

FACTUAL HISTORY

On March 11, 2014 appellant, then a 53-year-old medical supply technician, filed an occupational disease claim (Form CA-2) alleging that she sustained back and right leg injuries as a result of her federal employment. She alleged that activities such as pulling, pushing, bending, and lifting trays overhead contributed to her condition. On the claim form appellant indicated that she first became aware of an employment-related condition on December 3, 2013. The reverse of the claim form reports that she was last exposed to the identified factors on January 27, 2014, and had been assigned light duty. On March 18, 2014 OWCP received an employing establishment "incident report" describing a January 13, 2014 incident. The form reports that appellant was injured while lifting "Zimmer trays" that had been put on the shelf and had to be pulled off.

By letter dated March 18, 2014, OWCP requested that appellant submit additional factual and medical evidence with respect to her claim. It included a questionnaire to describe in detail the employment activities she believed contributed to her condition.

The record indicates that on April 21, 2014 OWCP received a treatment note dated December 3, 2013 from Dr. Norman Hardman, a Board-certified internist, reporting that appellant's work included pushing heavy carts and she had developed right hip pain. There is also a right hip x-ray report dated December 3, 2013 with a diagnosis of minimal osteoarthritis of the right hip from Dr. Darin Morgan, a radiologist.

Appellant submitted a January 21, 2014 report from Dr. William Strickland, a Board-certified neurologist. Dr. Strickland reported that appellant had bilateral leg pain, numbness, and paresthesias since May 2013. He also noted low back pain, and leg weakness, worse on right side. Dr. Strickland discussed the results of sensory and motor conduction studies. He diagnosed a generalized peripheral neuropathy with no evidence of lumbar radiculopathy. In a report dated February 11, 2014, Dr. Strickland provided a history that appellant's right leg had been giving way causing her to fall three or four times per year, worse since September 2013. He also noted low back pain radiating into her legs, with tingling and numbness. Dr. Strickland provided results on examination and diagnosed lumbago, sciatica, cervicalgia, and idiopathic peripheral neuropathy. By report dated March 20, 2014, he indicated that appellant reported improvement in back pain and radicular symptoms, but her neck pain had not changed. Dr. Strickland indicated that appellant would be scheduled for a lumbar magnetic resonance imaging (MRI) scan.

An employing establishment compensation specialist submitted an April 17, 2014 letter indicating that appellant had worked at the employing establishment since April 25, 2010. The compensation specialist further indicated that appellant had submitted a traumatic injury claim for an injury on June 5, 2013.

By decision dated April 30, 2014, OWCP denied the claim for compensation. It found that appellant had not submitted factual evidence to establish the alleged incidents, and had not submitted probative medical evidence.

On May 29, 2014 appellant requested a review of the written record by an OWCP hearing representative. She submitted an undated statement on June 4, 2014, noting that her job duties included pulling case carts, which weighed approximately 200 pounds even when empty.

According to appellant, “the day” she injured her back while pushing carts and lifting trays that weighed 45 pounds or more. She indicated that her injuries were caused by repetitive work and she had tried to get the employing establishment to use lighter carts. Appellant submitted a May 20, 2014 e-mail from a coworker reporting that there were concerns about the carts expressed to the employing establishment. The coworker indicated that new wheels were put on the carts, but this just caused the carts to move faster in the opposite direction.

With respect to additional medical evidence, appellant submitted reports from Dr. Damon Petty, a Board-certified orthopedic surgeon. In a report dated April 30, 2014, Dr. Petty reported that appellant had injured her back while “lifting some trays with Zimmer instruments.” He indicated that appellant had persistent low back pain with occasional burning in her legs. Dr. Petty provided results on examination, diagnosed low back strain with S1 joint pain, and recommended physical therapy. By report dated May 28, 2014, he reported that appellant was improving but still symptomatic. Dr. Petty provided results on examination and diagnosed resolving low back sprain/S1 joint sprain, with possible mild L3-4 involvement. He opined that pushing carts weighing over 200 pounds was “likely not the best area for her to work in” based on appellant’s age and petite frame.

In a June 18, 2014 report, Dr. Petty reported that appellant’s low back was improved but still symptomatic. He provided results on examination and diagnosed lumbar disc herniation. Dr. Petty indicated that appellant would undergo a lumbar MRI scan. The record contains a June 25, 2014 lumbar MRI scan report from Dr. L. Rogers, a radiologist. Dr. Rogers reported an L5-S1 disc bulge with posterior annular tear, and mild central canal stenosis. In addition, Dr. Rogers reported a disc bulge at L4-5, with bilateral narrowing.

Appellant began treatment with Dr. Thomas Baker, a Board-certified physiatrist. In a report dated July 14, 2014, Dr. Baker provided a history that appellant complained of low back and leg pain. He indicated that an L5-S1 transforaminal epidural steroid injection was given on that date. Dr. Baker diagnosed lumbar spondylosis and lumbar radiculopathy. In a report dated August 18, 2014, he indicated that another epidural injection had been given. By report dated September 18, 2014, Dr. Baker provided results on examination. He diagnosed lumbosacral spondylosis without myelopathy, lumbosacral radiculopathy, and chronic pain syndrome.

On November 14, 2014 the employing establishment submitted a position description of the medical supply technician position. The physical demands of the position included lifting packages and trays up to 40 pounds and pushing or pulling loaded carts weighing several hundred pounds. In a letter dated November 14, 2014, an employing establishment compensation specialist reported that the wheels of the carts had been replaced and a supervisor had indicated that, with proper mechanics, each cart would push and pull effectively. According to the specialist, the supervisor indicated that the employees generally pulled the cart up to 10 feet per day. Appellant submitted a statement dated December 17, 2014, asserting that she had to pull carts over 200 feet down a hallway.

Appellant submitted a brief report from Dr. Margaret Stolz, a Board-certified internist, reporting that she had known appellant since 2009 and never treated her for back and neck problems until 2013. The record also contains a brief note from Dr. Hardman dated November 21, 2014 that appellant developed right hip pain, and her job involved pushing heavy carts.

By decision dated January 5, 2015, OWCP's hearing representative affirmed the denial of the claim for compensation. She found that the factual evidence did establish that appellant's job duties included lifting trays and pushing or pulling heavy carts. However, she further found that the medical evidence was insufficient to establish an employment-related medical condition.

LEGAL PRECEDENT

A claimant seeking benefits under FECA has the burden of establishing the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.³

To establish that an injury was sustained in the performance of duty, a claimant must submit: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁴

Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence.⁵ A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant.⁶ Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors.⁷

ANALYSIS

In the present case, appellant has alleged that she sustained injuries as a result of her job duties as a medical supply technician. She filed an occupational disease claim, which is a claim for injury produced by the work environment over a period longer than a single workday.⁸ While there are references to specific incidents, such as an accident report for a January 13, 2014 lifting incident, the claim in this case is for injuries related to work duties over a period of time. As to the factual element of the claim, appellant alleged that she engaged in activity that included lifting trays, and pushing and pulling heavy carts. OWCP's hearing representative accepted that appellant engaged in such activity. While the employing establishment referred to a supervisor's

³ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁴ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

⁵ See *Robert G. Morris*, 48 ECAB 238 (1996).

⁶ *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁷ *Id.*

⁸ 20 C.F.R. § 10.5(q).

statement that the distance the carts were moved was minimal, appellant asserted that sometimes she had to move the carts down a hallway. No probative evidence contrary to appellant's assertion was provided.⁹

Appellant having established that she engaged in the identified work activity does not establish an employment-related medical condition. She has the burden to submit medical evidence with a clear diagnosis and a rationalized medical opinion on causal relationship between the diagnosis and the identified employment factors. In this regard, the Board finds that the medical evidence of record is insufficient to meet appellant's burden of proof.

Dr. Hardman provided a very brief note dated December 3, 2013 reporting that appellant's job duties included pushing heavy carts and that she had developed right hip pain. A similar note was dated November 21, 2014. Dr. Hardman does not include a detailed history, results on examination, a firm diagnosis, or a rationalized medical opinion on causal relationship with employment.

Dr. Strickland provided reports dated January 21, February 14, and March 20, 2014. He did not provide a complete history discussing the identified work factors. Dr. Strickland diagnosed lumbago, sciatica, cervicalgia, and a peripheral neuropathy, without providing an opinion on causal relationship with the employment factors.

Appellant submitted reports dated April 30, May 28, and June 18, 2014 from Dr. Petty. In the April 30, 2014 report, Dr. Petty writes that appellant had injured her back lifting some trays. There is little detail provided with this statement. Dr. Petty did not provide a complete history, discuss appellant's job duties or explain when this lifting occurred. He initially diagnosed low back sprain/S1 joint sprain, and in his June 18, 2014 report diagnosed a disc herniation, although the subsequent June 25, 2014 MRI scan did not refer to a disc herniation. Dr. Petty did not provide a rationalized medical opinion on causal relationship between a diagnosed condition and the identified employment factors.

The reports from Dr. Baker do not provide a rationalized medical opinion. The history provided in his July 14, 2014 report records only that appellant complained of low back and leg pain. Dr. Baker diagnosed lumbar spondylosis, lumbar radiculopathy, and chronic pain syndrome. He does not provide a complete history, discuss appellant's job duties, or provide an opinion on causal relationship between a diagnosed condition and the identified employment factors.

Appellant also submitted a brief note dated December 11, 2014 from Dr. Stolz. The note indicates only that appellant did not report lumbar or neck problems prior to 2013, without providing additional relevant evidence.

The burden of proof lies with appellant to establish a diagnosed condition causally related to her federal employment. In the present case, the medical evidence, for the reasons discussed above, is insufficient to meet appellant's burden of proof. There is no medical report with a complete history and an opinion, supported by medical rationale, relating a diagnosed condition to the identified employment factors.

⁹ The Board notes that an employee's statement regarding employment incidents is of great probative value and will stand unless refuted by strong or persuasive evidence. *Thelma Rogers*, 42 ECAB 866 (1991).

On appeal, appellant notes that she submitted an additional report from Dr. Petty. As explained above, the Board is precluded from reviewing new evidence on appeal. Appellant argued that she performed her job and all she wants is to have her back properly treated. It is her burden of proof to establish a back injury causally related to her federal employment. The Board has reviewed the medical evidence of record and finds that it is insufficient to meet appellant's burden in this case.

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 appellant has not established an injury causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated January 5, 2015 is affirmed.

Issued: February 9, 2016
Washington, DC

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

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

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