



both feet, shoulders, and arms, after bending, stooping, walking, and standing all day at work. In an attached statement, she noted that she had arrived at work that day with pain in her back and right leg, which became worse over the course of her shift. Appellant's supervisor noted on the claim form that appellant had stopped work on May 2, 2014. The employing establishment controverted continuation of pay, noting that no traumatic injury had been reported and that she stated she was in pain before arriving at work.

An authorization for examination and/or treatment (Form CA-16), was issued by the employing establishment on May 1, 2014. The form noted that there was doubt as to whether appellant's condition was caused by a traumatic injury in the performance of duty.<sup>2</sup>

In a duty status report (Form CA-17) dated May 2, 2014, a physician with an illegible signature noted that appellant should not work for four weeks.

By letter dated May 2, 2014, the employing establishment challenged the entire claim. It noted that appellant was possibly continuing treatment for a previously denied claim. The previous claim, under case number xxxxxx478, involved the same bodily members and was denied by OWCP on May 24, 2014. The employing establishment also noted that while a supervisor had provided a Form CA-16 to appellant on May 1, 2014 offering to arrange care at the closest treatment facility, she declined this offer noting that she already had an appointment with another provider that was approximately 122 miles away.

By letter dated May 8, 2014, OWCP informed appellant of the evidence necessary to establish her claim. It noted that she had not submitted sufficient factual evidence to establish that her claimed injuries actually occurred, and further noted that she had not submitted sufficient medical evidence to establish her claim. OWCP afforded appellant 30 days to submit additional evidence and to respond to its inquiries.

On May 20, 2014 appellant responded to OWCP's inquiries. She explained that she had previous injuries in the performance of duty under other case numbers. Appellant noted that no one witnessed her injury, and that she did not have a supervisor to whom she could report the injury on April 30, 2014 until the day afterward, which was her day off. She indicated that she was in severe pain in her right leg and back, and saw her physician on May 2, 2014.

The employing establishment responded by letter dated May 22, 2014. It noted that while appellant claimed that there was no supervisor to whom she could report her injury on April 30, 2014, her work facility was open 24 hours a day and at all times supervisors or managers were on site. With regard to April 30, 2014, the employing establishment asserted that there were 7 to 10 supervisors on site at the time.

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<sup>2</sup> When the employing establishment properly executes a Form CA-16 which authorizes medical treatment as a result of an employee's claim for an employment-related injury, the Form CA-16 creates a contractual obligation, which does not involve the employee directly, to pay for the cost of the examination or treatment regardless of the action taken on the claim. The period for which treatment is authorized by a Form CA-16 is limited to 60 days from the date of issuance, unless terminated earlier by OWCP. See 20 C.F.R. § 10.300(c); *Tracy P. Spillane*, 54 ECAB 608, 610 (2003).

In a duty status report dated June 3, 2014, Dr. Samy F. Bishai, an orthopedic surgeon, noted that appellant should not work for six weeks.<sup>3</sup> He diagnosed her with lumbar disc syndrome and cervical disc syndrome.

By decision dated June 18, 2014, OWCP denied appellant's claim for compensation. It found that she had not submitted sufficient evidence to establish that the events of April 30, 2014 occurred as she described. OWCP further noted that appellant had not submitted any rationalized medical evidence linking Dr. Bishai's diagnoses to any event on April 30, 2014.

By letter dated June 30, 2014, appellant requested an oral hearing before an OWCP hearing representative. With her request, she submitted another duty status report from Dr. Bishai dated July 3, 2014. Dr. Bishai noted that appellant could not work more than three hours per day, no bending or stopping, no lifting more than 15 pounds, and no pushing or pulling. He included a return to work date of July 7, 2014.

In a letter from the employing establishment dated July 11, 2014, the employing establishment noted that Dr. Bishai changed appellant's work status from "no work" to "resume work with limitations" after denial of the claim.

The hearing was held on February 11, 2015. At the hearing, appellant testified that she had worked for the employing establishment for 16 years, and that she reported to work on April 30, 2014 with a pain level of 3 on a scale of 1 to 10. She asserted that, on that date, she had to ride trucks in and out, and bend down to seal trailers, for her entire shift. Appellant stated that her injury resulted from performing these tasks. The hearing representative noted that the diagnoses provided from Dr. Bishai were not the types of diagnoses one would expect from a one-time event. Appellant's representative stated that the events of April 30, 2014 exacerbated appellant's preexisting conditions and quoted from a report from Dr. Bishai, which was not in the case record at the time of the hearing. Appellant stated that she had told one of her supervisors that she was hurt on the date of injury, April 30, 2014, but that this supervisor ignored her and she went home in pain. The hearing representative held the case record open for 30 days for the submission of additional evidence.

In a report dated May 2, 2014, Dr. Bishai diagnosed appellant with lumbar disc syndrome with radiculopathy; a herniated lumbar disc at the L4-5 level with bilateral neural foraminal stenosis; cervical disc syndrome with bilateral radiculopathy; a herniated cervical disc at C3-4 with neural foraminal narrowing; and internal derangement of the right knee, bilateral shoulders, and bilateral ankles and feet. He opined that in the course of her employment on April 30, 2014, she suffered these injuries and that "the causal relationship between [appellant's] injuries and the symptoms she is having is quite obvious and the causal relationship is definitely established that [appellant's] symptoms are directly related to the injury of April 30, 2014 while working as a transit mail expediter." Dr. Bishai noted that appellant had suffered previous injuries to her neck, back, and lower extremities, as well as radicular pain down her shoulders, arms, and legs, due to an incident that occurred on April 22, 2013. He wrote, "The injury that [appellant] suffered to her neck and back on April 30, 2014 is an aggravation of these preexisting conditions

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<sup>3</sup> Dr. Bishai's Board certification in a medical specialty could not be determined from a search of the databases of the American Board of Medical Specialties or the American Osteopathic Association.

that were also work related. [Appellant] did suffer new injuries that she did not have before which is the injury to her right knee joint as well as the injury to the shoulders and the painful condition of her feet which did not exist prior to this injury of April 30, 2014.”

Dr. Bishai related her history of present illness, noting that appellant’s pain level in her back and her right leg was about a 3 or 4, on a scale of 10, when she arrived at work that day. He noted that her job required a lot of bending, stooping, walking, and standing. Dr. Bishai explained that when the tractor trailers and trucks came to the dock, appellant had to take the seals off which are on the very bottom of the doors and therefore she had to bend and stoop down to the bottom of the door. When the trucks left, some of them required a seal which again required that she squat down to put the seal on the bottom of the door. Appellant had to work on about 18 to 20 trucks on this day and she had to unseal about 6 or 7, affecting her back and radiating down her right leg and right foot. Her neck and both shoulders and arms had a lot of pain of about 7 to 8 and the pain in her lower back was all the way up to 9 or 10 going down to the right leg and both feet. Appellant’s feet started to swell and she had a hard time walking. She therefore sought medical attention and she filed a claim because of the injuries that she suffered on that day.

By decision dated April 17, 2015, the hearing representative affirmed OWCP’s June 18, 2014 decision with modification. She found that appellant had submitted sufficient evidence to establish that the events of April 30, 2014 occurred as described, but that she had not submitted sufficient evidence to establish a causal relationship between the events of this date and her diagnosed conditions. The hearing representative noted that Dr. Bishai’s report of May 2, 2014 did not contain a medically rationalized explanation of how appellant’s preexisting conditions were aggravated by the events of April 30, 2014.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>4</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>5</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>6</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty it must first be determined whether a fact of injury has been established.<sup>7</sup> First, the employee must submit sufficient evidence to establish that he or she actually

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<sup>4</sup> *Supra* at note 1.

<sup>5</sup> C.S., Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364, 366 (2006).

<sup>6</sup> *S.P.*, 59 ECAB 184, 188 (2007); *Joe D. Cameron*, 41 ECAB 153, 157 (1989).

<sup>7</sup> *B.F.*, Docket No. 09-60 (issued March 17, 2009); *Bonnie A. Contreras*, *supra* note 5.

experienced the employment incident at the time, place, and in the manner alleged.<sup>8</sup> Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.<sup>9</sup>

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.<sup>10</sup> An award of compensation may not be based on appellant's belief of causal relationship. 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.<sup>11</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>12</sup> 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 compensable employment factors.<sup>13</sup> 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.<sup>14</sup>

### ANALYSIS

OWCP has accepted that appellant's work activities of April 30, 2014 occurred as alleged. The Board finds that OWCP correctly denied the claim as the medical evidence submitted by appellant is insufficient to establish that her work on April 30, 2014 caused or aggravated her diagnosed medical conditions.

Appellant submitted only one report containing a physician's opinion as to the cause of her diagnosed conditions, that of Dr. Bishai dated May 2, 2014. This report does not contain a medically sound explanation of how the April 30, 2014 event caused or aggravated her diagnosed conditions. Dr. Bishai offers his understanding of appellant's explanation of the events of April 30, 2014 and noted that "the causal relationship is definitely established that

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<sup>8</sup> *D.B.*, 58 ECAB 464, 466 (2007); *David Apgar*, 57 ECAB 137, 140 (2005).

<sup>9</sup> *C.B.*, Docket No. 08-1583 (issued December 9, 2008); *D.G.*, 59 ECAB 734, 737 (2008); *Bonnie A. Contreras*, *supra* note 5.

<sup>10</sup> *Roma A. Mortenson-Kindschi*, 57 ECAB 418, 428 n.37 (2006); *Katherine J. Friday*, 47 ECAB 591, 594 (1996).

<sup>11</sup> *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *Dennis M. Mascarenas*, 49 ECAB 215, 218 (1997).

<sup>12</sup> *Y.J.*, Docket No. 08-1167 (issued October 7, 2008); *A.D.*, 58 ECAB 149, 155-56 (2006); *D'Wayne Avila*, 57 ECAB 642, 649 (2006).

<sup>13</sup> *J.J.*, Docket No. 09-27 (issued February 10, 2009); *Michael S. Mina*, 57 ECAB 379, 384 (2006).

<sup>14</sup> *I.J.*, 59 ECAB 408, 415 (2008); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

[appellant's] symptoms are directly related to the injury of April 30, 2014 while working as a transit mail expeditor." However, he did not explain how his diagnoses of lumbar disc syndrome with radiculopathy; a herniated lumbar disc at the L4-5 level with bilateral neural foraminal stenosis; cervical disc syndrome with bilateral radiculopathy; a herniated cervical disc at C3-4 with neural foraminal narrowing; and internal derangement of the right knee, bilateral shoulders, and bilateral ankles and feet, were aggravated or caused by the events of April 30, 2014. Dr. Bishai provided no medical or pathophysiological explanation regarding how these conditions were caused or aggravated by the events on April 30, 2014. He merely asserted that they were related and provided appellant's account of the events on that date.

Medical evidence submitted to support a claim for compensation should reflect a correct history, and the physician should offer a medically sound explanation of how the claimed work event caused or aggravated the claimed condition.<sup>15</sup> Lacking such an explanation, Dr. Bishai's May 2, 2014 report is insufficient to establish a causal relationship between the events of April 30, 2014 and appellant's diagnosed conditions.

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury causally related to an April 30, 2014, employment incident, she has not met her burden of proof to establish a claim.<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 not met her burden of proof to establish a traumatic injury in the performance of duty on April 30, 2014.

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<sup>15</sup> *D.D.*, Docket No. 13-1517 (issued April 14, 2014).

<sup>16</sup> The Board notes that the duty status report containing an illegible signature does not constitute competent medical evidence as the author cannot be identified as a physician. Thus, it is of no probative value. *See Merton J. Sills*, 39 ECAB 572, 575 (1988).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 17, 2015 decision of the Office of Workers' Compensation programs is affirmed.

Issued: October 28, 2015  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board