



November 23, 2011 injury.<sup>2</sup> He stated that he was walking on his route when he felt a pinch in his back. Appellant continued to work on his route which made his condition worse.

In a March 6, 2013 medical report, Dr. Nicholas P. Diamond, an osteopath and pain management specialist, provided a history of injury that on November 23, 2011 appellant injured his lumbar spine, right wrist, and right ankle when he tripped and fell over toys that had been covered by leaves while delivering mail. He reported findings on examination and diagnosed post-traumatic lumbosacral spine strain and sprain superimposed upon a preexisting lumbar chronic strain and sprain and left lumbar radiculitis. Dr. Diamond also diagnosed post-traumatic right ankle strain and sprain.

In a September 11, 2013 lumbar spine magnetic resonance imaging (MRI) scan, Dr. Myron M. Levitt, a Board-certified radiologist, found a new small left L4-5 foraminal disc herniation.

In reports dated August 21, September 18, and November 15, 2013, Dr. Jose Campos, a Board-certified physiatrist, noted appellant's continued low back pain and provided a history of his medical, family, and social background. He reported examination findings and diagnosed lumbar facet arthropathy, lumbar spine herniated nucleus pulposus, gait disorder, and myospasm. In physician order/certification of medical necessity forms dated August 21 and September 18, 2013, Dr. Campos ordered physical therapy to treat appellant's diagnosed conditions.

In reports and daily office notes dated September 18 to November 8, 2013, appellant's physical therapists provided a history of appellant's November 23, 2011 injury and examination findings. He was assessed as having increased palpable reactivity, "LQ" flexibility deficits, dynamic lumbar instability, and decreased range of motion and strength.

By letter dated December 17, 2013, OWCP noted the filing of appellant's recurrence claim associated with his claim under File No. xxxxxx882. Given his description of events, however, it treated his September 13, 2013 claim under File No. xxxxxx626 as a new occupational disease injury, rather than a recurrence. OWCP notified appellant of the deficiencies of his claim and afforded him 30 days to submit additional factual and medical evidence. It requested that the employing establishment submit medical evidence, if appellant had been treated at its medical facility.

In an undated statement, appellant described his back symptoms. He stated that his symptoms arose on August 8, 2013 when he felt a pinch in his back while on his route. Appellant experienced severe pain the next day on his route. Due to continuous pain, he could not participate in any activities, move, walk, or stand for a long period. Appellant stated that physical therapy controlled his pain.

Reports dated August 13 and October 1, 2013 contained an unknown signature and provided appellant's history of improved numbness and weakness in his right hand, low back pain with radiation to his left buttock that remained the same, and improved right ankle pain.

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<sup>2</sup> The record indicates that appellant had filed a previous claim under File No. xxxxxx882 alleging an employment-related injury on November 23, 2011.

Sitting or standing for more than 30 minutes or bending down aggravated his back pain. Appellant had difficulty sleeping at times due to pain. The report listed examination findings and stated that he was advised to rest and to return to work on August 15, 2013.

In reports dated September 11 and December 16, 2013, and January 13, 2014, Dr. Campos provided a history that appellant had sustained a work-related back injury on August 14, 2013. He reported examination findings and reiterated his prior diagnoses of lumbar facet arthropathy, lumbar spine herniated nucleus pulposus, gait disorder, and myospasm. In physician order/certification of medical necessity forms dated December 16, 2013 and January 13, 2014, Dr. Campos ordered physical therapy to treat appellant's diagnosed lumbar and gait conditions. By letters dated October 7 and December 20, 2013, he expressed the need for medical treatment of appellant's lumbar facet arthropathy. Dr. Campos noted that based on his continued complaints of back pain despite taking medications, undergoing physical therapy, and diagnostic test findings, it was medically necessary for him to receive bilateral L4-5 and L5-S1 facet corticosteroid injections. This treatment would allow appellant to participate effectively in physical therapy and to return to work in a timely manner.

Reports dated November 25, 2013 to January 13, 2014 from appellant's physical therapists addressed the treatment of appellant's back condition.

In a January 30, 2014 decision, OWCP denied appellant's occupational disease claim. It found that the medical evidence was insufficient to establish a causal relationship between a diagnosis and the accepted work factors.

On January 27, 2014 appellant, through counsel, requested reconsideration.

In a March 12, 2014 report, Dr. Louis G. Quartararo, a Board-certified orthopedic surgeon, provided a history of injury that appellant felt a sharp pinch in his back on August 8, 2013 while carrying a heavy bag at work and that he subsequently sought medical treatment. His prior work injuries included a 2004 motor vehicle accident and a November 23, 2012 fall. Dr. Quartararo noted appellant's complaints of bilateral low back pain which occasionally radiated down to his left buttock and posterior thigh. He also noted his medical, family, and social background. Dr. Quartararo reviewed diagnostic test results and provided physical and neurological examination findings. He provided an impression of L4-5 disc herniation, low back pain, and left lower extremity radiculopathy. Dr. Quartararo advised that appellant could perform limited-duty work, six hours a day with restrictions. He opined that there was a direct causal relationship between appellant's condition and the work injury, which was supported by appellant's history, his physical findings, and studies.

In a May 14, 2014 report, Dr. Campos noted the November 23, 2011 back injury and provided a history of appellant's medical treatment, including his own treatment of him. He opined that appellant had a new L4-5 small left foraminal disc protrusion that abutted and potentially impacted the left L4 root and lumbar facet arthropathy, and was caused or aggravated by the November 23, 2011 injury.

In an August 13, 2014 report, Dr. Diamond provided a history of injury that on August 8, 2013 appellant felt a sharp pinch in his lumbar spine while carrying a heavy bag at work. He

reviewed medical records and reported physical and sensory examination findings. Dr. Diamond reiterated his prior diagnoses of a post-traumatic lumbosacral spine strain and sprain superimposed upon a preexisting lumbar chronic strain and sprain, and left lumbar radiculitis. He diagnosed a new protruding type L4-5 herniated nucleus pulposus with left L4 nerve root abutment based on a September 11, 2013 MRI scan, and aggravation of left lumbar radiculitis. Dr. Diamond opined that the work-related injuries sustained during the course of appellant's employment were the competent producing factor for his subjective and objective findings. He stated that the reasons for his opinion included the history according to appellant, his physical examination, the duties of appellant's occupation, and a review of medical records.

By letter dated February 12, 2015, appellant's counsel contended that Dr. Diamond's August 13, 2014 report established that appellant sustained a back injury causally related to factors of his employment.

In an April 23, 2015 decision, OWCP denied modification of the January 30, 2014 decision. It found that the medical evidence failed to establish that appellant's diagnosed medical conditions were caused or aggravated by the established work factors.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>3</sup> 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 employment injury.<sup>4</sup> 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.<sup>5</sup>

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; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that 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.

The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the employee, must be one of reasonable certainty, and must be supported by medial rationale explaining the nature of the relationship between the diagnosed condition and

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<sup>3</sup> 5 U.S.C. § 8101 *et seq.*

<sup>4</sup> *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>5</sup> *S.P.*, 59 ECAB 184 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989); *Joe D. Cameron*, 41 ECAB 153 (1989).

the specific employment factors identified by the employee.<sup>6</sup> Neither the fact that appellant's condition became apparent during a period of employment nor, his belief that the condition was caused by his employment is sufficient to establish a causal relationship.<sup>7</sup>

### ANALYSIS

OWCP accepted the work factor that appellant walked an outdoor route while working as a letter carrier. The Board finds, however, that the medical evidence of record is insufficient to establish that he sustained a back injury caused or aggravated by the accepted work factor.

Dr. Diamond's August 13, 2014 report found that appellant had post-traumatic lumbosacral spine strain and sprain superimposed upon a preexisting lumbar chronic strain and sprain and left lumbar radiculitis, post-traumatic right ankle strain and sprain, a new protruding L4-5 herniated nucleus pulposus with left L4 nerve root abutment, and aggravation of left lumbar radiculitis. He opined generally that the work-related injuries sustained during the course of appellant's employment were the competent producing factor for his subjective and objective findings. Dr. Diamond noted that the reasons for his opinion included the history according to appellant, his physical examination, the duties of appellant's occupation, and a review of medical records. However, he did not specifically address how walking an outdoor route was sufficient activity to cause or contribute to any lumbar and right ankle conditions. Medical reports without adequate rationale on causal relationship are of diminished probative value and do not meet an employee's burden of proof.<sup>8</sup> Dr. Diamond's remaining report, dated March 6, 2013, did not provide any medical opinion as to whether appellant's diagnosed lumbar and right ankle conditions were caused or aggravated by the established employment factor. Medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value.<sup>9</sup>

Likewise, Dr. Campos' reports are of limited probative value. While Dr. Campos opined, in his May 14, 2014 report, that appellant's new L4-5 small left foraminal disc protrusion that were abutting and potentially impacting the left L4 root and lumbar facet arthropathy were caused or aggravated by appellant's November 23, 2011 injury, he did not relate the diagnosed lumbar conditions to the established work factor.<sup>10</sup> He did not, however, address how walking an outdoor route caused these conditions. Dr. Campos' remaining reports dated August 21, 2013 to January 13, 2014 found that appellant had lumbar facet arthropathy, lumbar spine herniated nucleus pulposus, gait disorder, and myospasm, and addressed his medically necessary

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<sup>6</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *id.* at 351-52.

<sup>7</sup> *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

<sup>8</sup> *See R.C.*, Docket No. 15-315 (issued May 4, 2015); *Ceferino L. Gonzales*, 32 ECAB 1591 (1981).

<sup>9</sup> *See K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Jaja K. Asaramo*, 55 ECAB 200 (2004); *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>10</sup> *See cases cited, supra* note 8.

treatment. These reports did not note that these conditions and recommended treatment were caused or aggravated by the established work factor.<sup>11</sup>

Additionally, Dr. Levitt's September 11, 2013 diagnostic test results are of limited probative value. He did not provide an opinion finding that the diagnosed lumbar condition was caused or aggravated by the accepted work factor.<sup>12</sup>

Dr. Quartararo's March 12, 2014 report found that appellant had L4-5 disc herniation, low back pain, and left lower extremity radiculopathy. He provided a history of appellant's injuries at work in 2004 and on November 23, 2012 and August 8, 2013. While Dr. Quartararo opined that appellant's conditions were directly caused by a work injury as supported by appellant's history, his physical findings, and studies, he did not specifically address how the established work factor, walking an outdoor route, was competent to cause or contribute to any lumbar and left lower extremity conditions.<sup>13</sup> Further, he did not provide an accurate factual background as he indicated that appellant sustained a work-related injury on August 8, 2013 rather than on August 14, 2013 as claimed by appellant. It is well established that medical reports must be based on a complete and accurate factual and medical background and medical opinions based on an incomplete or inaccurate history are of little probative value.<sup>14</sup>

The reports and office notes from appellant's physical therapists have no probative value in establishing appellant's claim as physical therapists are not considered physicians under FECA.<sup>15</sup>

The August 13 and October 1 and 8, 2013 reports which contained unknown signatures are insufficient to establish appellant's claim. A report that is unsigned or bears an illegible signature lacks proper identification and cannot be considered probative medical evidence.<sup>16</sup>

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 meet his burden of proof to establish a back injury causally related to factors of his federal employment.

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<sup>11</sup> See cases cited, *supra* note 9.

<sup>12</sup> *Id.*

<sup>13</sup> See cases cited, *supra* note 8.

<sup>14</sup> *Douglas M. McQuaid*, 52 ECAB 382 (2001).

<sup>15</sup> The term physician includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners within the scope of their practice as defined by State law. 5 U.S.C. § 8102(2); *A.C.*, Docket No. 08-1453 (issued November 18, 2008).

<sup>16</sup> *Thomas L. Agee*, 56 ECAB 465 (2005); *Richard F. Williams*, 55 ECAB 343 (2004).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 23, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 16, 2015  
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board