

explained that she worked in a laborer environment that required strenuous tasks over a long period of time, including lifting, bending, twisting, and pushing.

Appellant came under the care of health care providers at Philadelphia Veterans Administration (VA) Medical Center, primarily from Dr. Francis Lopez, a Board-certified physiatrist. Progress notes from May and June 2011 showed that she presented with exacerbation of her left lower extremity sciatica. Appellant had two exacerbations of her low back pain in May. She was diagnosed with left lower extremity sciatica, left inferior paraspinal muscle strain, and acute radiculopathy. Appellant was prescribed light duty at work.

Appellant was involved in a motor vehicle accident on June 30, 2012 and began seeing Dr. Peter A. D'Angelo, a chiropractor. After reviewing her complaints, history, and initial physical examination on July 2, 2012, Dr. D'Angelo diagnosed cervical spine sprain/strain, thoracic spine sprain/strain; lumbosacral spine sprain/strain; left shoulder sprain/strain, and headaches. He indicated that appellant's injuries were consistent with the accident on June 30, 2012.

In a discharge summary dated December 5, 2012, Dr. D'Angelo found that appellant was left with residuals in the cervical, thoracic, lumbosacral spine, and left shoulder as a result of the injuries she sustained in the accident that occurred on June 30, 2012. As appellant had reached a treatment plateau and no further progress was expected, he released her from care and referred her to pain management.

On August 22, 2013 Dr. D'Angelo reviewed a description of appellant's work activities, which were of a labor-intensive nature. He indicated that appellant experienced increased bodily stress especially from 2007 through 2011. It was Dr. D'Angelo's opinion that appellant's condition was caused by the performance of her job duties during her course of work.

OWCP denied appellant's injury claim on August 28, 2013. It found that her claim was untimely filed. An OWCP hearing representative found that the claim was in fact timely. She found that the record established the physical duties appellant performed as a workflow facilitator. The hearing representative further found, however, that the medical opinion evidence did not establish how any of the diagnosed conditions were caused by appellant's employment. She explained that Dr. D'Angelo's opinion could not be used to establish any of the diagnosed conditions, let alone their relationship to work.

Appellant submitted the May 21, 2014 report of Dr. Jeremy D. Close, a Board-certified family physician, who noted a history of repetitive motion at appellant's work. Her symptoms started in 2007 and significantly increased in 2011, which she related to a herniated disc. Dr. Close examined appellant and diagnosed chronic low back pain, lumbar degenerative disc disease with intermittent radiculopathy, probably right knee degenerative joint disease, and probably left knee degenerative disc disease. He noted: "She does report that the low back issues were exacerbated by the repetitive nature of her work, which is of course possible."

In a decision dated October 29, 2014, OWCP reviewed the merits of appellant's case and denied modification of its prior decision.

LEGAL PRECEDENT

FECA provides compensation for the disability of an employee resulting from personal injury sustained while in the performance of duty.² An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his or her claim. When an employee claims that he or she sustained an injury in the performance of duty, he or she must submit sufficient evidence to establish that he or she experienced a specific event, incident, or exposure occurring at the time, place, and in the manner alleged. He or she must also establish that such event, incident, or exposure caused an injury.³

Causal relationship is a medical issue,⁴ and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. The opinion of the physician must be based on a complete factual and medical background of the claimant,⁵ must be one of reasonable medical certainty,⁶ and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.⁷

The term “physician” includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist, and subject to regulation by the Secretary of Labor.⁸ Thus, without a diagnosis of subluxation from x-ray, a chiropractor is not a “physician” under FECA, and his or her opinion on causal relationship does not constitute competent medical evidence.⁹

ANALYSIS

OWCP accepts the duties appellant performed as a workflow facilitator. Appellant has, therefore, met her burden to establish that she experienced a specific event, incident, or exposure occurring at the time, place, and in the manner alleged. The question that remains is whether the physical demands of her position caused or contributed to her back condition.

Appellant received medical attention in 2011 at the Philadelphia VA Medical Center, but none of the progress notes from that period attributed her left lower extremity sciatica or left

² 5 U.S.C. § 8102(a).

³ *John J. Carlone*, 41 ECAB 354 (1989).

⁴ *Mary J. Briggs*, 37 ECAB 578 (1986).

⁵ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

⁶ *Morris Scanlon*, 11 ECAB 384, 385 (1960).

⁷ *William E. Enright*, 31 ECAB 426, 430 (1980).

⁸ See 20 C.F.R. § 10.400(e) (defining reimbursable chiropractic services).

⁹ See generally *Theresa K. McKenna*, 30 ECAB 702 (1979).

inferior paraspinal muscle strain to her federal employment. She did not give her health care providers a history of employment injury, and none of the physicians, including the primary care giver Dr. Lopez, offered an opinion connecting the diagnosed medical conditions to her federal employment. Because this evidence does not address the issue of causal relationship, it has no value in establishing appellant's occupational disease claim.

The reports from Dr. D'Angelo, the chiropractor, also have no value because he did not diagnose a subluxation as demonstrated by x-ray to exist. He therefore cannot be considered a "physician" under FECA, and any opinion he may provide on causal relationship does not constitute competent medical evidence.¹⁰

Dr. Close, the family physician, noted that it was appellant's opinion that her low back issues were exacerbated by the repetitive nature of her work. It was his opinion that this was, of course, possible. Although the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute medical certainty, neither can such opinion be speculative or equivocal.¹¹ As noted earlier, appellant's burden includes the submission of a physician's opinion on causal relationship that is of reasonable medical certainty. The Board finds that Dr. Close's opinion on the possibility of a work-related exacerbation is speculative and of little probative value.¹²

There is no medical opinion of probative value to support that the duties of appellant's position as a workflow facilitator caused or contributed to her back condition. Accordingly, the Board finds that she has not met her burden to establish the critical element of causal relationship. The Board will, therefore, affirm OWCP's October 29, 2014 decision.

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 her burden to establish that her back condition is causally related to her work duties.

¹⁰ *Id.*

¹¹ *Philip J. Deroo*, 39 ECAB 1294 (1988).

¹² *See Jennifer Beville*, 33 ECAB 1970 (1982) (statement of a Board-certified internist that the employee's complaints "could have been" related to her work injury was speculative and of limited probative value).

ORDER

IT IS HEREBY ORDERED THAT the October 29, 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

Patricia Howard Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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