

FACTUAL HISTORY

In July 2011, OWCP accepted that appellant, then a 41-year-old sandblaster, sustained bilateral carpal tunnel syndrome and bilateral wrist tenosynovitis due to performing his repetitive work duties over time. On October 13, 2011 appellant underwent right carpal tunnel release surgery and, on February 9, 2012, he underwent left carpal tunnel release surgery. These procedures were authorized by OWCP. Beginning October 13, 2011, appellant received wage-loss compensation on the daily rolls due to his accepted injuries.

On February 23, 2012 appellant attended a physical therapy session which OWCP authorized for treatment of his accepted work conditions. He was involved in an automobile accident while returning home from a physical therapy session and later claimed that he sustained a work-related injury due to this accident. The record contains a February 23, 2012 police report of the accident in which appellant reported to the officer arriving on the scene that traffic came to a stop directly in front of him and, in an attempt to stop, he “applied his brakes and felt a large collision from the rear portion of his vehicle.” Appellant stated that the impact of the collision from the vehicle behind him pushed his vehicle into the vehicle in front of him. The officer indicated that the accident could have been avoided if the driver of the vehicle that struck appellant’s vehicle had been driving at a safe speed.³ The report indicated that appellant was taken to the hospital with complaints of pain.

In a March 2, 2012 report, Dr. Rama T. Pathi, an attending Board-certified orthopedic surgeon, reported the findings of his physical examination of appellant’s wrists on that date. Appellant’s present complaints were continued bilateral numbness, tingling, stiffness, and general weakness of both wrists and improved pain of the right wrist. Dr. Pathi diagnosed carpal tunnel syndrome of both wrists and recommended physical therapy treatment of the wrists. This report constitutes the first medical report of record after appellant’s February 23, 2012 automobile accident, but the report does not contain any mention of the February 23, 2012 incident and Dr. Pathi did not examine any part of appellant’s body other than his wrists.

In May 2012, Dr. Pathi referred appellant for pain management treatment to Dr. Sarah Buenviaje-Smith, a Board-certified anesthesiologist. In a May 31, 2012 report of initial examination, Dr. Buenviaje-Smith discussed appellant’s treatment for bilateral carpal tunnel syndrome and bilateral wrist tenosynovitis. She diagnosed carpal tunnel syndrome and recommended treatment for this condition to include medication and use of a transcutaneous electrical nerve stimulation unit. Dr. Buenviaje-Smith did not mention the February 23, 2012 automobile accident in her report. Both Dr. Pathi and Dr. Buenviaje-Smith continued to produce periodic reports detailing appellant’s medical condition. However, these reports did not mention appellant’s February 23, 2012 automobile accident.

The findings of September 20, 2012 magnetic resonance imaging (MRI) scan testing of appellant’s cervical spine revealed mild reversal of the normal cervical lordosis centered at the C3-4 with no evidence of fracture, one millimeter anterolisthesis at C3-4, disc desiccation from C3-4 through C6-7, and a small anterior disc osteophyte complex at C5-6 and C6-7. The

³ The officer did not provide any estimation of the speed of the vehicle that struck appellant’s vehicle.

findings of October 3, 2012 x-rays of his cervical spine showed spondylotic changes of the cervical spine and muscle spasm with reversal of the normal lordosis.⁴

In an October 5, 2012 report, Dr. Buenviaje-Smith indicated that appellant reported being involved in a rear-end automobile accident on February 23, 2012 which he felt caused three bulging discs in his cervical spine. She indicated that he had filed a workers' compensation claim regarding this accident but the case had not been accepted. Dr. Buenviaje-Smith diagnosed bilateral wrist pain and cervical radiculopathy. This report constitutes the first evidence of record in which she mentioned appellant's February 23, 2012 automobile accident. On November 12, 2012 Dr. Buenviaje-Smith indicated that appellant complained of neck and back pain "secondary to the auto[mobile] accident" and diagnosed bilateral carpal tunnel syndrome and cervicalgia.

In a January 10, 2013 letter, Dr. Pathi noted that on February 23, 2012 appellant was involved in an automobile accident five or six minutes after leaving an authorized appointment at his office to treat his accepted work injuries. He stated, "[appellant] sustained a brand new consequential injury to the neck and back due to the accident him [*sic*] leaving my office." This letter constitutes the first evidence of record in which Dr. Pathi mentioned appellant's February 23, 2012 automobile accident.

In a January 22, 2013 decision, OWCP denied appellant's claim that he sustained a work-related injury due to his February 23, 2012 automobile accident. It found that the February 23, 2012 automobile accident constituted a work incident because it occurred while returning from an authorized physical therapy appointment; however, he had not submitted medical evidence showing an injury due to this work incident.

In a January 29, 2013 report, Dr. David T. Easley, a Board-certified orthopedic surgeon serving as an OWCP referral physician, reported the findings of his physical examination on that date and determined that appellant continued to have residuals of the accepted bilateral carpal tunnel syndrome, but did not have residuals of the accepted bilateral wrist tenosynovitis. He indicated that appellant sustained cervical and thoracic sprains due to the February 23, 2012 automobile accident, but noted that the conditions had resolved by the time of his January 29, 2013 examination.

In a February 26, 2013 decision, OWCP indicated that there decision "supersedes our decision of January 22, 2013" and that the accepted conditions had been updated, due to the January 29, 2013 report of Dr. Easley, to include "cervical sprain, 847.0 (resolved as of January 29, 2013)" and "thoracic sprain, 847.1 (resolved as of January 29, 2013)."

In letters received by OWCP on February 18, March 11, May 7, and June 6, 2014, appellant claimed that the February 23, 2012 automobile accident caused injuries that were far more than severe than the cervical and thoracic sprains accepted by OWCP. He claimed that, as a direct result of the work-related accident on February 23, 2012, he sustained bulging discs in his cervical, thoracic, and lumbar spines.

⁴ The record does not contain any diagnostic testing of appellant's thoracic and lumbar spines.

Appellant submitted additional reports of Dr. Pathi in support of this claim. In a February 10, 2014 report, Dr. Pathi stated that appellant did not have any “lumbar spine issues” prior to the February 23, 2012 automobile accident. He discussed appellant’s complaints of neck, mid back, and low back pain and noted that he had been diagnosed with multiple lumbar and cervical disc herniations/bulges with concurrent radiculopathy to the upper and lower extremities. Dr. Pathi discussed MRI scan testing of appellant’s lumbar spine from June 22, 2013.⁵

In a May 20, 2014 report, Dr. Pathi indicated that appellant complained of cervical, thoracic, and lumbar spine pain and noted that he did not have any “lumbar spine issues” prior to the February 23, 2012 automobile accident. He discussed MRI scan testing of appellant’s cervical spine from September 20, 2012 and MRI scan testing of his lumbar spine from June 22, 2013 and stated:

“Based on the description given by the patient, review of the MRI [scans] and my training and experience as a Board-certified orthopedic surgeon, I have determined that [appellant’s] injuries to the cervical, thoracic, and lumbar spine are the direct result from the automotive accident that occurred on February 23, 2012.”

In a June 17, 2014 decision, OWCP denied appellant’s claim to accept additional conditions related to his February 23, 2012 work-related accident because he had failed to submit sufficient medical evidence in support of his claim. It found that the medical evidence of record, including the reports of Dr. Buenviaje-Smith and Dr. Pathi, did not contain rationalized medical opinions showing that appellant sustained any injury on February 23, 2012 that was more severe than the accepted cervical and thoracic sprains.

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 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 specific condition and/or disability for which compensation is claimed are causally related to the employment injury.⁶ The medical evidence required to establish a causal relationship between a claimed period of disability and an employment injury is rationalized medical opinion evidence. 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

⁵ The record does not appear to contain a copy of the June 22, 2013 findings.

⁶ *J.F.*, Docket No. 09-1061 (issued November 17, 2009).

⁷ *See E.J.*, Docket No. 09-1481 (issued February 19, 2010).

ANALYSIS

In July 2011, OWCP accepted that appellant sustained bilateral carpal tunnel syndrome and bilateral wrist tenosynovitis due to performing his repetitive work duties over time. On October 13, 2011 appellant underwent right carpal tunnel release surgery and, on February 9, 2012, he underwent left carpal tunnel release surgery. On February 23, 2012 he attended a physical therapy session which OWCP authorized for treatment of his accepted work conditions. Appellant was involved in an automobile accident while returning home from a physical therapy session and OWCP accepted that he sustained cervical and thoracic sprains due to this accident.⁸ He claimed that the February 23, 2012 automobile accident caused injuries that were far more severe than the cervical and thoracic sprains accepted by OWCP. Appellant asserted that, as a direct result of the work-related accident on February 23, 2012, he sustained bulging discs in his cervical, thoracic, and lumbar spines as well as upper and lower extremity radiculopathies.

The Board finds that appellant has not met his burden of proof to establish additional conditions related to his February 23, 2012 work-related accident. Before OWCP and on appeal, appellant argued that the medical evidence of record showed that the accepted conditions should expand to include bulging discs. However, for the reasons discussed below, he did not submit sufficient medical evidence to establish his claim.

In May 5 and November 12, 2012 reports, Dr. Buenviaje-Smith, a Board-certified anesthesiologist, mentioned that appellant reported being involved in a rear-end automobile accident on February 23, 2012 which he felt caused three bulging discs in his neck as well as neck and back pain. She indicated that he had filed a workers' compensation claim regarding this accident, but she did not provide any opinion on what conditions might have been caused by the February 23, 2012 accident. Therefore, Dr. Buenviaje-Smith's reports do not establish appellant's claim for expanding the accepted work injuries.

In a January 10, 2013 letter, Dr. Pathi, an attending Board-certified orthopedic surgeon, noted that on February 23, 2012 appellant was involved in an automobile accident five or six minutes after leaving an authorized appointment at his office to treat his accepted work injuries. He stated, "[Appellant] sustained a brand new consequential injury to the neck and back due to the accident him [*sic*] leaving my office." In a February 10, 2014 report, Dr. Pathi noted that appellant did not have any "lumbar spine issues" prior to the February 23, 2012 automobile accident. He discussed appellant's complaints of neck, mid back, and low back pain and indicated that he had been diagnosed with multiple lumbar and cervical disc herniations/bulges with concurrent radiculopathy to the upper and lower extremities. Dr. Pathi discussed MRI scan testing of appellant's lumbar spine from June 22, 2013. On May 20, 2014 he discussed MRI scan testing of appellant's cervical spine from September 20, 2012 and MRI scan testing of his lumbar spine from June 22, 2013. Dr. Pathi stated that, based on appellant's statements, review of the diagnostic testing, and his training and experience as a Board-certified orthopedic surgeon, appellant's "injuries to the cervical, thoracic, and lumbar spine are the direct result from the automotive accident that occurred on February 23, 2012."

⁸ See *Bruce A. Henderson*, 39 ECAB 692 (1988) (a journey to a doctor's office occasioned by a compensable injury is covered under FECA).

Although Dr. Pathi indicated that appellant sustained more severe injuries on February 23, 2012 than the cervical and thoracic sprains accepted by OWCP, this opinion is of limited probative value because it lacks adequate medical rationale on causal relationship.⁹ He did not describe the February 23, 2012 automobile accident in any detail or provide adequate medical rationale explaining how it could have been competent to cause the described disc herniations/bulges and concurrent radiculopathy. Nor did Dr. Pathi explain why the observed conditions were not due to some nonwork-related condition such as the natural progression of degenerative disc disease. He examined appellant on numerous occasions after February 23, 2012, but none of his reports contain even a mention of the February 23, 2012 accident until he produced a letter on January 10, 2013.¹⁰ Given this delay in discussing the February 23, 2012 accident and its claimed effects, the provision of medical rationale is especially necessary to establish a link between the February 23, 2012 automobile accident and conditions more serious than the accepted cervical and thoracic sprains. The Board has held that the fact that a condition manifests itself or worsens around the time of a work incident does not raise an inference of causal relationship between a claimed condition and employment factors.¹¹ Appellant did not submit a rationalized medical report showing that he sustained a more serious condition on February 23, 2012 than the cervical and thoracic sprains accepted by OWCP.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish additional conditions related to his February 23, 2012 work-related accident.

⁹ See *supra* note 7.

¹⁰ It was not until Dr. Pathi produced his February 10, 2014 report that he first mentioned that appellant associated his neck, mid back, and low back pain with the February 23, 2013 automobile accident.

¹¹ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

ORDER

IT IS HEREBY ORDERED THAT the June 17, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 3, 2015
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