opinion that her current symptoms are caused or aggravated by the injury that occurred at work.”

The Board finds that Dr. Brandli’s report lacks sufficient detailed medical rationale to discharge appellant’s burden of proof that she sustained a work-related injury on June 22, 2013. The opinion that appellant’s bulging disc “certainly could have been caused” by appellant’s June 22, 2013 incident is speculative in nature.¹³ Furthermore, Dr. Brandli stated that the rationale for her opinion that appellant’s current condition was caused or aggravated by the incident of June 22, 2013 was that appellant had no prior history of back pain or radicular symptoms. As noted above, 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 a causal relationship.¹⁴ She did not offer any explanation of the mechanics of the incident and resulting injury, including the objective findings of the MRI scan dated August 28, 2013 apart from bulging discs. Without a detailed medical report describing the employment incident in detail and noting, physiologically, how and why appellant sustained a lumbar condition as a result of the June 22, 2013 incident, Dr. Brandli’s opinion is not sufficient to meet appellant’s burden of proof.¹⁵

The diagnostic study of August 28, 2013 and the duty status report of August 21, 2013 do not address the cause of any diagnosed condition. Similarly, Dr. Brandli’s August 20, 2013 reports contain a history of injury, but no clear opinion on the causal relationship between appellant’s condition and the traumatic incident. 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.¹⁶ Hence, this evidence is insufficient to meet appellant’s burden of proof.

Medical evidence submitted to support a claim for compensation should reflect a correct history, and the physician should offer a medically sound explanation of how the claimed work

¹³ See *W.F.*, Docket No. 14-673 (issued July 9, 2014).

¹⁴ *Supra* note 9.

¹⁵ See *D.L.*, Docket No. 13-1226 (issued August 22, 2013).

¹⁶ *Willie M. Miller*, 53 ECAB 697, 701 (2002).

event caused or aggravated the claimed condition.¹⁷ Dr. Brandli, the only physician who discussed causal relationship, did not do so. Therefore, appellant did not meet her burden of proof to establish that she sustained a traumatic injury on June 22, 2013.

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 an employment-related injury on June 22, 2013.

ORDER

IT IS HEREBY ORDERED THAT the March 26, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 17, 2014
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

¹⁷ *D.D.*, Docket No. 13-1517 (issued April 14, 2014).