

ISSUE

The issue is whether appellant met his burden of proof to establish neck, back, left hip, and left shoulder conditions causally related to a February 24, 2012 employment incident.

On appeal, counsel contends that: (1) OWCP improperly excluded from consideration prior evidence of record; and (2) OWCP failed to further develop the medical evidence when appellant established a *prima facie* claim. Appellant's counsel argues that the medical evidence of record is sufficient to establish that appellant sustained cervical and lumbar strains, exacerbation of cervical spondylosis at C5-6 and C6-7, and cervical radiculitis at C5 and C6. Alternatively, he requests that the Board remand the case to OWCP for further medical development on the issue of causal relationship.

FACTUAL HISTORY

On February 24, 2012 appellant, a 52-year-old powered support systems mechanic, filed a traumatic injury claim (Form CA-1) alleging an injury as a result of disconnecting a conductor from a generator at work. He alleged that on that date the cable fell and caused stinging to his upper neck, left shoulder, left hip, and upper back. On the claim form, the employing establishment controverted the claim indicating that if a member disconnected one conductor it was impossible that a cable would fall and, if anything had fallen, it would have been the conductor itself which only weighed one pound.

An OWCP Form CA-16, authorization for examination, was issued by the employing establishment on February 24, 2012. Appellant was authorized to visit the occupational health clinic. He submitted a February 26, 2012 report from Dr. Priya Yellayi, a Board-certified family practitioner and chief of the occupational health clinic, in which appellant was diagnosed with left-sided musculoskeletal back sprain and left hip contusion. Appellant was advised to stay off work until February 29, 2012. Dr. Yellayi noted that appellant had a sudden pain while moving a cable on February 24, 2012.

In a February 27, 2012 narrative statement, appellant noted that he was sent out to relocate a power cable from an emergency generator. The cable was a large, four-conductor balcony cable which was heavy. As appellant was removing one of the conductors, the weight of the cable caused him to twist to the side. He dropped the cable and felt a stinging in his upper neck, left shoulder area, left hip area, and upper back. Appellant drove back to the shop and hoped the pain would subside, but it became increasingly more painful.

Appellant submitted hospital records from Lourdes Medical Center in Browns Mills, New Jersey, dated February 24, 2012. Dr. Michael Dyce, a Board-certified emergency medicine physician, noted that appellant presented with complaints of being twisted by a large 200 to 300-pound cable while working on February 24, 2012 and sustained an injury to his left side while lifting the large cord to a generator. He diagnosed hip contusion, neck strain, elevated blood pressure, and concussion (unspecified) and advised that appellant was capable of returning to light-duty work in four days.

In a February 24, 2012 letter, the employing establishment related that appellant informed his supervisor that day that there was a problem with one of the load terminals on the generator in Building 1703 and that it needed to be replaced. The supervisor told appellant that they had parts in the supply room area and that he did not want appellant to go back out to the generator to replace the part. Shortly, thereafter, he presented appellant with termination paperwork. Appellant departed the shop and shortly thereafter returned with a claim form alleging that he had sustained an injury earlier in the morning while working on the generator. After he reported the injury, the supervisor went out to inspect the generator in Building 1703 and discovered that “only one conductor out of the six that makes up the power cable was disconnected and the cable was still up.” The employing establishment argued that, if only one conductor had been disconnected it would not fall and, even if all of the conductors had been disconnected, it could only fall approximately 12 to 16 inches. It further noted that the cable only weighed approximately five pounds per foot, so at the most the cable would only weigh seven to nine pounds, which contradicted appellant’s account of how he was injured. The record contains photographs of the cable and generator in question.

In a March 13, 2012 letter, OWCP advised appellant of the deficiencies of his claim and afforded him 30 days to submit additional evidence and respond to its inquiries.

Subsequently, appellant submitted a February 27, 2012 narrative statement explaining that the generator was initially connected improperly and he had already removed and reattached three of the four conductors. The fourth conductor would not reach the split bolt/kerney and the main cable had to be lifted and pushed through the cable access hole so that the last conductor could reach the last kerney. Appellant stated that he was lifting the complete cable and pushing it through the access hole. The part of the cable that he was rearranging was extremely heavy and as he was pushing the cable, it slipped, and its momentum twisted his body sideways, causing extreme pain to the left-side of his body.

In a February 27, 2012 report, Dr. Yellayi noted that appellant had a history of an injury to his upper back, left hip, and left shoulder when he was unplugging a six-prong cable. Appellant unplugged one part only and did not unplug the rest. He suddenly felt a sharp left side pain, could not move his left arm, and had great difficulty walking.

On March 29, 2012 Dr. Petronilo Seares, Jr., a Board-certified internist, reported that appellant was seen for the first time on March 1, 2012. Appellant claimed that he injured his left hip and left shoulder while lifting a heavy cable at work on February 24, 2012. Dr. Seares found that appellant’s left shoulder had less pain, but his left hip still hurt. Appellant was able to ambulate only for a short distance and had to stop because of severe pain. Standing and sitting for any length of time, around 10 minutes, was also a problem for him. Dr. Seares indicated that he read appellant’s February 27, 2012 narrative statement and opined that the accident at work caused the injury to his left shoulder and left hip temporarily. He advised that appellant was totally disabled until April 24, 2012.

In an April 6, 2012 letter, the employing establishment controverted appellant’s claim. It noted that appellant’s supervisor had inspected the work area and observed that the cable appellant alleged had fallen, and thus caused his injuries, was still connected. Appellant’s supervisor submitted visual evidence, including photographs of the work area, demonstrating

that the entire cable could not fall unless all of the conductors were disconnected. He further stated that, even if the cable were to fall, it only weighed between seven to nine pounds and would only fall 12 inches before it landed on the base of the generator.

By decision dated April 13, 2012, OWCP denied appellant's claim as he had failed to establish that the injury or events occurred as alleged.

On May 10, 2012 appellant's counsel requested an oral hearing before an OWCP hearing representative and submitted additional diagrams and photographs of the conductor.

A telephonic hearing was held before an OWCP hearing representative on August 16, 2012. Appellant testified that the cable was approximately six inches thick, weighed approximately 20 pounds per foot, and that there was approximately 90 feet of cable. He explained that while he was repairing the cable he did not have enough length on the cable to move it to the last conductor, so he lifted it up from the outside to push it through the access hole. Appellant had the whole weight of the cable in between his legs and had to reach around with one hand while he held the other cable in his legs. As he was reaching up, he reached to the left because that was where the access door was and then felt a sudden onset of pain in his back, wrist, shoulder, neck, and hip. The cable fell and twisted appellant. Appellant let it go, stood there for a couple minutes, and then went back to the shop.

Appellant submitted a May 15, 2012 magnetic resonance imaging scan of the cervical spine, which demonstrated cervical spondylosis at C5-7, chronic sinusitis, and indeterminate cystic lesion within the right cerebral hemisphere. He also submitted a July 27, 2012 report from Dr. Seares who reiterated that appellant's conditions were causally related to his federal duties.

In an August 7, 2012 report, Dr. Natacha Falcon, a Board-certified physiatrist, diagnosed left C5-6 radiculitis and left foraminal stenosis at C5-7. He noted that appellant had an injury at work on February 12 or 13, 2012 where he was lifting generator cables and felt a sudden neck pain with left radicular arm symptoms.

By decision dated October 25, 2012, an OWCP hearing representative affirmed, as modified, the April 13, 2012 decision finding that the factual evidence established that the work incident occurred, but the medical evidence was insufficient to establish a causal relationship between appellant's diagnosed conditions and the work incident.

On October 17, 2013 appellant's counsel requested reconsideration and submitted a September 5, 2013 report from Dr. Laura E. Ross, a Board-certified orthopedic surgeon, who diagnosed status post cervical and lumbar spine sprain and strain and exacerbation of cervical spondylosis with left cervical radiculitis in the C5 and C6 distribution. Dr. Ross noted that appellant sustained a work-related injury on February 24, 2012 while moving a generator cable. Appellant stated that he was trying to insert the generator cable into a hole that was above his head. He was holding the remaining cable between his knees to support the weight of the cable and reached overhead and sideways when he felt immediate pain in his neck, back, left hip, and left shoulder. Dr. Ross opined that his cervical and lumbar spine conditions were causally related to the February 24, 2012 employment incident. She noted that although appellant had

cervical spondylosis that clearly predated this work-related injury, his condition was exacerbated by the work injury and caused him to experience pain to a formerly nonbothersome condition.

By decision dated January 16, 2014, OWCP denied modification of its prior decision.

On June 24, 2014 appellant's counsel requested reconsideration and submitted a June 20, 2014 addendum from Dr. Ross who opined that given appellant's description of the injury and his body mechanics at the time of the incident, she determined that the February 24, 2012 incident was the direct cause of his injuries. Dr. Ross noted that appellant sought immediate medical treatment for his injuries and other physicians had provided the same medical opinion on causal relationship.

By decision dated June 1, 2015, OWCP denied modification of its prior decision.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish the essential elements of his 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, that an injury⁴ was sustained in the performance of duty, as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵

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. A fact of injury determination is based on two elements. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place, and in the manner alleged. 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. An employee may establish that the employment incident occurred as alleged, but fail to show that his or her condition relates to the employment incident.⁶

Causal relationship is a medical issue 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 employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the

⁴ OWCP regulations define a traumatic injury as a condition of the body caused by a specific event or incident, or series of events or incidents, within a single workday or shift. Such condition must be caused by external force, including stress or strain, which is identifiable as to time and place of occurrence and member or function of the body affected. 20 C.F.R. § 10.5(ee).

⁵ See *T.H.*, 59 ECAB 388 (2008).

⁶ *Id.*

nature of the relationship between the diagnosed condition and the specific employment factors identified by the employee.⁷

ANALYSIS

OWCP has accepted that the employment incident of February 24, 2012 occurred at the time, in the place, and in the manner alleged. The issue is whether appellant's neck, back, left hip, and left shoulder conditions resulted from the February 24, 2012 employment incident. The Board finds that he did not meet his burden of proof to establish a causal relationship between the conditions for which compensation is claimed and the employment incident.

On February 24, 2012 Dr. Dyce diagnosed a left hip contusion, neck strain, and concussion and found that appellant was injured while lifting a large cord to a generator at work on February 24, 2012. Similarly, on February 26, 2012 Dr. Yellayi diagnosed left-sided musculoskeletal back sprain and left hip contusion and found that appellant had a sudden pain while moving a cable on February 24, 2012. The Board finds that Drs. Dyce and Yellayi failed to provide a rationalized opinion explaining how factors of appellant's federal employment, such as moving a cable at work, caused or aggravated his neck, back, and hip conditions. The physicians noted that his conditions occurred while he was at work, but such generalized statements do not establish causal relationship because they merely repeat his allegations and are unsupported by adequate medical rationale.⁸ Drs. Dyce and Yellayi failed to provide an opinion adequately addressing how the February 24, 2012 employment incident contributed to appellant's conditions.

In her reports, Dr. Ross diagnosed status post cervical and lumbar spine sprain and strain and exacerbation of cervical spondylosis with left cervical radiculitis in the C5 and C6 distribution. She noted that appellant sustained a work-related injury on February 24, 2012 while moving a generator cable above his head and opined that his cervical and lumbar spine conditions were causally related to the February 24, 2012 employment incident. Dr. Ross noted that although he had cervical spondylosis that, clearly predated this work-related injury, his condition was exacerbated by the work injury and caused him to have pain to a formerly nonbothersome condition. She noted that appellant's conditions occurred while he was at work, but as noted above such generalized statements do not establish causal relationship.⁹ The Board finds that Dr. Ross did not provide a sufficient medical rationale explaining how his cervical conditions were caused or aggravated by moving a cable at work on February 24, 2012. The need for rationale is particularly important as Dr. Ross indicated that appellant had a preexisting cervical condition. Therefore, the Board finds that the reports from her are insufficient to establish causal relationship.

On March 29, 2012 Dr. Seares opined that the February 24, 2012 employment incident caused a temporary injury to appellant's left shoulder and left hip. However, he also failed to

⁷ *Id.*

⁸ *See K.W.*, Docket No. 10-98 (issued September 10, 2010).

⁹ *Id.*

provide a rationalized opinion explaining how the February 24, 2012 work incident caused or contributed to a diagnosed medical condition. Thus, the Board finds that the report from Dr. Seares is insufficient to establish that appellant sustained an injury in the performance of duty on February 24, 2012.

Other medical evidence of record is of limited probative value as it does not specifically address whether appellant's conditions are attributable to his accepted work incident.¹⁰

On appeal, counsel contends that: (1) OWCP improperly evaluated evidence by excluding from consideration prior evidence of record; and (2) OWCP failed to further develop the medical evidence when appellant established a *prima facie* claim. Appellant's counsel argues that the medical evidence of record is sufficient to establish that he sustained a cervical and lumbar strain, exacerbation of cervical spondylosis at C5-6 and C6-7, and cervical radiculitis at C5 and C6. Alternatively, counsel requests that the Board remand the case to OWCP for further medical development on the issue of causal relationship. Based on the findings and reasons stated above, the Board finds that counsel's arguments are not substantiated. The Board finds that OWCP properly evaluated the evidence of record in its obligations to properly adjudicate appellant's claim. As appellant has not submitted sufficiently rationalized medical evidence to support his allegation that he sustained an injury causally related to the February 24, 2012 employment incident, he has failed to meet his burden of proof to establish a claim for compensation. Consequently, the Board will affirm OWCP's June 1, 2015 decision.

The Board also notes that the employing establishment issued appellant a CA-16 form on February 24, 2012 authorizing medical treatment. The Board has held that where an employing establishment properly executes a CA-16 form, which authorizes medical treatment as a result of an employee's claim for an employment-related injury, it creates a contractual obligation, which does not involve the employee directly, to pay the cost of the examination or treatment regardless of the action taken on the claim.¹¹ Although OWCP denied appellant's claim for an injury, it did not address whether he is entitled to reimbursement of medical expenses pursuant to the CA-16 form. Upon return of the case record, it should further address this matter.

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 neck, back, left hip, and left shoulder conditions causally related to a February 24, 2012 employment incident.

¹⁰ See *K.W.*, 59 ECAB 271 (2007); *A.D.*, 58 ECAB 149 (2006); *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

¹¹ See *D.M.*, Docket No. 13-535 (issued June 6, 2013). See also 20 C.F.R. §§ 10.300, 10.304.

ORDER

IT IS HEREBY ORDERED THAT the June 1, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 14, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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