

On appeal, appellant contends that he filed a Form CA-2 claim for an occupational disease and OWCP erroneously denied his claim as a traumatic injury. He further contends that the medical evidence he submitted was sufficient to establish causal relationship.

FACTUAL HISTORY

On July 30, 2014 appellant, then a 56-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that he sustained an inguinal hernia in his right lower abdomen due to factors of his federal employment, including walking a route while carrying up to 35 pounds in all types of weather, up and down stairs, and on all types of terrain. In a supporting narrative statement, he alleged that the amount of mail he had to carry had increased over time and reported that he “did have hernia surgery (on [his] left side) which was covered by workers’ compensation over 20 years ago” and had surgery again on the same left side in 2011.

In a July 25, 2014 report, Dr. Armen Arslanian, a Board-certified internist, diagnosed right inguinal hernia and indicated that this diagnosis was confirmed by appellant’s surgeon. He opined that appellant’s condition was “likely related to carrying mailbags at work.”

On July 28, 2014 Dr. Darius Ameri, a Board-certified general surgeon, indicated that appellant was scheduled for major abdominal surgery on August 14, 2014.

In an August 29, 2014 letter, OWCP notified appellant of the deficiencies of his claim and afforded him 30 days to submit additional evidence and respond to its inquiries.

Appellant submitted a September 23, 2014 statement reiterating that he sustained a left hernia covered by workers’ compensation in 1989, another left hernia in 2011, and a right hernia in 2014. He further indicated that he was 57 years old, worked 6 days per week, and the most physical activity he had time for was mowing his lawn. Appellant also submitted a leave analysis indicating the amount of overtime hours he worked for the period February 23, 2013 through August 22, 2014.

In a report dated September 16, 2014, Dr. Arslanian indicated that he had diagnosed a new right inguinal hernia for the first time with pain and swelling on June 5, 2014. He stated that appellant’s work schedule in 2013 consisted of an average of 64 hours per week and walking with a mailbag weighing an average of 30 to 35 pounds. Dr. Arslanian stated that he could not “say 100 percent what has caused [appellant’s] medical condition, but it seems clear that a job with repetitive lifting (30-pound bag) could cause this and has the potential to aggravate the problem.” He further indicated that he “cannot be absolutely sure that [appellant’s] job has caused this medical condition but would say that his occupation as a letter carrier is related to the developing of a recurrent hernia.”

On September 23, 2014 Dr. Ameri indicated that appellant was seen in the office on July 1, 2014 with a right inguinal hernia. He stated that appellant was a letter carrier performing daily strenuous work at the employing establishment and had a history of two recurrent left inguinal hernias in the past. Dr. Ameri opined that appellant’s hernia repairs were related to his work strenuous activities and his previous operations as well as his continuation of his current lifting at work “could be the cause for his right inguinal hernia.”

By decision dated October 6, 2014, OWCP found that appellant had established that he was a federal civilian employee who filed a timely claim, that the incident did occur, but denied his claim on the basis that the medical evidence failed to establish a causal relationship between his work activities as a letter carrier and his right inguinal hernia condition.

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 timely filed within the applicable time limitation period of FECA, and that an injury⁴ was sustained in the performance of duty. These are the essential elements of each compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁵

To establish that an injury was sustained in the performance of duty in a claim for an occupational disease claim, an employee must submit the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁶

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical evidence. 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 the implicated employment factors.⁷ 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.⁸

ANALYSIS

The Board finds that appellant did not meet his burden of proof to establish a claim that federal employment factors caused or aggravated his right inguinal hernia condition. On appeal, appellant contends that he filed a Form CA-2 for an occupational disease and OWCP erroneously

³ 5 U.S.C. § 8101 *et seq.*

⁴ OWCP regulations define an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. 20 C.F.R. § 10.5(q).

⁵ *See J.C.*, Docket No. 09-1630 (issued April 14, 2010). *See also Ellen L. Noble*, 55 ECAB 530 (2004).

⁶ *Id.* *See also Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁷ *See D.N.*, Docket No. 10-1762 (issued May 10, 2011).

⁸ *See D.E.*, Docket No. 07-27 (issued April 6, 2007). *See also Victor J. Woodhams*, 41 ECAB 345 (1989).

denied his claim for a traumatic injury. In its October 6, 2014 decision, OWCP denied appellant's claim on the basis that the medical evidence failed to establish a causal relationship between his work activities as a letter carrier and his right inguinal hernia condition. While it incorrectly stated that appellant filed a traumatic injury claim, this was harmless error as it properly adjudicated his case as an occupational disease claim based on factors of his federal employment. Appellant had filed an occupational disease claim (Form CA-2) and had submitted a statement in which he identified the factors of employment that he believed caused the conditions, including walking a route carrying up to 35 pounds in all types of weather, up and down stairs, and on all types of terrain. The implicated factors occurred over more than one workday or shift.⁹ The evidence of record indicates that appellant engages in repetitive carrying and walking activities due to his federal employment duties. The occupational nature of his claim is not disputed. On appeal appellant's concern appeared to be with the fact that OWCP referenced his injury as traumatic in denying his claim. However, this appears to be harmless error. Regardless of the type of claim filed, once an incident or work factors are established, the issue becomes medical in nature, whether the claimed condition was caused or aggravated by the implicated federal employment activities. 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.¹⁰ An award of compensation may not be based on appellant's belief of causal relationship.¹¹ 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.¹² OWCP properly treated the claim as an occupational disease claim, as filed.

However, in order to establish a claim that he sustained an employment-related injury, he must also submit rationalized medical evidence which explains how his medical condition was caused or aggravated by the implicated employment factors.¹³

In his reports, Dr. Arslanian diagnosed right inguinal hernia and opined that appellant's condition was "likely related to carrying mailbags at work." He stated that appellant's work schedule in 2013 consisted of an average of 64 hours per week and walking with a mailbag weighing an average of 30 to 35 pounds. Dr. Arslanian stated that he could not "say 100 percent what has caused [appellant's] medical condition, but it seems clear that a job with repetitive lifting (30-pound bag) could cause this and has the potential to aggravate the problem." He further indicated that he "cannot be absolutely sure that [appellant's] job has caused this medical condition but would say that his occupation as a letter carrier is related to the developing of a recurrent hernia." Dr. Arslanian failed to directly address the issue of causal relationship as he

⁹ See *supra* note 4.

¹⁰ *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

¹¹ *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

¹² *Florencio D. Flores*, Docket No. 04-942 (issued July 12, 2004)

¹³ See *A.C.*, Docket No. 08-1453 (issued November 18, 2008); *Donald W. Wenzel*, 56 ECAB 390 (2005); *Leslie C. Moore*, 52 ECAB 132 (2000).

did not provide a rationalized medical opinion explaining how factors of appellant's federal employment, such as walking a route carrying up to 35 pounds in all types of weather, up and down stairs, and on all types of terrain, caused or aggravated his condition. The Board has held that the mere fact that appellant's symptoms arise during a period of employment or produce symptoms revelatory of an underlying condition does not establish a causal relationship between his condition and his employment factors.¹⁴ Although Dr. Arslanian noted that appellant's condition occurred while he was at work and stated that "his occupation as a letter carrier is related to the developing of a recurrent hernia," such generalized statements do not establish causal relationship because they are unsupported by adequate medical rationale explaining how his physical activity at work actually caused or aggravated the diagnosed condition.¹⁵

In his reports, Dr. Ameri indicated that appellant was seen in the office on July 1, 2014 with a right inguinal hernia. He stated that appellant was a letter carrier performing daily strenuous work at the employing establishment and had a history of two recurrent left inguinal hernias in the past. Dr. Ameri opined that appellant's hernia repairs were related to his work strenuous activities and his previous operations as well as his continuation of his current lifting at work "could be the cause for his right inguinal hernia." The Board finds that Dr. Ameri's opinion is speculative and equivocal in nature as he concluded that work factors "could be" the cause of the hernia.¹⁶ Moreover, Dr. Ameri failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as walking a route carrying up to 35 pounds in all types of weather, up and down stairs, and on all types of terrain, caused or aggravated his right inguinal hernia condition.¹⁷

In support of his claim, appellant submitted a leave analysis indicating the amount of overtime hours he worked for the period February 23, 2013 through August 22, 2014. This document does not constitute competent medical evidence as it does not contain rationale by a physician relating appellant's disability to his employment.

As appellant has not submitted any rationalized medical evidence to support his allegation that he sustained an injury causally related to the indicated employment factors, he failed to meet his burden of proof to establish a claim.

On appeal, appellant contends that the medical evidence he submitted was sufficient to establish causal relationship. For the reasons stated above, the Board finds appellant's arguments are not substantiated.

¹⁴ See *supra* note 12; *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981); *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

¹⁵ See *K.W.*, Docket No. 10-98 (issued September 10, 2010).

¹⁶ Medical opinions that are speculative or equivocal in character are of little probative value. See *Kathy A. Kelley*, 55 ECAB 206 (2004).

¹⁷ See also *R.C.*, Docket No. 14-1964 (issued January 22, 2015).

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 not met his burden of proof to establish that he sustained a right inguinal hernia in the performance of duty causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the October 6, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 9, 2015
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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