

federal employment on February 19, 2013.² She stated that she experienced bad pain in her lower back at work. Appellant left work shortly thereafter, as it was time for her shift to end. She stated that she went home over the holiday weekend and her pain worsened. Appellant had to wait until the following Tuesday, February 19, 2013 to call her doctor. She reported that she had pain in her lower back shooting into her buttock and down the right side of her leg. Appellant stopped work on February 19, 2013.

Appellant submitted a pay slip and job descriptions of her rural carrier position.

In a March 20, 2014 letter, OWCP advised appellant that the evidence submitted was insufficient to establish her claim. It asked her to submit factual and medical evidence, including a detailed description of the employment-related activities that she believed contributed to her claimed medical condition, how often she performed the described activities, and a physician's opinion explaining how her federal work activities caused, contributed to, or aggravated her medical condition. OWCP also asked the employing establishment to respond to appellant's allegations and submit medical evidence, if she had been treated at its medical facility. Both appellant and the employing establishment were afforded 30 days to submit the requested information.

Appellant submitted a November 16, 2011 job offer from the employing establishment for a modified rural carrier position she had accepted on November 17, 2011. The job offer referenced her claim under File No. xxxxxx231 for a previous injury sustained on August 10, 2011.

In an April 5, 2014 correspondence, the employing establishment submitted appellant's job description and reported that her last day of work was February 18, 2013.

In an April 22, 2014 decision, OWCP denied appellant's occupational disease claim. It accepted that the injury or event(s) occurred as described, but she submitted no medical evidence containing a medical diagnosis in connection with the injury.

On May 19, 2014 appellant requested a review of the written record by the hearing representative.

Progress notes were submitted from Dr. Eric Francke, an orthopedist, dated September 5 and October 10, 2013 and January 3 and August 6, 2014 that addressed appellant's lumbar and cervical conditions, and medical treatment related to injuries from a February 25, 2011 employment-related motor vehicle accident under File No. xxxxxx361, a previously accepted claim for cervical and lumbar strains.

² Prior to the instant claim, OWCP accepted that on June 11, 2009 appellant sustained right shoulder and neck injuries under File No. xxxxxx310. Subsequently, it accepted that on January 8, 2010 she sustained employment-related right knee and right hip conditions under File No. xxxxxx895. OWCP accepted that appellant sustained neck and lumbar sprains on February 25, 2011 under File No. xxxxxx361. It denied her claim for a recurrence of total disability as of February 19, 2013 under File No. xxxxxx361. On February 25, 2014 OWCP expanded the acceptance of appellant's claim under File No. xxxxxx361 to include lumbar radiculitis and displaced lumbar intervertebral discs at L4-5 and L4-S1 without myelopathy.

In a July 28, 2014 attending physician's report (Form CA-20), Dr. Mary F. Dailey-Smith, a Board-certified family practitioner, provided a history of injury that on February 19, 2013 appellant sustained a severe neck injury. She stated that appellant was injured in a motor vehicle accident that caused severe headaches and cervical radiculitis and neuropathy. Dr. Dailey-Smith noted that appellant had been on light duty since 2009 due to back pain. She diagnosed bilateral cervical radiculitis and neuropathy, and herniated nucleus pulposus. Dr. Dailey-Smith indicated with an affirmative mark that the diagnosed conditions were caused or aggravated by an employment activity. She explained that appellant was riding in a motor vehicle and was hit by a car. In a July 28, 2014 progress note, Dr. Dailey-Smith provided appellant's medical, family, and social history. She reported examination findings and assessed appellant as having, among other things, radiculitis, cervical arthritis, whiplash neck injury, and neuropathy. In a July 28, 2014 attending physician's report Form CA -20, Dr. Dailey-Smith reported that the appellant suffered bilateral cervical radiculitis and neuropathy, and herniated nucleus pulposus due to her injuries in a motor vehicle accident on February 19, 2013. She indicated work restrictions including no lifting, no bending, and no prolonged standing.

In reports dated May 1, 9, and 12, 2014, Nancy E. Sherrington, a physical therapist, addressed the treatment of appellant's neck conditions.

In a January 13, 2014 letter, the employing establishment denied appellant's request for reasonable accommodation. It could not accommodate her treating physician's December 3, 2013 medical restrictions.

In a December 9, 2014 decision, the hearing representative affirmed as modified the April 22, 2014 decision. She found that OWCP did not explain what exposure it accepted as factual. In addition, appellant did not identify the employment factors that she attributed to her claimed medical condition or respond to OWCP's March 20, 2014 letter.

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

³ *Id.*

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 O.W.*, Docket No. 09-2110 (issued April 22, 2010); *Ellen L. Noble*, 55 ECAB 530 (2004).

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

Appellant has the burden of establishing by the weight of the reliable, probative, and substantial evidence that the condition for which she claims compensation was caused or adversely affected by employment factors.⁷ This burden includes the submission of a detailed description of the employment factors or conditions which she believes caused or adversely affected a condition for which compensation is claimed and a rationalized medical opinion relating the claimed condition to compensable employment factors.⁸

ANALYSIS

The Board finds that appellant has failed to establish an injury causally related to factors of her federal employment. Appellant's claim form generally stated that she experienced back pain at work. She did not identify any specific employment factors that she believed caused her claimed back condition.

On March 20, 2014 OWCP informed appellant that the evidence received to date was insufficient to establish that she experienced any employment factors that were alleged to have caused an injury. Appellant was asked to provide a detailed description of the employment-related activities she believed contributed to her condition and how often she performed the described activities. OWCP afforded her 30 days to submit this additional evidence. Appellant did not provide any statement responding to OWCP's inquiry. Dr. Dailey-Smith's July 28, 2014 Form CA-20 report found that appellant sustained bilateral cervical radiculitis and neuropathy, and herniated nucleus pulposus due to a February 19, 2013 employment-related motor vehicle accident. Because appellant failed to identify specific work duties or activities alleged to have caused her claimed back condition, Dr. Dailey-Smith's diagnoses and opinion on causal relationship are not based on a complete background of appellant's history. The opinion of the physician must be based on a complete factual and medical background, 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 compensable employment factors identified by the employee.⁹

⁶ See *D.R.*, Docket No. 09-1723 (issued May 20, 2010). See also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁷ *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

⁸ *Penelope C. Owens*, 54 ECAB 684 (2003); *Effie O. Morris*, 44 ECAB 470, 473-74 (1993); see also Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.4(a) (June 2011) (in occupational disease cases, the claimant must submit sufficient evidence to identify fully the particular work conditions alleged to have caused the disease and substantiate exposure to the conditions claimed).

⁹ *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, *supra* note 6 at 351-52.

The Board finds that appellant has not sufficiently identified employment activities alleged to have caused or contributed to her claimed back condition to meet her burden of proof.¹⁰

As appellant has not established the factual component of her claim, the Board will not address the medical evidence with respect to causal relationship.¹¹

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 back injury causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the December 9, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 23, 2016
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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

¹⁰ *R.Z.*, Docket No. 13-1911 (issued September 15, 2014).

¹¹ *D.D.*, 57 ECAB 734 (2006).