

driving and using a clutch. He became aware of his condition on April 16, 2014 and attributed it to his employment on May 19, 2014. Appellant did not stop work.

In a work status report dated May 20, 2014, Dr. Norman Kikuchi, Board-certified in family medicine, diagnosed lumbago and lumbosacral spondylosis without myelopathy. He found that appellant could perform modified duty with no lifting, pushing, or pulling over 50 pounds. In a duty status report dated May 20, 2014, Dr. Kikuchi diagnosed lumbago and lumbar spondylosis. He checked “yes” that the history of injury provided by appellant corresponded to that on the form of pain in the left leg and lower back after operating a tractor with a standard transmission and clutch.

By letter dated June 16, 2014, OWCP requested that appellant submit additional factual and medical information, including a detailed report from his attending physician addressing the relationship between any diagnosed condition and the identified work factors.

In a narrative report dated May 20, 2014, received by OWCP on June 24, 2014, Dr. Kikuchi related:

“Appellant reports lower back pain radiating down the left leg to the left lateral ankle. He is vague as to the exact onset but present maybe several months. No specific inciting physical event. [Appellant] denies any falls or blunt trauma and denies any urinary or bowel incontinence. He works as a mechanic for the [employing establishment] performing a lot of repetitive bending and lifting.”

Dr. Kikuchi noted that a magnetic resonance imaging (MRI) scan study performed May 9, 2014 revealed disc bulging at L2-3 through L5-S1 with compression at the L5 nerve root, facet arthropathy, and foraminal stenosis consistent with a 2013 examination. He also discussed appellant’s history of a right laminectomy at L4-5 in 2011. Dr. Kikuchi diagnosed lumbago and lumbosacral spondylosis without myelopathy and recommended evaluation by a neurosurgeon. He provided lifting restrictions of not more than 50 pounds.

In a progress report dated July 1, 2014, Dr. Kikuchi indicated that a neurosurgeon recommended steroid injections.² He provided findings on examination and diagnosed lumbago and lumbosacral spondylosis without myelopathy with work restrictions of no lifting, pushing, or pulling over 50 pounds.

On July 2, 2014 Dr. Kikuchi discussed appellant’s history of low back pain radiating through his left leg for the past few months. He noted that there was no specific event that caused the pain but that appellant “believes it is due to repetitive bending and lifting from his job as a mechanic.” Dr. Kikuchi stated, “It is my professional opinion that [appellant’s] medical condition is caused from cumulative trauma due to repetitive bending and lifting during his work as a mechanic.”

On July 8, 2014 appellant related that he experienced pain radiating from his left buttocks into his left foot that began after he drove a transport truck with an “uncomfortable seat and

² In a progress report dated May 28, 2014, Dr. Kikuchi reviewed appellant’s prescription medications.

heavy clutch.” He related that he drove the truck three times in April 2014 and on the third trip felt a back twinge that steadily worsened.

In a progress report dated August 12, 2014, Dr. Kikuchi noted that appellant’s condition had improved after a steroid injection. He diagnosed lumbago and lumbosacral spondylosis and found that appellant could work with no lifting, pushing, or pulling over 50 pounds. On August 13, 2014 Dr. Kikuchi amended the work restrictions to include a prohibition against driving commercial vehicles.

By decision dated August 26, 2014, OWCP denied appellant’s claim as the medical evidence was insufficient to establish a diagnosed condition causally related to the accepted work factor. It noted that he attributed his condition to driving a company transport truck with a difficult clutch and uncomfortable seat from April 10 through 16, 2014, but the medical evidence did not address the identified work factor.

On appeal, appellant relates that his back surgeon opined that his condition was work related. He asserts that he continues to experience problems from the injury.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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.⁴ 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.⁵

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;⁶ (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition;⁷ and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁸ The medical opinion must be one of reasonable medical certainty and must be supported by

³ *Supra* note 1.

⁴ *Tracey P. Spillane*, 54 ECAB 608 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *See Alvin V. Gadd*, 57 ECAB 172 (2005); *Ellen L. Noble*, 55 ECAB 530 (2004).

⁶ *Michael R. Shaffer*, 55 ECAB 386 (2004).

⁷ *Marlon Vera*, 54 ECAB 834 (2003); *Roger Williams*, 52 ECAB 468 (2001).

⁸ *D.D.*, 57 ECAB 734 (2006); *Roy L. Humphrey*, 57 ECAB 238 (2005).

medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁹

ANALYSIS

Appellant attributed his back and leg pain to driving a truck with a difficult clutch and uncomfortable seat three times in April 2014. 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.

On May 20, 2014 Dr. Kikuchi evaluated appellant for low back pain radiating through the left leg beginning three months earlier with no definite “inciting physical event.” He noted that appellant performed bending and lifting in his job as a mechanic at the employing establishment. Dr. Kikuchi reviewed the findings from a May 9, 2014 MRI scan study showing bulging discs at L2-3 through L5-S1 compressing the L5 nerve root, facet arthropathy, and foraminal stenosis. He further discussed appellant’s history of a 2011 right lumbar laminectomy at L4-5. Dr. Kikuchi diagnosed lumbago and lumbosacral spondylosis without myelopathy. In a work status report dated May 20, 2014, he determined that appellant could work with restrictions of no lifting, pushing, or pulling over 50 pounds. Dr. Kikuchi, however, did not address the cause of the diagnosed conditions. Medical evidence 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.¹⁰

In a duty status report dated May 20, 2014, Dr. Kikuchi diagnosed lumbago and lumbar spondylosis and checked “yes” that the history of injury provided by appellant corresponded to that on the form of pain in the left leg and lower back after operating a tractor with a standard transmission and clutch and provided work restrictions. The Board has held, however, that an opinion on causal relationship which consists only of a physician checking “yes” to a medical form question on whether the claimant’s condition was related to the history given is of little probative value. Without any explanation or rationale for the conclusion reached, such report is insufficient to establish causal relationship.¹¹

Dr. Kikuchi’s July 1, 2014 progress note contained a diagnosis of lumbago and lumbosacral spondylosis without myelopathy. He provided limitations of no lifting, pushing, or pulling over 50 pounds. Dr. Kikuchi did not, however, address causation and thus his report is of little probative value on the issue of causal relationship.¹²

On July 2, 2014 Dr. Kikuchi reported that appellant related a history of low back pain radiating through the left leg for the past few months with no specific causative event. He noted that appellant attributed it to his work duties of bending and lifting. Dr. Kikuchi opined that

⁹ *Id.*

¹⁰ *S.E.*, Docket No. 08-2214 (issued May 6, 2009); *Conard Hightower*, 54 ECAB 796 (2003).

¹¹ *Deborah L. Beatty*, 54 ECAB 334 (2003) (the checking of a box “yes” in a form report, without additional explanation or rationale, is insufficient to establish causal relationship).

¹² *See Conard Hightower*, *supra* note 10.

appellant's condition resulted from "cumulative trauma due to repetitive bending and lifting during his work as a mechanic." He did not, however, rely on the history of injury provided by appellant of sustaining back and leg pain after driving a truck with a hard clutch. Consequently, Dr. Kikuchi's report is of diminished probative value.¹³ Further, he provided no rationale for his opinion that appellant's condition arose from repetitive bending and lifting at work. A mere conclusion without the necessary rationale explaining how and why Dr. Kikuchi believes that a claimant's accepted exposure could result in a diagnosed condition is not sufficient to meet a claimant's burden of proof.¹⁴

In a progress report dated August 12, 2014, Dr. Kikuchi again diagnosed lumbago and lumbosacral spondylosis and found that appellant could work with no lifting, pushing, or pulling over 50 pounds. On August 13, 2014 he found that appellant could not drive a commercial vehicle. Again, however, Dr. Kikuchi did not address causation and thus, as previously discussed, his opinion is of diminished probative value.

On appeal, appellant argues that his back surgeon determined that his condition was work related and notes that he continues to experience problems. An award of compensation, however, may not be based on surmise, conjecture, speculation, or upon his own belief that there is a causal relationship between his claimed condition and his employment.¹⁵ Appellant must submit a physician's report in which the physician reviews those factors of employment identified by him as causing his condition and, taking these factors into consideration as well as findings upon examination and the medical history, explain how employment factors caused or aggravated any diagnosed condition and present medical rationale in support of his or her opinion.¹⁶ He failed to submit such evidence and, therefore, failed to discharge his burden of proof.

Appellant submitted new evidence on appeal. The Board has no jurisdiction to review new evidence on appeal.¹⁷ 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 back and leg pain causally related to factors of his federal employment.

¹³ *Joseph M. Popp*, 48 ECAB 624 (1997) (a medical opinion must be based on a complete and accurate factual history).

¹⁴ *See Beverly A. Spencer*, 55 ECAB 501 (2004).

¹⁵ *D.E.*, 58 ECAB 448 (2007); *George H. Clark*, 56 ECAB 162 (2004); *Patricia J. Glenn*, 53 ECAB 159 (2001).

¹⁶ *D.D.*, 57 ECAB 734 (2006); *Robert Broome*, 55 ECAB 339 (2004).

¹⁷ *See* 20 C.F.R. § 501.2(c)(1).

ORDER

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

Issued: March 25, 2015
Washington, DC

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

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

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